

1-20-23 AGC/WSDOT Administration Team Meeting Notes

Announcements

- Introductions/Guests

Attendees

WSDOT

- Amy Amos
- Dan Lewis
- Thomas Brasch
- Shane Spahr
- Chris Tams
- Brian White
- Chuck Meade
- Jackie Bayne
- Gregg Storey – Statewide Project Management Specialist for Unifier

AGC

- Arti O'Brien - Advanced Government Services
- Doug Siebert - Advanced Government Services
- Aubrey Collier - APWA & City of Lacey
- Jerry Brais - APWA & King County
- Quinn Golden - Granite Construction
- Ken Hallquist - Walsh
- CJ Handforth - IMCO Construction
- Cory Christensen - KLB
- Derek Compton - Graham
- Jay Byrd - One Alliance
- Jarret Garcia - Valley Electric
- Mark Scoccolo - SCI Infrastructure
- Gary Martindale - FHWA
- Tim Hayner - Cascade Civil Construction
- Greg Waugh - Max J. Kuney
- Jason Streuli - Merlino Construction
- Phil Wallace - Kiewit

New Business:

- Meeting Minutes Review
- Unifier Winter Enhancements
 - Gregg Storey presenting ongoing projects for WSDOT Unifier System
 - 2023 Construction Admin. Process Enhancements & E-Construction Phase 2 System Replacement Projects
 - Fall and Spring will be the two updates to the software; Fall to be a wholesale update, Spring to be a troubleshooting update

- Chris Tams - if there are any process improvements or recommendations that anyone has to Unifier, Gregg leads the team to investigate and spearhead those changes
- GS - WSDOT has a support desk for the Unifier software, please submit any questions or issues to the help desk, Gregg's team really pays attention to this; also, please take the annual survey to help improve Unifier for everyone
- Greg Waugh - is there a window that we must work on improvements for the system?
 - GS - they can modify and improve the system in perpetuity
 - GW - AGC and WSDOT put together a flow-chart of notification milestones in the Contract; would like to see an option in the system for formal and informal correspondence/transmittals, instead of have notification in e-mail and then import that e-mail into Unifier
 - GS - That is a consistent issue, there may be an option in Unifier that would be a simple e-mail style notification within e-mail
 - Chuck Meade - is there optionality to be able to tag additional e-mails when using notification processes in unifier?
 - GS - there could be that optionality, would be beneficial to meet with Gregg and the team to discuss several items for improvement, sit down to discuss the process and the individual improvement; there are a lot of areas for improvement, just need folks to clearly communicate the problem and what the potential need or solution could/would be
 - Amy Amos - is the Unifier Dashboard going to be up and running soon?
 - GS - not sure when it will be up and running, working some kinks out and further vetting the license requirements from Oracle
 - CT - Dashboard is a construction program wide look, budget, CO's, etc.; dashboard is just for DOT employees for the time being
 - AA - it is challenging with having consultants involved in the process, having to download submittals and forward to consultants; can they be allowed access to the system?
- E-construction topics
 - Equipment Watch Software - has an add-on to the software that allows PE's to compose FA payment sheets in the software, discussing piloting this add on in the future
 - Cory Christensen - KLB just started using X-Tracker system for FA, they have to upload all of their equipment rates into it, but after this is done the software is really useful
 - HQ CN team is looking at additional tools to help with E-construction, not just Unifier
 - Looking at E-ticketing systems; there is a peer exchange meeting on this item in the near future to discuss the best practices and needs for the industry in the future
- AGC Annual Meeting Feedback

- CC - really liked the format with the videos and then the awards
- Jay Byrd - great to be in person, great to get to connect with the industry; venue was OK, it would be good to have more space next year for networking
- Phil Wallace - will have maybe three rooms next year, more room to socialize, will change up the food selections a little bit; overall, really happy with the turnout at the meeting
 - Used to do a project review, would like to see that implemented again next year
- CT - liked the forum of going around and asking folks questions, would like to dedicate additional time next year to this round robin questioning
- GW - had a suggestion of having the tables have a breakout style conversation where they could report back to the rest of the group about the tables' comments/ideas; also, potentially use a survey prior to the meeting to collect ideas and discussion topics
 - Venue was convenient for the folks flying in
- Force Account Markups Update
 - CT - subcommittee met yesterday, just kicking off the discussions for the FA markups discussion; goal for the subcommittee to have this topic hopefully agreed on by the summer break
 - Discussion was had on what items qualify as services; the group has a start on a list of "services"
 - JB - challenge for them as surveyors to agree with prime contractors as what a proper hourly rate is for their service (all of their specialty equipment)
 - GW - section in the spec. that talks about what determines what can be called a service vs. what is a subcontractor; would like to work with the group to better differentiate what "acting as a subcontractor" actually looks like, maybe that isn't the best differentiator
 - Jason Streuli - would like to have the discussion of having biohazard cleanup services be an invoice service, not FA
 - Thinks that maybe approvals in the PEO are taking longer because of the PE's authority
 - Shane Spahr - has seen that most discrepancies in CO pricing usually has to do with pricing risk
 - PW - sick leave changes may affect previous pricing agreements
 - Cost of money is going up; timely payments are going to become even more important
 - Discussed interim change orders to pay for agreed on work/entitlement and leave the "delta" on the table for discussion
 - GW - there was a lot of mapping performed for following a payment from WSDOT to prime to subcontractor (prompt pay)
 - Arti O'Brian - not sure where the map is or what the next steps in the process are, but frustrated that this item seems to have fallen through the cracks
 - Granite did a good job of mapping this, Greg feels they were getting pretty far down the road with this issue

- CT - let's put this on the agenda as an Action Item to keep this moving; GW to send the map and information to CT, CT to coordinate with Jon Deffenbacher to bring this issue back to life
- MVWBE Update
 - Jackie Bayne - Secretary's office needs to look at attainment numbers and what the goal study says before WSDOT can really make any decisions on goals
- Disparity Study
 - Jackie Bayne - consultant is conducting stakeholder surveys, will be reaching out to Contractors in the spring; study is on schedule to be completed this summer
- Contract Closeout with Electronic Records
 - CT - some project offices are seeing that some Contractors are reluctant to close out all open records in Unifier, which is required by the Contract
 - WSDOT is going to make the Unifier spec. require this to be done or Contracts aren't going to be closed out
- 6-20 Buried Structures Quality Control Requirements
 - CT - there has been several instances of buried structure engineered working drawings be submitted without QA/QC being performed; our B&SO has been doing a lot of QC on these submittals; WSDOT is working on additional language to include in the specifications the requirement for a "certified" QA/QC process to have taken place by the Contractor
 - Derek Compton - sounds like WSDOT is progressing on having standard plans for some of the buried structures; hoping those standard plans will eliminate some of the need for this
 - CT - we've heard that some of the firms that are designing these structures don't have additional engineers to perform these checks, they'll have to hire someone else to perform this QA
 - GW - contractor designed structures are really difficult because there is a short bid time for engineers to perform the designs of the buried structures; there is a fair amount of unknown and risk priced into these buried structures; a lot of risk on the size of projects (5-10M) that these items are included in
- Carbon Cap and Trade
 - CT - our spec. Changes to Existing Laws cites RCW 39.04.120 - "if the successful bidder must undertake additional work" - WSDOT is trying to understand what "additional work" the cap-and-trade act generates
 - CC - Will the fuel escalation cost take the additional cost of diesel into account?
 - CT - yes, if cost of fuel goes up, the fuel escalation should account for this
 - Mark Scoccolo - the reporting requirements are appx. 500K gallons of diesel, some contractors may cross this threshold, and some may not; there hasn't been a carbon tax auction yet, so there really probably hasn't been any effect on the price of diesel
 - There will be additional administrative work, at a minimum, in order to comply with this law

- Steel Escalation Opt. in/out timing
 - CT to discuss this with Gary Martindale as to legally how/if WSDOT can incorporate some opt in/out timing for steel escalation
- Standard Weekly Meeting Topics
 - Payments, schedules, submittals, RFI's, COs, goals
- BABA Update
 - Gary Martindale - no update on BABA waivers currently, Gary will doublecheck with his group on the status of these
- Wage Escalation
 - There is an existing bill out right now that usurps existing contract language for locking wage rates; Bill HB1099 requires contracts to pay the prevailing wage in place when the work was performed
 - CC - prevailing wages are typically updated twice a year, so these adjustments would have to be made semi-annually
- Arti O'Brian - arrow board question; new requirement that all arrow boards need to be "smart" now; these retrofits are around \$1500/board; is this a hard requirement?
 - CT - this is a part of the WSDOT Work Zone Safety Initiative; this will be a hard requirement; costs to upgrade those boards should be included in the Contracts
 - Existing contracts should be looked at
 - CT to call Arti O'Brian to update on this issue
- Contract Time
- Sick Leave Usage

