

GC/CM Committee

Meeting Summary February 25, 2020 (Meeting #12)

1. **Chair Middleton called the meeting to order at 10:10 a.m. A quorum was established.**
2. **Administrative**
 - a. Introductions
 - i. Committee members in attendance, including by phone: Nick Datz (Owners), Scott Middleton (Specialty Contractors), Rebecca Keith (Cities), Todd Mitchell (Construction Trades Labor), Penny Koal (DES), Santosh Kuruvilla (Engineers), Shannon Gustine (General Contractors), Janice Zahn (Ports), Traci Rogstad (Schools), Sam Miller (Architects)
 - ii. Stakeholders in attendance, including by phone: John Cross (General Contractors), Andy Thompson (General Contractors), Howard Hillinger (Owners Representative), Mike Pelliteri (General Contractors), Olivia Yang (Owners), Keith Michel (General Contractors), Kelly Peterson (Specialty Contractors), Kyle Schierbeck (Specialty Contractors)
 - iii. Special guests, including by phone: Ed Kommers (Specialty Contractors), Karen Mooseker May (CPARB rep for School Districts)
 - b. Approval of Feb. 11, 2020 meeting summary – M/S/P to approve meeting summary. The committee approved the notes with the following edits:
 - i. Move John Palewicz to Committee (Private Industry)
 - ii. 4.a.1. Chair Datz led meeting.
3. **GC/CM Procurement and Procedures**
 - a. Review Committee Timeline. The meeting timeline moving forward, as discussed, is as follows:
 - i. Mar. 10, 2020 at MCAWW, 10 a.m. to 1 p.m. – The committee discussed extended the Mar. 10 meeting at MCAWW from 8:30 a.m. to 1 p.m.
 - ii. Mar. 24, 2020 at MCAWW, 10 a.m. to 1 p.m. – This meeting will be a joint meeting with the Reauthorization Committee where we will make our recommendations to the Reauthorization Committee for consideration. The meeting will be held at MCAWW.
 - iii. There is a possibility we may need to meet between the Mar. 10 and Mar. 24 meetings to prepare for the Mar. 24. We'll see how far we get during the Mar. 10 meeting.
4. **Review MCAWW Legislative Proposals and Possible Action.** Today the group reviewed a series of proposals provided by MCAWW. Ed Kommers reviewed the proposals and shared which proposals he would like to discuss further and the proposals that do not require further discussion. Ed also shared the proposals in the MCAWW's list of priority, which does not align with the numbers associated with each proposal as shown in the handout. The intent of this discussion today is to reach consensus on these proposals or discuss the proposals further until consensus may be reached.
 - a. MCAWW Proposal #2a---Interviews. Reference RCW 39.10.385(3).
 - i. Cities---There was never any agreement to adopt the best practices as legislative, so we need to decide what is a best practice and what we're looking at for legislative change. Process-wise, what is our full scope for today?
 1. Ed---We can go through all of the proposals and discuss which ones are up for discussion and others that don't need further discussion. The numbers do not indicate the priority and we are reviewing these proposals in MCAWW's view of priority.
 - ii. General Contractors---"Provide a list of core questions" is not how we determine a firm's qualifications and suggests that these questions have more weight than intended.
 1. Owner---Questions come out of the evaluation of the SOQ's and give us specific information or clarity we're looking for in the interview. If we have a core set of question, we'll provide those ahead of the interviews.

