
ACEC/ITD Liaison Committee Meeting
September 4, 2024 - 3:30 pm
ITD HQ, C1 American Falls Conference Room
Notes

ATTENDEES:

ITD-Dave Kuisti, Monica Crider, Mohsen Amirmojahedi, Taylor Bothke
Consultants-See list below.

Old Business

1. Recap on ITD Leadership Changes - Justin W
 - Provide updated org chart for ITD HQ - done
 - Committee organization and function
 - TECM Update - Eric Staats

Justin led this discussion and Mohsen provided an updated HQ organization chart to all committee members. Dave Kuisti noted that Wendy Terlizzi (Environmental Manager) has left ITD for the FHWA and that Kaitlin Hobart is the new HQ Hwy Business Operations Manager. Committee topics, organization, and participants were discussed. It was noted that the current format has resulted in a lot of action items for ITD staff, particularly Monica. We discussed what other ACEC/ITD committees including the ACEC/ITD Bridge committee and the ACEC/ITD Materials subcommittee (subcommittee to this committee). Cross-team representation was also discussed, such as including an ITD representative from each department (Traffic Operations, Construction & Materials, the Bonding Office, etc.) or providing an update from the LHTAC, ITD Bridge, and ITD Materials committees. Monica reviewed her early experience with the committee's focus being primarily Consultants and Highway Design and suggested these above topics/departments could be included as standing agenda items to help reduce the potential for information siloing between them and with ACEC. We also discussed the committee's make up under ITD COO, Travis McGrath, which included participants from many of ITD HQ's department and that the change over the years is likely due to lack of engagement. With Mohsen leading this effort now, there is opportunity for improvement to increase engagement. It was suggested to ask the three ITD Division Administrator's for input when preparing the committee meeting agenda. Topics of interest were also discussed, such as updates on the TECM program including future work, what is working/what is not, issues that need to be addressed, and other upcoming aspects of the program, i.e. what is the general outlook? Eric Staats will be invited to attend the next committee meeting.

2. LHTAC Lump Sum Contracting Update-Mohsen/Monica
 - Feedback from other states provided (New Mexico, Florida, Arizona)

ITD provided a summary of what other state feedback they have received. Arizona responded to ITD's questions and said they are very happy with lump sum contracting. New Mexico did not respond. Brian Foote will contact a former NMDOT director (a current Horrocks employee) to ensure that a contact is made. NMDOT uses lump sum contracting almost exclusively. Florida also did not respond to ITD. Molly Loucks will reconnect with Florida contact to ensure that they contact ITD. Monica said she also reached out and received feedback from Georgia.

There was a discussion of lump sum contracting, and specifically the benefits with invoicing. It is based on percent complete of the SOW which is often discussed with the agreement administrator to mutually agree on the percentage at the time of invoicing. The invoicing is very simple. All FAR required accounting practices for audit purposes are still followed. It was also noted that ACEC (National) just published a white paper supporting the benefits of lump sum contracting. ITD will continue to ask other states for their experience. ACEC will continue to provide support to facilitate this effort including more information on the ACEC white paper. Ultimately, the goal is to identify a one or more projects with well-defined SOWs as pilot projects and likely pilot some lump sum contracts in a few Districts. ITD would like a copy of the National white paper on lump sum agreements when available.

3. Consultant Services (CS) Policy/Contracting Process

- Pre-Notice-to-Proceed (Pre-NTP) - Paul W
- \$100k direct select PSAP update

ITD was asked if there had been an official change in the use of the pre-Notice-to-Proceed (pre-NTP). The initial response was no. ITD has been preparing a lot of them for LHTAC projects, due to scheduling issues or known items in the project planning related to Local jurisdiction board or council approvals. Jeremy Robbins (WHP/NV5) gave a summary of recent pre-NTP issues on several projects, one where the funding wasn't available from FHWA until later than anticipated. Monica explained that agreements cannot be written until the funding has been scheduled in Office of Transportation Investment System (OTIS)). If there is an extenuating circumstance, the consultant should speak to the Agreement Administrator and make a case for a pre-NTP. While the initial response will likely be no, if a reason is compelling the consultant should continue to raise the issue. ITD will advise district staff that use of a pre-NTP is appropriate in specific instances where the project schedule critical path tasks may be impacted and unable to wait due to excusable reasons like extreme unplanned weather.

