

Subcontractor Bid Listing Evaluation Committee

Meeting Agenda 5/05/2022

Location Via ZOOM

Meeting ID: 942 6393 2852 **Passcode:** 217377

Committee Members: (13 members, 7 = Quorum)

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| X | Kyle Dilbert, Ports |
| X | Bill Dobyons, General Contractors |
| X | Corey Fedie, Public Hospitals |
| X | Curt Gimmestad, General Contractors |
| | Jeff Gonzalez, DES-State |
| | Matthew Hepner, Const. Trades Labor |
| | Russel King, Local Government |

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| X | Bob Korth, NW Ironworkers |
| X | Mark Nakagawara, Cities |
| | Mark Riker, Construction Trades Labor |
| X | Barry Sherman, Spec Subs\NECA |
| X | Michael Transue, Spec. Subcontractors |
| X | Olivia Yang, Higher Education |
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Guests:

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| X | Talia Baker, DES |
| X | 1206*125 |

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| X | Melissa VanGorkom |
| X | Kimberly Polanco |

Meeting called to order at 9:00 am

Co-Chair Bill Dobyons started the meeting and asked for approval of the agenda. No changes were proposed.

Michael Transue moved to approve the agenda, Curt Gimmestad seconded the motion. Motion approved with a voice vote.

Chair Dobyons shared the current goal for the Committee is to provide a report to CPARB to submit to the Legislature by November 1, 2022, on any proposed changes to the Subcontractor Bid Listing statute.

The meeting pre-read was shared which outlines this Committee's assignment:

The legislature finds that there are hundreds of capital construction projects completed each year which include complex contracting and bidding requirements. It is the intent of the legislature to review current subcontractor listing requirements to allow fair, transparent, and competitive bidding while prohibiting bid shopping.

The task for this committee is to solicit input from the groups you represent and get feedback, input and recommendations so that [the Committee] may create a draft report at our next meeting in June and make a recommendation to CPARB.

There are three primary steps for this committee to accomplish this task, and it might take a couple of meetings to gather the information.

All Committee members are asked to reach out to their stakeholder groups and ask for their feedback on the current law, how it is working, how it's not working, are there recommended changes, additions, deletions, etc.

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Bring the stakeholder feedback to the next meeting so the Committee can discuss it, decide what should be included in the report and what it will look like with the hopes of having a working draft by the end of July.

Bob Korth brought up a loophole in [RCW 39.30.060\(5\)](#) regarding alternative public works. He believes that if this loophole is closed the playing field will be equalized.

Chair Dobyns explained the challenge is that when the General Contractor is selected for DB or GC/CM, there are no subcontractors selected yet. When the GC/CM is bid-packaging the statute does not require a subcontractors list because the bids are opened and read publicly. It is common practice for non-alternative delivery GCs to put out structure packages for bid and only the sums of the total bid are read, excluding the subcontractors.

It would be helpful to hear from Owners as well as contractor stakeholder groups. There was a general reluctance to make the statute more descriptive because it already bogs down the bidding process due to the contractors needing to spend most their time updating and confirming their subcontractor list vs. making sure their bid price is as low enough to be competitive.

Kyle Dilbert with the Port of Seattle noted that they have had to toss out good and valid bids because of a minor omission or error on the subcontracting list. This also costs the public a lot of money when good bids are tossed due to overly complicated legislative directives.

Mark Nakagawara with the City of Seattle supported Mr. Dilbert as the City of Seattle has also had to toss out good bids due to the complexity of the legislation. It is difficult for owners to police and navigate as well.

Mr. Korth noted there are not a lot of subcontractors represented on this Committee, and they are definitely stakeholders on this issue. This law has been in place for a long time. What is different now that iron workers have been included? Is this loophole new?

Michael Transue stated that with MC/CM the current statute works well and achieves the intended purpose to minimize Bid-Shopping. In 2020 the iron workers brought up specifics that spotlighted Bid-Shopping issues they were experiencing. The bill originally wanted to include ALL subcontractors at once, but the Legislature and several stakeholder groups felt that was too much to bite off at once, so it was limited to structural steel and rebar. MCA's interest is to protect the system that works well since it was adopted. It's good to hear from all sides of the issue.

