

AGC Admin Team Meeting

Friday, January 22, 2021 8:11 AM


Meeting Date: 1/22/2021 9:00 AM

Location: Microsoft Teams Meeting

Link to Outlook Item: [click here](#)

Invitation Message

Content

 AGC Survey 2021 Topics	Added by Keeth, Jon Attachment from Outlook
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Participants

-  [Keeth, Jon](#) (Meeting Organizer)
-  [Bayne, Jackie](#) (Accepted in Outlook)
-  [Brais, Jerry](#) (Accepted in Outlook)
-  [Brandon Dully](#)
-  [C.J. Handforth](#)
-  ['Corey Christensen' \(coreyc@klbconstruction.com\)](#)
-  [Deffenbacher, Jon](#)
-  [Golden, Quinn](#) (Declined in Outlook)
-  [jay.byrd@1-alliance.com](#) (Accepted in Outlook)
-  [ieretg@velectric.com](#) (Accepted in Outlook)
-  [Key, Earl](#) (Accepted in Outlook)
-  ['Mark Scoccolo' \(mark@scinfrastucture.com\)](#)
-  [McKeon, Kyle](#)
-  [Mike Hall \(mph@tucciandsons.com\)](#) (Accepted in Outlook)
-  [Nelson, Kristina](#) (Accepted in Outlook)
-  [Simonson, Chad](#) (Accepted in Outlook)
-  [Spahr, Shane](#)
-  [Tak, Denys](#)
-  [Tams, Chris](#) (Accepted in Outlook)
-  [Waugh, Greg](#)
-  [Wimberly, Susan \(FWHA\)](#)
-  ['phil.wallace@kiewit.com'](#)
-  [John Cichosz](#)
-  [thayner@cascadecivilconstruction.com](#) (Accepted in Outlook)
-  [Hallquist, Kenn](#) (Accepted in Outlook)
-  [Johnson, Paul E.](#) (Tentative in Outlook)
-  [White, Brian](#)
-  [Whitehouse, Brian](#) (Accepted in Outlook)
-  [Jason Streuli](#) (Accepted in Outlook)
-  [Phillip.Wallace](#) (Accepted in Outlook)
-  [Arti O'Brien](#) (Accepted in Outlook)
-  [Russell Meeds](#)
-  [Mark Scoccolo](#) (Accepted in Outlook)
-  [Reynolds, James](#)
- [John Salinas II](#)
- [Lori Jordan](#) (Accepted in Outlook)

Notes

AGC Admin Team – January 22, 2021

- Introductions
 - John Salinas
- Announcements – New Members
 - Arti O'Brien – Advanced Government Services
 - Russell Meeds – Meko Construction

Old Business

- VECP/"Other" Category of Contractor-initiated Change
 - Brandon, Greg, BW, and Shane to look at proposed RFI language. Is this it?
- Redline for Force Account markups for "services" and section 6 ambiguity - Jon
- 2021 DRB Roster has been posted on the website. <https://wsdot.wa.gov/business/construction/dispute-review-boards>

New Business:

- Results of the Work Plan Topics Survey
 - Define each problem statement
 - Lump Sum Traffic Control vs. Unit Bid or other alternatives for payment
 - Challenge - used too often. What is the right intent for application - small projects, single year? Complexities include changes, multiple stages, lots of different alignments, multiple seasons - risky to bid
 - Unit bid items may avoid issues with Changes. With LS, every change needs to account for TC.
 - Hard for subcontractors to bid lump sum. Leads to T&M sub bids. Overtime/weekends. Pressure in lump sum payment to keep costs low. Transparency of how much work is required is not there as much as in unit bid.
 - Subcontracts then may be designed to limit the prime's risk - not to exceed subcontracts, etc.
 - Lump sum started out applied to small, simple projects...
 - Lump sum bids are going up because of risk
 - Subcontractors not selected because they won't bid LS and instead bid T&M.
 - Difficult to estimate in a limited amount of time on difficult and complicated projects.
 - Requires more management of changes and force account to make sure that extra TC is accounted for separately. Arguments related to whether the TC is/should be included in the Changes or not.
 - Other items included in LS TC - temporary pavement markings? Saw this recently
 - APWA view - lack of coordinating TC with subs, not efficient... LS incentivizes contractors to coordinate it more closely. Planning and scheduling efficiently is key
 - Balance of risk is difficult to find in either payment scenario.
 - It's difficult to predict what the contractor is going to do.
 - Redefine where it's appropriate and applicable. Are there "guard rails/side boards"
 - DBE subcontractor issue on Local Programs projects. Leads to disputes. Bookends...
 - The idea was that add-ons (PCMS, detour signing, other items) could/would be added to augment the basic traffic control lump sum. This is what King Co. does.
 - The history was that WSDOT was not trying to get out of work of estimating... it is about efficiencies. First years were about small project, single season projects. It became a question of whether the Prime had a better opportunity to develop a plan/estimate better than WSDOT.
 - Want to maintain the opportunity for innovation.
 - WSDOT AND Local agency issue... can we come up with guidance to address both?
 - Are there other options or alternatives? Risk sharing?
 - Would an estimated amount for traffic control (even in lump sum) help? Similar to structure items where the estimated quantities are shared.
 - From the chat:

- Do you recall the 1991 SS Book where any overrun in flagging was done at cost with no markup? That was the backlash for flagging overruns that started the LS traffic control campaign. This also perpetuated the clash with LS traffic control when combined with FA work items.
- Projects have got more complex and it is not only Design Build jobs. If there is a process, checks and balances put in place by the agency, which flows to the prime and sub -this would really help. Again, it is all about transparency and avoid fraud
- Traffic Control Plan development training for agencies? Are there Contractors that are willing to work/sub-contract with Consultants to develop TC plans for agencies on design-bid-build projects?
- Many agencies require the contractor to develop TCPs. We (Brandon) either do it in house, through subs, or sub-consult it sometimes. It varies greatly with D-B-B/D-B
- How many agencies develop a real construction schedule for their projects?
- I think this deserves a smaller group to talk it over and bring back to the big group. This tool needs to be refined!
- ***Next steps are to share the Plans Prep guidance and then start to brainstorm solutions to these problems. WSDOT will try to categorize the problems. All will bring ideas.

- Change Order (force account) markups on subcontracted work
- Requests for change and notice requirements
- Change Order (force account) markups on subcontracted work
- Force account process and subcontractors
- Method of Serving Notices electronically
- OMWBE Directory cleanup - highway transportation services
- Responsibility for Third-party Utility Delays
- OCP Insurance Coverage through Physical completion
- Refocus/renew admin team mission (from the Team):
 - We are the eyes and ears of the industry regarding contract administration.
 - We seek out and fix things that cause friction, targeting things that have an adverse effect on our Contracts and the administration of those Contracts. We work together to problem solve sticking points.
 - We strive to be clear, concise, fair and reasonable in contracting.
 - The committee provides solutions to Contract Admin problems.
 - WSDOT, with insight from AGC, strives to be the owner of choice.
 - The team shares lessons learned, identifies and works to enhance and update policy and the Standard Specifications
 - We seek out a variety of different perspectives to inform our decisions
 - We act in partnership to find mutually beneficial solutions to problems
 - The Admin Team is a forum for broad discussion that leads to consistent understanding and application and predictable contract administration.
 - We do not use the team as a place to voice grievances or air out project issues.
 - We strive to prevent administrative issues that lead to disputes and claims
 - We enthusiastically desire to improve Division 1 of the Specifications
 - We work to reduce the overall risk in our contract
 - ***The goal is to boil this down to a Charter or Mission statement that we can refer back to.
- Commercially useful function requirements
- FCVC vs. Claims language - are the two sections consistent and clear

- Discuss priorities and scheduling

Other Topics:

- Clarification of "Specialty Items" under 1-08.1

- DBE Specification Review – What is the framework/steps for WSDOT/Contractor to deal with DBEs that are impacting critical path work?
- Conflicting language in 1-09.11(2) and (3) pertaining to Claims and the FCVC
- Follow-up on Local Agency modifications of Division 1 Specifications including:
 - 1-04.5: Procedure and Protest by Contractor
 - 1-04.6: Variation in Estimated Qtys
 - 1-04.7: Changed Conditions
 - 1-08.8: Extensions of time.
- Action Item Review (15 minutes)
- Next Meeting
 - Feb 26

<u>Task #</u>	<u>Description</u>	<u>Ball in Court</u>	<u>Target Date</u>
1.3	Provide revised notice specification revision status updates when available.	Jon K./Greg	Early 2021
2.1	Reassess sick leave usage March/April 2020	AGC	March 2021
25	Align flow chart to CM and current practice for closeout	Paul and Greg	TBD
30.3	RFI Form needed - will send for review when ready	Paul	December meeting
34.1	Electronic Contract Admin GSP revisions	Jerry/Jon K	TBD
35	FA language regarding 1-09.6(6) clarification of markup	Tim	?
35.1	AG Force account opinion	Kyle	Prior to Dec.
36	Lump sum traffic control		
36.1	Share LS TC Guidance from Plans Prep	Jon	Prior to Feb mtg
36.2	Consolidate problems into categories	Jon/Greg	Prior to Feb mtg
36.3	Bring potential solutions to next meeting	All	Prior to Feb mtg
37	Mission Statement/Guiding Principles Doc	Jon/Greg	Prior to Feb mtg

AGC Admin Team

Friday, February 26, 2021 8:50 AM




Meeting Date: 2/26/2021 9:00 AM

Location: Microsoft Teams Meeting























Link to Outlook Item: [click here](#)












Invitation Message

Content

 1-02.6.OPT 8.GR1	Added by Keeth, Jon Attachment from Outlook
 1-02.9.OPT 2.GR1	Added by Keeth, Jon Attachment from Outlook
 1-07.11.OP T6.FR1	Added by Keeth, Jon Attachment from Outlook

Participants

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-  [Mark Scoccolo](#) (Accepted in Outlook)
-  Jason Nakamura

Notes

AGC Admin Team Agenda – February 26, 2021

- Introductions

New Business:

- SVBE Program – Earl Key and Jackie Bayne
 - Jackie shared the Diversity Roadmap and progress on the diversity goals through 2020. She shared the Strategic Plan progress against the goal
 - Minority Owned Business - Goal is 10% vs. availability based on the disparity study is 8.7%
 - Next disparity study planned for 2022.
 - Roadmap is plan for how we're going to increase diversity spending.
 - 97% approval rating on the Capacity Building Mentorship Program
 - Veteran-owned business campaign has begun to increase registered veteran-owned businesses.
 - Looking for feedback on the next step - Race and Gender neutral program (SVBE) Specifications have been shared and WSDOT welcomes feedback to make it successful
 - We will roll out the program on a limited basis in late April/May, 4-5 projects targeted. The remaining rollout will happen after June.
 - We're looking for a partnership to make this a success.
 - SVBE Specification
 - Veteran Goals will be based on availability analysis and available firms.
 - Can there be an incentive for MWBE? WSDOT is taking a look into it. Administrative overhead reimbursement. Sound Transit has looked at it as well.
 - Corey - they are struggling with Labor trying to unionize our small business labor. DBEs are telling them it's not worth it to go union. Earl said FHWA is looking for it.
 - Mike asked about where to find certified firms. Jackie said they'll all be found in WEBS only. For State-funded use the WEBS directory. Mike is concerned about Veteran-owned business availability especially as things get busier.
 - Jackie said they're looking to get more outreach done to get more Veteran-owned businesses registered.
 - Mike said a GFE is a huge risk to take. Tim expressed the same concern about availability and talked about ODOT scenario from the past.
 - Paul asked everyone to contemplate reporting in the system as well.
 - Shane - how are scopes of work and constraints considered into availability? Jackie said they can't get into great detail on when exactly they're available?
 - Jackie has two team members reaching out to veteran's in the federal registry to get them registered. She'll share the flyer with everyone. Can AGC help get the message out?
 - Mike mentioned search in WEBS being difficult to find Vet firms. Is there a way to make this more simple? WSDOT put a list together? Earl said he'd look into making it better and easier.

- Mark asked if they could use NAICS codes in the directory. Jackie said, no. They don't use NAICS code they have their own commodity codes.
- AGC/WSDOT Partnership for Excellence in Contract Administration Awards – Wednesday March 3 @ 11:00 AM. Invite sent to this team. Due to Teams capacity limitations, please don't forward.

