



**STATE OF WASHINGTON  
Capital Projects Advisory Review Board**

# *Local Government Public Works Contracting Study– Update*

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May 13, 2021

# Agenda

45 Minutes

March/April Committee Recap

- 5 minutes

SWR Threshold

- 10 minutes

Public Works Resources

- 10 minutes

Other Unanimous Recommendations

- 10 minutes

Unit Price/“No Bid” Processes

- 10 minutes

# Purpose of Committee

- **Problem statement:** The legislature receives multiple requests each session to adjust public works contracting thresholds and processes.
- [SB 5418](#)
- **Committee Charge:** Review public works contracting processes for local governments, including the small works roster and limited public works processes, and create recommendations for efficiency to be presented to the CPARB Board.
- Review will:
  - Identify most common contracting procedures
  - Identify current public works contracting thresholds
  - Analyze applying an inflation-based indicator and other potential threshold adjustments
  - Recommend ways to increase uniformity and efficiency for local government public works contracting
  - Identify rates of participation for small and minority-and-women owned businesses and barriers to improving the participation rate



# Committee Work Recap

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- Working/meeting for 20 months
  - Survey, committee & stakeholder discussions
  - Formed recommendations
- Two additional committee meetings
  - March 18<sup>th</sup>, April 15<sup>th</sup>
  - Focused on SWR Threshold and Resources for Public Works recommendations
  - Additional clarity/ agreement formed, but some items did not have full consensus
- **Today – CPARB review and vote on recommendations for report**

# Committee Recommendations #1 – 6



Passed CPARB



Priority from  
prime sponsor



Unanimous by  
committee

 1. **Adjust Port District & Irrigation District Small Works Roster Statutes to refer to RCW 39.04.155** *Unanimous*

 2. **Tie Small Works Roster threshold increases to state-wide inflation factor based on CCI** *Majority (5-2, 1 abst.)*

3. **Expand the ‘no-bid response’ process to all local agencies** *Majority (5-2, 1 abst.)*

4. **Give unit price contracting authority to all local government agencies** *Majority (6-1, 1 abst.)*

 5. **Remove retainage and bond requirements for projects under \$5,000** *Unanimous*

 6. **Create a centralized list of Small Works rosters** *Unanimous \*(clarifying points needed)*

# Committee Recommendations #7 – 11



Passed CPARB



Priority from  
prime sponsor



Unanimous by  
committee



**7. Create list of certification/registration programs for disadvantaged businesses** *Unanimous*



**8. Define small business in the public works contracting statute** *Unanimous*

**9. CPARB update to supplemental bidder responsibility guidelines** *Split vote*



**10. Coordinated schedule for significant outreach events between public agencies and other stakeholders** *Unanimous*



**11. Provide professional assistance to local government for Contracting guidance and Marketing and outreach to contractors** *Split vote*

# SWR Threshold Recommendations (#2)

## **Board motion to recommend?**

- Implement a review at 5-year intervals for SWR threshold revisions  
*Committee in consensus*
- Implement the use of an inflation factor to apply the revisions  
*Committee in consensus*

## **Board motion to recommend?**

- Apply SWR revisions by means of a statewide inflation factor  
*Chosen by the majority of the committee, 8-2*

## **Board motion to recommend?**

- Apply inflation revisions automatically at each five-year interval  
*Chosen by the majority of the committee, 5-4-1*

# Professional Assistance Recommendation (#11)

## **Board motion to recommend?**

11. Provide professional assistance for Public Works contracting guidance and marketing and outreach to contractors

*Chosen by the majority of the committee, 9-1*

- Includes coordination of committee's unanimous recommendations #6, 7, and 10 (if passed) -*next slide*- and a coordinated effort between MRSC, PTAC and OMWBE in providing assistance
- Additional committee and chair discussion after the vote determined that a specific funding number was not prudent to be included in the recommendation and that the recommendation should be more broad, distinctly covering Public Works vs only Local Government





