

GC/CM Committee

Meeting Summary November 7, 2019 (Meeting #7)

1. **Chair Middleton called the meeting to order at 1:30 p.m. A quorum was established.**
2. **Administrative**
 - a. Introductions
 - i. Committee members in attendance, including by phone: Scott Middleton (Specialty Contractors), Rebecca Keith (Cities), Andy Thompson as a proxy for Shannon Gustine (General Contractors), Janice Zahn (Ports), Sam Miller (Architects), Penny Koal (State Agency), Josh Kavulla (Higher Ed), Tracy Rogstad (Schools)
 - ii. Stakeholders in attendance, including by phone: Mike Pelliteri (General Contractors), Rob Robinson (General Contractors), Keith Michel (General Contractors), Doug Spee (General Contractors), Chad Larasford (Specialty Contractors), Sean Trew (Specialty Contractors), Tymon Berger (Law), John Palewicz (Higher Ed), Jordan Kiel (Architects), Bryan Eppler (Specialty Contractors)
 - b. Approval of Oct. 22, 2019 meeting summary – M/S/P to approve meeting summary.
3. **GC/CM Procurement and Procedures**
 - a. Recap of previous meeting – The group discussed MCCM proposals shared by MCAWW, the proposals were included in the Oct. 22 meeting packet.
 - b. Today the group will finalize discussion on RCW 39.10.385, and then discuss RCW 39.10.390 and RCW 39.10.410.
4. **RCW 39.10.385 – Alternative subcontractor selection process.**
 - a. Comment spreadsheet (1) 39.10.385(3)(e) – Address inclusion and diversity in the selection of all project participants.
 - i. Cities – Owners do include diversity and inclusion in their selection processes.
 - ii. General Contractors – Are owners looking at scoring history or success relative to diversity and inclusion? Or just the current diversity and inclusion plan included in the proposal?
 - iii. General Contractors – There are requirements in the contracting and procurement documents, but it's hard to say how rigorous these requirements are and how they are looked at. Some owners require diversity and inclusion plans at the time of submittal, this is especially true for K-12 work.
 - iv. State Agency – We require a plan but recently quit scoring and instead score the section as a pass or fail.
 - v. Higher Ed – At UW, the RFQ process looks at proposer's history of accomplishing diversity goals. The RFP requires a plan for reaching diversity and inclusion goals, including outreach goals and efforts. We do score on those goals.
 - vi. General Contractors – Scoring is also looking at the entire GMP, are your suppliers DBEs? How are you getting creative to use DBEs? Oftentimes, these DBE subs are very busy, which is its own challenge and most agencies recognize that challenge.
 - vii. Cities – We require a plan and are looking at how you are increasing DBE participation.
 - viii. Architects – What is this comment asking us to consider with regard to the legislation?
 1. It's looking at the last sentence of 39.10.360.
 2. Should we include these requirements in GCCM?

[LR] indicates a comment about RCW guidance.

[BP] indicates a comment to inform our best practices.

[AI] indicates an action item to follow up on.

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- 3. I think this is more for MCCM and EMCCM.
 - ix. Specialty Contractors – This comment seems to refer to 39.10.400. This could be a best practice on how to best evaluate a proposer based on their diversity and inclusion efforts in the past.
 - x. Cities – We need a clear advocate for what we’re supposed to do with this.
 - xi. [AI] The group decided to share the comment with the Reauthorization Committee to share with the diversity committee for direction on how to appropriately address.
 - b. Comment spreadsheet (2) – Including other trades in 39.10.385
 - i. General Contractors – I like this suggestion because there are a lot of benefits including allowing for cost certainty earlier in the process and design assist. The dollar value on the project should be looked at further to make sure it makes sense.
 - ii. General Contractors – From a toolbox and an owner benefit, this would be helpful to procure early, but it’s only worth \$500k. If the heavy civil work is included in this, what would be the outcome of the heavy civil work if the owners saw this as an opportunity? Would we use it less if we knew we are allowed to add it?
 - iii. General Contractors – We’re using GCCM when GCCM isn’t necessary.
 - iv. Specialty Contractors – Having been on the PRC for three years, I’ve never seen a greenfield school come through for GCCM. It’s usually an occupied school with multiple phases and multiple challenges.
 - v. General Contractors – The statute is written for public agencies to have a qualified team that can build the work.
 - vi. Architects – There is a trend towards design-build and if we don’t make GCCM easier to use. We’ve seen owners use design-bid-build. If we can open the door to additional subcontractors, then that will make GCCM more desirable for owners.
 - vii. General Contractors – 385 isn’t an early bid process, it’s an alternative process.
 - viii. Specialty Contractors – The monetary value is not an appropriate metric. We need to be able to pick the best subs for the work, rather than look at a price. How do you get agreement, consensus, and legal buy in to move forward?
 - 1. What if we put a limit on the number of subs, rather than the dollar value?
 - 2. Similar to the 30 percent self-perform rule, you could do a 30 percent of the MACC.
 - ix. [AI] The group decided that those on the committee that are proponents for this idea, they should get together and provide a proposal on how to expand this.
 - c. Comment spreadsheet (3) – E/M CCM project team is not the same team that delivers the project which creates a lack of continuity.
 - i. Architects – I don’t think this can be fixed in the legislation, but there is an issue with the continuity of the team, so perhaps this is a best practice to help inform E/M CCM and GCCM.
 - ii. General Contractors – This is a tough issue. How do you ensure that all of the information you need to transfer to all of your key staff? What’s your process? We don’t just have staff waiting around for projects. Throw in when owners schedules change and it really becomes a challenge to keep continuity.
 - iii. [BP] The group agreed that this is an issue that can be addressed by a best practice.
- 5. RCW 39.10.380 –**
- a. Comment spreadsheet (2, 9, 10) – Were part of the 39.10.380 discussion even though they are 39.10.385 issues. The group agreed that these comments have been addressed.
 - b. Comment spreadsheet (1) 39.10.380(6)(b) – Why is this a dollar amount and not a percentage and are the dollar thresholds appropriate?

