

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 28th

[illegible]

AGC Admin Team Minutes – February 28th, 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*
 - *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*

- 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 28th, 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 25th, 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 – May 30th, 2025

Attendee List:

Chris Tams
Brian Whitehouse
Jay Byrd
Reggie Wageman
Phil Wallace
Mike Hall
Corey Christensen
Quinn Golden
Trish Crane
Devanta T. Black
Shane Spahr
Arti O'Brien
Brice Cobean
Amy Amos
Kyle McKeon
Mike Briggs
Jackie Bayne
Earl Key
Mark Scoccolo
Nicole Brockwell
CJ Handforth

Meeting Summary: AGC Admin Team Meeting – May 30th, 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.

AGC Administration Team Agenda – April 25th, 2025

Attendee List:

Chris Tams
Brian Whitehouse
Jay Byrd
Reggie Wageman
Phil Wallace
Mike Hall
Corey Christensen
Quinn Golden
Trish Crane
Devanta T. Black
Shane Spahr
Arti O'Brien
Brice Cobean
Amy Amos
Kyle McKeon
Mike Briggs
Jackie Bayne
Earl Key
Mark Scoccolo
Nicole Brockwell
CJ Handforth

Meeting Summary: AGC Admin Team Meeting – May 30th, 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.

AGC Administration Team Agenda – September 26th, 2025

Attendee List:

Chris Tams
Kyle McKeon
Mark Scoccolo
Devanta T. Black
Mike Briggs
Shane Spahr
Brice Cobean
Tim Hayner
Amy Amos
Earl Key
Daniel Kuney
Aubrey Collier
Trish Crane
Josh Taylor
Reggie Wageman
Mike Hall
Artie O'Brien
Phil Wallace
Corey Christensen
Dan Kuney
Derek Compton
CJ Handforth
Quinn Golden

This summary and list of action items are drawn directly from the meeting transcript of the AGC/WSDOT Administration Team Meeting held on September 26, 2025.

Meeting Summary

I. WSDOT Organization and Staffing

Chris Tams, the Lead Construction Engineer, presented the new Headquarters Table of Organization. New ASE team members joining on October 15th include **Megan Mosebar** (from Mount Baker) and **Pete Corley** (from the east side). There are two upcoming

retirements: Dan McKernan (by the end of the year) and Jim Cuthbertson (by the end of May). The organization will add a Construction Administration Manager, a policy position responsible for manuals, updates, and claims management, while Chris Tams will take the alternative delivery lead position.

Regarding the AGC Admin Team, Brian Whitehouse will transition back to the Olympic region by the end of November, and **Megan Mosebar will join the committee** to help run it.

II. Governor's Executive Orders: PLA and ER Goals

The discussion covered the Governor's executive order requiring a **Project Labor Agreement (PLA)** on state-funded projects over \$35 million (based on the Engineer's estimate). WSDOT is developing policy around PLA implementation, considering options such as execution between award/execution, or post-execution. AGC is strongly advocating for a **universal PLA agreement**.

Projects exceeding \$50 million and state-funded also meet the criteria for **Emerging and Rising (ER) small business goals**. Earl Key (OMWBE) confirmed that Angela Berry Roberson is facilitating discussions to arrange a meeting on these goals, hoping for October, but possibly November. Since projects are bidding in October and November, there is an urgency to set goals. Earl suggested that if necessary, they would temporarily apply the existing small business goals (5% small business and no higher than 2% veteran-owned) until the ER goals are fully decided.

A major concern raised by the AGC is the impact of PLAs on **small business and disadvantaged business enterprises (DBEs)** who are often non-union, fearing that signing labor agreements could crush them financially. Earl requested the paper detailing these concerns that the AGC sent to the Governor's office.

III. Budget, Scheduling, and Risk

Concerns were raised regarding the **accuracy of the advanced schedule of contract list**. WSDOT anticipates advertising approximately **\$170 million in preservation work** that will include a special provision stating that the contracts are pending legislative funding, repeating a process from the previous year. Contractors expressed that this practice negatively impacts the industry, particularly DBE subcontractors who struggle with capacity issues. Contractors had previously sought to postpone or delay the start of certain projects but were immediately denied.