Old Business

- Results of the Work Plan Topics Survey
- Lump Sum Traffic Control – subcommittee volunteers
 - Split out and work on policy. There are facets that need further discussion – Bid issues, change order and other administrative issues, guidance to designers, local programs/APWA issues.
 - Policy review shared with the Team.
- Next items are:
 - Change Order (Force Account) markups on subcontracted work – CJ
 - May have been two items. The first is when we have 2nd and 3rd tiers the single layer of markup doesn't go far. CJ mentioned electrical sub with lower tier.
 - Can industry folks help break down what a correct markup for a multiple tier should be? Corey and CJ will work on this and make a recommendation. We can also look at other agencies as a comparison. Brian Whitehouse.
 - Tim - the intent of FA should be to reimburse the Contractor (and subs) for the cost of the work. Part of it is administrative. Second or third tier may have administrative costs associated with managing the lower tier.
 - Requests for Change and Notice Requirements – who wants to introduce this item? (Did not get to this item)
 - Force account process and subcontractors
 - Arti mentioned the second item of how it works with subs, between the Prime and the sub. Starts with the owner. What is the process that needs to be applied to the sub? After the Prime Contract Change order is completed. Flow down process and communication.
 - Mark asked about Labor and Equipment lists submission. Is there something more?
 - T&M subcontract rates vs. Force Account per 1-09.6.
 - Subcontract receiving a markup is part of the problem.
 - Mark S said he would meet with Arti offline and discuss.
- VECF/"Other" Category of Contractor-initiated Change
 - Brandon, Greg, BW, and Shane to look at proposed RFI language. Is this it?
 - Shane and Brandon good with RFI item. Will connect with Greg between now and next meeting. They have a direction and will confer with Greg.

Other Topics brought up in January 2021 meeting (***Did not get to these topics during the meeting, will carry over to next meeting***):

- Clarification of "Specialty Items" under 1-08.1 – Lead person? Can someone recommend a fix? If not we'll just add it to the list and see if we can get around to it later in the year.
- DBE Specification Review – What is the framework/steps for WSDOT/Contractor to deal with DBEs that are impacting critical path work?
- Conflicting language in 1-09.11(2) and (3) pertaining to Claims and the FCVC – I will share the revised notice and claims language/arbitration revisions. Let's see if this takes care of it.
- Follow-up on Local Agency modifications of Division 1 Specifications including:
 - 1-04.5: Procedure and Protest by Contractor
 - 1-04.6: Variation in Estimated Qty's
 - 1-04.7: Changed Conditions
 - 1-08.8: Extensions of time.

- Action Item Review (15 minutes)
 - 1.3 - Jon said he'd send this out for a final review and will incorporate the changes to the "Arbitration" section that were sent out for review earlier this month. Comments received were generally positive. Tina reminded Jon that she had comments regarding changing "State of Washington" to "Contracting Agency" to make this more flexible for local agency use.
 - 2.1 - Jon will talk to Greg about this.
 - 25 - Paul has some edits worked up and in for review by Jon. Will share with Greg, too.
 - 30.3 - Paul's still working on RFI Form, and it will be the same as Unifier.
 - 34.1 - No update, yet. Specification Engineer is working on this as GSPs are updated. We'll have to see what's left and bring her into the conversation.
 - 35 - No update.
 - 36 - This will be broken out into a subcommittee action item and we'll update the team as progress is made. Subcommittee volunteers - Arti, Shane, Tim, Mike, Tina, Mark S., Jerry
 - 37 - No update.
 - 38 - NEW - SVBE Program Specification and Form Review - files attached to the meeting invite. Comments to Jon or Jackie by March 5.
 - 39.1 - NEW - Force Account Markups on lower-tier subs. Corey and CJ will look at actual costs on force account and make a recommendation of how to deal with the multiple tier scenario.
 - 39.2 - NEW - Force Account agency research - research what other agencies pay for markup on subcontractor's work.
- Next Meeting
 - March 26

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36.3	Bring potential solutions to next meeting	All	Prior to Feb mtg
37	Mission Statement/Guiding Principles Doc	Jon/Greg	Prior to Feb mtg
38	SVBE Program Specification and Form Review	All	By March 5
39.1	Recommend markups based on analysis	CJ/Corey	March 2021
39.2	Force account research	Whitehouse	March 2021
40	Force account process and subcontractors/Changes	Mark S./Arti	

1 (NEW DATE)

2 The Bidder shall submit with the Bid a completed Small and Veteran's Business Plan
3 (SVB Plan), (WSDOT Form XXXX1), when required by the Special Provisions.
4

5 For each and every SVBE COA firm listed on the Bidder's completed SVB Plan, the
6 Bidder shall submit a completed Small and Veteran's Business Written Confirmation
7 Form (WSDOT Form XXXX2) that the SVBE COA firm is in agreement with the SVBE
8 participation commitment that the Bidder has made in the Bidder's completed SVB Plan.
9 Bidder must submit good faith effort documentation only in the event the Bidder's efforts
10 to solicit sufficient participation have been unsuccessful.
11

12 Directions for delivery of the SVB Plan, SVBE Written Confirmation, and good faith
13 effort documentation are included in Section 1-02.9 ***Delivery of Proposal***

1-02.6.OPT8.GR1

1 **(NEW DATE)**

2 **SVBE Document Submittal Requirements**

3
4 **General Requirements**

5 The Bidder shall submit supplemental documents as follows:

- 6
7 1. Physically in a sealed envelope marked as "BID SUPPLEMENT" and bearing
8 the Bidder's company name, project title, Bid date, and description of all
9 contents (i.e., SVB Plan form, SVBE Written Confirmation Documents, and/or
10 SVBE GFE Documentation); or
11
12 2. By facsimile to the following FAX number: 360-705-6966; or
13
14 3. By e-mail to the following e-mail address: DBEDoc@wsdot.wa.gov
15

16 **Small and Veteran's Business Plan SVB Plan (WSDOT Form XXXX1)**

17 The SVBE Plan shall be received at the same location and no later than the time
18 required for delivery of the Proposal. The Contracting Agency will not open or consider
19 any Proposal when the SVBE Plan is received after the time specified for receipt of
20 Proposals or received in a location other than that specified for receipt of Proposals.
21 The SVBE Plan may be submitted in the same envelope as the Bid deposit.
22

23 **SVBE Written Confirmation (WSDOT Form XXXX2) and/or GFE Documentation**

24 The SVBE Written Confirmation Documents and/or GFE Documents are not required to
25 be submitted with the Proposal. The SVBE Written Confirmation Document(s) and/or
26 GFE (if any) shall be received either with the Bid Proposal or as a Supplement to the
27 Bid. The documents shall be received no later than 48 hours (not including Saturdays,
28 Sundays and Holidays) after the time for delivery of the Proposal. To be considered
29 responsive, Bidders shall submit Written Confirmation Documentation from each SVBE
30 firm listed on the Bidder's completed SVB Plan and/or the GFE as required by Section
31 1-02.6 **Preparation of Proposal**.
32

33 The Contracting Agency is not responsible for delayed, partial, failed, illegible or
34 partially legible FAX or e-mail document transmissions, and such documents may be
35 rejected as incomplete at the Bidder's risk.
36

37 **NOTE: If the Bid is submitted electronically via AASHTOWare Project**
38 **Bids™ software and BidExpress®, the SVB Plan may be attached to the**
39 **electronic bid or submitted as a supplemental document as defined above.**
40

1 (NEW)

2 ***Small and Veteran-Owned Business Enterprises (SVBE) and Minority and***
3 ***Women's Business Enterprises (MWBE) Participation***
4

5
6 **General Statement**

7 The participation of minority, small, veteran-owned, and women business enterprises
8 are an important strategic objective for the State of Washington.
9

10 **Non-Discrimination**

11 Contractors shall not create barriers to open and fair opportunities for all businesses,
12 including MWBEs and SVBEs, to participate in the Work on this Contract. This
13 includes the opportunity to compete for subcontracts as sources of supplies,
14 equipment, construction, or services.
15

16
17 **SVBE and MWBE Abbreviations and Definitions**
18

19 **Broker** – A business firm that provides a bona fide service, that assistance in the
20 procurement of essential personnel, facilities, equipment, materials, or supplies
21 required for the performance of the Contract; or, persons/companies who arrange or
22 expedite transactions (i.e. arranging a transaction or service but does not provide a
23 work product or enhancement).
24

25 **Commercially Useful Function (CUF)** -A firm performs a commercially useful
26 function when it is responsible for execution of the work of the contract and is
27 carrying out its responsibilities by actually performing, managing, and supervising the
28 work involved. To perform a commercially useful function, the firm must also be
29 responsible, with respect to materials and supplies used on the contract, for ordering,
30 negotiating price, paying for, determining quality and quantity, and installing (where
31 applicable) for the material itself.
32

33 The SVBE or MWBE firm does not perform a CUF if its role is limited to that of an
34 extra participant in a transaction, contract, or Project through which the funds are
35 passed in order to obtain the appearance of SVBE or MWBE participation.
36

37 **Good Faith Efforts** – Efforts to achieve either the SVBE COA goals at the time of
38 Bid or SVBE Contract Goals at the completion of the project. The efforts will
39 demonstrate, by their scope, intensity, and appropriateness to the objective, that the
40 bidder can reasonably be expected to fulfill the program requirement.
41

42 **Manufacturer (SVBE or MWBE)**– An SVBE or MWBE firm that operates or
43 maintains a factory or establishment that produces on the premises the materials,
44 supplies, articles, or equipment required under the Contract. A Manufacturer shall
45 produce finished goods or products from raw or unfinished material or purchase and
46 substantially alters goods and materials to make them suitable for construction use
47 before reselling them.
48

49 **Minority Business Enterprise (MBE)** – A minority owned business meeting the
50 requirements of RCW 39.19 and WAC 326-20 and certified by the Washington State
51 Office of Minority & Women's Business Enterprises.

Small Business Enterprise (SBE) – Any business that is owned and operated independently from all other businesses, has fifty or fewer employees, has a gross revenue of less than seven million dollars annually as listed on federal tax returns or with the Washington State Department of Revenue, and is self-certified through the Washington State Department of Enterprise Services and listed as a “small, mini or micro business” in its certification.

Small businesses can be located by searching the directories at:
<https://pr-webs-vendor.des.wa.gov/>.

SVBE COA Goals– At the time of bid, this is the minimum amount of participation that the Bidder must commit to by submission of the SVB Plan and/or by Good Faith Effort (GFE). The goal is expressed as a percentage of the Bid amount (as shown on the Proposal).

The Contracting Agency has established the following two enforceable COA Goals:

Small Business Enterprise (SBE) \$\$1\$\$%
Veteran-Owned Business (VOB) \$\$2\$\$%

SVBE Commitment The dollar amount and scope of work the Bidder indicates on the SVB Plan form (WSDOT Form XXXX1) for each SVBE Firm. These SVBE Commitments will be incorporated into the Contract and shall be considered Contract requirements. The SVBE Commitment is the total amount committed toward each SBE and VOB firm to meet the SVBE COA Goals.

SVBE Contract Goal – The amount of SVBE participation that must be attained by the Contractor. The two SVBE Contract Goals are expressed as a percentage of the Contractor’s Bid amount (as shown on the Proposal) plus executed Change Orders.

The Contracting Agency has established the following two enforceable Contract Goals:

SBE Contract Goal \$\$1\$\$%
VOB Contract Goal \$\$2\$\$%

Subcontractor (SVBE or MWBE)

An individual, partnership, firm, corporation, or joint venture who meet the definition of a Minority, Small Business, Women or Veteran-Owned Business and who is sublet part of the Contract.

Supplier (SVBE or MWBE)– A firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of a Contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a Supplier, the SVBE or MWBE firm must be an established business that engages in as its principal business and in its own name the purchase and sale of the products in question. A Supplier in such items as steel, cement, gravel, stone, and petroleum products need not own, operate or maintain a place of business if it both owns and operates distribution equipment for

1 the products. Any supplementing of suppliers' own distribution equipment shall be by
2 long-term formal lease agreements and not on an ad-hoc basis. Brokers, packagers,
3 manufacturers' representatives, or other persons who arrange or expedite
4 transactions shall not be regarded as Suppliers within the meaning of this definition.
5

6 **Veteran-Owned Business (VOB)** – A veteran-owned business meeting the
7 requirements of RCW 43.60A.010 and listed at: <https://pr-webs-vendor.des.wa.gov/>.
8

9 **Women Business Enterprise (WBE)** – A women owned business meeting the
10 requirements of RCW 39.19 and WAC 326-20 and certified by the Washington State
11 Office of Minority & Women's Business Enterprises.
12

13 14 **Procedures Prior to Award**

15 16 **SVBE Goals (Enforceable)**

17 18 **SVBE COA Goals**

19 The Contractor shall demonstrate their plan to attain the SBE COA goal that
20 is independent from their plan to attain the VOB COA goal through the
21 submission of the SVB Plan (**WSDOT Form XXXX1**). Committing the same
22 work in both categories is not allowed. If the Contractor cannot meet these
23 goals a Good Faith Effort (GFE) is required
24

25 Demonstrating compliance with SVBE COA Goals is a Condition of Award of
26 this Contract. Failure to comply with these requirements may result in the Bid
27 being found nonresponsive.
28

29 30 **SVBE Commitment**

31 The Contractor is required to utilize each SVBE firm identified on the SVB
32 Plan for each scope of work and dollar amount listed. The SVBE
33 Commitments are the aggregate amounts committed to each firm in order to
34 attain the SBE and VOB COA Goals.
35

