

WSDOT/ACEC-WA Executive Liaison Committee Meeting

Wednesday, February 9, 2022 – 1:00 pm to 3:00 pm

Meeting Minutes

1. Kevin provided a WSDOT update regarding COVID, outlook for the future and next steps.
 - Return to office is slower than anticipated because of COVID spikes, though current illness appears to be less serious.
 - WSDOT adjusts plans based on OFM's "Roadmap to Recovery" plan. Version 17 is the latest plan and OFM is giving lots of flexibility, trying not to change rules and regulations with crew.
 - COVID will likely not go away, learn to live with it, masks on or off.
 - WSDOT is behind on delivery:
 - Under Initiative 976 WSDOT scaled back on contracts and put consultant contracts on hold to give legislators flexibilities regarding costs and impacts.
 - The Governor then implemented a hiring and contracting freeze. WSDOT has taken actions to remove the hold from the contractor and consultant contracts.
 - He is also expecting to use more consultants in their delivery. The advanced schedule of contracts will need to be updated to reflect this.
 - WSDOT has experienced loss of employees (400+/-) due to COVID impacts. They are trying to hire but are still down in key areas that impact their ability to deliver. Under current staffing levels vacations and retirements have a major impact on delivery.

2. Marshall, Van, and Kevin discussed the new revenue bills proposed during this legislative session:
 - Marshall noted that the new revenue package is:
 - \$16 billion over 16 years.
 - Infrastructure Act - New funds allocated because of the Infrastructure Act and new grant opportunities that they are trying to figure out how to gear up and compete.
 - Look at Roger's State of Transportation for his priorities and goals.

 - Van mentioned that the new revenue bill is up for hearing at 8:00 am tomorrow, 2/10/22, 84 people to testify, mostly in support though there are several opposed concerns:
 - non-bipartisan nature of the bill,
 - cellular companies like T-Mobile & Verizon are concerned with the utility taxes,

- 6 cent per gallon on gas that is exported. There is a question as to whether this tax violates the interstate commerce clause and is unconstitutional.
 - The 6 cent per gallon tax amount would trigger low carbon fuel standards and could result in an inflationary increase in gas prices. If that happens, do we have room going forward for gas tax increase or a road usage charge?
 - This revenue package raises 18th amendment concerns as money is no longer protected for transportation.
- Kevin noted that they are still working through the supplemental transportation budget process as well. There is a bill to enact a group from DSHS to help with homelessness.
3. Marshall discussed recent personnel changes:
- Steve Roark moved to the Regional Administrator position for Olympic Region; Mark Gaines is temporarily backfilling Steve's position. The recruitment closes today and Marshall will be interviewing later this month. He expects to have a new Development Division Director in place by mid-March.
 - Megan White retired on February 3rd and Ahmer Nizam was selected as the new Environmental Services Office Director.
 - Erik Jonson will temporarily fill in for the Business Administration Subcommittee lead and Ahmer's Technical Services & Business Manager position. Mark plans to advertise for Ahmer's previous position with a closing date in mid-March. That date will allow the new Development Division Director to make decisions regarding replacement of Ahmer's position.
4. The Subcommittee Chairs provided brief updates regarding the work of their committees:
- Design-Build – Art McCluskey
 - Art provided an updated annual meeting presentation. Refer to the attachment to [review a summary of 2022 key focus \(PPT 144KB\)](#) areas:
 - Peer Reviews – pros & cons
 - OCOI Manual Revisions
 - Progressive Design Build National View – Forum in October
 - Design Build Virtual Training planned
 - Design Build Performance Reports (WSDOT provided re D/B)
 - WSDOT Contract Admin Evaluation (D/B provided re WSDOT)
 - Warranties – revised landscaping & fish passage
 - Kevin Collins asked if the general warranties provisions in section 1-05.16(1) of the D/B Chapter 1 general provisions would be reviewed. Art thought not this year but knows it's an open issue with ACEC that still needs to be addressed.
 - Utilities Language – new agreements with Lumen/Quest that impacts some contracts
 - Geotech information Risk Transfer in Geotechnical Baseline Report – how is that working?

