

District Construction Engineer's Meeting Notes
March 22, 2012

Attendees:

*CO – David Sadler, Rudy Powell, Tom Byron, Greg Jones, Jason Watts, Alan Autry
FHWA – Chad Thompson*

D1 – Jon Sands, Sam Joseph (D1&7 Mat.), Teresa Puckett* (D1&7 Mat.), Mark Peronto* (D1&7 Mat.)*

*D2 – Carrie Stanbridge, Steve Sedwick**

*D3 – Steve Potter, Steve Benak**

D4 – Pat McCann, Mario Caballero, Mayur Patel (D4&6 Mat.)*

*D5 – John Tyler, Lorie Matthews, Jeremy Wolcott**

D6 – Mark Croft

D7 – Brian McKishnie, Conrad Campbell

TP – Matt Price, Bill Sears, Karen Akers, Christopher Nesmith, Todd Kelly*, Robert Laurence*, Ken Morgan*, Jeff Fetzko*, Paul Wai*,*

SMO – Tim Ruelke, Jim Musselman*, Ken Cox*, Paul Vinik*, Bouzid Choubane**

**Only attended for items 1 and 2*

New/Follow-up Business:

1) Introductions

Introductions were made recognizing the attendees listed above. Tom Byron presented opening remarks to the group.

2) Joint DMRE Presentations – (Ken Morgan)

- a) Polyurethane Coating of Box Culverts
- b) Ticketless Asphalt

Turnpike personnel made presentations on the above topics. Refer to the attached presentations for additional information.

Discussed obtaining GPS coordinates of materials documented via DDM & EAR processes. SMO has purchased and will be distributing hand-held GPS devices to the districts which are to be used for this purpose.

3) Consistent/Predictable/Repeatable – (David Sadler)

Reminded districts to review the CPR information listed on the SCO website. Discussed comments from the FTBA Construction and FICE Design-Build Conferences related to the Alternative Technical Concept and Question & Answer processes.

4) Office of Construction Tier 2 Business Plan – (David Sadler)

The Executive Committee continues to revise the Tier 1 plan. DCE's were asked to review the T2 Business Plan (Objectives and Measures) and be prepared to discuss/make changes during the April 2012 DCE meeting.

5) Streamline LS Contracts – (David Sadler)

a) Spall Repair Projects

Discussed on-going efforts to increase the threshold for use of Streamline contracting to projects \$10M and under and those with 10K tons of asphalt. It was noted that districts should be allowed to approve exceptions to the use of Streamline contracting on projects where this method of contracting has created challenges (i.e. spall repair projects). A usage note will be added to the specifications workbook requiring DCE approval of such exceptions. Districts requested flexibility which would allow Streamline process to be used on certain aspects of the project (i.e. 3R resurfacing project which includes bridge within the limits wherein spall repair is included as part of the scope of work). Under this example the resurfacing work would be administered as a Streamline contract but the spall repair work would be administered conventionally. It was noted that a modified special provision would be required in order to accommodate this process. Also discussed the close-out processes of Streamline contracts vs. those of conventional contracts. Discussed linking Streamline contracting to witness & hold contracts.

6) Implementation of Electronic Standard Specifications for Road and Bridge Construction (E-Book) – (Rudy Powell)

It was noted that the January 2013 Standard Specifications book will be published as an "E-book" rather than a paper-back publishing. At this time, Specification workbooks will be issued on a 6-month cycle (January & July). The January 2013 Specification Workbook will include Special Provisions only. The July 2013 Specifications workbook will include Special Provisions and any updated Supplemental Specifications applicable to all projects.

7) Landscaping – (David Sadler)

Discussed the email below as well as current bonding requirements on Landscape projects. The proposal is to remove the requirement for a separate Landscape bond. SCO is currently developing a revised specification which will be submitted via the Industry review process.

From: Caster, Jeff
Sent: Monday, March 12, 2012 3:20 PM
To: Ritchie, Larry
Subject: RE: Standard landscape Notes (D4 template)

Larry,

At this time, I don't know whether we can say that "most" new landscape projects will be bold. Beginning next fiscal year, the Secretary expects many bold project. Since many of our customers are still demanding the run of the mill streetscapes, its likely we will continue to see construction projects that have landscaping associated with them. The Secretary also expects every landscape project to be implemented successfully, regardless of how it is administered. This will require a attitude about landscape construction. District Construction Engineers need to be bold leaders and make sure their staff and contractors understand that they will be held accountable for landscape project failures.