Action Item

- If you have a pre-construction or weekly meeting agenda format that you like to use on your projects, please bring those to the next meeting. We are trying to make these more standard and consistent for our PEs and Contractors
- GW to send the map and information to CT, CT to coordinate with Jon Deffenbacher to bring this issue back to life
- CT to call Arti O'Brian to update on the Smart Arrow board implementation

Old Business

- Meeting Minutes Review
- Fuel Escalation Update (Kevin)
- Section 1-09.6 Force Account Changes (2024 Changes)
 - What items activities should be services
 - Simplify the current process to eliminate confusion
- Removal of Structures or Obstructions FA
- Steel Escalation Opt-in Dates
- Small Business Capacity Building
- Select Meeting Dates for Winter-Spring 23

Other Topics (Time Permitting):

- Action Item Review (15 minutes)
- Next Meeting
 - February 17th, 2023

2-17-23 AGC/WSDOT Administration Team Meeting Notes

Announcements

- Introductions/Guests

Attendees

WSDOT

- Amy Amos
- Dan Lewis
- Kyle McKeon
- Colin Newell
- Shane Spahr
- Chris Tams
- Brian White
- Chuck Meade
- Jackie Bayne
- Thomas Brasch

AGC

- Aubrey Collier - APWA & City of Lacey
- Jerry Brais - APWA & King County
- Quinn Golden - Granite Construction
- CJ Handforth - IMCO Construction
- Derek Compton - Graham
- Jay Byrd - One Alliance
- Jarret Garcia - Valley Electric
- Greg Waugh - Max J. Kuney
- Jason Streuli - Merlino Construction
- Derek Compton - Graham
- Mike Hall - Tucci
- Reggie Wageman - Atkinson
- John Salinas - Salinas Concrete

New Business:

- Meeting Minutes Review - no comments from the group
- Pre-Bid Questions
 - Shane Spahr - has heard from Contractors that the current 1-3 answers isn't working; do all the Contractors go and look at the posted Q&A on the advertisements? Not consistently
 - Mike Hall - doesn't think WSDOT has a timeframe as to when WSDOT will answer questions from the bidders, that would help
 - Tom Brasch - this is in the Contract, usually last questions are Thursday prior to the bid
 - Greg Waugh - the other two answers that Greg is wanting us to consider "Yes" and a "No"; also wants WSDOT to consider Pre-bid meetings
 - TB - their PE office sometimes does answer yes or no, but this often gets changed from Region or HQ
 - Chuck Meade - often we try to provide a little bit of context to the 1-3 answers

- MH - context would really help; if WSDOT publishes the Q&A, how does WSDOT see this as a liability?
 - Chris Tams - WSDOT doesn't require that Contractors are required to review the Q&A
- Jerry Braise - King County distributes their Q&A to all of the proposal holders, limiting their liability
- Derek Compton - publishing the Q&A can be a way to distribute risk, making sure all the Contractors are aware of potential issues
- GW - from a Contractor perspective, they receive a lot of questions from subs and suppliers, sometimes they see multiple potential subs ask the same questions
 - From a bid in accordance with the contract perspective, that answer can drive a really tough bid decision from the Contractor
- SS - WSDOT has to evaluate our answers to questions from a Contract risk and a bid opening timing perspective considering construction schedules/seasons (i.e. fish windows)
- MH - they would like to see something more than just "Bid it per the Contract"
 - GW - if there is an answer that is bid it as you see it, then that is an indication that if there is an item not included, that that item simply was missed
- TB - the Q&A sheet has a reference column, if PEO answers with a reference, do the Contractors review the reference? Mixed bag, some do and some don't.
- GW - WSDOT answering questions effectively will help all the bidders compete better for WSDOT's bids
 - Does WSDOT accept the Contractor accepting phone calls to the PE's pre-bid? The conversations really help.
 - CM - the conversations are good, but we usually ask the Contractor to submit the question in writing after the phone conversation; we want to make sure that the playing field is equal for all of our proposal holders
 - Brian White - similar, SCR usually takes the phone calls but then needs them in Q&A to be fair
- GW - a major headache in the addenda process is that the plan sheet is replaced, but nothing in the plan sheet is clouded as being replaced, that doesn't indicate what changed to quickly show them what has changed
- Force Account Markups Update (review services list/schedule follow up meeting)
- LS Bid Items (Earthwork, etc.)
 - GW - seeing a lot of LS items come in (earthwork, contractor supplied structures, etc.); this is often affecting the quotes they get from their subs, DBEs often aren't prepared to take on LS work so it can be challenging to bring them on and meet goals; if the LS item requires engineering, that requires more time and generates more risk
 - This is really hard on the engineering because Contractors are soliciting quotes, not entering subcontracts, and in those instances the subs aren't contractually obligated to their work within the quote
 - CT - WSDOT is requiring there to be adequate information in the contract in order to bid the quantities and placement of the earthwork items; WSDOT is going to require DTMs to be included as an electronic file included with the advertisement documentation
 - MH & GW - what is WSDOT's reluctance to just include the earthwork items as bid items, especially if WSDOT has a tight control on all of the quantities and locations, etc.?

- CT - some of this requires a heavy contract administration burden (inspection and office engineering)
 - SS - there often aren't hold points for measurement/survey during excavation and some fill operations, it can be a timing and a safety issue to have inspectors in the tight quarters with all of the Contraction equipment
 - CT - we are working on standard plans for multiple buried structures, should be published late summer/fall 2023
- GW - would WSDOT consider using a drone for interim or final quantities?
- X-tracker, CostTrax, and FA Tracker ([Home - CostTrax](#))
 - CT - Discussed wanting to pilot/explore some faster all-encompassing Force Account software; WSDOT is looking at expanding Equipment Watch software to include their FA package (CostTrax)
 - Reggie Wageman - one thing we want to make sure the software can do is make corrections to existing or submitted FA sheets
- Steel Escalation Opt in/out timing- No adjustments to current practices
 - The opt-in will have to occur prior to execution of the Contract
 - Jason Streuli - maybe the only time we'd like the opt-in timing longer would be in DB because the designs aren't finalized
- Arrow board upgrade timing
 - Previous meeting we discussed if WSDOT was going to allow TC companies time to make this implementation
 - Short answer is No, Contractors have to follow the GSP's and make this implementation
- Sick Leave Usage
 - Will have to watch the current legislation to see how the bill plays out (Senate Bill 5111)
- Standard Weekly Meeting Topics
 - What does the group think is a good weekly meeting agenda for our Contracts; would like to come up with a framework of a weekly agenda that can be used as a guide
 - Safety
 - Environmental
 - Schedule - 3/4 week lookahead
 - RFI/Submittal Status
 - Payments
 - DBE/EEO tracking
 - DMCS/Payrolls/SOIs/RTS
 - Unifier Construction Submittals (materials, etc.)
 - Change Orders
 - New Business
 - Old Business
 - Closeout
 - If attendees have good examples of weekly agendas please send them to Chris/Chuck for inclusion in guidance that we'll be including in the Construction Manual
- BABA Update
 - 2 CFR 184; adding some Construction Materials to the BABA requirements
 - Fiber optic cable, paint, coatings, brick, and engineered wood products
 - Aggregates are exempted, except when used in a manufactured product (catch basins, etc.)

- Why are some temporary materials (silt fence) included in the Buy America/BABA requirements?
 - Language is that any product that is "consumed" by the project has to meet the requirements.
- Right now there is no de minimus threshold
- Contract Time
- Mandatory Goal Evaluation
- Roadmap update - Jackie Bayne
 - Evaluating whether we are going to go to a mandatory goal requirement for Women and Minority program
 - Should be done with the evaluation this summer and rolling out the determination probably toward the Fall

Old Business

- Contract Closeout with Electronic Records
- 6-20 Buried Structures Quality Control Requirements
- Unifier Winter Enhancements
- AGC Annual Meeting Feedback
- MVWBE
- Carbon Cap and Trade
- Wage Escalation
- Meeting Minutes Review
- Fuel Escalation Update (Kevin)
- Section 1-09.6 Force Account Changes (2024 Changes)
- What items activities should be services
 - Chris Tams presented a list of services that have been tabulated; this list will be a base for the services discussion moving forward
 - Pipe TV
 - Vac truck
 - Pipe jetting
 - Survey
 - Testing
 - Geotechnical service
 - Operated equipment (crane)
 - Water truck/dump truck
 - Logging
 - Sweeping
 - Saw cutting/coring/demo
 - Contaminated material handling/disposals (asbestos, lead, petro)
 - Surveying
 - HDPE pipe welding
 - Sand blasting
 - Manhole lining
 - Security
 - Hydroseeding
 - Biohazard abatement
 - Buried tanks
 - Concrete pump truck
 - Diving

- Manufacturer startup service
 - Sanitation
 - Well decommissioning
 - Aerial Surveys
 - Diamond Grinding
- Will circulate the list with the meeting minutes
- Simplify the current process to eliminate confusion
- Removal of Structures or Obstructions FA
- Steel Escalation Opt-in Dates

Other Topics (Time Permitting):

- Action Item Review (15 minutes)
- Next Meeting
 - March 24th, 2023

3-24-23 AGC/WSDOT Administration Team Meeting Notes

Announcements

- Introductions/Guests

Attendees

WSDOT

- Jon Keeth
- Amy Amos
- Shane Spahr
- Chris Tams
- Chuck Meade
- Jackie Bayne
- Thomas Brasch
- Justin Hammond

AGC

- Aubrey Collier - APWA & City of Lacey
- Jerry Brais - APWA & King County
- CJ Handforth - IMCO Construction
- Arti O'Brian - AGS
- Doug Siebert - AGS
- Derek Compton - Graham
- Jay Byrd - One Alliance
- Jarret Garcia - Valley Electric
- Greg Waugh - Max J. Kuney
- Jason Streuli - Merlino Construction
- Derek Compton - Graham
- Brook Shore - Atkinson
- Ken Hallquist - Walsh Co.
- Mark Scoccolo - SCI Infrastructure
- Tim Hayner - Cascade Civil Co. and Kerr
- Gary Martindale - FHWA
- Corey Christensen - KLB

New Business:

- Meeting Minutes Review - no comments
- Force Account Markups Update (review services list)
 - WSDOT has seen inconsistencies as to how FA markups (prime + subcontractor markups) and services have been administered throughout the state
 - Goal - we want a fair spec. that is clear so it is able to be bid and administrated consistently
 - First order of work, what is and what isn't a service?

