

Construction Contract Administration Workgroup (CCAW)

Agenda - Meeting Notes

November 14, 2024 – 9:00 AM – 11:00 AM

HF SOB S140 / Microsoft TEAMS

Attendees:

FHWA	WisDOT	Contractor
Nick Perna	Brian Boothby (co-chair) (in-person)	Matt Grove (co-chair) (in-person)
Benjie Hayek	Brandon Lamers (in-person)	Debbie Schwerman (in-person)
James Pforr (in-person)	Chad Hayes (virtual)	Jackie Spoor (in-person)
Josh Pachniak (virtual)	Kristin VanHout (virtual)	Jake David (virtual)
GUESTS	Jed Peters (virtual)	JR Ramthun (virtual)
Michael Hoelker (virtual)		

1. Minutes from August 20, 2024, meeting and 2024 CCAW Charter



20240820 CCAW
MINUTES_FINAL.pdf

CCAW Team Charter
2024_FINAL_03.28.20

2. Liquidated Damages and Substantial Completion (WisDOT Update)

- Brian – BPD’s plan is to spread awareness and train region staff for consistency on implementation of liquidated damages. BPD oversight engineers will present on this item at region trainings in spring of 2025.
- Matt – Not necessarily a huge problem this year, but attitude of liquidated damages has changed over time, especially on local program projects. Minor items should have flexibility to not meet substantial completion.
- Brandon – We’ve changed partial acceptance for openings to traffic but substantial completion language has not been changed.
- Brian – It would be challenging to take some items out of the substantial completion requirement. How would project choose the items? The intent is that all items are complete for substantial completion.
- Krissy – In some cases, contractors don’t provide sufficient information or timely information to extend completion dates.
- Brandon – Substantially complete is all work. Project teams have tried to work with contractors to open to traffic and shut off time. It’s been mostly working. Agreements aren’t being made during project sometimes when they should be. LDs are not a penalty. LDs are for oversight costs. Both sides can do a better job to work together throughout the project.
- Jake – Some contractors don’t want to fill out paperwork. But some engineers are aggressively using LDs as a hammer.
- JR – A few engineers are using LDs as a threat since routine retainage went away.
- Matt – Contractors are concerned of having LDs on their record. Historically, it’s been pretty fair but recently industry does not believe it’s fair with how they are being charged. Contractors are contending that schedules are being submitted but not being accepted by project staff. Contractors have to accelerate and hope they get done. Incentives should be considered as well.

- Brandon – LDs are not disincentives. Interim LDs are based on road user costs and values in the contract are significantly lower than actual road user costs. There have been some instances of not working together but that's few and far between. There needs to be communication and partnership on projects with clear requests by contractors.
- JR – Agrees with majority of the discussion but project teams should stop threatening LDs.
- Matt – How do we improve communication?
- Brian – Partnering meetings can be beneficial. They are used on large projects but can be implemented on smaller projects if needed.
- Matt – Charging LDs when they are more cost than the lost of engineering costs is challenging. Good weather the last couple of years has helped, but communication is lacking.
- **ACTION: BPD to improve awareness and training through region construction trainings.**

