

## Section 8.11

### CONTRACTOR INITIATED SUBMITTALS

#### 8.11.1 Purpose

The purpose of this section is to provide a standard procedure for the processing of Contractor initiated submittals related to the following issues: interpretation of the Contract Documents, notification of Contract Document errors or omissions and pay adjustment or entitlement; modification of Contract Documents initiated by the Contractor; and correction of noncomplying work.

#### 8.11.2 Authority

FHWA Approved: March 18, 2009

Section 20.23(4)(a), Florida Statutes

Section 334.048(3), Florida Statutes

Section 336.045, Florida Statutes

#### 8.11.3 General

Contractor initiated submittals are routinely received by the Florida Department of Transportation during a construction project and pertain to a variety of issues that fall into three general categories: (1) Request for information (RFI), (2) Request for modification (RFM), and (3) Request for Correction (RFC). Refer to **CPAM Introduction** for the definition of these categories. It is the responsibility of the Construction Engineering and Inspection (CEI) staff (consultant or in-house) to process these submittals in a timely and efficient manner and to track the stages of the process through issuance of an official response. These submittals shall be labeled as RFI, RFM or RFC on correspondence and in tracking logs. A description of the process for each of the three categories follows as well as a description of how submittals shall be tracked. The steps of the submittal process from start to finish for all three categories may vary to a minor degree; however, the contents of a routine tracking log presented in **CPAM Section 8.11.7** include items that are typical of the process and that cover most of the situations that arise.

For an RFI, RFM, or RFC concerning design related issues of a Category 1 bridge (see **CPAM Section 10.10** for a Category 1 definition) that require recommendations by the Engineer of Record (EOR), the District Structures Design Engineer must be given the option to review any EOR recommendation, by an EOR established deadline, prior to finalizing any response back to the Contractor and CEI staff must verify that this takes place. The District Structures Design Engineer's failure to respond on or before the deadline, unless an extension is requested, shall signify that the District Structures Design Engineer chooses not to review.

#### **8.11.4 Request for Information (RFI)**

RFI's pertain to issues that are usually not the responsibility of the Contractor to resolve such as errors or omissions in the contract documents caused by the Engineer of Record (EOR) or by any number of Department offices involved in preparing the contract documents. There are three general types of RFI's and a description of each follows. Under certain circumstances, as specified below, the PA may respond to the Contractor without consulting with others such as the EOR or Department staff if there is no doubt about the accuracy of the response. However, in most cases or if there is doubt, the PA shall consult with the EOR or Department employees including but not limited to the Construction Project Manager, Resident Engineer/Operations Center Manager or experts in the following offices: District Construction, District Structures Design, District Roadway Design, District Materials, State Construction and State Materials. Under certain circumstances, resolution of the RFI will require a Supplemental Agreement in order to formally revise the contract documents due to errors, omissions or conflicts.

**(1) Contract Document Interpretation:** When a provision, detail or drawing in the contract documents seems to have more than one meaning, have an unclear meaning or have conflicts between plans and specifications, in the opinion of the Contractor, the Contractor shall submit a request to the PA for interpretation of the issue by the Department. The PA may respond back to the Contractor without consulting with others such as the EOR or Department staff if there is no doubt about the accuracy of the response; otherwise, the individuals or offices listed above shall be consulted. For the interpretation of a non-design related structures technical matter involving complex superstructure members or complex issues (see **CPAM Section 10.10** for definitions of complex members and issues) for a "Category 2" bridge, the State Construction Structures Engineer (SCSE) of the Office of Construction shall be consulted to provide the proper interpretation for the Department (see **CPAM Section 10.10** for details). For a design related interpretation concerning a Category 2 complex superstructure member or complex issue, the EOR shall be the first point of contact and the SCSE shall be given the option to review any EOR recommendation, by an EOR established

deadline, prior to preparation of a response back to the Contractor. The SCSE's failure to respond on or before the deadline, unless an extension is requested, shall signify that the SCSE chooses not to review. If the Contractor disagrees with the response then additional cycles of submittal and response may be required in order to come to final resolution of the issue. This process may lead to a Supplemental Agreement in order to officially change the contract document in question, to Dispute Review Board (DRB) action or to a claim.