Jeff Caster
State Transportation Landscape Architect
Florida Department of Transportation
Environmental Management Office
605 Suwannee Street, MS 37
Tallahassee, Florida 32399 0450
850 414 5267
jeff.caster@dot.state.fl.us
<http://www.MyFloridaBeautiful.com>

To me, in sum, beautification means our total concern for the physical and human quality we pass on to our children and the future. Mrs. Lyndon Johnson, 1993

Capture Florida! Experience a Scenic Highway! 
<http://www.floridascenichighways.com>

8) FTBA Best in Construction Awards – (David Sadler)

Reminded the DCE's that nominations are due May 9, 2012.

9) Third Party Damage – (David Sadler)

Discussed current specifications addressing 3rd Party Damage and proposed changes to these specifications submitted by Industry. A proposed specification being developed which would require Builders Risk policies was discussed. OGC is currently reviewing previous and on-going P3 contracts to determine how this was addressed and if similar requirements can be implemented into the proposed specification change.

10) Update from SCO on Construction Task Team, CEI Staffing Plan & Final Estimates Process (Proposed Changes) – (David Sadler)

David provided an update on these topics. State Final Estimates Office is reviewing current estimate processes for the purpose of identifying efficiencies and improvements to the process. David distributed a revised scope for Resident Compliance Specialist and Hybrid Inspection contracts. DCE's were asked to review this information and provide comment to David by the April DCE meeting so that the proposed changes could be discussed. The Construction Task Team update centered on whether or not the proposed plan had been approved. Concerns were expressed over all contracts \$10M and under being managed by In-house Project Administrators (with Inspection Services provided by CCEI via Hybrid Contracts or District-wide Contracts). It was noted that the threshold is a "target", exceptions would be considered, and it was suggested that the threshold be a "soft goal".

*Districts were reminded that when contracts are transferred from TRNS*PORT to SiteManager and CIM, that a Quality Assurance review should be conducted to ensure that the contract type is accurate. Recent examples where a Design-Build Contract (Construction) was reported as a Maintenance contract and there have been several examples where Streamline Contracts have not been properly reported as such. In accurate data entry resulted in erroneous reporting.*

Districts use of LS contracting was discussed. DCE's were asked to take a pro-active role in ensuring that Design (Production) utilizes Lump Sum contracting per the Plans Preparation Manual as appropriate.

11) Mowing & Litter Removal – (Jon Sands)

Summary of the Issue: On Off-System Projects (local projects off the state highway system that DOT administers) FHWA informed D1 that they will no longer fund mowing and litter removal because they consider it a maintenance activity even when this work is done during construction. Since this direction came so quickly, D1 is Letting two small off-system projects without requiring mowing and litter removal in the contract. I am seeking a solution to this issue for the future. Is there a way to fund these off-system projects appropriately (possibly with state funds) so we can include mowing & litter removal in the future.

Reviewed and discussed the information above. This issue centers around how mowing and litter removal is to be funded on Off-System (federally funded projects) since FHWA does not participate in these "maintenance" items and State funds are not allowed to be used on these Off-System projects. Districts should either include joint project agreements funded by the local agencies to compensate the contractor for performing mowing and litter removal or require that the local agencies utilize their own forces to perform mowing and litter removal within the project limits during construction. It was noted that SCO, FHWA and the Chief Engineer are coordinating on this issue. Following the DCE meeting, FHWA issued the following email:

From: Chad.Thompson@dot.gov
To: Autry, Alan
Cc: Sadler, David A; Richter, Chris (FHWA); Darji, Rafiq
Subject: Mowing and Litter Removal

Sent: Mon 3/26/2012 10:14 A

All,

As a follow up to the mowing/litter removal issue at the DCE meeting:

Since pay items have been instituted by FDOT in 2010 for mowing and litter removal, we cannot participate with Federal Aid.

Our 2004 guidance put out by our HQ states, in part:

Question (Q6): Are all maintenance items now eligible for FA? Have we defined what maintenance is *not eligible* for Federal-aid?

Answer (Q6): The October 8 provides broad guidelines for consideration when determining eligibility for Federal-aid funding on preventive maintenance activities. The intent of the memo was not to make all maintenance eligible for Federal-aid funding. Certain maintenance activities that are considered routine maintenance remain a State funded responsibility. Routine maintenance is defined as "Maintenance work that is planned and performed on a routine basis to maintain and preserve the condition of the highway system or to respond to specific conditions and events that restore the highway system to an adequate level of service." (AASHTO Subcommittee on Maintenance Pavement Preservation Supplemental Glossary of Terms for Highway Maintenance Practitioners, August 3, 2004) The memo was intended to support State system preservation programs by making Federal funding available for State programs for preventive maintenance - which extend the service life of the facility.

Question (Q7): Should litter pick-up be eligible based on the theory that the litter might hinder drainage facilities? What about snow removal or roadkill clean-up?