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2. MCAWW---There are multiple questions, the core questions you'll ask subcontractors, the questions that pertain to their SOQ's, and questions that come up during the interview. We're proposing that the general contractors provide some clarity and guidance about the interviews during the hearing. The intent is to provide clarity on scoring, both in how it's done, and how a firm scored after the fact.
 3. General Contractor---Suggest we list "providing core questions" as a best practice, rather than a legislative mandate.
 4. MCAWW---"Core questions" is not the key here, it's transparency. This can be revised.
- iii. General Contractors---"Interviews shall be evaluated and scored as part of the written proposal" limits the ability to convey if an interviewee did well in the interview but poorly in the written proposal or vice versa.
 1. MCAWW---Noted and can be revised.
 - iv. General Contractors---Our focus to date has been to promote fairness and transparency and I'm not sure that is the purpose of this proposal.
 1. MCAWW---We agree that the interview should be scored separately from the other criteria. This is a two-step process, (1) proposal and (2) pricing process. Interviews have become another part of the process but it is a tool to clarify the proposal process, not a separate scoring process. We can revise (ii) to clarify our intent.
 - v. Ports---"(i) Written evaluation of the interviews...upon request." There's some hesitation with sharing the written evaluations to outside parties. There is likely a good way to do this but needs further clarification.
 1. General Contractors---There are different ways to do this, Utah has a few good examples, particularly if you are trying to bring in new people who haven't been involved in the process.
 2. Public Owners---There are public documentation and disclosure requirements that we need to follow, so perhaps we can reference another RCW rather than address the need separately here.
 3. General Contractors---In the past we've been hesitant to reference other RCWs because it suggests that the current RCW isn't completely enforceable.
 - vi. Next step – Ed and Scott will revise.
- b. Proposal #7a---Authority to Use MCCM and ECCM
 - i. Owners---We should go back to first principles. For a public owner pursuing GCCM, if your work impacts the design or scope then there is a need to address it early. The ideal owner pursuing 39.10 understands the value of preconstruction. The purpose is to have the public entity to clarify and tell the PRC why they should be able to use alternative procurement. How do you propose to deliver the project?
 - ii. General Contractors---Sometimes it's difficult for the owner to convey early on that alternative procurement is the best option and why. Which is why the owners can and should rely on the contractors to help educate them.
 - iii. Architects---Some owners have the ability to use ECCM and MCCM early procurement but often these proposals make it more prescriptive, which makes it harder to pursue.
 - iv. MCAWW---Our goal is to make it fair, not to make GCCM more accessible and less prescriptive.
 - v. Specialty Contractors---Transparency is also one of our goals, which directly relates with the proposals we're discussing today.
 - vi. Schools---From a school's perspective, we want the best project delivery method that will work from a coordination/project schedule delivery standpoint, and from a budget view. I'm not in favor of the certification process. It's fine to request an owner to address their plans on why to use ECCM or MCCM. But I'm not in favor of creating a more prescriptive process.

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- vii. Owners---It's valid to ask the owner to demonstrate their knowledge of the alternative procurement process before they can proceed. Suggest:
 - 1. Elevate at the PRC application phase but keep it separate from another approval from PRC.
 - 2. If you're approving the owner to use GCCM, it's the same for ECCM and MCCM. They are getting approved for all, which is how it should be. Making that harder restricts benefit to the project and the public.
- viii. Cities---Having the approval process at PRC may reduce the requirements for clarity in the RCWs. Suggest we step back and take the temperature on each proposal so we can understand where we stand before we discuss every issue related to each proposal.
- ix. Owners---There's no requirement. PRC just wants you to demonstrate that you understand how to manage these projects. You can always ask for authority to pursue alternative procurement.
- x. Ports---The PRC process allows the owners to demonstrate their understanding of GCCM, MCCM, ECCM and if they don't demonstrate reasonable understanding they aren't necessarily going to be rejected.
- xi. General Contractors---Most owners do the PRC interviews before they even have their general contractor on board to help them make those decisions. Many owners start this process too late, which takes MCCM and ECCM off the table from the start. Anything that makes this process more difficult, restricts an owner's ability to even pursue those options.
- xii. Owners---Authority to use is not direction to use.
- xiii. General Contractors---Suggest the group reviews the PRC application process and requirements and make a proposal.
- xiv. Owner Rep---PRC has the ability to ask clarifying questions and agree that we should review the PRC application to see what can be clarified.
- xv. General Contractors---If there was a question about the use of heavy civil, would that allow enough information to assume or have some indication of whether the owner is headed in that direction for future discussion.
- xvi. MCAWW---This suggestion could work.
- xvii. General Contractors---This could impact all subcontractors. As a general contractor, I would prefer to be able to come back to the discussion later and revisit the MCCM later, rather than relying on the owner to know that up front and possibly making the wrong decision and being cut off from the discussion later. Owners should be encouraged to show what they need for the project up front, but not be cut off from being able to change that down the road once they have their general contractor on board and they've reevaluated their needs.
- xviii. Owners---If you look at the schedule, there's no ability to go back and reevaluate. You need to get the authority from PRC from the get-go.
- xix. Next step – Olivia will revise.
- c. Proposal #1---Public Hearing. Wherever the GCCM is going to publish their request for bids, that publication must also be used to post the notice for the public hearing. This resolves the issue with advertising the RFP and notification of public hearing occurring in two different publications.
 - i. One committee member suggested 7 business days, not 14, and several agreed.
 - ii. Owners---We need to notify both request for bids and public hearing in the same location.
 - iii. Public Owners---Would suggest we make advertising consistent across subcontractor methods; 14 days makes sense. Suggest rephrasing.
 - iv. General Contractors---7 days is a nice balance; agree that consistency across notification is necessary.
 - v. General Contractors---Some of proposal #1 could fall under best practices. Some owners provide documents early to gather feedback, but this is usually done when pursuing a new delivery method. This is a best practice, not a legislative mandate.

