

MEETING MINUTES
Quality in Construction
April 10, 2013

Preparer's note: Items highlighted in yellow indicate possible action items.

I. List of Attendees

1. See Attached

II. Opening Comments

1. Bob Oglesby welcomed everyone and all attendees introduced themselves.
2. Alan Robertson announced the order of the meeting.

III. Other general items include:

1. Alan noted more work is needed to create a stand-alone BV focus group. The D/B/B group chairman stated that their schedule is full and cannot afford to absorb the BV focus group and that they do not have much experience with BV.
2. Allan Cox indicated the BV focus group could not immediately address all action items from February's meeting. Bob stated they were not expected to address all issues at once but to continue working updating the group as progress is made.
3. Bob stated there was no conflict with AGC providing lunch for the group in particular State employees as they were less than \$50.

IV. Construction Manager/General Contractor (CM/GC) Focus Group

Presentation by Co-Chairman Allan Cox

Presentation – See Attached

List of advisors – See Attached

1. Bob Oglesby asked AGC and ABC to provide an updated list of 40 advisors that they had previously offered to the State.
 - a. Allan Cox - These advisors are to check that all parties are doing what they say they are doing.
 - b. Peter Heimbach - A recommendation has been made to change the State Building Commission Policy for the designer selection process which will put forth under contractor selection the option to have up to five technical advisors. The intent is to ensure the level of expertise on proposals is valid and that things match up. This should also bring to light things that are not obvious to evaluators. Advisors bring to light items evaluators would not otherwise know and can be included in the scoring process. Advisors would provide color to say if what is being proposed by the State is reasonable which allows for a better interpretation of the RFP.
 - c. Bob Oglesby - The State wants to get the Designer Selection policy revision approved in the next month or so to allow the SPAs to use advisors as they choose.
 - d. Lynelle Jensen - How can we get a good number of advisors? We do not want to use the same advisors over and over, and to allow advisors an opportunity to submit proposals and not always be advisors.

- e. Peter Heimbach - They could select an advisor after they have decided if they are going to do a proposal.
 - f. Ed Baldwin - The State should call the list of advisors to announce an upcoming project, ask if they are interested, and, if not, would they be willing to serve as an advisor. Ethics will come into play. The list will be updated before sending it to the OSA.
 - g. Alan Robertson - Advisors should sign a waiver.
 - h. Ed Baldwin - The list will need to continually be revised as people die, retire, etc.
 - i. Allan Cox - How many advisors are actually needed?
 - j. Ed Baldwin - Four or five initially but there could be too many opinions. Some may be better for one building versus another. We are looking for various opinions and need those opinions. The proposed list was not filtered purposely as there are reps from each part of the State from AGC and AEC. The governing idea should be someone from Knoxville should be able to look at something in Memphis as the territory should not make a difference in the selection.
 - k. Bob Pitts - There may be some rationale of selecting someone from outside of the area. More names can be provided if needed.
 - l. Ed Baldwin - They were primarily all GCs. When they are providing advice they need to be blind as this is pre-RFP issuance.
 - m. Lynelle Jensen - Advisors could still give good help in the pre-RFP process.
2. Preconstruction Issues
- a. Allan Cox - Contractors feel preconstruction services are a professional service and should be treated as such. Meaning these services should be qualifications based and not bid.
 - b. Allan Cox highlighted issues with preconstruction services prior to SBC funding approval and gave the following options for the State.
 - i. Consider using current contract for project management services (Jones Lang LaSalle) or a similar firm to provide the pre-planning, programming and budgeting as an additional service of their contract if needed.
 - ii. State could select from a pool of prequalified General Contractors.
 - c. Peter Heimbach - There is now a lot more development on projects prior to approval within STREAM and for all SPAs than there has been in the past. The problem is not so much what is not known but rather what changes after the fact. STREAM clients submit a budget proposal and STREAM tries to do the heavy programming up front but when it is brought back to the client they still might change their mind.
 - d. Alan Robertson - There was a lot of discussion of the history of where we have been but not necessarily where we are now. We need to do full programming up front.
 - e. Peter Heimbach – STREAM is currently doing advanced programming for the budget proposals and writing project charters to lock that in.
 - f. Allan Cox - Who develops the budget?
 - g. Peter Heimbach - in the big picture it is by the end user. They put together a general idea of what they want it to look like. JLL is heading up STREAM's preplanning efforts. They vet information and work with regional design consultants to further develop scope and budget. They would like to get contractors involved to get better estimates but not all contractors are good at conceptual estimating. They could get good conceptual estimators as consultants as another option.
 - h. Jim Dixey - Some projects did not make it to the Governor's budget because they did not have good preplanning.