36 37 **SVB Plan**

38 To be eligible for award of the Contract, the Bidder shall properly complete and
39 submit a Small and Veterans-Owned Business Plan. (SVB Plan). The SVB Plan
40 shall be submitted on (**WSDOT Form XXXX1**). The Bidder's SVB Plan form will be
41 included with the Bidder's sealed Bid Proposal, as specified in Section 1-02.9

42 **Delivery of Proposal.** The SVB Plan form must clearly demonstrate how the
43 Bidder intends to meet the SVBE COA Goals. A SVB Plan form (**WSDOT Form
44 XXXX1**) and instructions on how to properly fill out the form are included in the
45 Proposal package.
46

47 In the event of arithmetic errors in completing the SVB Plan form, the amount
48 listed to be applied towards the SVBE COA Goals for each SVBE firm shall
49 govern and the SVBE total amount shall be adjusted accordingly.
50

Note: The Contracting Agency shall consider as non-responsive and shall reject
any Bid Proposal submitted that does not contain a SVB Plan form and if required

1 GFE documentation. that accurately demonstrates how the Bidder intends to
2 meet the SVBE COA Goals.

3
4 To be eligible for inclusion in the SVB Plan, SVBE Firms committed as COA must
5 be certified prior to the due date for bids on the Contract.
6

7 **Written Confirmation**

8 Prior to the award of the Contract and as specified in Section 1-02.9 ***Delivery of***
9 ***Proposal***, the Contractor shall submit written confirmation (WSDOT Form
10 XXXX2) documentation from each SVBE firm listed on the SVB Plan form
11 confirming their participation on the Contract for each amount listed on the SVB
12 Plan form.
13

14 **Selection of Successful Bidder/Good Faith Efforts (GFE)**

15 For Contracts with SVBE COA Goals, the successful Bidder shall be selected on
16 the basis of having submitted the lowest responsive Bid, which demonstrates a
17 good faith effort to achieve the SVBE COA Goals.
18

19 Compliance with the SVBE COA Goals requirements may be accomplished in
20 one of two ways:
21

- 22 1. By meeting the SVBE COA Goals
23 Submission of the SVB Plan, showing the Bidder has obtained enough
24 SVBE participation to meet or exceed the SVBE COA Goals.
25
- 26 2. By documentation that the Bidder made adequate GFE to meet the SVBE
27 COA Goals
28

29 The Bidder may demonstrate a GFE in whole or part through GFE documentation
30 ONLY IN THE EVENT a Bidder's efforts to solicit sufficient SVBE participation
31 have been unsuccessful. The Bidder must supply GFE documentation in addition
32 to the SVB Plan.
33

34 GFE documentation shall be submitted as specified in Section 1-02.9. - ***Delivery***
35 ***of Proposal***
36

37 **Document Submittal Requirements**

38 The Contracting Agency will review the GFE documentation and will determine if
39 the Bidder made an adequate GFE.
40

41 **GFE Documentation Prior to Award**

42 GFE is evaluated when determining award of a Contract that has SVBE COA
43 goals. The efforts employed by the bidder should be commercially reasonable
44 and demonstrate they are actively and aggressively trying to fulfill the established
45 SVBE COA Goals. Mere pro forma efforts are not commensurate with a GFE.
46

47 The following is a list of types of actions, which would be considered as part of
48 the Bidder's GFE to achieve SVBE participation. It is not intended to be a
49 mandatory checklist, nor is it intended to be exclusive or exhaustive. Other
50 factors or types of efforts may be relevant in appropriate cases.
51

1. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified SVBE firms who have the capability to perform the Work of the Contract. The Bidder must solicit this interest within sufficient time to allow the SVBE to respond to the solicitation. The Bidder must determine with certainty if the SVBE firms are interested by taking appropriate steps to follow up initial solicitations.
2. Selecting portions of the Work to be performed by SVBEs in order to increase the likelihood that the SVBE COA Goals will be achieved. This includes, where appropriate, breaking out Contract Work items into economically feasible units to facilitate SVBE participation, even when the Bidder might otherwise prefer to perform these Work items with its own forces.
3. Providing interested SVBEs with adequate information about the Plans, Specifications, and requirements of the Contract in a timely manner to assist them in responding to a solicitation.
 - a. Negotiating in good faith with interested SVBEs. It is the Bidder's responsibility to make a portion of the Work available to SVBEs and to select those portions of the Work or material needs consistent with the available SVBEs, so as to facilitate SVBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of SVBEs that were considered; a description of the information provided regarding the Plans and Specifications for the Work selected for subcontracting; and evidence as to why additional agreements could not be reached for SVBE firms to perform the Work.
 - b. A Bidder using good business judgment would consider a number of factors in negotiating with Subcontractors, including SVBE Subcontractors, and would take a firm's price and capabilities as well as the SVBE COA Goals into consideration. However, the fact that there may be some additional costs involved in finding and using SVBEs is not in itself sufficient reason for a Bidder's failure to meet the SVBE COA Goals, as long as such costs are reasonable. Also, the ability or desire of a Bidder to perform the Work of a Contract with its own organization does not relieve the Bidder of the responsibility to make a GFE. Bidders are not, however, required to accept higher quotes from SVBE firms if the price difference is excessive or unreasonable.
4. Not rejecting SVBE firms as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the Bidder's efforts to meet the SVBE COA Goals.
5. Making efforts to assist interested SVBE firms in obtaining bonding, lines of credit, or insurance as required by the recipient or Bidder.

6. Making efforts to assist interested SVBE firms in obtaining necessary equipment, supplies, materials, or related assistance or services.
7. Effectively using the services of available organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of SVBE firms.
8. Documentation of GFE must include copies of each SVBE and non- SVBE Subcontractor quotes submitted to the Bidder when a non- SVBE Subcontractor is selected over a SVBE for Work on the Contract.

Administrative Reconsideration of GFE Documentation Prior to Award

A Bidder has the right to request reconsideration if the GFE documentation submitted with their Bid was determined to be inadequate.

1. The Bidder must request within 48 hours of notification of being nonresponsive or forfeit the right to reconsideration.
2. The reconsideration decision on the adequacy of the Bidder's GFE documentation shall be made by an official who did not take part in the original determination.
3. Only original GFE documentation submitted as a supplement to the Bid shall be considered. The Bidder shall not introduce new documentation at the reconsideration hearing.
4. The Bidder shall have the opportunity to meet in person with the official for the purpose of setting forth the Bidder's position as to why the GFE documentation demonstrates a sufficient effort.
5. The reconsideration official shall provide the Bidder with a written decision on reconsideration within five working days of the hearing explaining the basis for their finding and at least 48 hours prior to award.

Procedures after Execution

MWBE Goals (Voluntary)

Efforts to provide MWBE opportunities are encouraged in accordance with these Specifications, RCW 39.19 and Executive Order 13-01 (issued by the Governor of Washington on May 10, 2013).

Goals for voluntary MWBE participation have been established as a percentage of Contractor's total Bid amount.

The Contracting Agency has established the following two voluntary goals:

Minority	\$\$3\$\$
Women	\$\$4\$\$

1 **MWBE Plan**

2 The Contractor shall submit a MWBE Participation Plan as a Type 2 Working
3 Drawing within 21 days after execution. The plan shall include the information
4 identified in the guidelines at
5 <http://www.wsdot.wa.gov/EqualOpportunity/MSVWBE.htm>.
6

7 The Contractor shall submit an updated MWBE Participation Plan annually on the
8 date the original Participation Plan was submitted. The Contractor shall provide a
9 30 Calendar Day review period for WSDOT review and comment on all MWBE
10 Participation Plan submittals.
11

12 **SVBE Contract Goal** – The amount of SVBE participation that must be attained
13 by the Contractor. The two SVBE Contract Goals are expressed as a percentage
14 of the Contractor's Bid amount (as shown on the Proposal) plus executed
15 Change Orders.
16

17 The Contracting Agency has established the following two enforceable
18 Contract Goals:
19

20 SBE Contract Goal \$\$1\$\$%

21 VOB Contract Goal \$\$2\$\$%
22

23 **Commercially Useful Function (CUF)**

24 The Contractor may only take credit for the payments made for work performed
25 by a SVBE or MWBE that is determined to be performing a CUF. Payment must
26 be commensurate with the work actually performed by the SVBE or MWBE. A
27 SVBE or MWBE that does not perform all of its responsibilities on a contract has
28 not performed a CUF and their work cannot be counted toward SVBE or MWBE
29 Goals.
30

31 To determine whether an SVBE or MWBE is performing a CUF, the Contractor
32 shall evaluate the scope of work, whether the work was completed in accordance
33 with industry practices, whether the amount the firm is to be paid under the
34 contract is commensurate with the work it is actually performing, and other
35 relevant factors.
36

37 When the SVBE or MWBE firm participates as an extra participant in a
38 transaction, through which funds are passed in order to give the appearance of
39 participation (pass through), the participation will not be considered a CUF and
40 will not be counted toward any commitment or contract goal.
41

42 Leasing of equipment from a leasing company is allowed. However,
43 leasing/purchasing equipment from the Contractor is not allowed. Lease
44 agreements shall be readily available for review by the Engineer.
45

46 In order for a SVBE or MWBE traffic control company to be considered to be
47 performing a CUF, the firm must be in control of its work inclusive of supervision.
48 The firm shall employ a Traffic Control Supervisor who is directly involved in the
49 supervision of the traffic control employees and services.
50
51

Crediting Participation

General

Amounts paid to an SVBE or MWBE will be credited to every SVBE and MWBE Contract Goal in which they are eligible. Participation may be credited for more than one category. If the Prime Contractor is a SVBE or MWBE, their Work will be credited to the SVBE and MWBE Contract Goals in which they are eligible.

Participation is credited to the SVBE or MWBE Contract Goals upon payment to the SVBE or MWBE.

Firms proposed as counting toward a SVBE or MWBE goal must be certified and be performing a CUF during the execution of the Work. All non-COA SVBE firms and MWBE firms shall be certified before the subcontract on which they are participating is executed.

When a SVBE or MWBE firm loses its certification, the participation of that SVBE or MWBE firm shall continue to count as SVBE or MWBE participation as long as the subcontract with the SVBE or MWBE firm was executed prior to the date the SVBE or MWBE firm lost its certification.

Prime Contractor Credit for Participation (SVBE or MWBE)

Only take credit for that portion of the Work performed that the SVBE or MWBE Prime Contractor did not sublet to other firms.

SVBE or MWBE credit will not be given in instances where the equipment leased includes the operator. The SVBE or MWBE is expected to operate the equipment used in the performance of its work under the contract with its own forces.

Subcontractor Credit for Participation (SVBE or MWBE)

Only take credit for that portion of the total dollar value of the work that is equal to the distinct, clearly defined portion of the Work that the SVBE or MWBE performs with its own forces. The value of work performed by the SVBE or MWBE includes the cost of supplies and materials purchased by the SVBE or MWBE and equipment leased by the SVBE or MWBE, for its work on the Contract. Supplies, materials or equipment obtained by a SVBE or MWBE that are not utilized or incorporated in the Contract work by the SVBE or MWBE will not be eligible for SVBE or MWBE credit.

The supplies, materials, and equipment purchased or leased from the Contractor or its affiliate, including any Contractor's resources available to SVBE or MWBE subcontractors at no cost, shall not be credited.

SVBE or MWBE credit will not be given in instances where the equipment lease includes the operator. The SVBE or MWBE is expected to operate the equipment used in the performance of its work under the contract with its own forces. Situations where equipment is leased and used by the SVBE or MWBE, but payment is deducted from the Contractor's payment to the SVBE or MWBE is not allowed.

Lower Tier Subcontractors Credit for Participation

When the Prime contractor, Subcontractor or lower tier subcontractor are part of a SVB or MWB Plan, the following apply:

1. If a Subcontractor or lower tier subcontractor subcontracts a portion of the Work of its contract to another firm, the value of the subcontracted Work may be counted toward the SVBE COA Goals or SVBE or MWBE Contract Goals only if the Subcontractor or lower-tier subcontractor is also a SVBE or MWBE.
2. Work subcontracted to a non- SVBE or MWBE does not count towards the SVBE COA Goals or SVBE or MWBE Contract Goals.
3. For SVBE and MWBE Subcontractor and lower tier subcontractors, a valid subcontract must fully describe the Scope of Work committed to be performed by the firm. The subcontract shall incorporate requirements of the Contract. Subcontracts of all tiers, including lease agreements, shall be made available upon request.

Broker Credit for Participation

When a SVBE or MWBE participates as a broker (i.e. arranging a transaction or service but does not provide a work product or enhancement), only the dollar value of the reasonable fee may count toward the SVBE or MWBE Commitment or Contract Goals.. For purposes of SVBE or MWBE Brokers, a reasonable fee shall not exceed 5% of the total cost of the goods or services brokered.

Manufacturer and Supplier Credit for Participation

If materials or supplies are obtained from a SVBE or MWBE Manufacturer, one hundred percent (100%) of the cost of materials or supplies can count toward the SVBE COA Goals, SVBE Contract Goals, or MWBE Contract Goals.

