

**Office of Inspector General  
Robert E. Clift, Inspector General**



Audit Report No. 15C-6002  
Errors and Omissions

August 10, 2016

## **What We Did**

---

As part of the Office of Inspector General 2013/14 Audit Plan development, the District Two Secretary expressed a concern about the lack of consistency in the management of the Department of Transportation's (department) Errors & Omissions (E&O) process. We initiated this engagement to determine whether districts consistently pursued premium costs and complied with applicable laws, rules, and department procedures.

## **What We Found**

---

The department has variations in E&O processes and practices among the districts in the pursuit of recovery of premium costs. We determined the variations are caused by a lack of centralized oversight and reporting, and technical and administrative factors affecting the decision processes.

We also determined the E&O procedure does not address monitoring E&O issues approaching the statute of limitations for recovery; 15 E&O issues totaling \$2,660,576 and classified as "In Review," have reached the 4-year statute of limitations to pursue and recover premium costs; and enhancement of E&O data integrity and of the quality assurance review process are needed.

## **What We Recommend**

---

We recommend the Director of Design maintain the requirement to assess all instances of initial premium costs; initiate collection of all final premium costs that exceed a predetermined monetary threshold unless precluded by a documented cost-benefit analysis; continuously monitor E&O issues representing the highest risks to the department; develop an E&O performance metrics report for periodic reporting to executive management; establish monitoring metrics for E&O issues flagged "in review" requiring district actions prior to expiration of the statute of limitations; resolve data integrity issues in the tracking system; and expand the scope of annual quality assurance reviews.

Office of Inspector General  
Florida Department of Transportation

---

**TABLE OF CONTENTS**

---

<b><u>BACKGROUND AND INTRODUCTION</u></b>	3
<b><u>RESULTS OF REVIEW</u></b>	
Finding 1 - Variations in the Pursuit of Premium Costs	5
Finding 2 - Lack of Centralized Oversight and Reporting	7
Finding 3 - Statute of Limitations	9
Finding 4 - Maintenance of Resolution Tracking Module Data	11
Finding 5 - Review and Update of Errors & Omissions Procedure	11
Observation 1 - Quality Assurance Reviews	12
Observation 2 - Training	13
<b><u>APPENDIX</u></b>	
A. Purpose, Scope, and Methodology	14
B. Management Response	15
C. Early Notification Letter to Engineer of Record	19
<b><u>DISTRIBUTION AND PROJECT TEAM</u></b>	20
<b><u>STATEMENT OF ACCORDANCE</u></b>	21

## **BACKGROUND AND INTRODUCTION**

---

The department employs professional consulting engineers to provide design engineering. While an Engineer of Record (EOR) is accountable for the technical accuracy and quality of their work, design mistakes, known as errors or omissions (E&O), discovered during a construction project may result in time and cost overruns and the incurrence of premium costs.

Premium costs are additional costs of a contract change that would not have been incurred if the work had been included in the original contract. The primary components of any E&O issue are:

- the nature of the error or omission;
- the magnitude of premium cost impact to the project;
- department notification letters to the EOR;<sup>1</sup>
- allocation of responsibility between the department and the EOR; and
- the additional post-design costs to correct.

Management identified the E&O process as a potential audit topic during the 2014 Annual Risk Assessment. The secretary and a district secretary expressed concerns about inconsistencies between district processes and E&O dollar values that were being pursued. Additionally, the Federal Highway Administration (FHWA) performed a review on the department's E&O process in 2010 and issued a report containing eight recommendations. The department responded to the FHWA recommendations and as part of our review, we performed a follow up on the department's response.

### **Legal and Procedural Guidance**

Section 337.015(3), Florida Statutes (F.S.), Administration of Public Contracts states, "To protect the public interest, the department shall vigorously pursue claims against contractors and consultants for time overruns and substandard work products."

The department's Errors, Omissions, and Contractual Breaches By Professional Engineers on Department Contracts Topic No. 375-020-010 (E&O procedure) provides guidance on how to identify and investigate errors, omissions, and contractual breaches in consultant prepared construction plans and contract documents. Each district has an E&O liaison to assist coordination between district design, construction, and central office personnel.