- (2) **Contractor Identified Errors, Omissions or conflicts:** When the Contractor identifies errors, omissions or conflicts in the contract documents that may impact the project then they shall be identified in a Contractor submittal sent to the PA for resolution by the Department. This type RFI submittal by the Contractor will not be considered "**Notice of Claim.**" **Notice of Claim** must be submitted in accordance with **Specification 5-12.2.** The PA shall consult with the appropriate individuals or offices identified above in order to determine if there really is an error, omission or conflict and if there is, a supplemental agreement to officially revise the contract documents to correct the error, omission or conflict may be required. The Department may not agree that there is an error, omission or conflict which may lead to additional cycles of submittal and response, to DRB action or to a claim.
- (3) **Pay Adjustment or Entitlement:** The Contractor may be entitled to an adjustment of pay or be entitled to pay not previously authorized. When the Contractor identifies one of these cases, a request shall be submitted to the PA that identifies the pay issues in question. The PA may respond back to the Contractor without consulting with others, such as the District Final Estimates Office, if there is no doubt about the accuracy of the response otherwise the appropriate individuals or offices listed above shall be consulted. The Department may not agree that there is a pay issue which may lead to additional cycles of submittal and response, to DRB action or to a claim.

### 8.11.5 Request for Modification (RFM)

The Contractor may be of the opinion that the contract documents can be modified in order to provide a benefit to the Contractor **without diminishing the performance or durability of the finished work** or the Contractor may chose to initiate a CSIP. If possible, the Contractor should discuss this with the PA prior to a formal submittal of the modification proposal and based on this discussion the PA shall consult with the appropriate experts that are listed in **CPAM Section 8.11.4** in order to determine if the Department is receptive to the modification. For a modification related to a non-design technical structures issue involving complex superstructure members or complex issues of a Category 2 bridge, the SCSE of the Office of Construction shall be consulted to determine whether or not the

Department will even consider a modification (see **CPAM Section 10.10** for details). If the complex superstructure member or complex issue is design related then the EOR shall be the first point of contact for a recommendation related to consideration of the modification and the SCSE shall be given the option to review any EOR recommendation, by an EOR established deadline, prior to preparation of a response back to the Contractor. The SCSE's failure to respond on or before the deadline, unless an extension is requested, shall signify that the SCSE chooses not to review.

If the Department is receptive to the modification then the Contractor shall submit the modification proposal along with supporting documents to the PA for processing. The PA shall transmit the proposal package to the appropriate experts for review and response. If the proposal is related to a non-design technical structures matter involving complex superstructure members or complex issues for a Category 2 bridge, the SCSE shall be the first point of contact for formulating a response to the proposal in accordance with **CPAM Section 10.10**. If the matter concerns a Category 2 complex superstructure member or complex issue that is design related then the EOR shall be the first point of contact for formulating a recommendation and the SCSE shall be given the option to review any EOR recommendation, by an EOR established deadline, prior to the official transmittal of the response to the Contractor. The SCSE's failure to respond on or before the deadline, unless an extension is requested, shall signify that the SCSE chooses not to review. Department experts involved with the review may request additional supporting information from the Contractor in order to be able to make a final decision on the proposal and there may be multiple cycles of submittals as a result. The final decision about whether to approve or disapprove the modification rests with the District Construction Engineer. If the modification is approved then a supplemental agreement must be processed to officially reflect the changes to the contract documents.

### **8.11.6 Request for Correction (RFC)**

When either the Contractor or the Department identifies noncomplying work that is the fault of the Contractor and that is not an elemental material issue such as that covered by **CPAM Section 5.8 and Specification 6-11**, then the Contractor shall submit a request for correcting the noncomplying work. Noncomplying work can be caused by Contractor mistakes or by damage and include some of the following examples: defective concrete or steel components such as beams and piles caused by fabrication or production errors; chipped, spalled, cracked, dented or gouged components caused by mishandling; or electrical and mechanical devices that fail to function or perform as specified. The Contractor's correction request shall include supporting documents that may require the involvement of the Contractor's Engineer of Record or a Specialty Engineer and shall be submitted to the PA for processing.

