

## Construction Contract Administration Workgroup (CCAW)

### Agenda – **MINUTES**

March 23, 2023 – 9:00-11:00 AM

HF SOB S141 / Microsoft TEAMS

**Attendees: X = attended**

FHWA	WisDOT	Contractor
X Nicholas Perna (TEAMS)	X Brandon Lamers (co-chair)	X Matt Grove (co-chair)
	X Michael Hoelker (TEAMS)	X Debbie Schwerman
<b>GUESTS</b>	X Chad Hayes	X Kevin McMullen
X Jackie Spoor	X Kristin VanHout (TEAMS)	X Jake David
	X Jed Peters (TEAMS)	X JR Ramthun (TEAMS)

#### 1. Review of Action items from November 10, 2022 CCAW meeting (Brandon)



20221110 CCAW  
MINUTES\_FINAL.pdf

- **RETAINAGE (ACTION):** WisDOT will evaluate internal options and bring back to future CCAW meeting
  - WisDOT BPD has continued outreach to internal and external construction staff
    - Monthly Design Construction meetings, Spring Construction Training, CE Conf
- **RETAINAGE (ACTION):** Industry to ask members for direct project examples - funnel responses through Matt - then communicate to Brandon
  - Updates from CCAW members:
    - JR: recent example where \$1.2M has been withheld since October
      - Per JR, withholding was for grading –
        - Brandon said BPD will look into but need some more background (can we get project specifics)
    - Krissy – should be included on weekly meeting agenda’s
    - Kevin – look at the business side – materials and workers need to be paid
    - Matt – how attractive is our work if we aren’t paying promptly
    - Krissy – WisDOT e-finals initiative – can use tentative intermediate postings
- **TIMELY PAYMENT OF CCO: (ACTION):** Brandon – review 90% example from Krissy. Discuss with BPD Construction Oversight – determine if additional training for PL staff is necessary
  - BPD Construction Oversight will remind staff of 109.6.3.1 (2)
  - Krissy shared an example CCO template NER utilizes



PaymentForPen...

- **FUEL COST ADJUSTMENT:**
  - (ACTION 1): Beth asked industry to put a group together that can provide info to Jill's proposal management group.
    - Status of industry group? -- No group yet.

- **(ACTION 2):** Matt asked for WisDOT to consider spec updates to be modeled after Minnesota's spec.
  - Beth Cannestra previously coordinated with CMSC (UW). CMSC has reviewed MAASTO States, and paid close attention to MnDOTs spec.
  - CMSC will share information with Brandon, potentially as early as next month.
    - Kevin – what is the concept? Expansion of items for inclusion?
    - Matt – add other items?
    - Brandon – provided high level update
      - Only review of earthwork at this time
      - Will look at potential of expanding CMSC scope after review earthwork information
- **SCHEDULE RESTRICTIONS:**
  - **(ACTION 1):** WisDOT will continue to have further discussion of inclusion of cold weather paving (internal and discussions with industry)
  - **(ACTION 2):** Brandon to work with Matt on reconvening the project restriction work group
- **DISTRESSED MILLING (HMA AND PCC TOPICS IN GENERAL)**
  - Deb – Industry has not been allowed to bring topics (i.e. Distressed Milling) to the tech team meetings. **(ACTION):** Brandon will work with Erik Lyngdal (BTS) to determine a better way to address items
    - BPD (Brandon) and BTS (Erik) continue to have an open dialog regarding tech team topics and contract administration topics. Tech teams will allow industry to submit topics for inclusion at future tech team meetings. Brandon was informed that this has been communicated to industry tech team co-chairs by BTS (Erik)
      - Deb – small group in HMA - milling (C&G concerns)
        - Transition to distressed milling
        - Good group to continue
- **BASE PATCHING (ACTION):** WisDOT discuss internally CY for material (PCC) placed and SY removal
  - WisDOT had internal discussions and drafted preliminary DRAFT language. See agenda topic for today's meeting below
- **IRI RIDE COMMITTEE (ACTION):** Brandon to follow-up with Erik Lyngdal about including appropriate BPD and PDS staff when reconvening the IRI Ride Group. Brandon communicates back at next CCAW meeting
  - WisDOT has reconvened the IRI Ride Group. The 1st meeting of the revitalized team met on December 21, 2023. Deb Bischoff (BTS) is the committee chair. Contact Deb or Erik (Lyngdal) with questions
    - Kevin and Deb – group is to reconvene and address longer term items
    - Kevin some really good discussions already with the group, but more to be done
- **SECTION 108.10.2 – EXCUSABLE, NON-COMPENSABLE DELAY (ACTION):** Matt will elevate to ARTPA - work at a national level
  - Brandon – group [previously “agreed to disagree”
  - Matt – spoke with ARTPA
    - Industry will keep working with ARTPA
      - Matt – problem isn't going away
        - Electrical items – 24months
          - Industry has gone as far as building in LDs into bid
          - Matt – department has consistently responded to industry that there is always a “supplier somewhere else”
  - JR said material availability is very risky at bid time
    - Cement is always a concern