The department defines errors and omissions as "Acts of negligence committed by the [Engineer of Record] EOR in the performance of engineering design service or creative

---

<sup>1</sup> See example of Early Notification Letter to EOR in Appendix C

work, and acts of negligence committed by [Consultant Construction Engineering & Inspection] CCEI in the performance of construction engineering inspection services.”<sup>2</sup>

### **E&O Data Management**

The central office and districts monitor and track E&O issues through the Resolution Tracking Module (RTM) created within the Project Suite<sup>3</sup> system. RTM allows the users to document key coordination dates, document the method of resolution, and identify any recovered costs. The department replaced the Resolution Tracking System (RTS) with RTM in August of 2012, which, at that time, only unresolved issues (in review status) were transferred into RTM.

Key data maintained in RTM includes:

- initial premium costs - actual costs incurred and paid based upon a supplemental agreement executed with the construction contractor;
- final premium costs - amounts determined by the department that are the allocable portion of the initial premium cost amounts that are the EOR’s liability;
- resolution status as “in review” or “resolved;”
- recovered amounts; and
- supplemental information.

---

<sup>2</sup> Department procedure 375-020-010, effective February 18, 2010. The scope of the audit focused on EOR E&O issues.

<sup>3</sup> Project Suite is an application for staff working with developing construction projects and provides information for each project.

## RESULTS OF REVIEW

---

### Finding 1 – Variations in the Pursuit of Premium Costs

**We determined** there is inconsistency among the districts in pursuing recovery of premium costs.

Section 337.015, Florida Statutes (F.S.), Administration of public contracts, states:

Recognizing that the inefficient and ineffective administration of public contracts...increases costs to taxpayers...the 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.

The E&O procedure section 24, Recovery, states:

The Department should pursue the recovery of any premium costs that are the result of consultant Errors and Omissions. However, the extent of the Department's recovery effort should be guided by the anticipated recovery amount and the likelihood of a successful recovery effort. Administrative costs, the expense of litigation, and the consultant's performance history may all affect the Department's decision to pursue recovery. If at any point in the process, the Department decides not to pursue recovery, the appropriate project manager shall justify and document the decision in the project file and notify the EOR or CCEI.

#### **E&O Pursuit Decision Factors**

Evaluating the various types of E&O issues occurring on a construction project and assigning the degree of responsibility caused by EOR's malpractice or negligence requires professional engineering judgment. The complexities surrounding the evaluation of E&O issues were reported in a Federal Highway Administration's (FHWA) September 2010 process review on "Consultant Design Errors and Omissions" which states:

It is difficult to outline in detail specific guidelines where participation in costs is warranted, since circumstances surrounding each case will be different. FHWA's report also found the department's procedure had no specific monetary limit for pursuing premium costs due to errors and omissions.

**Office of Inspector General  
Florida Department of Transportation**

---

Within FHWA's recommendation, it states:

...The FDOT should considered [sic] adding a provision stating a minimum threshold amount for E&O cost recovery to the E&O policy...through training...remind the District staffs of [sic] the Department retains the right to pursue recovery, regardless of the amount.

Upon audit inquiry, districts were asked if an informal threshold dollar amount is used to determine if recovery of premium costs should be pursued; we found the responses varied. See Table 1.

**Table 1: Decision Factors - Pursuit of Premium Costs**

Decision Type	# of Districts
Pursued all premium costs	2
No informal threshold amount	3
Nature of error	2
Soft threshold amount	1

Source: OIG inquiry, district personnel

As part of the responses, one district considered a threshold of \$10,000 for a single issue and \$25,000 for combined issues on a project; two districts suggested a threshold of \$1,000; and, one district suggested to keep any threshold amount out of the procedure.

Though the current procedure does not state a specific amount, the use of formal or informal minimum threshold(s) to pursue recovery of premium costs should be based upon a documented cost-benefit analysis. Inclusion of cost-benefit analyses to support the decision factors used adds assurance that E&O issues are resolved efficiently and effectively.

The Production Support Office is also responsible for defining and ensuring districts vigorously pursue recovery of premium costs as required by statute. The district's decision to not pursue the recovery of premium costs should be primarily based upon:

- the cause of the premium costs is outside the EOR's scope of work; or
- not cost beneficial to pursue.

In summary, the inconsistency among districts in the pursuit of recovery of premium costs is caused by a lack of centralized oversight<sup>4</sup>, reporting, technical, and administrative factors affecting the decision processes as reported above.