# Committee Consensus Recommendations

Unanimous

## **Board motion to recommend?**

**(All these are in coordination with #11)**

6. The creation of a centralized list of Small Works rosters
7. The creation of a list of certification/registration programs for disadvantaged businesses
10. A coordinated schedule for significant outreach events between public agencies and other stakeholders

\*Recommendation #11 would support these recommendations

# Recommendations – Not Unanimous / Policy

## **Board motion to recommend?**

3. Expand and define appropriate use of a 'no-bid response' process to all agencies

*Chosen by majority of the committee (7-1)*

4. Give unit price contracting authority to all public agencies and define limits of use

*Chosen by majority of the committee (6-1-1)*

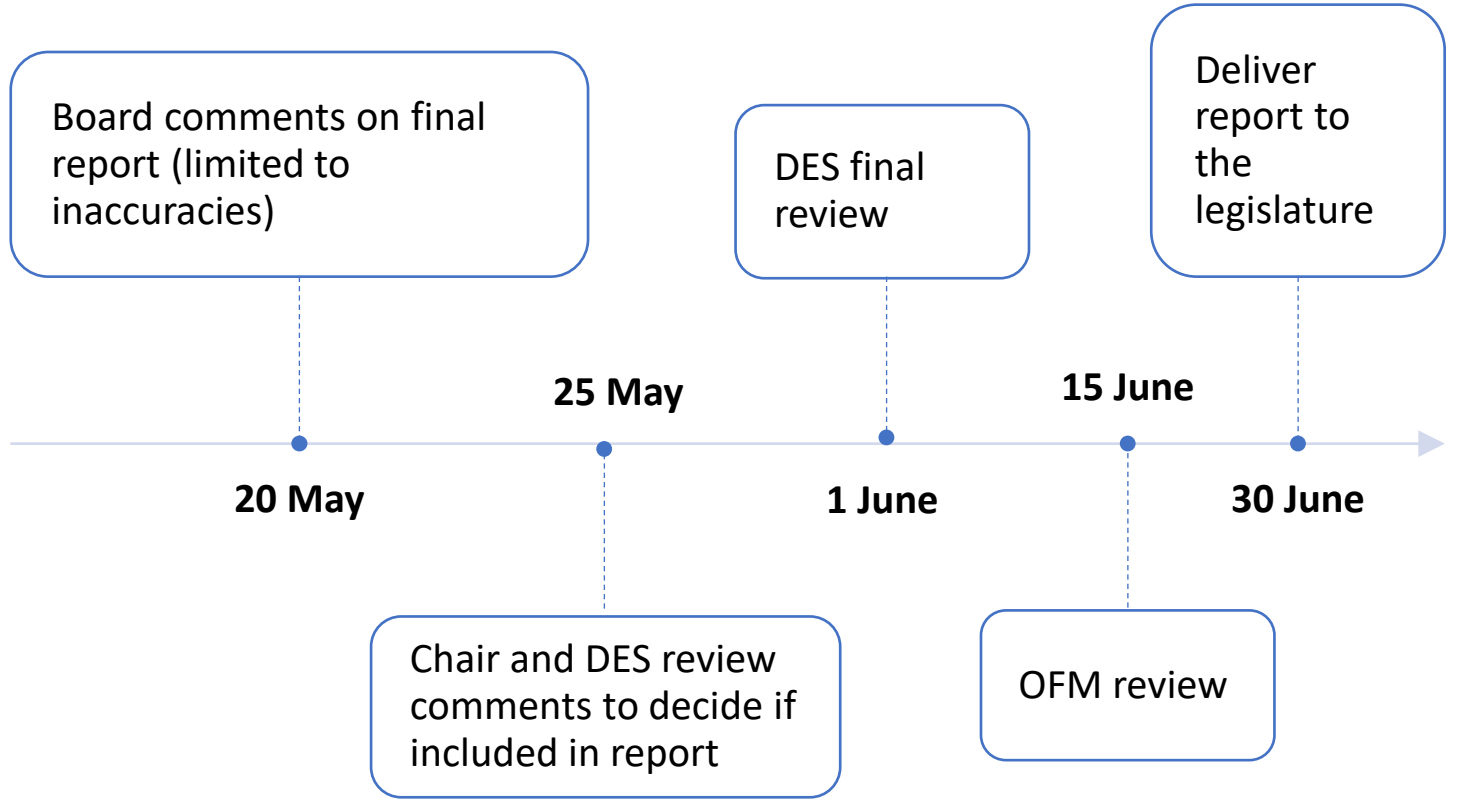
## **Board motion to recommend?**

9. Request CPARB to update supplemental bidder responsibility guidelines

*Split vote by the committee (4-4)*



# Next Steps after Board Vote



# Questions



# Additional Detail on Committee Recommendations

## 1-11 for Consideration



Passed CPARB



Priority from prime sponsor



Unanimous by committee



1. ***Adjust Port District and Irrigation District Small Works Roster Statutes to refer to RCW 39.04.155 (Keith Motion, Kristen 2<sup>nd</sup>) Unanimous***



