

File 2(01004)

55(09100)

FIN-250081-2

250081-3

REGIONAL DISPUTES REVIEW BOARD RECOMMENDATION

DRB Recommendation  
for Detectable Warning

June 21 2010

Mr. John Bolton, Project Manager  
Bolton Perez and Associates  
1773 NE 205<sup>th</sup> Street  
North Miami Beach, FL 33179

Mr Mark Jackson  
Semper Fi Services, LLC.  
1611 12<sup>th</sup> Street East Unit B  
Palmetto, FL 34221

Re SR 7 from NW 79<sup>th</sup> Street to NW 137<sup>th</sup> Street  
Fin Nos 250081-2-52-01 and 250081-3-52001  
Contract ID T6060 and T6061 T6160, T6161

Dear Mr Bolton and Mr Jackson

Semper Fi Services, LLC (heretofore referred to as the Contractor) the Prime contractor on this project and The Florida Department of Transportation,(FDOT) requested a DRB Hearing to determine if the Contractor was entitled to overruns on Pay Item 527-1, Detectable Warnings on Walking Surfaces (Retrofit) The hearing was held on June 3, 2010

**Issue:** Semper Fi, the prime contractor on FDOT Contract 6160 and T6161 worked on both projects at the same time. The projects both included Pay Item No 527-1, Detectable Warnings On Walking Surfaces, Retrofit. Contract T6161 listed 76 each. Contract T6160 listed 64 each. The disputed revolves around the definition of Detectable Warnings as to payment.

**Contractor Position:** The Contractor installed (99) Detectable Warnings on T6160 and 131.5 Detectable Warnings on T6161 for a total of 230.5. The plan quantity was for 64 and 76 Detectable Warnings. This amounted to an overrun of 90.5 Detectable Warnings.

The Contractor stated that at bid time they estimated using 2'x4' units as they felt these were the most commonly used and most efficient.

The contractor states that "The area of the existing sidewalk ramps required to be covered with the mats was not shown in the contract plans." During construction the Contractor installed 99, 2'x4' warning mats on T6160 and 131.5, 2'x4' warning mats on T6161 or "the average over the two contracts was 1.65 units/mats per sidewalk ramp."

The Contractor believes that it should be paid for the number of units/mats actually required furnished and installed.

The Contractors interpretation of the requirements of Section 527 of the specifications is that the Contractor should be paid one each pay unit for each individual detectable warning mat furnished and installed. In this case the units installed were 2'x4' each. At a number of sidewalk ramps a multiple number of units were installed. The Contractor states in their rebuttal that Section 527-5 "Basis of Payment" "clearly contemplates that multiple detectable warnings may be installed at each curb ramp." And that "all references to Curb Ramp Detectable Warning refer to the Warnings as one unit per location, not multiple warnings per location."

**FDOT Position:** The Plans for Project 250081-3 indicate 78 locations for the installation of Pay Item 527-1 Detectable Warnings on Walking Surfaces- Retrofit

The Plans for Project 250081-2 indicate 64 locations for the installation of Pay Item 527-1 Detectable Warnings on Walking Surfaces- Retrofit

"The contract plans identify all the locations for placement of Pay Item 527-1 Detectable Warnings on Walking Surfaces Retrofit. The plans and pay item summary clearly show payment of only one unit (EACH) for each location. There is no reference to payment for each 2'x4' mat and payment is not based on a square foot or square yard basis". FDOT cites the following sections of the Standard Specifications

*527-1 Description*

Furnish and install Detectable Warning devices on newly constructed and/or existing concrete curb ramps and sidewalks constructed in accordance with the Design standards where indicated in the plans

*527-4 Method of Measurement*

Detectable Warnings applied to existing curb ramps will be paid each Detectable Warning that is furnished, installed and accepted.

*527-5 Basis of Payment*

Price and payment will be full compensation for all work specified in this Section, including all labor, surface preparation, materials and incidentals necessary to complete the work for Detectable Warnings installed on each curb ramp. Payment will be made under *Item No. 527-1 Detectable Warnings on Walking Surfaces – each*"

The FDOT takes the position that based on the Design Standards there is one "Warning" per curb ramp location. The mats of material require to cover the curb ramp vary depending on how they are located in relation to the roadway. FDOT maintains that the Contract provides for coverage as per the Design Standards, Index Number 304, and not per number of 2'x4' mats used. FDOT further backs their position by showing that there are several different sizes of mat material available from the providers on the FDOT Qualified Products List.

FDOT contends that based on the Plans and summary sheets the location and number of curb ramp locations requiring Detectable Warnings was evident at the time of bid. FDOT cites Standard Specifications 2-4 which requires the Contractor to examine the site of the proposed work carefully before submitting a proposal for the work contemplated.

**DRB Findings:** The issue in question is the actual Definition of Section 527, Detectable Warnings on Walking Surfaces

Based on the Boards interpretation of the Contract Documents Standard Specifications and Design Standards, the definition of Detectable Warning Devices, "device material" is the material as described in section 527-2.1, 527-2 1.1, 527-2 2, 527-2.3 and 527-2.4. These sections define the material to be used. There is no mention of a standard size mat.

The Board interprets Section 521, Detectable Warnings On Walking Surfaces as applies to T6060 and T6161 to be the total of material and labor necessary to install device material at each curb ramp location in accordance with the Design Standards and be paid per each location regardless of amount of device material used. Based on the plans, the number of locations and quantity summary correctly states the number of Detectable Warnings to be installed and paid.

**The Regional DRB Board Recommendation:**

The Board finds No Entitlement for overruns to Pay Item 527-1 on T6060 and T6061.


The Board appreciates the cooperation by all parties involved and the information provided to make this recommendation.

Please remember that failure to respond to the DRB and the other party concerning your acceptance or rejection of the DRB recommendation within 15 days will be considered acceptance of the recommendation.

I certify that I participated in the Hearing of the DRB regarding the Dispute indicated above and concur with the findings and recommendations.

Respectfully submitted,

Regional DRB Board

  
Joe Capeletti, Chairman  
John Nutbrown, Member  
Don Henderson, Member