---

<sup>4</sup> Finding 2, Lack of Centralized Oversight and Reporting, and Observation 1, Quality Assurance Reviews address the lack of centralized oversight and reporting.

**Office of Inspector General  
Florida Department of Transportation**

---

While the department retains the right to pursue and recover all premium costs, **we recommend** the Director of Design:

- maintain the requirement to assess all instances of initial premium costs to begin the statutorily required vigorously pursue expectation;
- initiate collection of all final premium costs that exceed a predetermined monetary threshold, to be established by the department, unless precluded by a documented cost-benefit analysis; and
- provide training in the performance and documentation of cost-benefit analyses to ensure consistent application.

## **Finding 2 – Lack of Centralized Oversight and Reporting**

**We determined** the districts' E&O program efforts to pursue and recover premium costs lacks centralized performance reporting to executive management.

Section 337.015, Florida Statutes (F.S.), Administration of public contracts, states:

Recognizing that the inefficient and ineffective administration of public contracts...increases costs to taxpayers...the 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.

The districts' recovery efforts of premium costs reported in RTM shows, on average, that EORs are liable for 20% total initial premium costs paid on supplemental agreements. RTM also reports 3% of total initial premium costs were reported as amounts recovered.<sup>5</sup> See Tables 2 and 3 for additional detail.

**Table 2: Premium costs recovered**

	Initial Premium Costs	Final Premium Costs	Recovered Amounts
# of RTM data fields with Values	547	236	55
Amount	\$ 17,289,270	\$ 3,530,115	\$ 504,191
Ratio to Initial Premium Costs	100%	20%	3%

Source: RTM - June 2015

---

<sup>5</sup> Subsequent to June 2015, one initial premium cost amount of \$2,499,999 was fully recovered. This increases total recovered amounts to 17% of total initial premium costs.

**Office of Inspector General  
Florida Department of Transportation**

---

**Table 3: Premium Costs Recovered by District**

	Total Amount Recovered	Number of Issues
District 1	\$ 53,338	6
District 2	16,027	4
District 3	-	0
District 4	4,673	2
District 5	-	0
District 6	38,352	10
District 7	364,880	13
Turnpike	26,921	4
Total	\$ 504,191	39

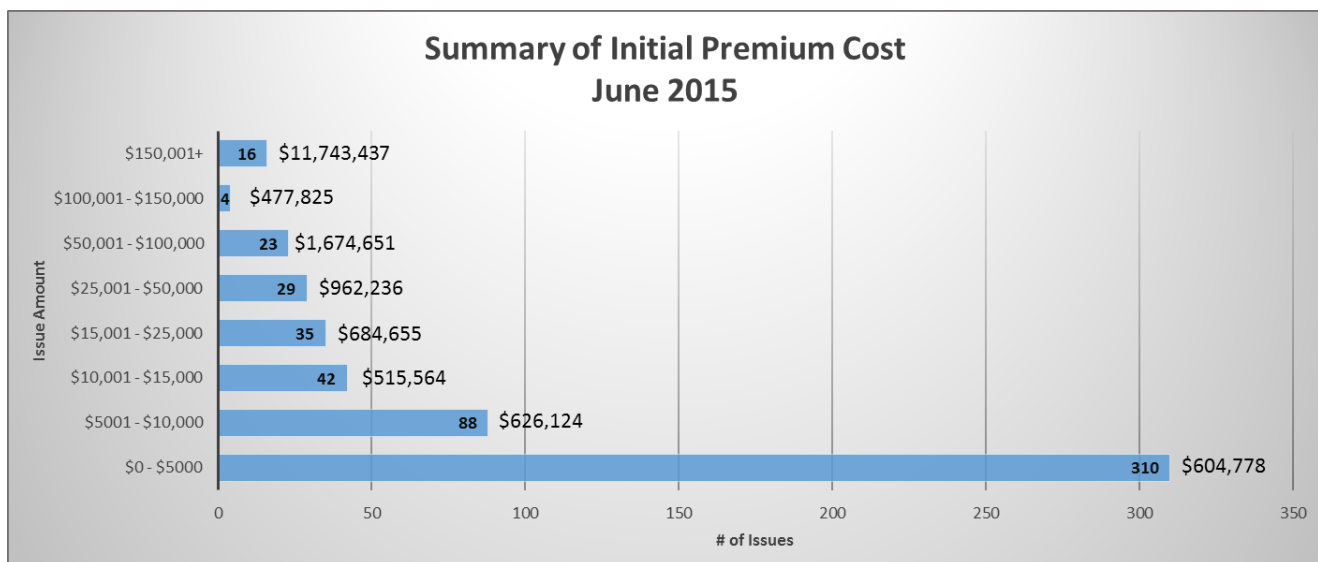
Source: RTM - June 2015

**Risk-Based Analysis of Premium Costs**

We conducted an analysis of the data in RTM, from a risk-based perspective, for trends in initial premium costs amounts.

