Construction Contracting & Bidding Transparency (CCBT) Working Group

Meeting Minutes

August 26th Legislative Office Building Room 1D

The meeting was called to order at 1:15 p.m. by Chairman DeFronzo.

The following Working Group members were present:

August 26th 2014 CCBT Working Group Attendance

Agency/Association	Appointment(s) Name	Appointing Authority
Office of Policy & Management (OPM)	Patrick O'Brien	Secretary Barnes
Department of Labor	Gary Pechie	Commissioner Palmer
Department of Labor (DOL)	Sandra Barrachina	Commissioner Palmer
Commission On Human Rights & Opportunities (CHRO)	Alix Simonetti	Executive Director Tanya Hughes
Commission On Human Rights & Opportunities (CHRO)	James O'Neill	Executive Director Tanya Hughes
Department of Administrative Services (DAS)	Donald DeFronzo	Assigned Chairman
Department of Administrative Services (DAS)	Peter Babey	Commissioner DeFronzo
Department of Administrative Services (DAS)	Kevin Kopetz	
Connecticut Construction Industries Associations (CCIA)	Donald Shubert	Speaker of the House
American Institute of	Philip Cerrone	Senate Minority

Architects (AIA)		Leader
University of Connecticut	Matthew Larson	President Herbst
University of Connecticut	Berri Gerjouy	President Herbst
CT Building Trades Association	Dave Roche Cindy Dubuque, FFCCT	Governor Malloy
CT Ironworkers	Ed Reilly	House Majority Leader
Turnbridge Construction	John Mastriano	House Minority Leader
Association of General Contractors (AGC)	John Butts	Governor Malloy
Gilbane	Pat Delany	Governor Malloy

Lynn Kleeberg, L.K. Sheet Metal Absent

Chairman DeFronzo outlined the safety protocols and made opening remarks. For CT-N purposes, he asked members to introduce themselves.

Chairman DeFronzo mentioned the July Meeting Minutes that needed to be approved. Gary Pechie requested an attendance correction on those Minutes. Commissioner agrees and accepted that revision, John Mastriano made motion for acceptance of July minutes, seconded by Don Shubert.

Motion approved and minutes adopted.

While awaiting the presentations, Chairman quickly touched on other Organizational Matters. In each members packets are 1) Jeremy Zeedyk's proposal of (20) classifications, 2) DAS Prequalification Classifications, 3) MA Existing Filed Sub Bid Statute, and 4) CT legislative history of bid filing, bid listing, and CMA policies. He also reminded members that Division of Capital Asset Management & Maintenance (MA) is coming to provide an overview/presentation to CCBT on September 16th.

First presentation provided by Chris Syrek, Vice President of ABC. Complete agency and industry presentations can be reviewed on the DAS website at http://das.ct.gov/fp1.aspx?page=452 under Additional Documentation.

Chairman DeFronzo thanked Mr. Syrek for the presentation and asked for specific examples re: his statements that contractors are deterred from bidding state projects due to process requirements

Mr. Syrek replied that it was more in response to legislative concepts that have been deliberated but not approved into law.

Mr. Cerrone asked "did the statute of limitations legislation pass?"

Chairman DeFronzo and Mr. Syrek both confirmed that it did not.

Mr. Roche asked Mr. Syrek what is wrong with one to one apprentice ratios.

Mr. Syrek was hopeful for some flexibility, perhaps 2-1.

Mr. Roche expressed concerns for both safety and teaching if that change was made, and disagrees with that recommendation.

Mr. Roche continued and asked why Project Labor Agreements were even being discussed since the Working Group to date hasn't had a reason to bring them up.

Chairman DeFronzo agreed that we have not touched on PLA's; however we are not limiting public comment.

Mr. Reilly commented that whatever the working group comes up with should improve construction industry and improve bidding transparency. Some laws may change, and some folks might not be happy but we have to assess the laws that protect our citizens and if those laws requiring compliance have the potential to save the State money.

Mr. Delany took exception with Mr. Syrek's comments regarding costs overruns on a CT PLA project in Meriden and offered to provide the circle with any information they would want on that project.

Ms. Dubuque asked "can you give some examples to your comments re: state laws that are redundant?"

Mr. Syrek stated that he could not but would get them to her.

