

## AGC Admin Team Agenda – January 24, 2025

### Announcements

- Introductions/Guests
- Fabulich Center:
  - Corey Christensen
  - Mike Hall
  - Arti O'brien
  - Kenn Hallquist
- WSDOT online:
  - Amy Amos
  - Jackie Bayne
  - Thomas Brasch
  - Paul Gonseth
  - Shane Spahr
  - Chris Tams
  - Brian Whitehouse
- Others online:
  - CJ Handforth
  - Daniel Kuney
  - David Renicker
  - John Salinas
  - Mark Scoccolo
  - Gary Martindale
  - Nicole Brockwell
  - Phil Wallace
  - Tim Hayner
- Note taking via Teams

### New Business:

- Construction Office Table of Organization
  - Summary:** Roles are changing, Chris Tams shared the new WSDOT HQ Construction table of organization. (attach TO to minutes).
  - Notes:** Brian Whitehouse is new Division 1 ASCE, Chris Tams will be keeping his roles currently, keeping the policy as well as DB. Interstate bridge is one of the changes, providing direct support for that, the electrification program and they are looking at a few design build as well which will be new.
- Meeting Minutes Review
  - Summary:** Meeting minutes are posted online (do you want to add the site to the minutes?)
- BABA Manufactured Products Waiver
  - Summary –** Manufactured Projects waiver going away. WSDOT's interpretation of new CFR changes: After October 1, 2025, has to be assembled in US no matter how much of the parts. After October 1, 2026 it needs to be 55% of the components need to be made. We do not know how we are going to track this. This will not affect steel or construction materials.
- CUF and Material Suppliers

**Summary:** When material suppliers are counted is based on the circumstances. The exact situation needs sent to Jackie for review.

**Notes:** Issue that a concrete contractor would not be able to use the dollars for the concrete on items that they are making on the participation for the dollar. Trying to understand the subcontractor should be able to purchase. Jackie will look into it and get back to them.

Some changes were made to spec about materials in every day course of business.

- Bidders' list USDOT DBE Reporting

**Summary:** Bidders required at time of bid. Still need to be provided by the bidders. There are still issues with this and the number of bids being rejected especially by local programs. Examples of rejections were going to be sent to Earl Key.

- Delayed Bid Opening Provision/Preservation Projects

**Summary:** WSDOT only has approval to go through with preservation and fish passages. They have been directed to put the others on ad with the intent to not open until after/if the legislators provide funding.

**Notes:** A list was shared. There are basically three scenarios of contracts. One funds are good and no Provisions, two funds are going to be debated in legislative session and the spec will be in there that it is dependent upon the legislative session (opening after May 14 or later), and three projects that have funding next biennium (construction can't start until July 1).

- 2026 Standard Specifications Crosswalk (Traffic Control)

**Summary:** In the 2026 Standard Specifications, Traffic control will be moving out of division 1 to division 2. This will mean that after the 2026 Standard Specifications is published traffic control will move to the AGC Roadway team instead of the AGC Admin team.

- 5176 Prompt Pay Bill

**Summary:** The bill proposes changes to the prompt pay to require payment within 30 days or have interest, and the 10 days to subcontractors or have interest applied. The language to Pay within 30 days is based on invoice, WSDOT comments on the bill addressed that we don't do invoice.

## Old Business

- Meeting Minutes Review
- IBR PLA's and labor escalation (Greg Johnson call in at 10:30)
- Bidders' list USDOT DBE Reporting
- 1-07.14 Responsibility for Damage
- GFE Process at bid opening and project close
- Budget and Project Pause
- Winter Spring AGC Admin Meeting Dates

## Other Topics (Time Permitting):

- Next Meeting
  - February 28<sup>th</sup>

[illegible]

