



STATE OF WASHINGTON  
Capital Projects Advisory Review Board

October 3, 2024

Senator Javier Valdez  
PO Box 40446  
Olympia, WA 98504-0466

Senator Karen Keiser  
PO Box 40433  
Olympia, WA 98504-0433

Senator Steve Conway  
PO Box 40429  
Olympia, WA 98504-0429

Senator Bob Hasegawa  
PO Box 40411  
Olympia, WA 98504-0411

Senator T'wina Nobles  
PO Box 40428  
Olympia, WA 98504-0428

**Re: Business Equity/Diverse Business Inclusion Committee Report**

Dear Senators Valdez, Keiser, Conway, Hasegawa, Nobles, and members of the State Government and Elections and Capital Budget Committees:

During the 2024 legislative session, the Washington state legislature directed the Capital Projects Advisory Review Board (CPARB) to review the language proposed in Senate Bill 6040 surrounding prompt pay, engage with stakeholders, and to make recommendations to the appropriate committees of the legislature on new legislation that would consistently provide prompt payments to small diverse businesses within the construction industry. CPARB tasked the Business Equity and Diverse Business Inclusion (BE/DBI) Committee to provide recommendations to the board. The BE/DBI Committee is composed of individuals representing small diverse businesses, prime contractors, and public owners.

The BE/DBI Committee, with feedback from over 150 key stakeholders, proposes the following legislative changes to address prompt pay with small diverse businesses:

1. Combine 39.04.250 and 39.04.360 into a single section of the Revised Code of Washington to ensure prompt pay is clearly outlined and consistent for all key stakeholders.
2. Public Owners *must* pay within 30 days for all properly submitted invoices and subcontractors *must* be paid within 10 days after payment is received by the prime contractor.<sup>1</sup>
3. Public works contracts must include a payment schedule including when invoices will be due, and payments made. This will be communicated at all subcontract levels so that all parties understand when payments will be paid if there are no discrepancies in the invoice.
4. If payment is not made on time 1% interest will automatically be charged (as opposed to upon request) when payment is delayed and is not the fault of the contractor. The 1% interest will be paid to all contractors on the delayed invoice no matter the tier.
5. Change the ability for owners and contractors to withhold payment at a rate of 150% of disputed amounts to 100% of disputed amounts or of an estimated amount to affect a remedy, whichever is higher.

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<sup>1</sup> The BE/DBI Committee has received feedback that this payment cycle does not allow for subcontractors to have their payments in time to pay Union Trusts within the required schedule for PLAs/CWAs. A five-day payment window was considered for these types of agreements, but still would only allow get appropriate funds first and second tier subcontractors in time to pay depending on when payment is issued.

While these recommendations were supported by the majority, there were some concerns about accountability and the cost of implementation. There were also three areas where majority consensus could not be reached. These areas are 1) when payment is considered made, 2) notification period for invoice discrepancy, and 3) change order payment terms. Since various stakeholder groups could not reach consensus on these items, the report outlines different perspectives for the legislature to consider.

1. Promote a culture of paying promptly where all parties recognize the severe impacts payment delays have on small diverse businesses. Commit to fixing the problem, as teams and individuals.
2. Pay as soon as possible, don't wait the maximum allowed time.
3. Develop and utilize a checklist to identify payment and change order processing requirements.
4. Develop and utilize communication protocols between all parties involved.
5. Issue change orders and resolve disputed work promptly (RCW 39.04.360).

Our report and the many supporting documents are located on the [CPARB Background & Reference](#) webpage. CPARB appreciates the continued opportunity to serve the legislature and thank you for entrusting us to develop this report.

If you have any questions, please contact lead staff for CPARB, Nancy Deakins at [nancy.deakins@des.wa.gov](mailto:nancy.deakins@des.wa.gov) or (360) 280-6236 or myself at [linneth.riley-hall@soundtransit.org](mailto:linneth.riley-hall@soundtransit.org) or (206) 334-8916.

Sincerely,



Linneth Riley-Hall  
CPARB Chair

cc: Senate Committee on State Government & Elections  
House Committee on Capital Budget  
CPARB Members  
Tara Smith, Director, Department of Enterprise Services  
Linda Kent, Chief External Affairs Officer, Department of Enterprise Services  
Ashlee Delaney, Legislative Affairs Director, Department of Enterprise Services  
Bill Frare, Assistant Director FPS, Department of Enterprise Services  
Janet Jansen, EAS Program Manager, Department of Enterprise Services  
Nancy Deakins, Department of Enterprise Services