

ADMINISTRATION TEAM

January 19, 2018

9:00 am

WSDOT Fife Project Office
6610 16th Street E., Suite A
Fife, WA 98424

OPEN MEETING

Reviewed the last meeting summary for posting.

Members discuss the COA UDBE goals on the latest projects on advertisement and the need for a clear, consistent evaluation process and realistic risk allocation for contractors on the pre-award Good Faith Effort. This will likely happen as long as the waiver is in place, as the availability of UDBE subcontractors will be limited as compared to contract COA goals assigned, along with the amount of work out on the current market in Western Washington.

Chris Tams shared the recent e-mails from WSDOT OEO director on the contract COA UDBE goal setting;

Beginning today, the Washington State Department of Transportation, (WSDOT) is implementing a 19 percent overall Disadvantaged Business Enterprise Goal (per 49 Code of Federal Regulation Part 26.45). This change is based on the results of the most recent disparity study.

*WSDOT's white-women waiver is still in place, making white-women-owned businesses ineligible for credit toward race-conscious DBE attainment (condition of award). On Sept. 13, 2017, WSDOT requested that the waiver be rescinded. To date WSDOT **has not** received USDOT approval to rescind the waiver.*

Pending a response from USDOT, WSDOT is proceeding with the revised goal.

WSDOT will proceed with an 8.7 percent race-conscious goal (fulfilled with under-utilized DBE condition of awards goals), and a 10.3 percent race-neutral or voluntary participation goal.

If the waiver is repealed, WSDOT anticipates implementing a 19 percent goal broken out as: 16.8 percent race-conscious participation and 2.2 percent race-neutral participation.

Regardless of the overall goal, WSDOT will continue to base contract-specific goals on opportunities in the contract and availability of DBEs to perform that work.

Mentor Protégé Process

The team was provided with the following information and OEO is seeking input from the team.

To increase Minority, Small, Veteran and Women's Business Enterprise participation the Washington State Department is implementing a Mentor Protégé Program. The intent of this program is to have a larger more diverse pool of subcontractors working on WSDOT consulting and construction projects within the next year.

- *100 Minority, Small, Veteran, and Women's Business Enterprises noting interest in participating.*
- *30 - 50 Minority, Small, Veteran, and Women's Business Enterprises enrolled in the program to participate as protégés.*
- *30 - 50 prime contractors and prime consultants enrolled in the program to participate as mentors.*
- *Following are targets by which the program's success will be evaluated. Overachievement in one area could compensate for shortfalls in another:*
- *25 - 30 protégés have executed written Development Plans with their Mentors.*
- *10 - 25 protégés have expanded their North American Industrial Classification System Codes.*
- *10 - 15 protégés are on track to increase their annual income. This can be based on winning the contract, not actual dollars paid. This could include non WSDOT owners as well.*
- *10 - 15 protégés are participating in their first contract or subcontract with WSDOT or new private sector contracts.*
- *5 - 10 protégés have increased their bonding capacity through the mentoring process.*

A few members attended the last Mentor/Protégé meeting with other AGC members and OEO/CEO of Thor Company who will be managing this program. It appeared to be more of a meet and greet and lacked the details of the programs process/participation measurements. THOR Construction is to provide the framework and the rule of the Mentor/Protégé program for WSDOT/AGC. However, members are concerned with the current status/schedule of the program as it appears the program will miss the 2018 construction season and it is not certain as to when the timeframe to measure success will start and end.

Cost Escalation Specification

Members reviewed the current WSDOT steel cost escalations clause based on the previous discussions. WSDOT includes this clause on projects with contracts of a duration greater than 200 working days. In addition, the steel cost adjustment will apply only to the bid item selected by the contractor. Prior to contract execution the contractor must submit the opt-In bid item list, WSDOT Form 410-031, to the WSDOT Contract Ad and Award office.

When the form is received, Contract Ad and Award office will inform Project Engineer and Contract Payment office.

