

Construction Contract Administration Workgroup (CCAW)

Agenda – MINUTES

August 17, 2023 – 9:00-11:00 AM

HF SOB S141 / Microsoft TEAMS

Attendees:

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

1. Minutes from March 23, 2023 meeting and 2023 CCAW Charter



20230323 CCAW CCAW Team Charter
MINUTES_FINAL.pdf 2023_updated 08.14.2

- Action items from March 23, 2023 CCAW meeting (*each of these items will be covered on today's August 2023 agenda*):
 - *Partial Acceptance*
 - *Winter Shutdown*
 - *Base Patching*

2. Contract Changes (Standard Spec 104.2) and Contractor Notification (Standard Spec 104.3)

- Brandon introduced the topic of contract changes and contractor notification
 - BPD (Lamers) has observed inconsistencies from both WisDOT and contracting industry
 - Historically documentation has not been done well
 - Krissy stressed communication and documentation are important and can be improved
 - Addressed a WisDOT construction trainings
- Matt – industry led down a path where there won't or likely will not be an issue, only to have an issue later (staff changes or management decision changes)
- Chad – expressed concerns that contractors may not convey an issue at the time of the work/change; however, they come back later with a request for additional payment
- Matt – contractor responsibility to notify, but department has the responsibility to respond timely
 - Krissy – that is the process identified in the spec (104.2 /104.3)
- Krissy – SS104 puts WisDOT on a timeline too
- General discussion by the group:
 - Training for all parties
 - There seems to be a disconnect between department staff and contractor and the need for real time data to support the CCO
 - All agreed ultimately both department and industry want the same thing...fair and timely decisions on contract changes.

3. Safety

- PPE Requirements

- Brandon kicked off the topic
 - Project safety starts at the most basic level – personal protective equipment (PPE)
 - WisDOT Work Zone safety provided an update to statewide staff recently of issues observed during the 2023 construction season related to improper or non-existent PPE
 - We need to work together to ensure safety of workers and traveling public
 - Brandon shared example of a situation in SER that warranted a letter from the WisDOT PM to the Prime Contractor to address a situation where proper PPE was not observed on a repeated basis.
 - In the example shared, the contractor promptly responded.
 - It was noted that it should not come to a formal letter, rather both parties need to work together to ensure each other's safety
- Jackie – agreed to approach of notifying contractors and allowing them the opportunity to quickly address the issue with their staff or their subcontractors.
- Matt asked for flyer – makes it easier in the field
 - Krissy – BTO had a slide that was shared
 - Brandon and Michael – BPD can work with BTO to develop and share a safety flyer
 - Matt - a one pager will be good to handout and share with contractors
 - A one pager would help to communicate expectations and provide consistency.
- JR – address right away – safety is top on everyone's list
 - See something say something – keep each other safe
- Jackie will share what WCPA
 - Jackie and Debbie will stress with their respective trade organizations
- JR – asked Matt and Brandon to add safety to the 2024 CE conference agenda
 - All agreed
- **ACTION:**
 - **BPD to work with BTO on a safety expectations one-pagers**
 - **WTBA and WisDOT to include safety as a topic for the 2024 CE Conference**

- Traffic Control Devices

- Bid Items in contracts; however, not consistently paid on a closed roadway
- Matt – inconsistencies between regions
 - Nowhere does the plan or spec say it's the contractor's responsibility to provide traffic control at their own cost – ON CLOSED roadway
 - Contract says to provide device or protect
 - Inconsistency in MQs
 - The TC device use is for protection of the traveling public – pay for the items
 - Matt – pay for the work that is done
- JR – engineers say you have to protect your own work
 - Krissy – said in the spec to protect their own work
 - Krissy – becomes an issue with designers

- Krissy – 104 states but does not completely address
 - JR – if items in the contract, then should be paid
 - Matt – may be the issue where more devices than needed. Do we need to go through the process to direct?
- Chad – challenge is to identify what is necessary vs what is convenient
- JR – engineer won't pay to protect base patching or holes
 - Brandon asked if the issue is there are items in contract, but closed road and contractor is protecting hazard and no pay?
 - JR - Yep – no pay – spec says protect your work
 - JR – some will pay some will not
- Krissy – she has seen inconsistencies in region and even within projects
- Matt – when it comes down to it. If there is work, then we should pay for
 - Would the engineer direct staff to remove the item
 - Traffic control contractor expects that any drum brought to the contract
 - Krissy mentioned the Traffic Control Each item on contracts
- Matt – write spec in a way to provide the proper devices
 - LS is not as effective to get the appropriate devices
 - Same as environmental (ECIP) BMPs
 - Be prescriptive on payment
- JR – issue for large work zones
- JR – phrase to protect the public
 - Chad – need some discussion on what is convenient and what is necessary
 - Jackie – sometimes easier is also safer
 - Chad – long stretches with one lane at night with local traffic make unsafe
 - Chad referenced HWY 21 in NCR – Pulverize and relay with 3 lifts of HMA
- Brandon referenced the TC2 meeting (traffic control committee) – this will be an agenda topic

