

# AGC Admin Team Meeting





Friday, January 28, 2022 7:16 AM

**Meeting Date:** 1/28/2022 9:00 AM






















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

**Invitation Message**

**Content**

 1-07.28 Railroad, ...	Added by <a href="#">Tams, Chris</a> Attachment from Outlook
 BondingInsurance_Fi...	Added by <a href="#">Tams, Chris</a> Attachment from Outlook
 AGC Admin Team Age...	Added by <a href="#">Tams, Chris</a> Attachment from Outlook
 AGC Admin 2022	Added by <a href="#">Tams, Chris</a> Attachment from Outlook

## Participants

-  AGC Admin Team
-  [Tams, Chris](#) (Meeting Organizer)
-  [Newell, Colin](#) (Accepted in Outlook)
-  [Mark Scoccolo](#) (Accepted in Outlook)
-  [Brasch, Thomas](#) (Accepted in Outlook)
-  [Bayne, Jackie](#) (Accepted in Outlook)
-  [Jeret Garcia](#) (Accepted in Outlook)
-  [Hallquist, Kenn](#) (Accepted in Outlook)
-  [Jay Byrd](#) (Accepted in Outlook)
-  [Brais, Jerry](#) (Accepted in Outlook)
-  [Key, Earl](#) (Accepted in Outlook)
-  [Mike Hall](#) (Accepted in Outlook)
-  [Jason Streuli](#) (Accepted in Outlook)
-  [Moody, Lone](#) (Accepted in Outlook)
-  [coreyc@klbconstruction.com](#) (Accepted in Outlook)
-  [Young, Autumn \(FHWA\)](#) (Accepted in Outlook)
-  [Phillip.Wallace](#) (Accepted in Outlook)
-  [Keeth, Jon](#) (Accepted in Outlook)
-  [Reggie Wageman](#) (Accepted in Outlook)
-  [Golden, Quinn](#)
-  [Spahr, Shane](#) (Accepted in Outlook)

- ☐ [Lewis, Dan](#) (Accepted in Outlook)
- ☒ [Reynolds, James](#) (Accepted in Outlook)
- ☒ [Dyer, Bob](#) (Accepted in Outlook)
- ☒ [Martindale, Gary\(FHWA\)](#) (Accepted in Outlook)
- ☐ [Johnson, Paul E.](#) (Declined in Outlook)
- ☐ [Carl Nelson](#) (Tentative in Outlook)
- ☒ [ACollier@ci.lacey.wa.us](mailto:ACollier@ci.lacey.wa.us) (Accepted in Outlook)
- ☐ [Brais, Jerry](#) (Accepted in Outlook)
- ☐ [Blegen, Robert](#) (Tentative in Outlook)
- ☒ [Nelson, Kristina](#) (Accepted in Outlook)
- ☒ Douglas Sibert
- ☒ Brian White

## Notes

### AGC Admin Team Agenda – January 28, 2022

#### Announcements

- Introductions/Guests
- Aubrey Collier – APWA Representative
- Colin Newell- SWR WSDOT

#### New Business:

- Governor's EO 22-01 and 22-02 (Earl Key)
  - Going to have no effect on current state funded projects.
  - Going to follow the roadmap.
  - April 2nd SVBE program will be fully implemented
  - COA SVBE program may be fully implemented for 2023 state funded construction projects.
  - I-200 - not meant to end affirmative action in Washington
  - 2018 AG office confirmed you can have affirmative action if you follow certain procedures. The you can set race and gender goals.
- Retainage, Bonding, and Insurance Survey Results (Chris Tams)
  - Sent for comments and reviewed the highlights. Information will be used in the future for policy decisions.
- DBE Subcommittee report out (Jackie Bayne/Earl Key)
  - Set asides are being evaluated. May look at unbundling and set aside contracts. It doesn't appear at this time it will be necessary for WSDOT work.
  - Bundling
  - AGC/Legislature will have discussions about this over the session.
  - Capacity building mentorship program
  - Extra credit when firms use the mentee's in the program.
  - Inclusion/Prequalification
- Prompt payment committee - find four or five things that are opportunities to improve payment
- 1-07.28 Railroad, Standard Specifications and GSP's
  - Punchlist items at the end.
  - Some type of a cutoff for comments
  - Railroad is a critical path item of work
  - Update on workplan for 2022
  - Section on safety requirements different safety requirements
  - Railroad is overruling LNI and establishing stricter safety standards

- Examples of Railroad safety requirements -
  - Slopes for safety
  - How you leave slopes during the shift.
  - Additional safety considerations.
  - What they want for security fencing
  - Color of vests and type of boots
  - Acquired a lot more control and safety issues
  - Mean and methods of work.
- Prompt Pay on Change Orders? Do we have an issue that needs to be addressed?
- Going to let the committee work through the issue and they will provide a update
- Vaccine Mandate Moving Forward- Workforce availability?
- Workforce is tight
- Halls are emptied out of qualified employees
- Going to impact productivity
- Really a challenge for qualified people
- Timelines for work
- Huge shortage in qualified trade people
- Culvert projects (same fish window) - Aug-Sep Window
- Port of Seattle has vaccine mandate
- DOD work also requires vaccinated employees
- 30-40% people
- Halls are not tracking vaccine mandate
- Leaving it to contractors (volunteer submission or verbal submission)
- Mark (50/50 for the vaccination)
- Jeret (50/50 vaccinated people)
- Rates for bidding work labor and productivity are increasing
- Specialty contractors won't be able to get there this season because of mandate
- When would mandate be lifted? (Follow up)
- Required to have a booster (make the availability even worse)

#### Teamster Strike

- Nothing is scheduled

#### Lump Sum

As long as it is definable it's something that could be in lump sum

Team was shown the lump sum breakdown for the temporary diversion and thought it was acceptable.

#### 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, Chris T.
- Set it up for the next meeting.

#### 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 (15 minutes)
- Next Meeting
  - TBD

<b><u>Task #</u></b>	<b><u>Description</u></b>	<b><u>Ball in Court</u></b>	<b><u>Target Date</u></b>
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, Chris, 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 and others retainage provisions	All	October
51	<del>LNI inquiry regarding AWP backlog/delay</del>	<del>WSDOT</del>	<del>Oct</del>
52	<del>Share covid vaccine toolkit</del>	<del>Jon</del>	<del>ASAP</del>
53	Standard items that should be discussed in weekly meetings	All	Winter 2022
54	Interim payment for disputed Work	All	Winter 2022
55	Critical Path Items/Supply Issues due to pandemic	All	Winter 2022

# AGC Admin Team February Meeting




Friday, February 25, 2022 6:32 AM

**Meeting Date:** 2/25/2022 9:00 AM

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

## Invitation Message

### Content

 AGC Admin Team Age...	Added by <a href="#">Tams, Chris</a> Attachment from Outlook
 Project Closure P...	Added by <a href="#">Tams, Chris</a> Attachment from Outlook
 MeetingMi nutes_Jan...	Added by <a href="#">Tams, Chris</a> Attachment from Outlook