## AGC Admin Team Minutes – February 28<sup>th</sup>, 2025

### Announcements

- Introductions/Guests

#### *Attendance:*

*Chris Tams – WSDOT*

*Phil Wallace - Kiewit*

*Mike Hall -Tucci and Sons*

*Reggie Wageman - Atkinson*

*Corey Christensen – KLB*

*Derek Compton - Graham*

*Amy Amos - WSDOT*

*Jackie Bayne - WSDOT*

*Earl Key - WSDOT*

*Tom Brasch – WSDOT*

*Patricia Crane - WSDOT*

*Kyle McKeon - WSDOT*

*Shane Spahr - WSDOT*

*Brian Whitehouse - WSDOT*

*Arti O'Brien – AGS*

*CJ Handforth – Imco*

*Dan Kuney – Max J Kuney*

*John Salinas – Salinas Construction*

*Mark Scoccolo - SCI Infrastructure*

*Gary Martindale - FHWA*

*Nicole Brockwell – Spec committee*

*Tim Hayner – Cascade Civil*

### **New Business:**

- Meeting Minutes Review
  - *Let know if any comments, otherwise will get posted.*
- Prequalification and Work Class 6
  - *Prequalification gets hard to keep up with because of inflation, what you were prequalified for is not same value. Working on how prequalified. Work class gets summarized (Class 6) specifically a bridge item so only goes there. If there wasn't enough summarize into the work classes get moved into class 6. This is being re-evaluated so that Class 6 doesn't get arbitrary inflated. Positive move forward. Clarification on Class 6 and auto escalate. Won't auto escalate but will look into as requested.*
- BABA (Buy America) Presentation Trish Crane
  - *Went through Buy America Presentation changes for March 17, 2025 as well as upcoming changes 10/1/2025 and 10/1/2026 (attach)*
- OECR Update 9:30-10:30
  - *Bidder's list now being told it is staying until we are told something different, we will do it. Until rules change it will be one of those things that they don't like. Consistent evaluation of forms is needed. WSDOT is the best at doing it, but the local agencies are consistent. Kyle McKeon is working together with others to make consistent with Local*

*Agencies, will bring something to the group in the future. Would like to have something back to this group within a week.*

- *Right now at Status Quo, executive order coming out, but cannot appeal a regulation or law. See if they are supported or required by a law need to redo to site the law instead of the executive order. AG office has a civil rights team that is looking at. Move forward as we have, and wait and see. No guidance yet.*
- *Lawsuits on DBE is currently on stay.*
- **OCIP/CCIP Insurance (Meet with Risk Ahead of Time) ???**
  - *OCIP are making a comeback, more smaller contracts don't have such an insurance burden and can participate project. WSDOT is still learning how they work, as we don't know how they work. All Workers Comp goes through L&I so it wouldn't need it. Looking at Sound Transit and seeing what results were. Coordinating with Texas on OCIPs. Being lobbied to congress, FHWA will allow OCIPs, savings could be applied to DBE Services.*
  - *We do not have the expertise or manpower, so if we do it, it would be a third party.*
  - *In Oregon sometimes there is a private entity that will implement a CCIP, but day to day it is not a regular occurrence.*
  - *Comment that some manage labor safety better so costs are lower so it would be taking away the competitive.*
  - *This issue keeps coming up, identified a few consultants that can do a feasibility study on the OCIP. Will probably engage this study in the next biennium some time.*
  - *Only a portion of the insurance, only General Liability, so there is still other insurance will be required. Math doesn't work out, so savings are not 1:1. OECR is being told that traffic Control and trucking subs the amount of insurance they have to have is unreasonable.*
  - *Comments that crux umbrella policies, additional umbrella over the top, OICP could help with that possibly but not with the other insurance.*
  - *It doesn't have to be passed down to everyone. The GC has the insurance requirements, the GC can allow subcontractors to provide less, that is already happening. There are some general contractor, it is a risk concern on what the GC wants to cover for their subcontractors.*
  - *Length of time have to keep in place is also hard. Might be done in 1.5 and need to carry for a year after, so now have to have it in place 3 years.*
  - *What Earl is doing now: Transportation Research Board did a copy/study on OCIP – seems to support these. Encourage to look at it. Still like 10 years old so may not be still valid. [onlinepubs.trb.org/onlinepubs/nchrp/nchrp\\_syn\\_308.pdf](https://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_syn_308.pdf)*
  - *Biggest Lobby – can bring to the meeting to answer questions for group if wanted.*
    - *Conversation with insurance person who is lobbying wont help as it is one side*
  - *Did not appear what was available did not solve the scenario.*
  - *Utah has done some, there risk management is <https://udot.utah.gov/connect/about-us/risk-management/>*
  - *Overall question comes if there is a way to lower the cost of insurance on small businesses.*
  - *More research is needed, will be on future agenda most likely.*
- **Disparity study**
  - *Next disparity study has started.*
  - *Last disparity study is available at: [https://wsdot.wa.gov/sites/default/files/2024-05/WSDOT\\_Disparity\\_Study\\_2024.pdf](https://wsdot.wa.gov/sites/default/files/2024-05/WSDOT_Disparity_Study_2024.pdf)*

