

# ACEC-ONTARIO/MTO CONTRACT ADMINISTRATION SUBCOMMITTEE MEETING NOTES

**Date:** March 7, 2023  
**Time:** 1:00pm to 4:00pm  
**Location:** Microsoft Teams Meeting

ACEC-ON ATTENDEES	ORGANIZATION	MTO ATTENDEES	OFFICE
Dave Currie	McIntosh Perry	Maria Apostolakos (guest)	HDO
Sebastian Flaszynski	AECOM	Vicente Benitez (guest)	HDO
Duane Girard	GHD	Kevin Boudreau	CM West
Matt Gleben	HCI	Finlay Buchanan	CMO
Bob Gunn	WSP	Melissa Buelow (guest)	CM East
Phil Hutton	exp	Keerthi Kamaraj (guest)	CM Central
Naveen Kaushik	CONSOR	William Lei (guest)	CMO
Sunil Kothari	SNC	Rebecca Li	CMO
Bill LaRosa	Morrison Hershfield	Michelle McGrath (Co-Chair)	CMO
Julia Maloney	Parsons	Sayed Tabib	CMO
Chris McBride (Co-Chair)	WSP	Gary Weiss	CM NW
Helder Melo	HDR		
Tom Pepper	Tulloch		
John Riggs	Parsons		
Graham Sled	GHD		
Otto Steenkamp	LEA		
Doug DeRabbie	ACEC-ON		

ITEMS	ACTION BY
<p><b>Welcome, Introductions and Safety Moment</b></p> <ul style="list-style-type: none"> <li>No new members.</li> <li>Gary Weiss shared a safety moment created by Heathrow (<a href="https://www.youtube.com/watch?v=wU8_9M1w1vM">https://www.youtube.com/watch?v=wU8_9M1w1vM</a>).</li> <li>The video was a reminder that everyone has a role to play in on the job safety and to say something when you notice a safety issue.</li> </ul>	
<p><b>1. Review of November 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><i>Meeting notes to be posted to MTO Technical Consultation Portal.</i></li> <li><i>Moving forward, meeting notes will be shared with ACEC-Ontario for three weeks prior to posting on TCP</i></li> </ul>	MTO MTO
<p><b>2. Construction Administration and Inspection Specifications (CAIS)</b></p> <ul style="list-style-type: none"> <li>First CAIS training session for external individuals occurred on March 2, 2023.</li> <li>The next training session is March 22, 2023.</li> <li>Online registration is through RAQS – Contract Bulletin (CAIS Training Sessions).</li> <li>CAIS will be contractually applicable for all new 2023 CA assignments.</li> <li>For carry over assignments, CAIS is not contractually applicable – CAITM is. However, CA firms may request to opt-in to CAIS for a \$0 Change Order.</li> </ul>	

