

2022 Construction Academy

Errors & Omissions Procedure 375-020-010



Approved: _____ Effective: _____
Reviewed: _____ Office: Design/Production Support
Topic No.: 375-020-010-1

Department of Transportation

**RESOLUTION OF ERRORS, OMISSIONS, AND
CONTRACTUAL BREACHES BY PROFESSIONAL ENGINEERS
ON DEPARTMENT CONTRACTS**

AUTHORITY:
Sections 20.23 (3)(a), and 334.048(3), Florida Statutes (F.S.)

REFERENCES:

- (a) Procedure No. 350.060-303: Accounts Receivable
- (b) Procedure No. 350.080-300: Receipt Processing
- (c) Procedure No. 700.000-000: Construction Project Administration Manual (CPAM)
- (d) Sections 20.23(3)(a), 95.114(a), 287.055, 287.057, 334.048(3), 337.015(3), and 471.033(1)(g), Florida Statutes (F.S.)
- (e) Rule 61G15-18.011(1), Definitions; Rule 61G15-19.001(4), Grounds for Disciplinary Proceedings; Rule 61G15-30.002 (1), Definitions Common to All Engineer's Responsibility Rules, Florida Administrative Code
- (f) Federal Aid Policy Guide 23, Section 635.120, Code of Federal Regulations
- (g) Errors and Omissions – Benefit/Cost Analysis Evaluation Guidelines, Errors and Omissions Guidelines and Forms (from the Production Support Office SharePoint)

Rob Quigley, P.E. (State Project Management Engineer)

Learning Objectives

- Errors & Omissions
- Procedure
- Issue Types (EOR & CEI)
- Tracking Issues & Recovery
- Best Practices



Errors & Omissions

Errors and Omissions (E&O): Acts of negligence committed by the EOR in the performance of engineering design service or creative work, and acts of negligence committed by CEI in the performance of construction engineering inspection services.



The term “E&O” includes professional malpractice, negligence and contractual breaches.

Why Do We Pursue Recovery?



Because It's the Law!

Florida Statute §337.015 –

“...Legislature hereby determines and declares that:

(3) To protect the public interest, the department shall *vigorously pursue* claims against contractors and consultants for time overruns and substandard work products.”



FDOT's E&O Procedure

Topic No. 375-020-010

Resolution of Errors, Omissions, and Contractual Breaches by Professional Engineers on Department Contracts

- Identify, Investigate, Document
- Assess Consultant Responsibility
- Pursue Recovery for Damages

Approved: _____ Effective: _____
Reviewed: _____ Office: Design/Production Support
Topic No. 375-020-010.f

Department of Transportation

**RESOLUTION OF ERRORS, OMISSIONS, AND
CONTRACTUAL BREACHES BY PROFESSIONAL ENGINEERS
ON DEPARTMENT CONTRACTS**

AUTHORITY:
Sections 20 23 (3)(a), and 334 048(3), Florida Statutes (F.S.)

REFERENCES:

- (a) Procedure No. 350-000-303 Accounts Receivable
- (b) Procedure No. 350-000-300 Receipt Processing
- (c) Procedure No. 700-000-000 Construction Project Administration Manual (CPAM)
- (d) Sections 20 23(3)(a), 95 11(4)(a), 287 055, 287 057, 334 048(3), 337 015(3), and 471 033(1)(g), Florida Statutes (F.S.)
- (e) Rule 61G15-18.011(1), Definitions; Rule 61G15-19.001(4), Grounds for Disciplinary Proceedings; Rule 61G15-30.002(1), Definitions Common to All Engineer's Responsibility Rules, Florida Administrative Code
- (f) Federal Aid Policy Guide 23, Section 635.120, Code of Federal Regulations
- (g) Errors and Omissions - Benefit/Cost Analysis Evaluation Guidelines; Errors and Omissions Guidelines and Forms (from the Production Support Office SharePoint)

Procedure Updates

2021 Complete rewrite of E&O Procedure

- Updated & Streamlined Procedure
- Reduced from 47 → 18 pages
- Reduced from 29 → 9 Sections
- Removed Letters & Flowcharts
- Removed non-procedural guidance
- Developed companion **E&O Guidelines** document
- Clarified Discovery & Notification
- Clarified Chief Engineer role
- Allows **DocuSign** alternative to Certified Mail
- Eliminated **Sending Funds to Cashier's Office Letter**
- Eliminated **Early Notification Letter**
 - (same info conveyed via email)
- Added **Closeout Letter** requirement

Definitions

Rule 61G15-30.002 (1), F.A.C.:

Engineer of Record (EOR): “A Florida professional engineer who is in responsible charge for the preparation, signing, dating, sealing and issuing of any engineering document(s) for any engineering service or creative work.”

For this procedure, the EOR is a professional consulting engineer retained by the Department to provide said services.

Definitions

Consultant CEI: A consulting engineering firm, holding a certificate of qualification, and retained by the Department to perform construction engineering and inspection services on a project or a series of projects.

For this procedure, all references to CEI is a professional consulting engineer retained by the Department to provide CEI services

Definitions

Rule 61G15-19.001(4), F.A.C.:

Negligence: “A professional engineer shall not be negligent in the practice of engineering. The term negligence set forth in Section 471.033(1)(g), F.S., is herein defined as the **failure by a professional engineer to utilize due care in performing in an engineering capacity or failing to have due regard for acceptable standards of engineering principles.**”

Definitions

Premium Costs: The additional cost of a contract change that would not have been incurred **if the work had been included in the original contract.** More specifically, premium costs are dollar amounts paid for **non-value-added work.** **Delays, inefficiencies, rework, or extra work,** other than those caused by the Department, the contractor, subcontractors or suppliers, will be considered **non-value-added work.**



Definitions

Premium Costs (cont.): Non-value-added work can occur in three distinct situations:

(1) Work delays or inefficiencies. The premium costs are the total delay/inefficiency damages paid to the contractor.

DELAYED

Definitions

Premium Costs (cont.): Non-value-added work can occur in three distinct situations:

(2) Rework. The premium costs are the dollar amount of the original items of work that must be removed and the costs to remove these items.



Definitions

Premium Costs (cont.): Non-value-added work can occur in three distinct situations:

(3) Extra work. The premium costs are computed as the net difference between the final agreed prices paid to the contractor and the Engineer's Estimate — what the cost would have been had the extra work been included in the original bid at letting.



DISCOVERY

Construction - CEI discovers potential E&O issue (or RFI)

CEI promptly advises CPM of potential E&O issue (or RFI) Discovery (This is the DISCOVERY DATE)

CPM advises DPM of issue within 1 business day of the DISCOVERY DATE

DPM informs EOR and EOL of potential issue or RFI within 2 business days of DISCOVERY DATE

STAGE 1 ASSESSMENT

DPM begins preliminary issue assessment and reviews original design consultant contract/scope

DPM may seek OGC & DDE input

EOR E&O

DISCOVERY DATE

Enter Discovery Date in RTM when issue is tracked
PM/EOL may create issue/RFI in RTM

INITIAL PREMIUM COST

goes in RTM
Set Status to IN REVIEW in RTM

DOCUMENTATION & RTM

E&O NOTIFICATION LETTER

Store copy of letter in RTM
Enter E&O PREMIUM COST in RTM

**NOTICE OF ATTENDANCE AT CLAIM MEETING & ACKNOWLEDGEMENT OF PRIVILEGED DISCUSSION

Store copy of signed document in RTM

PREMIUM COST DEMAND LETTER

Store copy of letter in RTM

SETTLEMENT AGREEMENT

Store copy of agreement and payment info in RTM
Enter NEGOTIATED PREMIUM COST in RTM

E&O CLOSEOUT LETTER

Store copy of letter in RTM
Set issue status to RESOLVED in RTM

ISSUE RESOLVED

RESOLUTION

DEVELOP AND IMPLEMENT SOLUTION

CEI (with CPM and OGC input) works with Contractor on SA/WO for solution

EOR, DPM and CPM collaborate on course of action to clarify/solve issue (EOR tracks time/expenses)

CEI performs Entitlement Analysis, then inputs Initial Premium Cost and Avoidable Code in CCTS

STAGE 2 ASSESSMENT AND E&O NOTIFICATION

DPM reviews the Premium Cost & issue coding in CCTS

Is issue EOR E&O with Premium Costs?