Table 4 below summarizes that 310 of the 547 issues, or 57%, of the initial premium cost instances are less than \$5,000. The analysis also found the 43 largest E&O issues, or 8% of the population, represented 80% of all the initial premium costs.<sup>6</sup>

**Table 4: Summary of Initial Premium Costs**



Source: RTM – June 2015

<sup>6</sup> \$13,895,913 out of \$17,289,270 in total initial premium costs reported in RTM as of June 2015.



The 43 instances mentioned above represent the highest level of risk to the department in determining compliance with the intent of the Florida Statutes. Accordingly, this high concentration of risk merits continuous monitoring and reporting by the Production Support Office. Based upon audit inquiry, current E&O performance metrics are not reported to the department's executive management.

Because executing the department's programs and processes in a consistent, predictable, and repeatable manner is enhanced by effective quality assurance process reviews and executive management oversight, **we recommend** the Director of Design:

- continuously monitor E&O issues representing the highest risk to the department; and
- develop a centralized E&O performance metrics report for periodic reporting to the department's executive management.

### **Finding 3 – Statute of Limitations**

**We determined** the E&O procedure does not address monitoring E&O issues approaching the statute of limitations affecting the department's right to recovery premium costs.

Section 95.11(3) and (4) F.S., Limitations other than for the recovery of real property are:

*(3) WITHIN **FOUR** YEARS (a) An action founded on negligence. (c) An action founded on the design, planning, or construction of an improvement to real property... or the date of completion or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer, whichever date is latest; except that, when the action involves a latent defect, the time runs from the time the defect is discovered or should have been discovered with the exercise of due diligence. In any event, the action must be commenced within 10 years....*

*(4) WITHIN **TWO** YEARS (a) An action for professional malpractice... whether founded on contract or tort; provided that the period of limitations shall run from the time the cause of action is discovered or should have been discovered with the exercise of due diligence.*

As of June 2015, 16 E&O issues in RTM, ranging from \$2,611 to \$2,499,999 totaling \$5,160,575, were reported with an "In Review" status and a "Discovery Date" beyond the 4-year statute of limitations. On a sample basis, we examined the status of premium costs recovery pursuits for the largest four issues.

**Office of Inspector General  
Florida Department of Transportation**

We found:

- one issue,<sup>7</sup> as noted in Finding 2, for \$2,499,999 was subsequently collected after June 2015;
- an issue of \$2,325,352 lacked information regarding status of pursuit of recovery;
- an issue of \$85,419 reported no resolution notes; and
- an issue of \$36,672 reported as “not to pursue” but flagged as “In Review.” See Exhibit 1 below.

Exhibit 1: RTM – Resolution Notes

Construction Contract:	E7G19	Status:	In Review
Change Order Number:	014	Avoidable Code:	1-Avoidable-Prod Consultant
Change Order Type:	SA		
Discovery Date:	2/17/2011	Premium Cost:	\$ 36,672.52
		Negotiated Recovery Amount:	
Date Responsible Party Notified:	2/17/2011	Date Issue Resolved:	
Consultant Contract:		Vendor FEID #:	
Responsible Party Name:		Responsible Party Address:	
Comment:	This is the cost of the delay associated with the failure to obtain CSX's approval of the design of the Crash Wall proposed for construction within their Right-of-Way. Design contract C8P61 is the design contract number. Segment 2 design cost was included in segment 1.		
<b>Recovery Information (Click to collapse)</b>			
Recovery Date	Amount Recovered	Method Of Recovery	Comment
5/17/2013	\$ 0.00	Claim Meetings	EOC determined not to pursue recovery since CSX concurred with the Dept's. design prior to construction.