### Participants

- ☒ [Tams, Chris](#) (Meeting Organizer)
- ☐ [Arti O'Brien](#)
- ☐ [Autumn Young](#) (Accepted in Outlook)
- ☐ [Blegen, Robert](#)
- ☒ [C.J. Handforth](#)
- ☒ [Corey Christensen](#) (Accepted in Outlook)
- ☐ [Deffenbacher, Jon](#)
- ☐ [Earl Key](#)
- ☒ [Gary Martindale](#)
- ☒ [Greg Waugh - Max Kuney \(GregW@MaxKuney.Com\)](#)
- ☒ [Jackie Bayne](#)
- ☒ [Jason Streuli](#) (Accepted in Outlook)
- ☐ [Jay Byrd](#) (Accepted in Outlook)
- ☒ [Jeret Garcia](#) (Accepted in Outlook)
- ☐ [Jerry Brais](#) (Accepted in Outlook)
- ☒ [John Salinas II](#)
- ☐ [Johnson, Paul E.](#)
- ☐ [Keeth, Jon \(KeethJ@WSDOT.WA.GOV\)](#) (Accepted in Outlook)
- ☐ [Kenn Hallquist](#) (Accepted in Outlook)
- ☒ [Mark Scoccolo](#) (Accepted in Outlook)
- ☒ [Martindale, Gary](#)
- ☒ [McKeon, Kyle](#)
- ☒ [Mike Hall](#) (Accepted in Outlook)
- ☒ [Phil Wallace](#) (Accepted in Outlook)
- ☒ [Quinn Golden](#)
- ☒ [Reggie Wageman](#) (Accepted in Outlook)
- ☐ [Russell Meeds](#)
- ☒ [Tim Hayner](#) (Accepted in Outlook)

- ☐ [Tina Nelson](#)
- ☒ [White, Brian](#)
- ☐ [Wimberly, Susan \(FWHA\)](#)
- ☒ [Brasch, Thomas](#) (Accepted in Outlook)
- ☒ [Moody, Lone](#) (Accepted in Outlook)
- ☒ [Newell, Colin](#) (Accepted in Outlook)
- ☒ [Aubrey Collier](#) (Accepted in Outlook)
- ☐ [Lewis, Dan](#) (Accepted in Outlook)
- ☐ [Reynolds, James](#) (Accepted in Outlook)
- ☒ [Dyer, Bob](#) (Accepted in Outlook)
- ☒ [Spahr, Shane](#) (Accepted in Outlook)
- ☒ Doug Sibert

## Notes

### Announcements

- Introductions/Guests

### New Business:

- ASCE region assignments and responsibilities
- OCOI (Organizational Conflict of Interest) Working Group
- Force Account Markups on added work with subcontractors – Corey, CJ, Tim, Chris T.
  - Meet Tuesday 2/22 to get back up to speed on issues
  - Action Items
    - Lower Tier Markup
    - Sub vs Service
    - Rental equipment
- Lump Sum Traffic Control Implementation Update
  - Presented to all the region Construction Engineers
  - LS Traffic Control is a risk based decision that each region has the ability to choose
  - Will be part of the next design manual update
  - Olympic Region is requiring it on all projects currently
  - SR 7 Traffic Control was brought up to the project team. After evaluating it changes were made to the contract
  - Concerned that the control is still with region to make the decision
  - Promise from past people but it's going to reviewed by HQ.
  - Able to establish across all regions. Objectively define the reasons that L.S. Traffic is used
  - Regions have autonomy in making the final decision stays with the regions
  - Brian, Shane, and Colin gave examples of how they will implement L.S. traffic control
- Align flow chart to CM and current practice for closeout
  - Struggle with other agencies getting affidavits submitted
  - Go through a bunch of process and reasons why projects take a lot time to close
  - Is the 90 days even reasonable
  - Have deficiencies. Only have one office engineer to close out the projects
  - It should be a good target
  - It took 6 months for LNI to finish up their process.
  - Contractor performance evaluation for closeout can turn to a below standard score very quickly
  - Agencies are lagging behind because of COVID. There are some things that are beyond the control.
  - Look at the guidance to account for some of these other issues
- Standard Weekly Meeting Topics
  - Prompt payment subcommittee

- Have all the topics be addressed
- Change orders that need to be closed out
- Requested contractors and PE's that have good agendas please send them to me and I'll evaluate and get a good list put together
- Interim Payment for Disputed Work
- Steel Escalation Opt in/out timing
  - Where the form gets submitted will be modified and will be sent to PE office
- Critical Path/Supply Issue Due Pandemic
  - Phil will have something NUCA for the next meeting
  - MMA had supply issues last construction season
  - Material Escalators, Fuel, and how it is antiquated. Gallons per unit bid items. Mark interested in looking at it. Initial update.
- Concrete Strike
  - Meet with federal mediator yesterday and no progress was made
  - Healthcare for life is the issue
  - Coverage for employee and their family
  - Merlino group is driving the strike which is making it hard to settle
  - 2/3 of the total drivers have been replaced
  - 180 independent drivers out there that now delivering concrete
  - QA is falling through the cracks
- PLA's
  - Part of the PLA's for the negotiation. 520 Pontoon job. Contractors were taken out of the negotiation
  - Owner were involved in the initial PLA's not contractors
  - Dave d'Haunt will voice their concerns when negotiating
  - Sound transit PLA are a complete disaster (all the same PLA)
  - Trade assignment meeting are contentious

#### Action Items

- Railroad Specs, PLA may roll out for more projects, Mark with fuel cost adjustments, Phil NUCA for cost adjustments
- Lump sum traffic spreadsheet sent to team
- Close out flowchart sent to team

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#### **Other Topics (Time Permitting):**

From our 2021 Work Plan

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55	Critical Path Items/Supply Issues due to pandemic	All	Winter 2022



## Notes

AGC Admin Team Agenda – April 22<sup>nd</sup>, 2022

### Announcements

- Introductions/Guests
- Transcripts? **No.**

### New Business:

- In person meeting June 3<sup>rd</sup> ? **Yes**
- AGC Annual Meeting Feedback (Videos/No Videos) **Yes.**
- Fuel Cost Escalation Special Provision (Mark Scoccolo) - **Not Covered**
- Standard Specification 1-07.4(2) “Health Hazards” Discussion (Quinn Golden)
  - **Local agencies may not have the GSP in their contracts**
  - **If they move in after the contract is awarded should they be added by CO**
  - **Getting the transients to move was the issue in the past**
  - **The clean-up afterword is the issue**
  - **Industry interested in including the FA cleanup spec. as a standard item**
- Align flow chart to CM and current practice for closeout - Not covered
- Force Account Services 1-09.6 - Not Covered
- Report out on Insurance, Retainage, and Bonding
  - Insurance and Bonding – **this didn’t get covered as there was confusion on the Insurance and Bonding portion being assigned**
  - Prompt payment and retainage committee
    - **Putting all the narrative and recommendations together**
    - **Work with Jackie and Bob Dyer**
    - **Meeting to present to Jon D., Earl, and Chris C.**
    - **Finalizing the committee work**
- Small Business Capacity Building on Design-Build Projects (OEO)
  - **Are there comments on the DB Capacity building program**
  - **Technical credit are about 10% of the contract value**
  - **Larger design builds (300 million dollar design builds)**
  - **Request to have WSDOT strategically develop the technical credits to adequately influence the prime contractors to utilize these credits**
  - **Have to be a mentor to get points on Item 1 and 2**
  - **Nobody is going to waive the insurance requirements, but may consider lowering them**
  - **Legally needs to be run through channels to determine whether or not it would be challenged**
  - **How do you determine what is a low risk subcontract**
  - **Applies to the short listed proposers**
  - **Make sure things like this are being vetted before they go live**
    - **This was distributed to the group via e-mail but not much feedback was received**
  - **Team doesn't have the background on how we got here**
  - **How is the % determined for unbundling the packages**
  - **Soliciting a certain % of work to DBE community**
  - **Bundling off the subcontracts should also be counted**