- If an item of work/labor has a prevailed wage, that cannot be a service
- List that was generated has a color code to it - red, not a service; yellow - turned to green during the meeting; green, YES (will be a service); purple, more questions on the operation
 - Pipe welding - why isn't HDPE welding easy to generate a TEM charge?; manufacturer will provide a trainer to train Contractor staff to perform the welds; aren't paying prevailing for the trainer
 - Jon Keeth - are we seeing pipe welding on FA much? - not necessarily
 - JK - want to build some flexibility in the specification to allow the Contractor and PEO be able to agree on services for non-standard or atypical operations
 - Corey Christensen - asbestos pipe; if they run into asbestos pipe, they stop, hire a service to come in and dispose of it in its entirety
 - JK - operations in red are per the specifications subcontracting; insurance, prevailing wage, subcontract documentation
- Jay Byrd - his charge out rate for all of the labor/equipment is less than what a summation of TEM adds up to because of their specialty survey equipment
- Greg Waugh - some of these prevailing wage items use specialty equipment and may not have FA rates established
 - For emergency items, usually the work is from portal to portal, may not get folks to take on the work if WSDOT only pays FA
 - Mark Scoccolo - every time a prime has any paperwork from a sub or service, the prime has a cost to handling that administration
 - The situations that can be challenging are typically the one-off subcontracts
- JK - deviations to the list that was generated will be reviewed by HQ in order to maintain consistency and make changes where necessary
 - If it truly is an emergency, hopefully the Contractor and the PEO can work out the terms in a CO
 - Vac-truck seems to be a common item we're hearing from Contractors, this one may take more consideration; sweeping is another operation that needs considered
- WSDOT is not looking to change the Labor, Equipment, Materials markups, but are looking at prime and services markups
- 2nd part of the discussion - Prime markup on subcontractors and lower tiers
 - CC - biggest issue for Contractors are 3rd or 4th tiers, the 7% doesn't stretch far

- CJ Handforth - you can get 4th tier in electrical contracts with specialty equipment
- JK - wanted to take a look at the graduated markups, what is appropriate, what the markups actually pay for
- Chris Tams - WSDOT is considering making services and subcontract markups be 12%; no graduated scale
- CC - In the case of a third tier sub, the 3rd tier receives their markup of FA rates, then the subcontractor and the prime have to split (however they choose) the graduated subcontractor markup
- JK - WSDOT is proposing that a service will be marked up 12% only, the lower tier and prime have to negotiate what that split will be
- MS - under the current system, if a service comes out for a 1st tier sub, does the sub get the 21% and the prime get the graduated markup?
 - JK - no, Contractors either get the graduated markup or the services markup
- Tim Hayner - Construction manual defines the intent for FA payments, essentially to cover the cost of the contractors/subs performing the work; every Contractor in the tier tree (prime, sub, 2nd tier, etc.) has cost associated with administering the work
 - JK - we want to maintain that intent; WSDOT used to have more strict limits on how much % work that tiers of contractors could self-perform or subcontract
 - Are Contractors asking us to pay more or tell the Contractors what the tier level markups should be?
 - TH - both
 - GW - depending on how far the tier goes, not all the O/H that the markup is for will be covered for all of the subcontractors
 - Subs have to deal with inconsistency from the Primes on how they'll administer that markup, what they can expect
- JK - wants to acknowledge a trade-off; WSDOT doesn't specify where the markup goes, that is for the contractors to negotiate; if WSDOT dictates a tier %, GC doesn't have any room to negotiate
 - This may generate more markup to split in a single tier subcontract, and less with multiple tiers; the vast majority of subcontracts for WSDOT work is only one tier
- GW - feels it may be best if WSDOT dictates what a first tier sub gets for lower tier markup, so it is clear and there is no negotiation; this would cover 90+% of the subcontracts on the jobs
- MS - the contractors shouldn't be getting less than they are getting from markups now
- CC - a flat 12% on a second tier situation, everyone will be losing money
- JK - would the Contractors be willing to "justify" or show what an appropriate markup would be for different tiers?

- MS - this would be challenging because there are so many different scenarios and different subcontractor management efforts that the primes would have to deal with
 - JK - are there some things the Contractors want WSDOT to look at in regard to advancing this conversation?
 - CC - agrees that on WSDOT work there isn't much FA work, but LA's use our specs. And they do have a lot of FA work
 - Aubrey Collier & Jerry Brais - they just want to make sure any adjustments in the specification are clear/fair and that the Contractors know what they are going to be paid
 - CT - goals at the end of this conversation:
 - Services are marked up once: % to be continued to be discussed
 - Graduated markups are confusing to administer; want to simplify this markup structure: % to be continued to be discussed
 - AGC/WSDOT Admin to reconvene 4/28, want to get a subcommittee before that date to iron a lot of this out; can WSDOT draft up changes to the text of the 1-09 sections that we're proposing to revise and distribute to the group?
- BABA Update
 - Changes in the Federal Register, additional products in construction materials (brick, fiber optic, paint, etc.), after comment period
 - WSDOT Construction Bulletin was published with the goal to help project staff and others to determine what category each material lands in
 - Temporary materials will be exempt even if they are "consumed" by the project
 - If it's two or more products, the material should be in only one category - manufactured or construction product
 - A lot of products that previously were "manufactured products" are going to need the iron and steel within those products as applying to the BABA requirements
 - Aluminum - if making the product into a structural shape was made by one company, then another company uses that shape to create another product, if these two conditions were met, the aluminum was considered made in America
 - Aluminum requirements may be changed to align more with the Steel requirements
 - Next Bulletin update will have some guidance about the documentation associated with the new requirements
 - Gary Martindale - there is a process for project specific waivers, it is complicated and arduous, has to go through State, Fed, and Made In America offices for approval; long lead time for this process
 - JB - is WSDOT Local Agencies going to be helping LA's through this process?
 - Will need to discuss this with Kyle McKeon
- Contract Time
- Topic From Mike Hall

- Contractors would like WSDOT to provide an unlocked version of the plans
 - Contractors can print the file to a new name and then can change pdf components if the Contractors want
 - JK & CT - thinking WSDOT should just publish this process in a new construction bulletin
- Sick Leave
 - Looks like this is going to pass as part of this year's legislation; sick leave will have to be paid out at the end of the year
 - GW - weekly certified payroll doesn't track S/L
 - What do the Contractors think for a % that we need to incorporate? 2.5%? Labor would go from 29 to 31.5%
- Scheduling Specifications
 - WSDOT is updating our scheduling specifications, would like to work with this team on working those updates; we may want a spec. for smaller/simpler projects and a more robust set of requirements for larger/longer jobs
- GW - seeing more projects that have award processes are taking longer than typical (not as long as the spec. allows)
- Project Closeout Poster
- Prompt Payment Flow Chart
- Question and Answer during Bid Period

Old Business

- Pre-Bid Questions
- Force Account Markups Update (review services list/schedule follow up meeting)
- Roadmap Update (Jackie)
- LS Bid Items (Earthwork, etc.)
- X-tracker, CostTrax, and FA Tracker ([Home - CostTrax](#))
- Steel Escalation Opt in/out timing- No adjustments to current practices
- Arrow board upgrade timing
- Sick Leave Usage
- Standard Weekly Meeting Topics
- BABA Update
- Contract Time

Other Topics (Time Permitting):

- Action Item Review (15 minutes)
- Next Meeting
 - April 28th, 2023

AGC Admin Team Agenda – April 28th, 2023

Announcements

- Introductions/Guests

Attendees

WSDOT

- Jon Keeth
- Amy Amos
- Shane Spahr
- Chris Tams
- Chuck Meade
- Jackie Bayne
- Brian White
- Thomas Brasch
- Jeff Deal
- Earl Key
- Kyle McKeon

AGC

- Aubrey Collier - APWA & City of Lacey
- Jerry Brais - APWA & King County
- CJ Handforth - IMCO Construction
- Arti O'Brian - AGS
- Jay Byrd - One Alliance
- Greg Waugh - Max J. Kuney
- Reggie Wegman - Atkinson
- Mark Scoccolo - SCI Infrastructure
- Gary Martindale - FHWA
- Corey Christensen - KLB
- Gary - Valley Electric
- Ken Hallquist - Walsh Co.
- Quinn Golden - Granite Co.