- i. Peter Heimbach - TBR and UT are doing their own pre-planning and budgeting process. They have authoritative control over their agencies, whereas STREAM does not.
- j. Tim McKeehan – We are working to improve this process. In particular with bigger projects, UT hires a programming firm to assist the campuses. They have discussed having another round of RFPs for those services and are looking to do this in Memphis and Chattanooga. The pain is in the middle sized projects. The little projects are not as a big deal if you miss something. The middle sized projects can be painful if you miss and those are the ones that are always in a hurry. There are too many hands in the pie sometimes and some parts of the client base understand what is going on while others do not. He indicated the consultant method is a better system than what was used before. They take this information and utilize it in the RFP. The Strong Hall RFP is due out tomorrow and is using this to support the designer selection process. This has really helped on costing. They look to campus consultants to help scope and estimate a project. They also engage contracting support for that at the campus level.
- k. Allan Cox - Projects need to be further defined prior to submittal to SBC.
- l. Chris Remke - The goal was to get to where the State could budget. He gave an example of one company being hired to do the evaluation but when they received the product it was discovered the engineering firm had done one technical project that matched but did not know the industry language. The State did not cause this problem but there needs to be key consultants identified to make sure they are qualified. Consultants need to be qualified not outsourcing to another group.
- m. Allan Cox - Suggested engaging a project management group such as Jones Lang LaSalle and select from a pool of prequalified GCs. The GCs should be selected based on full knowledge of the project and then the fee could be negotiated.
- n. Don Freeman -- In North Carolina, on many higher education facilities the state issues an RFP to which you respond and do presentations and then evaluation teams make a selection and negotiate a preconstruction fee. If they cannot agree then they go to the next best team. They must submit a guaranteed maximum price and must negotiate your fee but they also have the option to select another GM and competitively bid. North Carolina does not see projects being fast tracked like they do here. It does prevent people from providing extremely low unreasonable quotes. UT cannot afford to evaluate every line in a proposal they simply look at the bottom line. It seems the concept is to get a better end project and get professional services from preconstruction to warranty period at a reasonable cost. If designers are selected based on an established fee it seems to make sense you are hiring a professional service not a commodity.
- o. Allan Cox - reviewed Slide 7 which gave examples of a lump sum fee schedule. He noted how small preconstruction fees are in comparison to total project cost. It should be possible to get reasonable preconstruction fees based on the importance of the preconstruction services which sets the tone for the success of the project.
- p. Bob Oglesby asked Allan Cox to get feedback on the numbers presented, from his committee group.
- q. Tim McKeehan – Are those proposed fees reasonable?
- r. Brian Wirth - They must look at the complexity of the project too.
- s. Tim McKeehan - How much of the preconstruction figure affects the final outcome of a proposer? If the weighting of the selection is 30% for fee on a \$90 million project then he agrees with a lump sum fee schedule concept.
- t. Ed Baldwin - The schedule for preconstruction services should be set by the State. The topic should be do we establish a schedule for preconstruction prior to the RFP.

- u. Tim McKeehan – Is the playing field un-level?
- v. Don Freeman - They look at a bottom line to provide a number they think will make it work.
- w. Alan Robertson - A lot of what affects the fee is the number of rounds of estimating you are doing.
- x. Don Freeman - Man hours are taken into consideration. When it comes down to it you know you are being selected on that fee as well.
- y. Alan Robertson – There is a need to establish a specific level of services and estimating within the preconstruction contract so contractors are not abused.
- z. Lynelle Jensen - A set of guidelines are needed to set fees everyone can agree on. There is also a need to define the deliverables with those fees. This is not apples to apples yet. She agreed with Don that it is a numbers game with everyone looking at the bottom line. If we assign a fee we just shift where the number is applied. The bigger question is what we are getting for that price.
- aa. Alan Robertson - We should include this issue in our contract language.
- bb. Allan Cox - TBR and UT are very specific in their contracts.
- cc. Lynelle Jensen - There needs to be clearly defined deliverables. She asked who would set the fee and should there be industry input.
- dd. Ed Baldwin - The State should establish a number to put risk on the contractor. This would be a motivation to get the price correct.
- ee. Lynelle Jensen – We do not want to get an unqualified low bid contractor.
- ff. Peter Heimbach - It would go to the second most qualified.
- gg. Ed Baldwin – Do not allow people to submit an artificial number.
- hh. Bryan Hay - If Parsons Brinckeroff (PB) is already working with STREAM early on, then the greatest importance is to get programming established with a reasonable budget. If PB is working to establish the program, submit the RFP for preconstruction services so when you go to SBC you have good input you have paid for. Then as the project moves forward bring a designer on board and then a contractor to break the project up to get solid input at early phase. This allows a company to ask if they are qualified to provide preconstruction services. He suggested assigning a value for preconstruction services which does not mix up with fees and other businesses.
- ii. Allan Cox - If a designer is not on board they have a consultant on board.
- jj. Peter Heimbach - Funds are not available to do preconstruction services ahead of time.
- kk. Bob Oglesby - If you go to the second phase what is the liability of the first guy?
- ll. Peter Heimbach – Could the same guy bid for the second part of the job?
- mm. Ed Baldwin - Suggested removing the responsibility of that preconstruction service. The value of the preconstruction should not be as heavy a determination for the selection.
- nn. Bob Pitts - Preconstruction is a low bid item but a high valued product. Suggested doing something creative like establishing a dollar figure on preconstruction that is the floor, then, when a contractor is looking at the total package, they can back out if the total dollar amount for pre-construction and construction doesn't work for them. Try to incentivize contractors to say this is worth "x" for preconstruction.
- oo. Don Freeman - The only difference is when the contractor gets his money. As long as you do it on a fee basis. There are two issues. Do we need help in pre-SBC submittals which is a low cost item? In today's market if you continue to ask for all these at the same time it does not make any difference as we all look at the bottom line. No one is only looking at preconstruction fees. We are our own worst enemies. In today's market, it is very difficult to cover cost with fees that are being bid.

