

# Capital Projects Advisory Review Board's

## Local Government Public Works Study Committee (5418)

*Meeting Summary June 25, 2020 (Meeting #2)*

### **1. In Attendance:**

Jon Rose (MRSC) Chair

Andrew Thompson (Granite Construction) Vice Chair

Members: Chris Herman (WPPA), Jolene Skinner (L&I), Keith Michel (Forma Construction), Jane Wall (WSAC), Kristin Hall (Snohomish PUD), Michael Transue (MCA)

Participants: Yelena Semenova (DES), Nancy Deakins (DES), Sarah Bollard (MRSC), Judy Isaac (MRSC), Laura Herman (L&I), Elisa Young (City of Seattle), Rebecca Keith (City of Seattle)

### **2. Agenda:**

- a. Threshold Consistency
- b. Keeping Pace with Inflation
- c. Discussing Recommendation: goal for the day
- d. Mandate of the group is to identify recommendations to take to the CPARB board to approve

### **3. Interests**

- a. Shared information on slides

### **4. Prior Discussion Take-aways**

- a. Shared information on slides
- b. Michael: "many agencies benefit from SWR and developing own process" Do we know how many folks have developed their own process? Interlocal cooperation act to contract to one another as long as the statutory authority is authorized by both jurisdictions
- c. Judy: all/almost all agencies have to, at least partially, set their own policies under statute limits, some agencies will make more restrictive internal policies and some agencies (minority) have no statutory limits and completely create their own
- d. Judy: in terms of piggybacking/interlocal agreement we don't have a mechanism to capture when that is being used
- e. Laura: L&I does not capture that data, but does ask what type of contracting procedure was used. Prime contractor who has to enter this information may be unaware of contracting procedure or piggybacking process
- f. Michael: only way to get that data would be in a survey to public agencies, but may be complicated
- g. Judy: Going forward if there's a reason to track that, it may be helpful through the auditor's office (similar to use of agency forces)
- h. Michael: we note this as a hole in the data and see how we progress, be aware that some of them are out there
- i. Chris: 20 bills introduced around bid thresholds?

- i. Jon: No, not on bid thresholds, just on public works in general
- ii. Chris: A little misleading, SPDs have been ordered to get JOC and bills out of the disparity study, so those may be why the spike in bills
- iii. Michael: I categorized it as bills related to procurement factors

**5. Defining Thresholds**

- a. Shared information on slide

**6. Current Expedited Process Structure**

- a. Showing how each agency is structured
- b. Yellow representing agencies that set their own threshold
- c. Reclamation Districts must always formally bid
- d. Should we be raising only for distinct groups? Or controlled over all?
- e. Andy: Yellow should be labeled "Established by Internal Policy"

**7. Simplification Options Identified**

- a. Consolidation: May take some simple wins but may not serve to fix the larger problem
- b. Group by Agency Size/Budget: group up those who have larger budget/size would have a larger threshold. Heard a lot of concern around this method as might make things more complex
- c. Uniform threshold: Create master controlling statute that applies to everyone. Procurement should operate the same regardless of your agency type
- d. Maintain the current process: agencies have negotiated what works for them

**8. Creating Singular Thresholds**

- a. Shared information on the slide

**9. Flexible Considerations**

- a. Shared information on the slide

**10. Discussion**

- a. Andy: If you create uniform thresholds – would that decrease the amount of individual advocacy?
  - i. Jon: Only speaking from my point of view that this would likely decrease, but only if we coupled it with some sort of required process/standard process for increasing (only looking at it every 5 years, etc.)
  - ii. Michael: I agree with Jon, could be made even better if coupled with an inflationary factor
- b. Andy: I wouldn't really advocate for this unless we know the legislature would really benefit
- c. Chris: Fair to state that the current leadership on these issues are interested in uniformity and fewer one-off legislative efforts in this area.
- d. Rebecca: Has there been an articulated policy statement on what purpose the thresholds hold?
- e. Jon: No. We have not uncovered any articulated policy around that
- f. Rebecca: if our goal is to see the amount of threshold bills limited, we could make that recommendation. More interested in figuring out what the policy factor should be underscoring the process. In design/bid/build the process is public agency gets the best price and that the process is fair for those who are bidding on it. Labor prices are likely significantly different, potentially geography that drives costs?

