

Testimony of
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Representing the
Construction Industry Round Table (CIRT)
to
U.S. House of Representatives
Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending
Hearing on March 16, 2011
“Regulatory Impediments to Job Creation:
The Cost of Doing Business in the Construction Industry”

Time to Unleash America’s Spirit and Innovation to Spur Economic Activity:
The New I-35W Bridge Case Study

America’s “can-do-spirit”, “know-how” and “innovation” still exists, it’s just hard to find sometimes under the extensive laws, regulations, and rules that the private sector faces when trying to create jobs that spur economic growth and expansion. The uncertainty and unintended consequences of what seems like a never ending expansion of government’s reach damages the entrepreneurial spirit and desire to take risks – which can help jump start a robust recovery. When government gives private businesses more freedom, not less, remarkable achievements can be accomplished to enhance prosperity for Americans.

The American public has indicated, with an amazing 81 percent agreeing that the government “needs a basic overhaul” and should undertake “an annual ‘spring cleaning’ to eliminate unnecessary regulations and red tape;” according to a recent Clarus Research Group poll.

So let’s begin with where the federal government spends taxpayer money to put people to work, create economic growth, improve America’s global competitiveness and enhance community quality of life – namely, public works/infrastructure projects. Right now, dollars allocated to be spent on these projects are subject to time consuming and often redundant rules which weigh down efficiencies and delivery times, while increasing costs. [See, Attachments A & B for the affect “red tape” has on costs/time, and the resulting dilatory impact on jobs]. These excessive procedures could be accomplished without unnecessary delays and costs. A good example is the new I-35W Bridge replacement project.

Time of Tragedy/Time of Renewal – August 1, 2007, was the tragic day when the bridge carrying I-35W over the Mississippi River in Minneapolis suddenly collapsed during rush hour traffic, killing 13 and injuring many more. While rescue efforts proceeded, the Minnesota Department of Transportation (MnDOT) immediately began a fast-track process of building a new bridge. Three days after the collapse, a Request for Qualifications was issued for design/build teams interested in the replacement contract, with five teams shortlisted four days later. Technical and price proposals were received on September 14th and evaluated on a best-value basis by 27 evaluators from five agencies, considering both quality and overall price. The selected design/build team of Flatiron-

Manson with FIGG was awarded the contract on October 8, 2007, just a little over two months after the accident.

To allow construction to commence so quickly, MnDOT developed strong relationships with permitting agencies. With good will and a sense of common mission, MnDOT and the agencies agreed to make and keep reasonable commitments. Decisions that normally take months and years had to be made in hours and days. Through this team effort, a project memorandum was issued covering the environmental management issues and permitting the \$234 million construction project to move forward.

Construction of the new 10-lane bridge proceeded at an accelerated pace utilizing a local workforce estimated at over 600 tradesman and laborers, with the 504' main span over the Mississippi River erected in just 47 days. On September 18, 2008, the new bridge opened to traffic more than three months early. The design and construction of this important interstate link serving 141,000 vehicles per day was completed in just 11 months. This was only possible due to the spirit of cooperation and teamwork between MnDOT and the permitting agencies to eliminate roadblocks often encountered in the environmental and permitting phase of the project, while still providing a sustainable eco-friendly bridge that the community is proud of.

From notice-to-proceed with construction to opening to traffic was 339 days. The private sector was given the freedom to enhance project quality, introduce innovations and engage the community in selecting some of the bridge's dominant visual features. The bridge highlights innovation with "smart bridge" technology – 323 sensors that provide long term valuable information on the bridge. Landscaping provided better drainage, nano-technology concrete cleans pollution from the air and LED highway lighting (a first) cuts the cost of energy and maintenance.

The full story of this project is found in the attached book "Bridging the Mississippi: The New I-35W Bridge, Minneapolis, Minnesota".

Lessons Learned – The experiences from the new I-35W Bridge replacement could be left to just one project, never to be repeated and studied. Or we can take to heart the clear unmistakable lessons we've learned and put them to work across the board on a whole myriad of public projects so that America gets the benefits of efficient, science-based and cost/time sensitive regulations in a manner that gets important infrastructure built while still protecting and caring for our environment.

To expect the U.S. economy to expand and become robust through government intervention and excessive regulations, is to expect something that "never was and never will be" – to borrow from a wise Thomas Jefferson comment about a nation that cannot be ignorant and free. Private industry when given more freedom can achieve amazing results to build a stronger America. It's time to inspire the recharging of the American spirit to help us grow into a strong economy.



