

ALTERNATIVE PUBLIC WORKS SUNSET REVIEW

PROPOSED SCOPE AND OBJECTIVES

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STATE OF WASHINGTON
JOINT LEGISLATIVE AUDIT AND
REVIEW COMMITTEE

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What are Alternative Public Works Procedures?

Alternative public works procedures allow public entities to design and construct public facilities without following the traditional procedure of first completing the facility design and then awarding construction contracts to the lowest responsible bidder to that design. Instead, these alternative procedures allow public entities to engage construction contractors during the design process so that their expertise will assist the design team in anticipating problems that may arise during construction.

Development of Alternative Public Works Procedures in Washington

The Legislature first authorized alternative procedures on a limited basis in the 1990s. JLARC reviewed the use of the general contractor/construction manager (GC/CM) alternative procedure in 2005. That procedure enables agencies to contract with a general contractor who participates in the project design and also serves as the construction manager during construction. The 2005 audit found evidence suggesting that state agencies benefited from using the GC/CM procedure. The audit recommended improved oversight through the Capital Projects Advisory Review Board (CPARB) for GC/CM procedures and development of a database for evaluating project performance.

The 2007 Legislature enacted 2SHB 1506, which expanded the use of alternative public works procedures to also include design-build and job order contracting procedures. The design-build procedure awards a contract to a single firm to both design and construct a facility. Job order contracting allows public agencies to contract for an indefinite quantity of construction services for a fixed period based on negotiated unit prices.

The 2007 legislation also strengthened oversight by directing CPARB to appoint a Project Review Committee (PRC) to review and approve public agencies' qualifications to use alternative public works procedures. Agencies may seek either blanket authority to determine when to use alternative procedures, or they may seek authority to use a specific procedure on an individual project. Since 2007 the PRC has granted five public agencies blanket authority to use alternative procedures and authorized another 35 public agencies to use alternative procedures on individual projects.

What is a Sunset Review?

The Washington Sunset Act (Chapter 43.131 RCW) establishes the process for conducting sunset reviews. When a program is subject to a sunset review, the program terminates unless the Legislature acts to reauthorize the program's existence. In the year prior to the termination date, JLARC conducts a sunset review of the program. The review looks at issues including the extent to which the program has complied with legislative intent and whether the program has met its performance targets.

The Legislature included a June 30, 2013, Sunset Act termination date for alternative public works procedures. This requires JLARC to complete a sunset review of these procedures prior to the 2013 Legislative Session.

Sunset Review Objectives

Statute specifies the objectives for a sunset review, which include addressing the following questions:

- 1) To what extent has use of alternative public works procedures complied with legislative intent?
- 2) To what extent do alternative procedures provide for efficient and economical public works construction, with adequate cost controls in place?
- 3) To what extent have projects constructed using alternative procedures achieved expected performance goals and targets?
- 4) To what extent do alternative procedures duplicate the activities of another agency or the private sector?

The review will include a recommendation of whether to terminate, modify, or continue alternative public works procedures without modification.

The review will also include evaluation of CPARB's implementation of JLARC's 2007 recommendation to strengthen executive level oversight of alternative procedures and develop the project database required by law.

Timeframe for the Study

Staff will present the preliminary report in September 2012, and a proposed final report in November 2012.

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