One hundred percent (100%) of the cost of materials or supplies purchased from a SVBE or MWBE Supplier may be credited toward meeting the SVBE COA or SVBE or MWBE Contract Goals. If the role of the SVBE or MWBE Supplier is determined to be that of a pass-through, then no credit will be given for its services. If the role of the SVBE or MWBE Supplier is determined to be that of a Broker, then credit shall be limited to the fee or commission it receives for its services.

Service Provider Credit for Participation

When a SVBE or MWBE participates as a service provider or consultant and provides a bona fide service such as professional, technical, consultant, or managerial services, 100 percent of the total cost counts toward the SVBE COA or SVBE or MWBE Contract Goals if the firm performs a CUF.

Trucking Credit for Participation

SVBE or MWBE trucking firm participation may only be credited as participation for the value of the hauling services, not for the materials being hauled unless the trucking firm is also certified as a supplier. In situations

where the firm's work is priced per ton, the value of the hauling service must be calculated separately from the value of the materials in order to determine credit for hauling.

The SVBE or MWBE trucking firm must own and operate at least one licensed, insured and operational truck on the contract. The truck must be of the type that is necessary to perform the hauling duties required under the contract. The firm receives credit for the value of the transportation services it provides on the Contract using trucks it owns or leases, licenses, insures, and operates with drivers it employs.

The SVBE or MWBE firm may lease additional trucks from another SVBE or MWBE firm. The Work that a SVBE or MWBE trucking firm performs with trucks it leases from other certified trucking firms qualify for 100% credit

The trucking Work subcontracted to any non- SVBE or MWBE trucking firm will not receive credit for Work done on the project. The SVBE or MWBE trucking firm may lease trucks from a non- SVBE or MWBE truck leasing company but can only receive credit as SVBE or MWBE participation if the SVBE or MWBE firm uses its own employees as drivers.

SVBE or MWBE credit for a truck broker is limited to the fee/commission that the firm receives for arranging transportation services.

Removal from SVBE or MWBE Programs

When a SVBE or MWBE is "removed" from the program during the course of the Contract, the participation of that SVBE or MWBE shall continue to count towards the SVBE Commitment (COA) or Contract Goals as long as the subcontract with the SVBE or MWBE was executed prior to the removal notice.

Reporting Participation for Credit

The Contractor and any subcontractor, supplier, service provider, broker, or manufacturer of any tier that utilize SVBE or MWBE firms to perform Work on the project, shall maintain appropriate records that will enable the Engineer to verify SVBE and MWBE participation throughout the life of the project.

Refer to Section 1-08.1 for additional reporting requirements associated with this contract. The Contractor shall report amounts paid in accordance with 1-08.1 in order to receive credit for participation.

Changes in SVBE Commitment

The Contractor shall utilize the SVBE Commitment (COA) firms to perform all of the Work and supply all of the materials for which each is committed unless otherwise approved in writing by the Engineer. Any reduction in the Work committed to any SVBE Commitment (COA) firm, or performance of Work previously designated for a SVBE Commitment (COA) firm by any other firm or by the Contractor's own forces, shall be considered a termination, and requires the prior written consent of the Engineer. Termination requests shall be submitted in writing to the Engineer, who shall either grant or deny such request in writing. No

1 termination shall become effective unless and until the Engineer provides written
2 approval.
3

4 **Approval of SVBE Termination**

5 Termination of a SVBE Commitment (COA) firm is only allowed in whole or in
6 part for good cause and with written approval of the Engineer. If a SVBE
7 Commitment (COA) firm is terminated without the written approval of the
8 Engineer, the Contractor shall not be entitled to payment for Work or material
9 committed to, but not performed/supplied by, the SVBE Commitment (COA)
10 firm. In addition, the Contractor may be subject to the remedies set forth
11 elsewhere in this specification.
12

13 Prior to requesting approval to terminate a SVBE Commitment (COA) firm,
14 the Contractor shall give notice in writing to the SVBE Commitment (COA)
15 firm with a copy to the Engineer of its intent to request to terminate SVBE
16 Commitment (COA) Work and shall cite the cause for doing so. The SVBE
17 Commitment (COA) firm shall have five (5) days to respond to the
18 Contractor's notice. The SVBE Commitment (COA) firm's response shall
19 either support the termination or advise the Engineer and the Contractor of
20 the reasons it objects to the termination.
21

22 **Cause for Termination:**

23 The Contractor must have good cause to terminate a SVBE Commitment
24 (COA) firm. Good cause includes situations where the SVBE Commitment
25 (COA) firm is unable or unwilling to perform the work of its subcontract. Good
26 cause may exist if:
27

- 28 1. The SVBE Commitment (COA) firm fails or refuses to execute a written
29 contract.
30
- 31 2. The SVBE Commitment (COA) firm fails or refuses to perform the work
32 of its subcontract in a way consistent with normal industry standards.
33
- 34 3. The SVBE Commitment (COA) firm fails or refuses to meet the
35 Contractor's reasonable nondiscriminatory bond requirements.
36
- 37 4. The SVBE Commitment (COA) firm becomes bankrupt, insolvent, or
38 exhibits credit unworthiness.
39
- 40 5. The SVBE Commitment (COA) firm is ineligible to work on public works
41 projects because of suspension and debarment proceedings pursuant to
42 federal law or applicable State law.
43
- 44 6. The SVBE Commitment (COA) firm is ineligible to receive SVBE COA
45 credit for the type of work involved.
46
- 47 7. The SVBE Commitment (COA) firm voluntarily withdraws from the
48 project and provides written notice of its withdrawal.
49
- 50 8. The SVBE Commitment (COA) firm's work is deemed unsatisfactory by
51 the Engineer and not in compliance with the Contract.

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9. The SVBE Commitment (COA) firm's owner dies or becomes disabled with the result that the SVBE Commitment (COA) firm is unable to complete its work on the Contract.

Good cause does not exist if:

1. The Contractor seeks to terminate a SVBE Commitment (COA) firm so that the Contractor can self-perform the work.
2. The Contractor seeks to terminate a SVBE Commitment (COA) firm so the Contractor can substitute another SVBE firm or non- SVBE firm after Contract Award.
3. The failure or refusal of the SVBE Commitment (COA) firm to perform its work on the subcontract results from the bad faith or discriminatory action of the Contractor (e.g., the failure of the Contractor to make timely payments or the unnecessary placing of obstacles in the path of the SVBE Commitment (COA) firm's Work).

Owner Initiated Changes

In instances where the Engineer makes changes that result in changes to Work that was part of a SVBE Commitment, the Contractor may be directed to substitute for the Work. Changes will be addressed in accordance with 1-04.4.

Contractor Initiated Changes

The Contractor cannot change the scope or reduce the amount of Work as part of a SVBE Commitment without good cause. Reducing a SVBE Commitment is viewed as a partial termination, and therefore subject to the termination procedures above.

Quantity Underruns

If a Variation in Estimated Quantities occurs that affects a SVBE Commitment, that unmet Commitment will not be considered a termination, provided that the Contractor can demonstrate that the variation in quantities directly impacted the Commitment. The Contractor shall provide such documentation if requested by the Engineer.

The Contractor may be required to substitute other remaining Work to another SVBE to meet the SVBE Contract Goals.

Good Faith Effort (GFE) Documentation After Execution

If the Contractor fails to attain the SVBE Contract Goals, a Good Faith Effort shall be submitted for approval. GFE documentation shall follow the requirements for GFE Documentation Prior to Award.

In addition, the GFE shall address the impact of overruns and underruns on the ability of the Contractor to meet the SVBE Contract Goals. Overruns and underruns may be considered a reason for not attaining the SVBE Contract

Goals. The GFE shall include enough information for the Engineer to evaluate the impact the overrun or underrun had on the SVBE participation.

Administrative Reconsideration of GFE Documentation After Execution

A Contractor has the right to request reconsideration if the Contracting Agency reviews the documentation and determines the failure to meet the SVBE Contract Goals has no merit.

1. The Contractor must request reconsideration within five (5) working days of notification of GFE documentation being deemed inadequate.
2. The reconsideration decision on the adequacy of the Contractor's GFE documentation shall be made by an official who did not take part in the original determination.
3. Only original GFE documentation submitted shall be considered. The Contractor shall not introduce new documentation at the reconsideration hearing.
4. The Contractor shall have the opportunity to meet in person with the official for the purpose of setting forth the Contractor's position as to why the GFE documentation demonstrates a sufficient effort.
5. The reconsideration official shall provide the Contractor with a written decision on reconsideration within five (5) working days of the hearing explaining the basis for their finding.

Remedies for Failure to Meet SVBE Requirements

Upon completion of a project, a Prime Contractor Performance Report will document the Contractor's SVBE Commitment and SVBE Contract Goal attainment or GFE. Failure to meet the SVBE Commitment or SVBE Contract Goals or provide an acceptable GFE may lead to the following:

1. Suspension of a contractor's prequalification; and/or
2. Withholding from the Contractor of an amount up to the value of the un-met SBE or VOB Contract Goals

Un-met SBE Contract Goal calculation:

$$[[\text{Bid Amount} + \text{executed change orders}] \times \text{SBE Contract Goal}] - \text{Final amount credited to SBE participation. This calculation excludes tax.}$$

Un-met VOB Contract Goal calculation:

$$[[\text{Bid Amount} + \text{executed change orders}] \times [\text{VOB Contract Goal (\%)}]] - \text{Final amount credited to VOB participation. This calculation excludes tax.}$$

Failure to utilize the SVBE Commitment (COA) firms listed in the Small and Veteran-Owned Business Plan for the Work for which they were listed, unless termination was approved in writing by the Contracting Agency, will be reflected on the Prime Contractor Performance Report.

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Payment







































Compensation for all costs involved with complying with the conditions of this Specification and any other associated SVBE or MWBE requirements are included in payment for the associated Contract items of Work, except otherwise provided in the Specifications.

1-07-11.OPT6.FR1

AGC Admin Team March 26 Meeting

Friday, March 26, 2021 9:07 AM

Participants

-  [Keeth, Jon](#) (Meeting Organizer)
-  [Bayne, Jackie](#) (Accepted in Outlook)
-  [Brais, Jerry](#) (Accepted in Outlook)
-  [C.J. Handforth](#)
-  [Deffenbacher, Jon](#)
-  [Golden, Quinn](#)
-  [jay.byrd@1-alliance.com](#) (Accepted in Outlook)
-  [jeretg@velectric.com](#) (Accepted in Outlook)
-  [Key, Earl](#) (Accepted in Outlook)
-  ['Mark Scoccolo' \(mark@sciinfrastructure.com\)](#)
-  [McKeon, Kyle](#)
-  [Mike Hall \(mph@tucciandsons.com\)](#) (Accepted in Outlook)
-  [Nelson, Kristina](#) (Accepted in Outlook)
-  [Simonson, Chad](#) (Accepted in Outlook)
-  [Spahr, Shane](#)
-  [Tak, Denys](#)
-  [Tams, Chris](#) (Accepted in Outlook)
-  [Waugh, Greg](#)
-  [Wimberly, Susan \(FWHA\)](#)
-  ['phil.wallace@kiewit.com'](#)
-  [John Cichosz](#)
-  [thayner@cascadecivilconstruction.com](#) (Accepted in Outlook)
-  [Lewis, Dan](#)
-  [Hallquist, Kenn](#) (Accepted in Outlook)
-  [Johnson, Paul E.](#) (Accepted in Outlook)
-  [White, Brian](#)
-  [Whitehouse, Brian](#) (Accepted in Outlook)
-  [Jason Streuli](#) (Accepted in Outlook)
-  [Phillip.Wallace](#) (Accepted in Outlook)
-  [Arti O'Brien](#) (Accepted in Outlook)
-  [Russell Meeds](#)
-  [Reynolds, James](#)
-  [John Salinas II](#)
-  [Brandon Dully](#)
-  ['Corey Christensen' \(coreyc@klbconstruction.com\)](#)
-  [Mark Scoccolo](#) (Accepted in Outlook)
-  Doug Sibert @ AGS (Guest)
-  Melodee Leclair (Guest)

AGC Admin Team Minutes – March 26, 2021

- Introductions

New Business:

- Section 1-02.4 – Subsurface Information - Jon
 - Tina said she would look at it and get comments. File was attached to the meeting invitation
- Proposed rule - Non-discrimination – Jackie
 - CR102 was filed recently
 - Jackie invited the team to attend public hearing or provide comments. Jackie will take comments into consideration
 - Non-discrimination Plan intent - Jackie said this would be a pit stop on the roadmap.
 - Jerry mentioned the WAC requires this to be submitted with the Bid. Will this be difficult for small Contractors to get