ITD is officially increasing the limit on direct select agreements to \$150K, pending FHWA review of the ITD Professional Services Agreement Procedures (PSAP) manual. Subsequent to the meeting, ITD issued a memo that informed all ITD departments and districts that the limit for consultant agreements using Direct Select procurement has been raised to \$150,000. This memo can be found on the Consultant Services website

with noted effective date and will be incorporated ultimately in the PSAP manual.

4. Wage escalation (certified wage rates) policy change update in consideration of ACEC letter (Aug 21, 2023)-Monica C
 - Currently, consultants are submitting certified wage rates that are not correct.

It was clarified to ITD that this agenda item solely addresses billing current wage rates and being able to reflect those rates on the certified payroll declaration that is included with the consultant's invoice rather than "certifying" wage rates that are false. ITD would like consultants to certify their actual wage rates and Dave Kuisti committed to discussing this topic further with the rest of ITD leadership advising them of the benefits to all involved with this change.

There was a discussion about where the current wage escalation policy is written. The current Consultant Services policy does not allow escalation on agreements with durations of less than 12 months, or during the first 12 months of a multi-year agreement. This policy is not written but was confirmed. Ultimately, ITD would like to tie the escalation rate policy to an established metric, such as the Consumer Price Index (CPI) or the Employment Cost Index (ECI) as other State DOT's do.

5. Update to Closed Solicitation page and RFP Forecast is appreciated and helpful!

This is supposed to be updated on each Friday. Mohsen will check with his staff to ensure that it is updated shortly after each RFP closes. It was noted that consultants use this information (who submitted on an RFP) to make future Go/No-Go decisions.

6. Update on DBE target percentages for design contracts (update planned for Oct 1st still)

Taylor Bothke provided an update on ITD's DBE program summarized how DBE goals are established. ITD has primarily fallen short on its DBE commitment with consultant agreements and continues to do so. About 90% of consultant agreements had no DBE goals. Most of the agreements that did have a goal were not CE&I services agreements. ITD has developed a new tool to assist with DBE goal setting and DBE goals will continue to be included on consultant agreements, including for CE&I services, which is seen as low-hanging fruit. The new tool includes an availability survey to identify DBEs that are "ready, willing, and able," includes how many DBE's are certified in the industry to do the work and considers other key availability aspects, such as public works license restrictions. It was mentioned that there are few CE&I tasks that can/are performed by DBE firms.

CEI agreements include the following tasks:

-Administration

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- Survey control
 - Project Inspection
 - Material Sampling
 - Material Testing
 - Record drawing & project-close out

Through a quick search in B2Gnow, it has been identified that there are DBE firms that can perform portions of CE&I agreements through being certified in one of the above categories. The DBE directory evolves routinely as new firms get certified and existing firms potentially get decertified. ITD will keep a pulse on firms eligible to perform these tasks through routine research and availability surveys to ensure adequate goal setting for consultant agreements.

There was a suggestion for a DBE “speed dating” event to help consultants and DBEs develop initial connections. ITD was asked if they track DBE usage on Direct Select and RFI agreements and confirmed that this is done through the B2Gnow system for DBE compliance and counted as neutral participation as goals are not set on these agreements. The Office of Civil Rights will be hosting a Q&A session on how to navigate the B2Gnow system on September 19th. The invitation to this training will be provided to all ACEC member firms. ITD plans to do similar training sessions in the future, possibly on a quarterly basis.

New Business

1. ACEC position paper on Digital Delivery

ACEC will provide an update after the ACEC (National) Fall Conference. It was also mentioned that ACEC Oregon has a working group on digital delivery.

Parking Lot

1. Additive Bid Items
2. Update to Environmental Services Categories for Term Agreement (Ester C)
3. Wage escalation allowance for projects that start mid-year and extend through the next year-Tim B
4. Increases to Consultant Term Agreement limits policy change update
 - RFI limits
 - RFP limits
 - Term agreement limits

Name	Consultant Organization
Tim Blair	J-U-B
Dave Butzier	AECOM
Paul Wasser	Schnabel
Bryan Foote	Horrocks
Bill Russell	Ardurra
Justin Walker	Keller Associates
Ryan Olsen	GeoEngineers
Heather Carroll	Jacobs
Paul Ashton	Parametrix
Jeremy Robbins	NV5
Molly Loucks	Burges & Niple