

GCCM Committee

Legislative Recommendations

Committee Members:

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Santosh Kuruvilla (Engineers)
Sam Miller (Architects)
Todd Mitchell (Construction Trades Labor)
John Palewicz (Private Industry)
Traci Rogstad (Schools)
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Olivia Yang (Higher Ed)
Janice Zahn (Ports)

**GCCM Committee
Summary of Legislative Recommendations**

Item	Recommendation	Rationale	Statute(s)
1	Define “Risk Contingency” and “Budget Contingencies”	There has been some confusion with these types of contingencies. For example, risk contingency funds have been used to cover overall budget shortfalls. In addition, this sets clear expectations for PRC review and discussion on contingency provided outside of the MACC. Committee believes that defining these terms will better ensure funds are used for intended purposes.	RCW 39.10.210
2	Move “heavy civil construction project” language into one section of RCW 39.10	“Heavy civil construction project” language is currently scattered throughout RCW 39.10 and co-mingled with traditional GCCM making it difficult to sort through and understand how provisions apply to the different project types. Committee felt that language was better-organized if located in one section of RCW 39.10. These are non-substantive changes.	Various
3	Add language to promote timelier processing of equitable adjustments, changes orders, and claims	There has been some frustration among contractors, specifically trade partners including small businesses, about the pace of processing EAs, COs and claims and impacts on their right to be compensated. In some cases, review must go through several different divisions of a public owner, which takes time. The committee believes that reducing the response time from 60 to 30 days will help and is more consistent with other areas of Washington law, including RCW 39.04.360. Also, if a response is not issued within 30 days, contractors are not deemed to have waived any rights in the claims process. The original intent of the	RCW 39.10.350

		language was to protect the contractor. “Deemed denied” actually puts the contractor at a detriment, requiring the dispute resolution process rather than allowing the parties to continue to work together.	
4	Clarify scope of independent audits	There is minimal guidance about the scope of independent audits, especially if the contract or elements of the contract have been negotiated to lump sum. For better transparency, the scope of the audit is defined in the contract for construction and provided at the beginning of the solicitation process. This allows the contractor and trade partners to track appropriately to facilitate the audit.	RCW 39.10.350 RCW 39.10.385
5	Clarify use and scope of the fee and any price-related factors in the GCCM evaluation process	Committee’s intent is to make GCCM selection more like design-build selection. This would amend RCW 39.10.360 to require submission of a percent fee, but allow owners to choose to include any other price-related factors in the evaluation process. In addition, the bid requirement for fixed specified general conditions is removed to allow for flexibility in how the SGCs are established to best suit the needs of the project. For transparency purposes, the RFP needs to define what price-related factors will be used and what is included in each factor.	RCW 39.10.360
6	Align public solicitation/advertisement language in GCCM selection with design-build selection language	Harmonize with design-build statute, ease prescriptiveness of process and encourage competition.	RCW 39.10.360 RCW 39.10.380
7	Align evaluation factors for GCCM selection more closely with design-building evaluation language	Harmonize with design-build statute and ease prescriptiveness of process.	RCW 39.10.360
8	ECCM and MCCM (MCAWW)	MCAWW’s concerns about ECCM and MCCM selection process are well-known. This is compromise language	RCW 39.10.385

		that promotes open and fair selection process based on objective criteria. Key changes: PRC approval for non-certified public bodies, notice of public hearing in same publication as call for proposals, cumulative scoring of price and nonprice factors, narrowing of evaluation factors to project-at-hand, and clarification regarding SGCs and fee, written final determinations, protests, interviews and independent audits.	
9	Expand RCW 39.10.385 to all trades	Earlier subcontractor involvement can avoid cost issues down the road. Expanding to other trades allows this effective engagement in preconstruction while using the refined selection process based on lessons learned from MCCM and ECCM.	RCW 39.10.385
10	Add language to make negotiated support services (NSS) an “allowance” to be reconciled at conclusion of the work	Committee’s intent is to treat NSS as an “allowance” that is subject to reconciliation at the conclusion of the work and to clarify who is at risk for the total cost of NSS through the duration of the project. This was deemed appropriate because the intent of NSS is for use on items that are unquantifiable at the time of MACC negotiation. Individual items may be able to be converted to a lump sum during the life of the project.	RCW 39.10.370
11	Provide greater flexibility when all responsive bids exceed available funds	Committee felt that the term “bid package estimate” provides more clarity than “available funds.” The “\$125K” figure in RCW 39.10.380(6)(b) is not relevant by today’s standards. Finally, increasing percentage over “bid package estimate” from 2% to 10% provides greater flexibility for public bodies and GCCMs to negotiate changes to meet the bid package estimate and avoid re-bidding.	RCW 39.10.380
12	Clarify subcontractor bid packages	Committee believes this will increase transparency and improves competition in the subcontractor bid	RCW 39.10.380

		packages. The committee also feels this maximizes competition by aligning bid packaging with industry practice and providing best value to the public entity.	
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