

Quality in Construction (QIC)

Microsoft Teams Meeting

May 12, 2021

9:00 am - 12:00 pm

Attendees:

- Carolyn Lazenby, TDCI
- Michael Schulz, TDCI
- Bryan Hay, ABC
- John Thayer, ABC
- Jim Prillaman, ACEC
- Kasey Anderson, ACEC
- John Gromos, AGC
- Jason Medeiros, AGC
- Leslie Gower, AGC
- Greg Campbell, AIA
- Rich McNeil, AIA
- Trey Wheeler, AIA
- Ashley Cates, AIA
- Marc Brunner, APSU
- Bill Waits, MTSU
- Ted Hayden, STREAM
- Jennifer Murphy, STREAM
- Patti Miller, TBR
- Jim Cobb, TTU
- Tony Poteet, UofM
- Chris Byerly, OSA
- Ann McGauran, OSA
- Alan Robertson, OSA
- Chloe Shafer, OSA

Discussion:

- I. All attending members were identified through each attendee's on-screen MS Teams attendee list.
- II. Board for Licensing Contractors Presentation – *Bidding and Contractor License Requirements* - Carolyn Lazenby, (TDCI)
 1. Carolyn Lazenby gave a presentation on bidding and contractor requirements for licensing. The presentation can be downloaded at the following link: [Bidding and Contractor License Requirements](#).
 - a. Chloe Shafer asked Carolyn if a discrepancy between the licensed entity name and bidding entity name results in bid rejection. Carolyn responded that the law allows the bidder 48 hours to correct the discrepancy or it may be subject to review by the Board to determine bid rejection.
 - b. Chloe asked if Carolyn could clarify requirements for bidders that bid as a dba. Carolyn responded that in order for bidders to operate as a dba they must be licensed as a dba which requires the business entity to be registered with the Secretary of State as a dba and that their financial statement, insurance and other required information would have to include the dba.
 - c. Chloe noted that occasionally there are bids where the contractor does not list all subcontractors because in their bid process that subcontract would not be over the statutory threshold. Chloe asked how situations are resolved when the second low bid has listed additional subcontractors with their bid and questions the bid provided by the low bidder. Carolyn responded that the contractor should provide proof of the cost for the labor and materials associated with a subcontractor that is not listed. Carolyn added that an analysis of the other subcontractor bids can provide insight as to the reliability of the costs provided as well.
 - d. Alan Robertson asked what occurs when a change order puts a contractor over their monetary limit during the project. Carolyn responded that the contractor will have to request a hardship increase immediately. Carolyn added that a contractor is considered unlicensed once they go over their limit. Carolyn further noted the legal and financial repercussions of being unlicensed during a project.
 - e. Carolyn summarized regulatory board website and contact links.
 - f. Alan asked if there were any additional questions.

- g. Alan noted that there should be awareness about contractors that have been disqualified and attempted to register under different names.
- h. Chloe asked if a project has to be re-bid, if a previously disqualified bidder can participate on the project. Carolyn responded that the law states that a contractor, that has been previously disqualified, may not participate on the project even if it requires a re-bid.
- i. Chloe asked if there is a requirement on behalf of the State to report the rejection to the Board. Carolyn responded that the State is not required to report a bid rejection.
- j. Alan asked if there is a monetary limit on tree trimming. Carolyn noted that there is a \$25,000 monetary limit requiring licensing and further noted that storm damage remediation and tree removal also requires the same monetary limit.
- k. Carolyn concluded her presentation and Alan directed the meeting to the next agenda item.

III. Legislative Updates – Kasey Anderson (ACEC),

- 1. Kasey Anderson noted that the State passed the largest budget in the State’s history of \$42.8 billion noting that the previous year’s budget was \$39 billion. She noted that a \$931-million budget was passed for capital projects and capital maintenance.
- 2. Kasey summarized the number of house/senate bills, resolutions and constitutional amendments filed. See attached *QIC Report 2021 Legislative Session Bills Relevant to QIC*
- 3. Kasey noted house committee restructuring.
- 4. Ann McGauran shared that John Hull will be discussing the SB746/HB78 (Johnson/Lamberth) bill for energy performance contracts at the next QIC meeting in greater detail.
 - a. Jennifer Murphy concurred with Ann that the State is working with other states to further understand contract management in this context.
- 5. Trey Wheeler noted that the AIA has been working for a number of years to pass Historic Tax Credit legislation. They made quite a bit of progress this year and there is a \$5 million grant program for historic structures in the budget. AIA is developing messaging about these grants.