DPM assesses EOR issue responsibility (w/ OGC, CPM, DDE & CEI input)

DPM formally notifies EOR that E&O issue was determined to be a result of EOR E&O w/Premium Costs. DPM sends EOR E&O NOTIFICATION LETTER (DPM copies EOL)

EOR reviews E&O Notification Letter and sends reply to DPM (in requested timeframe) stating Consultant's position

STAGE 3 ASSESSMENT

CONSULTANT settles claim for NEGOTIATED PREMIUM COST

EDOT and CONSULTANT sign SETTLEMENT AGREEMENT

CONSULTANT remits Payment to EDOT

DPM works with OGC throughout recovery. DPM submits payment information to OGC via RPS

LITIGATION

Did litigation result in settlement?

CLOSEOUT

DPM notifies EOR of FDOT's determination on issue. (DPM sends EOR E&O CLOSEOUT LETTER)

EOR (post-design services) and DPM continue to provide support to CPM as needed (if applicable)

DIRECTOR EVALUATION / DEMAND LETTER

DTD Evaluates Claim Package w/ OGC consultation

Consult w/ DTD Group?

EDOT settles w/ EOR?

Continue recovery pursuit?

DTD sends PREMIUM COST DEMAND LETTER to CONSULTANT

CONSULTANT responds to Premium Cost Demand Letter

Did CONSULTANT agree to settlement terms?



*FINAL AUTHORITY:
DTD: Cost Claim ≤ \$100k
CHIEF: Cost Claim > \$100k

1

2

1

1

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1

2

1

2

1

1</

Discovery (EOR)

When a project issue is discovered, the CEI (or CPA) must promptly notify the CPM. The date the issue is discovered is the **Discovery Date**.

Verbal → In Writing!

The CPM must notify the DPM of the project issue discovery... and the DPM must notify the EOR & EOL of project issue discovery.

Timeliness Matters!

DISCOVERY

Construction - CEI discovers potential E&O issue (or RFI)

CEI *promptly* advises CPM of potential E&O issue (or RFI) Discovery
(This is the **DISCOVERY DATE**)

CPM advises DPM of issue within 1 business day of the **DISCOVERY DATE**

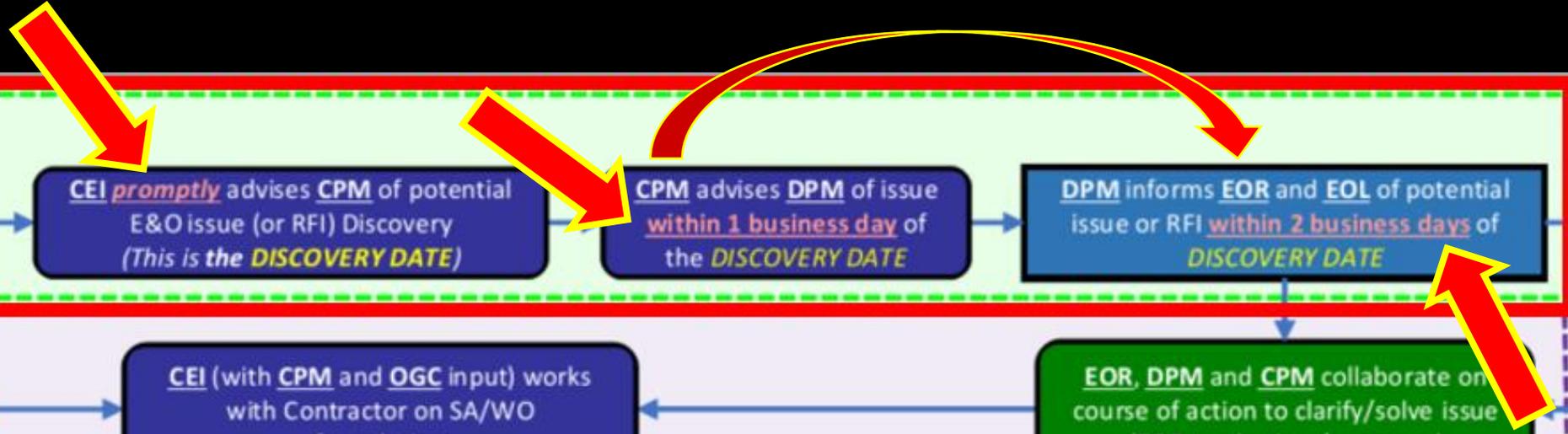
DPM informs EOR and EOL of potential issue or RFI within 2 business days of **DISCOVERY DATE**

Contract Modifications

CEI (with CPM and OGC input) works with Contractor on SA/WO for solution

EOR, DPM and CPM collaborate on course of action to clarify/solve issue (EOR tracks time/expenses)

DEVELOP AND



Discovery (EOR)

Early discovery notification provides the EOR an opportunity to **minimize and mitigate** any added project costs.

In addition, such discovery notification may **prevent or minimize contractor claims** against the Department.



Discovery (EOR)

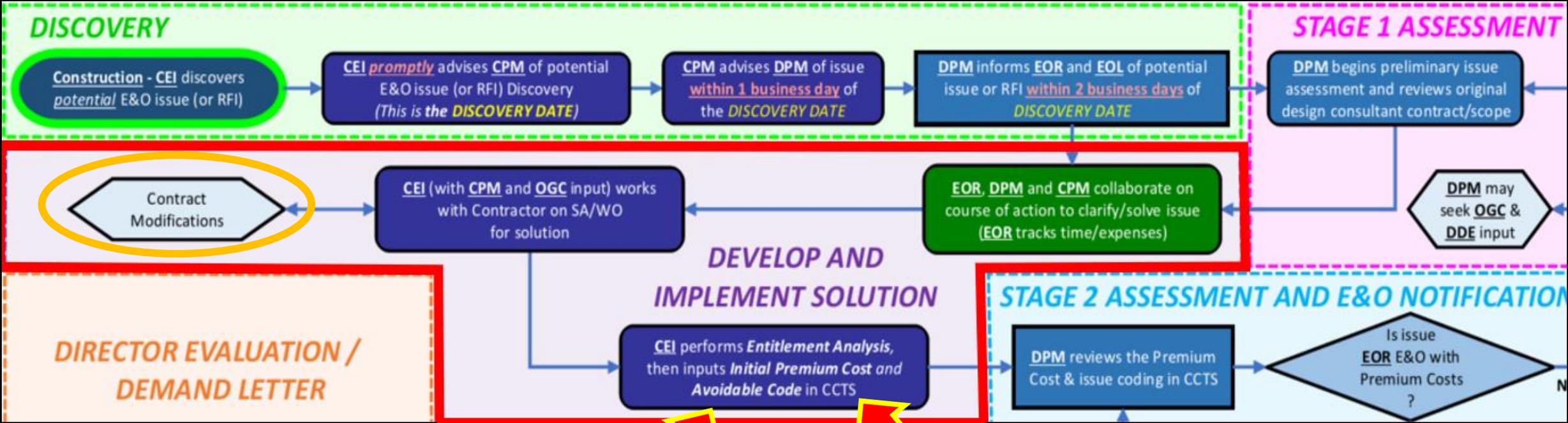
The CEI, CPM, DPM, and EOR shall work together to identify, clarify, and evaluate a resolution of the project design issues.