New Business:

- Meeting Minutes Review
- DBE Specification Revisions/Trucking Updates
 - Significant Changes
 - Removed Regular Dealer requirement to be on a certified list per OECR
 - They will need to be listed on the OMBE website, will be certified overall rather than the need to be certified on a per job basis
 - Updated description of Good Faith Effort

- Trucking credit forms; will be accepted 5-days after bid opening
- Will include the cleaned-up version of the new DBE spec. to the group with meeting minutes
- DBE Trucking 1:1
 - 1:1 Trucking - for every one truck working as a DBE, the DBE subcontractor could lower tier a truck and receive DBE credit for that one truck (1:1 basis)
 - Wanting to poll the group to see if the group wants WSDOT to reinstate the 1:1 Trucking moving forward
 - CJ Handforth (CH) - if a DBE rents additional trucks, aren't they acting as a broker, and don't we recognize that in the commitment - yes
 - Jackie Bayne (JB) - yes, we've always allowed that, this would just be reinstating the 1:1 - this is subbing the 1 truck, not renting another
 - Most DBE contractors aren't allowed to count their subcontractors toward their commitment; DBE's have always been able to lease trucks, staff them, and count them; the 1:1 is a DBE subcontracting non-DBE truckers on a 1:1 basis and counting that toward their commitment
 - Earl Key (EK) - is everyone in favor of reinstating the 1:1??? - Yes
- DRB Resume Review
 - Committed to reviewing DRB resumes once a year, plan is to add this task to our June meeting; Chris T. plans on send the resumes to the same group as last year for review prior to the meeting
- Force Account Markups Update (review services list)
 - WSDOT has been asked to review the labor, material, and equipment standard FA rates; deferring that to future conversations; focusing on Services and Prime Contractor Mark-ups
 - Have refined and added some tasks to the recent "Services" list
 - Current spec. allows WSDOT/Prime to cover the scope of work via "service" if subcontractors will only accept subcontract via invoice; will take some documentation and procuring bids for the work, but still will be eligible for service
 - Greg Waugh (GW) - discussed adding some language to the Construction Manual guidance to help navigate the "services" process
 - Service markup rate will remain the same, there will be no additional prime markup on the services markup rate
 - Didn't get included in the services list:
 - Pipe jetting
 - Crane services
 - Logging
 - Sandblasting
 - Manhole lining
 - Hydroseeding
 - Mark Scoccolo (MS) - logging is a pretty broad term, what happens when we have some different type of selective clearing? Falling near highway or powerlines, etc? Fallers typically will not perform this work with prevailing wage

- Yes, there are specific tree removal/trimming operations that aren't considered logging
 - Proposing to continue to have graduated rates on markups (rates won't change), but increase the amounts for the graduated tiers
- SOP 914 Geotextile Sampling
 - Cory Christensen (CC) - running into issues; limited work space on the job site, manufacturer is close to the project, but the SOP requires sampling at the job site; "all rolls sent to the job site"; can the material be sampled at the manufacturer for Project acceptance?
 - Amy Amos (AA) - have had this issue on projects before where there is a tight timeframe; working with Mats lab they have been able to work around sampling at the site
 - Chris Tams (CT) - has discussed with HQ Materials - one of the issues with this is the FHWA auditing, the intent is to sample as close to the installation point as possible
 - Jerry Brais (JB) - is this the same as stockpiles off site? Samples are taken off-site
 - Jon Keeth (JK) - are we talking about Approval? Or Acceptance? - Approval is approving the project for use with our Agency; Acceptance is for the actual material batch that is going to be incorporated into the project
 - Tim Hayner (TH) - if sampling/testing has been consistently good, can we move toward a manufacturer cert. acceptance?
 - CC - not questioning that the material needs to be tested for acceptance, just wanting to change the location for sampling for project acceptance
- Project Closeout Poster
 - GW - ongoing task still remains to marry the project closeout flowchart to the project notifications flowchart, make sure these were saying the same thing
- Prompt Payment Flow Chart
 - Arti O'Brian (AO) - the subcommittee had presented the final draft to WSDOT
 - EK - OECR still has this and has reviewed it; in the interim OECR is going to pilot a 40/60 process on a mega-project; Earl will present their findings here and how this is working at a subsequent meeting
 - AO - the implementation of the 40/60 on a mega-project may not correlate to bid-build projects very well
 - Action Item - invite Earl Key to next meeting to report back on progress of implementing the 40/60 prompt pay specification
- Scheduling Specification
 - JK - No significant changes this year; WSDOT is looking to update our schedule specifications with more language similar to our DB schedule specification; more involved schedules will require a narrative, etc.; WSDOT is working on updating these for the next Spec. Book, will involve collaboration with this team

- MS - only concern is with Local Programs; consultants for these groups may lean toward type C for projects that it isn't beneficial; would like for WSDOT to really consider crafting guidance for the use of the schedules that are clear and descriptive
 - JK - will need to look at the Plans Prep manual and the Special provision instructions to look at the guidance
- Question and Answer during Bid Period
 - WSDOT has an internal Construction Engineer's meeting in May, we'll be discussing this at the internal May meeting and bringing that to this group for discussion
- BABA Update
 - No update at this time
- Contract Time
 - CT - sometimes projects require working on the weekend due to traffic closure restrictions; the group discussed thinking about charging work days for when the contractor works on the weekend; Contractors generally are in favor of keeping the weekend days as non-working days as it allows them to recover schedule if they want to
 - MS - would like WSDOT to consider the idea of contractor's working 4-10's and not being charged the 5th day
 - Reggie Wegman (RW) - this is really prevalent on night shifts because often there are only 4 efficient shifts to perform the night work (Mon - Thurs night)
 - JK - working days and when the contractor works are completely independent, WSDOT charges working days according to the time for completion specifications, contractors may work as they see fit and are allowed
 - Aubrey Collier (AC) - this can be a problem for Local Agencies; their staff is working Fridays anyway and the LA incurs the cost of the additional time on the 4-days; doesn't really see a benefit to the 4-10's for LAs
 - MS - there really is less impact to the public with 4-10's, i.e. only four days of traffic control setups
- E-ticketing
 - Main issue with this is having internet connections for e-ticketing in remote areas
 - WSDOT is piloting a Star-link Satellite connection for e-ticketing, this will be a mobile wifi for the project site for the e-ticketing use
 - Starting w/Eastern Region BST project
- Unifier - e-mailing
 - GW - some PEO's accept e-mail notification if followed up with Unifier notification; some PEO's will not accept e-mails as notification; can we continue to work on a Unifier option to have e-mails be integral to Unifier
- Work Zone Smart Tech
 - Smart Arrow Boards are in use, WSDOT has a GSP to implement these, will upload the information on popular navigation apps to show the lane closures, etc. in real time

- Work Zone Cameras - these have been approved legislatively, will be allowed implementation July 2024

Old Business

- Pre-Bid Questions
- Force Account Markups Update (review services list/schedule follow up meeting)
- Roadmap Update (Jackie)
- LS Bid Items (Earthwork, etc.)
- X-tracker, CostTrax, and FA Tracker ([Home - CostTrax](#))
 - GW - MJK and KLB have had a couple meetings concerning the X-tracker software and have found it to be very useful
- Steel Escalation Opt in/out timing- No adjustments to current practices
- Arrow board upgrade timing
- Sick Leave Usage
- Standard Weekly Meeting Topics
- BABA Update
- Contract Time

Other Topics (Time Permitting):

- Action Item Review (15 minutes)
- Next Meeting
 - June 9th, 2023

AGC Admin Team Notes – June 9th, 2023

Announcements

- Introductions/Guests

Attendees

WSDOT

- Jon Keeth
- Amy Amos
- Chris Tams
- Chuck Meade
- Jackie Bayne
- Thomas Brasch
- Shane Spahr
- Earl Key
- Kyle McKeon

AGC

- Jerry Brais - APWA & King County
- Derek Compton - Graham
- Arti O'Brian - AGS
- Doug Siebert - AGS
- Jay Byrd - One Alliance
- Greg Waugh - Max J. Kuney
- Reggie Wegman - Atkinson
- Mark Scoccolo - SCI Infrastructure
- Corey Christensen - KLB
- Mike Hall - Tucci & Sons
- CJ Handforth - IMCO Construction
- Gary Davis - Valley Electric
- Ken Hallquist - Walsh Co.
- Quinn Golden - Granite Co.

