

# ACEC-ONTARIO/MTO CONTRACT ADMINISTRATION SUBCOMMITTEE MEETING NOTES

**Date:** November 1, 2022  
**Time:** 1:00pm to 4:35pm  
**Location:** Microsoft Teams Meeting

ACEC-ON ATTENDEES	ORGANIZATION	MTO ATTENDEES	OFFICE
Dave Currie	McIntosh Perry	Kevin Boudreau	West CO
Sebastian Flaszynski	AECOM	Finlay Buchanan	CMO
Matt Gleben	HCI	Fahmi Choudhury	Central CO
Phil Hutton	exp	Sheila Harper (guest)	CMO
Naveen Kaushik	CONSOR	Mireya Hidalgo (guest)	CMO
Sunil Kothari	SNC	Muhammad Tariq Khan (guest)	ER CO
Bill LaRosa	Morrison Hershfield	Jamie Lauzon (guest)	CMO
Chris McBride (Co-Chair)	WSP	William Lei (guest)	CMO
Helder Melo	HDR	Rebecca Li	CMO
Tom Pepper	Tulloch	Michelle McGrath (Co-Chair)	CMO
John Riggs	Parsons	Olu Olusanya (guest)	HDO
Graham Sled	GHD	Dan Schutte (guest)	NW CO
Otto Steenkamp	LEA	Kenneth Shannon (guest)	HDO
Doug DeRabbie	ACEC-ON	Seyed Tabib	CMO
		Erika Varga	CMO
		Gary Weiss	NW CO

ITEMS	ACTION BY
<p><b>Welcome, Introductions and Safety Moment</b></p> <ul style="list-style-type: none"> <li>New members and guests were introduced.               <ul style="list-style-type: none"> <li>Doug DeRabbie, Director, Government and Stakeholder Relations (ACEC-Ontario)</li> <li>Sunil Kothari, SNC (ACEC-Ontario)</li> <li>Gary Weiss, Manager, Construction Management Northwest (MTO)</li> </ul> </li> <li>Safety Moment was shared to emphasize the findings of a Coroner's Jury regarding a fatality of a signaller that was run over by a dump truck and to highlight the importance of signaller safety.</li> <li>The document can be found in the 2021 coroner's inquests' verdicts and recommendations: <a href="https://www.ontario.ca/page/2021-coroners-inquests-verdicts-and-recommendations">https://www.ontario.ca/page/2021-coroners-inquests-verdicts-and-recommendations</a></li> </ul>	
<p><b>1. Review of March 1, 2022 meeting notes</b></p> <ul style="list-style-type: none"> <li>Accept meeting notes as previously recorded and shared.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li><b><i>Meeting notes to be finalized as presented and shared with ACEC-ON.</i></b></li> </ul>	<b>MTO</b>
<p><b>2a. Construction Administration and Inspection Specifications (CAIS)</b></p> <ul style="list-style-type: none"> <li>All CAIS documents have now been uploaded to the MTO Technical Publications site as of May 2022.</li> <li>The CAIS will replace references to the CAITM in the generic TOR for CA assignments beginning in Fall 2022. CAIS implementation will be added via addendum for assignments</li> </ul>	

ITEMS	ACTION BY
<p>already advertised. All new contracts in 2023 will be using CAIS. Announcement for CAIS contractual implementation and training dates will be posted.</p> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>None.</i></li> </ul>	
<p><b>2b. New Cross Slope Specification (SSP103F56) and CAIS (313-06)</b></p> <ul style="list-style-type: none"> <li>• New SSP 103F56 modifies OPSS 313 and introduces construction tolerances for cross slope for surface course and binder course to be opened to traffic for a period of 1 month or more.</li> <li>• New PH-CC-866 form for generating random subplot locations, recording values and calculating differences for acceptance.</li> <li>• ACEC-Ontario member noted that the specification does not explain how the cross slope tolerance is to be achieved (milling or padding) nor how payment for the milling or padding is addressed.</li> <li>• MTO agreed to include clarification regarding administration of sublots when binder course will be opened to the travelling public for more than 1 month.</li> <li>• CAIS 313-06 was posted to the Technical Consultation Portal (TCP) on October 26, 2022. Comments due by November 16, 2022.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>None. Item closed.</i></li> </ul>	
<p><b>3. MTO's Proposed Plan on the Use of CPR for the Procurement of Engineering Services</b></p> <ul style="list-style-type: none"> <li>• MTO introduced its plan for taking a CPR pause in bid evaluation, and to seek feedback from ACEC-Ontario.</li> <li>• Main components of the plan: <ul style="list-style-type: none"> <li>• temporarily remove CPR from bid evaluation, resulting in new RFP and RFQ models</li> <li>• identify a minimum CPR to be eligible to bid</li> <li>• perform a CPR 'reset'</li> </ul> </li> <li>• During the "pause": <ul style="list-style-type: none"> <li>• MTO and ACEC-Ontario will investigate improvements to the CPR system, with consideration to reinstate CPR use once the CPR system is improved.</li> <li>• MTO will evaluate and award contracts based on technical score and price (RFP) or price only (RFQ).</li> <li>• MTO will continue with performance appraisal of all engineering and CA assignments.</li> <li>• MTO will Implement new Engineering streamlined and CA appraisals.</li> </ul> </li> <li>• Additional details about the plan can be found in the presentation shared with ACEC-Ontario.</li> <li>• MTO plans to post details of the CPR pause on TCP and request feedback from all stakeholders</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>Provide formal feedback at a later date.</i></li> </ul>	<p>ACEC-ON</p>

