

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

29 October 2021

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

|   |                             |                         |
|---|-----------------------------|-------------------------|
| <input checked="" type="checkbox"/> Olivia Yang       | Washington State University | CPARB /Committee Member |
| <input checked="" type="checkbox"/> Santosh Kuruville | Exeltech                    | CPARB /Committee Member |
| <input type="checkbox"/> Lisa Van der Lugt            | OMWBE                       | CPARB /Committee Member |
| <input type="checkbox"/> Charles Wilson               | DES                         | CPARB /Committee Member |
| <input checked="" type="checkbox"/> Irene Reyes       | Excel Supply Company        | CPARB /Committee Member |
| <input type="checkbox"/> Janice Zahn                  | Port of Seattle             | CPARB /Committee Member |
| <input type="checkbox"/> Jackie Bayne                 | WSDOT OEO                   | Committee Member        |
| <input type="checkbox"/> Cheryl Stewart               | Inland Northwest AGC        | Committee Member        |
| <input type="checkbox"/> Chip Tull                    | Hoffman Construction        | Committee Member        |
| <input checked="" type="checkbox"/> Aleanna Kondelis  | Akana                       | Committee Member        |
| <input type="checkbox"/> Brenda Nnambi                | Sound Transit               | Committee Member        |
| <input type="checkbox"/> Linda Womack                 | MBDA                        | Committee Member        |
| <input checked="" type="checkbox"/> Cathy Robinson    | City of Lynnwood            | Committee Member        |
| <input type="checkbox"/> Shelly Henderson             | Mukilteo School District    | Committee Member        |
| <input checked="" type="checkbox"/> Keith Michel      | Forma                       | Committee Member        |
| <input checked="" type="checkbox"/> Young Sang Song   | Song Consulting             | Committee Member        |
| <input type="checkbox"/> Stephanie Caldwell           | Absher Construction         | Committee Member        |
| <input type="checkbox"/> Bill Dobyms                  | Lydig                       | CPARB                   |
| <input checked="" type="checkbox"/> Bobby Forch       | Forch Consulting            | CPARB                   |
| <input type="checkbox"/> Lily Keefe                   | USDOT - Northwest SBTRC     |                         |
| <input checked="" type="checkbox"/> Sarah Erdman      | OMWBE                       |                         |
| <input checked="" type="checkbox"/> Van Collins       | ACEC Washington             |                         |
| <input type="checkbox"/> Cathy Ridley                 | Exeltech                    |                         |
| <input checked="" type="checkbox"/> Maja Huff         | Washington State University |                         |
| <input checked="" type="checkbox"/> Jerry Vanderwood  | AGC of Washington           |                         |
| <input type="checkbox"/> Timolin Abrom                | OMWBE                       |                         |
| <input type="checkbox"/> Melissa Van Gorkom           | Senate Committee Services   |                         |
| <input type="checkbox"/> Amy Stenvall                 | Mukilteo School District    |                         |
| <input checked="" type="checkbox"/> Cindy Magruder    | University of Washington    |                         |
| <input type="checkbox"/> Carrie Whitton               | Forma                       |                         |
| <input checked="" type="checkbox"/> Rachel Murata     | OMWBE                       |                         |
| <input checked="" type="checkbox"/> John Rose         | MRSC                        |                         |
| <input checked="" type="checkbox"/> Jolene Skinner    | LnI                         |                         |
| <input checked="" type="checkbox"/> Curt Gimmestad    | Absher Construction         |                         |
| <input checked="" type="checkbox"/> Eric Alozie       | NEW Construction            |                         |
| <input type="checkbox"/> Jerry Vanderwood             | AGC                         |                         |
| <input checked="" type="checkbox"/> Bill Frare        | DES                         |                         |
| <input checked="" type="checkbox"/> Sarah Erdmann     | OMWBE                       |                         |

## SPECIAL MEETING AGENDA

| Item   | Purpose    | Start    |
|--|------------|----------|
| Pollet Bill                                    | Discussion | 9:00 am  |
| Discussion on written comments received        |            |          |
| Other Comments?                                |            |          |
| BE/DBI Committee Consensus to provide to CPRAB |            |          |
| SWR as a Program to Support Diverse Business   | Discussion | 10:00 am |
| Mandatory and supplemental training            |            |          |
| Reporting                                      |            |          |
| Standard boiler plate                          |            |          |

**DIGITAL CONFERENCE ACCESS**

The committee meeting will be conducted entirely by Zoom digital conferencing.