New Business

- Meeting Minutes Review
- Sick Leave usage on FA (law change effective Jan 24)
 - Chris Tams (CT) - would like to have the 2.5% show up on the certified payrolls in the labor rates and wanted to get feedback from the group
 - Corey Christensen (CC) - this would mean that the sick leave requirement would have to be prevailed, which it currently is not subject to certified payroll now, not subject to union agreement, adding it to certified means they'd have to pay union benefits on the added rate, which is a no
 - Mark Scoccolo (MS) - think it may be easiest to not include this for now
 - Arti O'Brian (AO) - adding this to the certified payroll would make this complicated for their payment software

- Greg Waugh (GW) - thinks it would be best if the cashout was at 2.5%, which is 1 hour for every 40 worked
- CT - OK, will not recommend this for inclusion on the certified payroll
- Diversity Roadmap (Jackie Bayne)
 - Jackie Bayne (JB) - Reviewed the overview of the diversity roadmap
 - WSDOT performed 2019 Disparity Study - asking for the Administration team to review to study
 - ACTION ITEM: CT to send this out to the team
 - MS - does it make sense, to promote inclusion, to include all of the disadvantaged groups to combine for the goal, rather than break them up as Minority, Women, Veteran, Small
 - JB - legally we cannot combine them; after the findings of the disparity study are implemented small will likely be dropped off the disadvantaged list
 - Earl Key (EK) - WSDOT will be adopting the DBE program for state funding; folks are worried about the Veteran goal because there is a very small pool of these companies to perform the work, if the disparity study identifies that there is an availability issue for Veteran it will likely drop off as well
 - JB - worked with Western WA University to perform a WA State Bonding Study; noted that there wasn't as much of a bonding issue as WSDOT has been made aware of, that may be in part of having a small sample size for the study
 - EK - this is the second study that has concluded that bonding really isn't the issue, rather that awareness of the available bonding programs is the issue
 - Mike Hall (MH) - the cost of bonding is the barrier, not just the ability to procure bonding
 - MS - the bonding agencies are going to look at the financial capacity of new businesses, which often times is the trouble area for the new businesses in procuring bonding
 - AO - this is a real problem for AGS and for other small and new businesses; this is a barrier to entry to working with WSDOT; WSDOT needs to discuss this specific issue with DBE's and new businesses, this knowledge and information isn't readily available/digestible for these businesses
 - MS - it would help to take this issue to the surety industry to understand how/what needs to be done in order to make some real progress for increasing participation
 - Jon Keeth (JK) - what is the schedule on the disparity study
 - EK - end of August is the schedule
- WSDOT commissioned study (Jackie Bayne)
- Contract Closeout
 - Timeliness of the LNI audits of certified payrolls is an issue for the primes; at the end of the job when the payroll audits are usually done, some subs are gone and it is very hard to get them to correct their payrolls
 - GW - is there a way WSDOT can have LNI perform interim payroll reviews?

- JK - WSDOT doesn't have a lot of clout with LNI, but we do have a relationship with them, so we can ask and see if LNI can help address this situation
 - ACTION ITEM: Noted a couple other things: apprentice hours, GFE's, punchlist, etc.; need some more boxes prior to physical completion letter
- CT - there are enough edits/changes to this flowchart that it will likely need to come back to the team for review in the Fall and not be adopted into the Fall update of the Construction Manual
- Gary Davis (GD) - can we look to add Prime Contractor Performance Report to this chart?
- Changes, protests, claims
 - 1-04.7 doesn't have a timeframe for the response from the owner; this is because there may be different timelines depending on the investigation that the owner needs to make
 - Problem with this there is no timeframe for the owner
 - ACTION ITEM: WSDOT will look to provide some timing language in the Construction Manual
 - CJ Handforth (CH) - supplemental information; if Contractor provides the additional supplemental information, but owner thinks that it may not meet the requirements, is that going to remove the contractor's rights for a claim
 - ACTION ITEM: WSDOT to look into adding language about "if Contractor doesn't provide required information" in the additional supplemental information
- GW - there was a Prompt Payment flowchart that the group was previously working on; the thought was to make sure this chart worked with the closeout and claims flowcharts
 - AO - has this flowchart file and will share with WSDOT
- FA Operated vs Standby
 - GW - this has become close to a stopwatch tracking from the inspectors in the field (almost per the minute), is this common between all parties? Perhaps we could make it a standard to round to the 15 or 30 minute mark?
 - Reggie Wegman (RW) - thought that the AGC/WSDOT Rental agreement detailed when to consider equipment status as standby, idle, operating
 - GW - this is mostly a problem with local agencies, even with misinterpretation of the AGC Rental agreement
 - CT - should be pushed to continue the discussion in the Fall
- Railroad Specifications and Unknowns
 - CT - these are in the new book
 - GW - MJK has done lots of work with BNSF; current specs and contracts don't have a comprehensive list of what is going to be required by the Contractor, and BNSF reserves the right to require Contractor for submittals, etc. that aren't identified in the Contract
 - This is really hard for Contractors and may not be good for the owner to have the primes bid

- JK - how do the railroads show the Prime what they are going to need to provide? Do they provide a manual? Or a citation to a plan?
 - GW - this is a piecemeal process from the RR to the prime
- ACTION ITEM: CT - let's make sure we bring this up at the beginning of the fall, making sure that Connie Raezor attends so she can be a part of the discussion
- "Immature Plans"
 - CT - WSDOT QC on new plans that are being advertised; seems to be a decline of the QC on new plans that are advertised
 - GW - hearing this is an issue at least on the East side; if plans aren't accurate, and WSDOT or owner is responsible for the Contractor not meeting the COA, doesn't feel the Contractors should be penalized for owner generated COA issues
 - JK - there is a process for this in the current general special provisions for dealing with COA affects due to owner changes; WSDOT evaluates a multitude of factors with each reduction in COA work
 - There are different scenarios, unit bid items and LS items; WSDOT doesn't know if LS COA changes are made until the Prime notifies WSDOT; this notification should be made as soon as the Prime knows
 - Unit bid, WSDOT will issue a CO to reduce the quantity and "may" require a GFE or a substitution
- Review Focus Areas
- Co-Chair Nominations
- Fall Meeting Dates
 - 9/15, 10/20, 12/1; 2024 dates to be established in the Fall
- ACTION ITEM: CC - last meeting we discussed Geomatics and keeping this issue going, can Corey get a contact in order to keep momentum and progress going with this through the summer?

AGC Admin Team Notes – September 15th, 2023

Announcements

- Introductions/Guests

Attendees

WSDOT

- Jon Keeth
- Amy Amos
- Chris Tams
- Chuck Meade
- Jackie Bayne
- Thomas Brasch
- Shane Spahr
- Earl Key
- Kyle McKeon
- Colin Newell
- Connie Raezer
- Earl Key

AGC

- John Salinas - Salinas Co.
- Tim Hayner - Kerr & Cascade Civil
- Gary Martindale - FHWA
- James McCaffery - WWU
- Jerry Brais - APWA & King County
- Arti O'Brian - AGS
- Doug Siebert - AGS
- Dan Kuney - Max J. Kuney
- Reggie Wegman - Atkinson
- Mark Scoccolo - SCI Infrastructure
- Corey Christensen - KLB
- CJ Handforth - IMCO Construction
- Gary Davis - Valley Electric
- Ken Hallquist - Walsh Co.
- Quinn Golden – Granite Co.

New Business:

- Meeting Minutes Review
- Update AGC Admin contact information
 - Will send out a team contact list, please review it and update your contact information
- Railroad Requirements and Unknowns (Connie Raezer)
 - 2023 Spec. Book: RR specification included in the standards; special provisions still exist on Contracts, but SS has language now
 - SP's reference the RR & Contractor right of entry agreement (i.e. "for insurance requirements please see the RR Construction Agreement"
 - WSDOT has a RR website that has a lot of information hyperlinked from it; Construction Guidance, Permitting, etc.

