The ACEC/ODOT/OTA Construction Management Working Group met on August 1, 2023.  In attendance were Shawn Davis, John Leonard, Will Snipes, Paul Green, and Rick Bond.  Topics discussed are below:

* ODOT stated that the July 26 letter to Engineering Partners from Rick Johnson would have zero impact on the CM On-Demand Contracts.
* ODOT asked if the Consultants had any issues with Contractor performance that was unusually poor. Poor performance should be accurately described on the Contractor Rating.
* ODOT has initiated a program in cooperation with AOGC to assist with accountability for contractors overloading their crews and running into time issues.  Habitual problems with LD’s and timely completion could result in temporary suspension from issuing bidding proposals.  Director Davis provided the Guidelines (attached) and an email explanation (below).
  + Attached is the document we spoke briefly on yesterday concerning the Guidelines for Bid Proposals. It was developed over the course of a year or so in coordination with the AOGC, and in my opinion has been very successful in its intent since implementation, though not without some difficulties and extra burden on both John and Anthony Delce.
  + This was not developed as a punishment of any kind. We simply want to know that the contractors bidding on new work have the ability to perform that work in the given timeframe expected, and are not overextended to the point that additional projects would only compound the issue. There is a rigorous process that is carried out when a contractor meets the criteria in which, Anthony presents the information, John runs it to the ground with the field folks and, if verified, Anthony then sends a letter notifying the contractor that they “may” end up on the no-proposal list. They are then given the opportunity to meet with the Prequalification Committee and explain their status. Only then will a final determination be made.
  + We have stressed to our field personnel that not only is this not a procedure to be used as a punishment, but it is also an accountability tool that works both ways. Many of the criteria are based upon information that is supplied by the Residencies. If the information is missing or incorrect, it quickly becomes apparent when we meet with the contractors. If contractors are not receiving lack of progress notices or contractor ratings according to the applicable Construction Control Directives, there should be no expectation that we’ll take action. Likewise, negotiations regarding time charges have to be had in a timely manner, and not at the end of a job. Otherwise it can look like a contractor is not performing when there is a reasonable expectation that they have at least some time coming back to them. Contractors are having to take a look at their operations globally and not just on a job-by-job or district-by-district basis and have a solid plan of attack to accomplish all they have been asked to do. It’s made for some interesting discussion.
  + If you have any questions or need to dive into this deeper so that your consulting partners can better understand it please let me know. We want to be consistent with this process statewide whether that be ODOT or consultant managed projects.
* ODOT was asked to give more detail on the previous statement that Consultant personnel didn’t take ownership of the projects to the same degree that ODOT FTE did.  The feeling was that Consultant RE’s were hired to make decisions, and that in some cases the decisions seem to get pushed up to the CE’s.  Consultant RE’s are contractually restrained from making unilateral plan changes.  Interpreting plans and specs, and making decisions on quality, problem solving, etc should be performed by the Consultant RE, communicating unusual circumstances to the CE after the fact.  Proposed plan changes should be communicated to the CE with recommendations prior to instructing the Contractor.
* Timely project closeout is still an issue.  Consistently billing during the closeout time, and not making any progress toward a final estimate is not acceptable. Unresponsiveness by the Contractor should prompt communication with the CE to engage with the Contractor.  ODOT currently has 77 jobs on the 6 Month List, with 35 being with the CED’s and Consultants.
* The question was asked if a project has to be awarded before a CM task order can be initiated.  It is believed that a task order prior to award is doable. This will allow a consultant to assist with plan review prior to letting. Shawn and John will check with PM to confirm.
* It was asked if a decision was made regarding the Consultant selection process - would Project Management be responsible for approving which firm gets what job or will the field district select the firm they feel best fits the needs of the District.  It was stated that the decision would be collaborative- the Field District preference is weighed very heavily but there is still considerations that must be made before a final decision (availability due to workload, past performance on other projects, etc.).

The next meeting is scheduled for Tuesday, September 12, 2023 at 8:30 am.  It was noted that Ron McDaniel’s retirement party is on the 12th at 2:00 pm in Buffalo, but should not hinder attendance.

Please let me know if there are topics or issues that you would like to see addressed.

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“Find out just what any people will quietly submit to and you have the exact measure of the injustice and wrong which will be imposed on them.” -- Frederick Douglas