IV. Dispute Resolution and Process Improvements

The Partnering Committee is working on developing a process for **informal Dispute Review Board (DRB) sessions**. This approach aims to resolve issues quicker, especially for

smaller jobs that might not typically utilize a full DRB. The plan is to include guidance on informal DRBs in the contract specifications and a more robust guide in the Construction Manual.

Regarding **C1 agreements** needed for railroad property access, contractors proposed changing the contract specifications to allow for the **suspension of working days** if the agreement is on the critical path, as the contractor has little control over the timeline.

V. Buy America Requirements Update

The term "Build America, Buy America" has been simplified to strictly "**Buy America**". A significant upcoming change is the expiration of the waiver on manufactured products, effective **October 1st** (the following week).

- **Manufactured Products:** Jobs advertised after October 1st must meet the Made in the US requirement. Between October 1, 2024, and October 1, 2025, the product only needs to be put together in the US.
- **Content Threshold:** Effective October 1, 2025, at least **55% of the components** in manufactured products must be made in America.
- **Exemptions:** Projects under \$500,000 and those covered by the *de minimis* waiver (5% or \$1 million, whichever is less) are exempted.
- **Carve-outs:** Precast concrete products (steel components) and steel/iron-based ITS cabinets must continue to meet the more stringent Buy America requirements.

VI. Timely Payments and Local Agency Conduct

Contractors reported experiencing significant **late payments from local agencies**, sometimes up to 60 days behind, despite clear contract specifications. The current interest penalty (1%) is seen as too low to act as a deterrent. WSDOT noted that paying interest is difficult because it cannot come from project funds and must be paid from a separate source (like a regional administrator's discretionary fund).

Contractors are also encountering issues with agencies refusing to issue **progress payments** for substantially complete work, particularly on unit price or lump sum items, insisting on zero payment until the work is 100% complete. Amy Amos and other WSDOT staff suggested this behavior is often tied to the **lack of experience and training** among agency workforce. Aubrey Collier (APWA) committed to using APWA trainings to address prompt pay laws and practices.

VII. Night Work Safety and WSP Utilization

Contractors expressed severe concerns over the safety and mental health impact of mandatory **nighttime work**, noting a limited and shrinking workforce due to high risks (e.g., drunk driving incidents). The lack of WSDOT utilization of **Washington State Patrol (WSP) or Uniform Patrol Officers (UPO)** for safety emphasis patrols and traffic control was a major frustration, despite resources and policy supporting their use. Contractors feel the visible presence of blue lights significantly improves safety and reduces speeds.

VIII. Other Issues

- **GEC Consultants:** Contractors expressed growing frustration with General Engineering Consultant (GEC) staff, describing some relationships as "just shy of toxic" due to consultants' poor performance, unwillingness to escalate issues, and overall lack of understanding of WSDOT processes.
- **Bidder's Questionnaire:** FHWA approved a 48-hour correction period for minor errors on the questionnaire, which WSDOT expects to implement in October.
- **Liquidated Damages (LDs):** Concerns were raised about the transparency and calculation of extremely high liquidated damages (up to \$262,500 every 15 minutes), arguing such severe penalties could incentivize unsafe work practices.
- **Paving Deadlines:** WSDOT is strongly discouraging asphalt paving after October 1st, as cold temperatures prevent necessary secondary compaction, potentially jeopardizing the pavement's lifecycle.

Action Items

| Topic | Action Item |
|------------------------|---|
| Logistics/Organization | Chris Tams will finalize and send out the meeting minutes. |
| Logistics/Organization | Chris Tams will send out the new WSDOT Table of Organization chart. |