- <https://wsdot.wa.gov/engineering-standards/design-topics/utilities-railroads-agreements/highway-railroad-coordination>
- Common Questions Connie sees:
 - Construction Submittals: Most construction submittals are in the Guidelines for Railroad Grade Separation Projects
 - Stockpiling and excavation
 - Any material excavated on-site, if it is being hauled off-site, needs tested for contaminants & tests accepted by the RR
 - If this material stays on-site in a stockpile, that stockpile plan needs reviewed/accepted from the RR
 - Materials being brought on-site need approved, if not from a previously tested source, material may need tested for contaminants
- Questions for Connie
 - Mark Scoccolo (MS) - where can we find the WSDOT train crossing number that we could enter into the crossing data website to get train counts and other information?
 - CR - She has a spreadsheet maintained on the public website; Utility & Transportation Commission website can be referenced as well
 - Kyle McKeon (KM) - should we be telling Contractors to reach out to the RR Public Projects Manager?
 - CR - she is including information in SP's on how to contact the Manager and specifically verbiage to use to let the PM know it's a WSDOT project
 - CR - RR PM reviews the Contractors' request for Construction Agreement and issues said construction agreements; these take minimum 30 days, likely more, to procure
 - Dan Kuney (DK) - Construction submittals that are required in the Grade Separated documents, the "including but not limited to the following", can be ambiguous and Contractors may not know exactly what the RR is going to require; can we look at including some time in the schedule to plan for multiple submittals that are not defined; how can we plan for that?
 - SP for Suspension of submittals if the C-1 etc. is on the Critical Path?
 - Chuck Meade (CM) - we've discussed trying to have a more comprehensive list in our Special Provisions, but have just relied on the RR appendices for now as the RR will not provide a different list
 - CR - consultant usage by the RR has been conservative, they will ask for more rather than less, so all the boxes are checked; if RR assists the Contractor in the submittal process, they feel they are owning a portion of the submittals and can be brought into a dispute
- Project Closeout Flow Chart
 - Project Claims Flow Chart: this flow chart is with the construction manual group and will be incorporated in the new CM update
 - Closeout flow chart still needs some work, will be an upcoming project for the group
- Fuel Cost Escalation
 - Does our current fuel cost adjustment specification meet the needs for our Contractors? Is it working for us collectively?
 - MS - Did WSDOT ever update the rates?
 - CT - yes, we looked at the Federal guidance on how to establish these rates, and we slid the compensation to the higher side of the range in the Federal guidance
- 4v Benefit code on prevailing wage code (Chris Tams)

- LNI has a 4v code for prevailing wages; if there's a night shift work, the 4v code is all time and a half, not just for OT after shift hours or 40hrs/week; this applies to traffic control and labor, other classes where the 4v seems to be sprinkled through different work classes
- AO - This was established 2019, but this is the first time that it has been an issue on any of the projects; this directly affected AGS on a current project
- CC - this language is not included in the current CBA
- Bonding (James McCafferty)
 - Earl Key (EK) - OECR is researching this issue and finding that bonding isn't an issue for the DBE subcontractors; that they didn't have all of the information about the available resources to help with bonding for them
 - Arti O'Brian (AO) - Bonding is an issue because it is a cost to them
 - Corey Christensen (CC) - they are hearing that often DBE's cannot procure a bond
 - EK and Jackie Bayne (JB)
 - USDOT small business resource center - bonding guarantee program
 - DBE support services
 - MWBE support services
 - WSDOT created a private loan program for financing DBE's for bonding
 - Jon Salinas (JS) - first let's talk about disadvantaged businesses; construction bonding is based on their history and financing in the business; the newer a firm you are, you likely aren't well capitalized, and don't have a large history, so bonding will be a barrier; often times bonding agencies will not provide a bond without the appropriate capitalization and financial metrics
 - James McCafferty (JM) - when performing a study like this, we can experience response bias (companies responding are the companies that haven't experienced the problem); bonding for a WSDOT project is a not insignificant cost and can be a barrier; the report identified a mix of strategies that can help the DBE companies be able to procure a bond
 - MS - question about the study; most Contractors in construction business don't know what a performance bond is, typically work where public funds are involved; often bonding agencies offer bonds to the contracting community, but DBE's don't qualify for them; the pass-down bonding requirements are often tied to the Prime's insurance policies and them requiring the subcontractors to piggy-back on their insurance
 - DK - bonding isn't binary, either that you get a bond or you don't; bonding agencies can decide if they think a DBE is at or above capacity, even if they qualify, they may not receive a bond
 - AO - bonding capacity can be exceeded if a DBE is submitting bids on several projects that are in procurement and haven't been awarded yet
 - JM - they sent solicitations to all listed DBE's; sent solicitations to all DBEs that have active subcontracts on WSDOT projects; the folks performing the study really tried to filter out all the Contractors that weren't performing work for WSDOT; vast majority of responses were that there were barriers, but that they found solutions to them
 - All of the comments that were just voiced are "Financial Institution" issues, the bonding agencies are objecting
 - The programs that EK described earlier are there to help DBE's better understand how to navigate these financial institution issues
 - AO - these programs are one thing, but it does circle back to the DBE having the financial backing to procure the bond

- MS - the banking and the surety are tied together; the Primes aren't going to readily take the risk of the performance bond of the DBE's that aren't financially able to procure the bond
- JM - is one of the problems that the WSDOT projects are just too large and DBE's have a hard time bonding?
- CC - larger packages are challenging for a multitude of reasons; they do make it really challenging to compile a group of DBE's that can meet the goal
 - Sounds like the result of the study was that the DBE community isn't aware of the resources, so what is OEER doing to spread the word?
 - EK - working with SBA to see how they can educate the DBE community
- EK - Rule Making for mandatory state program (enforceable goals) - expecting disparity study to be received in October; if we are not close to or exceeding our State voluntary goal WSDOT will implement a Mandatory State goal
 - MS - SCI uses DBE's on projects where there are no goals, how does the state get credit for those dollars?
 - EK - B2GNow records all of the dollars that are paid to DBE contractors; mandatory goals WSDOT is going great, exceeding 19%; when we change to voluntary the performance drops below 10%
- 2024 Standard Specification and Standard Plan Update
 - Looking at an October 1st 2023 date for the Standard Specification 2024 book and standard plans update
- 2023-2024 AGC Admin Topics
 - CT - would like to get to a more balanced agenda of topics; by and large a bulk of the topics are WSDOT topics addressed by this committee
 - Wants the group to share contractor topics with Mike Hall (new co-chair) in hopes that we can get to closer to a 50/50 split of Contractor/owner topics
 - Would like folks involved in this meeting to look at the list of potential topics that were distributed and see if there are any that the group should address; Focus Areas document that was attached to this meeting invitation
 - <<AGC_Admin Focus Areas.pdf>>
 - AO - does WSDOT have a list of priorities of topics WSDOT wants to address? That may help tailor the Contractors' list.
- State of the WSDOT CN Program (Chris Tams)
 - We have an enormous amount of DB projects going to be advertised annually within the next 6 years
 - Capital improvement projects are going to keep needing to be delivered, preservation budget has been greatly reduced
 - AO - can we get a list of the DBB projects that we alluded to?
 - CM - the best place to get this information is the Advanced Schedule of Projects (ASOP) available on our public website
- BABA De Minimus Waiver
 - August 16th and 23rd publications, FHWA approved a waiver for de minimus use for materials in a project
 - WSDOT is in the process of modifying our forms and process to track and record the material cost
 - Steel will remain as is and is not included in the waiver
 - Limit of waiver will be 0.1% or \$1M dollars of the project cost, will be the lower of the two; this applies to only the material cost of foreign materials
 - AO - AGC is putting together a training presentation to go over the new BABA specifications, waiver included

- The Waiver has a hard date associated with it, please review the waiver for that exact date and language
- DBE Specification Updates
 - There is conflicting guidance in our required Participation Plan and the existing DBE specification; WSDOT is trying to edit the specification to align with the Participation Plan
 - Owner Underruns are being processed by the PEOs as partial terminations
 - Working with OECR to determine a percentage of underrun that will be exempt for partial termination; i.e. if we underrun by XX percent, that is exempt to the individual DBE Commitment amount
 - WSDOT is asking the AGC team to think about this concept, what % does the group want and feel OK with?
 - Partial Terminations with Good Cause
 - Contractor Initiated Changes
 - JS - if their scope of work gets eliminated, can they still renegotiate reductions that are material to their subcontract?
 - CT - the GC/sub sub-contract isn't touched by WSDOT, and we aren't touching the 25% over/under specification for renegotiations
 - AO - past 2 years they have had underruns in the six figure range, likes having a % that the subcontractor knows they may have to incur
 - Participation plan says that WSDOT needs to manage to the % Goal, not the Commitment amount, which is what WSDOT has historically been managing to
 - Goal % is applied to the final Contract amount, not the COA commitment
 - \$20M job w/ \$1M in Cos, the goal needs to be managed to the \$21M total project cost
 - There are several ways to get here, Race neutral participation, additional subcontractors being hired
 - MS - let's just get rid of the 1-04.6 standard specifications, we'll need to renegotiate every item at the end of a job
 - DK - this guidance is coming from FHWA? Yes. This is going to be extremely challenging, we're having problems getting CO's executed in time, these negotiations will take a long time
 - Gary Martindale - FHWA is stating that this is the CFR; the Federal Requirements need to be met for the total project cost; this needs to be kept in mind from the primes and the owner while managing the project
 - DK - it would be good to parse out the difference in the specification of scope that wasn't needed vs. scope that is changed or removed from a DBE and given to a non-DBE
 - CT - working on modifying the list of Good Cause to address some of the nuances of the situations that we find ourselves in
 - GM - a lot of the things we are discussing are federal regulations and will not be changed, we need to work inside those boundaries and be creative and flexible as best we can; it's important to make proactive choices to include DBEs in the contract; race neutral participation counts toward the overall goal; a GFE is still allowed, but the Primes need to be careful to put forth a substantial effort to try to substitute the work and diligently document their efforts toward those substitutions; partial terminations are specific to COA's to individual DBE goals, this is different than deleted work and/or underruns
 - Overall project DBE goal is the % assigned to the project; the % will not change on the project, the overall dollar amount will change commensurate with the original bid amount

- Race neutral is DBEs that don't have a COA commitment, so long as they meet the requirements of the DBE program
- MS - if we meet the overall goal %, but we underrun some individual COA commitments, are we good?
 - No, individual shortfalls of COA will still have to be documented; i.e. you have to meet every individual COA commitment
- This subject will continue to be a discussion topic, WSDOT is continuing to draft the specification and it will need to be reviewed by FHWA and shared with AGC team prior to implementation.

