

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
CONSTRUCTION DIRECTIVE
MEMORANDUM

GENERAL SUBJECT:	<u>Communication on Construction Projects</u>	NUMBER:	<u>CD-2004-1</u>
		DATE:	<u>2-20-04</u>
SPECIFIC SUBJECT:	<u>Process For Field Decision-Making</u>	SUPERSEDES:	<u>N/A</u>
		SUNSET/ EXPIRES:	<u>2-20-09</u>

Original with signature on file in the office of
Scheduling & Contract Division

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PURPOSE: The purpose of this CD is to establish a timeline and process for making decisions and managing communications on our projects.

DIRECTED TO - DISTRICT ADMINISTRATORS

DEFINITIONS

Submittals - When the Contractor requests decisions or Owner approval of drawings, test results, or other material submitted for review.

Confirmation of verbal instructions (COVI) - When the Contractor requests confirmation of agreements and instructions developed in negotiation with the Owner.

Requests for information (RFI) - When the Contractor or Owner requests that the other party supply information to better understand or clarify a certain aspect of the work.

Requests for owner action (ROA) - When the Contractor requests that the Owner take certain action the Contractor feels is required for project completion.

Contract change requests (CCR) - When the Contractor requests that the Owner makes an equitable adjustment to the contract because of excusable and/or compensable events, instructions that have or have not been given or other work requiring time and/or cost beyond that envisioned in the contract.

Requests for contractor action (RCA) - When the Owner requests that the Contractor take certain action the Owner feels is in the best interests of the project and/or required for project completion.

Contract change directives (CCD) - When the Owner instructs the Contractor to perform work beyond that envisioned in the contract and undertakes to make an equitable adjustment to the contract.

OVERVIEW

Information is the single most important resource required in the construction process. Expertise, labor, equipment and materials are of no value without the information required to: manage and direct construction operations, achieve time, cost and quality objectives, and establish a safe and efficient working environment.

Information comes from two principal sources: the contract documents and field decisions.

Contract documents that are complete, accurate and constructible provide the baseline information. Changes in conditions, errors and omissions in the drawings and the realities of both design and construction make it impossible to eliminate the need for field decisions. The further the contract documents are from perfection the higher the demand placed on timely, effective and complete field decisions. The sum of the information flowing from the contract documents and field decisions must be sufficient, timely, complete, and accurate.

Providing information that supports field operations, furthers effective working relationships, and makes possible the efficient use of resources is a clear and well-understood owner obligation. Identifying and requesting any information needed over and above that provided in the contract documents is a clear and well-understood Contractor obligation.

All projects, regardless of size, require information. A process must be in place to define questions, force decision-making and ensure that answers are provided in an efficient and timely manner. Field decision-making depends on the nature of the question and the impact of the answer.

Questions – or, more correctly, requests, can be broken down into a number of categories. These are listed here with details in Attachments 1 to 7.

Requests generated by the Contractor.

1. Submittals (Attachment 1)
2. Confirmations of verbal instructions (COVI) (Attachment 2)
3. Requests for information (RFI) (Attachment 3)
4. Requests for owner action (ROA) (Attachment 4)
5. Contract change requests (CCR) (Attachment 6)

Requests generated by the Owner

1. Requests for information (RFI) (Attachment 3)
2. Requests for Contractor action (RCA) (Attachment 5)
3. Contract change directives (CCD) (Attachment 7)

Answers – or more correctly, the information provided can impact:

- contract provisions regarding time and cost,
- the means, methods, sequence, and safety of construction,
- the design, performance, and service life of the completed work,
- the environmental impact of the work during or after construction,
- the public and other project stakeholders.

A PROCESS FOR DECISION-MAKING.

A process for field decision-making requires the following steps:

1. The parties agree on the decision-making process, the authority and accountability of the individuals involved and on the cycle times for each category of decision.
2. The party requiring the information generates the appropriate documents, and requests a decision from the accountable individual within the agreed period.
3. The responding party has an internal decision-making process that supports the accountable individual and provides the information required within the agreed period for each category of request.
4. The party receiving the decision has an internal process for accepting the decision or referring it for further action within an agreed period.

Additional details of the process are given in Attachments 1 to 7.

A PROCESS FOR MEASURING AND MANAGING DECISION-MAKING.

Answers to questions asked constitute receivables in the same way as payments due on accounts rendered. The quantity, nature and age of outstanding information receivables must therefore be tracked, aged and resolved in the same way as outstanding cash receivables. The process requires that clear and well-understood mechanisms be in place to log and track requests, document the age of outstanding requests and actions to be taken on requests that have not been answered within the agreed period.