Project Modification (EOR)

The Department and EOR must continue to collaborate on the project issue, and the CPM and DPM must determine an appropriate course of action for the solution.

The EOR may need to provide revised drawings, cost estimate, calculations, and specification changes to resolve the project issue.



Project Modification

Solutions often result in a construction contract modification through the execution of a:

- Supplemental Agreement (SA),
- Work Order (WO), or
- Unilateral Payment (UP).



Project Modification (EOR)

The CEI negotiates additional cost and time required to implement the proposed solution with the Contractor.



For each SA and WO, the CEI must determine the premium costs associated with resolving the project issue and perform an Entitlement Analysis.

Project Modification (EOR)

For each project modification, the CEI enters their *initial assessment* of responsibility (**Avoidability Code**), the primary reason (**Reason Code**), SA amount and premium costs into Construction's Tracking System

Avoidability Codes

- | | |
|--|--|
| <input type="checkbox"/> 0 = Unavoidable; | <input type="checkbox"/> 3 = Consult CEI; |
| <input type="checkbox"/> 1 = Consult EOR; | <input type="checkbox"/> 4 = FDOT CEI; |
| <input type="checkbox"/> 2 = FDOT EOR; | <input type="checkbox"/> 5 = 3 rd Party |

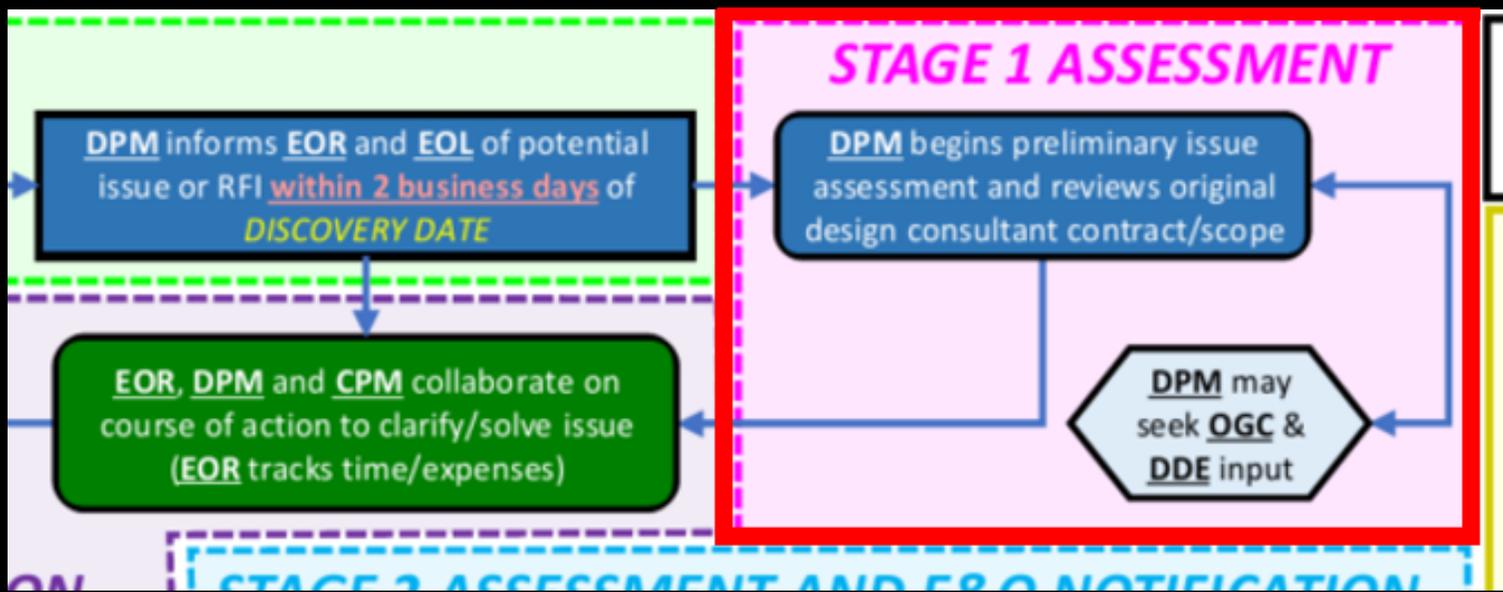


Assess, Settle, Recover

Each project modification identified as **Avoidability Code 1 or 3** is further assessed by the PM.

- Assessment of the Issue
 - Premium cost responsibility,
 - Consultant scope,
 - Project specifics



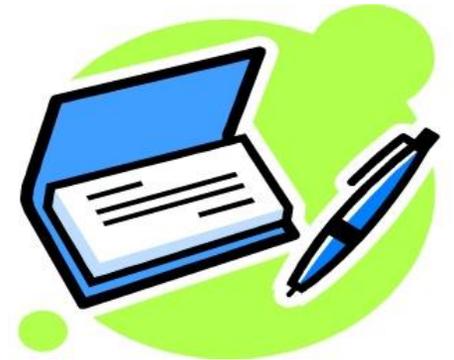


Assess, Settle, Recover

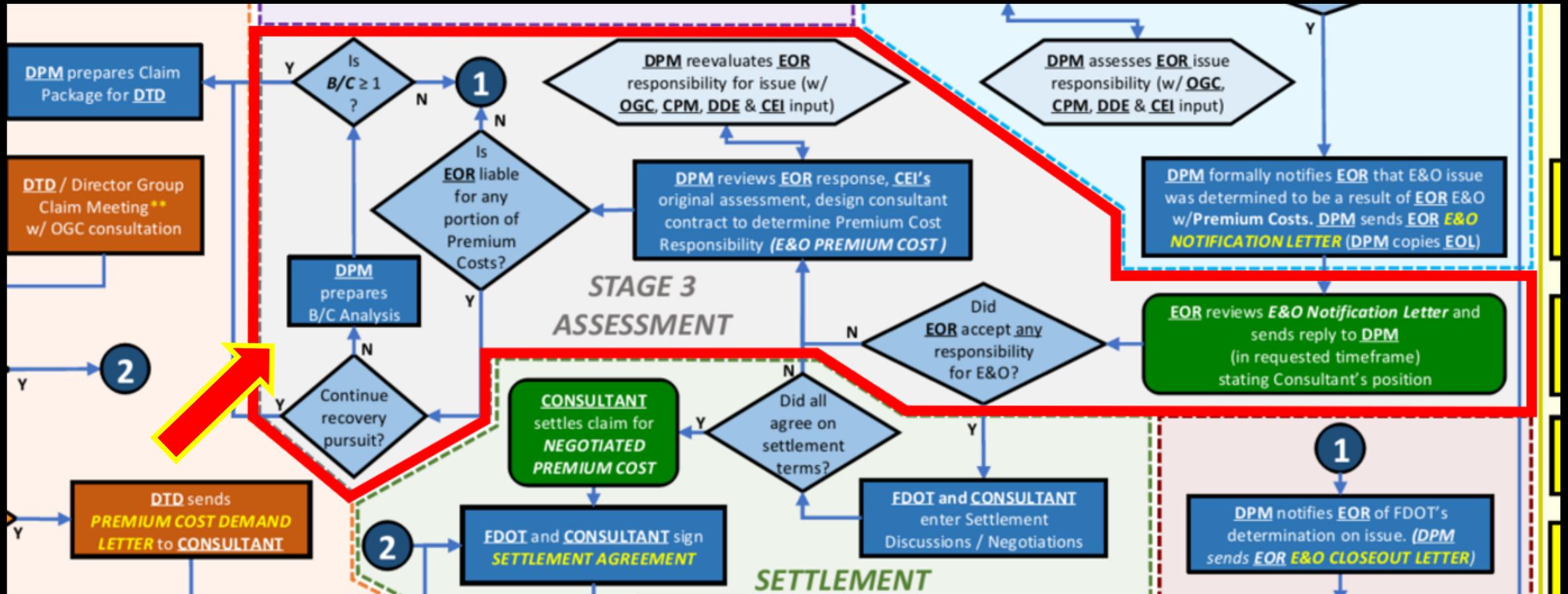
Each project issue determined to be an E&O issue will be managed according to the procedure through resolution, settlement and recovery.