- New Tarp Requirements being proposed
  - *Had DBE meeting on new proposed tarp requirements and strongly impose.*
  - *Concerned that it would be 3000-10000 dollars for side dumps, and not sure if they can absorb the extra costs*
  - *Always been a requirement to tarp load, you had the opportunity if you were 6" below the top you didn't have to tarp. This changes it so that they have to be tarped no matter what, most already do it, side dumps do have a cover.*
  - *It is still going through and is likely to pass.*
  - *Manually tarp could be safety concerns.*
- DBE Substitution and GFE Substitution
  - *On the back end of a job, example trucking company that wasn't able to meet their COA commitment.*
  - *GFE efforts are using the same 11 questions at bid time and when it applies. The questions only apply at Bid time and refer to the Bidder.*
  - *Traffic Control and Trucking are giving hourly rates, that is then calculated on how much for the anticipated, but then they might not be available when needed and don't show up so they underrun. There needs to be more discussion on the time. Need to be brought to here so everyone is on the same page.*
  - *PE office is knowledgeable enough to know what is happening.*
  - *Shouldn't happen where it wasn't passed on to OECR. It's been a request to bring in OECR.*
  - *Clarification – Go through the PE. If you are requesting OECR and the PE refuses, then ok, but go through the correct chain of command.*
  - *Scope of work changed, in design-build when a design change from the conceptionally comment. If scope changes, are required to try to replace the work, does not require*
  - *For Design Build changing to open ended performance plan.*
- Small Business Goal on State Protected
  - *WSDOT has ability to change PWSBE goal up to 20%, but will stay 5% unless something changes.*
- Federal and State Government Coordination
  - *For right now, WSDOT is taking it as it comes. Status quo until we learn different.*
  - *As we hear things with more direction and details we'll let you know.*
  - *We have a lot of proposed changes through the Executive Branch which is FHWA oversees, the laws can not be superseded by executive order, so the laws are still there and the regulations still have the weight of law, but how they are managed may change.*
  - *DBE is codified in law, and antidiscrimination laws.*
  - *Stay tuned, lots going on and changing daily.*
- 1-04.5 Flow chart
  - *Does it need looked at again? It is a graphical version of how disputes are gone through. Letting it go – removing*
- Tariff –
  - *Not looking at tariff is not going to happen right now, but WSDOT will listen to it.*
  - *It is new right now, so we will still listen to arguments*
- Legislative Update
  - *HB 1967 – Bond Requirements – keeping an eye on it caught us off guard*
  - *HB 1970 - Progressive Design Build - some difference*

- SB 5773- P3 etc. – *does a lot of things that HB 1970 does, but has some different language. Current language Over 500 million has to be a P3 - Keeping eye on both of these as well.*
- Budget Update
  - *No crystal ball so not sure what is going to happen.*
  - *Still hiring freeze and restrictions on travel*
  - *Federal government is moving in ways that may or may not have budget impacts.*
  - *Governor Ferguson has laid out his priorities*
  - *Furloughs may be coming back*
  - *Budget is 10-12 billion short*
  - *1 billion deficiency between what we are supposed to deliver and have the money to deliver.*