| | |
|----------------------------|--|
| PLA/ER Goals | Chris Tams will send out the list of jobs potentially subject to PLA and ER goals. |
| PLA/ER Goals | Jerry (or Chris Tams) will see if the paper sent to the governor's office regarding PLA concerns can be sent to Earl Key. |
| PLA/ER Goals | Mike Hall will call Earl Key to flush out the issue of substituting DBE subcontractors (by moving to SBE/veteran-owned specs) and ensure this is put on the agenda for the next meeting. |
| Railroad Agreements | Chris Tams will tee up a conversation with Pete Corley and Connie regarding C1 agreements and spec changes to suspend working days when the agreement is on the critical path. |
| Buy America | Chris Tams will send out the Buy America slideshow presentation. |
| Buy America | WSDOT will produce a new Manufacturer Cert form for jobs advertised after October 1st. |
| Timely Payments | Aubrey Collier (APWA) will bring up prompt pay laws and payment concerns as a topic for upcoming APWA trainings or the Cake Committee. |
| Timely Payments | Kyle McKeon will weave the topic of timely payments into his Fall Conference presentation. |
| Work Zone Safety | Chris Tams will work with the work zone committees to see if there are other options to address safety concerns and issues related to nighttime work. |
| WSP Utilization | WSDOT is working internally to correct implementation issues regarding the use of State Patrol (WSP) in regions where policy is not being utilized as envisioned. |

PCPR

Chris Tams acknowledges the outstanding Prime Contractor Performance Report (PCPR) owed to Dan Kuney.

Next Agenda

Liquidated damages (LDs) calculation transparency (especially on 15-minute increments) will be added to the next agenda; Chris Tams will try to bring in TDO (Traffic Data Office).

Next Agenda

The topic of working days and contract time constraints will be added to the next agenda.

Paving

WSDOT will take a hard look at end-of-year paving to determine whether delaying work until the next season is appropriate to ensure pavement quality.

Attendees

Chris Tams
Tim Hayner
Kyle McKeon
Josh Taylor
Amy Amos
Trish Crane
John Salinas II
Brian Whitehouse
Daniel Kuney
Mike Briggs
Nicole Brockwell
Tom Brasch
Earl Key
Jon Deffenbacher
Phil. Wallace
CJ Handforth

CJ Handforth
Derek Compton
Mark Scoccolo
Jon Deffenbacher
Corey Christensen
Brice Cobean
Reggie Wageman
Megan Mosebar
Shane Spahr

This summary reflects the key discussions and decisions from the AGC/WSDOT Administration Team Meeting held on October 24, 2025.

Meeting Summary

The meeting began with introductions from WSDOT staff, construction company representatives, and agency partners. Chris Tams, WSDOT Lead Construction Engineer for Administration, reminded attendees that the meeting was being transcribed for minute preparation.

DBE Program, IFR, and FSBE Implementation

The primary discussion centered on the implementation of the Interim Final Rule (IFR) and its impact on the Disadvantaged Business Enterprise (DBE) program, led by Earl Key (WSDOT).

IFR/FAQ Analysis: Earl Key noted that the federal government (USDOT/FHWA) recently issued a new FAQ on the IFR implementation. He has sent this FAQ to the Attorney General's (AG) office for analysis to confirm if WSDOT's current position complies with the IFR. WSDOT's FSBE (Federal Small Business Enterprise) program is unique because it is already race-neutral, which may limit the applicability of the new FAQ.

Status of Goals:

- **Existing Contracts:** Any contract already let or signed with a DBE goal remains currently enforceable. The existing DBE goals are staying in place until WSDOT hears

differently from FHWA. However, the goal credit will not count toward WSDOT's overall agency goal.

- **Future Contracts:** All contracts going forward will have an FSBE goal. Projects currently "on AD" (on advertisement) have been addressed through new specifications or addendum processes to switch them to FSBE goals.

FSBE Program Details:

- The FSBE program is race-neutral and economic-based, requiring firms to earn **\$30 million or less** over a three-year period in gross receipts. The decision for WSDOT moving forward is whether to stick with the FSBE program, revert to the DBE program under a new race-neutral certification, or have a combination of the two.
- DBE methodology is currently used to set FSBE goals, assuming that the 18.9% overall goal derived from the disparity study represents the minimum available availability (floor) for the FSBE program, as all DBEs meet the FSBE size standard.
- FSBE goals are **mandatory contract goals, but are not a condition of award** at the time of bid.
- The remedies for not meeting an FSBE goal are similar to DBE (good faith effort analysis), but the FSBE program has a "much bigger hammer," allowing sanctions up to **1% of the total contract value**.
- The FSBE program also includes a **personal net worth restriction** (currently \$2.047 million, excluding primary residence and the applicant business).