2. ***Tie Small Works Roster threshold increases to state-wide inflation factor based on CCI (Kristen Motion, Jane 2<sup>nd</sup>) (Yes, Kristen, Chris, Karen, Jane, Andy) Abstain (Jolene) (No, Michael, Keith)***
3. ***Expand the 'no-bid response' process to all local agencies (Kristen Motion, Keith 2<sup>nd</sup>) No (Michael with caveat that may be able to increase transparency)***
4. ***Give unit price contracting authority to all local government agencies (Jane Motion, Kristen 2<sup>nd</sup>) Abstain (Michael) (No, Jolene)***



5. ***Remove retainage and bond requirements for projects under \$5,000 (Chris Motion, Kristen, 2<sup>nd</sup>) Unanimous***



6. ***Create a centralized list of Small Works rosters (Michael Motion, Kristen 2<sup>nd</sup>) Unanimous \*(clarifying points needed)***

# Additional Detail on Committee Recommendations

## 1-11 for Consideration



Passed CPARB



Priority from  
prime sponsor



Unanimous by  
committee



**7. Create list of certification/registration programs for disadvantaged businesses (Michael Motion, Kristen 2nd) Unanimous**



**8. Define small business in the public works contracting statute (Chris Motion, Kristen 2<sup>nd</sup>) Unanimous**

**9. CPARB update to supplemental bidder responsibility guidelines (Jane Motion, Michael 2<sup>nd</sup>) (No – Kristen, Karen, Keith, Andy) Split vote**



**10. Coordinated schedule for significant outreach events between public agencies and other stakeholders (Michael Motion, Andy 2nd) Unanimous**