Escalation Progression

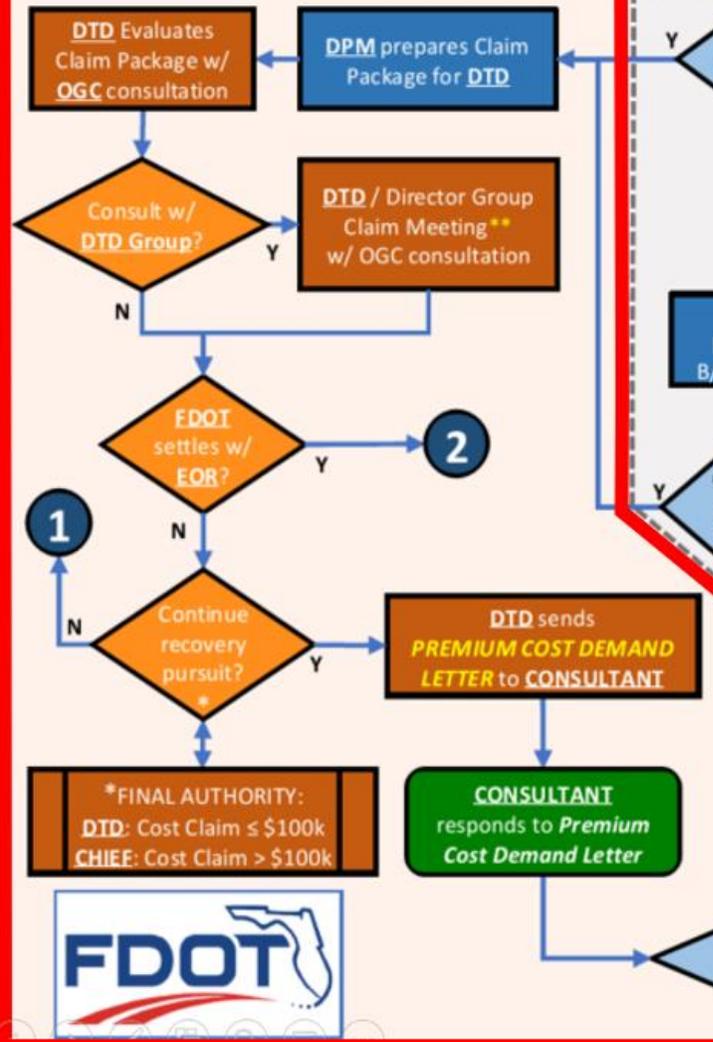
- Project Manager Level
- Director Level
- Chief Engineer (only if Cost Claim* is > \$100k)
- Litigation



*Cost Claim is not the same as Initial Premium Cost

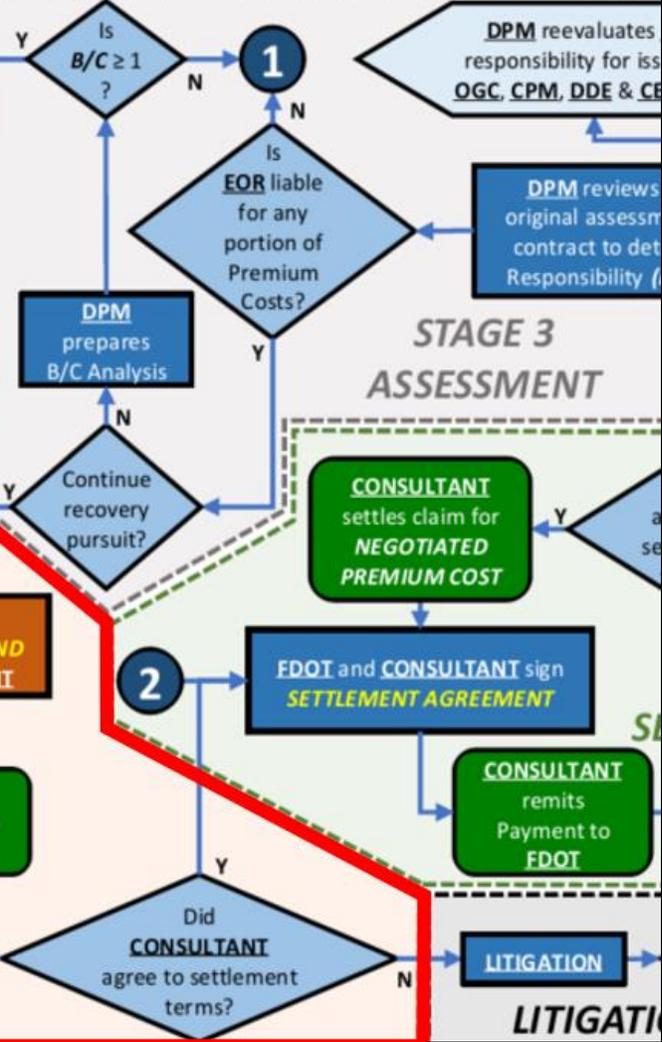


DIRECTOR EVALUATION / DEMAND LETTER



DEVELOP AND IMPLEMENT SOLUTION

CEI performs *Entitlement Analysis*, then inputs *Initial Premium Cost* and *Avoidable Code* in CCTS



