

GC/CM Committee

Meeting Summary May 25, 2022 (Meeting #31)

1. **Chair Datz called the Teams meeting to order at 1:05 p.m. A quorum was established.**
2. **Administrative**
 - a. Introductions
 - i. Committee members in attendance: Nick Datz (Sound Transit), Penny Koal (DES), Santosh Kuruvilla (Engineers), Shannon Gustine (General Contractors), Sam Miller (Architects), Mark Nakagawara (Cities), Angela Peterson, on behalf of Janice Zahn (Ports), Keith Michel (Construction Trades Labor)
 - ii. Stakeholders in attendance: Shelly Henderson (Schools) John Palewicz (General Public), Andrew Powell (Contractors)
 - b. The committee approved the January and March meeting notes.
3. **Developing the final manual**
 - a. Considering next steps
 - i. Chair Datz: Does anyone have any out of the box ideas for how to bring this final manual home this year? It's going to be a heavy lift to move what we have from draft to final, and I want to be conscious of everyone's capacity.
 - ii. General Contractors: I think that it might be helpful for us to look at the original outline we had, and then look at what we have compiled so far and see where we are. Personally, I've lost track of where we're at. Reviewing our progress will allow us to identify where we have overlap and where we have gaps.
 - iii. Chair Datz: I think that is a good idea. It has been so long, and sometimes our meetings are so far apart, so it's hard to keep track of it all and stay engaged. I think that's a great idea for the next meeting.
 - iv. Engineers: Just a suggestion. We had a similar deadline for another committee – I would suggest if nothing else, simply developing an executive summary. We could identify 2-3 people to help you with that, and the rest of us can provide comments.
 - v. Architects: That was going to be my question too, is how the design build folks did it.
 - vi. General Public: Walter basically did it.
 - vii. Chair Datz: He did the heavy lifting with that effort. I don't know that we'll have another chapter ready to go at our next meeting, so maybe we can spend some time looking forward to the finish line.
 - viii. Architects: That sounds good. It's in my court to make those edits to the preconstruction chapter.
 - ix. Chair Datz: With that, let's just jump into what we've got.
4. **GCCM Best Practices Outline – risk management**
 - i. Chair Datz: [Construction Trades Labor], do you want to walk us through this document, and I can make edits as we go?
 - ii. Construction Trades Labor: Yeah, of course. I tried not to write all of it. There was some good input from different people throughout this process, but there is room for the committee to provide further feedback. For the construction services chapter, the question becomes how do we want to describe the roles more specifically around that phase of project?
 - iii. Chair Datz: I like the idea. I think on the preconstruction chapter there was a clear roles and responsibilities section. It'd be interesting to address what type of contract you're using to represent the owner as well.
 - iv. General Public: I think it'd be good to outline the difference between the GCCM roles – one is a general contractor, and one is a construction manager. What is the difference and what are the two aspects there? And how do they overlap? In my mind, as an owner, the GCCM manages all the subs and organizes them on the jobsite, but they also have the role when