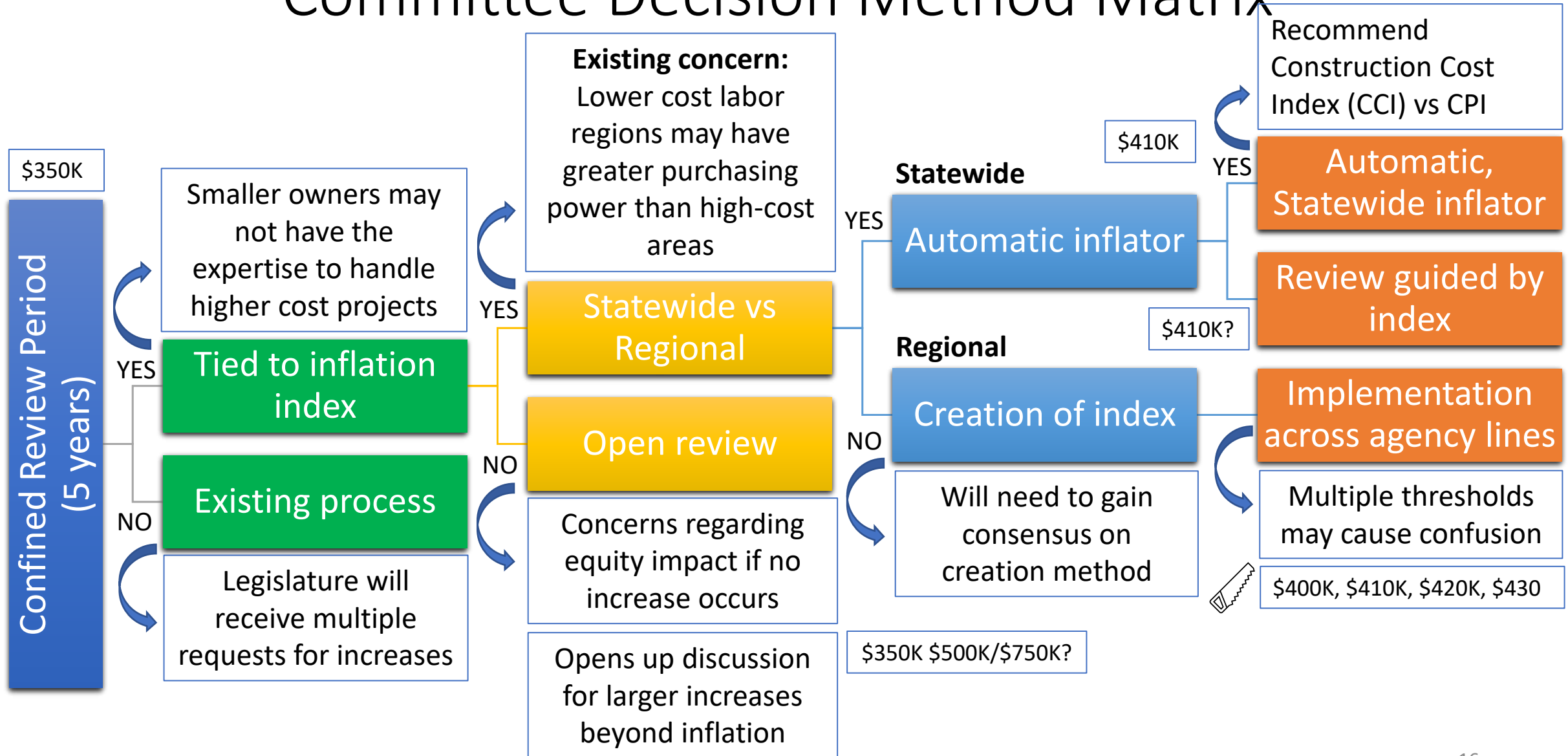


**11. Provide professional assistance to local government for Contracting guidance and Marketing and outreach to contractors (Michael Motion, Jane 2nd) (No – Andy, Keith, Kristen, Karen) Split vote**

