

**GC/CM Committee**

Meeting Summary January 25, 2023 (Meeting #35)

1. **Chair Datz called the Teams meeting to order at 1:05 p.m. A quorum was established.**
2. **Administrative**
  - a. Introductions
    - i. Committee members in attendance: Nick Datz (Owners), Sam Miller (Architects), Scott Middleton (Specialty Contractors), Shelly Henderson, in for Traci Rogstad (K-12 Schools), Mark Nakagawara (Cities), Penny Koal (DES), Janice Zahn (Ports), Keith Michel, in for Shannon Gustine (General Contractors)
    - ii. Stakeholders in attendance: Mike Rice (Engineers), Mitch Romero + Howard Hillinger (Construction Trades Labor), Angela Peterson (Ports)
  - b. The committee approved the October 26, 2023 meeting minutes.
3. **Review the combined manual**
  - a. Review updated Chapter 8 – Construction Services
    - i. Chair Datz introduced chapter 8. The beginning of the chapter covers the roles of the GCCM, the Construction Manager, etc., and is focused on making sure you are managing the work appropriately, outlining the different staff required to perform the work and for overall management of the GCCM contract. Often the owner will hire a separate firm to fill the role of Construction Manager, administering the contract and acting as the owner’s representative, and making sure the GCCM is delivering everything they’re supposed to. This section gets into the idea that it’s not too different from regular construction management support in other project delivery types. I like that this section does not absolve the owner of their responsibility to oversee the project; it reflects that the Construction Manager team is really an extension of the owner.
    - ii. Architects: I have a question about the term, “Construction Manager.” To me that’s confusing because there is a construction manager embedded within the GCCM. We typically use “owner representative” to describe a construction manager that isn’t the contractor.
    - iii. Construction Trades Labor: Most of the relevant statutes refer to the professional activity as construction management.
    - iv. Construction Trades Labor: I would support putting “owner’s representative” in parentheses.
    - v. Engineers: Yes, the statute calls out the term, “construction manager” in multiple places.
    - vi. Chair Datz: I like the idea of putting “owner’s representative” in parentheses to clarify, because it’s a universally understood term in our industry, regardless of delivery method.
    - vii. Construction Trades Labor: I think that’s a good clarification. When the statute was originally written, they decided to call it GCCM instead of CMGC like everyone else, because initially they were hiring contractors as the construction managers—they didn’t self-perform any work. Because the delivery method has changed so much, that name has stuck and it’s a little confusing.
    - viii. Chair Datz: In this next section on payment and changes, we’re going to want to make sure we flag and talk about this in the MACC and Total Contract Cost (TCC) section, which we haven’t written yet. Here we’re hitting home that payment structures, risk tracking, etc., should be developed during preconstruction. I like emphasizing this idea to not wait until construction to start thinking about these things. It talks a little about how alternative subcontracting is a little different, like mini-GCCM contracts, then dives into the auditing, emphasizing how important it is to audit as you go along, rather than waiting until the end. It’s key to establish that expectation from the beginning.
    - ix. Construction Trades Labor: We might want to clarify how formalized those as-you-go audits should be. Does the auditor need to be involved in every pay application?
    - x. Chair Datz: I think the statute was changed to require that the auditing process be defined in the contract and solicitation documents so that expectations are understood by all parties.
    - xi. Architects: Why is the word “audited” in quotes?
    - xii. General Contractors: I think related to [Construction Trades Labor]’s input, the point here is not to drag your feet on establishing a process to “approve the proper accrual of cost,” per the RCW. As you’re issuing monthly payments, use this process to work closely with your alternative subcontractor to establish the proper accrual of costs, to demonstrate what you need to meet the terms of a future audit.
    - xiii. DES: So, is this more of a team audit than the formal audit?
    - xiv. General Contractors: I think so. This is more in the context of project management and approving the payment request. I think alternative subcontracting should require a slightly different format.
    - xv. Architects: “Audited” is a bit of a loaded term. What if it’s just referred to as an ongoing process to review and validate each month? The word “audit” is further on that sentence, so maybe that’s enough.