Source: RTM – Contract E7G19

Overall, 15 items flagged as “In Review,” totaling \$2,660,576, are beyond the 4-year statute of limitations for pursuit of recovery of premium costs.

The Production Support Office conducts process reviews to ensure the department’s policies and procedures are administered in a consistent manner by the districts. In addition, preserving the department’s right to pursue recovery of premium costs requires adequate lead time for the Office of General Counsel to evaluate the circumstances and provide recommendations.

To reduce the risk of not resolving E&O issues in a timely manner and reserving the department’s recovery rights, **we recommend** the Director of Design establish specific monitoring metrics for E&O issues flagged as “In Review” and requiring district actions prior to expiration of the statute of limitations.

<sup>7</sup> Status has been changed to “Resolved” in RTM.

## Finding 4 – Maintenance of Resolution Tracking Module Data

**We determined** data integrity issues exist within the RTM data system and districts are inconsistently maintaining E&O project files.

E&O procedure section 2.3, Notification, states:

...the [design project manager] DPM shall establish and maintain a project file to record all information related to the project EOR Errors and Omissions.

E&O procedure section 29, Tracking, states:

Each District Errors and Omissions Liaison shall ensure that such issues are entered, updated, and resolved in RTS.<sup>8</sup>

District personnel reported system limitations in RTM caused duplicate and erroneous issues to remain in the system. Other current system issues and/or limitations of RTM noted were:

- unable to delete or separate erroneous issues; and
- issues are flagged as either “In Review” or “Resolved,” which limits the specificity of data related to the status activity of premium costs recovery.

**We recommend** the Director of Design, in conjunction with the districts, evaluate the status of current RTM data integrity system issues, identify, and implement improvements needed to enhance the value of data collected and reported.

## Finding 5 – Review and Update of E&O Procedure

**We determined** the Production Support Office has not reviewed and updated the E&O Procedure as required.

Section 20.23(3)(a), F.S., states:

The central office shall establish departmental policies, rules, procedures and standards and shall monitor the implementation of such... in order to ensure uniform compliance and quality performance by the districts and central office....

Section 337.015(3), F.S., Administration of public contracts, states:

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

---

<sup>8</sup> RTS was replaced by RTM in 2012.

The department's Standard Operating System Policy Topic No. 025-020-002 section on The Procedural Development / Revision Process states:

Procedures and manuals are scheduled for review every two years or may be updated earlier, if needed. Policies are reviewed annually.

The E&O procedure was last updated February 18, 2010, and reviewed in April 24, 2012. In addition, in August 2012, the Production Support Office changed the E&O tracking system from RTS to RTM.

Based upon audit inquiry, the Production Support Office will update the E&O procedure when the audit report is issued.

**We recommend** the Director of Design review and update the E&O procedure and maintain a current procedure per the department's Standard Operating System.

### **Observation 1 – Quality Assurance Reviews**

**We observed** the Production Support Office has recently re-initiated conducting Quality Assurance Reviews (QAR).

Section 20.23(3)(a), F.S., states:

The central office shall establish departmental policies, rules, procedures, and standards and shall monitor the implementation of such policies, rules, procedures, and standards in order to ensure uniform compliance and quality performance by the districts and central office units that implement transportation programs.

The department's Quality Assurance and Quality Control policy, Topic No. 001-260-001-b states:

The ***Annual Quality Assurance Monitoring Plan*** will include identification of key processes, customers and regulators valid requirements, review team(s), measures, performance targets and review schedules.

The department's response to the 2010 FHWA E&O Process Review stated that the Production Support Office would develop and implement a QAR plan for fiscal year 2011, as recommended by FHWA. In 2015, the Production Support Office initiated QARs of the E&O process and will conclude the reviews in 2016.

Based upon audit inquiry, the scope of the QARs performed in 2015 was limited to determining whether the Design Project Manager (DPM) had established and maintained a project file to record all information related to the project EOR Errors & Omissions.

The success of the department's quality assurance program is dependent upon periodic process reviews with sufficient coverage of key processes and controls. For example, district DPMs indicated there are instances where they are not notified of E&O issues in a timely manner:

- The Construction Project Manager (CPM) contacts the EOR before contacting the DPM;
- The Construction Engineering and Inspection (CEI) personnel and CPM make the initial E&O evaluation determination without involving the DPM; and
- The DPM is not promptly contacted by the CPM, leading to delays in the issuance of the early notification letter to the EOR. See Appendix C.