- done prior to the bid?
 - o Teams meeting virtual hearing will be held on April 13. Jackie can provide the link to interested parties. Reach out to her.
 - o Or interested parties can provide comments directly to Jackie by April 6.
 - o Corey asked about whether this will be a condition that needs to be satisfied prior to award? Corey asked about how this would be dealt with in terms of responsiveness of the Bid.
 - o Jaret - question - his business and businesses like his don't fit into the "small" business category. How are they/can they be included or counted in the participation as a minority-owned business. Once they grow out of the program, it seems they're not counted. Can that be addressed?
 - o The Federal government came up with the \$26.2M limit on gross receipts. The State has its own definitions.
 - o Is there an incentive to grow when there is a cap to staying in the program? Jaret- there's an incentive to stay in/stay below the threshold.
 - o The rule-making process is the best venue to provide comments on this particular topic.
- Subcontracting Percentage - Jon
 - o Jason has a question on the 30% - always said that specialty subs could be taken out. When you have a 20% DBE goal. Jason has concerns about being able to self-perform 30% with the specialty sub exclusion taken out.
 - o Fix specialty subcontracting exclusion. Jason would vote for leaving specialty subcontracting exclusion in, but clarifying what it is.
 - o Tim asked about why - Jon said it was an attempt to unify the rule for everyone. 30% minimum on DBEs was already part of the spec, 30% minimum on the prime contractor, but subs was different. The terminology was also slightly different in each section.
- Thank you – WSDOT/AGC Awards Presentation
 - o Jon extended a special thanks to Phil for helping present the awards.
- SVBE Program Forms – Please give feedback.
 - o Comments were emailed by Jason and Jaret, Corey and Arti, too.
 - o Corey preferred A, summary at the end was good. Corey questioned whether they could group Bid items
 - o Arti and Doug - prefer option B. They sent an email with recommendations. Tighten up consistency. SVB Certification form needed [written confirmation]. If they don't match, Doug is recommending bid be rejected. Arti recommending the prime signs off on written confirmation, too.
 - o Mike - Looking like the forms are meant to get filled out on computer. Can this be filled out manually? How can we make this hand-fillable? If you have a Bid runner, you don't have this filled in ahead of time. In the circumstance where things are turned in by hand, this needs to be formatted in such as way to be turned in paper. Can we add an "additional page" or preformat this with enough lines?
 - o Jason - to help everyone, is there a reason you can't put more than one Bid item on a line? A trucker could have 30 items they're involved in. That would help eliminate some redundancy or possible errors.
 - o Corey - every time you have to write the same information down it introduces an option for an error. If there's a way to eliminate entries for the same sub that would be helpful. He mentioned landscape items.
- WEBS Search Tool - Jackie
 - o Labor causing problems for Corey - Union issues. Can OEO help? What can WSDOT/OEO do to help - can OEO talk to Labor to deal with non-Union issues? Subs don't want to become signatory.
- CDL driver hours - Corey said WSP is working to change the rules regarding driver hour rules. Corey reached out to ask public agencies to plug in since this represents a 25% reduction in driver hours.
 - o Corey will share information on how to plug into forum via email. His report back from WSP meetings to-date is that they haven't done outreach with any state or local agencies.
 - o This will affect anyone with CDL drivers including maintenance.
 - o WAPA and AGC leadership plugged in.
 - o Jerry said he would look into it now that he's aware.
- Greg had on his list - steel escalation clause. He didn't realize he was being required to list contractors or Bid items prior to award. Prior to execution they may not know who those steel subs will be. Can we look at the timing for opting in/out for escalation?

Old Business

- Lump Sum Traffic Control – subcommittee update
 - o Subcommittee met earlier this week.
- Force Account Markups on subcontracted work – Corey, CJ and Brian Whitehouse
 - o Brian Whitehouse looked at other states - WSDOT pays 7, 10, 12 percent based on value of the force account work.
 - o Other states 6-7 other states were queried. They were paying a flat rate of 5-8 percent. One was 10 percent.
 - o WYDOT - 5%, ALDOT - 5%, CalTrans - 10% ODOT - 8%

- Montana pays markup to subs at a tiers. Don't remember what the markup was.
 - CJ ad Corey will be meeting the week of the 5th along with Tim Hayner. Corey will expand a little bit to talk about sub and service.
- Next topics
 - Requests for Change and Notice Requirements – Time did not permit us to talk about this.
 - Force account process and subcontractors – Mark S and Arti - a small group convened after the full group meeting to discuss this issue. They will bring the issue back to the full group with a proposed solution.
- VECP/"Other" Category of Contractor-initiated Change
 - Brandon, Greg, BW, and Shane to look at proposed RFI language.
 - Brandon and Shane will get together with Greg. Shane was thinking that the Equitable adjustment section and Change sections were fine as-is.
 - RFI Form – Paul sent...
 - Paul has received comments on the form from Brandon and Shane. Spec has two types of change. Will add a box to check regarding "unknown/TBD" whether a change is being requested depending on the WSDOT response.

Other Topics brought up in January 2021 meeting:

- Clarification of "Specialty Items" under 1-08.1 – Jason is the lead on this. Jon and Jason to discuss.
- DBE Specification Review – What is the framework/steps for WSDOT/Contractor to deal with DBEs that are impacting critical path work? [Time did not permit]
- Conflicting language in 1-09.11(2) and (3) pertaining to Claims and the FCVC – I will share the revised notice and claims language/arbitration revisions. Let's see if this takes care of it. April target.
- Follow-up on Local Agency modifications of Division 1 Specifications including: [Time did not permit]
 - 1-04.5: Procedure and Protest by Contractor
 - 1-04.6: Variation in Estimated Qty's
 - 1-04.7: Changed Conditions
 - 1-08.8: Extensions of time.
- Action Item Review (15 minutes)
 - 1.3 - Intend to have a final version for April meeting.
 - 2.1 - Greg will look at his numbers. We didn't look last year. Who else will look at sick leave usage - Corey and CJ will look at it.
 - 25 - in holding pattern until 1.3 is done. Will regroup then with Paul and Tim and Greg. Paul has drafted some CM changes. Paul can send to Tim and Greg in the meantime.
 - 30.3 - form sent out.
 - 35 - CJ, Corey, Tim working on it.
 - 36 - Greg working on setting up Box collaboration site.
 - 37 - Jon and Greg will meet up to finish.
 - 38 - SVBE Program - please send feedback.
 - 39.1 - CJ, Corey, Tim meeting on April 5 to work on this.
 - 39.2 - Brian finished his research. See notes above.
 - 40 - Arti and Mark S would able to catch up. Guidelines are not clear about how it should be treated.
 - 41-44 are new.
- Next Meeting
 - April 23

<u>Task #</u>	<u>Description</u>	<u>Ball in Court</u>	<u>Target Date</u>
1.3	Provide revised notice specification revision status updates when available.	Jon K./Greg	April meeting
2.1	Reassess sick leave usage March/April 2020	Greg, Corey, CJ	April 2021
25	Align flow chart to CM and current practice for closeout	Paul and Greg	TBD
30.3	RFI Form needed - will send for review when ready	Paul	Done, sent.
34.1	Electronic Contract Admin GSP revisions	Jerry/Jon K	TBD
35	FA language regarding 1-09.6(6) clarification of markup	Jon	?
36	Lump sum traffic control- referred to subcommittee	Subcom.	TBD
37	Mission Statement/Guiding Principles Doc	Jon/Greg	Reset target to Apr

38	SVBE Program Specification and Form Review	All	By March 26
39.1	Recommend markups based on analysis	CJ/Corey	March 2021
40	Force account process and subcontractors/Changes	Mark S./Arti	
41	Subcontracting Percentage comments on 1-08 document sent March 26	All	April meeting
42	Resolve comments and share final drafts of SVB Plan form	Jon/Jackie	When available
43	Specialty subcontracting exclusions	Jason/Jon	TBD
44	Steel escalation opt in/out timing	Greg	TBD

AGC Admin Team

Friday, April 23, 2021 8:43 AM






Meeting Date: 4/23/2021 9:00 AM

Location: Microsoft Teams Meeting

Link to Outlook Item: [click here](#)

Invitation Message

Content

 AGC Admin Team Age...	Added by Keeth, Jon Attachment from Outlook  226-017
 The AGC-WSD...	Added by Keeth, Jon  226-018 Attachment from Outlook
 1-09 Force Account f...	Added by Keeth, Jon Attachment from Outlook

Participants

- ☒ [Keeth, Jon](#) (Meeting Organizer)
- ☒ [Bayne, Jackie](#) (Accepted in Outlook)
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- ☒ [Brandon Dully](#)
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☐ [Russell Meeds](#)
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☐ [Earl Key \(KeyE@WSDOT.WA.GOV\)](#)

Notes

- Introductions/Guests

New Business:

- Proposed rule - Non-discrimination – Earl
 - WSDOT received quite a bit of feedback on the proposed rule. Earl said he would pause and consider suggestions from industry.
 - Earl proposed to open up the dialogue to accept alternatives from others.
 - There currently exists an empirical study that shows disparity. There is also a drop of 60% between Federal funded projects and state funded projects and the participation by socially disadvantaged businesses.
 - Looking for AGC to come up with better alternatives.
 - Earl is looking for specific suggestions to raise participation by minority and women firms.
 - Earl is looking at a revised availability study to see if Covid impacted availability.
 - Mike said he's seen the availability go down.
 - Mike mentioned that it's still a low bid system and it may not be just a matter of discrimination.
 - Jeret mentioned that some contractors that are minority that don't get included in the numbers because of size. Earl said under Title VI the larger minority-owned businesses would be counted.
 - Earl would like to see a proposal within the next few months.
 - AGC is putting together a group to respond to this and a suggested solution.
 - Earl would like the DBE Advisory committee to review the plan and cooperatively work on this.
 - Earl asked what impediments exist in WSDOT's contracting procedures.
 - Greg said he was on an 11:00 meeting with AGC leadership to discuss this topic.
 - Greg asked if the disparity study was available for all to look at.
<https://wsdot.wa.gov/sites/default/files/2017/09/11/OEO-DisparityStudy-2017.pdf>
 - Corey mentioned union issues surrounding DBEs.
 - Mike mentioned price is a big driver - DBE prices higher than non-DBE. He also mentioned paperwork and the responsiveness issues that surround the program submittal documents. Mike invited Earl to attend a bid closeout.
 - The Sound Transit effect may have influenced the availability to WSDOT
 - Tina mentioned Local agencies that utilize DBEs on non-COA projects don't count in the statistics.

- Jay mentioned a problem - size of the project could be a problem affecting participation and/or price. Some projects are so large that they stretch the DBEs to the max.
- Proposed rule – Anti-harassment – Jon Deffenbacher.
 - Important rule. WAC modifies 486-16-180. Broadly speaking this is a Title VII issue.
 - The rule stemmed from harassment happening on a state project. The superintendent that was harassing the other employee was asked to be removed.
 - The Contractor did not handle the issue promptly. WSDOT moved to suspend their prequalification. There's currently no process for immediate action against their prequalification.
 - We have not changed yet the rule and are "resetting" the review and feedback.
 - The rule allows for immediate suspension of prequalification while the harassment hearing is taking place.
 - Jason asked if the current contract could be terminated under the current contract language.
 - Jon D said he'd be reinitiating the public comments on this proposed rule. Hearing is mid-May.

Old Business

- SVBE Program Update – Jon/Jackie
 - Thank you for the feedback, especially on the forms.
- Lump Sum Traffic Control – subcommittee update
- Force Account Markups on subcontracted work – Corey, CJ
 - CJ and Corey worked on this with Tim Hayner.
 - In their discussion this isn't a common occurrence to have multiple tiers on normal jobs. CJ stated each tier is going to carry 4-5% for bonds, insurance, etc. Corey said he's not typically seeing a lot of tiers either.
 - CJ shared a spreadsheet to show what goes into the markups. CJ, Corey and Tim are recommending that there is a tiered markup. Thinking we could do this as a special provision. Could this be negotiated? Tim said they looked at the Construction Manual, as well.
 - Paul - markups for Force Account for items that are already included as Bid items. Seems like the original bid would include the administrative costs for B&O, insurance and other things. The answer was yes, unless there is an overrun.
 - It seems like Change Orders that are paid as Force Account are the issue and/or overruns of Force Account Bid items.
 - Next steps - CJ, Corey and Tim to discuss with DOT to address this. Chris Tams will help. Chad will help too.
- Force Account - Specialty Services
 - CJ mentioned "Specialty Services" vs. Subcontractor. 2018 specification changed what was defined as a Service. Vac Truck was mentioned. Lots of services are now showing up as prevailing wage work since then, per Corey.
 - Paul mentioned Potholing as a different kind of payment term - such as hourly rates. Tim mentioned other agencies using LS, hourly, vertical foot, etc. Greg mentioned material variability - instead what about hourly rates?