Ms. Barrachina asked since the directives of the group have been focused on bid shopping, "has ABC surveyed their members for comments on bid shopping?"

Mr. Syrek stated "they have not and that their surveys go out in the fall, and that he would be happy to share those findings with CCBT members."

Chairman DeFronzo thanked him for the presentation and stated that he would appreciate that bid-shopping survey information since the impetus of the working group and reporting requirement is based on that issue.

CHRO Executive Director Tanya Hughes made opening remarks and introduced the CHRO presenters, Alvin Bingham, Alix Simonetti and Valerie Kennedy. CHRO presentation is available on DAS website at http://das.ct.gov/fp1.aspx?page=452 under Additional Documentation.

Chairman DeFronzo thanked CHRO for the presentation and asked "with the large number of projects AA plans unassigned, is the 2% retainage impact significant?"

Ms. Kennedy responded that CHRO has an agreement with awarding agencies, that CHRO will be releasing the 2% back to agencies on projects where plans have been filed and not reviewed within the CHRO 60 day time-frame.

Mr. Shubert stated that he had heard nothing of this agreement, but is concerned that the total of retainage funds is significant and hurting small contractors.

Mr. Bingham clarified that the agency notices have not gone out yet, likely next week.

Mr. Shubert followed up that obligations on contracts go both ways and this retainage issue is concerning and can be perceived as a breach of the state's contractual obligations to contractors.

Chairman DeFronzo agreed that the 2% retainage issue is troubling, mentioned DAS meeting with CHRO on this issue and his belief that this information when circulated to agencies and contractors will be viewed as good news in at least starting to address the significant back log. Understanding that understaffing is another factor.

Executive Director Hughes agreed and that this is our agency's attempt at expediting a problem within limited resources.

Mr. Butts asked has "CHRO considered the impact on their processes of the discussed bid listing expansion?"

Mr. Bingham responded that on CMR projects they are looking at 30 classifications typically, sees opportunities for "real inclusion" through right sizing for minority and small business participation. CHRO gives CMR's the discretion to develop those, but does set-aside goals with the CMRs.

Mr. Roche asked "is minority status determined by workforce, or owner?"

Ms. Kennedy replied that company certification is based on the owner; however through set-asides and other EEO requirements, the workforce elements are addressed.

Mr. Delany clarified that we are discussing two separate things, 1) the small/minority business enterprise reports, and 2) Labor Department required EEO workforce compliance.

Ms. Barrachina asked in regards to the municipal exemption, is CREC exempt?

Mr. Bingham stated they are not and do fall under CHRO jurisdiction.

Mr. Shubert asked where is CHRO's statutory authority regarding debarments, as well as where is their enforcement authority found?

Ms. Simonetti replied C.G.S. §46a-56 sub c).

Mr. Shubert asked does that process consider remedial measures and mitigating factors.

Ms. Simonetti stated the referee could utilize those factors but it is not required.

Mr. Shubert cautioned that debarment without an objective process is concerning and pretty threatening. Suspensions, non responsive citations are death sentences to contractors…we should be careful.

Mr. Bingham offered that contractors that disregard the law and consistently circumvent the rules are equally troubling.

Mr. Pechie asked for CHRO's level of compliance?

Ms. Kennedy replied that it is not 100% but it is not bad. In 2012 CHRO performed training sessions for 5,000 contractors, 6,100 in 2013.

Chairman thanked CHRO and asked, since we acknowledge we don't have good 2nd, and 3rd tier subcontractor information, does CHRO maintain such a list?

Mr. Bingham stated they do as the CMR provides spread sheets for the subcontractors selected to them with prices for compliance. CMR changes in 2010 have been a great success.

Chairman DeFronzo agrees that the CMR delivery method has greatly improved DAS administered MBE and SBE figures and asked members to think about ways to mimic those successes in other delivery methods if possible.

Mr. Larson stated that members should not lose sight of the commitment necessary to affect change in these areas. We have requirements by law, and we have things that we just should be doing. Concerns with capacity and availability but always happy to work with everyone.

Mr. Shubert compliments Mr. Larson on his service at UConn and states that debarment is a big issue for his members and he and Mr. Larson will have to just disagree on it.

Chairman DeFronzo adjourned meeting at 3:31 p.m.