**We recommend** the Director of Design expand the scope and frequency of the QAR process to include the review of the following key controls:

- monitoring timeliness and quality of communication of E&O issues between construction and design personnel;
- ensuring districts perform due diligence activities regarding early notification letters to the EOR and settlement negotiations; and
- monitoring accountability of funds recovered from EORs.

## **Observation 2 - Training**

**We observed** the districts have not received training in E&O procedures or for RTM since August 2012.

E&O procedure section 30, Training, states:

The Production Support Office... shall prepare and deliver training in the use of this procedure. The Department shall include the consultant community in the target audience.

District personnel indicated that training on RTM and E&O processes was needed and had not been received from the Production Support Office. The Production Support Office began RTM training in 2015 across all districts, following the initiation of the audit.

**We recommend** the Director of Design conduct regular training to ensure consistency and compliance with E&O procedures and processes across the districts. Additionally, the central office should survey the districts for training needs regarding the E&O process.

## **APPENDIX A – Purpose, Scope, and Methodology**

---

Section 20.055, Florida Statutes, requires the OIG to conduct audits, examinations, investigations, and management reviews related to programs and operations of the department. This audit was performed as part of the OIG’s mission to promote accountability, integrity, and efficiency for the citizens of Florida by providing objective and timely audit and investigative services.

As part of the Office of Inspector General 2013/14 Audit Plan development, the District Two Secretary expressed a concern about the lack of consistency in the management of the department’s Errors & Omissions process. We initiated this engagement to determine whether districts consistently pursued premium costs and complied with applicable laws, rules, and department procedures.

The **purpose** of this engagement was to:

- determine compliance with the E&O procedure;
- evaluate E&O data maintenance;
- review E&O best practices; and
- review the department’s follow up to the 2010 FHWA and department joint review on “Design Errors and Omissions.”

The **scope** of our audit focused on E&O data maintained by the department for the period November 29, 2006, to June 23, 2015, and limited subsequent review of E&O data.

The **methodology** included:

- reviewing applicable laws, rules, department manuals, policies, and procedures;
- interviewing central office and district personnel;
- reviewing E&O database functionality; and
- analyzing E&O data maintained in RTM.

**Office of Inspector General  
Florida Department of Transportation**

---

**APPENDIX B – Management Response**

---



*Florida Department of Transportation*

**RICK SCOTT**  
GOVERNOR

605 Suwannee Street  
Tallahassee, FL 32399-0450

**JIM BOXOLD**  
SECRETARY

August 3, 2016

Mr. Robert E Clift  
Inspector General  
Florida Department of Transportation  
2740 Centerview Drive  
Rhyne Bldg. Suite 3A  
Tallahassee, FL 32399  
(850) 410-5800

Dear Inspector General Clift:

The Office of Inspector General (OIG) conducted an audit of the Errors and Omissions (E&O) program process and management practices to determine whether Districts consistently pursued premium costs and complied with applicable laws, rules and department procedures. The audit analyzed data that was from Project Suite Enterprise Edition Resolution Tracking Module (PSEE-RTM), the department's current resolution tracking system, for the period from its initial launch in August of 2012 through June of 2015. The findings and the Production Support Office's responses follow.

Executive Summary: The Production Support Office acknowledges all findings and observations and will take immediate action to address them.

**FINDINGS:**

**Finding 1:**

Variation in the Pursuit of Premium Costs – The inconsistency among Districts in pursuit of recovery of premium costs is caused by a lack of centralized oversight, reporting, technical, and administrative factors affecting the decision processes.

**Recommendation:** Director of Design:

- Maintain the requirement to assess all instances of initial premium costs to being the statutorily required vigorously pursue expectation
- Initiate collection of all final premium costs that exceed a predetermined monetary threshold, to be established by the Department, unless precluded by a documented cost-benefit analysis

[www.dot.state.fl.us](http://www.dot.state.fl.us)



## Office of Inspector General Florida Department of Transportation

Florida Department of Transportation Inspector General  
August 3, 2016  
Page 2 of 4

- Provide training in the performance and documentation of cost-benefit analyses to ensure consistent application

**Response:** Agree, Central Office Design will (a) update the governing procedure to ensure that all substantiated and documented claims be vigorously pursued regardless of monetary thresholds, (b) establish criteria to pursue debated claims from a cost-benefit analysis perspective to balance efficiency and effectiveness of pursuit of premium costs, and (c) conduct training to ensure all districts consistently apply the procedure.