STAGE 3 ASSESSMENT

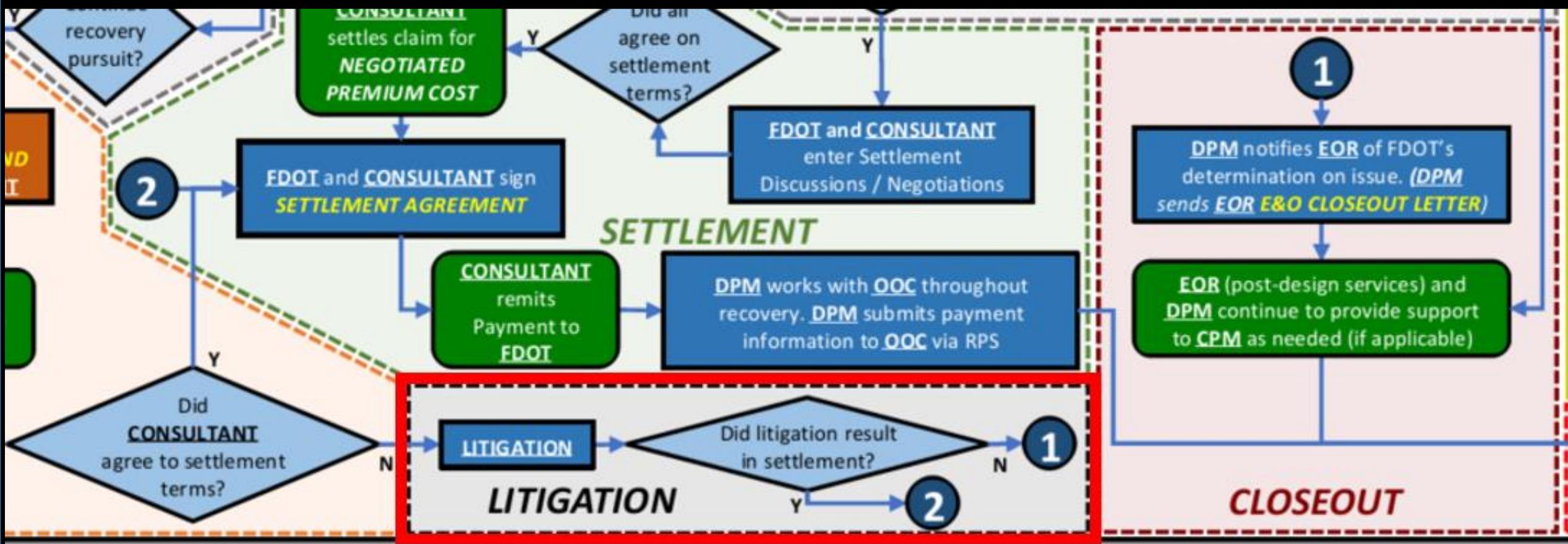
CONSULTANT settles claim for **NEGOTIATED PREMIUM COST**

EDOT and CONSULTANT sign **SETTLEMENT AGREEMENT**

CONSULTANT remits Payment to EDOT

LITIGATION

LITIGATION



stating Consultant's position

1

DPM notifies EOR of FDOT's determination on issue. (DPM sends EOR E&O CLOSEOUT LETTER)

EOR (post-design services) and DPM continue to provide support to CPM as needed (if applicable)

CLOSEOUT

Store copy of signed document in RTM

PREMIUM COST DEMAND LETTER

Store copy of letter in RTM

SETTLEMENT AGREEMENT

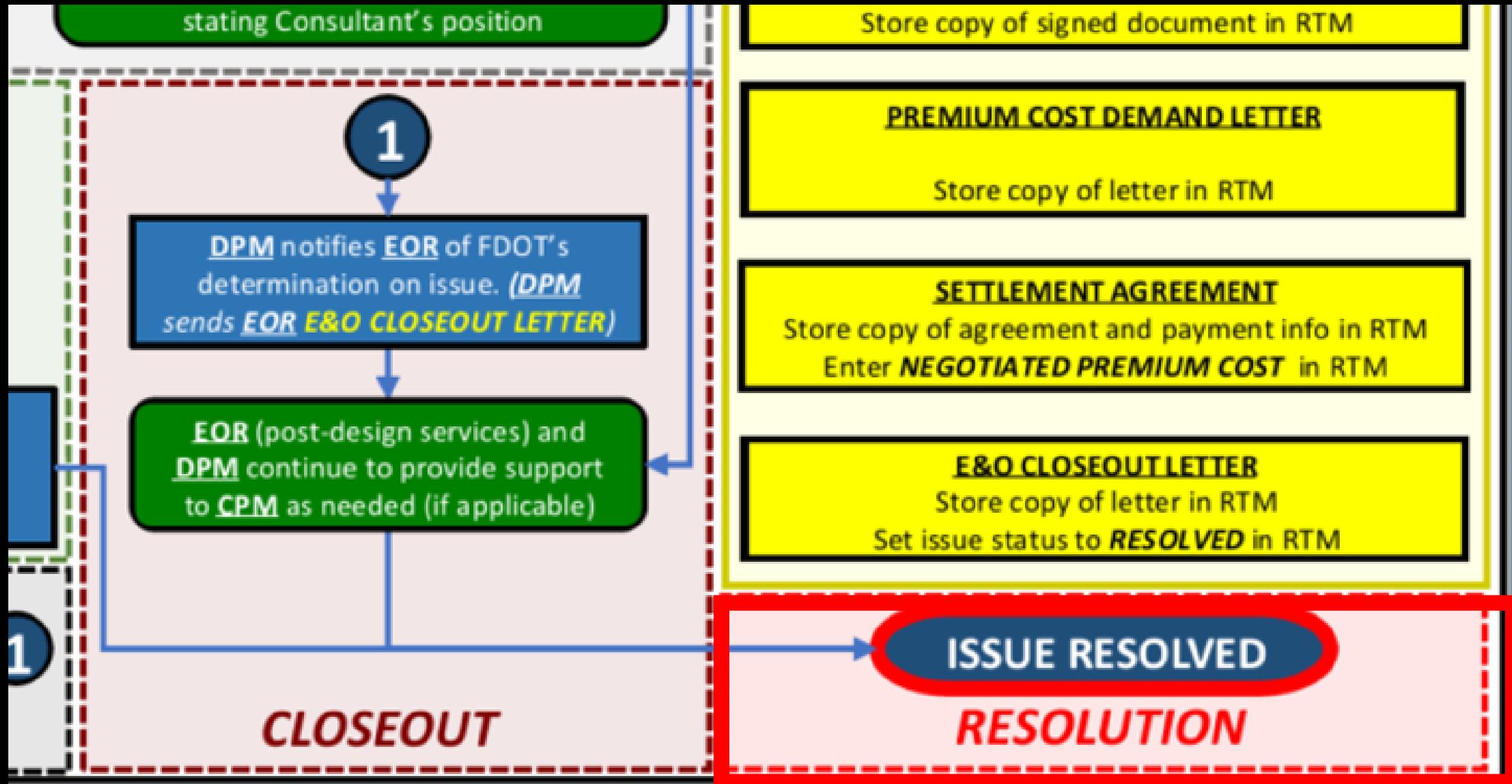
Store copy of agreement and payment info in RTM
Enter **NEGOTIATED PREMIUM COST** in RTM

E&O CLOSEOUT LETTER

Store copy of letter in RTM
Set issue status to **RESOLVED** in RTM

ISSUE RESOLVED

RESOLUTION



DISCOVERY

Construction - CEI discovers potential E&O issue (or RFI)

CEI promptly advises CPM of potential E&O issue (or RFI) Discovery (This is the DISCOVERY DATE)

CPM advises DPM of issue within 1 business day of the DISCOVERY DATE

DPM informs EOR and EOL of potential issue or RFI within 2 business days of DISCOVERY DATE

STAGE 1 ASSESSMENT

DPM begins preliminary issue assessment and reviews original design consultant contract/scope

DPM may seek OGC & DDE input

EOR, DPM and CPM collaborate on course of action to clarify/solve issue (EOR tracks time/expenses)

CEI (with CPM and OGC input) works with Contractor on SA/WO for solution

Contract Modifications

DEVELOP AND IMPLEMENT SOLUTION

CEI performs Entitlement Analysis, then inputs Initial Premium Cost and Avoidable Code in CCTS

STAGE 2 ASSESSMENT AND E&O NOTIFICATION

DPM reviews the Premium Cost & issue coding in CCTS

Is issue EOR E&O with Premium Costs?