- pp. Dick Tracy - The issue with preconstruction does not make a difference as it is a small cost. There is a value to the preconstruction services and TBR does not want contractors to just give it to us. Must have a real number for those services. When these numbers are given, we ask for monthly cost for people which sometimes does not align with other costs. Look at monthly costs and evaluate the amount of time for each person. Your goal is to get into construction as quickly as you can and we are looking for you to spend time in the preconstruction phase before going forward. We look at historical data to determine current project preconstruction costs. We do not want submittals of low numbers.
- qq. Bryan Hay - Why do you not fix the cost?
- rr. Dick Tracy - It must be looked at as a statewide system. When looking at it as an owner it is hard to determine a fixed number. The issue is whether or not you use it as part of cost as you evaluate.
- ss. Peter Heimbach - The preconstruction services are being proposed as professional services. The fee on the construction management is bid services. A compromise may be to open and look at the qualifications and cost of services but not evaluate. We can negotiate the preconstruction based on the piece not evaluated.
- tt. Dick Tracy - It gets down to a monthly fee and it's the people you are going to have involved. If we bring you in you may need more people at that time than when you stated. We do not get into submitting time. If you submit a cost you need to tell us how much time someone is going to spend on this project. We can evaluate time. It is not a lot of money. We typically set aside what we think that is going to be and put into the project to bring on a CM in early. We want to be able to get CM without construction budget in place.
- uu. Alan Robertson - Dick Tracy needs to now present the TBR delivery methods as he needs to leave this meeting early. Let's wrap up CM and then have lunch and then have Dick speak. Then we can start DB afterwards.
- vv. Allan Cox - How to streamline the RFP process? Need to have an RFP/Q to review from various SPAs and let folks comment on what they think is appropriate. Maybe in a month or two come back with ideas.
 - i. STREAM and UT to send an example of CM/GC to Allan Cox. He already has examples from TBR.
- ww. Allan Cox - Will initiate CM/GC Fee.
- xx. Stan Hardaway - Asked for clarification on what would be recommended. Would this structure allow for preconstruction fees being taken out and then negotiated after selection and the State negotiates fees?
- yy. Allan Cox - That would be in a perfect world but may be limited by the State.
- zz. Don Freeman - It was brought up before that a fee be set.

V. Dick Tracy Presented TBR Proposed Projects and Recommended Delivery Methods

1. Dick Tracy stated that TBR has ten or so projects in the proposed budget.
 - a. Nashville State - CM/GC project in schematics - Total budget \$19 million
 - b. Northeast State – CM/GC project – technical education complex on main campus - finished programming and have funding for construction - \$34 million
 - c. University of Memphis - CM/ GC project - \$57 million
 - d. Volunteer State – potential BV project but not in current budget - \$27 million
 - e. Columbia State - Williamson county relocation – would like CM but not in current budget – in May plan to issue RFP for CM but would disclose not funded - would like CM to help with schedule and estimating

- f. Tennessee Technology Centers - Statewide – some fairly small projects. Some will be bid out and some will be BV
 - g. Austin Peay - starting design on
 - h. Austin Peay - addition to fine arts and renovations
 - i. Jackson State - second phase
 - j. Tennessee State - library renovation may change to health science
 - k. Tennessee Technological - changed the name to science building because it will have more than chemistry
 - l. East Tennessee State - looking at a new football stadium \$18 million – may start process this fall with design and will look at bringing in a cm to help with schedule
 - m. Tennessee Technological - has a project raising money for renovations for athletics improvements and changes to stadium - would use CM - \$32 million
 - n. Tennessee Technological – dorm renovations – CM also because of schedule - \$20 million
 - o. University of Memphis - two projects which are being funded by gifts - \$25 million basketball training facility and \$14 million indoor practice facility - may do BV on practice facility but not sure how the gifts are coming in.
 - p. Nashville State in Clarksville – campus expansion – BV as they will continue to occupy - \$7 million
 - q. University of Memphis – parking garage adjacent to new housing – CM project
2. Dick noted there are several other projects including \$39 million in capital maintenance and other projects on disclosure list with some using BV. They do not look at the cost of a project but the timing, funding, and issues surrounding the building in determining the delivery method. Scope and scheduling is critical only 84 days in the summer to work on some buildings. Construction can also happen over school breaks when needed. The CM projects are usually the larger projects as they have back fill work to vacate people to other buildings. TBR is currently using BV1, but have done all three options. One case with option 2 was where the low cost did not get the project but was more than qualified to do the project. Haven't found where option 2 worked well as there is a lot of work to bid the project and then narrow it down. I don't think it's fair. Option 3 we narrow the field down and then you bid, but not clear on what the value is. If you qualify 3 bidders, they should be taken and use the best bid. I haven't found reason for doing option 3. Need to streamline information being provided in responses. We are looking for similar work and the team being put on project. The projects are small in dollar size.
- a. Peter Heimbach – We have been talking about getting a list of qualified contractors and then submitting a project specific list later. A list of contractors could be prequalified by OSA. This could give us a list to start from.
 - b. Dick Tracy - Do not want to eliminate the qualified companies. It is not critical to run two drills. When you run the process there is not usually anyone not qualified. Do we need to ask for these things? What's the value? If there is a prequalification there must be a process and how will it be kept up to date. There is no one that can keep this dynamic up. Need to look at criteria and cut some of the items out to streamline.
3. Dick Tracy - Most alternative delivery methods used are BV1 and CM/GC. For the most part all projects have gone well. The bulk of projects are bid out and those are the ones that have issues. Process is better today as all contractors are bidding on every job.
- a. Alan Robertson – Are you moving more to BV on smaller projects?