- Before rolling this out there is a need for additional Q&A and potentially training on how the technical credits will be evaluated (a forum to discuss the nuances of the scoring)
- DBE Condition of Award Good Faith Effort Guidance/Training (OEO)
  - Provide additional training at bid time and contract closeout
  - Provide training so people know the expectations
  - More and more GFE will need to go through
  - Who exactly makes the determination about a GFE
  - Want to be more communicative
  - Developing a list of what GFE's are scored on
  - What happens if you #1 submits a GFE and #2 meets the goal
  - What about assigning points to get a ABV on design bid build work
  - Have to take the low bidder (did a GFE)
  - New disparity study is moving forward
  - Take a look at the regulations it's a wholistic approach
  - Everyone is on the same playing field
  - Availability at the time of the study
  - Goal setting discussion maybe necessary again
  - State funds only (small and veteran) training needs to be on state funds and federal funds
  - Two separate GFE one at bid and one at closure
  - Underruns may need to be submitted on federal contracts as soon as possible to try to rectify these issues
  - Local agencies could use more training on how DBE's are being used
  - GFE opens up a risk that your bid will be rejected
  - Local Agency WSDOT does set the goal. Feel free to call if there are concerns
  - Stewards of the tax dollars
  - GFE's could be supported by DBE's if they issue a letter to the prime saying why they are not giving the primes a bid on the contract (not enough capacity, etc.)
  - Can DBE goals every be reduced? Several examples of primes requesting this prior to bid and being denied
  - Any consideration to evaluate goals and not include work that is challenging to break up and sub out (paving, etc.) or to anticipate what the contract critical path may be and not allocate goals to these items of work
- Contract Closeout Flowchart- **Not Covered**
- Market Conditions - **Not Covered**

### **Old Business**

- Force Account Markups on added work with subcontractors – Corey, CJ, Tim, Chad, Chris T.
- Lump Sum Traffic Control Implementation Update
- Align flow chart to CM and current practice for closeout
- Standard Weekly Meeting Topics
- Interim Payment for Disputed Work
- Steel Escalation Opt in/out timing
- Critical Path/Supply Issue Due Pandemic

**Other Topics (Time Permitting):**

- Action Item Review (15 minutes)
  - Present Goal Setting
  - Do we take the summer off?
- Next Meeting
  - June 3<sup>rd</sup>

## 6/3/22 AGC/WSDOT Administration Team Meeting

### Announcements

- Introductions/Guests
  - Discussing trying to find a building for ourselves for consistency for this meeting.
  - Hybrid meeting introductions
    - Attendees
      - Amy Amos - POPEO PE
      - Jackie Bayne - WSDOT OEO Asst. Director
      - Tom Brasch -- WSDOT PE Spokane
      - Jon Deffenbacher
      - Bob Dyer
      - Jon Keeth
      - Kyle McKeon - Local Programs WSDOT
      - John Romero - HQ CN
      - Brian White - WSDOT ARA SCR
      - Aubrey Collier - City of Lacey - New City Engineer
      - Jerry Brais - King County (APWA)
      - Quinn Golden - Granite (Everett)
      - Jason Streuli - Gary Merlino
      - Gary Martindale - FHWA
      - Susan Wimberly - FHWA
      - Earl Key - WSDOT Director OEO
      - CJ Handforth IMCO
      - Doug Sibert - AGS
      - Arti O'Brien - AGS
      - Josh Taylor - 1 alliance
      - Cory Christensen - KLB
      - Reggie Wageman - Atkinson
      - Greg Waugh - MJ Kuney

### New Business:

- WSDOT/Industry Collaboration on Increasing WZ Safety. (John Romero)
  - John Romero: Group meets quarterly; general frustration for the industry with speeders & volume through WZs; WSDOT has always accommodated traffic first, work/contractors second
  - Can we better balance the needs for both parties?
    - Can help achieve this balance with: Automated flagger devices (AFAD); queue safety work zones, etc. Industry wants WSDOT to specify the additional safe workzone items
    - Industry has discussed that they'd like to see more consistency through the Regions; Region managers have asked their PE's and teams to use the escalation ladder to look to implement WZ strategies rather than just taking a "NO" from the PEs

- Industry: can we have reduced work zone speeds more often in our projects? Yes, this is a standard consideration for our contracts now.
- WSP Enforcement in WZs: we are not allowed to implement automated enforcement in our WZ per law
- Changed GSP instructions to allow automated flaggers in WZ; clarified that AFADs need to have red/yellow/green lights, and they require to be operated by a flagger
- Typical traffic control plans are developed to use queuing technology for WZs that are implemented for more than 4-days; and if the TC is predicted to have queues over 3 miles
- 2023 update proposals
  - Tall TC devices - may need 6-inch reflective bands - will be a phased approach
  - Clarify process for using a TMA when you start to occupy a lane to set up a lane closure (no more dropping drums from the TMA as the initial setup)
  - Removing the requirement for bubble lights for flagger stations to be 20' high
  - Variable WZ speed limits - some existing signs are pretty hard to access; Contractors will be able to install "temporary" regulatory signs on the temporary sign mounts
  - Traffic office has been looking at a couple rumble strip items as a notification device (triple rumble strips for notification) when entering WZs
  - Smart arrow boards - these can transmit data to Google Maps, Ways, etc. if there are queues, etc.
- Q - Arti O'Brian: parallel path of efforts taking place; all of these things that have been outlined, are these going to be implemented into the 2023 specs?
  - Smart arrows will be a GSP, 6-inch bands will be required after Dec. 2026; GSPs for the AFADs will be after the 2023 Spec.
- AO - Arti is on another board for WZ safety; June is Safety Awareness month; she'd like to see a subgroup come together with WAPA, AGC, Leg.; would like to have WSDOT as a part of this team, would like to see WSDOT contribute to the June Safety Awareness Campaign
- AO - Didn't hear the UPO (Uniformed Police Officer) specs. - WSDOT has a standard # of hours in contracts, designers need to consider this when designing; after the # of hours in the contract, WSDOT/Prime split the cost for the additional hours; this has to have an agreement with WSP for implementation because troopers aren't available everywhere
  - Jon Deffenbacher - WSDOT has heard that there is inconsistency between regions; Jon hopes industry can recognize the variable challenges we have as an agency for implementation (NCR example); Jon is working to get more consistency within the Agency; have a meeting in July internally to get a better consistency
    - Jon and Amy Scarton will be at the joint meeting next Friday representing WSDOT

- JD - we are looking into incorporating safety into the scoring of the DB proposals when evaluating MOT
- Measurement of TMA under the 2022 Spec. Have you seen consistent implementation?
  - Spec. used to say that hours were paid for hours in use, essentially when the TMA is "moving"
  - New spec. is saying that payment is for when the TMA is being used per the approved TCPs - so if it is parked where it should be, it will be measured and paid
    - Greg Waugh - this was a good change for everyone, usually TMA's are running when they are parked, incurring cost; easier for WSDOT to measure and administer
- Change in LD's specification to notify WSDOT if prime is going to pass LD's through to Sub Contractors (Jon Deffenbacher).
  - JD - this is something that Earl Key and JD have been discussing; relates to Prompt Pay disputes, these can be tied to passing on LD's to DBE subcontractors
    - In the event that LD's are being passed down, if these are passed down to subs, prime needs to notify WSDOT so OEO folks can be aware
      - WSDOT still needs to draft this language but Jon is asking this group if there are any initial comments or kneejerk reactions to the concept
        - GW - this doesn't happen often, but shouldn't be too much of a burden to the Primes; this can happen if a sub. Is causing a lane closure to be not removed
        - AO - she's experienced this before with a WSDOT project; her opinion is that there isn't a process in the Contract for the prime to document what the problem was and which company caused it
        - GW - sometimes weather or an equipment breakdown can exacerbate some of these LDs
        - Chris Tams and Shane Spahr - WSDOT typically will have a conversation with the Prime on the incident rather than just carte blanche assess the LDs
- Bonding and insurance update. (Jon Deffenbacher)
  - EK - it's DES not LNI; WSDOT has to develop a report to the gov. office on our bonding and insurance requirements; going to hire a Consultant to perform a legal review for us, working with Western Washington University to help interpret the legal requirements we have in place
- Fuel Cost Escalation Special Provision (Mark Scoccolo)
  - CT - Mark isn't here today, but Chris and Jon will talk about this
    - Escalation is really time dependent, if the market swings more than 10% either direction, the contractor can either be compensated or impacted depending in inflation or deflation