DPM assesses EOR issue responsibility (w/ OGC, CPM, DDE & CEI input)

DPM reevaluates EOR responsibility for issue (w/ OGC, CPM, DDE & CEI input)

DPM reviews EOR response, CEI's original assessment, design consultant contract to determine Premium Cost Responsibility (E&O PREMIUM COST)

DPM formally notifies EOR that E&O issue was determined to be a result of EOR E&O w/Premium Costs. DPM sends EOR E&O NOTIFICATION LETTER (DPM copies EOL)

EOR reviews E&O Notification Letter and sends reply to DPM (in requested timeframe) stating Consultant's position

STAGE 3 ASSESSMENT

DPM prepares B/C Analysis

Is EOR liable for any portion of Premium Costs?

Is B/C ≥ 1?

CONSULTANT settles claim for NEGOTIATED PREMIUM COST

EDOT and CONSULTANT enter Settlement Discussions / Negotiations

EDOT and CONSULTANT sign SETTLEMENT AGREEMENT

CONSULTANT remits Payment to EDOT

DPM works with OOC throughout recovery. DPM submits payment information to OOC via RPS

EOR (post-design services) and DPM continue to provide support to CPM as needed (if applicable)

LITIGATION

Did litigation result in settlement?

CLOSEOUT

DPM notifies EOR of FDOT's determination on issue. (DPM sends EOR E&O CLOSEOUT LETTER)

EOR (post-design services) and DPM continue to provide support to CPM as needed (if applicable)

DIRECTOR EVALUATION / DEMAND LETTER

DTD Evaluates Claim Package w/ OGC consultation

DPM prepares Claim Package for DTD

Consult w/ DTD Group?

DTD / Director Group Claim Meeting** w/ OGC consultation

EDOT settles w/ EOR?

1

Continue recovery pursuit?

1

*FINAL AUTHORITY: DTD: Cost Claim ≤ \$100k CHIEF: Cost Claim > \$100k



CONSULTANT responds to Premium Cost Demand Letter

DTD sends PREMIUM COST DEMAND LETTER to CONSULTANT

Did CONSULTANT agree to settlement terms?

EDOT and CONSULTANT sign SETTLEMENT AGREEMENT

CONSULTANT settles claim for NEGOTIATED PREMIUM COST

EDOT and CONSULTANT enter Settlement Discussions / Negotiations

EDOT and CONSULTANT sign SETTLEMENT AGREEMENT

CONSULTANT remits Payment to EDOT

DPM works with OOC throughout recovery. DPM submits payment information to OOC via RPS

EOR (post-design services) and DPM continue to provide support to CPM as needed (if applicable)

LITIGATION

Did litigation result in settlement?

CLOSEOUT

DPM notifies EOR of FDOT's determination on issue. (DPM sends EOR E&O CLOSEOUT LETTER)

EOR (post-design services) and DPM continue to provide support to CPM as needed (if applicable)

EOR E&O

DISCOVERY DATE

Enter Discovery Date in RTM when issue is tracked
PM/EOL may create issue/RFI in RTM

INITIAL PREMIUM COST goes in RTM

Set Status to IN REVIEW in RTM

DOCUMENTATION & RTM

E&O NOTIFICATION LETTER

Store copy of letter in RTM
Enter E&O PREMIUM COST in RTM

**NOTICE OF ATTENDANCE AT CLAIM MEETING & ACKNOWLEDGEMENT OF PRIVILEGED DISCUSSION

Store copy of signed document in RTM

PREMIUM COST DEMAND LETTER

Store copy of letter in RTM

SETTLEMENT AGREEMENT

Store copy of agreement and payment info in RTM
Enter NEGOTIATED PREMIUM COST in RTM

E&O CLOSEOUT LETTER

Store copy of letter in RTM
Set issue status to RESOLVED in RTM

ISSUE RESOLVED

RESOLUTION

CEI E&O Differences



- CEI E&O Process Differences:
 - Discovery
 - Develop & Implement Solutions
 - DCE Involvement in Assessments

Note: Very few CEI E&O issues have occurred per RTM Data
-16 issues since 2012; \$105k recovered of \$470k Initial PC

DISCOVERY

Construction - CEI, CPA (or CPM) discovers potential E&O issue

CEI or CPA promptly advises CPM of potential issue Discovery (This is the DISCOVERY DATE)

CPM conducts preliminary issue assessment and notifies EOL of potential E&O issue

CPM may seek OGC & DCE input

CEI E&O

DISCOVERY DATE
Enter Discovery Date in RTM when issue is tracked
PM/EOL may create issue/RFI in RTM

STAGE 1 ASSESSMENT

CPM, DCE, CPA and CEI collaborate on course of action to clarify/solve issue (CEI tracks time/expenses)

CPM (with DCE, CEI and OGC input) works with Contractor on SA/WO for solution

Contract Modifications

DEVELOP AND IMPLEMENT SOLUTION

CPM performs Entitlement Analysis and inputs Initial Premium Cost and Avoidable Code in CCTS (with DCE input)

STAGE 2 ASSESSMENT AND E&O NOTIFICATION

CPM reviews the Premium Cost & issue coding in CCTS

Is issue CEI E&O with Premium Costs?

DIRECTOR EVALUATION / DEMAND LETTER

DTO Evaluates Claim Package w/ OGC consultation
CPM prepares Claim Package for DTO
Consult w/ DTO Group?
DTO / Director Group Claim Meeting** w/ OGC consultation

FDOT settles w/ CEI?

Continue recovery pursuit?

*FINAL AUTHORITY:
DTO: Cost Claim ≤ \$100k
CHIEE: Cost Claim > \$100k



INITIAL PREMIUM COST goes in RTM
Set Status to IN REVIEW in RTM

DOCUMENTATION & RTM

E&O NOTIFICATION LETTER
Store copy of letter in RTM
Enter E&O PREMIUM COST in RTM

**NOTICE OF ATTENDANCE AT CLAIM MEETING & ACKNOWLEDGEMENT OF PRIVILEGED DISCUSSION
Store copy of signed document in RTM

PREMIUM COST DEMAND LETTER
Store copy of letter in RTM

SETTLEMENT AGREEMENT
Store copy of agreement and payment info in RTM
Enter NEGOTIATED PREMIUM COST in RTM

E&O CLOSEOUT LETTER
Store copy of letter in RTM
Set issue status to RESOLVED in RTM

ISSUE RESOLVED RESOLUTION

STAGE 3 ASSESSMENT

Is B/C ≥ 1?

Is CEI liable for any portion of Premium Costs?

Continue recovery pursuit?

CONSULTANT settles claim for NEGOTIATED PREMIUM COST

FDOT and CONSULTANT sign SETTLEMENT AGREEMENT

CONSULTANT remits Payment to FDOT

Did CONSULTANT agree to settlement terms?

LITIGATION

Did litigation result in settlement?

SETTLEMENT

FDOT and CONSULTANT enter Settlement Discussions / Negotiations

Did CEI accept any responsibility for E&O?