# Committee Decision Matrix Votes

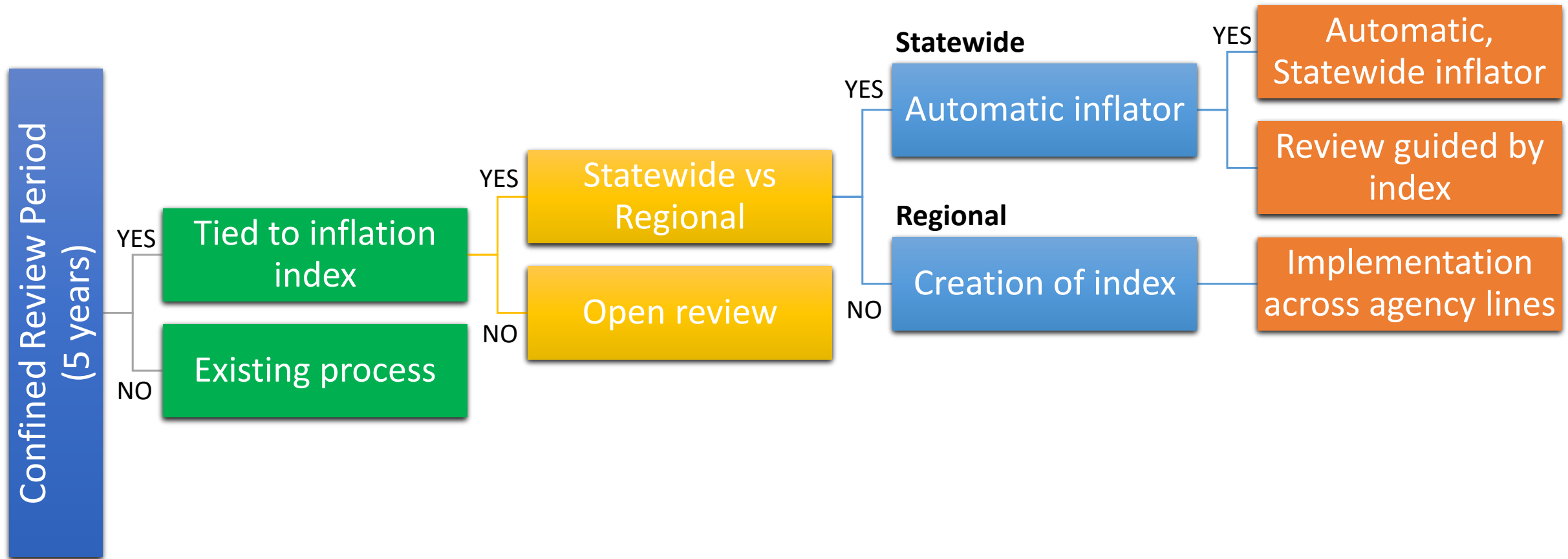
Name	Consensus	Consensus	Split - Statewide	Split - Automatic
	5 Year Review (Dark Blue)	Inflation Index (Green)	State vs Regional (Yellow)	Guided vs Auto (Orange)
C Herman	Y	Y	Statewide	<b>Guided</b>
A Thompson	Y	Y	<b>Regional</b>	Auto
Skinner/Herman	Y	Y	Statewide	<b>Guided</b>
K Mooseker	Y	Y	Statewide	Auto
M Transue	Y	Y	<b>Regional</b>	Auto
K Michel	Y	Y	Statewide	<b>Guided</b>
G Buckingham	Y	Y	Statewide	<b>Guided</b>
K Hill	Y	Y	Statewide	Auto
M Hepner	Y	Y	Statewide	<b>Abstain</b>
L Van du Lugt	Y	Y	Statewide	Auto

# SWR Threshold Increase Committee Decision Method Matrix





# SWR Threshold Increase Committee Decision Method Matrix



# SWR Threshold increase - Committee Recommendations

- **Original Recommendation:** Tie Small Works Roster (SWR) threshold increases to state-wide inflation factor based on CCI
- **Alternative Recommendation #1:** Apply an automatic statewide inflationary increase based on the CCI to the Small Works Roster at five-year intervals
- **Alternative Recommendation #2:** Review potential Small Works Roster threshold increase at five-year intervals guided by a state-wide CCI inflation factor
- **Alternative Recommendation #3:** Review potential Small Works Roster threshold increase at five-year intervals guided by a regional CCI inflation factor (regional index to be established)

Recommendation #11



**Voting**

- In favor: 9
- Not in favor: 1
  - Not comfortable with cost

# Public Works Resource Funding



### Public Agency Support

- General project guidance
- Supplemental criteria usage
- Scoping documents
- RFP process evaluation



### Business Technical Assistance

- Solicitation process guidance
- Requirements consulting
- Outreach events
- Marketing strategy advice