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- issues come up, to dig into that and validate it, and present it to the owner. To me, that's one example of the difference between GC and GCCM.
- v. Construction Trades Labor: I agree with that [General Public]. I have a small placeholder for how the GCCM quite often has some self-performed work, so to be a prime sub to themselves is unique to this delivery method and is quite often an interesting part of the dynamic at the table. In a lot of my personal work experience, the owner has a construction manager involved, an owner's representative. Does that make any part of the description we try to articulate here unclear?
 - vi. Architects: So, we had roles and responsibilities in the pre-con section, so we want to make sure not to duplicate. We might want to make it specific to the GCCM's responsibilities in this chapter.
 - vii. Construction Trades Labor: We might want to keep running through this outline because I think we'll hit on some additional touch points I had questions about.
 - viii. Chair Datz: Any other comments for the roles and responsibilities section?
 - ix. General Public: Chair Datz, you should change your note here to address nuance between construction manager vs. owner representative.
 - x. Construction Trades Labor: I start talking about risk management with this basic expectation about the table being set for how the project will be managed through the pre-con phase.
 - xi. General Public: That's a really good point, and it should be defined before you start construction, so everyone is aware who is carrying that risk, and then you can follow through on this.
 - xii. Chair Datz: Do we touch on that in pre-con?
 - xiii. Architects: Yes. I don't know if we're definitive in that regard. I think that's something we can add into the pre-con section. We address risks in regard to budget and cost, but I'll need to look at it a bit more carefully.
 - xiv. General Contractors: That goes along with the comments I had too. The first one is overall advice on risk, that it's best to put it with the person who is best suited to address it. Maybe that comment goes in pre-con. For some of the other comments, I suggested additions and/or creating some sort of guidelines for addressing risk. It seemed like the things listed here are examples of mitigation, but I think there are a lot of other examples, and maybe we need to expand upon that a bit.
 - xv. Construction Trades Labor: I agree with you [General Contractors]. If pre-con is about identifying risks, construction is about execution of these various techniques that we've established for the financial mechanics and tracking and reporting to keep all parties informed of our progress in managing risk.
 - xvi. General Contractors: I addressed some things that are toeing that line as well. Anyway, those are some additional things that weren't addressed in A-C.
 - xvii. Chair Datz: General Contractors: Would we be able to get an example of a risk matrix that has been developed? Maybe for the appendix?
 - xviii. General Contractors: Yeah. Would you like me to provide one?
 - xix. Construction Trades Labor: I'd prefer to see yours [General Contractors]. I'm wondering in this section if we should expand upon risk. I'm thinking about what falls in the owner risk category vs. a CM in the GCCM risk category. How contracts define risk, etc. Should we attempt to articulate some of those nuances in this section?
 - xx. General Contractors: I was looking at it in terms of project risk more than anything else.

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- xxi. Construction Trades Labor: I think you're probably right in that we should keep it higher level.
- xxii. Chair Datz: So, you're talking about allowances, unit pricing, how to deal with that kind of stuff. Is that more the financial management part of it? It seems like we're kind of doing a little bit of both in this section.
- xxiii. Construction Trades Labor: Yeah, I think we listed techniques: allowances and unit prices. I was trying to get at how to translate project risk into the bid packaging. It should be something that teams are aware of, to not assign ambiguity to a lump sum bid. Deciding how risk will be communicated to the subcon bid process – either assigning all of it or not, creating some venue for how to translate that risk with a competitive bid process in mind, etc.
- xxiv. General Contractors: I think we just introduce this as potential examples of risk mitigation measures. We can clarify that every project is different, teams will need to decide what applies vs. what doesn't apply.
- xxv. Chair Datz: That makes sense, I follow. There's comment from General Contractors on negotiated support services; do you want to expand?
- xxvi. General Contractors: This is very specific to that unassessed portion. I'm just suggesting using different words. I was expanding on the means and methods. Purchasing risk can come at a significant premium with ill-defined scopes of work. Reading this as a first time, I wrote that additional text as context for the example, just to try to make it clearer.
- xxvii. Chair Datz: Anybody else have comments on the risk management section?
- xxviii. Contractors: There's a separate section for risk in pre-con, right?
- xxix. Chair Datz: Yeah, we flagged that.
- xxx. Architects: We have it addressed in the pre-con section, but we can do a better job of pulling it out and speaking to it directly, I think.
- xxxi. Ports: Where does buyout fall in all of this? Is it under financial management? I know the Port has language around getting from cost to final cost – this might be under subcontracting.
- xxxii. Chair Datz: [Construction Trades Labor], do you address that here at all?
- xxxiii. Construction Trades Labor: Not as much, no. The buyout process to me is more the public bid process. So no, it's not really in this chapter. It's more geared towards the execution of work mechanics.
- xxxiv. Chair Datz: I added a note there speaking to that, [Ports].
- xxxv. Ports: It's hard stepping in and seeing one piece of the puzzle when we have so many moving parts.
- xxxvi. Chair Datz: What are you thinking for financial management, [Construction Trades Labor]?
- xxxvii. Construction Trades Labor: Well, I think the current form of the outline includes some placeholders that attempt to explain there are a lot of different budget categories in a GCCM project. The flexibility in choices made in how you set up a contract are all positive and can empower a team to adapt to project-specific constraints, risks, or goals, but can also add complexity to the financial management. I tried to lay that out and make a blanket encouragement to develop effective systems to track financial positioning as you move through the construction phase.
- xxxviii. General Public: I think that's a good point as you compare this to design bid build. With a GCCM process, a lot of info that is usually behind the curtain is suddenly in front of the curtain. A GCCM is now tracking this with the owner and contractor. That's a good point. People expect that, so there needs to be a good system to be transparent with all this.