DCE and CPM review response and CEI's contract to determine Premium Cost Responsibility (E&O PREMIUM COST)

CPM reevaluates CEI responsibility for issue (w/OGC & DCE input)

CPM & DCE assess CEI responsibility for issue (w/OGC input)

CPM formally notifies CEI that E&O issue was determined to be a result of CEI E&O w/Premium Costs. CPM sends CEI E&O NOTIFICATION LETTER (CPM copies EOL)

CEI reviews E&O Notification Letter and sends reply to CPM (in requested timeframe) stating Consultant's position

CPM notifies CEI of FDOT's determination on issue. (CPM sends CEI E&O CLOSEOUT LETTER)

CEI (consultant services) continues to provide support to CPM as needed (if applicable)

CLOSEOUT

LITIGATION

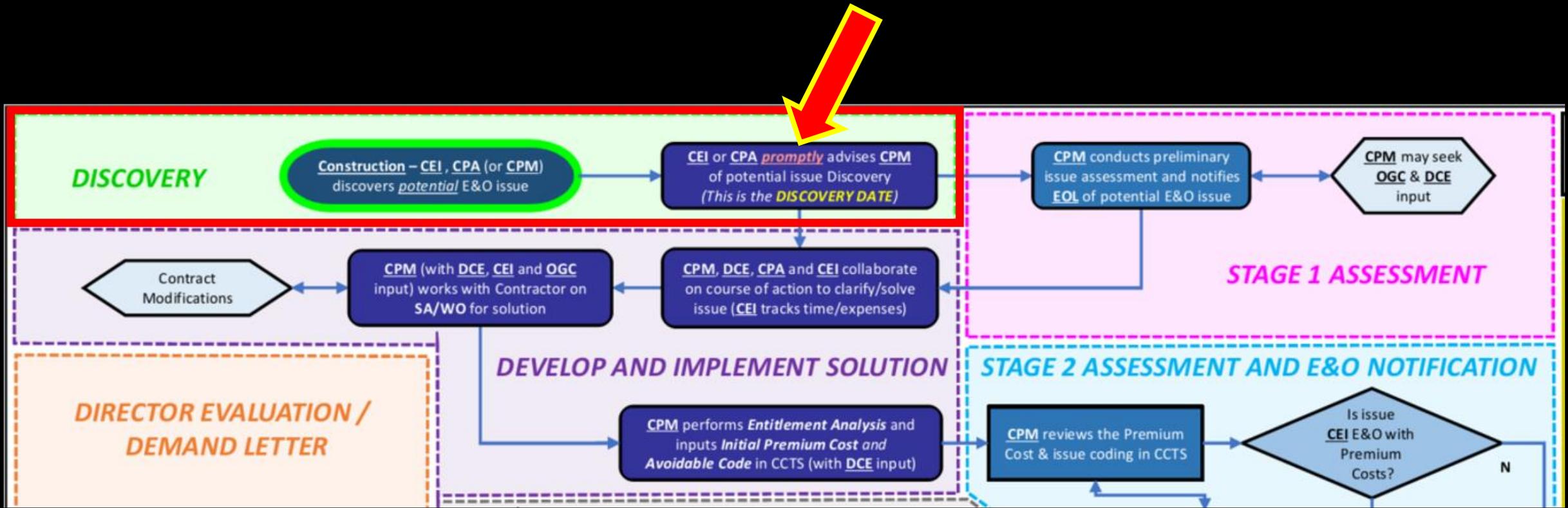
Discovery (CEI)

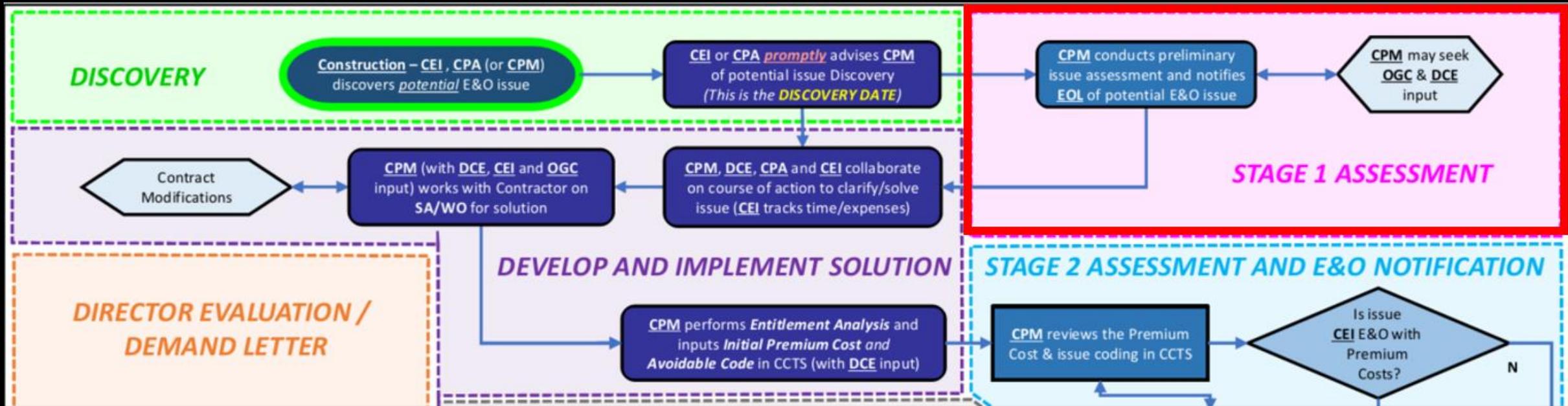
When a project issue is discovered, the CEI (or CPA) must promptly notify the CPM. The date the issue is discovered is the **Discovery Date**.

Verbal → In Writing!

The CPM must notify the **DCE** of the project issue discovery... and the CPM must also notify the EOL of project issue discovery.

Timeliness Matters!

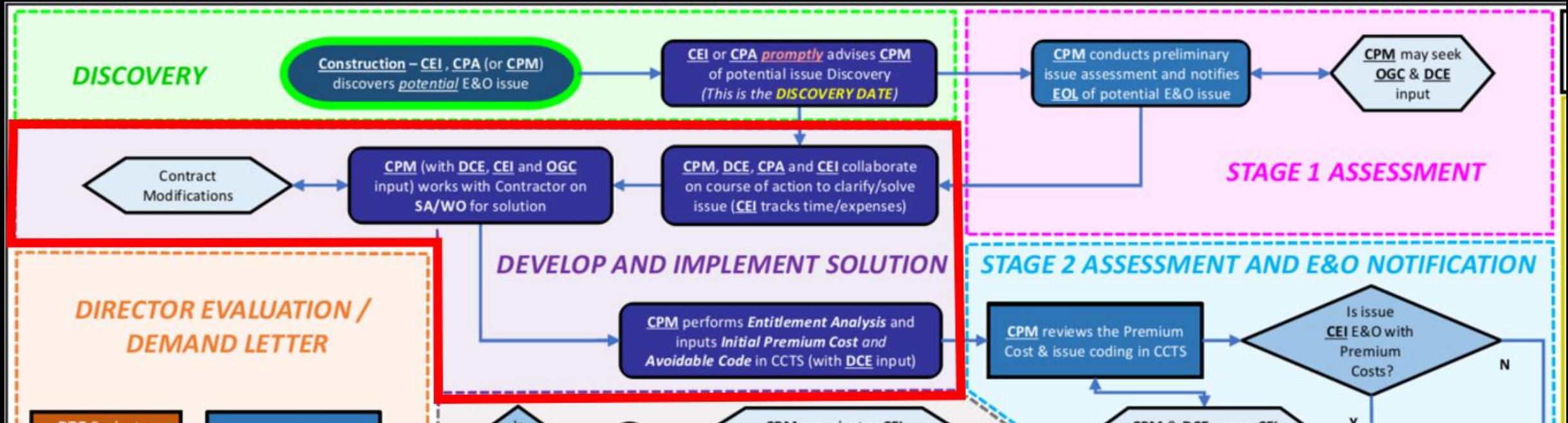




Discovery (CEI)

The **CPA**, CPM, **DCE**, and **CEI** shall work together to identify, clarify, and evaluate a resolution of the project issues.