Construction Industry Round Table

Attachments:

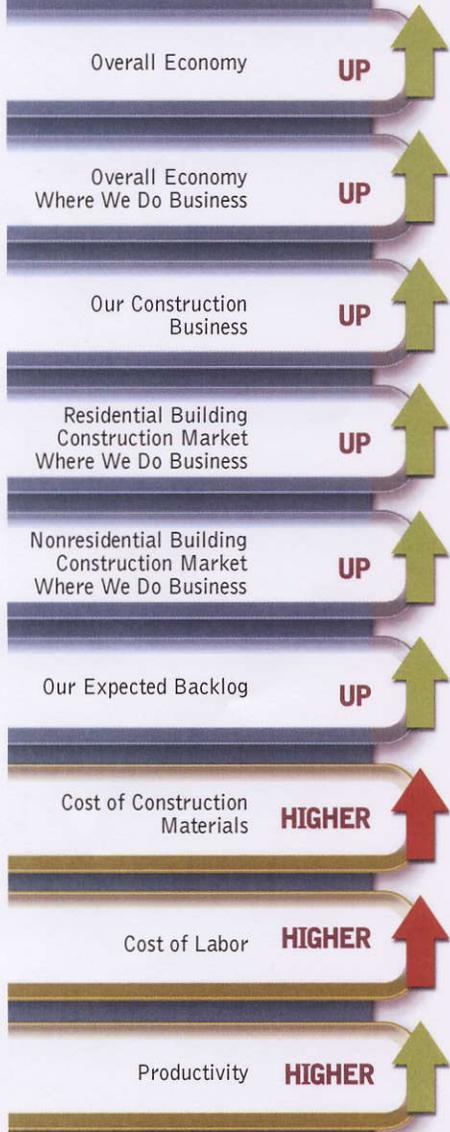
A – CIRT Sentiment Index 1st Q 2011 Summary

B – Infrastructure Job Creation and Economic Activity

C – Linda Figg Bio

D – The New I-35W Bridge Book

CURRENT CIRT SENTIMENT INDEX SUMMARY

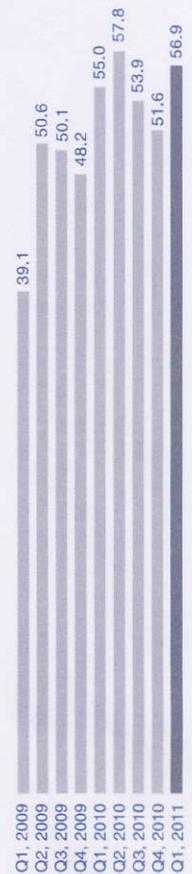


CIRT SENTIMENT INDEX FIRST QUARTER 2011 EXECUTIVE SUMMARY

The CIRT sentiment index moved up solidly this quarter to 56.9 from 51.6 last quarter, still not above its high of 57.8 in the second quarter of 2010, but in positive territory for five quarters now. This signals a slow, somewhat uneven recovery, but a recovery nonetheless. For the first time in this report, we added a new section of our index to gauge the activity in the engineering and design sector of the industry, the "Design Index." Since many CIRT member companies engage in design and construction activities, this addition will give a more rounded representation of the membership serving as panelists and possibly a forecast of follow-on construction strength in particular areas. Our first reading for this section of the index is 55.2, or commensurate with the current CIRT Sentiment Index results. Strong components of the engineering and design index include consulting, planning and international work. At the same time, the strength in these particular design index components may also give some insight into why construction portions of the index, such as commercial, health care and education, are slow to recover. In short, the strong design components are not signaling strength in the aforementioned major construction segments as of yet.

For current issues this quarter, we look at some hot topics, regulatory "red tape," jobs and panelists' opinion of the election results. One of the hottest issues in government these days, after the budget and jobs debates, is the topic of addressing and reducing regulatory red tape. Contractors, especially those who do a lot of work in the public sector, have been dealing with these issues for a long time. We asked them to give us some idea how much red tape affects losses of time and money on projects, and most said they have experienced at least a 5% loss of time or costs due to delays caused by red tape. Their responses are detailed below, but to be sure, even those seemingly small delays cost the industry billions of dollars a year, and many panelists have experienced even greater delays.

On a positive note, even though the CIRT Sentiment Index has increased slowly this quarter, the consistent improvement is enough for more panelists to increase their hiring plans for 2011, as 54% plan to hire up to 5% more salaried staff. This is another good sign we are moving away from the recession and planning for better times.