Barry Sherman pointed out that traditional bid listing is completely different from the GC/CM, EC/CM and MC/CM processes. The task from the Legislature is to focus on the whole bid listing process vs. just the GC/CM process.

Since most GC/CMs bid a structures package, Chair Dobyns proposes that Committee members ask our stakeholder groups if we should consider modifying 39.10 to include *'...in a Structures bidding package the structural steel and rebar listing requirements would apply.'* It would be good to get feedback from these groups what the impact would be.

Mr. Gimmestad pointed out that there are two issues being discussed. The first is Bid Listing as it applies to standard DBB, and the second is the GC/CM side with the listing of structural steel, and

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then the MC & EC/CM bid packages. They would fall under this as well because they would need to list their sub tiers.

Chair Dobyms explained that in the Mechanical and Electrical portions of the GC/CM are publicly open bids unless they are alternative selection, but it's still under a prescribed public process. It would be difficult to Bid-Shopping in that environment. The Structures packages are different. We want to avoid making the MEP alternative selection process any more complicated in any bidding format.

The legislature has recognized the current MEP process in DBB works okay. This Committee's charge is to focus on expansion and other timeframes that are not currently in statute. Let's focus on the pre-read's section b) Recommend appropriate expansion of the number of subcontractors that may be listed, and c) Recommend possible project thresholds and time frames for purposes of subcontractor listings for all scopes of work that are not required to list under law.

Committee members can ask for feedback regarding structural steel & rebar in the GC/CM delivery method and discuss the feedback at the next meeting.

Discussion point: Current statute allows for 1 hour for MEP listings, and 48 hours for steel and rebar which drags out the bidding period. We want to get feedback from owners and general contractors, too. What would the impact be if all 4 (MEP, steel & rebar subcontractor lists) are due within 1 hour of the bid opening?

Mr. Dilbert asked for clarification that the current process for GC/CM procurement, still public bid opening for all subs, so wherever structural steel and/or rebar are located as a sub, then the listing requirements would apply for that whole package?

This would not apply if the structural steel & rebar contractors applied as a prime.

The question was posed if there was any feedback from owners on the timing?

Mr. Dilbert shared that due to the challenges with the 48-hour lag-time. The Port of Seattle requires everything to be due within the hour.

Mr. Nakagawara also shared that the City of Seattle requires all their lists to be due within 1 hour, but they still have the 48-hour protest period to deal with. The initial 48-hour lag time plus the 48-hour protest period makes the whole process drag out for 4 days.

Chair Dobyms made a motion for all members to take the pre-read statement to their stakeholder groups, get feedback from them, and bring those responses to the next Committee meeting. Then the committee can discuss those responses and make a decision on what to take to CPARB.

Michael Transue seconded the motion. Motion passed by voice vote.

Olivia Yang brought up that there isn't a school district representative on the Committee. She sent a heads up to Karen Mooseker so she can assist finding someone to participate.

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New Business:

Talia Baker identified the need for the committee to decide on the meeting dates. The meeting poll suggested 3rd Wednesday mornings from 8:30-9:30 am.

After a little discussion the Committee decided to have the next meeting on June 15th to allow time for stakeholder discussions. The Committee will discuss the results at the June 15th meeting and draft a report by July 20th.

Chair Dobyans motioned to adjourn the meeting, seconded by Mr. Korth.

Meeting adjourned at 9:33 am

Action items:

- 1) All Committee members are asked to reach out to their stakeholder groups and ask for their feedback on the current law, how it is working, how it's not working, are there recommended changes, additions, deletions, etc. with a focus on the whole bid listing process vs. just the GC/CM process.
 - a. Do Ask for feedback regarding Structural Steel & Rebar in GC/CM bid packages.
- 2) Use the pre-read's section b) Recommend appropriate expansion of the number of subcontractors that may be listed, and c) Recommend possible project thresholds and time frames for purposes of subcontractor listings for all scopes of work that are not required to list under law.
 - a. What would the impact be to your stakeholder group if 39.10 was modified to include '*...in a structures bidding package the structural steel and rebar listing requirements would apply.*'
 - b. What would the impact be if all 4 (MEP, steel & rebar subcontractor lists) are due within 1 hour of the bid opening?
- 3) Bring the stakeholder feedback to the next meeting on June 15th so the Committee can discuss it, decide what should be included in the report and what it will look like with the hopes of having a working draft by the end of July.