### M/WBE Support

- Facilitate M/WBE's/ & Local Gov't connection (mentorship, apprentice)
- Local Gov't Inclusion Plans
- BIPOC/WO community outreach
- Language Access

Ask for funding to support additional FTE for MRSC, PTAC and OMWBE each

\*Funding intended to also support recommendations 6, 7, 10

 CPARB Approved in February 2021

# Committee Recommendations – Unanimous / Policy

#	Recommendation	Vote Status	Ongoing maintenance	Considerations
1	Adjust Port District and Irrigation District Small Works Roster Statutes to refer to RCW 39.04.155	Unanimously in favor	No	Someone appointed to review statute language for Port and Irrigation districts
5	Remove retainage and bond requirements for projects under \$5,000	Unanimously in favor	No	Someone appointed to review which statute to update.
8	Define small business in the public works contracting statute	Unanimously in favor	No	Identify which statute to update and develop language definition

# Committee Recommendations – Unanimous / Maint.

#	Recommendation	Vote Status	Ongoing maintenance	Considerations
6	Create a centralized list of rosters	Unanimously in favor	Yes	<ul style="list-style-type: none"> <li>• How will this be implemented?</li> <li>• Who will maintain this?</li> <li>• Commitment from agencies to keep updated</li> <li>• Determine if set in statute or other mechanism</li> </ul>
7	Create list of certification/registration programs for disadvantaged businesses	Unanimously in favor	Yes	<ul style="list-style-type: none"> <li>• How will this be implemented?</li> <li>• Who will maintain this?</li> <li>• Commitment from issuing agencies to keep updated</li> </ul>
10	Coordinated schedule for significant outreach events between public agencies and other stakeholders	Unanimously in favor	Yes	<ul style="list-style-type: none"> <li>• How will this be implemented?</li> <li>• Who will maintain this?</li> <li>• Commitment from agencies to keep updated</li> </ul>

\*Funding from recommendation #11 would support these recommendations

# Committee Recommendations – Not Unanimous / Policy

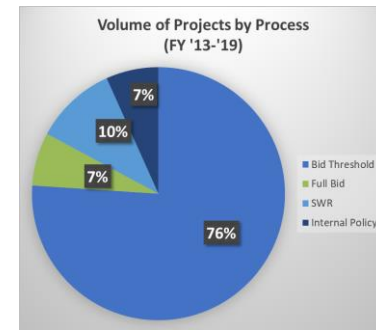
#	Recommendation	Vote Status	Ongoing maintenance	Considerations
3	Expand and define appropriate use of a 'no-bid response' process to all agencies	Yes: 6 No: 1 – Concerns regarding controls	No	<ul style="list-style-type: none"> <li>Define process to avoid misuse</li> <li>Revisit current authorization to align with this implementation</li> </ul>
4	Give unit price contracting authority to all public agencies and define limits of use	Yes: 5 Abstain: 1 No: 1 - Concerns regarding controls	No	<ul style="list-style-type: none"> <li>Define process to avoid misuse</li> <li>Revisit current authorization to align with this implementation</li> </ul>