Based on the conversation with the Contract Ad and Award office, they have not received this form in many months. This may be attributed to the type of projects and many recent large improvement projects tend to be Design Build projects.

Initiative 1433 – Sick Leave

Denys shared the recent requests from contractors for reimbursement after the passage of the Initiative to require contractors to provide 1 hour of sick leave per every 40 hours worked. WSDOT specifications allow reimbursement to contractors on environmental regulation change and changes to taxes on materials and fuel only. This recent change does not fit into these two category for any reimbursement.

This reimbursement may be applicable to change order for added work and all Force Account work.

DRB Specifications

Certification of the position paper/pre hearing material appears to be setting up contractors for false claims scenario. The alternative dispute resolution is not about throwing out claims based on the technicality of the process. It is not in the spirit of the ADR process to solve disputes at the lowest level. In a formal hearing process, this certification may be appropriate but not for DRB and arbitration/mediation procedures.

In some subcontractor's work such as electrical, the contractor is not in the position to certify the truth and accuracy of the cost and the nature of the claims due to the technical and complexity of the claim.

As a new DRB member coming in to the WSDOT process, it is not practical to list all DRB assignments as a part of the selection process. Perhaps consider only listing the last 5 or 6 assignments instead.

WSDOT should consider a different DRB specification for very large and long duration projects as one specification does not fit all type/size projects.

Schedule and location of future meetings:

Planned meeting dates for 2018, February 23, March 23, April 27, June 8.

Meeting Location: WSDOT Fife Project Office

ADMINISTRATION TEAM

February 23, 2018

9:00 am

**WSDOT Fife Project Office
6610 16th Street E., Suite A
Fife, WA 98424**

OPEN MEETING

Reviewed the last meeting summary for posting.

WSDOT Construction Business Plan

Chris Christopher, Director of Construction Division will be here at the April meeting to discuss and seek feedback on the Construction Business Plan. Chris will be seeking overall feedback but is specifically interested in the Strong owner portion from the group.

The plan covers various aspects of WSDOT's business plan to develop quality staff to support delivering the Connecting Washington projects.

Design Build section feedback– WSDOT needs to consider setting a higher dollar threshold limit for this delivery method such as \$25 million for DB projects. One concern is the use of DB delivery method for smaller improvement contracts because it takes away growth/development opportunities for smaller contractors and larger subcontractors who can bid as a prime, since this delivery method tends to attract larger contractors already set up for DB contracts. Some members felt many of the smaller improvement projects are all converting to DB contracts and they see less contracts to bid, one examples mentioned is fish passage projects.

Smaller DB projects are less desirable for some contractors as the level of effort and resources necessary to participate on DB projects are expensive to pursue, especially when not successful.

Lump Sum Bid items and Force Account Work

The current specification requires some lump sum bid items necessary for Force Account work to include up to 125% of estimated Force Account work. This requires contractors to take on a risk of what percentage of estimated FA work may be realized, in order to make certain the LS bid item includes these costs. This issue is exacerbated when the estimated quantity of FA work is significantly high as compared to work completed. Most common issue is LS traffic control bid item that is to cover contract Force Account work when it requires traffic control.

WSDOT will draft specifications along with Construction Manual language to include feedback provided by the roadway team. The changes will attempt to provide a fair compensation for the work necessary as part of the FA work and allow contractors to bid with

more certainty. WSDOT will also look into reviewing contract time, when contract FA work is on the critical path of project schedule.

Dispute Review Board Selection Process

WSDOT's current list was developed in 2012 and along with the new DRB specifications, new selection process to update the list on a regular basis. The list is not all-inclusive but most WSDOT and local agencies rely on the list to select their DRB members.

The old process of going through WSDOT consultant services office will discontinue.

Ideally, the selection process will involve WSDOT, AGC and Local Program members.

Contractors may use the list but it is not a requirement. Smaller subcommittee from this team may be ideal for this purpose.