## AGC Administration Team Agenda – March 28<sup>th</sup>, 2025

### Attendee List:

Chris Tams  
Jay Byrd  
Reggie Wageman  
Corey Christensen  
Mike Hall  
CJ Handforth  
Phil Wallace  
Mark Scoccolo  
Jackie Bayne  
Devanta T. Black  
Shane Spahr  
Nicole Brockwell  
Tim Hayner  
Amy Amos  
Kyle McKeon  
Brian Whitehouse  
Daniel Kuney  
Earl Key

### Meeting Summary:

The meeting of the AGC/WSDOT Administration Team on March 28, 2025, covered several key challenges and priorities in project administration and collaboration.

- **Reopening Review of Section 1-04.5:** Mark Scoccolo raised the issue of reopening the review of section 1-04.5, specifically focusing on the "**prejudice standard**" for claims. Contractors are concerned about legitimate claims being disallowed due to technical deficiencies that do not prejudice the owner. Chris Tams indicated WSDOT is open to reconvening a work group to address this, potentially including representatives from WSDOT and AGC. The goal is to establish a clearer standard for handling claims.
- **Tariffs:** Chris Tams presented WSDOT's initial position that **tariffs are not considered compensable** under the current adjustment clause, as they are legally viewed as not being a direct tax and are difficult to document a direct correlation to contract performance. However, WSDOT acknowledges the potential impact on future bids and change order negotiations and is open to discussing how tariffs affect contractors to inform project engineers. Mark Scoccolo suggested that tariffs might fall under a **Type 2 change** (unusual nature) and should be considered on a case-by-case basis, with contractors needing to substantiate their claims. Chris Tams proposed letting the situation evolve and addressing issues as they arise, potentially forming a smaller group later if needed.



Discussions also touched on the impact on domestic pricing and the possibility of escalation clauses for longer-term projects.

- **Bidders List Uniformity:** Kyle McKeon is working on creating a more **uniform approach to bidders list requirements** across different projects based on feedback received. This issue was raised due to inconsistencies when bidders lists are required (e.g., at the time of bid versus 48 hours after).
- **DBE Participation and Material Supply:** A significant discussion occurred regarding the counting of materials supplied by a general contractor to their DBE subcontractor towards DBE participation goals. Chris Tams highlighted the CFR 49 part 26 restriction on counting "supplies" but questioned if "materials" might be treated differently. Earl Key acknowledged the difference between supplies and materials and is working on clarifying this issue, potentially through an exception or distinction in the regulations. He requested documentation of **normal industry practice** regarding the selling of asphalt by asphalt companies to subcontractors. Mark Scoccolo supported the idea that if a company commercially sells a product, those sales to DBE subcontractors at market rate should count.
- **DBE Participation and Trucking:** Earl Key stated the Secretary's priority is to **increase participation of smaller trucking companies** in state projects. WSDOT plans to relax the federal compliance requirements for state trucking monitoring and may explore new technology for tracking. Earl Key is considering setting a **mandatory small business goal within the trucking NAICS code** for state projects and is seeking input from the industry. Contractors, including Chris Tams and Mark Scoccolo, raised concerns about the feasibility of such a goal due to issues with insurance, paperwork (L&I, certified payroll), and the suitability of smaller trucks for certain types of work. They suggested focusing on **education and support services** for smaller DBE trucking companies to help them navigate public works requirements. The significant reduction in preservation overlay projects, which historically utilized many smaller truckers, was also noted as a contributing factor to lower participation. Earl Key agreed to bring hard numbers on trucking participation to the next meeting and explore solutions collaboratively.
- **Sick Leave:** Cory provided an update on the implementation of prevailed sick leave, noting that it is now part of the wage for some trades (e.g., operator laborers, partners) but not others (e.g., teamsters). Discussions arose about whether to adjust the 2% allocation for sick leave, but the consensus was to **maintain the status quo for at least another year** and reevaluate.
- **Labor and Industries (L&I) Weight Classifications:** Corey Christensen mentioned hearing about L&I applying prevailing wage classifications on projects, causing payment delays due to requirements for intents and prevailing wages for entities like waste management delivering dumpsters.
- **Budget Update:** The budget is still in process, with various proposals being considered. Projects related to fish passage and preservation are moving forward with certain stipulations (e.g., preservation projects not spending money until July 1). Other paused projects have a clause indicating their status will be known around May 14th with a 4-week notice. Concerns were raised about the compressed timeline for letting paused projects in May and the potential for capacity issues.
- **Work Classification and Prequalification:** WSDOT has been reevaluating work classifications, particularly Class 6 work (bridge instructors), to potentially lower the