Old Business

- Meeting Minutes Review
- Sick Leave Usage on Force Account (law change effective Jan 24)
- Diversity Roadmap (Jackie Bayne)
- WSDOT commissioned study (Jackie Bayne)
- Contract Closeout
- Changes, protests, claims
- FA Operated vs Standby
- Railroad Specifications and unknowns
- “Immature Plans”
- Review Focus Areas
- Co-Chair Nominations
- Fall Meeting Dates

Other Topics (Time Permitting):

- Action Item Review (15 minutes)
- Next Meeting
 - October 20, 2023

AGC Admin Team Notes – October 20th, 2023

Announcements

- Introductions/Guests

Attendees

WSDOT

- Chris Tams
- Chuck Meade
- Jackie Bayne
- Earl Key
- Thomas Brasch
- Shane Spahr
- Kyle McKeon

AGC

- Phil Wallace - Kiewit
- John Salinas - Salinas Co.
- Mike Hall - Tucci & Sons
- Tim Hayner - Kerr & Cascade Civil
- Arti O'Brian - AGS
- Aubrey Collier - City of Lacey, APWA
- Dan Kuney - Max J. Kuney
- Reggie Wagemen - Atkinson
- Mark Scoccolo - SCI Infrastructure
- Corey Christensen - KLB
- CJ Handforth - IMCO Construction
- Gary Davis - Valley Electric
- Lou B. - One Alliance
- Derick Compton - Graham Co.

New Business:

- Meeting Minutes Review
- GFE Submittals at bid opening (Mike Hall)
 - Mike Hall (MH) - Kittitas Co. project - low bidder submitted a GFE with the bid and it was accepted by WSDOT OECR
 - 6 bidders on the job; the low was the only one who submitted the GFE, the other five bidders met the COA
 - Mike's question is that the effort for this particular GFE seems minimal, is WSDOT setting a precedence for accepting a GFE during the bidding process?
 - EK - FHWA doesn't agree with WSDOT's interpretation of the GFE on the Kittitas job; Earl is questioning if the right decision was made here to accept the GFE in this circumstance; so No, the primes shouldn't rely on this particular GFE to model any pre-bid GFE submittals in the future

- MH - this GFE was not near as thorough and comprehensive as what Primes go through when bidding a WSDOT project
 - MS - is there an award protest associated with this award?
 - EK - not sure if there is, there may be.
- Dan Kuney (DK) - WSDOT Eastern Region Rosemond Project - MJK submitted a GFE at bid and it was accepted
 - MJK put together a GFE, which was much more comprehensive; there were only two bidders on the job (single bridge deck demo/overlay with a full closure), it is smaller job, \$1M, 40 days, not a lot of DBE participation available
 - The second bidder did meet the COA, MJK bid was around \$900K, the second was \$1.2M
 - MJK listed two DBE's it was able to find scopes for, and then submitted GFE because that participation did not meet the COA (5.6% vs 16% goal).
- Mark Scoccolo (MS) - were there any bid protests or feedback from the other bidders on these two projects?
 - We didn't see that there were any protests or feedback here from other bidders
- Cory Christensen (CC) - we want consistency through this process; Contractors need to know if they take the risk of not meeting the COA, are they going to have their GFE rejected?
- BABA Update
 - Chris Tams (CT) - August, FHWA produced a waiver for de minimis dollars for the inclusion of foreign materials; maximum amount is \$1M; or (total value of noncompliant products)/(Cost of iron & Steel + manufactured products + Construction materials [do not include BABA Sec. 70971c materials, which are exempt]) < 5%
 - MS - it will be a problem if all steel and iron items are excluded from the waiver because a bulk of the items that are in short supply nationally are the steel and iron items
 - CT - FHWA is changing the definition for American Made; iron and steel - the final manufacturing process and the ONE preceding it has to be in America; Aluminum - all processes have to be performed in America
 - Gary Davis (GD) - what happens if a Contractor thinks they will meet the BABA requirements during their bid, but then they don't? Is there an appeal process?
 - CT - no, you either meet it or you don't; if you don't, the Contractor has to remove/replace the materials; or, WSDOT must substitute ALL of the Federal money with State money
 - The nuance is the different classifications of products: iron & steel, Construction Materials, & Manufactured Materials; there is a distinction between the last two that is important to watch
 - Arti O'Brian (AO) - is there anywhere that Contractors can get this information? Other than at this meeting?

- CT - WSDOT maintains a spreadsheet of materials that we believe are classified as one of the three products (the sheet has been vetted by FHWA)
 - Construction Bulletins: look here for [latest BABA Construction Bulletin](#)
- Phil Wallace (PW) - FHWA is still making changes, and will continually tweak this; Contractors have to go to the Czar to get these waivers, which is near impossible
 - CT - WSDOT has encouraged Contractors to not rely on procuring a waiver, they are generally not approved and are very exhaustive to submit; there is also no timeline guaranteed for this process
- CT - any projects that have FTA money in them DO NOT have the manufactured products waiver that WSDOT does have
- DBE GSP Interim Update and Long Term Plan
 - CT - Contractors will have to meet the requirements of the NAICS code (which is broad), and have to meet the business description for the company in order to be eligible to be a DBE
 - Earl Key (EK) - Contractors are not "certified" as a DBE unless they have the appropriate NAICS code
 - MH - is there guidance for Primes to make sure that the subs with the appropriate NAICS codes have appropriate business descriptors to do the work that is required?
 - DK - the new DBE form is going to have both of the inputs, the NAICS and the business descriptor; if subs don't have the right NAICS code, where do the primes direct the subs to get the updated NAICS code?
 - EK - Point them to OMWBE
 - DK - should WSDOT have a guidance document that says this work operation belongs with this NAICS code?
 - EK - WSDOT used to have a crosswalk that helped with that, but FHWA made that an additional certification, so WSDOT has gone away from having a crosswalk
 - CT - COA dollars, the prime can only get credit for the individual item on the bid form, i.e. if they bid \$20K for TC, but commit \$27K to the TC company, the Prime only gets credit for the amount committed for the bid item (the \$20K in this example)
 - EK - This specific language is in the Participation Plan with FHWA, so WSDOT is bound to it
- CT - item underruns are viewed as a partial termination; WSDOT is working on coming up with a percentage of underrun that will exempt the prime from going through the partial termination process as described in the current DBE specification
 - The way the participation plan is written right now is that if the goal on a contract is 16%, then the goal needs to be 16% at the end of the job (inclusive of overruns and COs)

- DK - keep in mind LS items that can be de-scoped - i.e. a shoring wall is reduced, therefore they reduce the payment to the DBE subcontractor
 - CT - owner initiated underruns and reductions should be an acceptable reduction, not requiring partial termination documentation
 - MS - should contractors be reserving rights on the CO's just in case there is a COA issue at the end of the job
- Disparity Study Update
 - WSDOT is reviewing the disparity study right now, making comments for review, but anticipating beginning of 2024 for this to be published
- Design Build Survey Results
 - DK - there are a lot of consultants that are exempted out for OCOI, etc, would WSDOT consider having "preferred" instead of "required" qualification terms?
 - Chuck Meade (CM) - there are several of these qualifications that we are considering as "preferred", need to make sure our Subject Matter Experts agree with that approach
- Haul Hub eTicketing Update
 - Putting together a GSP for projects awarded through 2024; will be required for paving projects; WSDOT will also be looking for volunteer projects that want to use this platform for all materials on the project
- eConstruction Update
 - WSDOT has a team of software developers to work on major/minor enhancements of the eConstruction system
 - WSDOT is working on incorporating our Bidding process utilizing Unifier instead of our current BidEx software (which requires a Contractor license)
- LNI Closeout
 - CC - Old projects are getting really challenging to submit all of the appropriate information
 - Phil Wallace (PW) - they have a meeting with LNI to discuss this in the near future; Chris Tams is asking for an e-mail with this information from Corey and Phil
- Union OT Payment Rules
 - AO - 5am to 6pm these are regular rules, outside of this is OT rules; 2019 is when the 4V rule started applying; the backward compliance to this rule is up in the air right now, not sure if LNI is going to make contractors implement it retroactively
 - Any issues that Contractors are having with this rule should forward their concerns to WSDOT
- Statewide PE Meeting
 - CT - Contractors should be seeing an invitation or request to attend our SWPE meeting for a PE/Contractor forum for discussions and roundtables between the parties and for a Contractors' panel