IV. HPBr, BIM and Project Team Evaluations – Chris Byerly (OSA)

- 1. Chris Byerly noted that in March 2021, OSA provided tracking sheets to the SPA’s for HPBr and project team evaluation compliance documents.
- 2. Chris noted that HPBr compliance document tracking was at about 80% and that project team evaluation tracking was at about 50%.
- 3. Chris stated that OSA will be reaching out to SPA’s in order to provide guidance on basic compliance checks for HPBr and team evaluation documents.
- 4. Chris indicated that OSA will be updating the HPBr Manual and the Checklist workbook in the July 2021 and that SPA’s will be notified once the update is published.
- 5. Chris reminded SPA’s to keep OSA informed as to the progress of any current or future TN BIM-required projects.

V. SPA Updates and Current Activities –

- 1. Marc Brunner (APSU)
 - a. Marc Brunner noted a recently issued Designer RFQ for the APSU Health Professional Building.
 - b. Marc anticipated bringing the project forward in August 2021 and executing initial contracts in September 2021.
 - c. Marc stated that he will likely have questions regarding BIM relating to basic design services.
 - 1. Ann McGauran requested that such discussions include her as well.

- d. Marc noted two maintenance projects coming forward for roofing and controls for a single building. He indicated that they will likely be using best value for the roofing project.
 6. Tony Poteet (UofM)
 - a. Tony Poteet noted there are several projects for capital maintenance in the 21-22 Budget and he expects requested actions with SBC and ESC for these projects to come forward in July 2021.
 7. Jim Cobb (TTU)
 - a. Jim Cobb indicated that TTU was in DDP for the College of Engineering Building.
 - b. Jim noted that the project team was working on value engineering relating to cost escalation.
 - c. Jim stated that steel, glass and sheetrock increased by \$1 million for each category between SDP and DDP from October 2020 and May 2021.
 - d. Jim indicated that TTU requested and received funding for 5 capital maintenance projects and will be making designer recommendations to OSA.
 - e. Alan Robertson noted the current challenges relating to cost escalation and invited other members to share related experiences with the group during open discussion.
 8. Bill Waits (MTSU)
 - a. Bill Waits indicated that MTSU has 7 capital maintenance projects funded for this fiscal year with an approximate value of \$10 million including site utility, elevator and roofing projects that are posted on MTSU's website for designer RFQ's.
 - b. Bill noted that a designer RFQ is forthcoming for MTSU's Applied Engineering Building.
 - c. Bill indicated a small athletics/tennis facility that they will be bringing forward in September.
 9. Jennifer Murphy (STREAM)
 - a. Jennifer Murphy noted that STREAM will be bringing forward numerous projects particularly relating to capital maintenance.
 10. QIC members from ETSU, TBR and UT were not in attendance.
- VI. Open Discussion
 1. Ann McGauran solicited comments from industry regarding pricing volatility and escalation.
 - a. John Gromos noted a continued escalation in rebar, metal decking and joists as well as increased lead times. John also noted that increased warehouse construction is contributing to particular material shortages.
 - b. Alan Robertson asked John Gromos if post-COVID labor shortages are impacting escalation. John Gromos noted that labor shortages are contributing to escalation but not to the degree that commodity pricing is.
 - c. Bryan Hay stated that supply chain disruption is a continuing issue citing slow ramp-up periods by manufacturing facilities after post-COVID factory restarts.
 - d. Bryan cited escalation in products such as insulation, tile ceiling, metal roofing, concrete and lumber. Bryan added that volume purchasing and offsite storage are two strategies being investigated to mitigate escalation issues.
 2. Alan adjourned the meeting.

Action Items:

- Kasey Anderson will provide legislative session summary to Alan Robertson.

Next Meeting: August 18, 2021
TN Board of Regents Rooms 341, 343 and 344

QIC Report
Kasey Anderson | ACEC Tennessee

2021 Legislative Session
Bills Relevant to QIC

[SB187/HB13](#) (Bowling/Hulsey) – As enacted, establishes certain restrictions on requiring persons to be **vaccinated for COVID-19**.

- PASSED
- [Public Chapter 513](#) effective 5/25/2021

[SB271/HB229](#) (Yager/Vaughan) – As enacted, establishes a process for notifying developers regarding the **location of natural gas pipelines and easements** for such pipelines for purposes of breaking ground on residential and nonresidential developments, and provides pipeline operators with notice of such developments.