prequalification amounts by ensuring bid items are appropriately classified and not artificially stacked into Class 6. These changes have been made in the eBay system and should be reflected in upcoming bids.

**Action Item List:**

- **Mark Scoccolo and Mike to coordinate and reach out to Jerry to begin the process of reconvening the work group to review section 1-04.5 of the flowchart.**
- **Chris Tams to send out the WSDOT guidance letter on tariffs with the meeting minutes.**
- **Contractors to provide feedback on how tariffs are affecting them to Chris Tams.**
- **Chris Tams to follow up on whether a small group should be established to look at tariffs, potentially after more information becomes available.**
- **Kyle McKeon to get the vetted list of uniform bidders list requirements out.**
- **Earl Key to further investigate the distinction between "supplies" and "materials" in CFR 49 part 26 regarding DBE participation.**
- **WAPA (Washington Asphalt Pavement Association) to write a letter stating that the distribution and selling of asphalt is a common practice within the construction industry, to be provided to Earl Key.**
- **AGC to potentially write a letter incorporating both asphalt and concrete commercial sales as common industry practices, to be provided to Earl Key.**
- **This topic of DBE participation and material supply to be put on the agenda for the next meeting.**
- **Earl Key to consult with the Attorney General's office regarding the feasibility of setting a small business goal within a specific NAICS code (trucking).**
- **AGC and contractors to provide Earl Key with suggestions on how to increase the participation of smaller trucking companies.**
- **Earl Key to use DBE supportive services money to create an education component on how to work within WSDOT for smaller DBE companies.**
- **The topic of increasing smaller trucking company participation to be put on the agenda for the next meeting, with Earl Key providing an update and potentially hard numbers on current participation.**
- **Contractors with concerns about the 28-day notice for paused projects to contact the project engineer or Chris Tams.**
- **Continue to monitor the budget update and its impact on project letting.**
- **Contractors to continue to inform Chris Tams about any concerns regarding work classifications and prequalification.**

## **AGC Administration Team Agenda – April 25<sup>th</sup>, 2025**

### **Attendee List:**

Chris Tams  
Quinn Golden  
Brandon Dulley  
Derek Compton  
Chris Christopher  
Phil Wallace  
Reggie Wageman  
Mike Briggs  
Mark Scoccolo  
Paul Gonseth  
John Salinas II  
Corey Christensen  
Patricia Crane  
Tim Hayner  
Connie Raezer  
Jackie Bayne  
Tom Brasch  
Jon Deffenbacher  
Shane Spahr  
Nicole Brockwell  
Tim Hayner  
Amy Amos  
Kyle McKeon  
Daniel Kuney  
Earl Key

### **Meeting Summary**

The meeting took place on April 25, 2025, at 9:00 AM in the Fabulich Conference Room, with some attendees joining online. The AGC Lead team, represented by Brandon from AGC and Chris Christopher from WSDOT, is visiting various AGC communities to assess their overall health and discuss priorities.

A key discussion point was the state budget and funding. Clarity on the budget was expected soon, possibly impacting the next biennium (2025-2027). A potential revenue bill involving a 6 cent gas tax increase was mentioned, which would be dedicated to transportation unless changes occur with the 18th Amendment. Uncertainty exists regarding Governor Ferguson's willingness to sign such a revenue bill. Current projects are categorized based on funding: some are advertised and awarded normally (green), others are advertised but delayed until July 1st or later (yellow), and some require legislative approval (blue). There is concern about a large number of

projects being stacked at the end of the current biennium, creating pressure to get them through the bidding, awarding, and execution process despite process limitations.