ITEMS	ACTION BY
<p><b>4. Subcommittee Workplan</b></p> <ul style="list-style-type: none"> <li>• Reviewed workplan.</li> </ul> <p><b>i.) (2017-02(b)) CMS Update [previously WBCMS Improvements]</b></p> <ul style="list-style-type: none"> <li>• Construction and CA contracts to go live February 2023</li> <li>• Engineering Contracts (spring/early summer 2023)</li> <li>• Existing construction and CA contracts to be migrated to new system with a 7-10 day cut-over period</li> <li>• MTO to pay for subscriptions</li> <li>• Training will be delivered both before and after the Go-Live date.</li> </ul> <p><b>ii.) (2018-01) Construction Administration and Inspection Standards</b></p> <ul style="list-style-type: none"> <li>• Refer to Agenda Item #2.</li> </ul> <p><b>iii.)(2019-01) Roles, Responsibilities and Qualifications – Specialty Plans</b></p> <ul style="list-style-type: none"> <li>• Continue to suspend item until CAIS is published, as item will likely be addressed.</li> </ul> <p><b>iv.)(2019-02) MTO's Proposed Plan on the Use of CPR for the Procurement of Engineering Services [previously Award Criteria of RFPs]</b></p> <ul style="list-style-type: none"> <li>• Refer to Agenda Item #3.</li> </ul> <p><b>v.) (2019-03 &amp; 2020-01) Construction Contract Administration Appraisal–pilots</b></p> <ul style="list-style-type: none"> <li>• Refer to Agenda Item #6.</li> </ul>	
<p><b>5. General COVID-19 Discussion</b></p> <ul style="list-style-type: none"> <li>• No issues raised by either ACEC-Ontario or MTO.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <b><i>None. Item closed.</i></b></li> </ul>	
<p><b>6. Construction Contract Administration (CA) Appraisal – pilot projects</b></p> <ul style="list-style-type: none"> <li>• MTO updated the CA appraisal system along with a user guide based on internal and external (ACEC-Ontario) feedback.</li> <li>• Posted on TCP in May 2022.</li> <li>• Received comments from ACEC-Ontario and responded to comments in June 2022.</li> <li>• Selected 34 CA projects for the 2022 pilot program.</li> <li>• Provided training sessions for internal CSA staff responsible for completing appraisal for pilot program.</li> <li>• Appraisal system and training included monthly feedback opportunity for CA firms.</li> <li>• Currently receiving completed monthly appraisals from CSAs.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <b><i>CA firms encouraged to provide feedback at the assignment level, However, ACEC-ON to provide additional feedback, if deemed appropriate, through the subcommittee.</i></b></li> </ul>	<p>ACEC-ON</p>

ITEMS	ACTION BY
<p><b>7. MTO Assignment Agreement Language – Credits &amp; Change Orders</b></p> <ul style="list-style-type: none"> <li>MTO advised ACEC-Ontario that their concern regarding the payment reduction language has been addressed and the redundant language has been removed.</li> <li>Language found within the RFP Lump Sum Assignment Terms of Reference (Part A), as well as the Legal Terms and Conditions (Part B) is already sufficient.</li> <li>The status report language has been retained.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li><b><i>Respond to ACEC-ON letter.</i></b></li> </ul>	MTO
<p><b>8. Status and Schedule for Implementation of the Generic TOR for RFQ/RFP</b></p> <ul style="list-style-type: none"> <li>The generic procurement documents underwent internal and external consultation in early 2022.</li> <li>MTO received 112 comments on the Engineering documents and 36 comments on the CA documents from ACEC-Ontario.</li> <li>MTO considered all comments and, where appropriate, addressed concerns in the TORs.</li> <li>MTO responded to ACEC-Ontario comments on October 12, 2022 via a posting on TCP.</li> <li>Documents were implemented in late October 2022.</li> <li>MTO can organize a special ad-hoc meeting, if ACEC-Ontario deems one to be appropriate.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li><b><i>Indicate interest in an ad-hoc meeting.</i></b></li> </ul>	ACEC-ON
<p><b>9. Qualification Procedures for CA Specialties of Low, Medium and High Complexity &amp; General Concerns with TCP</b></p> <ul style="list-style-type: none"> <li>MTO acknowledged there was an issue with the original posting to the Technical Consultation Portal and that was the reason for the reposting allowing for additional time for industry comments.</li> <li>MTO provided a presentation on the proposed changes to qualification criteria of construction administration assignments.</li> <li>One of the proposed changes involves reducing the requirement of the firm to have completed high complexity projects to qualify for high complexity work. The change being proposed will reduce this requirement to having completed 3 medium complexity projects. A similar change is proposed for the firm to have completed 3 low complexity projects to qualify for medium complexity work.</li> <li>Another proposed change requires two key personnel to be registered for the high complexity specialty. A two-year transition period is proposed.</li> <li>The remaining changes are to improve language by removing ambiguity and to provide clear guidance to enhance consistency and enhance efficiency in reviewing submissions.</li> <li>The discussion included whether MTO should allow work from other similar jurisdictions to apply to the firm's experience for medium and high complexity projects.</li> <li>The discussion also included whether the key personnel required experience with the firm that is applying.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li><b><i>Provide additional comments, if appropriate, based on the presentation.</i></b></li> <li><b><i>Receive any additional comments, make appropriate edits and repost to the TCP.</i></b></li> </ul>	ACEC-ON MTO

