

Potential RCW 39.10 Violation Reporting & Follow-up Process

The Capital Projects Advisory Review Board, through the Project Feedback Process Workgroup, developed this pre & post incident reporting process to better educate and empower owner agencies to successfully follow RCW 39.10 in the use of Design-Build or General Contractor/Construction Management alternative delivery procurement. The intent is to identify misuse and educate the owner at the lowest level possible whenever possible.

If a potential RCW 39.10 violation is suspected regarding the use of Design-Build or General Contractor/Construction Management alternative delivery procurement, the individual who suspects this violation is encouraged to reach out to the owner directly in an attempt to resolve the issue at the lowest level possible. If the issue cannot be resolved upon this first contact, please fill out the Potential Violation Reporting form and submit it via email to the Project Review Committee (PRC) inbox at PRC@des.wa.gov.

Once a potential violation has been filed with the PRC:

1. PRC Chair/designee reviews the issue with the CPARB Chair, Administrative staff, and the Assistant Attorney General assigned to advise CPARB (*as necessary*).
2. PRC Chair/designee makes a call to the potential violator to discuss the issue and to get more background to determine if the nature of the issue. (*i.e. a violation of an RCW, a violation of a Best Practice, or an issue to be resolved between Contractor and Owner.*)
3. PRC Chair/designee reviews the call with the CPARB Chair, Administrative staff and assigned AAG (*as necessary*) to discuss course of action. The CPARB assigned AAG will determine whether there has been a violation of an RCW.
4. PRC Chair/designee documents the call in a log and notes action taken (*i.e. Owner was not aware and will make corrections*). Log remains in effect for 3 years. After 3 years, issue drops off.
 - a. If PRC Chair/designee is satisfied with the response or the CPARB assigned AAG determines the issue was not a violation of 39.10, issue closed.
 - b. If the CPARB assigned AAG determines issue is a violation of 39.10, issue is raised to CPARB Chair for action.

If issue is raised to CPARB:

1. CPARB Chair/designee discusses the issue with the CPARB assigned AAG to confirm the issue is a violation of RCW 39.10.
2. CPARB Chair/designee will informally contact violator to talk through the issue.
 - a. If satisfied with Owner response, CPARB Chair will log it, and issue is considered closed.
 - b. If not satisfied with response, CPARB Chair/designee will engage the CPARB assigned AAG to determine next steps.
3. If appropriate, the CPARB Chair writes letter to violator to document issue.
4. If the issue is not resolved, CPARB Chair will follow up with appropriate action with consultation with the CPARB assigned AAG and the Administrative staff.

Please Note: Confirmed violations of RCW 39.10 that are actionable in court may be addressed through the court system at the discretion of the reporting individual or the public.