For issues related to structural steel and miscellaneous metal products or for prestressed/precast products, the supporting documents shall include the required **Nonconformance/Noncompliance Report (NCR)** (see **CPAM Introduction** for a definition of NCR). The PA shall transmit the request package to the appropriate experts for review and response. If the damage or defect involves complex superstructure members, components or elements for a Category 2 bridge, the EOR shall be the first point of contact for formulating a response to the request in accordance with **CPAM Section 10.10** and the SCSE must be given the option to review any EOR recommendation, by an EOR established deadline, prior to the official transmittal of the response to the Contractor. The SCSE's failure to review on or before the deadline, unless an extension is requested, shall signify that the SCSE chooses not to review. Supplemental sampling, testing, surveying and data collection may be required by Department experts involved with the review and additional supporting information may be requested from the Contractor in order to be able to make a final decision on the request and there may be multiple cycles of submittals as a result. The final decision about whether to approve or disapprove the request shall be made by the District Construction Engineer after considering the recommendations of the EOR and the various supporting offices.

### 8.11.7 Tracking Logs

The CEI staff shall monitor the progress of Contractor initiated requests by maintaining a continually updated tracking log using an electronic spreadsheet. The spreadsheet should have the appropriate project identification information at the top of the sheet and should be entitled **Contractor Initiated Submittal Log**. The preferred practice is that each submittal type (RFI, RFC, RFM) have an individual spread sheet; however, all three types of submittals may be tracked on the same spread sheet, but if so, there shall be a spread sheet column entitled "Submittal Type." CSIPs shall be identified as such in the RFM log. The tracking information for each request received from the Contractor should be entered on the spread sheet in an individual row: one request, one row. If the reviewers of the request require the submittal of a significant amount of additional information then the resubmitted information should be treated as a new request with its own row. A spreadsheet shall contain the information that follows for the typical submittal process; however, depending on the project and submittal type more or less information may be appropriate as determined by the CEI staff.

- 1) **Submittal Type:** Enter RFI, RFM or RFC – this column is not required if an individual spread sheet is used for each submittal type.

- 2) **Request (RFI, RFM or RFC) Number:** A unique sequential number assigned by the CEI staff that identifies the request for ease of tracking.
- 3) **RFI, RFM or RFC Number:** An identification number assigned by the Contractor for internal tracking purposes.
- 4) **Reason for the Request:** Provide a brief reason for the request.
- 5) **In Reference to What Contract Document?** If the request refers to a contract document then its type (standard specification, special provision, standard index, plans sheet, shop drawing, etc.) and identifier (specification number, sheet number, etc.) shall be listed.
- 6) **Resulted in a plans revision?** If the resolution of the request results in a plans revision then a YES or NO shall be entered along with the revision number which reminds CEI staff to verify that the revision has been reflected in the as-built plans.
- 7) **Date of Request:** The date on the request as entered by the Contractor and which will usually be the date of mailing or transmittal by the Contractor to the CEI staff.
- 8) **Date Received:** The date that the CEI staff received the request from the Contractor.
- 9) **Reviewer Identification:** If the CEI staff consults with other reviewers then list reviewer names and, if they work for the Department, the name of the office they work in, or if they work for a consultant, the name of the firm for which they work.
- 10) **Date to Reviewer:** The date that the CEI staff sent the request or other information to reviewers (EOR, Department Offices, special consultants, etc.).
- 11) **Date from Reviewer:** The date that the CEI staff received responses from reviewers.
- 12) **FDOT Approval Date and Name:** The date that a Department official (include the Official's name) approved the response to the Contractor's request as prepared by the CEI staff.
- 13) **Contractor Preferred Response Date:** A Contractor established date before which a response to the request is desired by the Contractor from the Department and which should be based on legitimate constraints in the approved schedule. The Contractor should not establish a date that requires a quick response if the decision will not impact an event that is scheduled months or years in advance of the request.

- 14) Response Date:** The date the CEI staff sent the Department's response to the Contractor.
- 15) Elapsed Time:** Time in days from the "Date Received" to the "Response Date."
- 16) Response Description:** A brief description of the Department's response to the Contractor's request including the reasons for approving or disapproving the request.
- 17) Party in Control of the Response:** The name of the party (EOR, Department reviewer, Consultant reviewer, approving official) that is in control of the request because the CEI staff is awaiting their response and which includes CEI staff members. This field may change often during the response preparation period.