Applications period should be at least 60 days to accommodate all applicants on the first year.

Make the application process to include broad construction contract experiences and have completed DRBF training courses.

Temporary Traffic Control devices

Damaged barrels as the result of third party damage that requires replacement was brought up for discussion. Temporary impact attenuators, when there is no bid items, falls under this situation. WSDOT will review if any of the temporary items damaged can be reimbursed.

Schedule and location of future meetings:

Planned meeting dates for 2018, May 4, June 15.

Meeting Location: WSDOT Fife Project Office



ADMINISTRATION TEAM February 23, 2018 Sign In Sheet

Attending	Name	Representing	Phone (Office)	Phone (Cell)	Email
	Jerry Brais	King County	206-477-3614	425-681-7489	jerry.brais@kingcounty.gov
<i>JMB</i>	Jay Byrd	1 Alliance Geomatics	425-502-8171	425-628-0643	Jay.byrd@1-alliance.com
	Corey Christensen	KLB Const.	425-297-9313	206-949-3569	coreyc@klbconstruction.com
	John Cichosz	Tappani Const.	360-687-1148	360-907-9632	johnc@tapani.com
	Brandon Dully	Guy F. Atkinson		206-786-1244	Brandon.Dully@atkn.com
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<i>QGS</i>	Quinn Golden	GRANITE INC.	425-551-3100	425-328-7257	Quinn.golden@gcinc.com
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	Denys Tak	WSDOT HQ	360-705-7833	360-269-5007	denys.tak@wsdot.wa.gov
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<i>GW</i>	Greg Waugh	Max J. Kuney Const.	509-535-0651	206-730-9964	GregW@MaxKuney.com
<i>SM</i>	STUART MOORE	ATKINSON	()	(360) 340-6797	stuart.moore@atkn.com
<i>KW</i>	Kevin Waligorski	WSDOT	360 705 7565	509 668 0711	waligok@wsdot.wa.gov

ADMINISTRATION TEAM

Date: June 15, 2018

Time: 9:00 a.m.

WSDOT Fife Project Office
6610 16th Street E., Suite A
Fife, WA 98424

OPEN MEETING

Reviewed the April's meeting summary for posting.

DISCUSSED NEW BUSINESS

- **Sick Leave Markup concerning Force Account Work:** Section 1-09.6, "1. For Labor". What is a good percentage 1% or 1.5%? Capture and calculate percentage on an hourly basis. Force Accounts includes OT rate to account for straight time rates.
 - Pay percent by the dollar i.e., overtime at 1% vs. regular time at 1% (burden payment in non-burden).
 - Actual cost looking to compensate but want to make sure percentage rate is fair (affects overtime in Force Account).
 - Need to continue to collect actual data to be able to determine fair percentage rate. Contractors to provide actual data to include full mark-up on wages vs non-burden.
 - MJK; IMCO; KLB; Atkinson will look at what percent of banked hours are being used to date for 2018.
 - CJ with IMCO will also look at what the percentages were for the work they did for City of Seattle, as they enacted a similar law that IMCO dealt with in 2016 & 2017.
 - GTW will try to get this information to WSDOT within the next 2-4 weeks to help decide if the proposed 1% by WSDOT is proper or not.
- **Standard Specification Book**
 - Spec book will incorporate special provisions and will incorporate into spec book once a year to include all amendments in next years August update.
 - Urgent specifications changes will be issued as special provisions.
 - Copies will still be available with cost
 - Electronic version will be include text recognition, bookmarks and hyperlinks.
 - Contractors to provide feedback to WSDOT with any ideas, etc..
- **Load-Limit Restrictions:** Proposed changes to Standard Specification 1-07.7(2) Load-Limit Restrictions
 - Confirmed that this is for structures within the confines of the contract.