- JK - we're really looking at steel and fuel; looking at the Opt-In timing; industry asked if we'd consider asphalt grinding to be eligible for fuel; does WSDOT want to make fuel an opt-in spec.
  - Cory Christiansen - can we consider adding pipe to the escalation issues? Pipe right now is having a changing weekly price from the suppliers;
  - GW - conduit price increases are really impacting the electricians; if the escalation in these prices continues, it will be very damaging to the contracting community; GW realized this would be a huge impact to the owners to own this risk, but it is hurting industry
  - JK - not sure what price index we should be using for plastics, is this just construction product volatility, or is there some index that is a corollary?
  - CC - most of these materials follow the fuel installation cost to some extent, but there is no end in sight for when these things calm down
  - JK - would having some escalation clauses for some of these auxiliary materials help the contractors on their bidding process
    - CC & GW - yes
  - AO - jobs bid 3-6 months ago, are there any escalations that the subcontractors can benefit from, TC is sometimes very fuel dependent;
    - CT - escalation clauses cannot be change ordered into a project; if the escalation clause is in the contract, the prime may be able to help if there is escalation language in the subcontract
    - Susan Wimberly - FHWA will not participate in an escalation clause CO; contractors need to bid with material cost increases incorporated to their bids; realizing it is a really tough environment, it still is an expectation to be bid
      - Really, the DBE needs to talk to the prime to see if they can get an escalation clause into the subcontract
    - CC - WSDOT has a formula they use for escalation for specific bid items, if TC bid items aren't included, TC will not be eligible
    - Aubry Collier - City of Lacey doesn't have a good example of an escalation clause to include in their Contracts; they are asking for language to include in Local Agency contracts; only way to consider cost escalation in contracts for the local agencies right now is materials involved in CO's; wants to take this to the APW team
- Align flow chart to CM and current practice for closeout

- CT - have passed the closeout flow chart to industry; we want to get this into the CM so folks can start and continue Contracts with close-out in mind
- Force Account Services 1-09.6 (Tams)
  - CT - Meeting invite contained two spec. changes, we are asking for comments on these specifications, if there are any fatal flaws then let us know, else, they will be in the next update of the spec.
  - GW - Greg thinks it will be worthwhile to solicit feedback from the industry as it does have some pretty big ramifications to large FA items
    - 12, 10, 7% markups, Primes are used to receiving this; has WSDOT discussed with industry that these mark-ups aren't needed and are windfalls rather than they are needed to cover Contractor costs?
  - AO - these changes typically are downstream affects to subcontractors, the affect on the subs aren't clear sometimes
  - Doug Sibert - (AGS) - are the 29% and 21% mark-up rates applied and given to the subcontractors? If so, AGS hasn't seen them as they are paid by their contract hours in their subcontract
  - CC - trucking can be an issue with paying by invoice, but they aren't a service
  - Reggie - saw-cutting, surveying, and more, can get brought into this issue of being paid by invoice
  - JK - our spec. is saying that a "fully operated" equipment is considered a service
    - Intent - fully operated equipment is a service
    - What we had before was if they were a service they got markup, and if they were a service to a sub then they get that secondary markup; now we are just trying to get a 21% markup regardless who they are servicing for
      - WSDOT had a really convoluted way to pay for fully operated equipment, the new spec. should clean that up
  - GW - he hasn't been aware of the prime markup for sub work being confusing, etc.
  - JK - keep in mind that we are talking about markups for services, those aren't prevailing wage jobs typically, services typically are smaller items
  - GW - disposal of contaminated material can be a huge cost - and Greg thinks we should have more discussion on eliminating the subcontractor markup for services
    - JK - don't want to fully debate this at this meeting, just wanted to start getting feedback on this, wants to vet this further
      - Concerned that 21% isn't enough of a markup to run this through their books? - GW, yes
  - CJ Handforth - this does get complicated if we have second and third tier subcontractors
  - GW - if we head this direction then FA items of large amounts need to be reconsidered for upfront bidding
  - Jason Streuli - back to 21% markup for a service - not seeing that there will be a negotiation from the prime and the service provider because the service provider is already including their markup in the invoice



- Recommends including "trucking" in the language of "fully operated"
- JK - we welcome the conversation and the feedback - WSDOT intent is to make our contracts clear, that happens with this type of conversation and dialogue
- GW - are there any considerations for changing the sliding scale dollar amounts for the 12/10/7%
  - JK - please propose something - we can look to bring those dollar amounts to a more current environment; Managing expectations, we probably won't get that sliding scale change into the September update
    - We'll need comments in the next couple of weeks for us to make any changes to the September update; we need comments by 6/10, latest 6/17
    - We are really looking for fatal flaws, if something is unclear or broken we need to get the files to publication within the next couple of weeks
  - GW doesn't think this is unclear language, but unclear maybe as to how this will affect the primes and subs
- 1-08 Subcontracting Rewrite (Tams)
  - See above discussion
- Small Business Capacity Building on Design-Build Projects (OEO)
  - This really needs to be explained by Earl
- Vaccine Mandate Update
  - WSDOT intent is to still have Contractors sign a Governors Proclamation waiver, the waiver form will need to be modified by WSDOT to match the language of the proclamation
  - Would be good to update the proclamation on existing contracts as well as moving forward
  - AO - does this apply to King County jobs?
    - Jerry Brais - he needs to check with the county executive for that
- Buy America
  - CT - asked a couple weeks ago for the group to provide comments on the new buy America clause; manufactured products need to contain at least 55% American made steel
    - Construction materials are also included; there are several exemptions (rock, cement, oil for asphalt, etc.); some items are not excluded, timber, etc.
    - USDOT did apply for and was granted a waiver for the implementation, we have until November 2022 to implement the new Buy America policy
  - Susan Wimberly - received a little more clarification; manufactured items - we are operating under a waiver from 1983; the 55% number was a suggestion at this point, FHWA is open to discussion and comments for that mark
    - Over the next six months FHWA is working on how they want to see this implemented by Nov 10, 2022
  - CT - the position we want to try to avoid is implementing the program, then finding that we can't meet the policy with the products we need to use, and

then we have to delay projects in order to procure exemptions that allow us to move forward with our projects

