



General Membership Meeting

February 23, 2011

Minutes

Attendees:

Mary Wallers, Sierra West Group
Kris M. Meyer, Ledesma & Meyer
Paul Bonaccorsi, WLC Construction Services
Jeffrey Muller, WLC Construction Services
Michael Spencer, Harris Construction
Lisa Kaplan, Attorney
Dick Cowan, Davis Reed
Kelvin Okino, Bernards
Terry Zinger, California Construction Management
Dale Frisby, CW Driver
Ed Mierau, Neff Construction
Masha Lutsuk, DSA
Scott Harvey, DGS

Kris convened the meeting at 9:45 a.m. with welcome and introductions. The meeting started with a discussion of an obligation to defend and indemnify the school district owner from third party challenges. Insurance is not being offered to defend or indemnify third party litigation. ACCM believes the district initiate the response and defense and then if that action demonstrates the CM should be a part (similar to what the architects are doing) the E&O can be triggered.

Walrath was asked to check with Associated General Contractors, the Construction Employers Association and others on this issue.

The members discussed the employment reporting requirements for projects funded by Build America Bonds, Qualified School Construction Bonds, America's Recovery and Reinvestment Act. It appears that as long as someone reports the job being created then the federal agencies are accepting the report. The California Department of Education, however, is requiring more detail.

Legislation

SB 438 (Cannella) would clarify current law that offsite fabrication of materials is not subject to prevailing wage. Current case law on this issue has been confused by the Superior Court's decision on offsite fabrication requirements for prevailing wage. This was done in the Russ Will Mechanical case. SB 438 would statutorily clarify current law. ACCM will support SB 438.

SB 600 (Rubio) is currently a spot bill but ACCM believes the bill will become the vehicle for new prequalification requirements for school facility projects. If the bill is amended to be the same as last year's legislation on prequalification, Dave Walrath, ACCM advocate, was directed to oppose the bill.

AB 1354 (Huber) would prohibit the retention of any amount of money with respect to all contracts entered into on or after January 1, 2012 between a public entity and an original contractor or subcontractor and between all subcontractors. ACCM adopted an oppose position on AB 1354 because retention is an important part of ensuring that projects are completed and the owner is not at risk of having to pay additional funds in order to complete a project.

ACCM directed Walrath to watch AB 356 (Hill) dealing with requirements that local citizens be hired for construction projects and AB 1032 (Mansour) which appears to be addressing the issues raised in the Azusa litigation concerning when prevailing wage has to be paid for a public project that is part of a development agreement.

Scott Harvey, Director of the Department of General Services (DGS). The Expert Working Group will make a series of recommendations and DGS expects that many will be adopted to streamline the process for both the Office of Public School Construction (OPSC) and DGS. They are talking with the State Controller's Office (STO) to conduct school facility funding audits. DGS and STO are working together for an audit transfer

The Division of the State Architect is continuing to implement policies that will keep bin time at 6 weeks or less. Mr. Harvey and the State Architect, Chip Smith, are working with internal staff to keep the bin time down.

Mr. Harvey was asked about the town hall meetings comments about metrics for bin time. He was asked what the distinction is between some of the metrics and bin time. His staff responded that the metrics relate to types of projects, intake time as well as bin time.

Mr. Harvey stated that a project that is not found to be complete during the intake process will not be considered for the metrics analysis.

The following are some of the metrics that are used for reporting and analysis:

- 3-5 days for intake
- Over the counter
- Dollar amount
- Access compliance

Mr. Harvey advised ACCM members to be prepared for changes in the School Facility Program. He said the state funding system going forward will not be the same as the old 2000-2008 process.

The ACCM members discussed the use of the DSA Advisory Committee's – Fire and Life Safety subcommittee as a venue to reconsider the use of deferred approvals. ACCM members will provide examples of where the loss of deferred approvals has created problems. Dick Cowen will develop a report for DSA to consider allowing deferred approvals. He will forward the problems of the deferred approvals to Walrath who will forward to DSA Staff.

The meeting ended with thank yous to Director Harvey and his staff. ACCM made a specific thank you to State Architect Chip Smith and his staff for their help and outreach to Construction Managers.