

Project Feedback Process Workgroup Committee

Report to CPARB

9/12/2024

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Committee Chair\Co-Chairs: Jeff Gonzalez, Dave Johnson

Committee meeting dates since last CPARB meeting: 5/16/2024 and 6/20/2024

Current Activity\Specific Issues being addressed:

Over the past several months the workgroup has been working through the two key objectives:

1. Establish a preapplication process that can help owners be successful, and define what success means.
2. Create a process to manage post-incident occurrences and establish ways to ensure the issue does not happen again.

The workgroup continued efforts to try to resolve issues at the lowest possible level and to keep things simple, manageable, and with minimal impact on existing resources. We feel an informal process is preferred to a formal process if possible. We feel it's important to remind ourselves that we're not authorized to change established criteria outlined in RCW 39.10. We understand the need for a forum to discuss issues related to RCW 39.10 and best practices in the industry.

As it pertains to the first objective, the Project Feedback Process Workgroup presented to the PRC at the June and July Business Meetings. The purpose of the presentations was to solicit input on the questions developed by the Workgroup. After a robust discussion, and some minor language tweaks, the PRC approved the attached list of questions that will be included on PRC applications beginning in December of 2024.

The approved questions, that are attached, were a culmination of comments and concerns raised by the Workgroup over the past year. The list was ultimately pared down to the fewest questions that seemed to address most of what we heard. We intended for the questions to be answered by Owners to get them thinking ahead of the PRC meeting, rather than asking "gotcha" questions during the meeting. We avoided yes/no questions and wanted thoughtful answers to maximize project and Owner success.

Objective 2 really formalized what was an informal process of addressing violations of 39.10 to CPARB. There was a lot of discussion within the group on whether to focus solely on violations of 39.10, or create a process and/or forum that focused on violations of best practices. In the end, the group moved forward with a process focused on violations of 39.10 only at this time. The Workgroup will continue to discuss a forum to resolve best practices issues and will report back as more progress is made.

Attached to this Pre-Read is the Post-Incident Process that was vetted and approved by the Workgroup. This is submitted to CPARB for review and adoption.

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Open Issues:

- Continue to identify a forum that allows all affected parties (owners, general contractors, subcontractors, architects, consultants, etc.) to openly discuss issues related to education resources, training opportunities, and general best practices to maximize success as an industry.
- Implementation of Post-Incident Process, once approved by CPARB.

Timeline of deliverables (if any):

- Return to CPARB on October 10, 2024 with Final Post-Incident Process or to discuss comments received.

Board Action needed (if any): Provide comments and/or direction regarding the Draft Post-Incident Process.

Project Feedback Process Workgroup Committee

Attachment 1

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Pre-Incident Questions approved by PRC on July 25, 2024 for new applications starting in December 2024.

1. What have you done as an Owner to prepare yourself and your staff for this GC/CM – DB project:
 - a. How have you communicated with other public owners to understand the organizational alignment and administrative time needed to manage an alternative delivery project?
 - b. What training have you as an Owner and your staff taken?
 - c. How have you considered the differences in alternative delivery vs Design Bid Build with regards to contract requirements around risk allocation, attitudes towards contract changes, disputes, etc.?
2. How does your organization ensure that knowledge is passed down to your staff and project team?
3. How have you familiarized yourself and your staff with GC/CM – DB Best Practices?
4. What is your role in monitoring GC/CM – DB Subcontractor Bid Packaging and do you have staff allocated to provide oversight in Prime contractor's bidding and subcontract terms?

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Attachment 2

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CPARB Draft Post-Incident Process

Approved by Project Feedback Process Workgroup on 5/16/2024:

1. If a potential violation of RCW 39.10 occurs, user should first attempt to resolve the issue with Owner. Violations of RCW 39.10 that are actionable in court should be addressed by the court system.
2. Educate RCW 39.10 users to notify PRC of potential issues that arise that cannot be resolved with an Owner. (This could be a link on website, or form, or email to submit issue - TBD).
3. Potential violation of 39.10 reported to PRC Chair or designee.
 - a. PRC Chair/designee reviews issue with the CPARB Chair, DES staff, and the Assistant Attorney General assigned to advise CPARB (CPARB assigned AAG).
 - b. PRC Chair/designee picks up the phone to talk to potential violator. Issue discussed to get more background and to determine if it's considered a violation of an RCW, a violation of a Best Practice, or an issue to be resolved between Contractor and Owner.
 - c. PRC Chair/designee reviews the call with the CPARB assigned AAG, CPARB Chair and DES Staff to discuss course of action. CPARB assigned AAG to determine whether there has been a violation of an RCW.
 - d. PRC Chair, or designee, documents call in 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.
 - e. If PRC Chair or designee is satisfied with the response or the CPARB assigned AAG determines the issue was not a violation of 39.10, issue closed.
 - f. If the CPARB assigned AAG determines issue is a violation of 39.10, issue is raised to CPARB Chair for action.
4. If issue is raised to CPARB:
 - a. CPARB Chair, or designee, discusses the issue with the CPARB assigned AAG regarding whether the issue is a violation with 39.10.
 - b. CPARB Chair, or designee, will informally contact violator to talk through the issue.
 - c. If satisfied with Owner response, log it and issue is considered closed.
 - d. If not satisfied with response, CPARB Chair, or designee, will engage the CPARB assigned AAG to determine next steps.
 - e. If appropriate, the CPARB Chair writes letter to violator to document issue.
 - f. If the issue is not resolved, CPARB Chair will follow up with appropriate action with consultation with the CPARB assigned AAG and the DES staff.