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- xxxix. Chair Datz: Is it worthwhile to touch base on how the two parties should be looking at the information or accessing the information? I know the owner has their own system, and so does the contractor, etc.
- xl. General Public: A lot of it is just giving people a heads up. It's important to have a transparent system to track. Most folks do have a good system but it's a good idea to have them all on the table.
- xli. Chair Datz: I was just thinking it might be worthwhile to expand upon that a bit.
- xlii. General Public: An example from someone's system that they might use during a project could be helpful. I'm thinking back to my years of teaching the GCCM class and by far, most of those people hadn't done GCCM.
- xliii. Chair Datz: Examples are always helpful.
- xliv. Construction Trades Labor: Let's touch on what kind of examples might be helpful – pay application, change log, both? Are there other examples that people have seen and liked? I did a job years ago where we had an unsophisticated owner, and the owner rep struggled to grasp the financial management of the delivery method, and our attempts to help made it overly cumbersome. So, I adapted a dashboard report that could be utilized to see the position of the job and tried to project an outcome. Mixed success, but it was a try.
- xlv. Chair Datz: We can think about that a bit more. If you're not familiar with it, it won't be helpful.
- xlvi. Architects: One point there might be around transparency, and to establish a system that addresses the needs of the owner and GCCM in advance. As the project goes forward, there should be an agreed upon system in place.
- xlvii. DES: And that's something you should set up before you get too much into construction.
- xlviii. Chair Datz: Let's go down to the contract change process.
- xlix. General Public: I agree with [General Contractors] to use the term risk contingency. We had a lot of discussion around that in our committee meetings.
 - I. Construction Trades Labor: I agree, we should match the language in the RCW.
 - ii. General Contractors: My overarching comment here would be we might inadvertently narrow the focus of this conversation or give people the impression that these are their only options? We don't want to lead someone down that path.
 - iii. Construction Trades Labor: I agree, [General Contractors]. I'll put a placeholder for your point. I think that we should work the specifics of some of that in the negotiation of the GMP. I see that design as an extension of that process. It's a little different than what we started here in this section, which is more the contract changes, etc.
 - iiii. General Contractors: And that's a good way to approach it. When we start talking about risk contingency, the RCW doesn't actually require owner approval, or it's not explicitly delineated. So, a lot of it will be defined by the client and how they want to administrate the client.
 - lv. General Public: I think the first line of this is good.
 - lv. General Contractors: We have a section that goes through all the components of total contract cost. Perhaps this section just becomes about changes and could address the change order process.
 - lvi. General Public: It seems like on a lot of projects, owners want to use the risk contingency to fund changes to the project. It's always been important to say that the risk contingency has always been a part of the contract, and it's