ITEMS	ACTION BY
<p><b>10. Material Summaries Submissions</b></p> <ul style="list-style-type: none"> <li>Reminder to CA member firms to submit year end summaries.</li> <li>CAs not always submitting the summaries according to policy.</li> <li>These summaries are important to MTO to roll up quantities for tracking material used/tested on contracts.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li><b>ACEC-ON to remind staff to consider this as an important deliverable</b></li> </ul>	ACEC-ON
<p><b>11. Public Posting of Future Meeting Notes</b></p> <ul style="list-style-type: none"> <li>Starting with this meeting, MTO plans to post meeting notes to the Technical Consultation Portal, to meet recommendations of a past audit by the Office of the Auditor General of Ontario on how MTO consults with industry.</li> <li>ACEC-Ontario will continue to have the opportunity to review, propose edits and provide comments prior to the notes being finalized and posted.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li><b>None. Item closed</b></li> </ul>	
<p><b>12. Frequency of Future Meetings</b></p> <ul style="list-style-type: none"> <li>Discussion occurred at the Executive Committee to increase frequency of meetings.</li> <li>Recommendation is to increase meeting frequency and re-evaluate in the future.</li> <li>It was agreed that 3 meetings be scheduled for 2023.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li><b>3 meetings be scheduled for 2023.</b></li> </ul>	MTO
<p><b>13. ACECO-MTO Contract Administration Subcommittee Terms of Reference</b></p> <ul style="list-style-type: none"> <li>To meet a recommendation of a past audit by the Office of the Auditor General of Ontario on how MTO consults with industry, it was recommended that Terms of Reference be developed to define framework and governance of this subcommittee.</li> <li>ACEC-Ontario raised no concerns with developing a TOR.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li><b>Draft a Terms of Reference document and share with ACEC-Ontario for review and comment.</b></li> <li><b>Provide comment on draft TOR.</b></li> </ul>	MTO ACEC-ON
<p><b>14. Dispute Resolution Language in CA Assignments</b></p> <ul style="list-style-type: none"> <li>Current language for dispute resolution is being updated for contract administration assignments.</li> <li>Currently in internal consultations and legal review.</li> <li>External consultation will be posted to TCP.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li><b>None. Item closed.</b></li> </ul>	

ITEMS	ACTION BY
<p><b>15. Item Price Assignments – MTO Process for Reviewing &amp; Questioning Rates</b></p> <ul style="list-style-type: none"> <li>It is not uncommon for MTO to send letters to service providers seeking clarification on submissions, prior to awarding an assignment.</li> <li>Proponents that submit Tenders that contain unit prices that appear to be an Unbalanced Bid may be referred to MTO's Qualification Committee and any Tenders that are so unbalanced, in the sole discretion of MTO, that it may adversely affect the interests of MTO, may be rejected.</li> <li>Procedure followed:                             <ul style="list-style-type: none"> <li>Review of bid pricing by Manager Construction / Head Construction in the region</li> <li>MTO may follow up with consultant to explore bid pricing</li> <li>Determination made by Capital Program Delivery Branch (Director or Manager)</li> <li>If determined to be unbalanced, Qualification Committee is notified and committee decides on any action to be taken.</li> </ul> </li> </ul> <p><b>Action Item:</b>  <i>None. Item closed.</i></p>	
<p><b>16. Project Pipeline / Program Update</b></p> <ul style="list-style-type: none"> <li>MTO has no specific information to share on project pipeline. Since CA procurements are based on the successful tendering and award of contracts, advance notice is not possible.</li> <li>MTO recommended that CA firms refer to project information for the Ontario Highways Program that contains information on highway expansion and rehabilitation projects that are planned.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li><i>None. Item closed.</i></li> </ul>	
<p><b>17. Additional Items</b></p> <ul style="list-style-type: none"> <li>No additional items raised.</li> </ul>	
<p><b>18. Scheduled Meetings for 2023</b></p> <ul style="list-style-type: none"> <li>Future meetings for 2023 will be set through consultation between ACEC-Ontario and MTO.</li> <li>Schedule 3 meetings for 2023.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li><i>Consult and schedule 3 meetings in 2023.</i></li> </ul>	<p><b>MTO &amp; ACEC-ON</b></p>