- Concerned with having to mobilize equipment. Currently prior to mobilizing equipment, contractors obtain special permits for multi-axels and overload equipment.
 - Civil contractors are concerned with currently utilizing "supersingles: drop axles, etc. for moving material within the job limits.
 - The need to go to a Type 3E for all instances over posted weight limits is a concern of the contractors both in regard to time & cost for the dwgs, but also review times and to what level is the contractor and their "engineer" taking on risks for the original design, current structural status of the bridge, etc..
 - It was proposed and agreed to that the Rdwy and Structures teams should review also.
 - We need to ensure that legal loads are used for bridges.
 - Contractors may need to submit plans to bridge with equipment for review and approval.
 - Does this apply for construction and all bridges within the state to include old bridges? Concerned with having large and/or a lot of equipment on old bridges.
 - Permitting will cover everything outside the project limits and will provide proper routes.
 - Need to identify what is the additional weight for some equipment such as concrete trucks.
- **Professional Liability Insurance**
 - Professional liability is required for all DB projects.
 - Project specific or Corporate policy.
 - Designers cover over \$100M
 - Contractors need to provide and maintain insurance coverage
 - WSDOT needs to be covered under umbrella coverage
 - Current \$1M appears to be limiting coverage compared to the \$100M for DB.
 - Risk Management concerned with \$50K deductible values (required for all jobs)
 - Request larger firms to increase deductible values.
- I. **Lump Sum Bid Items**
- Roadway team came up with new guidance and put into plans manual for lump sum TC
 - Will help to level out TC lump sum work
 - Dennis continuing to work on new guidance.

- TC for Force Account – should be accounted for with dollar amount. Not working for lump sum TC (TC paid by the hour).

II. Compensation for Temporary Traffic Control Devices

- Contractor at times have to pursue individual who hit work vehicles or pursue WSDOT. Other items include signs, barrels and 3rd Party damage. TCS wants to replace and get rid of the old and replace (pay by the barrel). Looking at no more bid items by the barrel.
 - Risk Management wants to know how contractor uses their devices and are sometimes hard to account for.
 - TMA covered, but not everything is. Temporary feature would have Force Account set-up. Sometimes cost were not accounted for in contract bid and does it go to 3rd Party or go under miscellaneous?
 - Need clarification on how we address damages?

III. WSDOT Spec Section 1-04.4/1-04.5: Extend times dealing with claims.

- Need to determine what areas that have “gotcha’s” in unilateral change orders. Could cause protest.
- Developing flow chart that identifies where do I go or what should I do? In addition, there is confusion when looking at all logic.
 - Engineer need to have a clear understanding of when protest should occur. There is some confusion at where we should sequence.
 - Propose title change of specification section to read “Notification instead of “Protest”
- Send a copy of the most recent notice "flow chart" to the team for comments.
- DSC requires specific language
- There is a time element on how soon contractor notifies of entitlement/protest.
 - No time element – immediate
 - Title needs to be clear that this is “determination” to reserve their rights.
 - Maintain open communication to identify all issues.
 - CJ: Brought up examples of uncovered work. WSDOT will pay for work that is uncovered and was constructed in accordance with the contract. WSDOT will also pay for work done under previous contracts that is out of spec and needs to be repaired. WSDOT does not pay for uncovered work that was constructed out of compliance under the same contract.

IV. Mentorship/Protégé

- Next scheduled meeting June 25th
- We are focused on making sure that everyone has a mentor
- Discussed developing more sustainable and profitable companies.

- Framework is stronger as we continue to work through completing the documentation. The team will continue to review documentation throughout the year.

V. Prompt Payment

- Need additional guidance in the Construction Manual
- Prime pay for work agreed upon and not holding full payment. If not then provide explanation why payment(s) are being withheld.
- There have been issues with some subcontractors not receiving partial payments for work completed and agreed on. Propose to modify change order language to include interim partial payment for work that is completed and agreed to.
- OEO being inundated with complaints that are between contractor and their subcontractors.