Old Business

- Update AGC Admin contact information

- Railroad Requirements and Unknowns (Connie Raezer)
- Project Closeout Flow Chart
- Fuel Cost Escalation
- 4v Benefit code on prevailing wage code
- Bonding (James McCafferty)
- 2024 Standard Specification and Standard Plan Update
- 2023-2024 AGC Admin Topics

Other Topics (Time Permitting):

- Action Item Review (15 minutes)
- Next Meetings
 - December 1, 2023
 - January 26, 2024
 - March 8, 2024
 - May 3, 2024
 - June 7, 2024

AGC Admin Team Notes – December 1st, 2023

Announcements

- Introductions/Guests

Attendees

WSDOT

- Chris Tams
- Chuck Meade
- Jackie Bayne
- Art McClusky
- Thomas Brasch
- Shane Spahr
- Kyle McKeon
- Will Smith
- Amy Amos

AGC

- Phil Wallace - Kiewit
- John Salinas - Salinas Co.
- Mike Hall - Tucci & Sons
- Tim Hayner - Kerr & Cascade Civil
- Arti O'Brian - AGS
- Aubrey Collier - City of Lacey, APWA
- Dan Kuney - Max J. Kuney
- Ken Hallquist - Walsh
- Reggie Wagmen - Atkinson
- Corey Christensen - KLB
- CJ Handforth - IMCO Construction
- Gary Davis - Valley Electric
- Jay Byrd - One Alliance
- Derick Compton - Graham Co.
- Jerry Braise - King County, APWA
- Quinn Golden - Granite
- Gary Martindale - FHWA

New Business:

- Meeting Minutes Review
- Fuel Cost Escalation on DB Contracts
 - Art McClusky (AM) - summary document (Art's group put together) about how a Fuel Cost Escalation may apply to DB jobs
 - Corey Christensen (CC) - the group did discuss this around a year ago, which instituted an overhaul of the fuel burn rates
 - Chris Tams (CT) - does the group have the interest to try to implement this into a Design Build project?
 - Arti O'Brian (AO) - does the fuel escalation clause apply to subcontractors?

- CT - if the subs can provide the appropriate documentation, the escalation should apply
- CC - as a prime and a sub, it is good to have the protection of the escalation; when bulk fuel spikes it really hurts if there isn't the escalation protection
- Mike Hall (MH) - where is WSDOT with implementing this as an option on a DB job?
 - CT - we have the general language to include in contracts, we can look for additional pilot projects
 - AM - the specification is currently in the SR520 project that hasn't been executed yet, so we don't know exactly how it's working, but it is currently in one of our Contracts
- Reggie Wagmen (RW) - as a prime they don't really see much here because the large fuel consumption comes from their subs, and they manage their fuel costs; this would be really challenging to blanket the specification across the board to all the subcontractors on a project
- CC - What type of documentation would we need to make this simple for everyone? Some bid documentation that says X amount of fuel estimated at Y \$/gal (WSDOT could control the ceiling); this may apply to the Prime and subs if they want to be involved
- Phil Wallace (PW) - opt in at bid day is a problem for DB because the design isn't complete, how do we have a solid estimate for everyone & can estimate the fuel consumption?
- CT - % cost method would be really challenging to administer
- Jay Byrd - how many of the DB primes in the room would be interested in this? - overall response was that not many would be interested in this
- AM - we have this currently in a DB project, we are going to use that as kind of a pilot project; will keep tabs on how it is working and keep this issue on the back burner
- John Salinas (JS) - this would be very challenging for them to document when/where all of their bulk fuel is going to have an accurate representation of the fuel consumption on the project with the fuel escalation clause
- DBE goal administration – What changes are coming?
 - CT - has sent out the Participation Plan; please read the Participation Plan (specifically local programs and Construction sections) because that is what we as an owner and contractors are going to be held to; there are requirements in the PP that may surprise folks that we will have to be held to, i.e. accumulated CO's on projects are going to be held to the overall DBE goal
 - PW - when can we get edits/comments back to WSDOT for the Participation Plan? By the end of the year would be ideal.
 - CT - Primes generally overcommit to the COA in order to provide a buffer from minor accounting issues on the proposal form, but they are locked into that additional COA amount; i.e. DBE Goal is 20%, contractor aggregates a COA to 21% [extra 1%] and OECR is holding the Primes to the additional 1%, now they hold the DBE goal to 21% through the aggregated COA numbers

- Contract bid item amount lower than committed DBE award amount for the same bid item
 - CT - Local programs adjusts COA amounts allocated to DBE subs (if they were in excess of the proposal amount) down to the proposal form amount
 - MH - what takes precedent, the RCW or the Specifications in the Contract?
 - Jackie Bayne (JB) - there are inconsistencies, and WSDOT is working to try and bring all these issues into alignment
 - Earl Key (EK) - the biggest issue that FHWA has is underruns; i.e. the proposal shows 100K, COA is 200K, and the sub only gets the 100K due to an underrun
 - MH - general contractors never have the intent to inflate a COA just to get a job; if Traffic Control has been 90% of the issue, WSDOT should go back to bid items for TC
 - EK - two ways to go; primes can't receive more COA than is in the proposal amount (current); or, go back to FHWA for changes to the requirement
 - JB - legally we have to use the NAICS codes, but we do have the business descriptors to help parse this out, however, we have to apply the COA for eligible DBE subcontractors per their NAICS codes
 - Dan Kuney (DK) - 237210 NAICS code - there are dozens of descriptions of work within this code; are we legal to use the NAICS code + the certified business description? i.e. certified for 237210 (highway street and bridge construction) and a listed item in the certified business description on the OMWBE site (i.e. guardrail, or bridge, or paving, etc.)
 - CT - WSDOT redefined the Certified Business Description to be listed within the NAICS code referenced
 - DK - will the OMWBE DBE website have the NAICS code and the certified business descriptor? - YES
 - JB - the Commodity Codes and the Certified Business Description on the website don't match, WSDOT is going to have to notify OMWBE that these need to be the same
 - CC - is LS traffic control worth the problems it's creating with the DBE issues?
 - EK - wants to be straightforward, WSDOT will continue to use LS traffic Control
 - Quinn Golden (QG) - recently had a 700+ bid item project; received a sub quote at the last minute that was 500K lower, but they couldn't use it because they couldn't adjust the DBE documentation in time to submit the bid
 - MH - primes leave large general items open for instances like this, like mobe., they'll take 500K off of mobe and realize that overall to reflect the late quote

- EK - will try to discuss this issue with FHWA as soon as possible, Monday or Tuesday
- CT - the real issue happens when a prime makes this commitment, but doesn't pay the commitment because the BI underran?
- MH - within 48hrs of bid opening the primes have to deliver a certification from the subs that concur with the COA amount, would that satisfy the proposal # vs. COA # issue?
- JS - requests that the "Commodity Code" listing is suspended until OMWBE can link the Certified Business Description with the Commodity Code section
- AO - can OMWBE perform an audit of the subcontractors and make sure the subcontractors have appropriate codes/business descriptors?
- PW - can we get a meeting together with the regulators (FHWA & WSDOT), the primes, subs, and DBEs to get in the same room to discuss and try to resolve any of this?
- JS - The NAICS codes are more than just a description of work, they are tied to the amount of revenue that a business can perform; if they perform more than the 3-year running revenue than allowed in the associated NAICS code they will graduate out of the DBE program
- What adjustments does OECR anticipate making to the bid documents where this condition occurs?
- DBE Utilization Certificate and Written Confirmation Document
 - What changes are being made to the information required for Description of Work? Will NAICS codes be required?
- DBE Mobilization greater than 10% of the value of work
 - When evaluating a DBE Bid Item Breakdown, how is OECR's evaluation changing when mobilizations that are greater than 10% of DBE's total amount.
 - OECR doesn't support having Mobilization as a COA because there is no way to show Commercial Useful Function associated with Mobe.
- Question and Answer Deadline
 - Chuck Meade (CM) – WSDOT is interested in piloting a modification to the Q&A deadline in hopes to limit the amount of bid opening delays
 - Would requiring written Q&A two Thursdays before bid opening (rather than one) be helpful? It would help WSDOT have more time to answer questions and not have to delay bid openings.
 - MH – this would likely harm contractors because they do most of their work and assembling of their bids the last week of the bid period; that would put the Q&A deadline before when they actually develop the questions they are wanting to ask
 - DK – Dan initially proposed something like this to hopefully prevent multiple bid opening delays; thinks there is some merit to it, even if there is still one delay, hopefully it could be restricted to only one
 - Tom Brasch (TB) – supports this idea, would like for WSDOT to have more time to answer some of these questions

Old Business

- GFE Submittals at bid opening
- BABA Update
- DBE GSP Interim Update and Long-Term Plan
- Disparity Study Update
- Design Build Survey Results
- Haul Hub eTicketing Update
- eConstruction Update
- Upcoming collaboration events (Design Construction Conference, AGC Annual, WSDOT Project Engineers Conference)