The effectiveness of decision-making depends on a clear understanding of who is responsible and accountable for resolving outstanding questions within the agreed period. Compliance with requirements can only be measured and improved if there is a clear record of:

- What, when, where, how and by whom the question was asked.
- What, when, where, how and by whom the answer was given.
- The age and nature of outstanding questions.

IMPLEMENTING THE PROCESS.

All projects, regardless of size and complexity, must have an efficient process to ensure that required information is provided in a timely and efficient manner. Project teams must define and agree upon the process during the pre-construction conference. Both the Owner and Contractor must agree on:

- the documentation to be developed for each category of information request,
- the name (as opposed to organizational position) of all individuals with the responsibility, authority and accountability to formulate and respond to each category of information request. The District Administrator or CEO may delegate the responsibility and authority for formulating and responding to requests, however, the accountability for meeting the established response times remains with the District Administrator and CEO.
- the cycle times for each stage in the decision-making process,
- the performance measures to be used to manage the process,
- the action to take if cycle times are not achieved and information is not provided in a timely manner.

Attachments 1 to 7 provide generalized examples. Attachments 8 and 9 tabulate the process.

SUBMITTALS

1. When are they used

When the Contractor requests Owner approval of drawings, test results and other material submitted for review.

2. An example

"Herewith please find product specifications and performance characteristics for the pressure reduction valve to be installed in valve pit 55. These are submitted for your review and approval."

3. Who generates them

Contractor field and procurement personnel pursuant to contract requirements. Single point responsibility and accountability lies with Contractor's Project Superintendent.

4. When are they generated

As early as possible in accordance with an agreed submittal schedule.

5. Who responds to them

Appropriate owner personnel. Single point responsibility and accountability for cycle time lies with Owner's designated Project Manager.

6. Cycle time

Acknowledged within 3 calendar days¹

Reviewed and accepted for completeness within 14 calendar days

Reviewed, action noted and/or accepted within 30 calendar days or as outlined in contract documents.

7. Corrective action

Submittals outstanding over 30 calendar days or beyond timeframes outlined in the contract documents, are referred to District Administrator or their designee. The District Administrator or their designee takes corrective action within 7calendar days.

Proven delays due to outstanding submittals are excusable and compensable.

Impact of delays and/or any remaining disagreements relating to submittals are to be resolved through the request for Owner action or contract change request process.

¹Process initiated on the last business day of a week shall be acknowledged before 5 pm on the next VDOT business day.

CONFIRMATION OF VERBAL INSTRUCTIONS (COVI)

1. When are they used

When the Contractor requests confirmation of agreements and instructions developed in negotiation with the Owner. Agreements must be able to be quantified using existing contract procedures and will, in the vast majority of cases, not impact contract time and cost. When time and/or cost are impacted, they must be clearly spelled out in the COVI.

2. An example

"This is to request confirmation of your instruction to undercut the foundation for the drop inlet at station 654+00 by 3 feet and backfill using selected material from the adjacent cut. I confirm our agreement that the work will be measured and paid for using existing unit rates and that there will be no schedule impact"

3. Who generates them

Contractor's field personnel.

4. When are they generated

Within 1 working day of the instruction.

5. Who responds to them

Owner's field personnel with appropriate authority. Confirmations not responded to by the Owner within one working day of submission are taken as valid.

6. Cycle time

1 working day

7. Corrective action

Work done by the Contractor without a COVI is performed at the Contractor's risk. COVI not responded to by the Owner within one working day are taken as valid

If parties in the field are unable to reach agreement and/or if instructions are not given in a timely manner then either party may elect to submit a request for information, request for Owner action, request for Contractor action, contract change request or contract change directive as appropriate.

REQUEST FOR INFORMATION (RFI)

1. When are they used

When either Owner or Contractor requests that the other party supply information to better understand or clarify a certain aspect of the work.

2. An example

"The foundation level for the drop inlet at station 654+00 is given as elev. 234.0 on drawing C98 and as elev. 238.6 on drawing C198. Please confirm which is correct."

3. Who generates them

Contractor's or Owner's personnel.

4. When are they generated

As soon as the need becomes known. A proactive stance on identifying outstanding information is important to project success.

5. Who responds to them

Contractor's Project Superintendent or Owner's designated Project Manager.

6. Cycle time

14 calendar days (or response time in mutually agreed upon action plan).

7. Corrective action

RFIs outstanding over 14 calendar days (or response time in mutually agreed upon action plan) are referred to District Administrator, their designee, or the Contractor's Project Manager. Corrective action is taken by the District Administrator, their designee, or the Contractor's Project Manager within 7 calendar days.