Online <https://wsu.zoom.us/j/91303184464>

Meeting ID: 913 0318 4464

Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

Meeting ID: 913 0318 4464

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Olivia Yang - Washington State University

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Santosh Kuruvilla – Exeltech Consulting

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**MINUTES**

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**Item: Pollet Bill**

- Keith Michel – Presents his comments
  - More than one certification is problematic. – MRSC Recommendation was to create a list – page 16 of presentation to Pollets committee reference but not shown during meeting
  - Limit repeat awards.
  - Inflation challenges.
  - Potential conflict between certification definitions
- Stephanie Caldwell – comments and feedback from firms contracting community around SWR.
  - No to raising the threshold.
  - State-wide roster
  - Centralized certification/registration value in the environment of low bids.
  - Outreach Events value in low bid environment
  - Training
- Competing definitions of small, OMWBE, and RCW references within the statute – page 5 and 7 of Pollet bill.
- Gets everyone to 350K and then starts the inflation. Pollet did verbally indicate he has a goal to 500K.
- Cathy Robinson – stated comments no presentation
  - Standardize across entities
  - Needs to remain low bid
  - Rotating of contractors – should be eliminated – instead bid out to everyone.
  - Support raising threshold – two year old project could not be procured through the roster. Therefore support increase
  - Address certification, what type and who they are certified by, affects across the state. Thinks it should be handled outside of the SWR.
  - Outreach – better outreach. Affects all contracting not just SWR.
- Eric Alozie – stated comments no presentation
  - Clarification of certification – concerns around process of certification.
  - Broader issue of equity – needs a separate and deeper conversation.
  - Low Bid experience
- Anthony – stated comments no presentation
  - Full roster solicitation versus limited solicitation – feels that the limiting solicitation should have more restrictions but if sending out to the entire roster not have the same restrictions
- Aleanna – presentation
  - Concerned about separate authorizing statutes.
  - Softening of requirements around bonding and retainage of concern.
  - Addressing certifications and

- Michael Transue – stated comments no presentation
  - Policy changes – adjust port and irrigation statuses
  - Define small business
  - Remove retainage bond requirements – does not do
  - Inflation – does but does it in a different way than recommended from CPARB
  - Policy tried to get at the recommendation, but the maintenance recommendations from CPARB did not get included at all
  - Equitable distribution – not part of the CPARB Recommendations.
- John Rose – presentation
  - Slide of CPARB Recommendations accepted and included as well as others added to the bill not recommended by CPARB
- Jolene Skinner – presentation
  - Presented data from projects between 7/1/2019 and 10/26/2021
  - Section 4 – Cost index raises – concerns about waiving retainage and impacts/risks to contract release program.
  - Removal of the work “authorized” in line 1 page 6
  - How can public agency verify small business? There is no current method.
  - Raising threshold for limited public works – risks for contract release program.
  - Recommend providing a definitive date rather than legislative session for inflation increase taking effect.
  - Removing bonding requirements – concerns that 10K is too high.
  - Removing retainage for contracts less than 10K – concerned about it – does not provide additional remedies for unpaid wages.
  - Grants – MRSC is not a public agency.
- Basis of response to CPARB:
  - Respond based upon the CPARB approved study recommendations that are aligned with language within the bill.
  - Small Business Definition needs to be further comment.
  - Performance and retainage exemption needs further comment – show the difference between the bill and the recommendation.
  - Include some of the other recommendations comments.

Action by: BE/BDI Committee  
 Status: Recommendation to CPARB

Item: **SWR as a Program**

- Discussed what a potential reboot of the SWR could look like.
  - Complete rewrite/restructure of RCE 39.04.155.
- What does small business mean? - identified as an item that needs fully addressed and worked through
- Noted that OMWBE is the only state authorized M/WBE and DBE certification. DVA does their own verified certification. DES maintains WEBS which includes Small Business self-identification.
- If SWR was a program – that could address barriers, training, and incorporation of best practices.
- See if CPARB would support an effort in development of a full new SWR.

Action by:  
 Status:

Adjourn 11:11

**Zoom Meeting Recorded and available in BE-DBI Teams.**

From Bill Frare, DES to Everyone 09:09 AM  
 I support one standard as defined by OMWBE

From Aleanna Kondelis to Everyone 09:11 AM  
 Did you want us to show our support by item or wait until the end and then move through each section?

From Irene Reyes to Everyone 09:12 AM

I will email my comments for the whole document. Thank you

From Olivia Yang to Everyone 09:12 AM

suggest we let each finish and then say we agree. including "we agree this is not resolved" vs "we support the provision"

From Michael Transue to Everyone 09:16 AM

is the building cost index the same as the CCI the MRSC Committee recommended?

From MRSC Zoom to Everyone 09:16 AM

That's what I believe but worth a clarification with Pollets staff if they're looking at the same thing

From Irene Reyes to Everyone 09:17 AM

Or use the Chat for comments may I suggest?

From Rachel Murata (she/her) OMWBE to Everyone 09:19 AM

That was OMWBE's statute, the rest of the sentence makes it clear that the sentence relates specifically to certification as a minority or woman owned business. That is the full scope of the change.

From Irene Reyes to Everyone 09:21 AM

You are correct Rachel.

From Jolene Skinner to Me (Direct Message) 09:27 AM

hey maja - i just sent you L&I's feedback to share during this meeting. thank you!