3. Material Testing and Non-Conformance Credits (Industry/WisDOT)

- Brian – Materials Subcommittee Members: Brian Boothby (BPD), Julie Slota (BPD), Erik Lyngdal or MK (BTS), Linette Rizo (BTS), Travis Maatta (NER), Isabelle Holcomb (SER), Matt Grove (WTBA), Debbie Schwerman (WAPA), Jackie Spoor (WCPA), Zach Dittberner (Michels), James Pforr (FHWA), Benjie Hayek (FHWA)
- Brian – Goal of this subcommittee is to increase understanding of all parties. If recommendations come out of the subcommittee, the recommendations will go to the BTS tech teams for review/implementation and an update will be provided at CCAW.
- Brandon – The biggest challenge is the subjective credits in the CMM and that should be looked at.
- Matt – Non-performance is usually the issue. From industry's perspective, penalties seem to be 10 times what is reasonable.
- James – If we don't have a test for material, it should be a 100% credit. WisDOT is taking a risk by having less credit than 100%.
- Matt – The costs are getting too high where testers don't want to take the risk of the work. And there is a reluctance of additional testing to prove material is good.
- Brandon – This is another area where better communication is needed by both sides to ensure we aren't missing tests.
- Matt – industry sees a lack of accountability from project teams. It all comes back to the contractor.
- Brandon – We need to look for solutions as the project is ongoing. Education is needed on both sides. Some contractors are habitually late or losing tests.
- James – We want consistency and not subjectivity. Credits have to be more than the cost of a failing test.
- Matt – A lot of time, it's bad documentation. Risks are huge for testers and suppliers. Penalties are just too high.
- James – We have to justify the quality of material.
- **ACTION: Brian to coordinate first subcommittee meeting. The timeline goal is to have an update by the next CCAW meeting.**

4. Shuttle Service (Industry)

- Matt – Designers are still being told to use the shuttle service item. Industry doesn't want this item in contracts. Not aware of this being used in other states. If it's needed, should be a separate contract with a consultant and not the contractor.
- Brandon – Asked Jed and Krissy if this is still being used on new projects.

- Jed – One project has had this item since the last CCAW meeting; US 45 which is 2025 construction. We need to meet ADA requirements while trying to be reasonable.
- Krissy – Aware of four contracts that have had this item. Upcoming 41 projects may also have it. This has been coming from BTO.
- Matt – Are grants available for this work? If it has to be done, can consultants do it?
- Jackie – Guidance usually talks about bus loading zones for this, not anything else.
- Jed – It has to do with existing facilities and ensuring temporary accommodations for short-term and long-term impacts.
- JR – It's a liability issue for industry.
- Jackie – Has anyone check Prowag for standards?
- Brandon – BTO has had talks with ADA and bike ped staff. We'll need to check in with them.
- **ACTION: BPD to discuss with BTO and DTSD AO and then update the group.**

5. Standard Spec 104.6.1.2.4 (WisDOT)

- Brian – Drop-off and Hazard Protection Subcommittee Members: Brian Boothby (BPD), Wayne Chase (BPD), Andy Heidtke (BTO), Joe Schneider (BTO), Josh Falk (NER), Stephanie Leraneth (SER), Matt Grove (WTBA), Josh Wade (Contractor), Tom Burch (Contractor), JR Ramthun (Michels), Jackie Spoor (WCPA), Benjie Hayek (FHWA)
- **ACTION: Brian to coordinate first subcommittee meeting. The timeline goal is to have an update by the next CCAW meeting.**

6. ASP-6 and UAS language (WisDOT)



asp-6.pdf

- Brian – UAS/drone spec language has been added via ASP-6 to ensure our projects are compliant with federal regulations and state statutes.
- Matt – Haven't heard any feedback or issues with this new language.
- Brandon – Consultant guidance on this topic will be coming in the near future.

7. Claim Meeting Guidelines (WisDOT)



Claim Review
Procedures 2024.pdf

- Brian – Claim guidelines have been updated; mostly the same as previous with some small revisions and clarifications. Clarified that PowerPoint presentations are optional, not required. Also clarified language of in-person versus virtual claim meetings. If one party requests in-person, the claim will be in-person.
- Brandon – We also identified that people involved with the project should be involved with the claim and making sure we know who is all attending. As a heads up as well, scheduling could be somewhat challenging in the short term with the Bureau Deputy Administrator position being vacant and the Region Deputy Administrator covering claims currently.

8. Additional Topics (All)

- None

9. Next Meeting – 2025 schedule

Proposed Dates: Thursday March 20; Thursday August 21; Thursday November 20

- **ACTION: Brian to send invitations for 2025 meetings.**