

South Carolina Department of Transportation
Engineering Directive Memorandum

Number: 38

Primary Department: Preconstruction

Referrals: None

Subject: Architect-Engineer Plan Errors and Omissions

I. OBJECTIVE

To set forth a consistent procedure for Department staff to process and document plan errors and omissions.

To present clear guidelines for recovering additional costs to a project or damages to the Department that may be attributable to plan errors or omissions.

II. DEFINITIONS

Department – South Carolina Department of Transportation.

Errors and Omissions – Mistakes, inaccuracies, or the failure to incorporate all items necessary into a set of design plans.

A-E – An individual, firm, corporation, or other organization that provides professional consultant services relative to the preparation of architectural or engineering plans under contract to the Department.

Contract Manager – Individual responsible for the day-to-day administration and management of an A-E or consultant contract.

Additional Costs – An increase in cost to a project that can be attributed to errors or omissions that may include but are not limited to delay, additional work or materials, or premium costs associated with the inability to competitively bid added work or material.

III. POLICY

Preliminary Engineering Phase

Upon discovery of an apparent plan error or omission, the contract manager shall be notified and provided as much information as is available at that time. The contract manager shall then notify the consultant providing all information available at the time.

If a plan error or omission is identified and can be corrected without delay and without additional cost to the Department, the contract manager shall be responsible for ensuring the consultant performs all work as necessary to correct errors or omissions as required under the A-E's contract, Engineer Certification for Project Plans and Specifications.

Construction Phase

Upon discovery of an apparent plan error or omission, the resident construction engineer (RCE) shall be notified and shall in turn notify the contract manager and district engineering administrator (DEA), providing as much information as is available at that time. The contract manager shall then notify the consultant, providing all information available at the time.

If a plan error or omission is identified and can be corrected without delay and without additional cost to the Department, the contract manager shall be responsible for ensuring the consultant performs all work as necessary to correct errors or omissions as required under the A-E's contract, Engineer Certification for Project Plans and Specifications.

Evaluation of Value of Errors or Omissions

The Department's deputy secretary for engineering reserves the right to immediately make corrections and negotiate construction contract modifications, change orders (CO), or supplemental agreements (SA) in the event it is determined to be in the best interest of the Department or the public.

In any event an error or omission is identified that may substantially increase a project's cost (a substantial increase in project cost is defined for this directive as being more than \$25,000 per occurrence or a cumulative total of \$50,000 per project) the contract manager shall establish and direct a team to investigate the plan error or omission. The team shall include a representative of the A-E firm and may include representatives of the director of construction, the district engineering administrator, Federal Highway Administration, Contract Services Office, Preconstruction, Capital Improvements, the construction contractor, and other parties as may be determined necessary.

The team shall evaluate factors that may have contributed to the error or omission and evaluate impacts to the project associated with the identified factors. Impacts to the project may include but are not limited to contract delay, additional contract cost, utility agreement modifications, construction work occurring out of sequence, and cost of work or materials that the Department would have incurred even if the original design was correct. The team shall provide a written recommendation to the Department's deputy secretary for engineering that must include the following elements: a proposed solution, a proposed schedule, factors contributing to the error or omission, any change in contract value, and specific costs the Department may incur that are assignable and attributable to the A-E error or omission, including any subconsultant errors or omissions.

The deputy secretary for engineering may concur or modify the recommendation in making a determination. The determination of the deputy secretary for engineering shall be sent to the contract manager and the Contract Services Office. The contract manager shall be responsible

for ensuring the consultant performs any and all work as necessary to correct errors or omissions at the A-E's expense. The Contract Services Office shall initiate any cost recovery according to the determination.

The amount owed the Department shall be invoiced from the Contract Services Office by initiating Form 3025A through the Department's Finance Division. If some or all of the increased costs due to an error or omission are owed to a third party, i.e. a contractor, the A-E may, with written approval from the Department, negotiate with and pay the contractor directly. All work added due to an error or omission must be negotiated through the Department to be sure the additional work is included in the construction contract by CO or SA.

Final Settlement

If the A-E accepts responsibility and settles for the amount owed the Department, all final documents shall be forwarded to and maintained by the Contract Services Office, with copies to all involved offices, including FHWA if appropriate. The matter shall then be considered closed.

If the A-E accepts responsibility but offers a settlement less than the determined amount owed the Department, or if the A-E denies responsibility, the A-E must notify the contract manager, who shall forward the proposed settlement and a recommendation to the deputy secretary for engineering. The final determination of the deputy secretary for engineering shall be sent to the contract manager and the Contract Services Office. The contract manager shall be responsible for ensuring the consultant performs any and all work as necessary to correct errors or omissions at the A-E's expense. The Contract Services Office shall initiate any cost recovery according to the determination. If the A-E accepts the final decision of the deputy secretary for engineering and pays the requested amount, all final documents shall be forwarded to and maintained by the Contract Services Office, with copies to all involved offices, including FHWA if appropriate. The matter shall then be considered closed.

If the A-E fails to respond and/or refuses to accept responsibility, the matter shall be turned over to the Legal Division for consideration of further action. At such time, the contract manager shall prepare a memorandum to the Contract Services Offices, stating the nature of the error or omission, the Department's determination, the recoverable cost due the Department, and that the matter has been turned over to the Legal Division. This memorandum is to remain with the contract file until the matter is resolved.

Submitted by: Robert I. Pratt
Director of Preconstruction

Recommended by: John V. Walsh
Chief Engineer for Planning, Location, and Design

Submitted by: D. R. Shealy
Director of Construction

Recommended by: J. C. Watson
Chief Engineer for Operations

Approved by: Tony L. Chapman, P.E.
Deputy Secretary for Engineering

Effective Date: April 7, 2008

Original signed by Deputy Secretary for Engineering Tony L. Chapman, P.E. April 7, 2008. All original engineering directives maintained by the Office of the Deputy Secretary for Engineering.