4. Base Patching – Proposed Revised Standard Spec Language



ss-03-90_CCAW
DRAFT_2023-08-14.c

- Base Patching, method of measurement, has been discussed at the past two CCAW meetings.
 - Industry has requested that that the method of measurement for concrete base patching to be changed from SY to CY.
 - An action item from the March 2023 CCAW meeting was for BPD to draft potential changes to Standard Specification 390 Base Patching.
 - The attached word document was shared on August 17th with the CCAW members.
- Brandon stated that an updates Standard Specification 390 could be implemented as ASP-6 effective with November 2023 LETs – if agreement within the next couple of weeks. WisDOT has a deadline of mid-September for ASP-6 updates.
- The group discussed the method of measurement. Changing from SY to CY
 - Jackie, Matt, and JR recommended paying by load tickets (CY)

- There was not support, at this time, from WisDOT CCAW members about paying by the ticket.
- There was general agreement by both WisDOT and Industry members to revise the method of measurement from the bottom of the (adjacent) pavement to the top of the patch
 - Other suggested options were to measure 3 locations or measure at the center of the patch
 - If there is a need to “over excavate,” payment would be paid similar to EBS
 - Unnecessary over excavation will not be measured or paid for under the Base Patching item.
- Jed noted that August PS&E plans would need to be addressed, as quantities were based on SY measurement & payment.
- **ACTION:** Matt (WTBA) will work with Jackie (WCPA) on review and recommended edits to the proposed spec on behalf of industry.
- **ACTION:** Brandon and the CCAW members will review WisDOT and industry recommended edits.
- **ACTION:** Complete and agree to edits by September 15th and sent to FHWA for review/approval and then to BPD Proposal Management for incorporation into November proposals.
- **ACTION:** Outreach to WisDOT and Industry at:
 - WisDOT Design-Construction Teleconferences
 - WisDOT PDS Chief Meetings
 - WisDOT 2024 Construction Trainings
 - WCPA 2024 Annual Meeting
 - WTBA-WisDOT 2024 CE Conference
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5. Partial Acceptance – Proposed Revised CMM Language



2023-05-26_WTBA_P
artial Acceptance_C1

- The attached word document was shared on August 17th with the CCAW members.
- Partial Acceptance has been discussed at multiple CCAW meetings dating back to early 2022.
 - Industry has requested updates to CMM 250.1 to address concerns they have related to damage to completed work that is out of their control.
- There was discussion amongst the group regarding what constitutes “a logical section”
 - Discussion that if work has been completed and it now carries traffic, it should be considered operational, and consideration given to granting partial acceptance.
- JR – he has concerns with inconsistencies on how items are paid and when partial acceptance is granted.
 - JR stated that he has been told by project engineers that all items needed to be complete for a section to be considered fully operational.
- Several members asked what the definition of “sufficient length” and “logical termini” meant.
 - An action item from the March 2023 CCAW meeting was for BPD to draft potential changes to Standard Specification 390 Base Patching.
 - The attached word document was shared on August 17th with the CCAW members.
- **ACTION:** All CCAW members should review and recommend edits.
- **ACTION:** Complete and agree to edits Mid-October and send to FHWA for review/approval.

6. Winter Shutdown – Proposed Revised Standard Spec Language



2023-05-26_Winter
Suspension_DRAFT_

- Winter Shut down, has been discussed at multiple CCAW meetings dating back to early 2022.
 - An action item from the March 2023 CCAW meeting was for BPD to draft potential changes to Standard Specifications to address Winter Suspension for completion date contracts.
 - The attached word document was shared on August 17th with the CCAW members.
- Brandon stated that updates to Standard Specification 108 could be implemented as ASP-6 effective with November 2023 LETs – if agreement within the next couple of weeks. WisDOT has a deadline of mid-September for ASP-6 updates.
- NOTE: Winter Suspension updates are not intended to address overall project scheduling. Updates are to provide clarification to both department and industry on how winter suspension will be administered for completion date contracts.
- **ACTION:** Matt (WTBA) will review and recommended edits to the proposed spec on behalf of industry.
- **ACTION:** Brandon and the CCAW members will review WisDOT and industry recommended edits.
- **ACTION:** Complete and agree to edits by September 15th and sent to FHWA for review/approval and then to BPD Proposal Management for incorporation into November proposals.
- NOTE: an outreach plan will be similar to what was suggested for Base Patching in Item No.4 above.