- xvi. General Contractors: I would support removing the word “audit” from this point but to keep the focus on the process of setting the groundwork for the audit at project conclusion.
- xvii. Construction Trades Labor: I agree, replacing “audit” with “validate” is the right approach. I don’t want to see the outside auditor trying to look at every payout—that would be unwieldy.
- xviii. DES: It also points out that specialty subcontractors need to be looked at a little differently than an ordinary subcontractor.
- xix. Engineers: Do we need to say anything about the mini-MACC in the payment section?
- xx. Chair Datz: I think that fits better in the MACC section; it’s a little detailed for this section.
- xxi. Specialty Contractors: The statute did change to reflect whatever audit procedures you’re going to use in the contract. It might be worth some language in that section that whatever procedures you will use to review and validate payments be set forth in the contract documents.
- xxii. Chair Datz: Good point, we will add that in. In this next section, we look at using a Negotiated Support Services (NSS) as a lump sum. You can establish any NSS as a lump sum, and you can also convert a cost reimbursable NSS to lump sum. It’s worth some language that however it’s established or converted, there will be a separate process to approve and pay expenses. The audit should be really focused on the cost reimbursable aspect. Then if it’s not a lump sum, this talks about the additional administrative oversight required for time and material. “Audit” is used here as well, which we may want to switch to “validation process.”
- xxiii. Ports: I do have a note about insurance and bonds, and whether those go in NSS. I have a note here to be careful not to pay twice for items, particularly insurance and bonding, so depending on whether those are part of the GCC or in the NSS, that’s something to keep an eye on.
- xxiv. Chair Datz: Agreed, that could also be a general specified condition. That’s going to be important to talk about in the TCC section, which we haven’t written yet.
- xxv. Ports: I also have a note about lump sum pricing for NSS only being authorized if the GCCM obtains at least two competitive quotes for any added item. I think it’s because whatever doesn’t get spent gets put back into the project.
- xxvi. Chair Datz: Once it’s lump sum, it’s guaranteed to be paid.
- xxvii. Ports: Right, I guess there’s a potential of overpaying if you go lump sum.
- xxviii. Chair Datz: Yes, it’s the age-old decision of who absorbs more risk, whether you go lump sum or time and material. That’s an interesting idea to get two quotes for lump sum work.
- xxix. General Contractors: I think that’s more applicable to the TNM and transparent side of the owner-contractor-NSS relationship because it’s defined as an allowance in the contract. If part of that effort requires electing and soliciting bids, then that’s the port’s protocol to get a couple of different prices in the award decision. If things are converted to lump sum, then you’re no longer in that decision-making process within that line item, so that’s a decision to make when you’re negotiating the MACC.
- xxx. Chair Datz: I wonder if that’s a good comment for how to establish the NSS.
- xxxi. General Contractors: Another good point, with respect to soliciting bids in NSS—this is a budget category that empowers projects to not include that scope in the subcontracting opportunities in the cost of work. The law says 100% publicly bid, but NSS is treated a little differently from that bid obligation.
- xxxii. Construction Trades Labor: A lot of times the NSS is almost like a slush fund. The agency can mandate how it wants to be notified of how it is used, but typically I’ve seen that you just need to notify and account for the costs, and you can use it for emergency situations if you explain it to the agency. I don’t think there are specific bid requirements.
- xxxiii. Construction Trades Labor: I think it would be good to establish how you expect to set up the NSS when negotiating the initial contract, almost like a subcontracting plan.
- xxxiv. Chair Datz: I like that idea, but I think this section is more on managing and paying against the project, tracking, auditing, etc. I think both [Ports] and [Construction Trades Labor]’s comments are key to put into the TCC section.
- xxxv. Ports: Agreed, I have a lot of notes to include in that section.
- xxxvi. Chair Datz: Okay, next step is on closeout, hammering home the need to prepare early. Anything we’re missing?
- xxxvii. General Contractors: Maybe just for consistency, we change the word “auditing” along the way to “validation of cost” to set up a more streamlined and successful audit at the conclusion of the work.

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- xxxviii. Chair Datz: Great, let's make that edit. Anything we're missing from the overall chapter? Okay, great, this chapter is done!
- b. *Other items*
  - i. Chair Datz: We have three sections left: GCCM Procurement, Total Contract Cost (TCC), and finalizing Heavy Civil. The Heavy Civil chapter has been started, and my plan is to have it ready for review next month, I'll send it out to the subgroup prior to reviewing with this committee.
  - ii. Ports: I think because we got off schedule, some of the port people who were going to review these sections aren't clear on when those will come through. It might be helpful to update this review schedule and send it back out.
  - iii. Chair Datz: The way we've approached this is to lay them out in subgroups, which they've hopefully been looped in on. They don't necessarily need to attend the larger meetings for review.
  - iv. DES: My capacity to lead the GCCM Procurement chapter has not gotten any better. I will not be able to lead this one.
  - v. Ports: I think it's a good point to update the schedule and send this back out to the committee, so all the subgroup members can see where we are at.
  - vi. Chair Datz: Will do. Next month we're going to do Heavy Civil. Whoever wants to go first, Procurement or TCC, I'd like to hit another chapter in March. Keith, are you still willing to lead TCC?
  - vii. General Contractors: Yes.
  - viii. Chair Datz: If the Procurement subgroup needs more time, we can also skip a month.
  - ix. Ports: I'm happy to start working on the Procurement chapter with the listed subgroup.
  - x. Chair Datz: Great, how does it sound to go ahead and meet with your subgroup and put together a timeline based on their schedules?
  - xi. Angela: That works.
  - xii. General Contractors: I would also appreciate more volunteers to help me replace John Palewicz on TCC. Mitch has raised his hand. Angela, Nick, if you can leverage anyone else from the owner perspective, that would be great. I might include a few more people in the email to organize this subgroup's work. Feel free to leverage my email to rally more support in your organization.
  - xiii. Chair Datz: Yes, please put me on the calendar invite. If I can't find someone else from Sound Transit, I'll be a part of this effort. Keith and Shannon, can you both get back to me in two weeks to let me know your timeline for completion?
  - xiv. General Contractors: One final idea: we have selected placeholders throughout this draft manual for examples and/or graphics. Nick, could we create an inventory of what examples we're looking for? We'd be wise to start circulating those examples soon. It might also guide more content in the chapters themselves.
  - xv. Chair Datz: I'll put together that inventory. If you have an example you'd like to share, please put your name next to an item.
- 4. **Action Items and Next Steps:**
  - a. Chair Datz will finish writing the Heavy Civil chapter, for review at next month's GCCM committee meeting, and he will put together a draft inventory of examples and graphics to include in the report, which members can add their names to.
  - b. Keith Mitchell and Angela Peterson will begin coordinating with their subgroups on the TCC and Procurement chapters, respectively, to identify member capacity and projected timelines for completing the chapters.
- 5. **Meeting adjourned at 1:55 p.m.**