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When advertising, they are called something along the lines of pre-adverting; and often the result is a better RFP that has more clearly defined terms based on feedback from interested parties.

- vi. The group agreed to tentatively approve to change the days from 14 down to 7.
 - vii. Moving forward in the notes, the group agreed to check the temperature of all of the proposals before discussing approvals.
 - viii. Next step – Agreement on 7 days, Ed to finalize.
- d. Proposal #4---Written Final Determination. The purpose is to acknowledge the comments received and referral to material changes.
- i. General Contractors---I support this proposal because it requires follow up.
 - ii. Public Owners---I agree that if we are receiving comments, we should respond. However, are we opening ourselves up for protests?
 - iii. Cities---What does it mean to respond to public comments received during the hearing and public process? Also, what does “no material changes may be made to the RFP’s weights and criteria”?
 1. Specialty Contractors---Changes should not be made to the weights and criteria.
 - iv. General Contractors---I support this proposal except the “no material changes”, this would limit owner’s ability to update their documents, which should be updated.
 - v. Ports---Is this more about having owners take the time to explain why they made a change, especially after documents are meant to be final?
 1. MCAWW---This proposal is designed to prevent changes that promote a certain entity. Not to specify what is material, but to restrict the ability for a general contractor to convince an owner to change the documents to support their bid.
 - vi. General Contractors---What is the difference between “any modifications to the criteria” and “no material changes”?
 1. General Contractors---The first sentence is referring to comments; and the second sentence is referring to any changes.
 - vii. Next step – Ed and Scott to finalize.
- e. Proposal #10---Evaluation Factors. Expansion of Evaluation Factors proposal includes comments that are often made during the hearing and later adopted, which adds heft and detail to the evaluation to help find the best firm.
- i. Ports---How does this language compare to the GCCM selection language that we’ve been modifying in these meetings?
 1. MCAWW---This has been borrowed from the GCCM language.
 2. General Contractors---We’ve made changes to the GCCM language, which does not match what we have in this proposal.
 3. Owners---The language should be mirrored here.
 4. Ports---Also, once updated, update other references to refer to this updated language because it could change in the future and we want to only have to change one area.
 - ii. Cities---Prefer we not use “and/or” in statute. Is the intention that this project must be of similar size/scope/complexity?
 1. MCAWW---Without being overly prescriptive, the purpose of this change is to encourage the GCCM to evaluate and match the firm’s professional capacity on projects that match some of the criteria which may be size, scope, or complexity, but doesn’t prescribe all. Most electrical and mechanical firms are asked to provide a list of staff, which isn’t exclusively the intent of this evaluation. “And/or” gives flexibility to the firms.
 2. General Contractors---Remove “and” and just leave “or”, that would address the concern outlined above and would increase contractor participation.
 3. Owners---Owners are looking for pre-construction competency; is there an emphasis on E and M’s ability to do pre-con?

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4. Ports---We're looking for qualified firms who can demonstrate flexibility to work with owners during projects and not unintentionally limit firms due to word choice.
5. General Contractors---In addition to pre-construction, there are other values in the work that occurs after pre-construction.
6. General Contractors---Suggest adding a line in the proposal that encourages firms to provide information to demonstrate competency despite not meeting the requirements as stated.
- iii. Cities---Why delete "capacity to successfully compete the project"
 1. MCAWW---Duplicative.
- iv. General Contractors---Why delete "similar" projects?
 1. MCAWW---The intent was to encourage local work within Washington but had unintended consequences.
- v. Next step – Ed to adjust GCCM, compare to ECCM and MCCM.
- f. Proposal #6---Cumulative scoring. We've seen many different scoring processes but cumulative scoring is the desired process and this clarifies the scoring principles.
 - i. MCAWW---We object only to wasting time of entities that won't move forward. Regarding the scoring, some owners will wipe the slate clean for each part of the process, that's not what we want. The purpose is to minimize the fee.
 1. Ports---We do put out RFQs that have separate scoring, not cumulative scoring, but pricing is less than 20 percent of the total score, which is part of the intent here.
 - ii. MCAWW---The origination of this RCW is the owners didn't want a low-bid fee selection, so we created a qualifications process and still owners will select based on low-bid fee. This proposal builds in additional checks to avoid just low-bid fee selection.
 - iii. Next step – Ed and Scott to finalize.
- g. Proposal #11---Projects Description. We've seen many different processes and this clarifies the project description requirements.
 - i. MCAWW---What we see happen here is the proposer provides what they assume the owner is looking for and by the time the RFP comes out, there's no chance for the proposer to ask the owner questions. We want the owners to provide the proposer this information at the hearing stage so that the proposer can be more transparent up front and make sure the proposer can accurately respond to the RFP.
 - ii. Owners---This is simply asking the owners to be transparent about what the rules are and then the proposers will decide if we want to go after your project.
 - iii. Cities---Suggest removing "...making it suitable to use this alternative delivery method;..."
 1. MCAWW---Agreed.
 - iv. Ports---We can be clear about our issues and then the proposer can suggest solutions to the challenges.
 1. MCAWW---The owner doesn't necessarily know all of the challenges that face a specific project.
 - v. Ports---I understand that we want to be really clear about this but not sure this is something we should legislate and may be a better fit in best practices.
 1. MCAWW---The challenge with best practices is that they aren't enforceable so unless it's in the RCW, then it's not followed.
 2. Ports---We do not have a GCCM best practices document, so maybe part of this process is to compile a best practices document to help owners.
 3. General Contractors---Best practices are not enforceable and therefore aren't helpful.
 - vi. Next step – Ed and Scott to finalize and remove suggested text.
- h. Proposal #3---SGCs and Fee. This proposal clarifies the specified general conditions and the fees because clear definitions need to be provided.

