

MTO/ORBA CONTRACTS AND DOCUMENTS SUBCOMMITTEE MEETING AGENDA

Date: June 27, 2024

Time: 10:00 am to 1:00 pm

Location: MS Teams Meeting

Attendee	Organization	Attendee	Organization
Rebecca Li (Co-Chair)	MTO, Contract Management Office	Adriano Cesarone	MTO, Contract Management Office
Kyle McCutcheon (Co-Chair)	McLean Taylor Construction Limited.	Maria Apostolakos	MTO, Highway Design Office
Steven Crombie	ORBA	Seyed Tabib	MTO, Contract Management Office
Simarpreet Kaur	ORBA	Mike Pearsall	MTO, Highway Design Office
Frank Lucente	MTO, Construction and Audit Services	Gizelle Cotton	MTO, Quality Assurance
Faheem Muhammad	MTO, Construction Management Office	Anna Viscoti	Powell (Richmond Hill) Contracting Limited
Christine Costa	MTO, Major Planning and Innovation	Kent Dunham	Miller Group
Joanna Long	MTO, Capital Planning & Program Office	Zack Weinstock	Colas Canada Inc.
Scott Reid	MTO, Construction Management Office	Alfredo Maggio	Graham Bros. Construction
Ed Marcon	MTO, Contract Management Office	Kathryn Lack	CRH Americas Materials
Mireya Hidalgo	MTO, Contract Management Office	Don Gardonio	Facca Construction
Jamie Lauzon	MTO, Contract Management Office	Afra Shokraei	Black & McDonald Limited

INTRODUCTION / ANNOUNCEMENTS
<p>Introductions</p> <ul style="list-style-type: none"> • No new members were introduced.
<p>Safety Talk</p> <ul style="list-style-type: none"> • Kyle McCutcheon delivered a safety talk on Heat Stress regarding give prevention measures and actions to address heat cramps, heat exhaustion and heat strokes.

Previous Meeting Notes

a) MTO General Conditions (GC) of Contract review update

- Critical Path Schedule
 1. Software
 - MTO noted as part of the review, there is a proposal to identify a specific scheduling software for use on an MTO contract.
 - ORBA noted that they do not support limiting the scheduling software to one program. ORBA asked MTO if the plan is for MTO to build its own scheduling software. MTO clarified that common platforms are being considered. There are no plans to build a separate program.
 - It was noted during the discussion that Primavera and Microsoft Project are generally the main software programs used for scheduling.
 - ORBA noted that it would be good the GC to allowed contractors to have 2-3 software options.
 - MTO is mostly interested in consistency of schedules received to improve communications.
 - ORBA suggested that one possible option to explore is to not identify any scheduling software in the GC. Instead, the ministry can mandate that in addition to the native file of the contractor's scheduling software, a compatible file that can be converted, with appropriate file extension, to the ministry's software of choice would also be supplied. However, concerns were noted on the accuracy of the information that is converted from one program software to another.
 - **Action:** ORBA to survey its members regarding to understand what software is primarily used by industry.
 2. Submission requirements
 - MTO is looking at defining baseline schedule and do an administrative change to the section of the GC that details the critical path schedule.
 - MTO is looking at creating a new PH-CC form that would document changes made in updated schedules with the submission of the updated critical path schedule. MTO clarified that the requirement to highlight and explain changes on updated critical path schedules is not a change to the GC (it is already a GC requirement). The intent is that this would be a tool to bring consistency regardless of staff experience levels.
 - ORBA understands that all parties need to be aware of any changes and from a contractor perspective should indicate any changes in the progress schedules as they become apparent on site so that everyone is informed.

- Abnormal Weather
 - MTO historically have defined calendar month in the abnormal weather section of the General Conditions to mean the named month. To provide consistency, the ministry plan to provide this definition in the General Conditions to align with the original intent.
 - ORBA provided feedback with a preference to have calendar month defined as any 30 day. There are some situations where weather is abnormal when looking at the 30-day window, but not abnormal when evaluating using the named month. MTO to review ORBA's feedback.

- Advance Payments for Material
 - MTO is looking at bringing consistency to the administration of advance payment.
 - MTO found that with time the ministry created separate progress payment items for fabrication of structural steel and precast concrete components/girders without consideration of the advance payment requirements in the GCs. As such, MTO is looking at bringing consistency to the payment of fabrication items with the intent of advance payment of materials. For example, advance payment for precast concrete bridge elements or girders is already covered under the basis of payment item under the Fabrication Item Of OPSS.PROV 909 - Prestressed Concrete - Precast Girders, SSP 999S31 Precast Concrete Bridge Elements.
 - **Action:** ORBA to survey its members regarding what materials should be considered for MTO for advance payments (that wouldn't already be covered as fabrication payments).

- Environmental Pollution Liability Insurance
 - MTO is reviewing the need to make this requirement mandatory for all contracts versus on a basis to basis.
 - ORBA noted that this insurance doesn't factor risks on small projects.
 - ORBA noted that a lot of the smaller contractors have this requirement under the "sudden and accidental environmental" under their CGL insurance.
 - ORBA recommends a balanced approach of risk profile and knowing that other insurances would cover the risks.
 - ORBA noted concern in reducing pool and increasing costs on a contract with the introduction of this insurance on all contracts.