- b. Dick Tracy - Yes but takes a lot of time and we have limited staff. Evaluations are being done on personal time. Critical to be done on a tight schedule. If we can streamline and cut in half what is evaluated the time is saved.
- c. Alan Robertson - All state agencies are taking work home to do evaluations. Metro has an entire evaluating department that does the evaluations.
- d. Dick Tracy – We use the PM, someone from the construction side, campus side, the specific department – we mix up the evaluators even using evaluators from other areas. Everyone has to be available to do this. We try to prioritize the projects.
- e. Alan Robertson – BV1 is more sought after as there are problems with contractors on small projects. A lot of states and industry are going to qualified contractors. Is there a hybrid out there to do a qualification based DBB?
- f. Dick Tracy - Looked at combining maintenance projects together and doing them as CM and even doing them by region. Would save time not doing multiple bids but need them to be interesting enough to get contractors to bid.
- g. Stan Hardaway – Metro used to have tiers for different size projects. Could do once a year qualification and have an approved pool of contractors for the \$5 million and less projects. They would have to get qualified each year or must wait until the next year to get qualified but cannot get in in the middle of year. Have an approved pool of contractors to include larger firms should they wish to participate in smaller projects.
- h. Peter Heimbach - That list could serve as the base for higher qualified projects.
- i. Dick Tracy - This is just another list of information we are asking you guys for. No idea what the financial information means and is only good for that specific day it is turned in. Do not know how to evaluate the accounting. This information is not used. When CM was started we gathered information and tried to come up with criteria. We have done this long enough that we could eliminate some items that are not used. Not getting anything out of these things. Could do for people just bidding work. That’s fine, but someone has to monitor that information. Tough time now verifying a contractor’s license. No teeth anywhere. Need to be careful putting in a process that will lead to calls from legislature such as “why didn’t this guy get in”. When the process started it was difficult, as the State was against it, and the view was the best way is to bid and take the lowest cost. Why aren’t we doing that? There are still a lot of people who think that way. Must come up with process to make it tougher. What infrastructure is needed on your side and the State side which would have to be monitored? Who is going to check? There is no state organization that cannot do that.

VI. Design/Build (D/B) Focus Group

Presentation by Chairman Chris Remke

1. Chris Remke stated the goals of the committee:
 - Current primary focus is only on DB-1
 - Prepare recommendation for DB2 model
 - Next committee meeting April 30
 - Determine when other single source methods should be considered
2. Chris Remke – Today’s topic is to discuss projects of limited scope DB. This is needed so some projects can be advanced. We are ready to recommend something for projects where design has been noted as not critical. Need to determine how much of the HSW is included and how to define this. Guidance is needed as the recommendation was quickly written today. How do we get into the modifiers? We need to make them comfortable for use. We have created a DB-1

- mechanism and wish to have manufacturers involved with the design. While this is supported we need help with the writing.
- a. Lynelle Jensen – We support using DB for maintenance projects as a first step. If the industry wants to push beyond that this is okay. We want to get approval to use this method now, but are under a time restraint waiting for this approval. We have documents that need to be prepared.
 - b. Bob Oglesby asked Ted Hayden for his opinion.
 - c. Ted Hayden – There are some recommendations of the organization regarding the language. Language should be formulated to provide guidance for when to use. Need to be considerate of when we move into DB-2 of having language that could be slightly modified. We have marked up some changes that could be submitted to the group tomorrow for approval. Agrees with last paragraph and can refer to some words that have meaning in the industry. Have reviewed some case law issues and recommended how to word the document.
 - d. Peter Heimbach – The secondary language was brought up because in a large group of maintenance projects we have to hire a designer who goes to the manufacturer to get options. The designers take the manufacturer's information and submit as their own. It is not always needed to have a designer in such situations.
 - e. Ted Hayden – There have not been any questions about the amount of design fees.
 - f. Peter Heimbach – Need examples of jobs that would be or not be incidental. Recognition of secondary language is that we are putting the designer in the position of being our information gatherer. There needs to be a resource that explains what is not needed.
 - g. Ted Hayden – The question is not related to the dollar amount. We could include some examples that give intent but cannot be very specific.
 - h. Peter Heimbach – We could get into fire alarm systems along with other codes and statutes the Fire Marshal requires a design be given to them. We must be able to separate those jobs from others.
 - i. Ted Hayden – We need to look at examples given under guidance. Are these good examples? We are providing illustrious information to others.
 - j. John Wimberly – Discussions have been had on T3 which was a last minute push through. The State has learned a lot. That was a big elephant to bite off. Today we are saying let's take baby steps and define DB-1. The State stills needs to define the RFP. An example is a 100 ton chiller, if that is all that is provided, there will be multiple responses all over the board.
 - k. Peter Heimbach – Designer is still needed to be involved in that kind of situation.
 - l. Lynelle Jensen – The contractor helps develop.
 - m. John Wimberly – In private industry it is well defined.
 - n. Lynelle Jensen – The State is more set up to CM/GC design. We need to help with budget and want one point of contact.
 - o. Dick Tracy – There were specific documents created by this group before for bridging architects. A critical point was if it was beyond the standard DB where they handed us the keys and they told us we got what we wanted. The State has to be protected.
 - p. John Wimberly – DB-2 has two distinct issues. It is hard to separate.
 - q. Stan Hardaway – What Metro is doing is a at a huge expense.
 - r. John Wimberly – This is not the method the State is looking at. This is for a special case and special situations.