- SW - she is hearing that we are going to have a much faster and easier process for the individual waivers
- GW - this applies to items that are best in breed for our industry (HILTI Epoxy)
  - SW - they are discussing changing the minimum amount for these to apply to, SW has heard maybe they are considering up to \$1M before these apply, but those conversations are still being had
- Front Loading Preservation
  - CT - There will be more moneys available for the preservation program from the new funding package; the package is not fully funded but the preservation program will be front loaded to be delivered
  - CT - WSDOT has contemplated different delivery methods that would enable WSDOT to deliver the front loaded work (consultant use, delivery method changes (one step procurement for DB))
- Market Conditions
- Fall Meeting Dates and Location
  - Sept 23
  - Oct 28
  - Thanksgiving - Skip
  - December 3rd
    - GW & AO are thinking we may want to continue discussion on the FA spec. changes
    - CT - we have a ton of work to catch up on and he wants to hold our traditional schedule
      - CT is willing to organize a small subcommittee of folks to discuss ongoing issues, but really prefers we honor the summer break
    - GW wouldn't mind if there can be some interest to continue the FA conversation within the next couple weeks
    - CC wants to have the sick leave conversation again in the fall because there has been a spike
  - CT - if anyone ever has a topic they want discussed at this meeting please provide feedback to Chris to include it on the agenda
  - GW - WEBS is not very user friendly and they found several issues when they tried to use it
    - CT - yes, WSDOT is aware that it is cumbersome to use, but the owner DES isn't wanting to change the software program
- Fall Items
  - DBE Condition of Award Good Faith Effort Guidance (OEO)
    - Moved to fall meeting
  - Goal Setting (Nina Jones)
    - Moved to fall meeting

- GFE Training and perspective (Nina Jones)
  - Moved to fall meeting - if training is needed now then Contractors are encouraged to reach out to Nina directly

## **9-23-2022 AGC/WSDOT Administration Team Meeting Notes**

### In-person

Jay Byrd - One Alliance  
Arti O'Brien & Doug Siebert - AGS  
Jerry Brais - King County  
Chris Tams, Chuck Meade, Jon Deffenbacher - WSDOT  
Corey Christiansen - KLB  
Mike Hall - Tucci & Sons

### Teleconference

Aubrey Collier - City of Lacey and APWA  
Derek Compton - Graham Contracting  
Quinn Golden. - Granite  
Greg Waugh - MJK  
Ken Halquist - Walsh  
John Salinas - Salinas  
Mark Scoccolo - SCI  
Gary Martindale - FHWA  
Reggie Wageman - ATKNS  
Tim Hayner- Cascade Construction  
Amy Amos - Port Orchard WSDOT  
Jackie Bayne - WSDOT OEO  
Tom Brasch - WSDOT PE Eastern Region  
Jon Keeth - WSDOT HQ CN  
Kyle McKeon - WSDOT Local Programs  
Colin Newell - WSDOT SWR CN Eng.  
John Romero - WSDOT HQ CN ASCE  
Shane Spahr - WSDOT Eng. Manager in NWR Mt. Baker

### **New Business:**

- Governors Emergency Order
  - This will be rescinded in October - existing contracts emergency order specification will no longer apply because there will be no emergency order
- Section 1-09.6 Force Account Changes (2023 Book)
  - Grammatical change for subcontractors - "first tier subcontractor" other than "Subcontractor"
  - Greg Waugh (GW) - asking if the subcontractor markups via services etc. were changed?
  - Jon Keeth (JK) - we didn't make any changes because we didn't come to consensus at our earlier subcommittee meeting, will continue the conversation to make this clear with everyone
- Work zone safety contingency fund

- John Romero (JR) - looking to add an FA item to contracts in order to expeditiously add incremental safety improvements to our contracts w/out lengthy Change order process
- Items may include additional signing, pcms, arrow boards, afads, radar speed display signs, temp rumble strips, mobile marriers or additional TMAs
- Not correcting TC bids
- TXDOT allocates 5% of the total contract value
- Next steps: meet w/roadway team in October, develop construction bulleting early November, release for use early next year
  - Arti O'Brien (AB) - has WSDOT thought through any guidance for the Bid Item in order for PE's to implement this and use this uniformly? Can WSDOT send this presentation out to the group so this team can comment if necessary?
    - JR - WSDOT is working on a feedback loop to designers
  - Jerry Brais (JB) - how does this item affect Local Agency projects? Are they going to be required to use this item? Most Local Agencies use LS TC items, will really need to be clear what is covered in the LS item and what may be eligible for the FA item.
    - JR - this is specifically an item (fund) that gives the ability to efficiently and timely implement the changes without a CO
  - Aubrey Collier (AC) - if we want input from local agencies for this item, we can get feedback from them at the upcoming APWA meeting that AC chairs
    - JR - will attend for feedback if he can
  - CJ Handforth (CJH) - can we calculate this amount and have a dollar amount in the Contract?
    - JR - we are trying to work on this to better understand what the dollar amount should be (one dollar as a place holder?)
    - JB - local agencies need to usually ask for the dollar amount from council, it would be helpful if we could indicate a dollar amount for the F/A item
    - JK - we view this as a positive for all projects and agencies, want to move forward with this because there is a lot of benefit to trying this; there may be risks/downside
  - Mike Hall (MH) - any indication to how much money is being spent on this item in TXDOT? Percentage of contracts? % of bid item allocation? Thinks this item lends itself to a BI TC format to avoid this item supplementing the LS TC item
  - AB - Doesn't want to hear local agencies saying that they may not use this, we all need to use this in the name of safety
    - JK - most agencies administer contracts slightly differently, and it would be the local agency's decisions if they want to use this item or not
  - Jon Deffenbacher (JD) - this idea really was born from the WSDOT Chief Engineer challenging WSDOT to find a way to implement these

improvements quickly, easily, and uniformly. WSDOT has considered the item allocation, should we put a number on it or not?

- AO - she doesn't think including a number necessarily is a bad thing, won't be a reflection as to how much we actually want to spend on safety
  - Chris Tams (CT) - if it's a dollar number, it likely will be rolled into our COA goals, which creates a lot of issues for the Contracts
  - MH - we should be discussing having FA items included in our DBE goals anyway
  - MH - the interpretation of this may be a little hard because of TCP's and their specificity, either general or project specific; if something isn't on a general TCP Contractors may be looking for this item to supplement the LS item
  - AO - if this is a below the line item it shouldn't affect the prime's bids
  - GW - the COA issue for this item is a big deal;
  - Jay Byrd - reminder, this is a contingency fund for unique situations and uses, TC is already covered in the Contract
- Sick Leave Requirements (Corey)
  - Push this until the January/February meeting
- Removal of Structures or Obstructions
- Pre-Estimate Web availability
  - <https://remoteappsqa.wsdot.wa.gov/construction/project/progress/>
    - CT - we've made some changes to the website that we think are going to help pre-estimate transparency prior to the pre-estimates being released; now subcontractors have the ability to see what WSDOT has to date for items that are going to show up in the next estimate
      - This tool pulls the items that have been entered by WSDOT for the payment period; will be bare right after we cut an estimate, will be full right before we make the monthly estimate payment
- C9786 Demo
- Steel Escalation Opt in Dates
  - We are extending the opt in/out date in our specials so the Prime's can finish their subcontracts and have the subcontractors have the ability to opt in/out (30 days after execution)
    - GW - he'd like the 45 days if we could accommodate that
  - JD - for design build projects we usually give an opt in/out clause; would these be helpful for DBB projects? Yes, contractors would like to see these escalation items in the DBB projects
  - John Salinas (JS) - has there been any discussion to allow different bid items for the steel cost escalation? The dowel bars in white paving have really been hurting his company.
    - JD – we'd certainly consider adding this type of steel to the steel escalation specification
- Buy America Build America guidance (CT)
  - Effective on all projects with advertisement date of Oct 17 on DBB