**Finding 2:**

Recovery of Premium Costs – The E&O program’s pursuit and recovery of premium costs efforts by Districts lacks centralized performance reporting to executive management.

**Recommendation:** Director of Design:

- Continuously monitor E&O issues representing “high risk” to the department
- Develop a centralized E&O performance metrics report for periodic reporting to the Department’s Executive Management

**Response:** Agree, Central Office Design will (a) establish premium costs recovery targets with performance measures, and (b) will initiate regular E&O premium costs recovery reporting to Executive Management on an annual basis.

**Finding 3:**

Statute of Limitations – Preserving the Department’s right to pursue recovery of premium costs requires adequate lead time for the Office of General Counsel to evaluate the circumstances and provide recommendations.

**Recommendation:** Director of Design should establish specific monitoring metrics for E&O issues flagged as “In Review” and requiring District actions prior to expiration of the statute of limitations.

**Response:** Agree, Central Office Design will establish specific monitoring metrics for E&O issues flagged as “In Review” and where the ‘early notification letter’ has not been sent to the responsible Engineer of Record that require District actions prior to expiration of the Statute of Limitations.

**Finding 4:**

Maintenance of Resolution Tracking Module Data – District personnel reported system limitations in RTM caused duplicate and erroneous issues to remain in the system. Other current system issues and/or limitations of RTM noted were (a) unable to delete or separate erroneous issues; and (b) issues are flagged as either “In Review” or “Resolved,” which limits the specificity of data related to the status activity of premium costs recovery.

[www.dot.state.fl.us](http://www.dot.state.fl.us)



## Office of Inspector General Florida Department of Transportation

---

Florida Department of Transportation Inspector General  
August 3, 2016  
Page 3 of 4

**Recommendation:** Director of Design, in conjunction with the Districts, evaluate the status of current RTM data integrity system issues, identify, and implement improvements needed to enhance the value of data collected and reported.

**Response:** Agree, Central Office Design will take action to identify and correct (or purge when appropriate) erroneous data when able. We will determine how to provide more specific information relative to 'In Review' status, i.e. letters issued, responses, etc. and work with the Office of Information Technology on any necessary enhancements to the reporting software.

**Finding 5:**

Review and Update of E&O Procedure – We determined the Production Support Office has not reviewed and updated the E&O Procedure as required.

**Recommendation:** Director of Design review and update the E&O procedure and maintain a current procedure per the department's Standard Operating System.

**Response:** Agree, Central Office Design will review the referenced Procedure and update as necessary.

**OBSERVATIONS:**

**Observation 1:**

Quality Assurance Reviews – The department's response to the 2010 FHWA E&O Process Review stated that the Production Support Office would develop and implement a QAR plan for fiscal year 2011, as recommended by FHWA. In 2015, the Production Support Office initiated QARs of the E&O process, the scope of which was limited to determining whether the Design Project Manager (DPM) had established and maintained a project file to record all information related to the project EOR E&O, and will conclude the reviews in 2016.

**Recommendation:** Expand the scope and frequency of the QAR process to include the review of the following key controls:

- Monitor timeliness and quality of communication of E&O issues between construction and design personnel.
- Ensure districts perform due diligence activities regarding early notification letters to the EOR and settlement negotiations.
- Monitoring accountability of funds recovered from EORs.

**Response:** Agree, Office of Design will implement this recommendation.

**Observation 2:**

Training – the districts have not received training in E&O procedures or for RTM since August 2012.

[www.dot.state.fl.us](http://www.dot.state.fl.us)

**Office of Inspector General  
Florida Department of Transportation**


---

Florida Department of Transportation Inspector General  
August 3, 2016  
Page 4 of 4

**Recommendation:** The Director of Design conduct regular training to ensure consistency and compliance with E&O procedures and processes across the Districts. Additionally, central office should survey the Districts for training needs regarding the E&O process.