Other Topics (Time Permitting):

From our 2021 Work Plan

- Requests for Change and Notice Requirements –
- Force account process and subcontractors – Mark S and Arti
 - Mark and Arti met and were able to share ideas on this topic. They'll refer anything back to the team as needed.
- VECP/"Other" Category of Contractor-initiated Change
 - Brandon, Greg, BW, and Shane to look at proposed RFI language.
- Other items introduced

- DBE Specification Review – What is the framework/steps for WSDOT/Contractor to deal with DBEs that are impacting critical path work?
- Conflicting language in 1-09.11(2) and (3) pertaining to Claims and the FCVC – I will share the revised notice and claims language/arbitration revisions. Let's see if this takes care of it.
- Follow-up on Local Agency modifications of Division 1 Specifications including:
 - 1-04.5: Procedure and Protest by Contractor
 - 1-04.6: Variation in Estimated Qty's
 - 1-04.7: Changed Conditions
 - 1-08.8: Extensions of time.
- Action Item Review (15 minutes)
 - 2.1 Greg and Corey are working on putting together the numbers. CJ, too. Will get back with the team when they are done.
 - 25 Flow chart on hold until notice and claims stuff is done - revisit in the Fall. We can look at Paul's CM and SS changes.
 - 30.3 Paul got comments from Shane and Brandon. He's working on incorporating comment. Paul will send out completed form.
 - 35 Redline attached to the meeting invite.
 - AGC asked if WSDOT could look into negotiating these kind of items instead of dealing with force account? The AAG opinion pretty narrowly defined what constitutes a service. Jon mentioned a lack of latitude to deviate from this and call prevailing wage work a "service". In conclusion he said WSDOT is leaning toward eliminating the conflict in the spec. See above discussion related to Specialty Services.
 - 38 SVBE program documents sent. Thanks to the team for feedback on the forms and documents. The program is in a pilot phase now. Expect a full statewide implementation in the Fall.
 - 40 Documentation and visibility to subs is still a question. The team will revisit in the Fall or as time permits.
 - WSP has put a hold on proposed work hour changes for CDL drivers.
 - 45 (NEW) See discussion above. Markups to cover insurance, taxes, prime overhead, etc. for contract FA items are included in the contract price. However, this item means to address markups on changes with multiple tiers of subcontractors.
- Next Meeting
 - June 4 (last meeting before break)
 - Tim mentioned a new topic of escalation - most recently resin-based products have been volatile. Really not recourse in contracts. Wood, as well.

<u>Task #</u>	<u>Description</u>	<u>Ball in Court</u>	<u>Target Date</u>
1.3	Provide revised notice specification revision status updates when available.	Jon K./Greg	June?
2.1	Reassess sick leave usage March/April 2020	Greg, Corey, CJ	June?
25	Align flow chart to CM and current practice for closeout	Paul and Greg	TBD
30.3	RFI Form needed - will send for review when ready	Paul	Done, sent.
34.1	Electronic Contract Admin GSP revisions	Jerry/Jon K	TBD
35	FA language regarding 1-09.6(6) clarification of markup	Jon	?
36	Lump sum traffic control- referred to subcommittee	Subcom.	TBD
37	Mission Statement/Guiding Principles Doc	Jon/Greg	Sent in April
38	SVBE Program Specification and Form Review	All	Done

39.1	Recommend markups based on analysis	CJ/Corey	March 2021
40	Force account process and subcontractors/Changes - documentation and visibility to subs	Mark S./Arti	TBD
41	Subcontracting Percentage comments on 1-08 document sent March 26	All	Close
42	Resolve comments and share final drafts of SVB Plan	Jon/Jackie	Done at April mtg.
43	Specialty subcontracting exclusions	Jason/Jon	TBD
44	Steel escalation opt in/out timing	Greg	TBD
45	Guidance on FA markups on Changes and overruns	CJ, Corey, Tim, Chris T, Chad	TBD
46			

AGC Admin Team

Friday, June 4, 2021 8:56 AM

Meeting Date: 6/4/2021 9:00 AM

Location: Microsoft Teams Meeting

Link to Outlook Item: [click here](#)

Invitation Message

Content

Participants

- ☒ [Keeth, Jon](#) (Meeting Organizer)
- ☒ [Bayne, Jackie](#) (Accepted in Outlook)
- ☒ [Brais, Jerry](#) (Accepted in Outlook)
- ☐ [Brandon Dully](#)
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- ☐ [Mark Scoccolo](#) (Tentative in Outlook)
- ☒ Reggie Wageman
- ☒ Gary Martindale (FHWA)

Notes

AGC Admin Team Agenda – June 4, 2021

- Introductions/Guests

New Business:

- DBE Program Changes – Combined Bid item Breakdown/Written Confirmation
 - Mike mentioned that he has the most problems with getting the Bid Item Breakdown filled out timely. The new form might require some back and forth with the subcontractor. This makes the requirements more difficult to meet. Mike is afraid of how this will work. There has to be communication with the DBE sub to get this filled out correctly.
 - Mike asked if there are minor discrepancies which document will prevail? The process of the Bid item breakdown is the hard part that causes rejections. The more detailed paper work required the more cumbersome it is to get right at bid time and the more opportunity for rejections.
 - Arti mentioned the partial item. She said she'd like to get away from it and not allow it.
 - Corey mentioned the form states "awarded contractor". Jon said that is a typo and will fix it.
 - Jason asked if the BIB/Written Confirmation is to be turned in after the bid - 48 hours or 5 days. That was confirmed as a yes - it would remain a supplemental document.
 - Jerry mentioned second bidders - that's a calculated risk on the bidder's part. Jerry also mentioned that if you do the total subcontractor scope on the bid item breakdown then you might get a larger number than their commitment. [This was in regards to Jason's point about not committing the total amount of DBE participation and leaving some excess just in case].
 - Bob mentioned potential options of not requiring partial items to be identified and only requiring the BIB from the low bidder. Then second and third bidders may be able to submit the supplemental documents when and if the low bidder is rejected. Is partial items identification a necessary requirement?
 - Mike mentioned after award or execution they could provide a high level of detail/breakdown.
 - The team reviewed the CFR and Tina asked about exactly how much detail must be provided. Is a bid item level absolutely necessary?
 - Arti asked about an allowable variance in the documents to avoid potential rejections.
 - Jason asked about whether a bid item breakdown was absolutely necessary. Bidding and committing - usually under commit what they really plan to do. Jason mentioned the need for partial items. They will often split scopes to provide opportunities for subs. In response to Arti's statement regarding defining scope and CUF he said in his opinion whoever is the TCS decides whose equipment will be used.
 - Bid item breakdowns may not be the only way to identify the scope of work.
 - Bob said trucking forms requirements are probably more than what the CFR requires.
 - Susan mentioned that the specification had evolved to a pretty prescriptive form in response to past issues, but said that there may be other options.
 - Jay mentioned bid openings - a commitment dollar amount seems appropriate. Contract negotiations happen later. Is it possible to leave the scope broad and allow the parties to negotiate later?
 - Arti - fundamental question on CUF... line items for TC must meet CUF.
 - Jon said he'd give a week for comment and then work with Larry to debrief and decide on next steps.
- 1-08.1 Subcontracting Revisions - Bob
 - Bob - two purposes of rewrite. Prompt pay disputes - affordable means to dispute resolution. Second, update to current practices and clarify some terms.
 - Bob provided a walk through of the specification changes. Bob pointed out thresholds for OAH disputes and asked for any feedback.

- Jason asked about 1-08.1(2) and DBE/SVBE/MWBE self-performance requirement. Asked for some clarity on what that paragraph means.
- Arti asked about thresholds and whether we talked to local agencies about the \$10,000 and \$500,000 limit on OAH and whether it was cumulative or not. Shane asked about two separate \$5,000 events, too as an example.
- Chris Tams - timing is going to come into that as well with the cumulative issue (second month/Withholding).
- Shane (from chat) - we are going to need CM instructions.
- Greg - is there a possibility to get a copy of the highlighted version that we viewed? What is the disputes resolution process requirement in item 6? Bob said this is the provision in the subcontract that outlines disputes resolution between the sub and prime. This would be different than what's in the prime contract, likely.
- **Jon said he'll send the highlighted version out to the team and give a week for comment.**

- Resume meetings in Fall – dates?
 - September 24, ~~October 22 (last Friday of deer season)~~ prefer October 29, December 3

Old Business [Note, we did not cover these topics as time did not permit]

- Lump Sum Traffic Control – subcommittee update
 - Risk assessment tool
- Force Account Markups on added work with subcontractors – Corey, CJ, Tim, Chad, Chris T.

Other Topics (Time Permitting): [Note, we did not cover these topics as time did not permit]

From our 2021 Work Plan

- Requests for Change and Notice Requirements –
- Force account process and subcontractors – Mark S and Arti
- Other items introduced since January
 - DBE Specification Review – What is the framework/steps for WSDOT/Contractor to deal with DBEs that are impacting critical path work?
 - Conflicting language in 1-09.11(2) and (3) pertaining to Claims and the FCVC – I will share the revised notice and claims language/arbitration revisions. Let's see if this takes care of it.
 - Escalation – should we revisit this in the Fall?
- Follow-up on Local Agency modifications of Division 1 Specifications including:
 - 1-04.5: Procedure and Protest by Contractor
 - 1-04.6: Variation in Estimated Qtys
 - 1-04.7: Changed Conditions
 - 1-08.8: Extensions of time.
- Action Item Review (15 minutes)
- Next Meeting
 - **September 24**

<u>Task #</u>	<u>Description</u>	<u>Ball in Court</u>	<u>Target Date</u>
1.3	Provide revised notice specification revision status updates when available.	Jon K./Greg	June?
2.1	Reassess sick leave usage March/April 2020	Greg, Corey, CJ	June?

25	Align flow chart to CM and current practice for closeout	Paul and Greg	Fall
34.1	Electronic Contract Admin GSP revisions	Jerry/Jon K	TBD
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44	Steel escalation opt in/out timing	Greg	TBD
45	Guidance on FA markups on Changes and overruns	CJ, Corey, Tim, Chris T, Chad	TBD
46	Review and comment on DBE spec changes and forms	All	Due 6/11
47	Review and comment on 1-08.1	All	Due 6/11

AGC Admin Team Meeting

Friday, September 24, 2021 8:48 AM



Meeting Date: 9/24/2021 9:00 AM

Location: Microsoft Teams Meeting

Link to Outlook Item: [click here](#)

Invitation Message

Content

 LSTC Risk Index	Added by Keeth, Jon Attachment from Outlook
 AGC Admin Team Age...	Added by Keeth, Jon Attachment from Outlook

Participants

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- ☒ [Moody, Lone](#) (Accepted in Outlook)
- ☒ [Martindale, Gary\(FHWA\)](#) (Accepted in Outlook)
- ☐ [Blegen, Robert](#) (Tentative in Outlook)

Notes

AGC Admin Team Agenda – September 24, 2021

Announcements

- AGC/WSDOT Partnership Awards – applications accepted now until October 18.
 - Introductions/Guests
 - Lone Moody – Olympic Region; Brian Whitehouse to RW Team
 - Chad Simonson promoted, no longer on the Team
 - James Reynolds – NCR
 - Update phone list – please chat your phone numbers and we'll update the phone list

New Business:

- Insurance, bonding, and retainage - Referred by OEO/AGC Committee
 - The background on this topic is that these requirements were brought up by AGC as barriers to small and disadvantaged businesses. The goal here is to assess what the current requirements are, what impediments they create, and then how we might address those barriers with policy as we move forward.
 - Jackie said OMWBE was also looking into this and in particular was requiring a study into insurance, bonding and retainage requirements.
 - Insurance – what is required for subcontractors? Is the language clear? What do Contractors require and why?
 - Paul showed the current requirements for Insurance, particularly for subcontractors. The specification states that the Contractor shall determine the coverage limits.
 - Arti asked who was going to decide what the requirements would be in the future in light of what Jackie said about OMWBE.
 - Mark S. asked if OMWBE has a target. Specifications already provide flexibility for GC to accept less than the contractual required limits on insurance.
 - Jon asked how the GC makes determinations on subcontractor requirements for insurance.
 - Mike said the typical standard is to pass through the standard contract insurance requirements. This gets to be troublesome on certain projects - local agency and others - that have \$10M limits on certain policies. Do we want to have an insurance consultation to talk about how to do this? **Greg said he might be able to coordinate this.**
 - Mark S. mentioned old \$1M single limit. It was changed to \$3M CGL limit. Pollution and Professional Liability (E&O) may not apply to subs. Ex. Traffic control does not need E&O.
 - Brandon mentioned certain circumstances where the Prime may require more insurance - ex. Big design-build may want more than what's required under the contract for E&O insurance. Also, he does an assessment whether to reduce limits.
 - Arti mentioned excess liability - it has continued to increase. Sometimes up to \$10M. Arti has to negotiate on why they don't need pollution liability insurance and on limits of coverage on many projects. Can there be some standard for small/DBE subs? Arti can send some examples. Avg. is \$2-3M, but has seen up to \$10M. Insurance limits keep going up. Insurance premiums keep going up. Arti has to negotiate sometimes on certain contracts to get limits reduced to something less. That negotiation is a lot of work. Have not reached impasse on this where they've not been able to reach an agreement. Primes have paid premiums, in some cases, for additional insurance (beyond what Arti typically carries).
 - Jay said that for excessive policies, if they can't negotiate, they have got the contractor to agree to pay the premium. Have had to decline projects before.
 - For Jay, it would depend on the size of the project. Jay said some requirements may not make