Certification and Recertification:

- Firms currently certified as DBEs must come back in and complete an essay to qualify under the social disadvantage component for recertification; they do not need to repeat the full economic questions.
- White male-owned firms that meet the size standard (under \$30 million in gross receipts) are highly encouraged to start the FSBE certification process immediately, which typically has a target time of **up to 90 days** by OMWBE (Office of Minority and Women's Business Enterprises).
- To find compliant FSBE firms, the OMWBE website requires users to select both SBE (Small Business Enterprise) and DBE lists, as DBEs are by nature FSBEs.

Project Labor Agreements (PLA) Implementation

Discussion covered the requirement for PLAs on state-funded projects of **\$35 million and greater**, stemming from a Governor's executive order.

WSDOT's Proposed Process: WSDOT is currently proposing that the contractor **negotiate the PLA post-award, pre-execution** of the contract.

- Contractors would have **45 days** (with one potential 20-day extension) to get the PLA in order.

- If the contractor fails to secure a PLA within 65 days, the bid would be found non-responsive, and WSDOT would likely go to the second low bidder.

Contractor Concerns: Industry representatives voiced strong concerns about this timing model, arguing that negotiating a PLA post-award adds significant risk because bidders must price the job without knowing the final labor agreements. Concerns were raised that the process gives unions leverage to delay agreements and potentially switch the contract to the next low bidder. An alternative suggestion was to allow contract execution immediately, but delay the start of working days until the PLA is complete, potentially using an allowance to manage associated costs.

The required PLA terms, driven by the executive order, include a guarantee against strikes/lockouts, a binding procedure for dispute resolution, and established employment terms.

Informal DRB Process

WSDOT is finalizing a provision for an informal Dispute Review Board (DRB) process, intended to resolve issues at the lowest level between the project engineer and the contractor. This process would be initiated by **mutual agreement** of the parties.

- It utilizes a one-page position paper and brief presentations.
- The board is expected to give an opinion before leaving the building.
- The written opinion is **not admissible** in further disputes or claims.
- Matters of legal interpretation are ineligible. WSDOT is considering including this informal DRB process on all jobs.

E-Construction and Future Work

WSDOT provided an update on E-Construction, noting that all paving jobs utilized the E-ticketing spec this past season. Changes were made to discontinue counting revolutions for concrete acceptance. The Force account process and estimating software (previously eBase) are now fully integrated into UNIFIER. WSDOT expects the full transition away from the mainframe accounting system (TRAINS) this year.

Upcoming topics for future discussion and implementation include:

- Finalizing the modification of the Design Build Prime Contractor Performance Report (removing the form from the WAC).
- Implementing **PWSBE Rising (≤\$3M) and Emerging (≤\$10M) goals**, likely starting with the North Spokane Freeway project.
- Future topics suggested by the group include tariff issues, interest on late payments for local programs, and State Patrol usage in work zones.

Action Item List

| Action Item | Responsible Party / Details | Source Citation |
|---|---|------------------------|
| Distribute IFR/DBE FAQ | Chris Tams (WSDOT) is to send out the email containing the new FHWA FAQ on IFR implementation that Earl Key received, so folks do not have to search for it. | |
| AG Review of IFR Compliance | Earl Key (WSDOT) to receive feedback from the AG's office regarding whether the new FAQ comports with WSDOT's current implementation of the IFR. | |
| Schedule Outreach/Listening Session (DBE) | Earl Key (WSDOT) will schedule another listening session with OMWBE regarding the IFR implementation and certification process, aiming for the next week or two, using a platform that holds more than 500 attendees. | |
| Decision on "Bidder Questionnaire" | Earl Key and Chris Tams (WSDOT) will touch base (later that day or Monday) to discuss stopping the requirement for the "Bidder Questionnaire" related to DBE status, as requested by Tim Hayner. Kyle McKeon requested to be part of this discussion. | |
| Distribute FSBE Flyer | Earl Key (WSDOT) will ensure Chris Tams receives the one-page flyer explaining the FSBE program, for distribution to AGC members. | |
| Organize PLA Meeting with AGC | Chris Tams (WSDOT) is to work on setting up a meeting with AGC to discuss the PLA implementation process. | |
| Finalize Informal DRB Spec | John Deffenbacher (WSDOT) needs to send out the 95% complete informal DRB spec for review and comment. | |
| Modify Design Build Performance Report | WSDOT is currently taking comments on the proposed modification (removing the form from the WAC) to the Design Build Prime Contractor Performance Report for the next 2-3 weeks. | |
| Develop Future Topic List | Chris Tams (WSDOT) will add PLA and FSBE to the list of topics for WSDOT/AGC to focus on for the 2026 timeframe, and requested the group send him additional focus areas via email. | |
| Develop Policy/Spec for State Patrol in Work Zones | WSDOT is in the process of modifying the policy and developing a spec to align with industry, WSDOT, and State Patrol expectations regarding trooper usage in work zones. | |