**Response:** Agree, Office of Design will implement a training program to meet the needs of the Districts.

Sincerely,



Tim Lattner  
Director of Design

cc: Brian Blanchard, Assistant Secretary  
Phillip Gainer, Chief Engineer  
William Pace, Contract Audit Manager  
Craig Bassett, Auditor  
Daniel Scheer, Manager, Production Support Office  
Robert Quigley, State Project Management Engineer  
Siddhartha Kamath, Project Management Engineer  
State District Design Engineers  
State District Consultant Project Manager Engineers

[www.dot.state.fl.us](http://www.dot.state.fl.us)

Office of Inspector General  
Florida Department of Transportation

---

**APPENDIX C – Early Notification Letter to Engineer of Record**

---

**Appendix A – Early Notification Letter – Design**

*(insert date)*

**Note:** Notification Letters shall be Certified Mail and addressed to an Officer in the company.

Design Consultants, Inc.  
1234 Long Street  
Rural City, FL 33333

Re: *Project Description...*  
Financial Project ID 123456-1-52-01  
Contract No. 12345 (FY)

Dear Design Consultants:

Project Issues have been identified in the referenced contract that require immediate attention. (make reference to verbal/written communication as per Section 1). The Department respectfully requests your assistance to fully evaluate the following issue(s) and determine the appropriate course of action:

*(brief description of project issues)*

Issues of this nature may impact project costs and contract time; please give them your immediate and full consideration. Compensation for on-site participation—and any additional engineering services—may be billed as post-design services, unless the project issues are caused by your Errors and Omissions. Please track all additional services separately for potential compensation. Thank you for your attention to these matters and response by *(insert date)*.

Sincerely,

FDOT Design Project Manager

Source: E&O Procedure, Appendix A

**Office of Inspector General  
Florida Department of Transportation**

---

**DISTRIBUTION AND PROJECT TEAM**

---

**Action Official Distribution:**

Tim Lattner, P.E., Director of Design  
Dan Scheer, P.E., State Production Support Engineer  
Sid Kamath, Central Office Errors and Omissions Liaison

**Statutory Distribution:**

Jim Boxold, Secretary, Department of Transportation  
Melinda Miguel, Chief Inspector General, Executive Office of the Governor  
Sherrill Norman, Auditor General, State of Florida

**Information Distribution:**

Mike Dew, Chief of Staff and Legislative Programs  
Brian Blanchard, P.E., Assistant Secretary of Engineering and Operations  
Phillip Gainer, P.E. Chief Engineer  
David Sadler, P.E. Director Office of Construction  
Rachel Cone, Assistant Secretary of Finance and Administration  
Tom Byron, P.E., Assistant Secretary of Intermodal Systems Development  
Billy Hattaway, P.E., District One Secretary  
Greg Evans, P.E., District Two Secretary  
Tommy Barfield, P.E., District Three Secretary  
Gerry O'Reilly, P.E., District Four Secretary  
Noranne Downs, P.E., District Five Secretary  
Jim Wolfe, P.E., District Six Secretary  
Paul Steinman, P.E., District Seven Secretary  
Diane Gutierrez-Scaccetti, Turnpike Secretary  
Tom Thomas, General Counsel  
Mark Reichert, Deputy Executive Director, Florida Transportation Commission  
James Christian, Division Administrator, Federal Highway Administration Florida Division

**Project Team:**

Engagement was conducted by Craig Bassett, Auditor  
Under the supervision of:  
William Pace, Audit Manager; and  
Kristofer B. Sullivan, Director of Audit  
Approved by: Robert E. Clift, Inspector General

**Office of Inspector General  
Florida Department of Transportation**

---

**STATEMENT OF ACCORDANCE**

---

***Statement of Accordance***

*The mission of the department is  
to provide a safe transportation system that ensures the mobility of people and goods,  
enhances economic prosperity, and preserves the quality of our environment and communities.*

*The mission of the Office of Inspector General is  
to promote integrity, accountability, and process improvement in the Department of  
Transportation by providing objective fact-based assessments to the DOT team.*

This work product was prepared pursuant to section 20.055, Florida Statutes, in accordance with the applicable  
*Principles and Standards for Offices of Inspector General* as published by the Association of Inspectors General,  
and *the International Standards for the Professional Practice of Internal Auditing* as published by  
The Institute of Internal Auditors.

This report is intended for the use of the agency to which it was disseminated and may contain information that is  
exempt from disclosure under applicable law. Do not release without prior coordination with the  
Office of Inspector General.

Please address inquiries regarding this report to the department's Office of Inspector General at (850) 410-5800.