- s. Peter Heimbach – We have a \$100,000 threshold and can do projects below that with ongoing statewide contracts. For anything over \$100,000, it becomes a capital project under the SBC – and requires a full set of design documents.
- t. Lynelle Jensen – Most of our projects have been swapping equipment.
- u. Dick Tracy – TBR does not want to bid out multiple smaller maintenance type projects. The scheduling is not an issue. There is no reason to compress a schedule for you not doing the work on the front end. Need someone to say what you need. A lot of research needs to be done in the beginning. Scheduling should not be an issue.
- v. Bob Oglesby – Where do we go from here? We want to keep this policy open so we can add to it later. Leave general description when to use DB-1 and then define DB-2 and others later.
- w. Chris Remke – If Ted will rewrite we will review.
- x. Bob Oglesby – SBC Staff review is on Monday. We need feedback from the group if they are okay with presenting then.
- y. Ted Hayden – I can draft and send to the group for approval, then we can present to Staff on Monday.
- z. Bob Oglesby – Not until this group is ready.
- aa. Peter Heimbach – We were told before we cannot do other DB projects beyond T3 until the industry responds.
- bb. Chris Remke – Are there other items to be added?
- cc. Lynelle Jensen – I can go through my list that could be changed if the option is available.
- dd. Alan Robertson – Do we want feedback or blessing for projects to use DB-1?
- ee. Lynelle Jensen – We can send the list back out and asterisk the ones that could be DB-1. It would be helpful to get comments and feedback.
- ff. John Wimberly – We talked about the list before which worked with the comments.
- gg. Lynelle Jensen – When Ted sends his language out then we will send our list out. Unless we hear otherwise, we will go ahead with the projects once approved by the SBC.
- hh. Allan Cox – What are you looking for from this group?
 - ii. Chris Remke – It is solely a matter of including the examples.
- jj. Bob Oglesby – Chris Remke should provide the leadership. This should go to the focus group first.
- kk. Chris Remke – Let's stay focused on DB-1 first and then move on.
 - ll. Don Freeman – Under the second paragraph under A, "only open fee of the one". What does this mean?
- mm. Ted Hayden – We need to clarify what Don asked.
- nn. Chris Remke – There is not just one but only the qualifying.
- oo. Lynelle Jensen – Cost is weighted which is part of the procurement process.
- pp. Trey Wheeler – Regarding the third item under A, it is important that the SPAs involved, with great certainty, there is a valid reason for using this delivery method versus another method. They need to be able to justify.
- qq. Bob Oglesby – In the existing policy is there anything that is specific for future DB-2 and not the proposed DB-1? There is a two part process for both. Can we do bridging for both? We need to confirm all of that.
- rr. Peter Heimbach – The last two sentences in existing policy about the design is not true for DB-1 as a second step.
- ss. Alan Robertson – All existing policy was built for DB-2.
- tt. Peter Heimbach – There is no two part process for DB-1 in the current policy.
- uu. Ted Hayden – We will work on the language.

- vv. Peter Heimbach – Section A applies to DB-1 and DB-2.
- ww. Chris Remke – The form needs to be similar. We need some additional inputs.
- xx. Ted Hayden – We will reword and Lynelle Jensen can add.
- yy. Chris Remke – This is a limited requirement thing. We need to establish a balance that is flexible.
- zz. Bob Oglesby – Who wants to comment – five from industry and three from State? We will funnel back through Chris Remke.
- aaa. John Stites – On the Section B, which would you not want on every job?
- bbb. Lynelle Jensen – You would want all of them.
- ccc. John Stites – As long as you have someone responsible to take on the risk then it won't hurt you.
- ddd. Bob Oglesby – Thanks for moving quickly.

VII. Best Value (BV) Focus Group

1. Alan Robertson – Turn the meeting over to the BV Focus Group to address outstanding comments.
 - a. Allan Cox – This is postponed until next month. We need a new chair and committee.

VIII. Design/Bid/Build (D/B/B) Focus Group

Presentation by Chairman Stan Hardaway

1. Stan Hardaway – All participants should go to the pre-bid. Encourage not reading the bid package, but rather include:
 - Specifics of the bid
 - Contract issues
 - Request for information process
 - Submittal process
 - Review of the schedule in detail
 - Discuss the procedures for the questioning period
 - a. Trey Wheeler – Would like to have language that the pre-bid meeting is mandatory.
 - b. Peter Heimbach – The Comptroller's Office has said mandatory attendance can limit competition. We like mandatory requirements but the problem is the information you hear is not material. All that matters is what comes back in writing.
 - c. Lynelle Jensen – Why have the meeting if they are not mandatory? What is the benefit?
 - d. Alan Robertson – The value is that it could help the bidders and should be information that cannot be expressed otherwise.
 - e. Lynelle Jensen – That is the reason to have it mandatory.
 - f. Peter Heimbach – It does not matter if it is not in writing. The meeting is to have a list of items that will be addressed in writing. The response document, not the meeting itself, is what is critical. With renovations you state it is compelling for the contractor to visit the site. It is compelling to have people look and discover issues. It takes a team. The meeting itself is not the mandatory piece.
 - g. Carl Munkel – These questions that are asked at that time benefits the State.
 - h. Peter Heimbach – I like the mandatory pre-visit. Except if the bad contractors show up they are now qualified.