- Effective on all projects with a ABV date of Nov 10<sup>th</sup> on DB
  - Requires a certificate of materials origin every pay estimate for construction materials
    - CT - if FHWA agrees to the timelines we've put in place, bullet 1 applies
      - The major change is that construction materials will have a waiver (not a manufactured product)
      - Major discussion is different than steel; for steel, every item has to have a MCC and CMO
        - We have a modification to FHWA right now; all materials that meet the definition of construction material, we'd receive a form monthly from the primes that basically certify that all of the "construction materials" incorporated in the project meet the BABA criteria, Primes will certify that monthly
        - This only applies to federally funded projects with fed funds in Construction (not development)
          - If we have a project that uses Fed dollars in NEPA, but not in CN, then the new BABA rules do not apply; a lot of our DB projects fit into this spending structure
      - MS - sees some problems here; some products aren't available domestically, or are in too high demand to be procured reasonably; would like to see the exception for materials be more than \$2500, would like to see a percentage of the contract; when we start redefining "domestic" it will make it more confusing and challenging for the Contractors
        - CT - we have a CN memo to have our offices go out and see if they can procure materials domestically;
          - Couple highly used items are on our radar; glass used on paint stripe, blocks used in GR (we get a lot of blocks from Canada), both of these are included in the new definition of Construction Materials
      - CT - WSDOT has made an attempt to categorize all materials in Chapter 9, are they a construction material, manufactured product? We will hopefully have that guide available once we finalize it and get feedback from FHWA
      - JB - will Contractors still need to maintain records of the MCCs and CMOs?
        - Yes, the monthly certification will certify that the Contractor has the appropriate materials documentation
      - Aubrey Collier - how does this apply to Local Agencies
        - Kyle McKeon - we usually follow HQ CN in lock-step
- Traffic Control Guidance (Earl Key)
  - Jackie Bayne (JB) - ideas WSDOT OEO has been exploring;

- Going back to time and materials, doesn't seem like a good solution for WSDOT
- Considering breaking TC items to two items, a LS for DBE that can't be partial, and the other item for time/equipment/materials, risk, and profit for the primes
- JK - been concerns where there is a lump sum item; if a sub is doing work on a unit subcontract basis they may get paid less than the LS cost because of the subcontractor's unit item subcontract, this has the appearance of the primes getting a windfall via the LS item when reporting the dollars paid to the subcontractors on the COA reports; X is the subcontractor's bids, Y is the risk/profit for the primes
- Cory Christensen - where is the line in the sand? What about other LS items that are subcontracted to DBEs?
- MH - keep in mind that as a prime, they typically get an a la carte number from the TC subcontractors; with a LS, they are assembling/guessing on how much they need to bid on the LS item; Prime carries a lot of risk there, through managing that the subcontractor appears to get underpaid
- AC - last three jobs City of Lacey bid, their DBEs weren't TC subcontractors; is WSDOT going to try to have this style of bidding for all LS items? Aubrey thought this problem was already solved for local agencies, LA's weren't able to use the LS item for TC;
  - Kyle McKeon - AC is right, LS has to get special approval
- AO - there was a subcommittee that produced guidance on when to use the LS TC item
  - CT - WSDOT provides some direction and guidance to PE offices on the risks/benefits of using LS TC for their projects; the offices do have to have further conversations internally about using this
- CC - really thinks that the easiest solution, simplest, is to go back to unit items for all TC items
  - JD - so the solution is just to go back to fights in the field every day about TC hours? They have these arguments every day
  - AO - thinks that there are forms or ways to manage this collaboratively from a unit item perspective; respectively, WSDOT is shifting the problem to the Contractors
    - CT - we don't control when/how the contractor performs the work, that is for the Contractors to manage
  - MH - TC subs can't really bid their subcontract from a LS basis because they don't control the work
  - GW - one of the real problems is trying to schedule specialty contractors; primes don't want to schedule more work shifts just to juice their TC hours
    - Primes would rather have the daily hourly arguments with TC hours rather than have to bid LS TC



- Shane Spahr - would we be running into a CUF issue if we are paying more via LS than the work that was performed (TC only is paid X, we pay prime Y)
    - JB - not sure that this would be different from a unit or LS perspective
  - Tom Brash
    - LS items don't typically have underruns unless there is a change in the project that accounts for that, we won't have underruns, we'll just pay the LS item
  - AO - what her issue is is that if the project finishes early, they get shorted and the prime gets the delta in the LS amount
  - CT - we need to move on to some other items during this meeting
- Goal setting (Nina Jones)
- GFE Training and Perspective (Nina Jones)
- Small Business Capacity Building
- Are there any last minute comments or concerns???
  - Corey - can we push the sick time conversation to January/February?
  - MH - if a contractor is listed as an SBE on the WSDOT website, why are they not listed as an SBE on the WEBS website
    - JB - the WEBS portal has specific criteria that need to be met to be listed on this site
    - MH - The WEBS site is not user friendly and has been causing bids to be rejected, MH has firsthand knowledge of this
      - JB - OMWBE owns this website, they really need to be told that this is causing problems from the users themselves; we have had the conversations with OMWBE about this
      - Would need to direct comments to the Director of DES - Tara Smith

# 10-28-2022 AGC/WSDOT Administration Team Meeting

## Notes

### In-person

- Chris Tams - WSDOT HQ CN
- Amy Amos - WSDOT OR Port Orchard PE
- Greg Waugh - Max J. Kuney
- Cory Christensen - KLB
- Dan Lewis - WSDOT NCR EM
- Mike Hall - Tucci & Sons
- Arti O'Brien - AGS
- Doug Siebert - AGS
- Jerry Brais - King County

### Teleconference

- Jackie Bayne - Office of Equity and Civil Rights (OECR)
- Tom Brasch - WSDOT ER PE
- Michele Britton - WSDOT HQ CN
- Nina Jones - Office of Equity and Civil Rights
- Kyle McKeon - WSDOT Local Programs
- Shane Spahr - WSDOT NWR EM
- Kevin Waligorski - WSDOT HQ CN
- Aubrey Collier - APWA Co-Chair
- Quinn Golden - Granite
- Kenn Hallquist - Walsh
- Jason Nakamura - One Alliance
- Jason Streuli - Merlino Construction
- Jeret Garcia - Valley Electric
- Gary Martindale - FHWA
- Phil Wallace - Kiewit
- Reggie Wageman - ATKIN
- Tim Hayner – Cascade Civil
- Mark Scoccolo – SCI
- CJ Handforth – IMCO Construction
- Meeting Logistics
  - Vaccines aren't necessary for our next meeting, encouraged to attend in-person
  - Will be switching to 3-hours for future meetings
  - Meetings after 2022 will be in a different building than the Fabulich building, TBD, hopefully not South of Tacoma

### **New Business:**

- Meeting Minutes Review
- Goal setting (Nina Jones)