- MASH Implementation, D/B wanting to use old barrier vs F type barrier
 - E-Bidding Update – WSDOT is going all electronic for proposals. Future state is to roll pricing into new e-bidding.
 - Key Personnel Requirements: all individuals that WSDOT requires in template documents and what is really needed for key personnel. Clarity in ITP.
 - Electronic file transfers
 - Fish passage documents; are they working?
 - Check back in on professional liability.
 - Art also noted that there is a need to update the list of ACEC members. The team is looking for 2 ACEC members – higher level persons with commercial procurement knowledge; 1 ACEC member with expertise as a stream design engineer, 1 ACEC member with environmental permitting knowledge.
 - In addition, the team needs to replace an ACEC member who is a MOT subject matter expert.
 - ACEC is providing a call out from all ACEC-WA firms to backfill these new positions.
- Structures & Geotechnical – Bijan Khaleghi & Joan Zhong-Brisbois:
 - Seismic design new requirements adopted by AASHTO need to be incorporated regarding the new mapping.
 - Use of ultra-high-performance concrete. FHWA and PCI working on it and provided for AASHTO adoption. Benefit is 40% less mass, helps with seismic and foundation design.
 - Joan mentioned their January 21st meeting where they welcomed two new members from ACEC Scott Phelen and Yang Jiang.
 - They continue to work on items from 2021 including platooned trucks on bridges.
 - 2022 work plan includes:
 - Continue to investigate innovative materials/technologies,
 - Disconnect between seismic requirement between walls and buried structures less than 20’,
 - Develop updates to RFP 2.13 and BDM Chapter 15,
 - Look through standard specs, BDM and GDM for conflicts,
 - Continue to review WSDOT standards prior to publication.
- Project Delivery – Kevin Miller
 - Noted that Lisa Reid has stepped back due to workload issues and that Steve Olling of Parametrix has agreed to step in and help with the subcommittee work. He introduced Steve to the group.
 - Kevin reviewed current focus areas of process improvements from QA/QC process and standard software tool for review process is being looked at.
 - Blue Beam has emerged as a beneficial tool as it works well in a virtual environment though it has issues with 3rd party validation. Unfortunately, the corporate enterprise negotiated cost is a lot more expensive than Adobe. \$425 per 6 months per license.

- Current Adobe costs are \$37 per license for 3 years. Kevin expects the Adobe price will go up as contract is renegotiated.
 - The following Design Policy updates are being considered:
 - Design Manual will have planned updates for late spring, early summer.
 - Design documentation being looked at from DBB vs D/B – continuous improvement opportunity.
 - Clarity in the design manual re DB requirements.
 - Sharing and discussing any post pandemic experiences and opportunities.
- Business Administration – Santosh Kuruvilla shared the following 2022 focus areas:
 - Updated Consultant Look-Ahead tool: [WSDOT Projected Design Opportunities for Consultants](#)
 - Remote Business Practices/Telework Transformation
 - Hybrid Meetings/Training – what has been working and what remains challenging
 - PPP Loan Forgiveness – Monitoring/Reporting
 - Prequalification Updates – as needed
 - Fish Passage Program Updates – Annual
 - Local Programs Announcements and Updates – February Meeting
 - Safe Harbor – as needed
 - Report on how the mentoring program is going (OEO) / Periodic OEO Updates – Annual:
 - How can we support new entrants to the market in wake of the Infrastructure Bill
 - Audit/Invoice Reviews – Semi-annual updates on lessons learned – Annual
 - Coordination with other Subcommittees (goal of at least twice in 2022).
 - Better prep and messaging at the annual meeting.
 - WSDOT Website – Observations and ideas for improvement/Review “how to do business” on WSDOT pages from small firms’ perspective.
 - His team is also interested in the Organizational Conflict of Interest topic and plan to discuss at their February meeting.

5. Jay Drye provided a Local Programs Update:

- Working with FHWA to get grant information out as soon as possible. FHWA need to meet federal obligation authority to meet delivery commitments.
- Working with MPO’s Bridge committees.
- City Safety Program out for call and underway.
- Call for bridge projects will be going out very soon. Worked with FHWA to add a lot of flexibility because of previous formula funds plus new federal programs that are not yet implemented so overall program size and timing is not known. May not be known till May or June. Still award at a future time should the money flow. Need to get the projects out and obligated as soon as possible. If we see a project that we know would compete well, they will award right away instead of waiting till the end of the process.

