

**Highway Technical Meeting
4/20/2022**

Joint MCA and Contractors Meeting

Participants:

MDT:

Joe Green
James Sullivan
Jamie Gillam
Rich Hibl
Matney Juntunen
Kathleen Terrio
Clarissa Martin
Darin Reynolds
Stephen McEvoy
John Macmillan
Jim Davies
Jake Goettle
Jeremy Wilde
Doug McBroom
Regina Bieber
William Semmens
Matt Strizich
Megan Handl
Geno Liva
Jeff Jackson
Bethany Kappes
Duane Kailey
Matt Collingsworth
Michelle Lee
Paul Bushnell

Contractors:

Cale Fisher: Riverside Contracting
Guy Slaybaugh: Century Companies
Jodie Tooley: MT Lines
Soloman Redfern: Helena Sand & Gravel
Keith Johnston: Mountain West Holdings
Brey Meyer: High Mark Traffic Services
Pat Bomgardner: MT Lines
Brian Thompson: BKBH
Hal Fuglevand: Knife River
Russ Robertson: Sletten
Aaron Grey: Highway Specialties
Kerry Grey: Highway Specialties
Aaron Golik: Century Companies
Mike Meredith: Forterra
Matt Jones: BNSF
Rich Scott: BNSF
Deb Poteet: Poteet Construction
Gaylin Baumberger: Poteet Construction

MCA New Business

1. Lump Sum Traffic Control

Bomgardner: it seems this should be unit cost. Its fairer and makes more sense.

K. Johnston: My first question is where is this coming from?

Goettle: we have implemented lump sum where the project is straightforward. We are trying to go to lump sum to give the prime and sub the opportunity to come up with the plan and implement the plan and you are not having to change things. I am a fan of lump sum traffic control and that may be where that direction is coming from.

K. Johnston: we have many examples. There are whole bunch of examples where lump sum is not working. We have never had a problem with chip seal and mill and fill . . . but once you get millers, pavers, guard rail, curb, bridge, crack sealers . . . lump sum just doesn't work where there are too many problems.

Goettle: the Yellowstone bridge project I still think should be lump sum. As for Jackson, it sounds like it was more of a single operation. We are open to having this conversation. We will take that into consideration into the future. We are also developing traffic control rate by the day.

Baumberger: we are having experiences where we come up with a plan, and then we get there, and there are ton of changes that do not fit the plan that was approved.

Goettle: that shouldn't be happening. Go ahead a run that up the flag-pole.

Baumberger: we don't know going in how the job is going to be built . . . my feeling is that lump sum just isn't fair.

Goettle: I'm surprised some of these plans are put together without enough conversation between the prime and the sub. I kind of hoped lump sum would encourage those conversations.

Poteet: we don't know going in how the job will be built. The primes all do it differently and we have no opportunity to know before the bid.

Fisher: I'll talk with Gary or Galen . . . but it's an impossible position. Those conversations happen to some degree . . . but then you're asking the subs to share bid information between primes.

Russ Robertson: it's a ton of risk on the prime . . . there is a lot of room for error on the lump sum.

Goettle: fair enough. Like I said earlier, maybe we shouldn't have those on the more complex projects.

J. Wilde: this isn't necessarily the way we are going. The goal is to have another tool in the toolbox. There are a bunch of different opinions on how the traffic control schedule should be maintained --- the lump sum solves that to some degree. I respectfully disagree that lump sum is not as safe as unit. The standards and safety should be same across the board. I would also like to hear more feedback on the by-the-day traffic control.

Aaron Golick: how are you going to handle the changes? I see lots of problems with changes in lump sum traffic control. Districts are already doing it differently.

Goettle: if it's a lump sum job and we are adding things, I think that would be easy to address. Are there examples?

J. Wilde: in every contract, we include traffic control fix. If there is a change in condition, it should be included in the change order.

K. Johnston: sometimes it's not a change of contract . . . maybe the scope of the work doesn't change but there is a lot more traffic control. There are changes that impact traffic control . . . it adds days and not the scope of the work.

Golick: we ran into that on a bridge deck. It increases days, but not scope.

Fisher: Yes. We have a job where it's a lump sum job and the change wants to be unit. It seems strange to do half the work as lump and half as unit.

Bomgardner: the change orders need to be handled consistently.