The topic of Disadvantaged Business Enterprise (DBE) goals was discussed. Earl (online) announced the decision to scrap the idea of setting goals based on specific NAICS codes due to a lack of resources and the fact that the disparity study did not contemplate small businesses. Jackie Bayne mentioned that an FAA disparity study is currently underway, and the state is contemplating its own, but these studies are not done back-to-back. The FAA study will reach out to contractors on relevant projects and likely stakeholder organizations like AGC. Contractors voiced concerns about high DBE goals (around 20-21%) and the limited availability and lack of competition among DBE subcontractors, especially for specialty work. Once a DBE percentage is set and hits the street, it is extremely difficult to change, and the compressed timeline for project openings exacerbates this issue. The process for setting goals involves WSDOT's Office of Equal Opportunity and Civil Rights (OECR) using DMCs based on bid items and NAICS codes, with potential geographic modifications. The broadness of NAICS codes was highlighted as an issue, lumping together diverse work types and potentially inflating availability perceptions. There was a discussion about potentially exploring a model similar to California, which uses aspirational goals and incorporates Good Faith Efforts (GFEs) more routinely.

Railroad flagging is undergoing significant change, with Class 1 railroads (BNSF, Union Pacific) moving to third-party flaggers. WSDOT will no longer pay railroads directly for flagging costs; it will now become a bid item for contractors to include in their bids. Contractors will need to contact approved third-party flaggers for quotes. This transition is expected to be challenging and possibly painful for about a year, as third-party providers are still ramping up staffing in Washington. Contractors expressed concerns about difficulty obtaining timely quotes from flaggers, high costs (\$1200-\$1500/day plus expenses), lack of options, and inability to manage the flaggers, as they are at the whim of the railroad. The suggestion was made that force account might be a better method to handle the inherent uncertainty and lack of contractor control. WSDOT's perspective is that lump sum or per day bid items incentivize contractors to manage the flagging schedule, while a force account removes this incentive.

An update was provided on the Request to Sublet process moving into Unifier. This change requires all subcontracts to be submitted through Unifier as an attachment to the request to sublet, addressing the previous challenge of ensuring all subcontracts were submitted to OECR. The new process is intended to allow OECR to review subcontracts without delaying the approval for work to begin, as project engineers will primarily check for the required information and the attached subcontract. A challenge noted by contractors is the time-consuming manual data entry required in Unifier for listing bid items, especially on projects with many items like landscaping.

The 1-04.5 committee, focused on consolidating and making consistent contract dates, times, and periods, is being reinvigorated with the goal of meeting within the next 60 days.

The ongoing issue of tariffs and potential compensation was discussed. WSDOT's position remains that they are not participating in compensation directly tied to tariffs. The possibility of

adding other commodity indices (like for cement, plastics, timber) to contracts, similar to the existing steel index, was raised to mitigate some price volatility that might be influenced by tariffs or other market conditions. However, finding reliable indices applicable to the local area is a challenge. There is legal interpretation that tariffs are not considered a direct tax, making WSDOT not responsible for compensating them. The difficulty in consistently and fairly linking tariff increases to specific bid items due to other market factors was also highlighted.

A new concern was raised regarding a recent interpretation, potentially coming through Nina, affecting DBE participation credit for commercially sold products. In a City of Tacoma federally funded project, the interpretation was made that the cost of commercially available concrete purchased by a DBE subcontractor from a producer could not be counted towards DBE participation. This is seen as a significant departure from 50 years of practice and creates an unequal bidding environment. The interpretation appears to be handled on a per-project basis for now.

The meeting concluded with scheduling the next meeting for May 30th. Budget information from the WAPA mid-year meeting will be shared after May 9th.