- Required to set these goals as a requisite to use FHWA funding
- Must be based on demonstrable availability of DBE's that can perform the work in the particular market where project is being build
- Last disparity study was performed in 2017
  - Three years of data for this study (2012- 2015)
  - There is currently new disparity study underway
- Race Conscious (Mandatory) and Race Neutral (voluntary) goals
- Design Build projects typically have separate goals for the Design and for the Construction phases
- Mark Scoccolo (MS) - How are goals set for asphalt paving contracts? There typically aren't DBE paving contractors.
  - Nina Jones (NJ) - The office doesn't make goals if there is no availability of appropriate contractors/subcontractors
- Mike Hall (MH) - Often with asphalt projects some of the only work applicable to DBE's is the Traffic Control work; sometimes it is difficult to obtain 20% if there are not many TC companies available. Does the office ever drop the goals below 21%ish when there is a lot of pressure on the TC companies?
  - NJ - yes, they take the market pressure into context while they are setting the goals
  - MH - doesn't think there is a good avenue to have a discussion while a project is advertised in order to potentially reduce the goal if they think the goal is unattainable
  - NJ - can't discuss the projects while they are on advertisement, but the conversation should be had for future work that will be advertised
  - Jackie Bayne (JB) - their office can't change goals while on advertisement, only the Secretary of WSDOT has the authority
  - Corey Christiansen (CC) - Disparity Study, are the subcontractors being asked if the DBE subcontractors would be willing to be a union contractor? Subcontractors don't really want to deal with Unions because they have enough non-Union work to fill their capacity
- The Goal is the floor, not the ceiling. Office really recommends leaving a margin of safety, i.e. collect over the % of the goal just in case there were accounting errors in the bid. - Just a Recommendation
- Jerry Braz (JB) - if we submit a bid for 13% and the goal is 12%, the Contractors still have to hit the 13% they bid
  - NJ - the difference in that example is the remainder 1% would be counted as race neutral (voluntary) and not part of the Condition of Award
- Good Faith Effort (GFE) Training and Perspective (Nina Jones)
  - Effective Good Faith Efforts
    - Appendix A - 11 questions to be used as a guide to establish if a Good Faith Effort was performed: this is how Office of Equity and Civil Rights (OECR) is making the GFE determination
    - If Contractors ever have a non-successful GFE, they can reach out to the OECR to discuss why the GFE was not successful

- Recommends reaching out to your Regional Compliance staff to help with DBE compliance
  - MH - what do you do when the first low bidder doesn't meet the goal, but the second bidder does meet the COA goal? MH would say that the low bidder bid would be non-responsive because the 2nd low bidder was able to meet the goal
    - NJ - the office does take into the consideration that if other bidders meet the goal that weighs into the evaluation of the low bidder GFE; they are looking at the best value with DBE's included, not only the low price bid
  - MS - How many low bidders have won a bid with a GFE and not meeting the COA goal
    - NJ - there has been one this year
  - CC - can WSDOT share the power point, specifically the 11 point list for GFE evaluation? - Yes, will share the PPT.
- New DBE and risk Mitigation (Jackie Bayne)
  - Asked the group if they have any ideas about building DBE capacity as a form of risk mitigation
  - Earl Key (EK) - how can WSDOT shift some of the risk of using new DBE's to WSDOT
    - CC - massive training effort - how to deal with unions, how to use all of the forms and systems WSDOT uses, how to submit paperwork effectively, how to structure effective subcontracts with Primes, there could be many more items here with more brainstorming
    - Greg Waugh (GW) - really thinks that WSDOT needs to do a better job reducing the LS items (earthwork); this is really hard for a small company to deliver this work without bidding in enormous amounts of risk; specifically applies to fish passage earthwork
      - There isn't really a good incentive for smaller subcontractors to take the risk on for the LS items
    - Arti O'Brian (AO) - It is imperative for the DBE's to evaluate the risk on these projects associated with the Contract pay structure; there needs to be a communication structure where WSDOT doesn't just tell contractor to try to recoup the impact via insurance
- Fuel Cost Adjustment GSP (Kevin Waligorski)
  - The only thing WSDOT is looking at changing is the trigger event & tie the adjustment to allow for closer to market condition adjustments
  - Considering moving the trigger from a 10% or greater change to a 5% trigger
  - Looking to include more items that are eligible for the Fuel Cost Adjustment and in Contracts that are less than 200 working days (this is a WSDOT instruction for the Special Provision); may be changing this for projects greater than 6-months in length
  - Also may include this adjustment for advanced bidding projects - i.e. Fish Passage projects that are bid in Oct. but the work isn't for another 5/6 months, market will have time to fluctuate between bid and commencement of work

- Wanting to look into the current rates for fuel usage factors (these were from a 1980 study); the fuel usage factors will likely go down a little because the equipment is more efficient
  - MS - Mark looked at these factors and tried to adjust them due to current site conditions (i.e. how far are supply sites, waste sites, pits, etc.); the hauling is much more extensive than it used to be while the equipment may be more efficient
  - KW - He's looking at these items based on three different factors for haul (short, med., long); when KW was comparing the rates he used the same Med. Factor that was used in the 1980 study by FHWA
- Seeing largest changes in LS prices (Structures, etc [gal/dollar unit])
- Jason Streuli (JS) - are the contractors going to be able to Opt In or Opt out?
  - KW - no, WSDOT is not going to make the Fuel Cost Adjustment optional
- Tim Hayner (TH) - the haul distance is really the most variable part in the Fuel consumption, is that considered on a project/project basis?
  - KW - this factor is not supposed to be exact, more something that can be consistent for WSDOT Contracts
- Jon Keeth (JK) - do the Contractors have a good idea of what their hauls are distance and fuel consumption rates?
  - CC - would WSDOT consider a "Zone" type of bidding mentality? Urban vs. rural zones are pretty different in haul times and haul distances
  - MS - urban areas are really hard, may only get two rounds/day, maybe 3 rounds if there are no incidents
- Chris Tams (CT) - whoever is interested in seeing how WSDOT is looking at these factors to please e-mail Chris and let him know, he'll get them in contact with KW
- JS - if Contractors don't own their own trucks, the Fuel Cost Adjustment Pay factor applies to the prime and not necessarily to the subs. The truck drivers will not give back any cost if fuel goes down.
  - KW - has JS ever paid the truckers more when they get a bump for the FCAP? Not really.
- Carbon Tax (Jeff Daly) - Not here today, WSDOT AGC/Roadway wanted Admin to discuss this, but Jeff isn't here
  - CT - Cap-and-Trade program for Carbon production; Bill is enacted on January 1, 2023
    - Take a 5-year average of the company's carbon production, that company has an allotment of Carbon that they can produce
      - If a Contractor drastically changes (increases) their production (carbon production) they will have to purchase Carbon Tax Credits
      - If a contractor decreases their carbon production, they can auction those credits off to consumers who need those Carbon production credits

- Bill reduces companies carbon production allotment on a regular (5-year?) basis
  - MH - does this apply to projects that are currently contracted or projects only executed after the Bill is enacted?
    - CT - any potential compensation that comes from this will be for currently contracted projects, because after 1/1/23 contractors should have to bid this into their bids
    - MH - this Bill could affect contractors differently depending on the scale of their production (may not apply to smaller producers, etc.)
  - CT - one conversation that is going to need to be had is that this bill was passed in 2021, so contractors should have known that this was going to be enacted since it was passed, should compensation only apply to contracts that were executed prior to the bill being passed?
    - MS - bills get repealed all the time, Contractors can't necessarily plan for this until it is enacted because of that risk
  - JK - thinking this tax will apply more so to fuel producers, not necessarily prime contractors; WSDOT still has more analysis to perform on the Bill and needs to get a legal interpretation of the bill as well
- Unifier Correspondence (Greg Waugh)
  - Lately PEO's have been leaning on Contractor's to move project correspondence through Unifier rather than serial letters and e-mails
  - Seems to be more onerous than our way of doing business right now (e-mail notifications)
  - CT - Unifier is intended to be a consistent Construction submittal forum; we are going to continue to use Unifier, does it need to be modified to make RFI's and serial letters easier to submit? We want to have a formal process for the Contract correspondence.
    - GW - e-mail is very quick and easy as of right now to notify PEOs of the specific Contract requirements for notification; Unifier is not as quick as e-mail
  - Amy Amos (AA) - Unifier is admittedly slow; their office usually follows up with traditional serial letters; one of the issues is there is not an RFC option (Request for Change)
  - Tom Brasch (TB) - serial letters are traditionally used for any RFC's (transmitted by e-mail & submitted in Unifier)
  - TH - ODOT uses "DocExpress", doesn't have a means to capture informal (e-mail) communications; it is very cumbersome because of e-mail notifications for every transmittal to all the team document managers
  - JK - the GSP says that all correspondence shall be transmitted through Unifier; WSDOT wants a central clearinghouse for all of the project correspondence. WSDOT has several support staff assisting with Unifier and able to change and make enhancements to Unifier at least for the next two years, would appreciate feedback from Contractors if we can modify Unifier to be better for us all