ITEMS	ACTION BY
<p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>None. Item closed.</i></li> </ul>	
<p><b>3. Subcommittee Workplan</b></p> <ul style="list-style-type: none"> <li>• A refresh of the workplan is required.</li> <li>• Schedule dedicated time (approximately 30 minutes) during the June 2023 meeting for discussion.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>Schedule dedicated time during June 2023 meeting to discuss.</i></li> <li>• <i>Send reminder 4 weeks prior to June 2023 meeting so ideas can be generated before the meeting.</i></li> </ul>	<p><b>MTO MTO</b></p>
<p><b>4. Construction Contract Administration (CA) Appraisal – pilot projects</b></p> <ul style="list-style-type: none"> <li>• MTO presented information that was shared with ACEC-Ontario prior to the meeting.</li> <li>• MTO reviewed the history, the MTO working group, objectives and goals of a new system, the proposed new system, results from the pilot program, mathematical analysis of the new system and next steps.</li> <li>• The proposed system will be posted to MTO's Technical Consultation Portal (TCP) in April 2022 for formal consultation. The decision will be posted on TCP in March 2023.</li> <li>• The new system is expected to be implemented in April/May 2023.</li> <li>• MTO continues to work on internal guidance and training.</li> <li>• ACEC-Ontario raised the following concerns: <ul style="list-style-type: none"> <li>• the new system will not generate significant numerical spread between low and high performing firms</li> <li>• no weighting for complexity of the assignment</li> <li>• the new system will potentially generate standard evaluations in months that are not as busy or few activities (e.g. winter) which may skew the overall project average.</li> </ul> </li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>ACEC-Ontario to provide their concerns in writing</i></li> </ul>	<p><b>ACEC-ON</b></p>
<p><b>5. ACECO-MTO Contract Administration Subcommittee Terms of Reference</b></p> <ul style="list-style-type: none"> <li>• Final version of the ACECO-MTO Contract Administration Subcommittee TOR were sent to the Executive Committee, endorsed and will be added to MTO's Technical Consultation Portal</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>None. Item closed.</i></li> </ul>	
<p><b>6. MTO General Conditions of Contract (OPSS.PROV 100)</b></p> <ul style="list-style-type: none"> <li>• MTO General Conditions of Contract (OPSS.PROV 100) are being reviewed and updated in two phases (administrative update in early-mid 2023 and more fulsome updated in 2024).</li> <li>• MTO reminded ACEC-Ontario to propose 3 to 5 high-priority topics they would like MTO to consider addressing during phase 2. A formal request was sent on March 3, 2023.</li> <li>• Proposed edits under phase 2 will be posted to MTO's Technical Consultation Portal for formal consultation.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>None. Item closed.</i></li> </ul>	

ITEMS	ACTION BY
<p><b>7. Guide Rail Measurements in Contracts</b></p> <ul style="list-style-type: none"> <li>• Guiderail panels come in set lengths which is not being accounted for in contracts as a PQP adjustment (e.g., the panel length quantity doesn't match the length quantity and 1m payment increment in quantity sheets).</li> <li>• New language has been introduced in the CDED to guide designers to consider the fixed lengths of guiderail panels in their payment quantities.</li> <li>• MTO wants to communicate this to CA's - about the administration of payment (make a PQP adjustment for actual length of installed rail to the closest panel length).</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>None. Item closed.</i></li> </ul>	
<p><b>8. Remedy Period Following Notice of Default (Legal Terms)</b></p> <ul style="list-style-type: none"> <li>• MTO will be reducing the remedy period of Notice of Default from 10 days to 5 days.</li> <li>• MTO presented this item to ACEC-Ontario during the Executive Committee meeting in November 2022.</li> <li>• MTO is unaware of any feedback received.</li> <li>• The proposed changes will be posted on MTO's Technical Consultation Portal (TCP) in March 2023.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>None. Item closed.</i></li> </ul>	
<p><b>9. Trenchless Technology Survey - Reminder</b></p> <ul style="list-style-type: none"> <li>• MTO has formed an internal Trenchless Working Group and would like to gather input from the contract administration industry with the goal of upgrading the MTO state of practice in engineering and construction using trenchless technologies.</li> <li>• Reminder for interested firms and individuals to complete the survey forwarded to ACEC-Ontario CA Subcommittee members at the end of January 2023.</li> <li>• An ACEC-Ontario member noted that the survey questions may be over detailed for the CA group.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>None. Item closed.</i></li> </ul>	
<p><b>10. Subcodes</b></p> <ul style="list-style-type: none"> <li>• During the conversion from WBCMS to CMS, the opportunity for reducing the number of item subcodes was identified.</li> <li>• MTO asked ACEC-Ontario for opinions/comments/concerns. It was noted that:             <ul style="list-style-type: none"> <li>• Subcodes are an integral part of accurate payments and need to remain.</li> <li>• Subcodes are redundant for weighed materials and could be reduced or eliminated but maintaining identification of placement locations is important.</li> <li>• Subcode quantities for electrical are seen as more of a design tool than a payment tool.</li> </ul> </li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>None. Item closed.</i></li> </ul>	