	CURRENT CIRT SENTIMENT INDEX READING Q1-2011	56.9
NEW	CURRENT CIRT DESIGN INDEX READING Q1-2011	55.2
	PREVIOUS SENTIMENT INDEX READING:	51.6

EXHIBIT 1

CIRT Sentiment Index
Scores Since Inception: Q1, 2009 to Q1, 2011

(Scores above 50 indicate expansion, below 50 indicate contraction)

CURRENT ISSUES

Delays and Costs Due to Regulatory “Red Tape”

The term “red tape,” is considered derogatory and covers a broad array of regulations and paperwork usually required by a government regulatory agency. Checking Wikipedia, you will find the term has been used for centuries to describe the red ribbon or tape used to bind stacks of legal documents. Knowing the historic use of the term, we can be certain that it will not go away anytime soon. The current focus on red tape in Washington and by some state and local governments around the country is spurred on by growing deficits, growing bureaucracy and the need to assure small businesses and taxpayers that governments are doing all they can to reduce what is often referred to as the “hidden tax.” Last quarter we asked panelists how the recession had changed their companies and operations. We heard how companies have worked to become leaner and more productive, often a painful but necessary undertaking. There now appears to be a growing awareness across the country that governments (federal, state and local) need to take the same steps that businesses have been forced to take to survive. Therefore, for the first quarter of the new year, we asked panelists to tell us of some of their experiences with respect to regulatory red tape on design and construction projects.

In a survey in 2006 on the topic of multiuse, urban-infill projects, we found that a developer or builder should expect to spend 2.5 to three years in the approval, zoning and permitting process when evaluating a high-density project. Therefore, notwithstanding a gradual recovery, it is not hard to see that there are some regulatory impediments to overcome before the industry is back to full speed, even if banks are ready to lend again. For our first quarter survey, 30% of panelists said they experienced a loss of 5.5% to 10% of time on projects due to regulatory red tape. Thirty-five percent said regulatory delays cost 5.5% to 10.0%, on average, for a typical project. While these numbers don't appear alarming at first — and a significant percentage of panelists reported higher numbers — when one considers that, if even half of that lost time and cost were unnecessary (although one may contend all of it was unnecessary), **the losses to the economy range in the billions of dollars each year.** That means not only fewer people working, but also displacements to potential end-users, such as: more overcrowded schools, road congestion, etc., as well as economic expenses from delayed infrastructure improvements that may result in higher costs to producers, merchants, owners, consumers and/or taxpayers.

To get more detail about the losses due to regulatory red tape delays on construction projects, we asked panelists to estimate the differences in costs and time lost in the design and construction phases. As might be expected, in the design phase, the loss is greater in time, according to 49% of panelists. On the other hand, according to 35% of panelists, the construction phase suffers greater financial costs. In both cases, of course, time always relates to costs; but when the concrete is poured, and the cranes are going up, unnecessary delays tend to get very expensive.

Is it possible that these problems could be fixed or delays and red tape reduced? We asked if panelists had ever had experience on projects that addressed red tape and found a way to streamline the process without sacrificing important underlying reasons for the regulations. Sixty percent said “no,” but an encouraging 30% said “yes.” Some of their comments and advice are reproduced below; but it is clear there are some good examples of collaborative team efforts among all the parties involved in the construction process to get things done better and reduce red tape.

EXHIBIT 3

In TIME and COST, what would you estimate are the losses (design through construction) due to delays caused by regulatory red tape? (Red tape includes redundancies, inefficiencies, overlapping jurisdictions.)

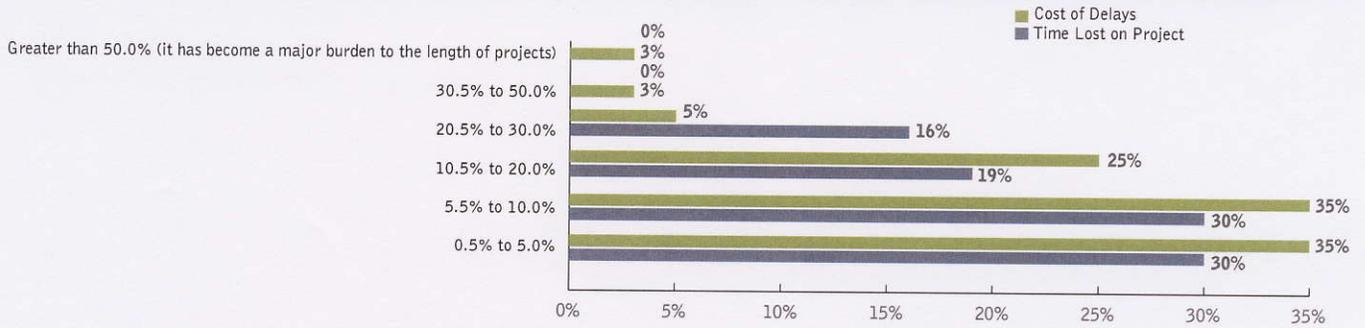


EXHIBIT 4

Related to TIME and COSTS, how do the regulatory impacts you identified above compare between the design phase vs. the construction phase of a project?