VI. DRB Selection Process

- ADMIN team will maintain approved list of members. Discuss how many members should be on the list, how to pay, etc..
- Work with Dewayne on creating a sub-committee that deals with selection of members and presents to overall team for review/comments. Currently interested parties were: John (Tapani): CJ (IMCO); Gaius (WSDOT). I need to confirm if Brandon D would like to join also. GTW (MJK) could be a member also.
- Revamp process – language has been drafted.
 - Create new forms
 - Are we certifying paper?
 - Advisory provisions
 - DRB consultant services identified requirements:
 - a. Have DRB training within the last five (5) years
 - b. Identify how many approved DRB members are needed (2)
 - c. Include pay item in contract
 - d. Form for three (3) party agreement
 - e. Review summary list from other states

VII. New Business

- DBE subcontract language in contracts: Currently, WSDOT is 0-3 in finding a contractor who actually has the 1273 language actually in subcontracts. NOT to only be referenced.

Action Items from Previous Meeting:

1. Liquidated Damages – Denys to work on this item for Sept meeting; Get a list out to the team for review and comment before Sept meeting.
2. Force Account (L.S. Bid Item) – Denys is working on this item for Sept meeting.
3. Email revised version of Flow Chart for Claims.
4. Develop DRB sub group committee to help develop process, review current list to vet on qualified list.

ADMINISTRATION TEAM

Date: October 19, 2018

Time: 9:00 a.m.

WSDOT Fife Project Office
6610 16th Street E., Suite A
Fife, WA 98424

OPEN MEETING

- Denys will cover Dewayne's co-chair duties for the next two meetings while he is managing the AWV viaduct demo project, Until January 1, 2019.
- Share WSDOT/AGC Lead Meeting notes for all groups.

DISCUSSION NEW BUSINESS:

- Summary of WSDOT/AGC Lead Meeting
 - **Sick Leave Markup – Continue discussion for compensation**
 - **Mentor Protégé program**
 - Periodic feedback on the success or concerns
 - **Electronic Standard Specifications**
 - **Specification changes to address lump sum impact on force account**
 - **Specification to change how contract liquidated damages are calculated**
 - **DRB Specs and Process**
 - **Insurance – Professional Liability**
 - **Revise Notice Standard Spec's/Construction Manual**, once the subcommittee is complete with the flowchart and process review.
 - **1-07.7(2) Load limit Restriction** – more discussion on potential impacts. Include Bridge and Roadway AGC Teams.

DISCUSSION OLD BUSINESS:

- Sick Leave Markup concerning Force Account Work: Section 1-09.6,
 - Based on limited data provided by the Contracting community to date, the new specifications are including a 2% markup on labor to cover the cost of Sick Leave.
 - The 2% markup will be re-evaluated once WSDOT receives actual data early next year.
 - This cost will not exceed 2.5%. After a year this rate may be adjusted based on the actual cost incurred by contractors.
 - The initial data from the first year cost varied, and everyone involved is still learning the overall usage and time of year spike usage. WSDOT asked the contractors to produce a usage report a year from now for the purpose of readjustment as necessary.

- Force Account work labor markup will increase to 31 percent. The specification lists items included in the mark-up.

- **Revise Notice Standard Spec's**
 - Denys will share the subcommittee's work next month. There are a few items still being discussed internally such as how to address calendar/Working days preference and addressing what an immediate timeline looks like.

- **Electronic Standard Specification Book (Greg Morehouse)**
 - Greg Morehouse, WSDOT Specifications engineer shared the implementation plan.
 - No more hard copy of Std. Spec. starting 2019
 - Published once a year in September
 - Eliminate the existing three amendments but include the necessary changes as a mandatory GSP until the next publishing of the book
 - Special provisions will continue to be part of the contract
 - Commercially printing services are available for those needing a printed version. The cost of each printed book decreases with the number of books ordered

- **Load-Limit Restrictions:**
 - 1-07.7(2) Load limit Restriction update – AGC Structures team is working with WSDOT bridge office to determine allowable forces on structures.