Attendees

| | Name | | | Name | |
|----------|---------|--------------|----------|--------|------------|
| Attended | First | Last | Attended | First | Last |
| X | Amy | Amos | X | C.J. | Handforth |
| X | Jackie | Bayne | X | Tim | Hayner |
| | Devanta | Black | | Earl | Key |
| X | Tom | Brasch | X | Dan | Kuney |
| X | Mike | Briggs | | Dan | Lewis |
| X | Nicole | Brockwell | | Gary | Martindale |
| | Corey | Christensen | X | Kyle | McKeon |
| X | Brice | Cobean | X | Megan | Mosebar |
| X | Derek | Compton | X | Arti | O'Brien |
| | Trish | Crane | | John | Salinas II |
| X | Jeff | Deal | X | Mark | Scoccolo |
| | Jon | Deffenbacher | | Shane | Spahr |
| X | Quinn | Golden | X | Chris | Tams |
| X | Paul | Gonseth | X | Josh | Taylor |
| X | Mike | Hall | X | Reggie | Wageman |

AGCWSDOT Administration Team Meeting – November 21, 2025

This meeting was held on November 21, 2025, starting at 9:00 AM. The primary focus areas included the ongoing transition of small business programs, emergency contracting procedures, and administrative consistency issues.

Meeting Summary

1. Federal Small Business Enterprise (FSBE) Program Transition

- **IFR Consistency:** WSDOT met with the Federal Highway Administration (FHWA), who agreed that the **FSBE program is consistent with the intent of the Interim Final Rule (IFR)** regarding the federal small business enterprise program.
- **Program Continuity:** WSDOT intends to continue moving from DBE (Disadvantaged Business Enterprise) to FSBE. There is a desire to keep the FSBE program rather than switching back to DBE, even if the DBE program is stood back up, to avoid bouncing between programs.
- **Certification:** The process to restart the DBE certification (or the new designation, "DBE neutral") will begin shortly, pending an update to the shared IT system used by WSDOT and OMWBE (Office of Minority Women's Business Enterprises).
- **Personal Statements:** WSDOT is **not currently accepting personal statements** from certified firms as they lack a way to collect them and a consistent evaluation method.
- **Local Agency Goals:** Federally funded local agency jobs awarded and executed before September 30th have DBE goals, but jobs after September 30th have no DBE goals. A few jobs awarded around October 3rd are having their DBE goals zeroed out.

- **FSBE Goal Structure:** FSBE is **not a condition of award program**. The goal is established but the contractor must meet it throughout the duration of the contract, not necessarily at the time of bid. This structure was implemented following negotiations with contractors. The FSBE criteria includes **\$30 million in average gross receipts** and a few million dollars in personal net worth, excluding primary residency.

2. Handling Existing DBE Contracts (Design-Build)

- **Design-Build Contracts:** WSDOT is meeting with FHWA the week after Thanksgiving to determine how to handle current design-build contracts that have mandatory DBE goals.
- **Proposed Approach:** WSDOT intends to **switch the goals over to FSBE** to finish out the contracts. Contractors would receive cumulative credit for everything done under the DBE program up to September 30th, and then add FSBE participation moving forward, aiming to meet the original contractual percentage goal.
- **Commitments vs. Goals:** Existing commitments (dollar amounts) to DBE firms that were submitted at the time of bid must still be maintained, even though participation may not count toward the overall project goal after September 30th.