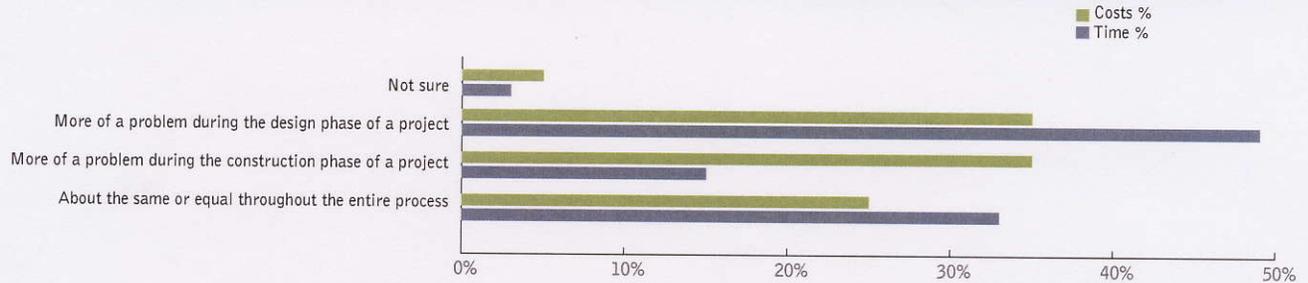
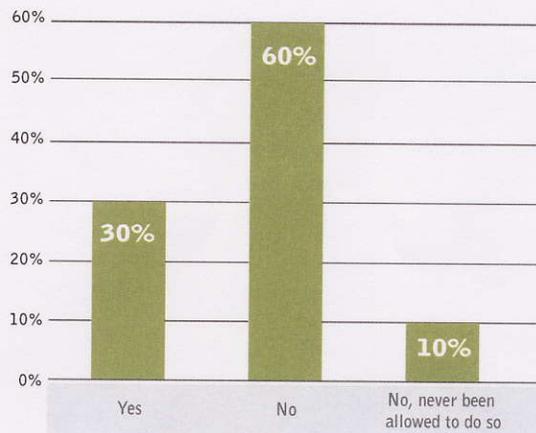


EXHIBIT 5

Are you aware of, or participated on, any significant projects that addressed "red tape" issues and found a way to streamline the process so as to bring the project in on time (or better) and on budget (or better) without sacrificing important underlying reasons for the regulatory process?



If “yes,” please provide the project name and some brief details about the project(s) you are familiar with regarding streamlining.

Comments:

- On a project we have in Virginia that is private, we have shaved years off the usual schedule.
- The city of Pontiac went bankrupt. We didn't have a planning and engineering department to review plans and make inspections. We went to a neighboring town and paid it to do the reviews and inspections required. Downside, we paid twice for the work—the first time to Pontiac when we applied for the building permit and the second time when we had to pay the neighboring town. This is going to become a problem as the financially weak municipalities struggle with bankruptcy or receivership.
- Early engagement of public officials in ways that was new to the agency and design team. Staff reductions at many public agencies have necessitated new ways of approaching entitlement/approval processing.
- Flowermound Hospital, Flowermound, Texas. Integrated project delivery, lean design and lean construction techniques.
- Had a liaison with the city to work through all permit problems
- I-15 Salt Lake City, first highway design-build project for 2002 Olympics. I-405 widening in Los Angeles: first Caltrans design-build project (awarded by LAMTA, because it has the legal ability to do design-build). Project was awarded without full financing. I-35W bridge streamlined all processes because it was an emergency replacement, and all agencies agreed to work together with efficiency.
- I-35W reconstruction in Minneapolis, fast-track D/B best value. Canadian P3 projects in western Canada.
- New Orleans flood control projects. The USACE used various procurement methods to cut time, reduce costs and improve quality. D/B and ECI (early contractor involvement) were used fairly successfully.
- On the Tampa Bay History Center, in Tampa, Fla., the mayor's office was contacted by the construction and owner's team prior to the start of the project and asked to give the project an “expedited process” for overcoming problems that might be encountered.
- Projects that involve owner partnering and direct involvement.