#### Action Items

Based on the discussion, the following action items were identified:

- Jackie Bayne is requested to ask Michael to ensure this group is informed about the first community meeting for the FAA disparity study [11, 13:44].
- Jackie Bayne will reach out to stakeholder organizations regarding the FAA disparity study [12:44, 12:55].
- Kyle McKean will share the spec package over FHWA once approved and update the bulletin [12:42, 12:47].
- John and Keith will work together to determine the right contracting method for railroad flagging (per day, lump sum, or potentially force account) [56:14, 57:00].
- John and Chris will look at establishing a minimum bid value for railroad flagging to help level the playing field [48:42].
- Chris will talk to the Unifier team to explore the possibility of copy-paste or importing data from Excel/CSV for request to sublet data entry [54:50].
- Chris will obtain and share the checklist that OECR uses for reviewing subcontracts [55:58, 56:17].
- Mark, Brett Hill, and Mike will determine the point person for the 104.5 committee and share that information with Chris and the team [57:33].
- The determined point person or Chris's team (Shelley) will coordinate schedules and set up the 104.5 committee meeting within the next 60 days [57:47]. The list of willing participants from the last meeting is needed [57:47].
- Monitoring of tariffs and other indices will continue, potentially tabling widespread changes for now, but remaining open to proposals for new indices [63:02, 63:57].
- Earl and Jackie will be circled back with regarding the interpretation concerning commercially sold products counting towards DBE participation and the letter from AGC/WAPA [68:36, 68:42].

- The next meeting is scheduled for **May 30th** [69:51].
- Chris will send out the special provisions (GSPs) related to the Unifier request to sublet process [70:18, 70:28].
- Chris will share the budget information/project list presentation from the WAPA mid-year meeting after May 9th [70:04, 70:24].

## AGC Administration Team Agenda – April 25<sup>th</sup>, 2025

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Amy Amos  
Kyle McKeon  
Mike Briggs  
Jackie Bayne  
Earl Key  
Mark Scoccolo  
Nicole Brockwell  
CJ Handforth

### Meeting Summary: AGC Admin Team Meeting – May 30<sup>th</sup>, 2025

The meeting covered several critical updates and discussions relevant to WSDOT's operations and contractor relations.

Key topics included:

- **Budget Update and Project Timelines:** Chris Tams provided an update on the approved budget and schedules.
  - New indexed gas and diesel taxes begin July 1st, intended to adjust with inflation.
  - Specific major projects like North Spokane Corridor and Puget Sound Gateway received funding.
  - Other projects, like the SR18 over the top design-build job, were canceled and pushed out significantly (at least six years, potentially mid-2030s) due to legislative decisions. The Carbon River bridge replacement also lacks funding.
  - A significant amount of fish passage funding (an additional \$1.1 billion) was allocated, but primarily in future biennia (27-29 and 29-31), with only \$120 million in the 25-27 biennium.
  - **All preservation money for the 2025-2027 biennium has been front-loaded into the current construction season (summer 2025).** This means there will be

**almost no paving money available in the summer of 2026.** An additional 475,000 tons of preservation work were advanced.