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- i. The attendees discussed the origin of this requirement and the intent behind the dollar amount rather than a percentage.
- ii. State Agency – I know when we advertise, we include a specific range. If the apparent best bidder submits over the range, then we can negotiate. If we are not successful in that negotiation, then we rebid.
- iii. General Contractors – These dollar thresholds are not appropriate and should be increased to reflect current values. Additionally, the “two percent” is not clear whether that two percent of the bid package or something else?
- iv. Architect – [LR] In order to ensure this statute remains relevant and clear it should be a percentage of the total bid package, and not a dollar amount. We should look at [BP] best practices to guide any changes and their intent.
- v. The attendees discussed what percentage is the right percentage and a few attendees confirmed five percent is industry standard.
- c. Comment spreadsheet (4) – Bid administration process should be clearly managed in a transparent manner.
 - i. The attendees discussed that bid packages delivery should take place at a neutral venue.
- d. Comment spreadsheet (4a) – The owner should review bid packages to ensure even competition.
 - i. The attendees discussed at length differing views on the fairness and environment of the GCCM contracting process from the subcontractor’s perspective.
 - ii. General Contractors – The owner needs to participate in the strategy.
 - iii. General Contractors – We can use the best practices to clarify the role of the owner in a GCCM process.
 - iv. Architects – If our goal is to have a bid process without holes, then perhaps we should let bid packages be qualified and then the GCCM can put the pieces together.
 - v. Cities – We have a design-bid-build low-bid model embedded within our GCCM process. There was a reason for it – to protect the public – but it causes problems.
 - vi. State Agency – The value of GCCM is having the general contractor at the table months in advance to help with the bid packages down the road.
 - vii. [BP] The attendees agreed that this issue should be addressed with a best practice to encourage the owner to be involved in the bid package strategy.
 - viii. General Contractors – There isn’t a clear process to ask questions about the bid package and ensure they get reviewed and responded to by the owner, rather than the general contractor, who may or may not respond. The owner should be involved in the questions.
 - 1. General Contractors – It’s difficult to require public agencies to respond to question via statute.
 - 2. Specialty Contractors – There are some points of review and decision points where we could potentially increase transparency there, in addition to a best practice to clarify the intent.
 - 3. Architects – Are owners equipped to answer these questions? And, does this make GCCM more burdensome, which goes against our goals for this process?
 - 4. General Contractors – Possibly, but our goals are also transparency and fairness. The issue is that the general contractor is controlling the process and not being transparent.

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- 5. Schools – If the GC is going to bid, then perhaps all questions shift to the owner. If they can't manage the questions, then they should be using GCCM.
- ix. Architects – Would it make sense to give the owner an option to not have any self-perform work on a project?
 - 1. General Contractors – A general without any skin in the game becomes a broker and creates chaos.
- x. Owners – [BP] The issue is the structure of the bid package, and the process to review and approve. We need best practices to clarify the assumptions for the owner. The law should clarify that a neutral party reviews and responds to questions, and reviews and approves bid packages.
- xi. [AI] Andy Thompson and Mike Pelliteri will take a look at these questions and provide a recommendation for the larger group to consider.
- e. A few new attendees share the barriers for new general contractors to win GCCM work.
 - i. Prior experience – General contractors with the skills cannot get into the game because they do not have the proven track record in the specific experience
 - ii. Publicly openly bid – The process used to be publicly openly bid and it isn't anymore, which is an issue for new general contractors to understand how the process works and how to be competitive
 - iii. The attendees noted that we've made some changes to the existing RCWs to open up the requirements to general contractors who have been previously excluded based on "past performance in negotiated and complex projects".
 - 1. Many current contracts require recent GCCM experience, despite the RCW requirement for past performance in negotiated and complex projects. Clarifying the language in the requirement is one thing that needs to happen but it's the enforcement to ensure that the requirements match the RCW language.
 - 2. Could use the language from 39.10.330 and remove the design elements.

6. Wrap up

- a. Suggested Committee Schedule
 - i. 11/7/19 Subcontracting
 - ii. 11/14/19 Subcontracting
 - iii. 12/4/19 Recap/Goals/Objective/10,000 Ft Level
 - iv. 1/2020 (two meetings)
 - 1. Deadline to submit Leg proposals
 - 2. 1/2020 Debate/action
 - v. 2/2020 (two meetings)
 - 1. Debate/action
 - 2. Debate/action
 - vi. 3/2020 Recs to Sunset Review Committee
- b. We're looking at adding John Palewicz as a GCCM committee member. He will need to be appointed by CPARB but the committee believes he will be a good fit and add a great contribution to the team.

7. Follow-up items

- i. 39.10.385(3)(e) The group decided to share the comment with the Reauthorization Committee to share with the diversity committee for direction on how to appropriately address.
- ii. 39.10.385(3)(e) The group agreed that those on the committee that are proponents for this idea should get together and provide a proposal on how to expand this.

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- iii. 39.10.380 Andy Thompson and Mike Pelliteri will take a look at these questions and provide a recommendation for the larger group to consider.

8. Meeting adjourned at 4:03 p.m.

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