- Lump Sum Traffic Control Matrix
  - CT - reviewed 8 projects that had used LS TC; the project offices (6 out of 8) used the selection matrix which showed low risk for the LS TC item
  - GW - there are projects out there that have lots of risk, i.e. multiple seasons, variable TC scenarios, potential long, inefficient work seasons
    - Maybe the matrix needs to be reevaluated with more Contractor input as to the weights of the different matrix constituents?
    - Can the matrices be included in the contracts as a reference document?
      - WSDOT - potentially as a reference document for the Contract
    - MH - really thinks having these as reference documents would help so they would know they were developed and considered.
- Small Business Capacity Building
- Removal of Structures or Obstructions FA
- Steel Escalation Opt in Dates
- Section 1-09.6 Force Account Changes (2023 Book)

### **Old Business**

- Governors Emergency Order
- Section 1-09.6 Force Account Changes (2023 Book)
- Work zone safety contingency fund
- Build America Buy America (BABA)
- Steel Escalation Opt in Dates
- Traffic Control Guidance

### **Other Topics (Time Permitting):**

- Action Item Review (15 minutes)
- Next Meeting
  - December 2<sup>nd</sup>

# 12-2-2022 AGC/WSDOT Administration Team Meeting Notes

## Teleconference

- WSDOT
  - Amy Amos
  - Jon Keeth
  - Dan Lewis
  - Colin Newell
  - Shane Spahr
  - Chris Tams
  - Kevin Waligorski
  - Brian White
  - Chuck Meade
- Aubrey Collier - APWA & City of Lacey
- Jerry Brais - APWA & King County
- CJ Handforth - IMCO Construction
- Cory Christiansen - KLB
- Derek Compton - Graham
- Douglas Sibert - AGS
- Jay Byrd - One Alliance
- Jeff Daly - Nutter Corporation
- Jarret Garcia - Valley Electric
- John Salinas - Salinas Concrete
- Mark Scoccolo - SCI Infrastructure
- Gary Martindale - FHWA
- Reggie Wageman - Atkinson
- Tim Hayner - Cascade Civil Construction
- Greg Waugh - Max J. Kuney
- Jason Streuli – Merlino Construction

## **New Business:**

- Meeting Minutes Review
- Fuel Escalation Update (Kevin Waligorski)
  - Kevin has worked with Cory Christiansen and Mark Scoccolo on adjusting the fuel usage rates to more closely reflect the current construction market
  - Fuel usage factors historically have all been based on haul distances, which in general have gotten larger since the establishment of the current rates
  - Adjustments since last meeting:
    - Specify using this specification in DBB jobs greater than 100 working days and/or anticipated substantial completion date more than 6 months beyond the bid opening date; updated fuel usage rates
- Section 1-09.6 Force Account Changes (2024 Changes)
  - What items activities should be services
  - Simplify the current process to eliminate confusion



- WSDOT wanted to eliminate multiple markups on services (when these services are rendered to a sub/lower tier)
    - WSDOT is thinking about making the markups for services 12% to the prime (eliminating the graduated subcontractor markup), regardless of which sub/lower tier they are servicing
    - Jon Keeth (JK) - opinion from WSDOT AG that specialized services aren't prevailing wage work; there are scopes of work that WSDOT has historically utilized services; WSDOT would like to better define what those services are
      - Proposed changes did not make it into the 2023 Standard Specifications
      - Do we want to reconvene a smaller group to work this out, generate a list for services and clarifying the specification?
    - Greg Waugh (GW) - thinks it's a worthwhile effort to get the smaller group together to work this out, where the appropriate markups need to go, etc.
    - Small group meeting for the middle of January 2023
- Removal of Structures or Obstructions FA
  - Nothing to add to this conversation
- Steel Escalation Opt-in Dates
  - There is a desire to push the opt-in date as far as possible after the Contract Award so Primes can better include this in their contracts with Subcontractors
  - Chris is asking if there are any other reasons why we'd delay the opt-in?
  - This is an item that has to be discussed with and needs FHWA concurrence; need to make sure we can adjust the date within the current policy and regulations
    - Anything the Contractors can provide for justification to use a later date would be helpful for WSDOT and FHWA consideration
- Small Business Capacity Building
  - One of the request out there is to help capacity building and provide DB's with technical credits for them successfully using/participating in the mentor/protégé program
  - Working on internal guidance for this for DB jobs over \$60M engineer's estimate, technical credits would be 100,000/mentor, 75,000/protégé, up to 10% of the contract value
- Select Meeting Dates for Winter-Spring 23
  - 1/20, 2/17, 3/24, 4/28, 6/9
- Upcoming Annual Meeting
  - What items or topics does the Administration team want to address in the upcoming year?
    - If anyone has any ideas WSDOT would like to hear them so we can incorporate into the Annual Meeting presentation and queue up the topics for the next meetings/year; please reach out to Chris Tams with topics/suggestions.

- Any other topics that we want to push forward for this group?
  - Cory Christiansen (CC) - would like to put wage escalation (Project Labor Agreements [PLAs]) on the table; when Primes are bidding jobs, if prevailing wages are updated during the contract and are applicable to the contract, how can primes/subs be compensated?; is the owner or contractor needing to bear this risk? Awful hard for Contractors to bear this risk. Can we get some sort of protection from the State as the wage rate increase is out of the Contractors' control?
    - CT - is this just for DB projects and non-prevailing wage projects? Yes, the standard DBB jobs set the prevailing wage at the time of bid submittal
    - MS - PLAs are typically negotiated with the Unions and the Owners, not the Contractors; Owners could try to make sure that wage escalation has parameters set on them
  - Aubrey Collier (AC) - suggests that BABA continue to be discussed, it will be a big issue for the local agencies as the introduction of construction materials will be very impactful; can there be a small allowance for small amount of construction materials?
    - CT - Currently there is a proposal for a waiver for less than \$1M or 5% of the total allowable costs; USDOT is also proposing that projects solicited before May 14, 2022 do not have to change order the BABA requirements into their contracts
  - GW - sick leave issue has generated a lot of cost for Contractors; S/L bank doesn't travel with the employee, employees are tending to use the S/L when they accrue it, and not let it accumulate

## **Old Business**

- Fuel Cost Adjustment GSP (Kevin Waligorski)
- Goal setting (Nina Jones)
- GFE Training and Perspective (Nina Jones)
- Using New DBE's and Mitigating Risk (Jackie)
- Unifier Correspondence
- Carbon Tax (Jeff Daly)
  - Jeff Daly (JD) - Wanted to discuss concerns about contractors recouping the cost to implement this Carbon Tax
  - Chris Tams (CT) - WSDOT understanding is that the likely impact to contractors for this tax would be an increase in the cost of fuel (or affected commodity) to the end users, i.e. at the pump
    - Was implemented in the legislative session in 2021, so Contractors that have bid after this date had the opportunity to incorporate affects into their bids
  - Mark Scoccolo (MS) - Policy is very complicated and there was no way for Contractors to be able to reasonably estimate the effect of this law with their bids and projects
- Lump Sum Traffic Control Matrix

- Governors Emergency Order
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