- Kevin – Type 1 cement
  - GCC cement – calls from Wisconsin DOT to send type 1 to WI
  - AREMA – update coming in April – type 1L cement issue should be gone
  - Cement supply for 2023 – favorable data for 2023 regarding cement supply
    - Kevin can share the info
- **Disconnect from approved product list and standard spec 101.2 (2) (ACTION): Brandon to coordinate with Erik - APL dates and updates related to time of bidding**
  - Agenda Topic today – see below for additional discussion

## 2. Updated 2023 CCAW Charter (Brandon)



CCA W Team  
Charter 2023\_updat

- WisDOT Staffing updates:
  - Beth Cannestra is no longer the BPD Deputy Director (Michael Hoelker is serving as both BPD Director Roles until a replacement is hired for the Director position)
  - Jill Fehrman retired yesterday (3/22/23). WisDOT actively working to back-fill Jill Proposal Management Section Chief Position.
- WAPA – Deb – in next month
  - Update Charter to Jackie
- WCPA – Kevin and Jackie switching roles

## 3. Partial Acceptance (Matt)

- Matt stated there is risk of damage from the traveling public when a contractor is done in an area
  - Contractor has limited to no control
    - Why install anything twice
      - How do we ensure work is protected
      - Matt state that for many years partial acceptance was granted when work was opened to traffic
- Jackie mentioned issues with curb damage after opened to traffic has been an area of inconsistency
  - Krissy stated that contractors should have ancillary crack spec protection
- JR stated that partial acceptance has been with-held because traffic was not the final configuration.
  - Stated it should be granted when open to traffic
- Matt referenced bridge contractors being withheld partial acceptance until the bridge is complete
  - Concerned about what happens when bridge open (not final configuration) and car damages parapet
- Matt asked WisDOT to look at Standard Spec 107
  - Is it the contractor's fault or not?
  - Contractor has no control over 3<sup>rd</sup> party causing damage
- Brandon will share marked up copy (previously proposed)
  - BPD (Lamers and Oversight Engineers still reviewing language)
    - Attached as separate file

- Matt state that this gets resolved at the project level in most cases, but is still a big issue
  - If WisDOT wants to maximize pricing and interest on projects...Don't make the contractor do the work twice
- Kevin stated that issues seem to be on big projects – temp work: pavement/stages
  - On smaller projects can be an issue with cracked curb driveway sidewalk
- Kevin said snowplow operations on projects has always been an issue

#### 4. Winter Shutdown (Matt)

- Brandon will share the proposed marked up copy of the proposed language.
  - Attached as separate file

#### 5. Base Patching (Matt)

- JR said that the concrete should be paid by the ticket
- Brandon said the challenge with item payment may be agreement on measurement
- A lot of good conversation by the group as a whole
- Kevin stated a better job scoping these projects is needed
  - Pre-work with coring would help
  - Better use of as-builts
  - Brandon and Michael stated the department has had challenges getting availability of coring rigs
  - Deb indicated that there are more coring rigs on industry/consulting side
  - Michael said the department recently put out a coring solicitation for contracting 5 firms' however, only got back 3 interested firms
- Brandon will work with BPD oversight engineers to develop a proposed draft spec update during the Summer CCAW Meeting (Date TBD)
  - Proposed language will include revisions to allow for CY payment of concrete material placed.