3. Rising and Emerging Business Goals

- **North Spokane Corridor (NSC):** The NSC project, a large state-funded project, has a **Rising Business Goal**. The goal is less than or equal to 5%.
- **Legislative Mandate:** Projects over \$50 million must be evaluated for these new certifications/designations (Emerging Business – \$3 million or less gross receipts; Rising Business – \$10 million or less gross receipts).
- **Capacity Concern:** Chris Tams expressed concern that focusing only on Rising/Emerging businesses **eliminates the opportunity for small business contractors** (those with \$10 million to \$30 million gross receipts) to participate in large projects, reducing overall capacity.

4. Emergency Contracting and Contract Provisions

- **Urgency/Expectation:** The Governor's office has placed extreme pressure on WSDOT, with the expectation that emergency contracts will involve people **working 24/7** until the project is open.
- **Bullfrog Bridge:** Following the bridge strike, WSDOT issued an emergency solicited bid contract (sent to seven contractors) with a one-week turnaround. The contract opens today and WSDOT plans to award it by 10:00 PM tonight.
- **Contract Language:** WSDOT was mandated to include language in the description of work (for Paul Gonseth's contract) stating that the work is *anticipated* to be 24/7, even though standard contracts do not mandate 24/7 work.
- **Reviews/LADs:** Permit/drawing review times were shortened to five days. Liquidated Damages (LADs) were estimated at \$10,000 per day.

5. Apprenticeship Good Faith Efforts (GFEs)

- **Goal:** The apprenticeship goal is mandated by law at **15%** for contracts over \$2 million.
- **Consistency Review:** WSDOT is increasing scrutiny of GFEs to ensure consistency across Project Engineer (PE) offices, which currently handle GFE approval.
- **Documentation:** GFEs under 10% utilization will be reviewed by documentation staff to ensure adequate good faith effort attempts are documented. Contractors are warned that those failing to meet the goal or provide adequate documentation may receive strike letters, potentially leading to conditional prequalification.

6. Administrative Updates

- **Contractor Claims:** A contractor raised a recent issue where a local agency denied a request for equitable adjustment for omitted scope (power connections) because the contractor **did not point out the hole in the scope prior to bid**. CJ Handforth advised citing the **Spearin doctrine**, which clarifies that the contractor is not responsible for errors or omissions in the plans.
- **State Program Mediation:** A mediator has been retained, and a meeting is scheduled for the first week of December to begin negotiating the state program goals and the promise of "nothing above 5%". Further stakeholder conversations are expected in January.
- **PLAs:** Two large projects, **Yelm Loop and North-South Corridor**, will have Project Labor Agreements (PLAs).
- **Non-Conformance Reports (NCRs):** The NCR process, standardized in the 2024 specifications, is the WSDOT management tool intended to address non-conforming work and provide transparency (like a punch list) throughout the project.
- **State Patrol Usage:** WSDOT is revising its policy to allow for the **passive use** (sitting with blue lights on) of State Patrol, as the current policy technically prohibits this widespread practice.
- **Preservation Funding:** The Governor's budget, expected in December, is anticipated to include a floor of **\$170 million for preservation**, covering about 25 jobs.

Action Item List

| Responsible Party | Action Item | Source Citation |
|----------------------|---|-----------------|
| WSDOT (Jackie Bayne) | Keep attendees updated on further conversations regarding the transition from the DBE to the FSBE program. | |
| WSDOT (Chris Tams) | Share the updated information regarding certified firms' ability to submit personal statements. | |
| WSDOT (Kyle McKeon) | Send out the flyer/information on how to search for certified FSBE firms. | |
| WSDOT | Hold meeting with FHWA the week after Thanksgiving to finalize the approach for existing design-build contracts with DBE goals. | |

| | |
|--------------------|--|
| WSDOT (Chris Tams) | Send out the AI-generated video summarizing the meeting. |
| WSDOT | Hold initial conversation with the consultant/mediator (first week of December) regarding the state program 5% goal cap. |
| WSDOT (Chris Tams) | Send out the Issue Escalation Chart for WSDOT regions and mega programs. |
| WSDOT (Chris Tams) | Send out the ASCE chart detailing headquarters construction responsibilities. |
| Mike/WSDOT | Ensure the subcontractor markup/trade stacking issue is added to the agenda for the next meeting. |
| WSDOT (Chris Tams) | Set the remaining meeting dates for the following year during the January meeting. |