- **Professional Liability Insurance**
 - The new specification for Professional Liability is included in the Design-Build contract template. The new specification allows the use of corporate policy in lieu of project specific policy. The following are comments discussed:
 - Specification as written it is not working from contractor's view. The new language on this coverage provides no benefit from contractor's view.
 - The coverage amount required in contracts is much less than contractor's require on their design consultants and what design firms already carry in most cases.
 - Specification requiring the full coverage amount available from contractor's insurance is viewed as a risk when the contract requirement is substantially smaller. Contractors are not willing to provide the higher coverage.
 - WSDOT should review the intent of this coverage as it relates to what risk they are trying to mitigate. The coverage appears to only address Professional Liability arising out of third party claim against it.

- **Force Account work impact on Lump Sum Bid Items**

- Work in progress.
 - Idea is to compensate fairly for lump sum bid item work required/necessary for estimated Force Account work.
 - When a Force Account work must be completed with a support of a Lump Sum bid item, it may be addressed by writing a special provision to address this situation. Alternatively, eliminate the use of Force Account on this work. i.e. crack sealing
- **Compensation for Damaged Temporary Traffic Control Devices**
 - Bid item use to exist to cover the cost of replacing damaged traffic control devices, signs and other temporary items.
 - The cost is not significant but large and a lengthy job can accrue large amount.
 - This issue will be discussed further.
- **WSDOT Spec Section 1-04.4/1-04.5**
 - Notice flow chart and spec revision update – Updated specifications are being reviewed.
- **Mentorship/Protégé Program Update (Jackie Bayne, WSDOT OEO)**
 - Currently 30 mentors matched with 43 protégé and the program appears to be on target of 30 to 50 matches.
 - King County, Sound Transit, Port of Seattle wants to participate in this program.
 - Participation survey is going out soon to receive feedback on the program.
 - MOU is needed from prime contractors and subcontractors to address the monthly reporting requirements by both parties to THOR consultant.
 - Success of the program is defined as;
 - i. 30 to 50 companies in the program as protégé
 - ii. 30 to 50 companies in the program as mentors
 - iii. 80 to 100 percent of protégé has written business development plan and MOU with their mentors
 - iv. 30-50 percent of protégé has expanded their NACIS codes as well as on track to increase their annual income (based on all subcontracts amounts secured)
 - v. 30 – 50 percent of protégé are participating their first WSDOT or private sector contract/subcontract
 - vi. 10 to 25 percent of construction protégé has increased their bonding capacity
 - vii. 10 to 25 percent of consultant protégé has gone through indirect cost rate establishment

viii. Monitoring the progress but the program will measure its success in July of 2019.

- **DRB Selection Process**

- ADMIN team will maintain approved list of members. Discuss how many members should be on the list, how to pay, etc..
- Work with Dewayne on creating a sub-committee that deals with selection of members and presents to overall team for review/comments. Currently interested parties were: John (Tapani): CJ (IMCO); Gaius, Chad Simonson, Denys (WSDOT), Brandon D, GTW (MJK)
 - Advisory provisions are being drafted.
 - DRB identified requirements:
 - a. Have DRB training within the last five (5) years
 - b. Identify how many approved DRB members are needed (2)
 - c. Include pay item in contract
 - d. Form for three (3) party agreement
 - e. Review summary list from other states
- Sub-committee will meet prior to next ADMIN. team meeting 7:30 – 9:00 to work out the selection process details.

- **New Business**

Action Items from Previous Meeting:



ADMINISTRATION TEAM October 19, 2018 Sign In Sheet

Attending	Name	Representing	Phone (Office)	Phone (Cell)	Email
JCB	Jerry Brais	King County	206-477-3614	425-681-7489	jerry.brais@kingcounty.gov
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