Answer (Q7): Litter pick-up and removal of roadkill are examples of activities that should be classified as routine maintenance. Although these activities often have the secondary benefit of removing material that might otherwise clog drains, that is not their primary intent. Similar logic would apply to snow removal, which is a necessary action for keeping roads passable during winter weather but not inherently performed for preservation of the pavement itself

<http://www.fhwa.dot.gov/preservation/100804qa.cfm>

I went back and found the DCE meeting notes on this topic.

http://www.dot.state.fl.us/Construction/Publications/MeetingMinutes/DCE/2010/DCE_Meeting_Notes_062510.pdf

See last page.

Thanks,

Chad Thompson, P.E.
Program Operations Team Leader
FHWA Florida Division
545 John Knox Road, Suite 200
Tallahassee, FL 32303

Direct Line: (850) 553-2239
Fax: (850) 942-9691

12) Inspection for Acceptance (refer to the two attachments) – (Jon Sands)

Summary of the Issue: D1 recently had an issue with a contractor that stated that once we create a remedial list, then they only have to work on that specific remedial list without any other items being added to the remedial list in order to obtain final acceptance. Specification 5-10.2 Inspection for Acceptance appears to support their position. When three other items were added to the remedial list, the contractor was refusing to correct those items because they weren't on the original remedial list. In addition, when researching this issue, it appears that CPAM and the Specification do not fully agree with each other. CPAM specifically discusses that any remedial list given to the contractor should not be construed as a final list. Therefore, is there a way to work this CPAM language into Specification 5-10.2? In addition, the CPAM nomenclature does not agree with Specification. The Specification refers to an Inspection for Acceptance and the CPAM refers to a Semifinal Inspection. The statement "Semifinal Inspection" was last used in the 1996 Specification Book.

Reviewed and discussed the information above. OGC is will review current specifications and any required changes. It was noted that CPAM 12.1 is current posted on the Forms & Procedures Review site. Any comments related to this CPAM section should be submitted via that site.

Walk-On Items

1) Regional and Statewide DRB Payment

It was noted that the current Regional and Statewide DRB Three Party Agreements do not include the same payment rates for hearings as are defined in the DRB specifications. If a hearing is required on a project wherein this conflict exists, the hearing rate per the current DRB specifications is to be paid so as to be consistent with the hearing rate described in the TPA's. Subsequent to the meeting the following direction was issued to the DCE's:

From: Sadler, David A
To: Wington, Zach
Cc:  FDOT-DCE
Subject: RE: Regional and Statewide DRB Payment Question
Sent: Thu 4/12/2012 7:32

Zach,

Answer to questions below is change would be made by a Work Order for projects let prior to July 2011. No change would be needed for projects let since July 2011 since those projects would have new Regional or Statewide DRB specifications. Districts that have a hearing before a Regional or Statewide DRB this year will have to execute a work order to change the rate from \$3300/day to \$8000/hearing which is the new spec rate and the rate stated in the Three Party Agreements that are executed each year for these boards. This is only for Regional and SW DRBs that have a hearing. If there is no hearing on a project, no need to execute a work order.

The Work Order language to use is:

Delete current Basis of Payment language in Regional or Statewide DRB specification and substitute the following:

Basis of Payment: A per hearing cost of \$8,000 has been established by the Department for providing compensation for all members of the Dispute Review Board for participation in an actual hearing. The Board chairman will receive \$3,000 for participation in the hearing while the remaining two members will receive \$2,500 each. The Department will provide compensation to the Board for participation in an actual hearing. The Department will compensate the Contractor \$8,000 for the hearing cost. Such payment will be full and complete compensation to the Board members for all expenses related to the hearing. This includes travel, accommodations, meals, pre- and post- hearing work, review of position papers and any rebuttals, conducting the hearing, drafting and issuance of recommendations, readdressing any requests for clarification. It is not intended for hearings to last longer than a single day, however, in some cases they may. Any additional time and/or compensation for a hearing would only be allowed upon prior written approval of the Department and the Contractor. If an additional day(s) is granted for the hearing, it will be at \$3,300 per day, payment will be made by the Department. Payment shall be made by issuing a work order against contingency funds set aside for this Contract.

The Department will prepare and mail minutes and progress reports, will provide administrative services, such as conference facilities and secretarial services, and will bear the cost of these services. If the Board desires special services, such as legal consultation, accounting, data research, and the like, both parties must agree, and the costs will be shared by them as mutually agreed.

This is different than the new specification language which will be showing up in contracts let since July 2011 which requires an equal payment sharing arrangement between the Contractor and the Department for hearings. This change is being allowed to account for projects let with the older \$3300/day rate used for Regional and Statewide DRB hearings in contracts let prior to July 2011. Once these older contracts conclude, the need for this work revision will end.