- Other
 - MTO looking at general OSHA requirements.
 - MTO is still reviewing Overhead requirements but if there are any changes, it wouldn't be as part of this GC update.
 - MTO is reordering Dispute Resolution requirements. MTO explained that on the site it is communicating to staff that rationale should be shared when providing a decision.
 - MTO is looking at Abnormal Weather.
 - MTO is reviewing language pertaining to environmental incidents to bring consistency for contractors to submit their Environmental Incident Management Plan.
 - MTO wanted to confirm with ORBA if Contractors have been obtaining and referring to the Record of Allowable Gross Weight form from haulers.
 - **Action:** ORBA confirm if Contractors have been obtaining and referring to the Record of Allowable Gross Weight form from haulers.

- b) Obtention of digital design files
 - ORBA seeking input if 199S65 can be included as part of the General Conditions of Contract for consistency purposes.
 - MTO noted that while SP199S65 is not incorporated into the General Conditions of Contract it is a standard Special Provision that should be included in all MTO.
 - ORBA confirmed that the need of CAD files was layout, Working Drawings, GPS as opposed for contractors to create new drawings. ORBA understands the requirement: "Native format electronic information is provided as a courtesy and shall only be used for the administration and construction of this Contract. The Owner does not warrant the accuracy of the native format electronic information or its compatibility with any software applications." and understand that contractors have to do their own due diligence.
 - MTO is looking at moving towards digital delivery / BIM so trying to work with all parties to agreeing on files to be shared.
 - MTO has engaged with ACEC-O to form a working group and is inviting ORBA to be part of the working group.
 - **Action:** ORBA to confirm 2-3 members for working group and confirm if the next tentative scheduled date of: September 9th works for members. MTO will then coordinate accordingly.

- c) Engineering Materials Testing Companies
 - MTO will be posting a list of Quality Assurance Laboratories, for information purposes, in the MTO Technical Publications site under the "Qualification" tab (available as of July 2024).
 - **Action:** Closed.

- d) Material Fuel Indices
 - MTO will work with ORBA to arrange a separate engagement to identify a solution for the necessary missing data to support the creation of the Caisson Index work and report back to this committee on next steps.
 - **Action:** MTO to confirm separate engagement for Caisson Index.

- e) Interpretation for Access and Egress in Sites
 - ORBA doesn't have specific examples but has concerns regarding consistency in the administration of the requirement by Contract Administrators.
 - MTO suggested for ORBA to inform the MTO CSA/AMC when requests are denied by the Contract Administrator.
 - **Action:** Closed.
- f) Hard-copy submissions
 - MTO clarified that this requirement needs to consider remote areas where printed hard copies are required at times. MTO will no longer require multiple copies (when specified as such in specifications).
 - **Action:** Closed.

OPEN ITEMS	ACTION BY
<p>April-2021-02</p> <p>SUPPLY CHAIN DELAYS AND IMPACTS ON SCHEDULES</p> <p><i>Description:</i></p> <ul style="list-style-type: none"> • Open item to have pro-active discussions regarding supply issues for a range of materials. <p><i>Discussion:</i></p> <ul style="list-style-type: none"> • ORBA would like to bring forward concerns regarding utilities for impacts on schedules. ORBA would like to know if there can be verbiage introduced to protect the Contract (all parties) regarding the move of utilities. • ORBA feels that at times relocating the utilities, within a timely manner, is outside of the Contractor's control and feels that they are not always best positioned to manage the risk. • MTO understands ORBA's concern but explained that the relocation of utilities is tied to a contractor's operations and that is why this is within the contractor's responsibility. • MTO suggested for contractors to work with the Contract Administrator/MTO staff on a contract-by-contract basis when there are delays so that MTO can work with the contractor accordingly. 	

<p>October-2022-01</p>	<p>CONTRACT MANAGEMENT SYSTEM (CMS) UPDATE</p> <p><i>Description:</i></p> <ul style="list-style-type: none"> • MTO launched its new Contract Management System live in February 2023. <p><i>Discussion:</i></p> <ul style="list-style-type: none"> • ORBA noted that CMS process time is slow. MTO suggested to contact the CMS Help Desk immediately when this happens for any process so that the issue can be escalated immediately. • ORBA asked if all CMS apps working as intended. Specifically with Working Days. MTO believes that all apps should be working but is working on overall enhancements for what comes into CMS Help Desk. These improvement requests are coming down in volume. MTO will review ORBA's concern. • MTO provided the following update regarding enhancements: <ul style="list-style-type: none"> ○ Fully deployed the claims suite. ○ Completion suite is fully running. ○ Developed 45 new material test codes and are fully flushed out workflow. ○ Working on enhancements to construction invoice to better display all items and payment cover sheet with all the views that are expected. ○ Developing Basis of Payment functionality for change orders. ○ Rolled in functionality to manage engineering contracts. First couple of contracts have now started to be on-boarded to the system as they get awarded. <p>Action – MTO to review the status of the functionality of CMS apps.</p>	
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NEW ITEMS		ACTION BY
June-2024-01	<p>OPSS.PROV 127 RATES</p> <p><i>Description:</i></p> <ul style="list-style-type: none"> Annual OPSS 127 Rates Consultation Timeline <p><i>Discussion:</i></p> <ul style="list-style-type: none"> MTO is seeking for feedback from ORBA regarding the consultation schedule. ORBA supports the July OPSS 127 rates publication as the data would be able to utilize the latest indices available. <p>Action – MTO to share the proposed OPSS 127 Rates consultation timeline with the meeting notes.</p>	

INFORMATION SHARED FOR THIS MEETING		
Document Title	Shared By	Format
Annual OPSS 127 Rates Consultation Timeline	MTO	pdf

NEXT MEETING
<ul style="list-style-type: none"> December 2024 (ORBA to confirm)