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<p><b>11. Staff Experience Equivalency for IQAF Assignments</b></p> <ul style="list-style-type: none"> <li>• ACEC-Ontario raised concern regarding 3 recent RFPs for CA assignments on traditional DBB projects that stated experience in the IQAF Manager role on P3 projects is not recognized as equivalent to the CA role on traditional assignments despite the need for the IQAF Manager to have been a CA on past similar MTO contracts.</li> <li>• MTO does recognize inspector roles on Infrastructure Ontario (IO) and Metrolinx (Mx) projects as equivalent.</li> <li>• ACEC-Ontario and MTO are of the view that more discussion is required.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <b><i>Raise with the Heads of Construction Team and report back in June 2023.</i></b></li> </ul>	<b>MTO</b>
<p><b>12. Form 5 (Staffing Availability Declaration)</b></p> <ul style="list-style-type: none"> <li>• Form 5 is intended to confirm staffing availability for full time, on-site staff.</li> <li>• It will be adjusted for each assignment but will, generally, include the CA, ACA and inspectors. It is not intended for individuals not on site full time such as the PM or specialists.</li> <li>• The form is intended to address situations when service providers need to substitute staff before starting work or could not start work as staff identified in their proposal are unavailable.</li> <li>• Form 5 brings the discussion and awareness to the forefront so that the impacts on projects can be considered in a proactive way.</li> <li>• If the declaration is improperly filled out it will be treated similarly to other aspects that are incorrect in the contract.</li> <li>• ACEC-Ontario does not believe this will solve the issue. It was suggested that proposals be evaluated as submitted and if the service provider is unable to fully staff up, they are disqualified and MTO award to the next qualified service provider.</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>13. PEO Pending Suspension of EIT Program and Impact to Junior Inspector / Senior Inspector Qualification Requirements</b></p> <ul style="list-style-type: none"> <li>• Previously, when a proposed individual could demonstrate current status as an Engineer-in-Training (EIT), MTO could consider that individual to possess an equivalency to an OACETT rsji or rcsi designation.</li> <li>• As of May 15, 2023, PEO will no longer be offering the EIT Program to new applicants.</li> <li>• ACEC-Ontario wants to ensure that whatever new process is implemented to fill the vacancy left by the cancellation of the EIT Program by PEO does not “leave anyone behind”, including accredited international Engineering graduates.</li> <li>• ACEC-Ontario asked that consideration be given to a process that does not create unnecessary administrative burden or costs to individuals.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <b><i>Bring forward to Heads of Construction Team.</i></b></li> </ul>	<b>MTO</b>
<p><b>14. Additional Items</b></p> <p>A. A Technical Outlook Webinar is planned for March 28, 2023 and will be communicated by email and in the RAQS Contract Bulletin.</p> <p>B. MTO will be introducing a payment adjustment for changes in the steel price index.</p> <ul style="list-style-type: none"> <li>• The payment adjustment will only apply to the steel types listed in the SP, when warranted and triggered by a threshold.</li> </ul>	

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<ul style="list-style-type: none"> <li>• Contractors may opt out based on individual steel type. Once opted out, opting back in shall not be permitted.</li> <li>• Will be posted to MTO's Technical Consultation Portal for formal consultation.</li> </ul> <p>C. A consultation on Subletting and Consent to Sublet has been posted to MTO's Technical Consultation Portal and closes on March 14, 2023.</p> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>None.</i></li> </ul>	
<p><b>15. Scheduled Meetings for 2023</b></p> <ul style="list-style-type: none"> <li>• Remaining scheduled meetings for 2023:                             <ul style="list-style-type: none"> <li>• Tuesday June 27, 2023 (1:00pm – 4:00pm)</li> <li>• Tuesday November 7, 2023 (1:00pm – 4:00pm)</li> </ul> </li> <li>• Meeting appointments were sent to ACEC-Ontario on November 21, 2022.</li> </ul> <p><b>Action Item:</b></p> <ul style="list-style-type: none"> <li>• <i>None.</i></li> </ul>	