Project Modification (CEI)

For each project modification, the **CPM** enters their *initial assessment* of responsibility (**Avoidability Code**), the primary reason (**Reason Code**), SA amount and premium costs into Construction's Tracking System

Avoidability Codes

- | | |
|---|--|
| <input type="checkbox"/> 0 = Unavoidable; | <input type="checkbox"/> 3 = Consult CEI; |
| <input type="checkbox"/> 1 = Consult EOR; | <input type="checkbox"/> 4 = FDOT CEI; |
| <input type="checkbox"/> 2 = FDOT EOR; | <input type="checkbox"/> 5 = 3 rd Party |



Project Modification (CEI)

The **CPM** negotiates additional cost and time required to implement the proposed solution with the Contractor.



For each SA and WO, the **CPM** must determine the premium costs associated with resolving the project issue and perform an **Entitlement Analysis with DCE input.**

DISCOVERY

Construction - CEI, CPA (or CPM) discovers potential E&O issue

CEI or CPA promptly advises CPM of potential issue Discovery (This is the DISCOVERY DATE)

CPM conducts preliminary issue assessment and notifies EOL of potential E&O issue

CPM may seek OGC & DCE input

CEI E&O

DISCOVERY DATE
Enter *Discovery Date* in RTM when issue is tracked
PM/EOL may create issue/RFI in RTM

STAGE 1 ASSESSMENT

CPM, DCE, CPA and CEI collaborate on course of action to clarify/solve issue (CEI tracks time/expenses)

CPM (with DCE, CEI and OGC input) works with Contractor on SA/WO for solution

Contract Modifications

INITIAL PREMIUM COST goes in RTM
Set Status to IN REVIEW in RTM

DEVELOP AND IMPLEMENT SOLUTION

STAGE 2 ASSESSMENT AND E&O NOTIFICATION

CPM performs Entitlement Analysis and inputs Initial Premium Cost and Avoidable Code in CCTS (with DCE input)

CPM reviews the Premium Cost & issue coding in CCTS

Is issue CEI E&O with Premium Costs?

DOCUMENTATION & RTM

DIRECTOR EVALUATION / DEMAND LETTER

DTO Evaluates Claim Package w/ OGC consultation

Consult w/ DTO Group?

FDOT settles w/ CEI?

Continue recovery pursuit?

*FINAL AUTHORITY:
DTO: Cost Claim ≤ \$100k
CHIEE: Cost Claim > \$100k



E&O NOTIFICATION LETTER
Store copy of letter in RTM
Enter E&O PREMIUM COST in RTM

****NOTICE OF ATTENDANCE AT CLAIM MEETING & ACKNOWLEDGEMENT OF PRIVILEGED DISCUSSION**
Store copy of signed document in RTM

PREMIUM COST DEMAND LETTER
Store copy of letter in RTM

SETTLEMENT AGREEMENT
Store copy of agreement and payment info in RTM
Enter NEGOTIATED PREMIUM COST in RTM

E&O CLOSEOUT LETTER
Store copy of letter in RTM
Set issue status to RESOLVED in RTM

ISSUE RESOLVED RESOLUTION

Is B/C ≥ 1?

Is CEI liable for any portion of Premium Costs?

Continue recovery pursuit?

Did CONSULTANT agree to settlement terms?

STAGE 3 ASSESSMENT

CONSULTANT settles claim for NEGOTIATED PREMIUM COST

FDOT and CONSULTANT sign SETTLEMENT AGREEMENT

CONSULTANT remits Payment to FDOT

LITIGATION

Did litigation result in settlement?

DCE and CPM review response and CEI's contract to determine Premium Cost Responsibility (E&O PREMIUM COST)

CPM reevaluates CEI responsibility for issue (w/OGC & DCE input)

CPM & DCE assess CEI responsibility for issue (w/OGC input)

CEI reviews E&O Notification Letter and sends reply to CPM (in requested timeframe) stating Consultant's position

Did CEI accept any responsibility for E&O?

Did all agree on settlement terms?

FDOT and CONSULTANT enter Settlement Discussions / Negotiations

CPM notifies CEI of FDOT's determination on issue. (CPM sends CEI E&O CLOSEOUT LETTER)

CEI (consultant services) continues to provide support to CPM as needed (if applicable)

CLOSEOUT

SETTLEMENT

LITIGATION

Track, Document, Report

- E&O Tracking and Documentation managed by:
 - Project Managers
 - District E&O Liaisons
- Tracking System(s)
 - Resolution Tracking Module (RTM) in PSEE
 - Receipt Processing System (RPS) – Cashier’s Office
- Central Office Reporting
 - Monthly to EOL / Annually to Executive Board



DISCOVERY DATE Enter <i>Discovery Date</i> in RTM when issue is tracked PM/EOL may create issue/RFI in RTM
INITIAL PREMIUM COST goes in RTM Set Status to IN REVIEW in RTM
DOCUMENTATION & RTM
E&O NOTIFICATION LETTER Store copy of letter in RTM Enter E&O PREMIUM COST in RTM
**NOTICE OF ATTENDANCE AT CLAIM MEETING & ACKNOWLEDGEMENT OF PRIVILEGED DISCUSSION Store copy of signed document in RTM
PREMIUM COST DEMAND LETTER Store copy of letter in RTM
SETTLEMENT AGREEMENT Store copy of agreement and payment info in RTM Enter NEGOTIATED PREMIUM COST in RTM
E&O CLOSEOUT LETTER Store copy of letter in RTM Set issue status to RESOLVED in RTM

DISCOVERY DATE

Enter *Discovery Date* in RTM when issue is tracked

PM/EOL may create issue/RFI in RTM

INITIAL PREMIUM COST goes in RTM

Set *Status* to **IN REVIEW** in RTM

***DOCUMENTATION
& RTM***

E&O NOTIFICATION LETTER

Store copy of letter in RTM

Enter *E&O PREMIUM COST* in RTM

****NOTICE OF ATTENDANCE AT CLAIM MEETING &
ACKNOWLEDGEMENT OF PRIVILEGED DISCUSSION**

Store copy of signed document in RTM

PREMIUM COST DEMAND LETTER

Store copy of letter in RTM

SETTLEMENT AGREEMENT

Store copy of agreement and payment info in RTM

Enter *NEGOTIATED PREMIUM COST* in RTM

E&O CLOSEOUT LETTER

Store copy of letter in RTM

Set issue status to **RESOLVED** in RTM

E&O Best Practices



- Prompt Notification & Clear Communication
 - Contractor to CEI
 - CEI to CPM
 - CPM to DPM
 - DPM to EOR
 - Early coordination with Legal & EOL
- Detailed Documentation
 - RFIs
 - Notifications
 - Letters
 - Tracking in PSEE/RTM
- E&O Assessment
 - Thorough assessment of issue & responsibility
 - There are no \$ thresholds for when to pursue
- Monitor Open Issues Regularly
 - Observe Performance Metrics & Statute of Limitations

Questions?

Rob Quigley

State Project Management
Engineer

Robert.Quigley@dot.state.fl.us

850-414-4356

Brad Bradley

Project Management Support
Engineer

Brad.Bradley@dot.state.fl.us

850-414-4295

NO text.

NO call.

NOTHING

is worth losing a life over.