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- available for the contractor to finish the work in the original scope. A lot of owners don't understand that distinction.
- lvii. Chair Datz: I like the idea of keeping it more focused on outside costs. I thought we talked about contingencies here too.
 - lviii. General Contractors: And maybe we give a nod back to that section here. We could elaborate a bit further in our risk bullet on why you may want to add additional contingencies and what they could be for.
 - lix. General Public: What are some examples of those contingencies?
 - lx. General Contractors: Design/development contingencies that cover the last percent – you take your project risk and ask, “what do I not want to price?” Set aside contingencies that are non-quantifiable. I've had some of these contingencies where a client does not require approval but does require monthly reporting. Silence is consent. If you give me the monthly report and I don't say no, it's done.
 - lxi. General Public: That's a good point too. The law dictates risk and owner contingency, but a lot of these others are not included. I think it's a real advantage of the GCCM and I don't see it being well used in many cases.
 - lxii. Chair Datz: I think it's also important in the change section to talk about how to execute changes. We want to make sure we're not withholding payment for subcontractors for unrealistic amounts of time.
 - lxiii. General Contractors: We also want to be able to work through issues to minimize unnecessary administrative costs.
 - lxiv. Architects: One thing that we might want to focus on in this whole chapter is what's different about GCCM construction services from design bid build and design build.
 - lxv. General Contractors: That's a really good point [Architects]. I think it is in the contingencies. The change process is mostly the same.
 - lxvi. General Public: And the fact that everything happens in front of the curtain, and everyone is looking at that transparency.
 - lxvii. Construction Trades Labor: Should we attempt to identify a better way?
 - lxviii. General Public: What does the law require? And what does an owner want to see? Some want to be all over it, and some don't. I know we've had some discussions about whether to use the risk contingency to solve problems – i.e., “don't tell me about it and solve the problem.” But then you have owners who want to be involved and see the steps in that process.
 - lxix. General Contractors: I agree with you, and I think that should be our focus here. I'd be willing to say that it is a best practice if you define contractor contingency as use for the contractor, then you should let them do it and not get in the middle of it. There's not usually a one-size fits all, I guess.
 - lxx. Chair Datz: I need to jump, but this is a fruitful conversation. Do you all want to continue?
 - lxxi. General Contractors: I can continue if people want to [all agreed].
 - lxxii. General Contractors: Do you feel like you have what you need, Construction Trades Labor?
 - lxxiii. Ports: I just wanted to clarify what I heard. We're separating out contingencies and the change process?
 - lxxiv. General Contractors: Yes, good question. I'll add that in the notes.
 - lxxv. Construction Trades Labor: I think we're going to be in a position as a committee to get more granular within each chapter once we identify where we have overlap.
 - lxxvi. General Contractors: When I send this back to Chair Datz , I'll add a note that you would like to review this in the greater compilation of what we were talking about earlier. Any other comments to the contract change process?

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- lxxvii. Construction Trades Labor: So, there are a couple other bullet points down there that aren't really related to change but did come up in conversations.
- lxxviii. General Contractors: Any other comments on this last section? My only comment was that I don't know how much we need to reiterate the RCW. The building a culture part of it is good, but I don't know that we need to articulate the changes to 350. We might be able to just exclude that.
- lxxix. Construction Trades Labor: I'm very open to eliminating some of these things.
- lxxx. General Public: We can just point out that the RCW talks about payment within 30 days.
- lxxxi. Ports: Is that talking about change orders or payment?
- lxxxii. Construction Trades Labor: There's a pay process to set up, but changes are incorporated in that. And timely processing of changes is important for prompt pay.
- lxxxiii. General Contractors: It might be important to think about the differences between a hard bid and a GCCM. Sometimes it feels less difficult in a GCCM to incorporate changes.
- lxxxiv. General Public: That's a good point. You have the law, and the law says 30 days. If you really want to encourage subs to do your work, you want to have a reputation of paying promptly and don't want to wait 30 days. It's to everyone's benefit to have a culture of prompt payment.
- lxxxv. Construction Trades Labor: We're coming further full circle. That's why that reference to undisputed amounts was included here. Best practice is to be prepared to separate change topics and pay undisputed amounts, which is required by law but rarely done.
- lxxxvi. General Contractors: And now I'm thinking about why on GCCMs there is sometimes less urgency, and it's because it's in the contract. But that's not the case for the trades.
- lxxxvii. Construction Trades Labor: Right, because if you're in a disagreement, it doesn't matter if it's in the contract or not.
- lxxxviii. General Contractors: I put an example note in here for you. Anything else on changes or payment?
- lxxxix. Ports: On payment, I was thinking about retainage and long contractors. Do we have any guidance on that?
 - xc. General Contractors: I don't think that's defined by GCCM. I'm partially saying that as a question.
 - xcii. Construction Trades Labor: I can see us putting a placeholder in the pay application portion of this section, to be sensitive about how you include subcontractor retainment policies, as a hint. There are risk aspects to those retainment policies, but there's still a relationship to finishing the work. Moving on to close out, this is a pretty light section.
 - xciii. General Contractors: I noted here that the audit provisions should be noted in the contractor agreement. If they change, they should be reflected in a change order. I think as a best practice I would recommend that we say the audit should be completed along the way with the monthly pay apps, rather than at the end. That's certainly not a requirement of the law, though. Any comments on that?
 - xciv. General Public: What I'm hearing is don't wait till the end to do an audit. It should be at least quarterly.