Goettle: I would really like feedback on the daily traffic control rate. Maybe the daily rate would work better.

Fuglevand: how much of this is driven by cost to the MDT?

Goettle: to a point, yes. We have had overruns on traffic control in the past. It was part of the conversation, it was not the primary reason. We are not moving to this . . . but it is a tool to use for certain projects. I need to be better about pulling it back a little more.

K. Johnston: project managers on projects have always been involved . . . we have never really had a problem with that. But that needs to end if we are going to do lump sum. We are trying to bid these at the bare minimum . . . if they want use to change speed limits twice a day . . . that can't happen.

J. Tooley: between unit and lump sum, it seems like when we do unit, the EPMs want us to do less and on lump, they want us to do more. EPMs see it as an opportunity to get a bargain because the plan is already approved. We are then asking for more money because that isn't how it was bid and planned. We think it's safer to do unit because we know we are going to get paid for all these extra things the EPMs want. There is a perception that money is being chosen over safety.

J. Wilde: there is probably a medium there. We see the same thing on unit projects. I think there are some inefficiencies in unit prices.

2. Lump Sum Erosion Control.

Fisher: some jobs are having the BMP erosion and the aquatic species. It's a question of why are both needed?

Goettle: doing both helped with some of the compliance issues we have had. We knew there was some overlap . . . but this is good feedback that we can probably go to just one. That PAR is being added on more projects.

Bomgardner: I also know people are more interested in units instead of lump sum.

Goettle: it did used to be units, we changed it 15 years ago or so. We thought it was easier for the contractor to come up with the plan. I thought this was going well for many years.

3. Truck Mounted Attenuator

Bomgardner: this is a great tool. We would like to see a pay item here.

(unknown speaker): at the traffic control meeting in Bozeman, many people seemed to agree that this would be a good item to have.

J. Wilde: we are certainly looking into this. They are beneficial. We are putting together a best practice method and to come up with a way to pay for these. We have been trying to get these in to the bridge inspection rates.

K. Johnston: there should be two rates . . . one for parked and one for an operator.

4. Plan Holders List

Bomgardner: is there a plan for switching these to emails instead of fax?

D. Reynolds: we are getting set up for that. Should be the June 9 letting.

5. Government Hotel Rates:

Bomgardner: does the state have an avenue to get contractors a state rate?

Green: its hotel specific. There isn't much the state can do.

6. Sage Grouse Consultation

Slaybaugh: it's my understanding MDT is handling sage grouse for the ROW and that MDT would have no way of knowing staging areas or anything out of the ROW . . . but it sounds like there is confusion out there on how sage grouse reviews should be handled.

D. Kailey: we are trying to do everything inside the ROW. If anything is changing, I will look into that.

Semmens (MDT Enviro): nothing is changing. We are doing the sage grouse consultation in the ROW. The contractor is responsible for everything outside the ROW. The sage grouse letter is needed for other permits including opencut and SWPPP.

7. Crossovers

Slaybaugh: we have lots of conversation on crossovers over the years. What's bringing this up is a recent Q&A where many contractors were asking for crossover on a specific job – and there was not much of an answer from MDT. Last we spoke on this, it sounded like MDT was on board with using more crossovers. This is really an important safety issue.

Goettle: we agree that crossovers should be used. We have had that discussion on all projects . . . it is preferred, but we cannot do it on all projects. We will be updating the memo to encourage crossover use more often. It's safer for everyone. There is some concern with head-to-head collision, but we have tons of two-lane highway all over the state. On the Moss Main project, we stuck with the no-crossover for many reasons. We chose to leave it as-is. In this case, if the prime wants to submit a proposal on that project, we can talk about it more.

MDT New Business

1. Partnering Program Managers

Goettle: we have two new partnering program managers. They are new to MDT.

Matney Juntunen: I will be out of the Butte and Kalispel districts.

Clarissa Martin: I have been with MDT years in the material bureau. I will take Billings, GF, and Glendive.

Goettle: these two are developing a webpage that will have more resources for MDT and contractors.

Fuglevand: will they help facilitate level 1 partnering projects?

Goettle: eventually, yes. They are going to train and shadow until they are ready.

Fuglevand: so what are their duties to start?

Goettle: to really start and develop the program. Helping to facilitate the Level 2 partnering. Also, CPM scheduling.