Some background – Project Specific DRBs execute a Three Party Agreement that is in place for the duration of the project. Regional and Statewide DRBs execute new Three Party Agreements at the beginning of each calendar year because of membership changes. The Three Party Agreements for Regional and Statewide DRBs executed at the beginning of this year included the new specification rate and rather than execute two sets of Three Party Agreements, the Department has decided for those relatively few disputes that go to Regional or Statewide DRBs to pay the new rate until those contracts conclude.

DCEs, please use this email as authority to change the specification on your contract via work order.

Please let me know if you have any questions.

David A. Sadler, P.E.
Director, Office of Construction
(850)414-5203
Fax - (850)-414-4874
userid: cn982da
email: david.sadler@dot.state.fl.us

2) Pro-rating of LS items on Construction projects – (David Sadler)

Discussed the practice of pro-rating or making adjustments LS items when contract time overruns and/or underruns. It was noted that unless plan errors are discovered, the

intent is to pay the item as the LS unit without making pro-rated adjustments based on actual contract time used.

3) First Sealord Surety – (David Sadler)

The following emails were reviewed and discussed. Impacted districts are coordinating directly with Lewis Harper (SCO) on this issue.

From: Moore, Juanita
Sent: Friday, March 16, 2012 4:24 PM
To: FDOT-DCA; Scott, Renasia
Subject: First Sealord Surety, Inc.

Please do not execute a contract or supplemental agreement with First Sealord Surety, Inc. They are in liquidation. However, they are still listed on the DFS web site.

Juanita Moore, Manager
Contracts Administration Office
Florida Department of Transportation
605 Suwannee Street
Tallahassee, FL 32399
(850) 414-4000
juanita.moore@dot.state.fl.us

From: Sadler, David A
To: Autry, Alan;  **FDOT-DCE**
Cc: Harper, Lewis
Subject: RE: First Sealord Surety, Inc.

Sent: Mon 3/19/2012 8:33 AM

We have a couple that were final accepted which puts the Contract Bond in question. We are presently evaluating if there is a need to find a replacement surety for those projects. They are:

Contract	Final Acceptance Date
E3J06	12-09-11
E4K86	06-07-11
T1409	05-16-11
T1436	08-24-11
T7211	09-19-11

Please let me know if you have any questions.

David A. Sadler, P.E.
Director, Office of Construction
(850)414-5203
Fax - (850)-414-4874
userid: cn982da
email: david.sadler@dot.state.fl.us

From: Harper, Lewis
Sent: Thursday, March 22, 2012 7:46 AM
To: Sadler, David A
Cc: Powell, Jr., Rudy
Subject: First Sealord Surety

David, I have check with Kathy again and we do have on-going contracts with First Sealord Surety for the following:

E1J84
E4M48
E4M49
T7285

I will follow-up with an e-mail to District 1,4, & 7 DCE's requesting for them to get with the contractor and request a new Surety Bond of the above contracts.

If you have any questions please feel free to call me at (850) 414-4143. Thanks

4) CPR Issue related to misaligned striping – (David Sadler)

Discussed a recent project specific issue wherein a contractor placed misaligned striping and was directed to mill and resurface the area of misaligned striping and the areas 50' on either side of the deficient area. SCO determined this to be excess when other, less destructive, means of correction are available.

5) Value Added Asphalt required repairs – (Matt Price)

Discussed whether or not the contractor should be required to obtain a permit and provide additional insurance when VA asphalt repairs are required (post Final Acceptance). It was determined that neither is necessary. Insurance requirements of the original contract apply.

6) Notice of Intent related to Delay Claims – (Greg Jones)

Greg discussed an issue wherein OGC was provided a contractors Notice of Intent to file a claim related to delay. This issue centers around whether or not the NOI was premature in that the contractor indicates that the actual delays are unknown and speculative at the time the NOI was issued. OGC will develop a form letter for district use as this situation occurs.

7) FHWA Process Review – (Chad Thompson)

The group was informed of an upcoming review conducted by FHWA. This review will focus on the amount of time occurring between Federal Aid Authorization and the Start of Construction. Also discussed was an issue related to consistency in determining FHWA participation in contract changes on Federal Aid Full-oversight projects. FHWA's Program Operations Engineers are now reviewing participation decisions rendered by the various Transportation Engineers.

8) Modification to SP 8-8 – (Rudy Powell)

Discussed a proposed modification by Industry to this special provision and the use of this provision by the districts. SCO will continue to review the proposed changes to determine if suggested changes should be implemented.

9) CSX Flaggers – (Brian McKishnie)

Discussed payment of CSX rail flaggers specific to payment on rail and or State holidays. Districts were reminded to coordinate with SCO (Jerry Rudd) on this issue so as to promote consistency.

NEXT DCE MEETING – April 23, 2012 (Video Conference)

Submit agenda items to Alan Autry by April 13, 2012