- PASSED
- [Public Chapter 300](#) effective 7/1/2021

[SB314/HB415](#) (Gilmore/Camper) – As introduced, creates the **Tennessee Small Business Reserve pilot program**, which provides opportunities for certain small businesses to be awarded state contracts.

- Senate Status – referred to Senate State & Local; not heard in 2021
- House Status - Deferred to first calendar of 2022 in Public Service Subcommittee

[SB374/HB54](#) (Walley/Marsh) – As enacted, makes various changes concerning safety enforcement of **underground utilities**, including increasing the penalties that may be assessed for violations.

- PASSED
- [Public Chapter 307](#) effective 7/1/2021

[SB407/HB252](#) (Stevens/Hazlewood) – As enacted, requires persons working with certain electrical equipment to meet certain requirements; makes that electrical equipment subject to inspection by a **state-certified electrical inspector**; prohibits liability against certain electric systems arising from those persons working with that electrical equipment; requires that copies of the national standards be available for public viewing.

- PASSED
- [Public Chapter 177](#) effective 4/2/2021

[SB602/HB905](#) (Watson/Doggett) - As introduced, requires newly constructed or renovated buildings that are open to the public to contain at least one **restroom containing a powered, height-adjustable, adult-sized changing table** if constructed or renovated after a certain date.

- Senate Status – deferred to first calendar of 2022 in Senate Commerce
- House Status – deferred to summer study in Property & Planning Subcommittee

[SB631/HB749](#) (Bell/Boyd) - As enacted, revises provisions governing statewide **building construction safety standards**.

- PASSED
- [Public Chapter 332](#) effective dates 5/30/2021; 9/2/2021

[SB746/HB78](#) (Johnson/Lamberth) – As enacted, deletes the Paperwork Reduction and Simplification Act of 1976; redistributes the recordkeeping responsibilities for the state protest committee; revises other various provisions governing state contracts. Allows for **Energy Performance Contracts**.

- PASSED
- [Public Chapter 279](#) effective 5/3/2021

[SB1017/HB1541](#) (Pody/Weaver) - As introduced, increases fine that may be assessed against persons who fail to give **notice of blasting operations** prior to conducting such operations; reduces maximum allowable peak particle velocity limits for blasting site distances; revises other provisions regarding blasting.

- Senate Status – referred to Senate Commerce; not heard in 2021
- House Status – deferred to first calendar of 2022 in Business & Utilities Subcommittee

[SB1150/HB1112](#) (Johnson/Vaughan) – As enacted, **prohibits local governmental entities from mandating certain disclosures** in contracts for improvements to real property, or in a bid, proposal, or agreement relating to an improvement of real property.

- PASSED
- [Public Chapter 234](#) effective 4/22/2021

[SB1224/HB1182](#) (Rose/Rudd) - As enacted, requires a public or private entity or business that operates a building or facility open to the general public to post **a notice at the entrance of each public restroom** of the entity's or business's policy of allowing a member of either biological sex to use any public restroom within the building or facility, if the entity or business maintains such a policy.

- PASSED
- [Public Chapter 453](#) effective 7/1/2021

[SB1235/HB1593](#) (Gilmore/Miller) – As introduced, requires **TACIR** to perform a study regarding disparities in the issuance of state contracts to businesses owned and operated by African Americans, and to report its findings no later than January 31, 2022.

- Senate Status – referred to Senate State & Local; not heard in 2021
- House Status – House passed 85-0

[SB1268/HB386](#) (Reeves/Russell) - As enacted, transfers administration of construction service provider registration from the secretary of state to the bureau of **workers' compensation**.

- PASSED
- [Public Chapter 88](#) effective dates 4/7/2021; 1/1/2022

[SB1577/HB1285](#) (Bailey/Boyd) - As enacted, revises and rearranges certain provisions governing **construction services providers**, the penalties for noncompliance of insurance requirements, and the exemption from having workers' compensation insurance; revisions to be effective from July 1, 2021, until July 1, 2024.

- PASSED
- [Public Chapter 189](#) effective 7/1/2021

[SJR2](#) (Kelsey/Todd) - Constitutional Amendment – proposes adding a provision establishing the **right to work** regardless of status of affiliation with any labor union or employee organization.

- PASSED – will be on November 2022 ballot