- i. Carl Munkel – The State has more issues to deal with if no one shows up as it is not mandatory.
 - j. Trey Wheeler – If the designer is at the pre-bid meeting then he is going to make recommendations.
 - k. Peter Heimbach – It could benefit or hurt you.
 - l. Trey Wheeler – In the non-State world we work well together. If the Comptroller’s Office is pushing back we could try to reason with them.
 - m. Peter Heimbach – We would encourage that.
 - n. Alan Robertson – We have had issues where someone showed up late and didn’t sign in and we excluded them which caused issues.
 - o. Trey Wheeler – Recommend Stan Hardaway and others groups get together and go talk to them.
 - p. John Stites – If you are smart you don’t ask all of these questions in front of the group. Contractors will ask questions that create doubt in the competitors mind but if there is an opportunity for added value down the road you are not going to mention.
 - q. Peter Heimbach – There is a state law that a contractor is materially responsible to ask those questions.
 - r. John Stites – Good luck proving that.
2. Stan Hardaway – Second item – addendums and clarification. The committee discussed that any questions should go back out to all bidders even if it is after the cut off time if the designer feels like it needs to go out it should go out to everyone regardless if the question came in writing or was verbal.
- a. Peter Heimbach – Only items in writing are upheld.
 - b. Carl Munkel – The critical issue is if it comes in late.
 - c. Stan Hardaway – Two day and four days is what the policy says.
 - d. Peter Heimbach – Our policy says three and six days.
 - e. Alan Robertson – There have been issues in the past with issuing late addendum.
 - f. Peter Heimbach – The bid date must be changed as well.
 - g. Stan Hardaway – Recommend policy changes. Under alternates we would like to include deductive alternates.
 - h. Peter Heimbach – They can be included but must be phrased as an additive alternate. You must accept them in the order as they are added. If they are additive you accept all of them up to the bid target.
 - i. Stan Hardaway – What if you are over budget?
 - j. Peter Heimbach – Then we have to figure out how to change the budget. We need a policy change for this. We are trying to get a way to negotiate if under the MACC. For a deductive it must be worded as an additive.
 - k. Alan Robertson – We have been promoting alternates.
 - l. Allan Cox – Is there a number of those allowed?
 - m. Peter Heimbach – We are allowed three.
 - n. Stan Hardaway – Under instructions to bidders we are asking the two days and four days be changed to five days and seven days. This is too tight currently.
 - o. Peter Heimbach – The two days and four days are legislated. That is why our manual is different.
 - p. Stan Hardaway – We can live with that.
 - q. Peter Heimbach – It is difficult to regulate as architects delay asking questions.
 - r. Stan Hardaway – This is a lot to get into this early in our review.

- s. Peter Heimbach – If the design community as a whole would agree to it this would be fine. We changed the policy and people are still not following. The three days and six days are in the policy which we could waive.
- t. Stan Hardaway – What do the contractors think of the cutoff?
- u. Don Freeman – The subs do not begin working until later in the process.
- v. Peter Heimbach – Contractors need a few days to ask questions.
- w. Alan Robertson – Based on the question and answer not the magnitude of the issue?
- x. Stan Hardaway – It does not matter. Just the days.
- y. Peter Heimbach – Originally wanted two days.
- z. Stan Hardaway – We only really have a day to prepare.
- aa. Bill Young – This is not business days either. It doesn't matter if it is over a weekend.
- bb. Stan Hardaway – Improvements in this area are needed. Onto page five – Substitution. We want to add that the substitution be approved in writing.
- cc. Alan Robertson – Discuss value engineering.
- dd. Peter Heimbach – If a bid comes in over the MACC, it must go back to the SBC.
- ee. Alan Robertson – It is best to do as additive.
 - ff. John Stites – Could you allow value engineering? It's an evaluation process either way.
- gg. Peter Heimbach – We would have to have a separate envelope with a sealed VE item that is not opened unless the job comes in over budget.
- hh. Carl Munkel – This may require the designer be involved.
 - ii. Peter Heimbach – This could impact other items.
 - jj. John Stites – If you are taking VE items you want them before the bid and not after.

IX. Next Meeting

1. Alan Robertson announced the next QIC Meeting will be on May 8, 2013.
2. Bob Oglesby – We will stay with the current meeting format. The Fire Marshal has offered to come during the lunch hour to discuss multiple bid sets. They are trying to develop some decision trees as to when they can and cannot allow a single set for multiple buildings. We will try to schedule them for our next meeting.