Proven delays due to outstanding Contractor RFIs are excusable and compensable. Delays due to outstanding Owner RFI's are noted in contractor evaluation reports. Impact of delays and any other issues remaining unresolved due to requests for information are to be resolved through the request for action, contract change request, or contract change directive process as appropriate.

REQUEST FOR OWNER ACTION (ROA)

1. When are they used

When the Contractor requests that the Owner take certain action it feels is required for project completion.

2. An example

"Construction of the culvert at station 3456+00 can only start once the necessary regulatory approvals have been obtained. Please obtain the necessary approvals and advise us so that work may start."

3. Who generates them

Contractor's field personnel. Single point responsibility and accountability lies with Contractor's Project Superintendent.

4. When are they generated

As early as the need for action becomes known.

5. Who responds to them

Appropriate Owner personnel. Single point responsibility and accountability for cycle time lies with Owner's designated Project Manager.

6. Cycle time

Acknowledged by the designated Owner's Project Manager within 3 calendar days.¹
Action and direction within 14 calendar days (or response time in mutually agreed upon action plan).

7. Corrective action

Requests outstanding over 14 calendar days (or response time in mutually agreed upon action plan) are referred to District Administrator or their designee. Issues are to be resolved by the District Administrator, or their designee within 7 calendar days.

Proven delays due to outstanding requests for Owner action are excusable and compensable. Impact of delays and any other issues remaining unresolved due to requests for Owner action are to be resolved through the contract change request process.

¹Process initiated on the last business day of a week shall be acknowledged before 5 pm on the next VDOT business day.

REQUEST FOR CONTRACTOR ACTION (RCA)

1. When are they used

When the Owner requests that the Contractor take certain action it feels is in the best interest of the project and/or required for project completion.

2. An example

"A review of the schedule indicates that substantial time has been lost. Please review progress to date and submit a detailed recovery plan and completion schedule"

3. Who generates them

Owner's field personnel.

4. When are they generated

As soon as the need for action becomes known.

5. Who responds to them

Appropriate Contractor personnel. Single point responsibility and accountability for cycle time lies with Contractor's Project Superintendent.

6. Cycle time

For safety and environmental issues, 1 working day.

Other issues:

Acknowledged by the Contractor's Project Superintendent within 3 calendar days.¹

Action and/or submission within 14 calendar days (or response time in mutually agreed upon action plan).

7. Corrective action

Requests outstanding over 14 calendar days (or response time in mutually agreed upon action plan) are referred to Contractor's Project Manager. Issues are to be resolved by the Contractor's Project Manager within 7 calendar days.

Delays due to outstanding requests for Contractor action are noted in Owner's Contractor evaluation reports. If the Contractor does not take appropriate action in a timely manner, then the Owner may elect to submit a contract change directive.

¹Process initiated on the last business day of a week shall be acknowledged before 5 pm on next project business day.

CONTRACT CHANGE REQUEST (CCR)

1. When are they used

When the Contractor requests that the Owner makes an equitable adjustment to the contract because of excusable and/or compensable events, instructions that have or have not been given or other work requiring time and/or cost beyond that envisioned in the contract.

2. An example

“Differing site conditions under the west abutment of bridge 225 will necessitate a redesign of the foundation. This will impact contract price and performance period and will necessitate an equitable adjustment to the contract as set out in”

3. Who generates them

Identified Contractor's personnel.

4. When are they generated

As soon as the need for the contract change is identified.

5. Who responds to them

Identified Owner's personnel with appropriate authority.

6. Cycle time

Acknowledged by the Owner's designated Project Manager within 3 calendar days.¹ Action and direction within 30 calendar days (45 calendar days if federal oversight project).

7. Corrective action

Requests outstanding over 30 calendar days (45 calendar days if federal oversight project) are referred to District Administrator, or their designee. Issues are to be resolved by the District Administrator, or their designee within 7 calendar days.

Impact of delays and any other issues remaining unresolved due to CCRs are to be resolved through the dispute resolution and claims process.

¹Process initiated on the last business day of a week shall be acknowledged before 5 pm on the next VDOT business day.

CONTRACT CHANGE DIRECTIVE (CCD)

1. When are they used

When the Owner instructs the Contractor to perform work beyond that envisioned in the contract and undertakes to make an equitable adjustment to the contract.

2. An example

"Differing site conditions under the west abutment of bridge 225 necessitate a redesign of the foundation as shown on the attached drawing. Please proceed with the changed work. Payment will be made under the force account provisions of the contract. The changed work will take no longer than the float available on the schedule for bridge 225 and thus we see no reason to negotiate and agree to a change to the contract completion date."

3. Who generates them

Owner's personnel.

4. When are they generated

As soon as the need for the contract change is identified.