- Concerns were raised by industry about WSDOT's capacity to manage the high volume of projects starting simultaneously in summer 2025.
- WSDOT is currently under a **hiring freeze and a consultant amendment freeze**, limiting their ability to increase staff (like Project Engineers) or use GECs. Retirements, particularly before the end of June due to state rules, further impact workforce capacity, causing lags in backfilling positions.
- WSDOT acknowledges the unusual situation and is instructing Project Engineers to **carefully review project schedules** to avoid wasting preservation funds by paving at unsuitable times (e.g., October). Contractors are encouraged to discuss scheduling concerns with PEs.
- WSDOT facilities are consolidating, with lease money only available for two floors of the headquarters building starting in 2026, reinforcing the expectation of remote work.
- Work zone speeding fines will change effective July 1, 2026, removing the "get out of jail free ticket" for the first offense. Mobile speed cameras are funded separately and are primarily for vendor-managed enforcement when active work is happening.
- **DBE Program and Small Business Goals:** Earl Key and Jackie Bayne provided an update on the potential future of the DBE program.
  - Due to ongoing legal challenges, including the *Federica Milling versus USDA* case, the **federal government is essentially agreeing that the DBE program, as it currently uses a presumption of disadvantage based on race and gender, is unconstitutional.**
  - A nationwide injunction is anticipated, leading to the likely end of the DBE program in its current form. NAMAC has intervened in the court case.
  - The program is expected to transition to a race-neutral basis. **WSDOT has an existing Federal Small Business Enterprise (FSBE) program that is race-neutral**, certifying firms based on gross receipts under \$30 million.
  - WSDOT's position is that existing contracts with DBE goals could be changed to FSBE goals via change order, as every DBE is also an FSBE. Industry representatives expressed concern about the impact on DBE subcontractors who rely on these goals.
  - The state currently has a mandatory small business program for state-funded projects, capped at 5% based on an agreement with AGC, contingent on the federal DBE program being mandatory. If the federal DBE program becomes voluntary or goes away, **the state's ability to set mandatory small business goals could increase up to 20%** on state-funded projects.
  - A disparity study would no longer be needed for race/gender-neutral programs.
  - New state small business categories have been introduced: Emerging (E) for firms with \$3 million or less in gross receipts, Rising (R) for firms with \$10 million or less, and Small (S) for firms with \$30 million or less (the existing category). Contracts will typically have only one of these goals.



- There was discussion about the capacity of contractors within these new categories and the criteria for setting goals. OMWBE data shows 80% of certified firms make \$3 million or less, and over 90% make \$10 million or less.
  - State-funded jobs will likely continue to have set-aside requirements (conditions of award) through the state's small business program.
- **Pre-Estimate and Payment Timeliness:** Guidance on timely processing of estimates and payments to meet the 20-day requirement is included in the 2025 construction manual.
- **Digital/Printed Plans and Specs:** Discussion occurred regarding contractors still receiving paper copies of plans at bid time even when requesting digital, and the associated costs. The possibility of increasing the price for printed sets or changing the process for awarded/approved plans was mentioned.
- **Sick Leave and Prevailed Wages:** It was noted that sick leave is prevailed for some but not all labor classes. The standard specification language adding 2% universally is causing issues. A change to the spec is planned to add the 2% only if sick leave is *not* prevailed for a specific trade.
- **ASCE Assignments:** Retirements, particularly before July 1st, impact WSDOT staffing, causing delays in backfilling positions due to the hiring freeze. Interim assignments for ASCEs were shared.
- **Bidder Questionnaire Proposed Changes:** Local Programs has proposed changes to the bidder questionnaire based on FHWA guidance that would allow minor changes after bids are opened. This proposal is being circulated for comments.
- **Scheduling Fall Meetings:** Dates were set for fall and winter meetings.

#### **Action Items:**

- **Chris Tams** to send out the Spec for the Bidder Questionnaire proposed changes, his budget presentation (slide show), the ASCE office assignments chart, and an updated project list spreadsheet via email to close out the year. This information is requested quickly for contractor planning decisions.
- **Chris Tams** to look into why contractors are still receiving paper sets of plans at bid time when they checked the box indicating they did not want them digitally.
- **WSDOT (Trish Crane/Chris Tams)** to change the standard specification language for sick leave and prevailed wages to add the 2% only if sick leave is not prevailed for a specific trade.
- **Earl Key and Chris Tams** to discuss setting up a smaller workgroup meeting with AGC representatives (potentially in person) to discuss the criteria for setting emerging/rising/small state program goals.
- **Jackie Bayne** to provide the exact language for the emerging and rising programs.
- **AGC Representatives (e.g., Dave De Haunt, Phil, Brian Kelly)** to review the information provided by Earl Key and Jackie Bayne before the smaller workgroup meeting on state goals.
- **Chris Tams** to work with Earl Key on coordinating the smaller workgroup meeting.