Quality In Construction

April 10, 2013
Nashville, Tennessee

| NAME | COMPANY | PHONE # | E-MAIL |
|----------------|--------------------------|--------------|---------------------------------|
| JOHN STITES | J&S CONST | 631-528-7475 | jdstitess@jstites.com |
| Angela Scott | state of TN-OSA | 615-741-7719 | angelascott@tn.gov |
| CANDY TADE | ACEC | 615-292-1331 | ctade@tree.org |
| TON MILLER | TMP | 615-370-6078 | dmiller@turner.com |
| Ed Baldwin | Turner | 615-513-6600 | ebaldwin@tcco.com |
| Andy Sneed | WASCO Inc | 615-244-9090 | wasj@wasco-inc.com |
| Larry Hart | TMP | 615-523-5223 | Lhart@turner.com |
| TREY WHEELER | TWH ARCHITECTS | 423-756-5046 | TWHEELER@TWHARCH.COM |
| JIM DIXEY | STATE OF TN-STREAM | 615-741-2017 | jim.dixey@tn.gov |
| Lynelle Jensen | STREAM | 615-741-9282 | lynelle.jensen@tn.gov |
| PETER HEIMBACH | STREAM | 615-741-7865 | peter.l.hembach@tn.gov |
| STAN HARDAWAY | HARDAWAY | 615-254-5461 | shardaway@hardaway.net |
| CHRIS REMKE | HDC | 615-690-2814 | chris.remke@hdc.com |
| BRYAN HAY | HARDAWAY | 615-254-5461 | bhay@hardaway.net |
| Don Freeman | Rentenbach | 865-546-2440 | dwfreeman@rentenbach.com |
| Bob Pitts | ABC | 615-476-7981 | bpitts@abc-tennessee.com |
| Carl Munkel | Gresham Smith & Partners | 615-770-8184 | carl.munkel@gsnet.com |
| Ted Hayden | OSA | 615-202-6974 | ted.hayden@tn.gov |
| BRIAN WIRTH | FLINTCO | 701-372-9600 | bwirth@flintco.com |
| JOHN WIMBERLY | ICT | 615-346-3406 | jwimberly@ICT-Houston.com |
| ALAN COX | REN | | |
| ALAN ROBERTSON | OSA | 741-3259 | alan.robertson@tngo |
| BOB OGLESBY | OSA | 741-4201 | bob.oglesby@tn.gov |
| ANGELA SCOTT | OSA | | angela.scott@tn.gov |
| TIM McKEAN | UT | | |
| TERRY SELF | INTERSTATE MECH | 615-588-0180 | tself@interstate-mechanical.com |

Preconstruction Services

Construction Manager/General Contractor (CM/GC) Focus Group

I.a.iii Bob Oglesby asked AGC and ABC to provide an updated list of 40 advisors that they had previously offered to the State.

- Who has the list?
- What is best way to update it? By personal invitation? By announcement to full AGC & ABC membership?
- Is it broken down by the State's grand divisions?
- How do we verify the advisors being provided have the specific expertise required to be an asset to the review committee?

1.a Outstanding items from Feb 27 meeting

- i. Buddy Heinz said that competitors may offer a low or no cost proposal for preconstruction phase services just to win the project, and then make it up by charging more in later phases.
- ii. Bob stated that he understands the State's interest in early contractor involvement on all projects, we need QIC's input on how to best do this when 80% of the projects are smaller than \$3 million.

PRECONSTRUCTION SERVICES

- Are preconstruction services a commodity?
- Should they be “bid” like steel, concrete, toilet partitions?
- **No, preconstruction services are a professional service and should be treated as such.**

PRECONSTRUCTION SERVICES PRIOR TO SBC FUNDING APPROVAL

- **“Pre-planning” phase projects** are submitted to SBC for approval based on a project description and initial budget.
- Occasionally minor programming may be developed, but in-depth programming is typically completed afterwards by the Designer or other consultant prior to preconstruction phase services.
- Pre-planning budgets typically change after SBC approval.
- Going back to the SBC for additional funding is becoming more and more difficult and is frowned upon.

PRECONSTRUCTION SERVICES PRIOR TO SBC FUNDING APPROVAL (cont.)

- **Projects need to be further defined prior to submittal to SBC.**
- Options available to the State to procure preconstruction services prior to the funding of the project include:
 - Consider using current Contract/Project Management Group (Jones Lang LaSalle), or a similar firm to provide the pre-planning programming and budgeting as an additional service of their contract.
 - State could select from a pool of prequalified General Contractors:
 - Would be for this service only.
 - They are not awarded the entire project.
 - They are compensated on hourly DPE rate.

PRECONSTRUCTION SERVICES AFTER SBC FUNDING APPROVAL

- Firms are proposing unrealistic low preconstruction fees.
- Low preconstruction fees do not match the level of services the project requires and deserves.
- Low preconstruction fees are being proposed simply to improve their cost proposal score.
- CM/GC selections in some states are made on technical abilities then preconstruction services fees are negotiated.
- The CM/GC Fee and General Conditions are established at the time of the GMP and negotiated.

PRECONSTRUCTION SERVICES AFTER SBC FUNDING APPROVAL (cont.)

- Options available to the State for consideration which take bidding of preconstruction services out of the CM/GC selection process include:
 - Hire CM/GC based upon Qualifications/Experience/Technical only – negotiate preconstruction fee after award.
 - Consider setting a reasonable fee for the level of Precon services required:
 - Lump Sum Fee based upon complexity of project and the design phase at which project is when CM/GC brought on-board.
 - Lump Sum Fee based upon value of the project.
 - Sample Lump Sum Fee Schedule:

| Project Value | \$ 10,000,000 | \$ 20,000,000 | \$ 50,000,000 | \$100,000,000 |
|-------------------------|---------------|---------------|---------------|---------------|
| Preconstruction Fee | \$ 30,000 | \$ 40,000 | \$ 65,000 | \$ 90,000 |
| Percent of Project Cost | 0.30% | 0.20% | 0.13% | 0.09% |

1.c RFP/RFQ Streamlining – Initial Discussions

Construction Manager/General Contractor (CM/GC) Focus Group Next Steps

- Continued Discussion on Preconstruction Services Fees
- Begin detailed discussions regarding RFP/RFQ Streamlining
- Initiate discussions regarding CM/GC Fee

2. Best Value (BV) Focus Group

a. Outstanding items from Feb 27 Meeting

- i. Peter asked how do you know where to set the minimum threshold value and/or the maximum number of companies to be short listed to be sure you will get the three really qualified contractors? Or, would you do it at all?
- ii. Lynelle stated that if the State ends up prequalifying all its projects, then how can we make the selection and evaluation process simpler so contractors are not preparing proposals for all of the projects and the State is not burden with a time intensive process on every project? Industry needs to think through BV and CM/GC to prequalify a pool of contractors so it is not such a burden on the State and the industry. The State would welcome input as to how this could be accomplished.