5. Who responds to them

Contractor's personnel with appropriate authority.

6. Cycle time

Acknowledged by the Contractor's Project Superintendent within 3 calendar days.

¹Action and/or submission within 30 calendar days.

7. Corrective action

Requests outstanding over 30 calendar days are referred to Contractor's CEO or their designee. Issues are to be resolved by the Contractor's CEO or their designee within 7 calendar days.

Delays due to outstanding requests for Contractor action are noted in Contractor evaluation reports. Outstanding issues are handled under contract termination and other appropriate clauses in the contract.

¹Process initiated on the last business day of a week shall be acknowledged before 5 pm on next project business day.

PROCESS GUIDELINES FOR REQUESTS GENERATED BY THE CONTRACTOR

Process	Situation	Normal resolution process		Escalated process		Final resolution
		By	Within (calendar days)	By	Within	
Submittal	Seeking approval of materials or test results submitted for review.	Owner's Designated Project Manager	<ul style="list-style-type: none"> Acknowledge: 3 days¹ Accept or Return: 14 days Approve: 30 days or as outlined in contract documents. 	DA or their designee	7 days	Submit ROA or CCR
Confirmation of Verbal Instruction (COVI)	Resolving routine field issues, within the framework of the contract, in negotiation with Owner field personnel.	Owner's Appropriate field personnel	<ul style="list-style-type: none"> Confirmation: 1 day² 	Submit RFI, ROA or CCR	7 days	(See process for RFI, ROA, or CCR)
Request for Information (RFI)	Requesting the Owner to supply information to better understand or clarify a certain aspect of the work.	Owner's Designated Project Manager	<ul style="list-style-type: none"> Action: 14 days (or appropriate Action Plan) 	DA or their designee	7 days	Submit ROA or CCR
Request for Owner Action (ROA)	Requesting that the Owner take certain action the Contractor feels is required for project completion.	Owner's Designated Project Manager	<ul style="list-style-type: none"> Acknowledge: 3 days¹ Action: 14 days (or appropriate Action Plan) 	DA or their designee	7 days	Submit CCR
Contract Change Request (CCR)	Requesting the Owner to make an equitable adjustment to the contract because of excusable and/or compensable events, instructions that have or have not been given or other work requiring time and/or cost beyond that envisioned in the contract.	Owners Designated Project Manager	<ul style="list-style-type: none"> Acknowledge: 3 days¹ Action: 30 days (45 days if federal oversight project) 	DA or their designee	7 days	Established dispute resolution and claims process

¹ Process initiated on the last business day of a week shall be acknowledged before 5 pm on the next VDOT business day.

² The absence of a written confirmation from the Owner to a Contractor's written request for confirmation of a verbal instruction shall constitute confirmation of the verbal instruction.

PROCESS GUIDELINES FOR REQUESTS GENERATED BY THE OWNER

Process	Situation	Normal resolution process		Escalated process		Final resolution
		By	Within (calendar days)	By	Within	
1. RFI	Requesting the Contractor to supply information to better understand or clarify a certain aspect of the work.	Contractor's Project Superintendent	<ul style="list-style-type: none"> Action: 14 days (or appropriate Action Plan) 	Contractor's Project Manager	7 days	Submit RCA or CCD
2. RCA	Requesting that the Contractor take certain action the Owner feels is in the best interests of the project and/or required for project completion.	Contractor's Project Superintendent	<ul style="list-style-type: none"> For safety and environmental issues: 1 day Otherwise acknowledge: 3 days¹ Action: 14 days (or appropriate Action Plan) 	Contractor's Project Manager	7 days	Submit CCR
3. CCD	Instructing the Contractor to perform work beyond that envisioned in the contract and undertakes to make an equitable adjustment to the contract.	Contractor's Project Superintendent	<ul style="list-style-type: none"> Acknowledge: 3 days¹ Action: 30 days 	CEO or their designee	7 days	Established dispute resolution and termination process

1. Process initiated on the last business day of a week shall be acknowledged before 5 pm on next project business day.

C: Mr. Philip A. Shucet
Mr. Donald R. Askew, P.E.
Commissioners Staff
Division Administrators
District Construction Engineers
District Maintenance Engineers
District Equal Opportunity Managers
District Contract Administrators
Resident Engineers
Assistant Resident Engineers
Project Engineers
Project Inspectors
Federal Highway Administration
Virginia Aggregates Association Inc.
American Concrete Pavement Association
Virginia Ready-Mixed Concrete Association
Precast Concrete Association of Virginia
Virginia Department of Minority Business Enterprise
Virginia Road and Transportation Builders Association
Old Dominion Highway Contractors Association
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