- g. Jon: Yes, labor makes up 1/3 of the cost. Labor costs are doubled in some places than others across the state, the other 2/3 are materials which we don't see much difference
- h. Chris: labor costs 'bleed' out of the center, often times projects outside the state bring in labor from larger metropolitan areas and drive those costs higher
- i. Jon: Have thought about uniformity regionally, but can be difficult to determine how to split and adds further complexity
- j. Rebecca: What statute creates the 350k threshold?
- k. Judy: SWR Threshold 59.
- l. Kristin: sound check
- m. Jon: Uniformity may be a good idea, it's just pretty complex in how to set that up? Is that what I'm hearing?
- n. Judy: Could approach that with a phased approach: First approach would be to set up the process of when we look at thresholds and why they change. And then, in a second phase, launch a study to determine how to set up uniform thresholds
- o. Andy: I like that
- p. Michael: I like that idea, it's going to be complex. Like the idea to set up framework and then going forward
- q. Jon: Any other voices
- r. Kristin: okay with that
- s. Chris: I wonder if we perhaps are a little cart before the horse? One of the strategies from the disparity study is increasing thresholds to allow and create more access to projects.
- t. Jon: each of these conversations are interlinking, OMWBE will be present in the next two meetings. I'm hearing that this would be a good idea but needs to make sure it aligns with
- u. Elisa: Issue some years ago as small works roster was not helping minority and women-owned businesses, only using JOC and open bid options. What we have seen there is an increase in minority and women owned businesses by transitioning away from small works roster. The idea that increasing the thresholds would help address disparity, it's only one side of the coin.
- v. Jon: I heard voices echoing support for a phased approach (establishing a process whereby increases would be considered) followed up by phases (what does uniform threshold look like and increasing minority and women-owned business)
- w. Elisa: support that approach in terms of phases – how specific will we be in terms of specific needs for those increases
- x. Judy: Could be coupled with inflation rate, could be individual groups but they follow index-type scenario need to explain why (standardized form that they use)
- y. Chris: only concern is in the context in how legislation is drafted/reviewed/considered – doesn't necessarily work. OFM is given authority, using an index, propose increases at set intervals. It isn't necessarily individuals come back at a given time – generally an external body outside the legislature

## **11. Regional Inflation Index**

- a. Shared information on slides

## **12. Statewide Inflation Index**

- a. Shared information on slides

### 13. CCI Inflation Adjustment

- a. Shared graph
- b. Legislature would look at this graph every 5 years or so and increase thresholds
- c. When applying this in the current model, it would give different dollar amounts to different agency types

### 14. Discussion

- a. Chris: ran this by a few folks – does the CCI incorporate the prevailing wage? Does this take off the table an increase initially?
- b. Jon: not sure if 350k should be the base number for this? May be arbitrary, but we could accept this or correct to a different baseline
- c. Michael: I don't think there is a really defined reason for why the thresholds exist where they are
- d. Jon: Inflation process may take off the table individual agency types to press for increases
- e. Judy: That's what the legislature wanted
- f. Chris: We don't see this approach used very widely, typically speaking they like it in concept but it isn't well utilized
- g. Jon: Resistance or curious why they haven't use it?
- h. Chris: Yeah, I think I'm just curious why
- i. Jon: May want to do some consolidation (get irrigation and port districts to 350k threshold)
- j. Chris: Yes, we would have that as a goal. I was surprised to see how many SPDs have thresholds that they determine internally
- k. Rebecca: why does the state establish public works thresholds? We get to set purchasing policies where millions are dollars are spent
- l. Sarah: Oregon and Idaho have uniform thresholds at lower dollar limits
- m. Michael: I don't think we would be in support in giving everyone internally policy only ("yellow" authority). All of these entities are creatures of state statute, were created by the state and there is an interest in maintaining or requiring legislative oversight
- n. Jon: State may want to maintain "blue and green" but want to know why some folks are "yellow" and how that happened
- o. Chris: what's the basis for having a 'blue'? We would have to make emergency declarations to make basic infrastructure repair because that was the only way to get things done. Curious to know what it's like in a school district with the larger threshold and what they're able to accomplish
- p. Jon: They are the largest buyer in the state so needed more flexibility
- q. Rebecca: Keep coming back to the, why can't everyone be yellow. I'd rather bring everyone into line (350k threshold has inflation factor and it's over that they have to go to formal bid, anything under that would be set by internal policy)
- r. Michael: one of the things that, for contractors, make that difficult is varying process. Hoping to get consistency among SPDs, want to see consistency

- s. Kristin: Training issues would be very complex. PUDs having different limits would complicate. My own PUD would put a big burden to figure out the appropriate limit, we're comfortable with the limits that exist
- t. Laura: you might want to get some state auditor's office input on some of the relaxing below state looks like. Type and size of the agency may be relevant to the ability to expertly handle procurement.
- u. Jon: might give greater flexibility to those that have the capacity to handle that flexibility
- v. Michael: There was one bill that was based on a SPD having a finding from a state auditor that they didn't comply with the bid statute
- w. Andy: most contractors like the idea of consistency, most public owners like the flexibility
- x. Rebecca: Not sure what contractors are referring to
- y. Andy: there is an administrative component to understand each agencies process. Like having clear rules.
- z. Jon: small businesses like having a simple process as well. Greater administrative cost trying to understand what the requirements are, that may cost businesses more money.
- aa. Chris: many agencies adopt policies that are most restrictive than what they are allowed to under state law
- bb. Jon: How do we come to a recommendation?
- cc. Rebecca: Feel for myself I want to hear from small, minority and women-owned business how the thresholds are working for them. Rather everyone has a full understanding for the perspectives
- dd. Jon: so go into the next two meetings, knowing that in the final meeting we will need to circle back to this
- ee. Andy: City of Seattle has moved away from small works?
- ff. Rebecca: yeah we did, because minority and women owned participation was worse on those projects. Weren't finding that it wasn't opening the door because they would have to be a prime
- gg. Chris: Projects on the small works roster, in ports, are generally done by one contractor and no sub contractors
- hh. Andy: Is it possible to write down the phased approach?
- ii. Judy: I agree, we'll bring a written version of that