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- xcv. General Contractors: I'd even say you can do it monthly. At minimum, quarterly.
- xcvi. General Public: Maybe the language is not to do just one audit at the end of the project, but to somehow do it periodically. Whether that's monthly or quarterly, that can be custom. It helps to eliminate surprises at the end of the day.
- xcvii. Construction Trades Labor: There could be a connection back to the financial management section in demonstrating the proper accrual of cost.
- xcviii. General Contractors: It's arguably faster if you do it monthly vs. all at one time. It's about making the most efficient process possible to create the functions of the audit. Ok, so I'm just adding some notes in the document here.
- xcix. Construction Trades Labor: Do you think we should attempt to describe what's auditable in this section?
 - c. General Contractors: I think we should describe what's not auditable.
 - ci. General Public: When is an audit required per the RCW? For negotiated civil work, right, and picking a trade partner?
 - cii. General Contractors: It's only required for trade partner work.
 - ciii. General Public: I'm flipping through the log and I'm not seeing anything in here around this. I think the law does say that the contract needs to define the audit ahead of time. You don't get to the end of the project and say ok, we're going to open your books for a month.
- civ. Ports: I'd like to see more information around this as an owner because we're going through this right now. It would be good to have some more guidelines around this process.
- cv. General Public: I've heard from some owners that auditing partners want to go crazy with this, and they've asked for help. I don't think an audit department can make a public owner audit beyond what's designated in the contract.
- cvi. General Contractors: This is where it'd be helpful to have Chair Datz.
- cvii. General Public: So, there's two things. A price and a scope of work. You can audit at the end of the day to see if the scope of work was done for that price.
- cviii. General Contractors: Right. But from an accounting perspective, if I decide to override the lump sum, I can decide to move those amounts around.
- cix. General Public: To round this out to what we want to say, I think owners are allowed to audit. In certain cases, the RCW requires one. It needs to be outlined in the contract ahead of time and as a best practice, depending on how the project is paid and delivered, it should be defined in the audit. I think subs and contractors are complaining because certain agencies are coming up with really onerous audits at the end of the project. It needs to be in the contract prior to starting so the auditing arm of the agency can't just request anything they want.
- cx. Ports: I think that's part of what's missing in our language to be clearer for our auditors.
- cxii. General Contractors: With lump sum, you might make more than you thought, but you also might lose. This is a good argument for not needing to strictly audit lump sum projects. Bookkeeping may vary greatly firm to firm as well.
- cxiii. General Public: I am going to disagree with you about how you can audit. You can audit based on scope of work, not just dollar amount.
- cxiiii. General Contractors: I agree. I think you should absolutely audit the scope of work.

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- cxiv. Construction Trades Labor: One question I have really originated in the heavy civil section because there's that component of negotiated self-performed work. In traditional GCCM, the only reference to conversion of lump sum is in negotiated support services.
- cxv. General Contractors: I'm pretty sure we also put it in the alternatives to contractor delivery.
- cxvi. General Public: Yes, it's in there. There are a number of agencies that thought you could not convert a negotiated contract to a lump sum because of the language in the law. We were able to clarify some of that.
- cxvii. General Contractors: Yep. And we didn't preclude any of that at the prime level either.
- cxviii. General Public: I think everyone agreed that there's an advantage to being able to convert a negotiated amount to a lump sum. Have we confused everybody with this?
- cxix. Ports: A guideline would be nice.
- cxx. General Contractors: [Construction Trades Labor], if you just want to call me to walk through this, I'm happy to help. [General Public], maybe we can have you do a last pass when he's done.
- cxxi. General Public: Yeah. And I think for public agencies like the Port, your contract should define that audit to keep them to task.
- cxxii. General Contractors: That was our last section, unless there are other comments on audits. Super enthralling afternoon conversation.
- cxxiii. General Public: It's almost like a two- or three-year conversation, right? Going back to those committee meetings, it's always been about what's black and white in the law, and what's a best practice.

5. Action Items and Next Steps:

- i. Shannon Gustine will email the document with the notes collected during this meeting back to Chair Datz, and Chair Datz will upload it to the SharePoint Site. [AI]
- ii. Keith Michel will then work to incorporate edits with Shannon's help. [AI]
- iii. Penny Koal will reach out to relevant committee members with details on the procurement section in the next week. [AI]

6. Meeting adjourned at 2:47 p.m.