- Railroad crossing will be coming out shortly as well. Still working on struggles from last group of projects.
 - 3 RAISE grants that will come out of the Locals Program Office.
6. Chris Christopher (State Construction Engineer) and Jon Deffenbacher (Deputy State Construction Engineer) discussed Organizational Conflict of Interest focus and next steps:
- WSDOT has completed 65 D/B projects and learned a lot.
 - They are currently doing 8 to 10 D/B contracts a year plus a huge fish passage program.
 - With the loss of expertise in WSDOT and local partners, more consultants are needed.
 - With consultant mergers and multiple projects in play, it's not surprising that there are conflicts.
 - With the ongoing work effort, there is pressure to resolve quickly. They desire to engage with industry, but this needs to happen quickly.
 - There are 3 fundamental conflicts.
 - Engineer of Record,
 - Enduring liability, financial interest on both sides of the issue,
 - Unfair knowledge.
 - WSDOT's desire is to be reasonable and appropriate. It's complicated with the size of the program and the increased use of consultants.
 - WSDOT's desire would be that firms would either work for WSDOT or they would work for a D/B contractor and then there would then be no conflict. Chris recognizes that this is not feasible.
 - There is the question of whether groups or individuals can be firewalled to mitigate a potential conflict. Firewalls are intended to benefit the agency, not consultant firms.
 - WSDOT is not certain how to determine if the use of a firewall is working. Perhaps an independent 3rd party certification could be beneficial.
 - Chris wants healthy dialogue with industry.
 - Initial clarification by 2023 – how is release of PHD's and firewalls working?
 - Does the right balance exist with current approach?
 - Can conflict of interest be mitigated by release of information?
 - Are small and large firms represented in review of the work?
 - There are small firms that are complaining to WSDOT about the inability to break into the market and that OCOI's would help spread the work around.
 - Linea and Jilma noted concerns with the current approach:
 - Thanked Chris for his willingness to work with industry, this is a very big deal.
 - Concerns with lack of consistency in OCOI determinations and appeals.
 - Firewalls will benefit the agency if approved as it keeps qualified pool of consultants available to bid.

- Current D/B qualifications approach requires extensive WSDOT experience, but then it's being conflicted out. WSDOT needs to align contract expectations.
- Sharing information to keep a larger pool of consultants in play should be a key consideration in mitigating OCOI's with the amount of work programmed.
- Minor work elements (PHD's), now seems to be conflicted work, yet they could easily be shared with all parties.
- Richard noted a concern that OCOI seems to be discussed in a couple of venues and subcommittee groups and we need one place for the discussion with information shared with the broader ACEC community, WSDOT, and the other subcommittees.
- Chris agreed to set up a meeting for further discussion. Need WSDOT, ACEC firms, non ACEC firms, AGC representatives, and WSDOT reps in the meeting. Desire to schedule a meeting in the near future. Linea will work to identify ACEC, non-ACEC, and AGC representatives.

7. Annual meeting is scheduled for June 28th:

- WSDOT would like to know the drop-dead timeline for scheduling an in-person vs a virtual meeting – Van will work with Claire to see how flexible the Red Lion Bellevue Hotel will be and the cost.
- WSDOT proposed a couple of low-cost alternatives for in person meetings if info does not pan out – Lacey Community Center, and Lacey Traces Center (venue would hold 150 – 200 persons, but meals would need to be catered).
- Mark Gaines will schedule the next planning session (late February/early March). (Van, Claire, Linea, Subcommittee Co-Chairs, and WSDOT reps)
- Week of March 21, plan for a one-hour meeting to continue Annual Meeting planning.
- Early May, we will hold a 2-hour Executive Meeting, annual meeting topics will be included as part of the agenda.

8. Action Items:

- Membership updates by ACEC for D/B Subcommittee – Van/Richard
- OCOI Meeting planning by both ACEC and WSDOT – Linea/Van/Richard/WSDOT
- Annual Meeting Planning – Key leads and Subcommittee members.

9. Meeting was adjourned by 3:00 pm