From Michael Transue to Everyone 09:28 AM

it does not raise the threshold but aligns the ports and irrigation districts to 39.04.155

From Sarah Erdmann to Everyone 09:35 AM

Can the language focus on OMWBE directory first and if cannot find businesses, move to DES WEBS search?

From Aleanna Kondelis to Everyone 09:36 AM

Agree, Cathy

From Michael Transue to Everyone 10:03 AM

I would also note for the group that the limited PW process 39.04.155(6) currently defines "equitably distribute"...means to not "favor" one contractor over another.

does that include transportation contractors at DOT too?

thank you

From Washington MBDA Business Center to Everyone 10:04 AM

This data is very helpful.. thank you

From Michael Transue to Everyone 10:05 AM

Jolene...can we get a copy of you document?

From curt.gimmestad@absherco.com to Everyone 10:05 AM

Can the L&I report info that Jolene is reviewing be shared with the group via email?

From Aleanna Kondelis to Everyone 10:05 AM

Is there data on projects between \$350 and \$500 not JOC?

From Irene Reyes to Everyone 10:07 AM

I'm just curious if possible can you please let us know how many were certified wmbes businesses are part of the 91% small businesses?

From Olivia Yang to Everyone 10:07 AM

I just asked lorie to forward Jolene info to everyone invited to this meeting

From curt.gimmestad@absherco.com to Everyone 10:09 AM

Agree, with Jerry. Eye opening for sure.

From Irene Reyes to Everyone 10:16 AM

not common. I think this definition needs to be revisited. you are correct I think this is like the federal govt. most of them have 5 and when projects come they all sub out.

From curt.gimmestad@absherco.com to Everyone 10:30 AM

Agree with Olivia

From Cindy Magruder to Everyone 10:32 AM

Based upon Jolene's data, suggest small business definition needs to be discussed.

From Stephanie Caldwell to Everyone 10:33 AM

Agreed with Cindy Magruder. The small business definition needs to be discussed.

From Aleanna Kondelis to Everyone 10:33 AM

Agree on the small business definition and what to ensure that the resultant bill would open to all agencies, authorities and districts, etc.

From Bill Frare, DES to Everyone 10:38 AM  
Agreed

From Cathy Robinson to Everyone 10:38 AM  
Small Business Definition needs more work.

From Cindy Magruder to Everyone 10:39 AM  
Agreed. Definition needs to be discussed and changed.

From Rachel Murata (she/her) OMWBE to Everyone 10:42 AM  
And those issues on which there isn't consensus, you aren't making a recommendation, correct?

From Stephanie Caldwell to Everyone 10:43 AM  
What about three categories: Study Recommendations, Study Recommendations needing more discussion, Other Recommendations needing more consensus.

From Aleanna Kondelis to Me (Direct Message) 10:43 AM  
Although I would have preferred a matrix with yes/no ☐

From Irene Reyes to Everyone 10:50 AM  
Can we all have copies of the presentations and comments today please? thank you

From Me to Everyone 10:51 AM  
Yes, I will include them with the minutes.

From Sarah Erdmann to Everyone 11:00 AM  
Just M/WBE and DBE. DVA does their own certification and it's not a requirement to be small.

From Bill Frare, DES to Everyone 11:04 AM  
DD – 220

From Sarah Erdmann to Everyone 11:05 AM  
Thanks so much Bill!  
To my knowledge it is verification of the DD-220. I am unaware of any other verification that is done.

From Rachel Murata (she/her) OMWBE to Everyone 11:06 AM  
<https://www.dva.wa.gov/veterans-their-families/veteran-owned-businesses> this page explains the documentation that is required.

Proof of Honorable Veteran Status (copy of 1 of the following items\*)  
Please redact sensitive information.

DD214 member 4 copy, Retired VA ID Card, Retirement Certificate, Discharge Certificate - or if currently serving your military ID, badge, recent pay statement.

If you need to order a new copy of your DD214 you can do so at [www.archives.gov](http://www.archives.gov).

Proof of 51% ownership (copy of 1 of the following items\*)

Master Business application, business plan, operating agreement, meeting minutes, shares report, stock certificate breakdown, tax forms with ownership %, or if sole proprietorship your business license.

If a community property or 2 veteran 50/50 split you are eligible as long as the veteran maintains day to day operational control of the business.

Proof the business is a Washington State Enterprise which is defined as an enterprise which is incorporated in the state of Washington as a Washington domestic corporation, or an enterprise whose principal place of business is located within the state of Washington for enterprises which are not incorporated.

From Rachel Murata (she/her) OMWBE to Everyone 11:06 AM  
You're welcome!

From Stephanie Caldwell to Everyone 11:10 AM  
Agreed.

From Rachel Murata (she/her) OMWBE to Everyone 11:12 AM  
Thanks everyone, looking forward to continuing this!