

THE FIRST WORD

December, 2005

ACEC OKLAHOMA Meets with DEQ; New Alliance To Form "Team Approach" Between DEQ, Engineers

Department of Environmental Quality (DEQ) Executive Director Steve Thompson and Water Quality Division Director Jon Craig met with representatives of ACEC OKLAHOMA on October 26th to discuss development of a partnership between DEQ and the engineering community. ACEC OKLAHOMA was represented by Bob Williams of Poe & Associates, John Baker of Design Engineers, Steve Jones of Garver Engineers, and ACEC OKLAHOMA President Jim Sullins.

During the meeting several issues of concern to both DEQ and ACEC OKLAHOMA members including:

1. Relieving the tensions between DEQ and consultants through better communications during the review process;
2. Better defining the "line" between DEQ being the "regulator" and going over the line into the "consulting business". The DEQ representatives stated that their job is to determine if the city's plans "meet the rules", not to decide if the plans are the best or most cost effective solution. If they get into determining if the plans are the best possible and/or the most cost effective solution, the DEQ is getting into the "consulting" business, and that is not their purpose or intention;
3. Developing a "team approach" during the review process by DEQ by assigning an experience P.E. as the Team Leader responsible for review of oversight of the work of younger, less experienced reviewers;
4. Assigning experience DEQ engineers to the more complex project reviews; and,
5. Prioritize the problems faced by the individual city to determine the "big problem" and how

it can be addressed, leaving the smaller problems for future consideration and action. For example, when DEQ develops a consent order for a community, they address all of the problems which need to be corrected. However, they realize that in many cases correcting all of the problems may put the city into a financial hardship which the city cannot overcome. It was agreed that the "big problem" is what really needs to be addressed, and that DEQ, the city, and the consultants should work together to determine how to address the "big problems" while leaving the secondary problems for later.

A very frank and open discussion led to the parties deciding that Communications and Process Improvement were the critical elements which should be addressed with regards to Plan Reviews, Permitting, and Interaction with Cities. This discussion led to the outlining of a process which DEQ and ACEC OKLAHOMA have agreed to pursue. This process includes:

1. Working together in a "Team Approach" to facilitate communications between all of the involved parties on a specific project including the City, DEQ, Consultant, COGs, the funding agencies, and all other stakeholders and representatives. Everyone believed that a critical element in this "Team Approach" was to get all parties together AT THE SITE to do a complete review of the project including design requirements, timeline, and funding sources. DEQ committed to make their staff available for the "on site" meetings.
2. Work together to develop a procedure to decide how to set priorities.
3. Educational Programs by DEQ to update stakeholders on regulatory changes which have been

(Cont. on Page 2)

DEQ/ACEC OKLAHOMA Forge Alliance

(Cont from Page 1)

made in recent months as well as to preview new and upcoming regulatory changes.

At the conclusion of the meeting, DEQ asked ACEC OKLAHOMA to “get the word out” to the consulting community regarding the “Team Approach” that DEQ will be taking with communities, including the importance of the “on site” meeting with all of the stakeholders.

ACEC OKLAHOMA asks all members to help jumpstart this new process by working with your communities in developing this “Team Approach” as well as by asking to meet with DEQ and other stakeholders for a project review AT THE SITE.

ACEC OKLAHOMA appreciates the efforts and openness of Director Thompson and Mr. Craig, and looks forward to working with them and the DEQ staff to strengthen this relationship in the coming months.

Soil Survey Workshop Set for December 8th

The Oklahoma County Conservation District will host a workshop on the uses of the new Oklahoma County Soil Survey to be held on December 8, 2005 beginning at 8:30 a.m. at the Oklahoma Engineering Center 201 NE 27th Street in Oklahoma City.

Soil Scientists from the USDA Natural Resources Conservation Service will conduct the workshop. During the morning session soil scientists will discuss general uses of the document. An afternoon session will be conducted for participants to get hands-on training. Participants will need to bring their wireless laptops for this session.

The workshop is free to the public and a copy of the soil survey will be available to all who attend. The document is available in hard copy or CD-Rom Version..

Engineers can obtain professional development hours for their attendance. Check with your organization for your credits.

For more information contact the Oklahoma County Conservation District at 848-1933.