- sense to carry that much insurance.
 - Mark - for some GCs they may have experienced a loss (risk event) before and their reaction is to require additional insurance coverage or up the limits. There may be a need to look at increased premiums and their influence on markups.
 - Mark asked about FA rates for premiums.
 - Paul - Builder's Risk question - does this requirement flow down?
 - Brandon - Builder's Risk is usually a project policy so it doesn't flow down.
 - Jackie mentioned possible training or info sharing
 - Greg may have someone (Bill?) that is able to do a consultation or share some information on determining the right limits.
- Retainage – State law and our current State-funded contracts
 - Fed Aid contracts have no retainage held by WSDOT. What do Primes do?
 - Brandon may hold 5% for as part of a lump sum for final punchlist and paperwork.
 - Mike H - there's paperwork issues, especially on rental trucks. They lose their hammer if they don't hold retainage. They may have 10+ rental truck agencies, many of which have issues with paper work.
 - Jeret - don't really hold retainage, but does set aside for punchlist and paperwork. Retainage is less stringent than other projects they work on.
 - Tim - different levels of concern. Echoed rental trucking issues Mike mentioned.
 - CJ - materials documentation is also problematic.
 - Mark - we do deferrals. Other commercial industries hold up to 10% and may hold an additional 3-4% for closeout. This becomes a cash flow issue because this is more than the margin they have on the job. Mark does allow a retainage bond.
 - Arti sees 5% retainage frequently. Close to 90 days to get paid, usually 60-90 days to get paid. Prompt payment is probably the bigger deal. Release of retainage has to be requested - it doesn't happen automatically. Would prefer to see 0% retainage.
 - Jay - withholding of retention is expected and understand that's the way business is done. Doesn't like that the sub can get retainage released but the prime doesn't get released until the end.
 - What issues do retainage present? What if we stop withholding retainage? What if retainage is not allowed to be withheld from subs?
 - Retainage - early release specs change in 2000 - subs get release upon completion of their work.
 - Arti mentioned scorecard for subcontractors where subs are scored and they get to score the prime contractor. Yes, retainage is an issue for her company.
 - Mark - the pushback we normally get is from local agencies. Retainage bonds are not accepted by all local agencies.
 - Retainage is a protection to get people to finish the project.
 - Jay mentioned that retainage is supposed to be for paying liens and insurance. Who has access to it and for what purpose?
 - Mark said GC doesn't have access to project (owner's) retainage.
 - Jay asked what the GC could use the retainage (subcontract) for. Mark said it would likely have to be in response to a lien/proper claim. Jay asked whether it could be used to pay for errors or mistakes? Mark thought it would/could only be used for claims/liens.
 - Tim - LNI having trouble with posting of AWP. Corey also having trouble. **Can someone help fix this?**
 - No issues have been flagged. Just waiting. Shane is seeing the same thing from the PE side.
 - **Tim suggested looking at ODOT retainage specs.**
 - Jason may consider reducing retainage if WSDOT reduced it. Ex. 5% to 3% could flow down.
 - Bonding (Time did not permit discussion of bonding requirements, however, Mark Scoccolo's suggestion is noted below)
 - This was identified as a barrier for small or disadvantaged subcontractors. Can you provide context as to why?
 - What are possible solutions?
 - Mark S discussed Joint Checking in lieu of bonding. Brandon and Greg agreed there are options for

joint checking - specifically for materials.

- Mark said biggest concern is that subs can't make payments - either for materials, taxes, etc.
 - Paul will look into and report back on joint checking requirements.
 - Jason asked if it could be used for outside equipment rental.
 - Greg mentioned equipment as well. Typically only used with COA subs. Can't help out/joint check for labor.
- Unifier implementation – Chris Tams (Time did not permit, Chris said he'd cover at the next meeting)
 - How's it going?
 - What's next?
- Covid Vaccine Mandate
 - Mike - 30% vaccination rate based on informal survey.
 - Vax police.
 - Tim H - have to figure out what we're going to do with cases where people get behind because they lose 30% of their workforce
 - Tim expects a tremendous amount of problems.
 - Corey - call with Sec. Millar. Corey noted that WSDOT will be staying out of how Contractors will implement and said that WSDOT stated that they realize there will be impacts to workforce.
 - Greg - Max and Daniel are looking into federal vaccine mandate.
 - Greg has COA subs that are stating they won't be complying.
 - Jackie and Gary mentioned we'd deal with the termination if DBEs were unable or unwilling to perform.
 - Jay - there are exemption forms out there. Is anyone using an outside source to determine the exemption outcome? Jay is trying to determine whether they should make that determination or use an outside source.
 - **Jon said he'd share a link to the resources on the governor's toolkit page.**
 - Arti - going to use state forms for exemptions.
 - Mark started preparing for the vaccine mandate a while ago. 50% of staff. Musical chairs to staff the one WSDOT project. Considering an incentive.
 - Jay expressed a lack of clarity on what exemption will do.
 - Corey - expects a hiccup on union dispatches. He's wondering if the Union will track who or who is not vaccinated? Union is working with AGC to figure out how to get vaccinated employees to projects.
 - Arti - signatory to laborer's. Has been told to request a vaccinated employee from the union.
 - Arti asked whether an exempted/accommodated employee would be allowed on-site.
 - Greg said he'll likely be needing some extensions and time. Still has some subs that haven't or won't respond.
 - Jason asked about subs that don't live in this state - concrete grinder, etc.
 - Jon said that there is no exemption for out of state workers.
 - Shane asked about masks and social distancing and accommodations. Jon said that exemptions and accommodations are the employer's responsibility and they need to decide how to handle them, but that he would share available resources on the topic.
 - Lots of questions regarding accommodations. Whether an unvaccinated employee with exemption be accommodated on a WSDOT project was the most asked question.

Old Business (Time did not permit covering these topics and they will be held for next meeting)

- 1-08.1 Subcontracting Revisions and OAH Dispute process – pending OEO/AGC subcommittee action
- Lump Sum Traffic Control – subcommittee update - Paul
 - Risk assessment tool
 - Implementation and next steps
- DBE Program Changes – Combined Bid item Breakdown/Written Confirmation – in progress with OEO
- SVBE Program update
 - Definition changes to simplify program
 - Full implementation late 2021
- Force Account Markups on added work with subcontractors – Corey, CJ, Tim, Chad, Chris T.

Other Topics (Time Permitting):

From our 2021 Work Plan

- Requests for Change and Notice Requirements – last call to define the problem or let's move on.
- Force account process and subcontractors – Mark S and Arti
- Other items introduced since January
 - DBE Specification Review – What is the framework/steps for WSDOT/Contractor to deal with DBEs that are impacting critical path work?
 - Conflicting language in 1-09.11(2) and (3) pertaining to Claims and the FCVC – 2022 Specifications were shared and are now published. Chris Tams
 - Escalation on materials – should we revisit this in the Fall?
- Follow-up on Local Agency modifications of Division 1 Specifications including:
 - 1-04.5: Procedure and Protest by Contractor
 - 1-04.6: Variation in Estimated Qty's
 - 1-04.7: Changed Conditions
 - 1-08.8: Extensions of time.
- Action Item Review - Jon updated the action item list after the meeting. See below.
 - 1.3 - Specifications were shared and are now published in the 2022 Standard Specifications.
 - 34.1 - agreed to close at last meeting.
 - 36 - Jon mentioned that the subcommittee finished their work and this would be closed. No objections noted.
 - 46 - Comments received on DBE spec changes. Update on progress planned for next meeting.
 - 47 - Comments received on 1-08.1 (Subcontracting and prompt payment) spec received.
 - 48 - NEW - Greg to see if Bill can help provide guidance on establishing appropriate insurance limits in order to guide subcontract insurance limit determinations.
 - 49 - NEW - Retainage - consider limiting State's retained percentage. More conversation may be needed to understand how this will impact/alleviate subcontract retainage problem.
 - 50 - NEW - Review ODOT retainage specification to see if prime's retainage could be released incrementally.
 - 51 - NEW - LNI Affidavit Delay - this may be holding up retainage releases.
 - 52 - NEW - Share resources on governors covid vaccine page/toolkit
- Next Meeting
 - October 29

<u>Task #</u>	<u>Description</u>	<u>Ball in Court</u>	<u>Target Date</u>
1.3	Provide revised notice specification revision status updates when available.	Jon K./Greg	Complete
2.1	Reassess sick leave usage March/April 2020	Greg, Corey, CJ	June?
25	Align flow chart to CM and current practice for closeout	Paul and Greg	Fall
34.1	Electronic Contract Admin GSP revisions	Jerry/Jon K	Close
35	FA language regarding 1-09.6(6) clarification of markup	Jon	?
36	Lump sum traffic control - referred to subcommittee	Subcom.	Close
39.1	Recommend markups based on analysis	CJ/Corey	March 2021
40	Force account process and subcontractors/Changes - documentation and visibility to subs	Mark S./Arti	TBD
43	Specialty subcontracting exclusions	Jason/Jon	TBD
44	Steel escalation opt in/out timing	Greg	TBD
45	Guidance on FA markups on Changes and overruns	CJ, Corey, Tim, Chris T, Chad	TBD

46	Review and comment on DBE spec changes and forms	All	Done
47	Review and comment on 1-08.1	All	Done.
48	Insurance consultation and guidance	Greg	October?
49	Consider revising WSDOT retained percentage	WSDOT	TBD
50	Review ODOT retainage provisions	All	October
51	LNI inquiry regarding AWP backlog/delay	WSDOT	Oct
52	Share covid vaccine toolkit	Jon	ASAP

AGC Admin Team Meeting

Friday, October 29, 2021 6:37 AM

Meeting Date: 10/29/2021 9:00 AM

Location: Microsoft Teams Meeting

Link to Outlook Item: [click here](#)

Invitation Message

Participants

- ☒ [Keeth, Jon](#) (Meeting Organizer)
- ☒ [Bayne, Jackie](#) (Accepted in Outlook)
- ☒ [Brais, Jerry](#) (Accepted in Outlook)
- ☒ [C.J. Handforth](#)
- ☒ [Golden, Quinn](#)
- ☐ [jay.byrd@1-alliance.com](#) (Accepted in Outlook)
- ☒ [jeretg@velectric.com](#) (Accepted in Outlook)
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- ☒ [Mike Hall \(mph@tucciandsons.com\)](#) (Accepted in Outlook)
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- ☒ [Spahr, Shane](#)
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- ☒ [John Salinas II](#)
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- ☐ [Watkinson, Larry](#) (Accepted in Outlook)
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- ☒ [Brasch, Thomas](#) (Accepted in Outlook)
- ☐ [Deffenbacher, Jon](#) (Declined in Outlook)
- ☐ [Johnson, Paul E.](#) (Declined in Outlook)

Jason Nakamura

Notes

AGC Admin Team Agenda – October 29, 2021

Announcements

- Introductions/Guests
 - Tom Brasch- Eastern Region
- Update phone list – I've updated and compiled the list please review it and let me know if there is anything that needs to be changed.
- AGC/WSDOT Co-lead – Jon Keeth
- ▶ **Meeting Minutes**

New Business:

- Rental Trucks – “maintaining compliance”
 - ▶ Product of LNI reporting website. Rent trucks routinely
 - ▶ Go on LNI website to get trucks entered.
 - ▶ Rental service could be more streamlined and efficient?
 - ▶ 15-20 Rental truck and then use the same ones over and over again
 - ▶ KLB uses 60-95 rental trucks a day during summer construction
 - ▶ Moving to online system is challenging
 - ▶ One option is to have a master contract and then send out another PO
 - ▶ Sometimes mystery trucks show up.
 - ▶ Gets messy and contractors spend a lot of time tracking down paperwork
 - ▶ Months trying to close out jobs with the truckers
 - ▶ California trucking brokers- professional brokers
 - ▶ Jackie working on a RFP for pooling resources so there are DBE trucking available. Hoping for 100% participation
 - ▶ Looking at the 1 for 1 (for every DBE truck one can be rented from a non-DBE) rule in regards to trucking
 - ▶ All contractors have checklist but it's when contractors don't want to follow the checklist.
 - ▶ Certificate of Insurance
 - ▶ Would be interested a brokering fee if they did everything.
 - ▶ Follow up with LNI and Jackie
- Bonding
 - Why is this a barrier? How does this become a barrier? Bonding requirements that challenge subcontractors.
 - ▶ Goes hand and hand with the insurance.
 - ▶ Insurance level gets passed down. They are pretty high.
 - ▶ Percentage on DB that needs to be there for the bonding rate.
 - ▶ Go back to the prime to cover additional cost. Have been able to support DBE firms. Back and forth with the prime. Language on pushing it down.
 - ▶ Some firms don't have the means to work with the prime to get and a burden to work on getting that established.
 - ▶ Process can be a hardship on a small company.
 - ▶ Owners are required to bond. Cost is added if there is a lesser policy.
 - ▶ Comparison sheet for bonding and insurance. It's another part of the evaluation on bid day.
 - ▶ John Salinas - how do we increase small business utilization.
 - ▶ Bonding is a byproduct of time served and financial stability.
 - ▶ How do you allocate risk?
 - ▶ Owners don't want to get into it.
 - ▶ Bond premium to establish a good rate.
 - ▶ One business model would be 5 years of private work before coming into public works
 - ▶ Issue is becoming more and more for obtaining more insurance.
 - ▶ Experience and finance
 - ▶ Bill Denin (give him a set of questions)
 - ▶ COA - no pool left