2. Railroad Special

Goettle: there are some changes coming about. The RR are requiring the contractors to agree to indemnification and to deal directly between the contractor and the RR. That indemnification language will be in the contract. We are testing on a few projects first, we are not committing yet. We will see what works and what doesn't and go from there.

Aaron Golick: how is the MDT going to work when the RR won't get responses back to us? We all pull our hair out when we deal with the RR.

Goettle: this happens pre-signing of the contract. We hope there are no delays past signing of contract.

Golick: what about once the contract has started? – flaggers, safety managers, and guys don't show up. It very difficult to work with the RR. We used to go through MDT, now we have to go through the RR directly.

J. Gillam: We think this should help. In construction, that should be handled with the pre-con. If it goes beyond that, we are frankly at the mercy of the RR.

Golick: going forward, there will be a RR representative at all pre-cons?

Gillam: yes. Either the main pre-con or a pre-con specifically with the RR.

Golick: can you explain the inspector coordinator?

Gillam: that is how you schedule the flagger. The flagger watches for safety. That is their sole job. They schedule flaggers and spot check safety.

Russ Robertson: in my experience, they are the ones running this for the RR. They are requiring all review and submittals. Does MDT cover these costs?

Gillam: MDT will cover flagging costs. The inspector coordinator is new. MDT should be invoiced for that.

Russ Robertson: many of these requirements are from the RR and not from MDT. It will add complexity to the project. We are at the mercy of the RR. If there are complications, hopefully we can bring those up and try to solve them and work together better. We just want to make sure we are not stuck with the costs.

Fuglevand: the biggest hang-up I see is the indemnification language. The BNSF guys spoke to us and they just told us that is the way it is. There are some companies where their surety will not allow them to enter into this contract with this indemnification. Has MDT considered this?

(unknown MDT): we need to know if that is happening. Right now, I don't think we have any recourse.

Fuglevand: we are getting crammed here . . . we are assuming all the risk. If that's the case, MDT won't get the best price and won't get the best participants.

Golick: back to scheduling, the reality is that the RR is very difficult to schedule our work. How are we going to deal with the RR dealing with our schedule?

Goettle: if it's no fault of the contractor, then that is no fault.

Golick: commercial general liability. They BNSF guys said the amount of general liability could change per project.

Gillam: the larger limits are usually for big risk. I hope the numbers in the templates are not going to be the standard.

Golick: the RR guy is right – its already in the cities and counties. My bigger problem is now I have a contract with the RR.

3. Monthly Progress Estimates

Green: it was brought up that some subs were not being paid timely. EPM should be keeping really close eye on this. Hopefully this is taken care of.

Slaybaugh: I am still having issues with that. These things are showing up on time or timely. There is still a problem.

Solomon Redfern (Helena Sand): is this going in the spec book?

Green: no. it would probably go in the CAM manual. We just had the meeting not even a month ago. I want this on the radar, but I hope it gets solved.

Slaybaugh: is there any way for the contractor to get in and look at the pay estimate?

Green: I am not sure. I think it would be a small window.

4. Contractor Option to Withdraw:

D. Reynolds: this is coming. Should be June 9 letting.

5. Federal Highway Wage Decision

K. Terrio: no approved decision yet. It was dispatched in February, checked in March and April. Nothing yet. I was promised it was being actively looked at. No committed timeline.

6. DBE

M. Handl: we are at 4.3% . . . goal is 6.5%. we do need to set a new goal this year and submit by 8/1. I know that is a bad timeline for MCA – but please attend some of the meetings. Let me know if you have a preference on meeting format preference.

Golick: is this disparity study different? Are they doing this study on companies actually bidding in MT?

Handl: if they haven't been bidding on contracts of certain size, then they won't be determined "available."

Fuglevand: what is the measured timeline?

Handl: 10/1/21 to 9/30/22.

7. MCA-MDT Enviro Task Force

Goettle: we have gotten some recent violations. We are still having issues. We need to impress how important this is to ensure compliance. Please share with your employees the importance of enviro compliance.

8. Version 3.0 Specs

Green: I will follow up on some of the comments we got but did not address.

9. Table of Contractor Submittals.

Matney Juntunen: As we have been developing the CPM program, we have a consistency problem with baseline schedule. Right now, the table says "award." We are changing it to 10 days after award. That gives time to coordinate before you get us the baseline schedule.