#### 6. Contractor Prequalification Ratings (Matt)

- BPD Proposal Management believes the current process does accurately reflect contractor capacity. However, WisDOT does acknowledge that Surety companies do look at things utilizing different criteria. The corporate landscape continues to be ever changing with mergers, demergers, and sales of assets; and WisDOT is in the process of reviewing our prequalification process. Although the resolution will not be immediate changes are being considered.
  - CMSC (UW – Steve Krebs and Gary Whited) are looking at what is being done in neighboring (MAASTO) states. Mike Staude (OBOEC) has also been working with OGC to develop a clear definition of when companies are completely separate and would be considered a subcontractor. This could impact the 30% Prime Contractor participation
- Matt would like to bring in members from a surety company
  - Would like to talk about the process
  - Explain why the process is done
  - There is a financial component but there is a subjective component included
    - Where does the subjective component come in?

- Concern from industry when there is a subjective component and how it impacts prequalification
- Michael said we may not have the capacity of the department (Jill Gone and Beth no longer part of the team)
- Matt stated the biggest issue is the need to maximize industry capacity

#### 7. Section 101.2 & Approved Products Lists (Kevin)

- Kevin is concerned that we are making it more difficult to do work in WI
- What is the purpose of the APL
  - Is it working for or against us
- Brandon shared information from BTS (based on communication with BTS Chief Materials Engineer – Erik Lyngdal)
  - BTS does not recommend specification changes to 101.2, however there are two exceptions –
    - Erosion control and
    - Cement.

✓ Both of these programs have moved or are moving to NTPEP
- Post meeting updates from BTS.
  - BTS is leading an APL Automation project. This project aims to make it easier and clearer for suppliers to get on APL. Conformance requirements will not change, and outdated specifications may be updated for clarity. It is the department’s goal to keep APL update timelines in line with the standard specification publication process.
  - BTS does not endorse removal of the APL for the following reasons:
    - Reduction in administration burden to the project staff. Project staff do not have the same level of materials engineering background as BTS. Maintaining an APL helps reduce the burden of tracking materials.
    - APLs provide a way for the department to test materials on a program level instead of a project level. BTS can work directly with material suppliers instead of the prime contractor.
    - Creates a level playing field for contractors – contractors will have access to the same suppliers at the time of letting.
  - BTS will consider exceptions to the rule. i.e., consider removing some APLs if they are not necessary.
  - Any Changes to APLs will be handled through the relevant materials technical team – concrete, HMA, or Aggregate.

#### 8. Permitting projects – ROW to ROW – Access to Materials (Jake)

- Jake stated that industry is concerned about access to the project. How address when not identified or permitted in the plan
  - Right-of-way access how is it addressed
- Brandon stated that WisDOT is providing guidance to regions and working with FHWA to help clarify current guidance. Brandon referenced the Standard Spec and CMM:
  - WisDOT Standard Specification 107.9 (2) Contractor’s Use of Highway Right-of-Way: <https://wisconsin.gov/rdwy/stndspec/ss-01-07.pdf>
  - WisDOT CMM 230.6 Access Control: <https://wisconsin.gov/rdwy/cmm/cm-02-30.pdf>

9. 2024 Standard Spec Updates – Part 1 Updates (Brandon) – NOT discussed due to time. Brandon informed the group that part 1 updates would be added to the notes.

- **Revise 101.3** to add floor to definitions for bridge structural component.
  - <https://wisdot.box.com/s/y8rubsjtd0xjfr96jnzvnlkd2xeqsl8s>
- **Update 105.13** for claims process to add that the dispute review board recommendation is not binding on either party.
  - <https://wisdot.box.com/s/qgr24aw8onaerlc0vdfzv25wrkrzpow5>
- **Revise 106.3.4.1** to add information and link to WisDOT’s Manual of Test Procedures (MOTP) that includes WisDOT’s modified test and test procedures. Global change throughout 2024 Standard Specification changing testing references from ASTM or AASHTO to WisDOT’s WTM test methods found in the Manual of Test Procedures (MOTP).
  - <https://wisdot.box.com/s/fxopg50svzvxa97cmgb8k6coz0c3jf>
- **Add 109.1.4.3** to provide option for electronic load tickets.
  - <https://wisdot.box.com/s/ashwo3m7se9w4spfa1om1vnl0ir0519b>

#### 10. Other/Additional Topics (All)

- JR had to leave just prior to the meeting ending; however, wanted to mention concerns with “Timely Award of Projects” (award after Letting)
  - Matt, Kevin, and Deb all mentioned that delayed awards are a huge concern.
    - Impacts contractor quotes. Shorter and shorter timeline for quotes
  - Railroad continues to cause issues.
  - Utilities are an issue – not moved or not moved correctly