7. Landscaping – Seed growth and 70% Rule

- Topic brought forward by industry (Matt-WTBA)
- Matt stated there is a lot of inconsistency in application of the 70% rule for final landscaping (seed) approval.
- Matt stated there isn't clear guidance related to 70%.
 - Cannot expect contractors to perform work twice.
- WisDOT stated that BTS and BHM are working on seed spec updates for the 2025 spec
- Brandon acknowledged there is inconsistencies with WisDOT and WDNR application of the 70% rule.
- Brandon mentioned that the seed spec may not be followed by industry and may not be administered consistently. Stated there are issues with seed water, water is required as part of the seed spec (see spec language below):
 - Seed Watering (ss 630.3.6)
 - *630.3.6 Watering*
 - *(1) If rainfall is not sufficient, keep seeded areas thoroughly moist. Once the seed has germinated, do not let the top inch of soil dry out until the grass is well established. Maintain soil moisture for 30 days unless the engineer directs or allows otherwise. Apply water in a manner that precludes washing or erosion.*
- Krissy stated that project teams can direct staff via the erosion control order form if contractors are not watering per the spec.

- Krissy asked why the department should pay for re-seeding if seed was not initially watered properly.
- JR noted that there are some sub-contractors that do not quote the water item, so watering falls to the Prime Contractor.
- Matt and Brandon agreed there should be further discussion on this topic.
 - **ACTION:** Matt will work with Brandon to set-up a small subcommittee/group to discuss this issue further.

8. E-Ticketing (included with 2024 Standard Spec)



ss-01-09_2024
Spec_Electronic Load

- [Wisconsin Industry e-ticketing meeting PPT 03/23](#)
- E-Ticketing (electronic ticketing) is included in the 2024 Standard Spec (see word doc above).
 - E-ticketing allows an e-ticket as a substitute for printed tickets
- WisDOT has had meetings with Vendors and industry members
 - Vendors met with are: Haul Hub and Astec
 - NOTE: WisDOT met with Ozinga on 8/25/23 (meeting after CCAW meeting; however, prior to publication of minutes).
- WisDOT has received good feedback from industry and Vendors
- WisDOT has received and acknowledged concerns expressed by industry related to the following:
 - Aggressive tentative rollout by WisDOT
 - Real time ticket data – industry asked what the benefit is
 - Connectivity in remote areas
 - Software (and related costs) required for E-ticketing
 - Trucking, specifically smaller leased trucks
 - How does the Prime / Subcontractor outfit leased trucks?
 - Move to E-ticketing (as a requirement) could limit smaller aggregate suppliers
 - JR expressed concern that new pit/quarry locations are hard to find and get permitted. Potentially limiting existing suppliers with e-ticketing could have a negative impact for the industry.
 - WisDOT will consider changes to implementation plan. Possible rollout options could be:
 - Pilot Projects in 2024
 - Expansion to larger projects and/or larger permanent facilities in 2025
 - Full implementation (with exceptions) in 2026
 - NOTE: additional discussion is required between the department and industry prior to finalizing partial and full implementation.
- Brandon mentioned that there are contractors using this year.
- Jed mentioned that there is current e-ticketing use and requests in NCR region.
- **ACTION:** Additional outreach with industry
 - WisDOT speaking at WAPA Conference (November 28-29th 2023)
 - Consider e-ticketing topic for the WTBA-WisDOT CE Conference (January 18-19th 2024)
 - Consider e-ticketing topic for WCPA Conference in February 2024

9. Buy America

- Several updates the last two weeks related to BABA:
 - Manufactured Products
 - OMB Final Guidance
 - De Minimis Costs and Small Grants
- Buy America (BABA) is determined and directed out of the White House Office of Mgt & Budget
- Proposed final guidance Build/Buy America will be discussed with Federal Agencies in September
- WisDOT BTS Materials team is actively reviewing the proposed language in the Code of Federal Regulations (CFR).
 - BPD will coordinate with BTS
 - Once changes are noticed by FHWA, WisDOT will need to update BABA in the CMM
- De Minimis Costs update:
 - Lesser of 5% of the project or \$1M
 - Should help w/ components of products
- Josh Pachniak (FHWA) stated that FHWA will have more to share after their meeting with FHWA Headquarters
- Brandon is attending the AASHTO Committee on Construction Annual meeting in mid-September. BABA will be an agenda topic. FHWA HQ will have staff in attendance.
- WisDOT will be reconvening the Buy America Sub-Committee in September

10. Fall 2023 CCAW Meeting Date (TBD)

- Group agreed on November 16, 2023 @ 8:30-11:00am

11. 2024 Contractor-Engineer (CE) Conference

- January 18-19th 2024
 - Matt said that breakout sessions will be back for 2024
 - Anticipating 6-8 different sessions