2. Best Value (BV) Focus Group

a. Outstanding items from Feb 27 Meeting

- iii. Lynelle said that with so much work coming up, we need to address the issue of getting prequalified contractors and narrowing the bidding field.
- iv. Lynelle said that the State would welcome input from the industry regarding RFP/Q questions that should be asked to help weed out contractors who should not be considered further for a project.
- v. Bob Oglesby asked each focus group to offer recommendations on selection requirements.
- vi. Peter asked the group to also suggest to the State what a contractor needs to know about the project in order to offer better proposals.

2. Best Value (BV) Focus Group (cont.)

a. Outstanding items from Feb 27 Meeting

- vii. Bob asked the QIC group to recommend questions they should ask of designers.
- viii. Bob asked the BV focus group to please consider whether or not BV1 should be the only option, or continue to have the other BV options as well.
- ix. STREAM will follow up with Tim McKeehan on why STREAM wants to move forward with more prequalifying / use of BV over DBB in an effort to encourage UT's movement in that direction.

Construction/Evaluation Advisors

| <u>Name</u> | <u>Company</u> | <u>Location</u> | <u>State Location</u> | <u>Telephone Number</u> | <u>Email Address</u> |
|--------------------|----------------------------|-----------------|-----------------------|-------------------------|--|
| Bill Prince | BurWil Construction | Bristol | East | | |
| Dave Donohue | Rouse Construction | Knoxville | East | | |
| Don Freeman | Rentenbach | Knoxville | East | | |
| Dorman Blaine | Blaine Construction | Knoxville | East | | |
| Jim Bush | Johnson & Galyon | Knoxville | East | | |
| Leland Leonard | Armstrong Construction | Kingsport | East | | |
| Marv House | Merit Construction | Knoxville | East | | |
| Tom Burleson | Burleson Construction | Johnson City | East | | |
| Allan Cox | Bell & Associates | Knoxville | East | | |
| Chris Remke | Hawkins Development | Nashville | Middle | | |
| Ed Baldwin | Turner Construction | Nashville | Middle | | |
| Hall Hardaway | Hardaway Construction | Nashville | Middle | | |
| John Finch | PBG Builders | Nashville | Middle | | |
| John Lee | Rock City Construction | Franklin | Middle | | |
| John Stites | J & S Construction | Cookeville | Middle | | |
| Lee Carter | Carter Group | Nashville | Middle | | |
| Ron Crutcher | Crutcher Consulting | Franklin | Middle | | |
| Michael Rankin | Crain Construction | Nashville | Middle | | |
| Keith Pyle | Bell & Associates | Nashville | Middle | | |
| Dan Brodbeck | Compass | Nashville | Middle | | |
| Joe Parks | Parks Construction | Nashville | Middle | | |
| Harold Brewer | American Constructors | Nashville | Middle | | |
| Bruce Case | Construction Consultants | Chattanooga | South | (423) 265-4131 | bruce@design-and-build.com |
| Nick Cornelison | P & C Construction | Chattanooga | South | (423) 493-0051 | nic@pc-const.com |
| Cary Davis | DBS Corporation | Chattanooga | South | (423) 752-1302 | cary.davis@dbscorporation.com |
| Robert Duncan | Rentenbach | Chattanooga | South | (423) 826-1640 | raduncan@rentenbach.com |
| Jimmy Griffin | Vega Corporation | Chattanooga | South | (423) 266-8876 | jimmy@vega-corp.com |
| Eddie Helton | Helton Construction | Chattanooga | South | (423) 875-8850 | eddie@heltoncc.com |
| James Horton | J & J Contractors | Chattanooga | South | (423) 265-3233 | jamesh@jjcontractors.com |
| Jimmy Lail | Raines Brothers | Chattanooga | South | (423) 265-0467 | jimmy@rainesbrothersinc.com |
| Jason Medeiros | Pointe General Contractors | Chattanooga | South | (423) 755-0845 | jmedeiros@pointegc.com |
| John Straussberger | The Strauss Company | Chattanooga | South | (423) 265-3201 | john@straussco.com |
| Larry Parks | T. U. Parks | Chattanooga | South | | |
| Doug Stein | Stein Construction | Chattanooga | South | (423) 698-0271 | fdstein@steinconstruction.net |
| Arch Willingham | T. U. Parks | Chattanooga | South | (423) 648-3800 | arch@tuparks.com |
| Matt Wood | MPL Construction | Chattanooga | South | (423) 899-7737 | mwood@mplconstruction.com |
| Ryan Dillard | Dillard Construction | Dayton | South | (423) 775-1793 | rdillard@dillardconstruction.com |
| David Dando | MC DR, Inc. | Memphis | West | | |
| Gary Weeden | APAC - Tennessee | Memphis | West | | |
| Page Inman | Inman-EMJ | Memphis | West | | |
| Kevin Moyes | Flintco | Memphis | West | | |
| Vince Mozzola | Brooks and Mozzola | Memphis | West | | |
| Rusty Linkous | Linkous Construction | Memphis | West | | |
| Bud Webb | Webb Building Corp. | Memphis | West | | |