

## 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

Section 20.23(3)(a), Florida Statutes

Section 334.048(3), Florida Statutes

#### 8.11.3 References

Section 336.045, Florida Statutes

Procedure No. 375-020-010, Resolution of Errors, Omissions and Contractual Breaches by Professional Engineers on Department Contracts

#### 8.11.4 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 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 accordingly 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 address most situations.

For an RFI, RFM, or RFC concerning bridge or structures construction issues consult **CPAM Section 10.10** and other relevant Sections in **CPAM Chapter 10** for resolution of such issues.

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

RFI's pertain to issues that are not necessarily 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 the Department in preparing the contract documents. There are three general types of RFI's and a description of each follows. The PA may respond to the Contractor without consulting with others such as the EOR or Department staff if their assistance is not needed. However, in some cases, the PA shall consult with the EOR or Department personnel 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. If the RFI has the potential to be categorized as Errors and Omissions by the Design EOR, the PA shall include the following language: "This issue may impact the overall project cost and contract time and has the potential to be classified as Errors and Omissions, therefore your immediate attention is required. Engineering/inspection services associated with this RFI shall be billable unless premium costs are incurred by the Department and the issue is subsequently determined to be the result of Errors and Omissions." Under certain circumstances, resolution of the RFI will require a Supplemental Agreement 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 their assistance is not needed; otherwise, the individuals or offices listed above shall be consulted.
- (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.**" A **Notice of Claim** must be submitted in accordance with **Specification 5-12.2.** The PA shall notify the Design Project Manager (DPM) and 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. As partners in the project, the CPM, DPM and EOR must work together to resolve these issues as quickly as possible in order to minimize construction interruptions.

- (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 their assistance is not needed, 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.

### **8.11.6 Request for Modification (RFM)**

The Contractor may seek to modify the contract documents or certain aspects of it to benefit his or her accomplishing of the work **without diminishing the performance or durability of the finished work.** Such modifications are routine during construction and may be due to constructability issues not foreseen in the contract documents or other such changes that prevent the Contractor from either accomplishing the work or accomplishing it in a timely way. The PA shall consult with the EOR and the Department prior to issuing a response; depending on the nature of the RFM this may include 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.

#### **8.11.6.1 Cost Savings Initiative Proposal (CSIP)**

A Contractor may seek to significantly modify the contract documents and choose to initiate a formal CSIP to attain cost effectiveness or to enhance the quality of the work, per Section 4-3.9 of the Specifications. CSIPs are to be discussed prior to Contract Time beginning at a CSIP Workshop. CSIPs not identified at the time of the CSIP Workshop require a concept meeting between the Contractor and the Department. If possible, the Contractor

should discuss the proposal with the PA prior to a formal submittal of the CSIP and based on this discussion the PA shall consult with the appropriate experts to determine if the Department is receptive to the CSIP.

If the Department is receptive to the CSIP 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. Department experts involved with the review may request additional supporting information from the Contractor 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 CSIP rests with the District Construction Engineer or District Director of Transportation Operations. If the modification is approved, then a Supplemental Agreement must be processed to officially reflect the changes to the contract documents.

### **8.11.7 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, the Contractor is to 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: lack of concrete consolidation; 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. The PA will forward the RFC to Departmental personnel for response as appropriate or as dictated elsewhere in the CPAM.

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 to make a final decision on the request; multiple cycles of submittals may 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.

### **8.11.8 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 spreadsheet; however, all three types of submittals may be tracked on the same spreadsheet, but if so, there shall be a spreadsheet 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 spreadsheet 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 plans, 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 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. This is required if CPAM dictates FDOT consultation or if the CEI opts to involve the Department.
- 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.

RFIs will be prioritized according to the following matrix:

RFI PRIORITY MATRIX		Complexity/Resolution Time (Determined by CEI & Design)		
		Minor (Review Contract & Answer)	Medium (Minor Research & Answer)	Major (Research & Plan Revision)
Urgency / Schedule Impact (Determined by CEI & Contractor)	Major (Critical Path Impact)	LEVEL 1	LEVEL 1	LEVEL 2
	Medium (Near Critical Path, Mitigating)	LEVEL 1	LEVEL 2	LEVEL 3
	Minor (Not Critical Path)	LEVEL 2	LEVEL 3	LEVEL 3

RFI response time will be based on Priority Level and issues will be escalated according to the following matrix:

Priority Level	Expected RFI Response Time (Working Days)	Issue Escalation Matrix	
		Max. Time (Working Days)	Per Level (Position)
1	2	2	Project (CPM/EOR)
		1	Resident Office (CE/SPE/DPM)
		1	District Office (DCE/DDE)
2	7	7	Project (CPM/EOR)
		3	Resident Office (CE/SPE/DPM)
		1	District Office (DCE/DDE)
3	15	15	Project (CPM/EOR)
		10	Resident Office (CE/SPE/DPM)
		5	District Office (DCE/DDE)

The expected response time for RFMs and RFCs will be the same as specified for shop drawings in Section 5-1 of the Standard Specifications, or as specified in the Request for Proposal for Design-Build projects.

- 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.