ACEC Wins Major Victory on Overhead Caps, Audits, and QBS "Opt-Outs"

ACEC has been successful in striking out the “opt-out” authority that allowed many state DOTs to place arbitrary caps on overhead, require redundant audits, and adopt non-QBS procurement procedures.

Specifically, ACEC secured a provision in the annual Transportation appropriations bill (H.R. 3058), which cleared Congress on Friday, November 18th, requiring all but two state DOTs to accept indirect cost rates established through procedures under the Federal Acquisition Regulations (FAR) without arbitrary caps. The provision also specifies that a single audit for a firm, undertaken by a recognized federal or state agency, will be applicable nationwide – no more duplicative or redundant audits in the affected states.

Furthermore, the provision requires all state DOTs to use QBS for federally-funded design work – closing a loophole in the law that permitted some states to use non-QBS procedures.

As you may recall, ACEC led an effort in the mid 1990s to require states to follow uniform federal procurement standards for federal-aid highway projects; Congress agreed, but also allowed states to “opt-out” if they wished, and 13 states did so – Connecticut, Delaware, Florida, Kentucky, Louisiana, Maine, Maryland, Minnesota, New York, North Carolina, Utah, Tennessee, and West Virginia.

H.R. 3058 (Section 174) now brings 11 of the 13 original opt out states back under FAR-based overhead and audit rules. The two exceptions are Minnesota and West Virginia, which due to continuous opposition from senior members of their congressional delegations, were “carved out” of the requirement. Our legislation does, however, eliminate the ability of Minnesota and West Virginia to opt-out of using QBS; this is an important step forward, particularly given the recent battles in Minnesota over the use of reverse auctions. ACEC will work closely with the executive directors and members in those states to pursue further corrective action.

President Bush is expected to sign this legislation into law this week. As worded, the new requirement would take effect immediately, although implementation will be left to FHWA to determine. ACEC will provide additional information as it becomes available.

NATIONAL DIRECTOR'S REPORT ACEC FALL CONFERENCE

by Mike Arand, ACEC OKLAHOMA National Director

The 2005 ACEC Fall Conference was held between September 21st and 24th at Disney's Yacht and Beach Club Resorts in Orlando, Florida. The Board of Directors Meeting was convened at 9:30 a.m. on the 21st. There were two voting issues and three discussion items on the agenda.

The first voting issue involved an amendment to Strategic Goal #5 on the Minuteman Fund to extend the program past the present \$1 million goal and to expand its scope to federal appellate cases while maintaining a "war chest" of \$1 million. Prior to the vote, the Fund could only be used to assist with state legislative and judicial initiatives but could not be used to assist in federal appellate cases even when those cases originated as state issues.

After little discussion, the Board of Directors voted to amend Strategic Goal #5 on the Minuteman Fund to read as follows:

"Grow the Minuteman Fund to Respond to Critical State Issues And Federal Appellate Cases While Maintaining a "War Chest" of \$1 Million"

Once approved by unanimous vote, the Executive Committee was directed to revise the Rules of Policy and Procedure as appropriate to establish guidelines for the expanded program consistent with the current program.

The second voting issue dealt with the adoption of a Policy Statement by ACEC that would encourage fair and open competition for state contracts. This subject became an issue when the South Carolina legislature introduced legislation this past spring that would have given in-state design firms a preference in the awarding of state contracts (the legislation did not pass in the past session). ACEC South Carolina supported the legislation while ACEC North Carolina raised significant concerns and appealed to ACEC for assistance.

Although the Executive Committee drafted a Policy Statement to encourage fair and open competition in the procurement of design professional services, ACEC South Carolina was successful in having any action on the Policy Statement tabled until the National Convention next spring. With the South Carolina legislature scheduled to reconvene in January, the

adoption of a Policy Statement by ACEC at the National Convention will likely be a moot point as it relates to influencing the outcome of this legislation.

The first of the three discussion items dealt with the recruitment of private client firms to help reach the ACEC strategic goal on membership. Although ACEC's recruitment of firms that work in the public sector has been strong, the recruitment of firms that work mostly for the private sector has lagged. The focus of the discussion, therefore, was on the measures that should be taken by ACEC to attract private client firms.