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- i. MCAWW---The purpose here is to clarify what's included in the fee and what isn't.
- ii. General Contractors---We agree that this should be a statutory requirement.
- iii. Owners---Isn't this already included in RCW?
 1. Ports---It depends. The general contractor can decide what part they will provide versus what they are requiring the subcontractors to provide themselves.
 2. MCAWW---Many times the GCCM's fee schedule is not clear enough to be helpful for a subcontractor.
 3. Specialty Contractors---There are points of confusion between what the general contractor is providing and what they aren't providing, so it should be clearer. This extends to safety, housekeeping.
- iv. Next step – Ed and Scott to revise and compare to changes .360.
- i. Proposal #8---Protests. Clarifies the process to protest and process to respond to a protest.
 - i. MCAWW---This is lower priority and the main difference here is the focus on the public body.
 - ii. Ports---Where does the response come from? The request goes to the public body but the response can be ghostwritten.
 - iii. Next step – Ed and Scott to finalize.
- j. Proposal #9---Best Interest of the Public. Criteria to help the public body show during the hearing process why this is in the best interest of the public. This is something that is often requested anyway and should be included early in the process. "Design development" language can be revised.
 - i. General Contractors---I object to the "which must occur before the design development phase of the project."
 - ii. MCAWW---The second addition clarifies the best interest of the public because it's a budget management issue (or other issue). This addresses the issue that some would say "this is in the best interest of the public" but don't provide a reason as to why it's in the best interest. The intent is to give ideas but isn't a comprehensive list, but also addresses that the general contractor must go into more detail than "it is".
 - iii. General Contractors---What does "site contracts" mean?
 1. MCAWW---That is a typo and should read "site constraints".
 - iv. Next step – Fix typo, Ed and Scott to revise.
- k. Proposal #5---Bid Bond. Having a bid bond requirement to guarantee the fee bid does not make sense in this circumstance and therefore is proposed to be removed. Clarified that the public body does not need to require a bid bond.
 - i. General Contractors---Agree, bid bonds are not appropriate. Your ability to bond the project makes sense but not in this case.
 - ii. Next step – Ed and Scott to finalize.

5. Follow-up items

- a. Final comments
 - i. The committee briefly began a discussion about the PRC, a PRC compliance arm, and possible restructure; this discussion was tabled due to time remaining.
 1. The challenge is we want less in legislation and more in best practice, but best practices doesn't have the teeth to enforce the way legislation does.
- b. Next meeting time has been extended on Mar. 10, 2020 at MCAWW from 8:30 a.m. to 1 p.m.
- c. Action Items – Each proposal item above includes a next step for follow up.
 - i. Chairs – Compile final proposals for tentative agreements with redlines.
 - ii. Proposal next steps
 1. Proposal #2a – Ed and Scott will revise.
 2. Proposal #7a – Olivia will revise.
 3. Proposal #1 – Ed to finalize.
 4. Proposal #4 – Ed and Scott to finalize.
 5. Proposal #10 – Ed to adjust GCCM, compare to ECCM and MCCM.

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6. Proposal #6 – Ed and Scott to finalize.
 7. Proposal #11 – Ed and Scott to finalize and remove suggested text.
 8. Proposal #3 – Ed and Scott to revise and compare to changes .360.
 9. Proposal #8 – Ed and Scott to finalize.
 10. Proposal #9 – Ed and Scott to revise, fix typo, and finalize.
 11. Proposal #5 – Ed and Scott to finalize.
- 6. Meeting adjourned at 2:00 p.m.**

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