\*Recommended as part of goal to create efficiency and uniformity

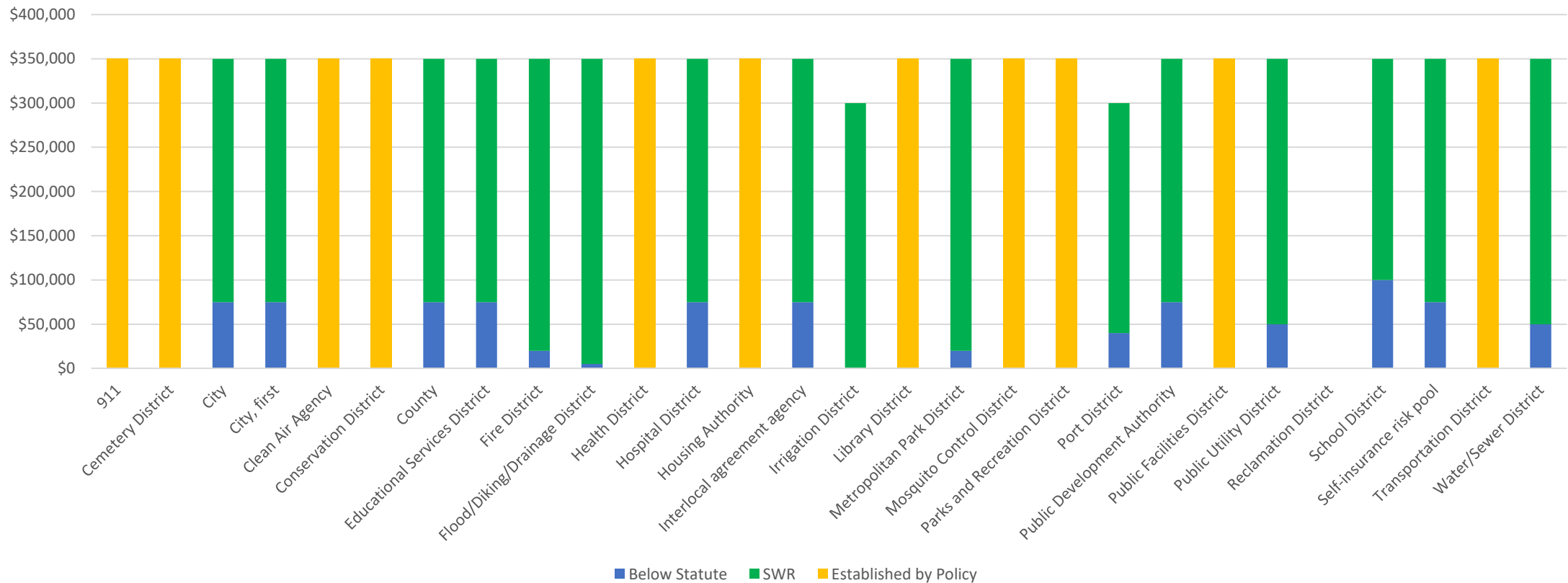
# Committee Recommendations Considered – Not Unanimous / Maint.

#	Recommendation	Vote Status	Ongoing maintenance	Considerations
2	Tie Small Works Roster threshold increases to state-wide inflation factor based on CCI	Yes: 4 Abstain: 1 No: 2	Yes	<ul style="list-style-type: none"> <li>Expansion of SWR a concern for some business entities</li> <li>Define process for five-year inflation increase</li> </ul>
9	CPARB update to supplemental bidder responsibility guidelines	Yes: 3 No: 4	Yes	<ul style="list-style-type: none"> <li>Is funding required for this effort?</li> <li>Define scope of update</li> </ul>
11	Provide professional assistance to local government for contracting guidance and marketing and outreach to contractors	Yes: 3 No: 4	Yes	<ul style="list-style-type: none"> <li>Define scope of support</li> <li>Two lines of support (agency and business)</li> <li>Concern about creating new resources to implement this</li> <li>Identify current available resources</li> </ul>

# Current Expedited Process Structure



Expedited Process Allowance by Government Type





# Defining Thresholds

- Two primary public works thresholds
  - Bid Threshold
  - SWR
- Take a variety of forms across agency types