The second discussion item dealt with client expectations of perfection which is now recognized as a growing threat to the engineering profession. ACEC has published a white paper on this subject which will continue to be promoted in *Last Word and Engineering, Inc.* However, a copy can also be obtained from either Jim Sullins or me upon request.

The third discussion item dealt with reaching the ACEC/PAC strategic goal of raising \$1 million. A number of states meet the ACEC/PAC fundraising goals assigned to them by the ACEC/PAC Trustees. Other states, including Oklahoma, do not. The discussion centered on the elements of successful fundraising programs in those states that consistently meet their goals and how the other states can implement effective fundraising strategies. The result of the discussion on this item was a recommendation that all Member Organizations actively put into place and implement strategies that have been successful in other locations to meet their ACEC/PAC goals.

ACEC's Board of Directors will next meet as a part of the ACEC Annual Convention, April 30 - May 3, 2006 in Washington, DC. The Convention will be held at the Washington Grand Hyatt, and will include the annual Engineering Excellence Awards Banquet, Consulting Congress Day activities, and a variety of business practice educational opportunities.

ACEC OKLAHOMA members are encouraged to attend the Convention, especially the Consulting Congress Day activities which will include ACEC OKLAHOMA going to "The Hill" to meet with all members of the Oklahoma Congressional Delegation.

US DOT Inspector General Drops One Audit, Expands Another

The U.S. Department of Transportation's Inspector General (IG) has quietly dropped a pending audit on state DOT and Federal Highway Administration cost recovery procedures as they relate to consultant errors and omissions.

The IG's office cited the lack of a clear problem, although it did find some inconsistencies with state DOT cost recovery practices. The IG believes these inconsistencies can be best addressed by the FHWA.

The audit was launched in 2004 amid concerns by the IG's office that cost recovery efforts by state DOTs and FHWA for engineering firm errors and omissions were insufficient.

In response to the audit, and the fact that many state DOTs were revising their policies in response to the IG's actions, ACEC mobilized a task force which produced a model cost recovery policy.

While dropping the errors and omissions audit, the IG has indicated its intention to expand a second audit on the accuracy of overhead rates and the treatment of executive compensation by engineering firms.

In an initial examination of five firms, the IG's office cited concerns over unallowable costs being included in overhead rates, as well as compensation rates that do not meet the "reasonableness" standard under federal procurement rules. The IG has also expressed concerns over state DOT oversight, as well as a lack of understanding on the part of independent accounting firms conducting overhead audits.

A task group of ACEC members and staff have met with the IG's office twice this year to discuss the audit.

According to ACEC members engaged in those discussions, including representatives of ACEC's Transportation Committee and its Audit Task Force, there appeared to be a lack of understanding on the part of IG staff of the engineering industry in general and engineering-related procurement rules in particular.

The IG intends to contact up to 100 additional firms for information, and conduct site visits with as many as 12 firms.

ACEC will continue to work with the IG's office and provide updates as warranted.

ACEC OKLAHOMA Welcomes Two New Member Firms

ACEC OKLAHOMA is pleased to welcome two new member firms to the Council.

TRIAD DESIGN GROUP is a 30-person engineering and architectural firm in Oklahoma City. Joe Davis and Don Douglas are the principals of the firm which provides Architecture, Civil Engineering for Municipal and Transportation, Structural Engineering, and Construction Management/Inspection.

BROWNEENGINEERING, PC, is a 5-person firm headed by Richard P. (Phil) Brown. The Stillwater-based firm provides Civil Engineering services for water and sewage for municipalities and rural water districts along with Architecture and building services.

ACEC OKLAHOMA is excited to have TRIAD DESIGN GROUP and BROWN ENGINEERING join the ACEC family, and looks forward to having both firms as active members of ACEC OKLAHOMA and ACEC.

ACEC OKLAHOMA LUNCH & LEARN SEMINAR

Successful Media Relations: A Growth Tool

Wednesday, December 14th
12:30pm - 2:00pm

Locations in both Oklahoma City and Tulsa

Registration Information Coming Soon!!!!

ACEC OKLAHOMA
Wishes
Everyone and their Families
a
Very Merry Christmas
and the
Happiest of New Years!!!!