- ▶ Bonding (mentor/protégé may allow the mentor to bond for protégé)
- ▶ Threshold amount for bonds under a certain amount.
- ▶ Prime contractors bond subs because of risk. State not willing to participate in the risk.
- ▶ Only protection is a bond for other costs.
- ▶ Make sure Earl is part of this discussion and keep him involved
- Retainage
 - What changes would help?
 - ▶ Only carrot we have is retainage.
 - ▶ Struggle to get paperwork.
 - ▶ No issue with how it's done right now.
 - ▶ Industry practice right now to get projects get closed out.
 - ▶ Had to get OEO involved. No consistency in how retainage is handled.
- Is spec clear on subcontractor insurance?
- ▶ Yes it is clear and it's other agencies requirements that become difficult.
- Prompt Pay on Change Orders? Do we have an issue that needs to be addressed?
- Withholding for DMCS deficiencies?
- Vaccine Mandate Moving Forward- How's it going?
- ▶ Few projects before the mandate.
- ▶ Imco probably won't ever be totally vaccinated.
- ▶ One Alliance has been impacted.
- ▶ Teamsters on concrete deliveries
- ▶ Redirecting staff or schedule impacts
- ▶ Getting information turned in
- ▶ KLB doesn't have a lot of needs on WSDOT jobs. 15% vaccinated for KLB employees.
- ▶ Have an issue as a problem.
- ▶ 35-40% for Kuney
- ▶ If it's a WSDOT contract it applies.
- ▶ Jeret 35-40% employees
- ▶ Federal requirement may make it a requirement for all work
- ▶ King County and City of Seattle also have a vaccine mandate
- ▶ Affecting the price of work as well.
- Unifier implementation – Chris Tams
 - How's it going?
 - Improvements and upgrades.
 - What's next?
- ▶ Submittal business process have been improved in the October release.
- ▶ All construction contracts will be using Unifier by the end of the 2022 construction season.
- ▶ Hired additional staffing to support Unifier.
- ▶ Unifier is tied to additional WSDOT systems and their scope will be increasing
- ▶ Have to have someone come into accept E-bids?
- ▶ Don't want to be seen as limiting competition.
- ▶ Industry usage of 3rd parties on the submittals. BNSF approval of submittals.

Old Business

- 1-08.1 Subcontracting Revisions and OAH Dispute process – pending OEO/AGC subcommittee action
- DBE Program Changes – Combined Bid item Breakdown/Written Confirmation – in progress with OEO
- SVBE Program update
 - Definition changes to simplify program
 - Full implementation late 2021

- Force Account Markups on added work with subcontractors – Corey, CJ, Tim, Chad, Chris T.

Other Topics (Time Permitting):

From our 2021 Work Plan

- Requests for Change and Notice Requirements – last call to define the problem or let's move on.
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 - 1-04.5: Procedure and Protest by Contractor
 - 1-04.6: Variation in Estimated Qtys
 - 1-04.7: Changed Conditions
 - 1-08.8: Extensions of time.
- Action Item Review (15 minutes)
- Next Meeting
 - December 3rd
 -

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49	Consider revising WSDOT retained percentage	WSDOT	TBD
50	Review ODOT retainage provisions	All	October

51	LNI inquiry regarding AWP backlog/delay	WSDOT	Oct
52	Share covid vaccine toolkit	Jon	ASAP

AGC Admin Team Meeting

Friday, December 3, 2021 7:08 AM

Meeting Date: 12/3/2021 9:00 AM

Location: Microsoft Teams Meeting

Link to Outlook Item: [click here](#)

Invitation Message

Participants

- ☒ [Keeth, Jon](#) (Meeting Organizer)
- ☐ [Bayne, Jackie](#) (Accepted in Outlook)
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- ☒ [Gary Martindale](#) (Accepted in Outlook)
- ☐ [Autumn Young](#)
- ☐ [Max Kuney](#) (Tentative in Outlook)
- ☒ [Dinneen, Bill](#) (Accepted in Outlook)
- ☒ [Brasch, Thomas](#) (Accepted in Outlook)
- ☐ [Douglas Sibert](#) (Accepted in Outlook)
- ☒ [Reggie Wageman](#)

Notes

AGC Admin Team Agenda – December 3rd, 2021

Announcements

- Introductions/Guests
 - Reggie Wageman/ Atkinson

New Business:

- Bill Dinneen Insurance Question and Answer
- Retainage, Bonding, and Insurance Confidential Survey:
<https://www.surveymonkey.com/r/K9HD57G>

Retainage

- ▶ Mark two retainage statutes in the State of Washington exist that allow retainage to reduce throughout out the project
- ▶ Retainage bond is another option
- ▶ State has never allowed the reduction of retainage throughout the project.
- ▶ One option that exist is to keep two times the value of the work remaining as retainage with a max of 5%
- ▶ State wants to keep all the money till the end
- ▶ ODOT has a way to release retainage throughout the contract
- ▶ Look for ways to have partial release throughout the project
- ▶ Other retainage options will have more paperwork and require more time in order to release retainage
- ▶ Arti how do you addresses what the prime withholds from subcontractors
- ▶ Jay how often does the owner use retainage as completion tool
- ▶ **Ask CAPS how often retainage is used as a enforcement tool**
- ▶ Jay in order to apply retainage to Federal Jobs would need prove the need
- ▶ Greg uses retainage to help closeout project 80% of the time
- ▶ If there isn't retainage it makes the primes search for other methods to enforce contract closeout
- ▶ Put in a closeout item no less than 2% of the contract value.
- ▶ Items for a submittals. Pay as you submit compliance documents.
- ▶ Washington RCW 39.04.250 allows withholding of up to 150% of the work value if corrections need to occur.
- ▶ 5% retainage may be the majority of the profit on the project
- ▶ AGS subcontractor scorecard may be an option in lieu of retainage. Look at a three strikes proposal.
- ▶ Look at not making closeout a burden on everyone. How do you motivate contractors to submit their paperwork.
- ▶ Generals do what is necessary to minimize risk to close contracts and ensure contract completion
- ▶ Subcontractors need to be held accountable
- ▶ Need a way to track contract compliance
- ▶ A scorecard will not help in any local agencies they are not allowed to prequalify contractors
- ▶ John Salinas what is being evaluated on a scorecard and who is making that evaluation
- ▶ Punch list can be a moving target because people may be continually adding items
- ▶ Doug goal should be capacity building for all subcontractors
- ▶ Mark length of time to get retainage released is why this is an issue. The problem is when the money is being released.
- ▶ Bill Dinneen retainage bond. Retainage bonds cost 10 to 20 dollars per thousand of retainage amount
- ▶ Who would keep the scorecard? Needs to be consistently applied
- ▶ Could it be used as part of the good faith effort

- ▶ Jay and Arti don't use retainage bonds
- ▶ Retention bonds are a great way to improve cash flow
- ▶ Avenue for less participation for subcontractors
- ▶ Good contractors are represented on the team not necessarily the challenging ones
- ▶ **Look at the DBE committees and set asides for the next meeting**

Insurance

- ▶ Greg Kuney sometimes covers insurance premiums
- ▶ What happens if there is a difference in coverage
- ▶ Once you've selected a subcontractor the negotiation begins on coverages
- ▶ Ask for reimbursement above and beyond the standard coverage. It becomes a negotiated item
- ▶ Design services or hazardous materials may add coverages that are above and beyond what is in the original contract
- ▶ Not seeing limits as a real barrier for getting coverage
- ▶ Make sure everyone has the appropriate coverage
- ▶ Only when insurance is for very large amounts does it become a barrier
- ▶ Work with the prime to accept coverages or pay premiums that are in excess of standard coverages. This process takes a lot of work
- ▶ Contract modified to accept a lower coverage on the subcontracts
- ▶ 95-99% of contracts maintain standard coverages
- ▶ Can be barrier if it's a new contractor into the market
- ▶ Newcomers it is a barrier to entry because of the cost to obtain these policies

Bonding

- ▶ Public world the bond provides the security for work to be accomplished
- ▶ Arena is slow pay and problematic for small business
- ▶ Have to have enough net worth in order to get into market
- ▶ SBA and smaller surety companies that will people get into the market.
- ▶ Brokers or smaller companies to get into the market
- ▶ Markets are available to issue a partial bond. There are ways to work through process.

DRB Applications

- ▶ There are a few new applications that need to be reviewed and the subcommittee needs to reconvene.

Teams Chat Comments

Who fills out the scorecard? The general or WSDOT?

Maybe both the Prime and WSDOT

I would be careful in eliminating subcontractors, especially DBE subs, from doing work. We are limited on the number of subs available to do that work now.

I think maybe it isn't used for prequal or loss of bidding, but educates upcoming Primes on what they are getting into

Most Generals know who the good or bad subcontractors are! We tend to evaluate these subs at bid time to determine whether to use them or not.

Does OMWBE or DES have a way to deal with certified businesses performance in their certification process?

Agree Mark!! Big part of all this. We have long time retainage held on us as well.

I like that thought, Greg!!!

Perhaps all newly certified DBE subcontractors should be required to participate in the small works roster program for at least 3 jobs and have acceptable performance reviews prior to being eligible to perform work major WSDOT projects.

Mark, we are working on the small works rosters for DBE's on the Set-Aside committee now. AGC seems to be pushing back a little for some reason.

We use retention bonds a lot as well!

The owner would have to waive bonding requirements on small works projects to allow small businesses to prime these contracts and get the experience. Many cannot bond when starting out.

Typically work below \$300 K doesn't always require a bond

You're right Mark. The statute allows WSDOT to waive the bond requirement and instead hold 10% retainage on small contracts. I can't verify the contract value off the top of my head.

150K I just reviewed it the other day.

The construction industry has one of the highest barriers of entry in comparison to other industries and has the highest business failure rate of all other businesses!

Public works construction is unforgiving and highly competitive. If I were to advise a prospective contractor how to enter this industry I would suggest they work in the commercial market for a while to get their feet under them and then consider the public work market.

- 1-07.28 Railroad, Standard Specifications and GSP's
- Prompt Pay on Change Orders? Do we have an issue that needs to be addressed?
- Vaccine Mandate Moving Forward- How's it going?
- Winter/Spring 2022 AGC Admin Dates

Old Business

- 1-08.1 Subcontracting Revisions and OAH Dispute process – pending OEO/AGC subcommittee action
- DBE Program Changes – Combined Bid item Breakdown/Written Confirmation – in progress with OEO
- SVBE Program update
 - Definition changes to simplify program
 - Full implementation late 2021
- Force Account Markups on added work with subcontractors – Corey, CJ, Tim, Chad, Chris T.

Other Topics (Time Permitting):

From our 2021 Work Plan

- Requests for Change and Notice Requirements – last call to define the problem or let's move on.
- Force account process and subcontractors – Mark S and Arti
- Other items introduced since January
 - DBE Specification Review – What is the framework/steps for WSDOT/Contractor to deal with DBEs that are impacting critical path work?

- Conflicting language in 1-09.11(2) and (3) pertaining to Claims and the FCVC – 2022 Specifications were shared and are now published. Chris Tams
- Escalation on materials – should we revisit this in the Fall?
- Follow-up on Local Agency modifications of Division 1 Specifications including:
 - 1-04.5: Procedure and Protest by Contractor
 - 1-04.6: Variation in Estimated Qtys
 - 1-04.7: Changed Conditions
 - 1-08.8: Extensions of time.
- Action Item Review (15 minutes)
- Next Meeting
 - TBD
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<u>Task #</u>	<u>Description</u>	<u>Ball in Court</u>	<u>Target Date</u>
2.1	Reassess sick leave usage March/April 2020	Greg, Corey, CJ	June?
25	Align flow chart to CM and current practice for closeout	Paul and Greg	Fall
35	FA language regarding 1-09.6(6) clarification of markup	Jon	?
39.1	Recommend markups based on analysis	CJ/Corey	March 2021
40	Force account process and subcontractors/Changes - documentation and visibility to subs	Mark S./Arti	TBD
43	Specialty subcontracting exclusions	Jason/Jon	TBD
44	Steel escalation opt in/out timing	Greg	TBD
45	Guidance on FA markups on Changes and overruns	CJ, Corey, Tim, Chris T, Chad	TBD
48	Insurance consultation and guidance	Greg	December 2021
49	Consider revising WSDOT retained percentage	WSDOT	December 2021
50	Review ODOT retainage provisions	All	October
51	LNI inquiry regarding AWP backlog/delay	WSDOT	Oct
52	Share covid vaccine toolkit	Jon	ASAP