Government Type	Bid Threshold	Small Works Roster Threshold	Applicable RCW	Limits for Work by Agency Employees
Area Agency on Aging	Subject to state bid requirements of RCW 43.19		74.38.050	Follows state requirements of RCW 43.19
City, first class	\$75,500 (1 craft) \$150,000 (>1 craft)	\$350,000	35.22.620	Per project: \$75,500 (1 trade), \$150,000 (>1 trade). NTE 10% of public works budget.
City, second class and towns city code	\$75,500 (1 craft) \$116,155 (>1 craft)	\$350,000	35.23.352 35A.40.210	Per project: \$75,500 (1 trade), \$116,155 (>1 trade). NTE 10% of public works budget.
Conservation district	None; established by policy		89.08	No statutory limits - set by policy
County, population >400k with purchasing department	\$0	\$350,000	36.32.235	Per project: \$45,000 or \$125k for Riverine or stormwater project (1 trade), \$90,000 or \$250k for Riverine or stormwater project (>1 trade). NTE 10% of public works budget.
County, population <400,000 with purchasing department	\$0	\$350,000	36.32.240 36.32.235	Per project: \$45,000 or \$125k for Riverine or stormwater project (1 trade), \$90,000 or \$250k for Riverine or stormwater project (>1 trade). NTE 10% of public works budget.
County without purchasing department	\$40,000	\$350,000	36.32.250	Allowed for non-road projects; road project limits set according to population and motor vehicle fuel tax factor
Educational service district (ESD)	None; established by policy (unless contracting on behalf of a school district, in which case school district bid laws apply)		28A.310	Most restrictive of establishing jurisdiction; if NA then by policy
Fire district	\$20,000	\$350,000	52.14.110	Not authorized
Flood/diking/drainage district	\$5,000	\$350,000	85.38.190	\$5,000
Health district	None; established by policy		70.46	No statutory limits - set by policy
Hospital district	\$75,000	\$350,000	70.44.140	\$75,000
Housing authority	None; established by policy		35.82; AGO 2009 No. 2	No statutory limits - set by policy

Government Type	Bid Threshold	Small Works Roster Threshold	Applicable RCW	Limits for Work by Agency Employees
Interlocal agreement agency	Most restrictive of establishing jurisdiction		39.34	Most restrictive of establishing jurisdiction
Irrigation district	\$0	\$300,000	87.03.435-436	No limit; must bid materials used by employees; must follow public works bid process when materials unless provided by contractor
Library district	None; established by policy		27.12	Most restrictive of establishing jurisdiction; if NA then by policy
Mosquito control district	None; established by policy		17.28	No statutory limits - set by policy
Park and recreation district	None; established by policy		36.69	Most restrictive of establishing jurisdiction; if NA then by policy
Metropolitan parks district	\$20,000	\$350,000	35.61.135	\$20,000
Port district	\$40,000	\$300,000	53.08.120	Allowed for all projects, except when over \$40k, must make a determination whether cost is lower performed by contract
Public development authority (PDA)	Statutes of creating city or county		35.21.730	Statutes of creating city or county
Public facilities district (PFD)	None; established by policy		36.100.030 35.57.020	No statutory limits - set by policy
Public utility district (PUD)	\$50,000	\$350,000	54.04.070	\$300,000
Reclamation district (over 1 million acres)	All public works must be formally bid		89.30.154	Not authorized
Regional support network (RSN)	Statutes of creating county		71.24.300	Statutes of creating county
School district	\$100,000	\$350,000	28A.335.190	\$75,000
Self-insurance risk pool	Most restrictive of establishing jurisdiction		48.62	Most restrictive of establishing jurisdictions
State college or university	\$45,000 (1 craft) \$90,000 (>1 craft)	\$350,000	28B.10.350 28B.50.330	\$45,000 (1 craft) \$90,000 (>1 craft)
Transportation authority (under RCW 36.57 or 36.57A)	None; established by policy		36.57A	No statutory limits - set by policy
Transportation authority (under RCW 35.21.225 or 36.73)	Statutes of creating city or county		35.21.225 36.73	Most restrictive of establishing jurisdictions
Water-sewer district	\$50,000	\$350,000	57.08.050	\$50,000

Note: "Craft" refers to professional trades. The bid threshold is thus based on the number of professional trades required to complete a project.

# CCI Inflation Adjustment

