

STATE OF DELAWARE



DEPARTMENT OF TRANSPORTATION

DESIGN-BUILD PROJECT

for

DOVER TRANSIT CENTER

Dover Transit Center
State Contract # 25-020-01
Federal Contract # ERRA-2009(31)

SCOPE OF SERVICES PACKAGE

CONTRACT DOCUMENTS

PART 1

PROJECT SCOPE

This page blank

TABLE OF CONTENTS

PART 1 – PROJECT SCOPE

1.0 INTRODUCTION..... 1

2.0 PROJECT CONFIGURATION 1

 2.1 Project Limits..... 1

 2.2 Project Description..... 1

 2.3 Project-Specific Requirements..... 1

 2.4 Project-Wide Requirements 3

 2.4.1 Adjacent and Concurrent Projects..... 4

 2.4.2 Work Hour Limitations 4

3.0 ASSOCIATED WORK..... 4

4.0 BASIC PROJECT CONFIGURATION 6

 4.1 Standard for Determining Materiality of Change in Basic Project Configuration..... 6

5.0 DEPARTMENT-PROVIDED MATERIAL OR EQUIPMENT 6

APPENDIX A

APPENDIX B

This page blank

1.0 INTRODUCTION

This Part 1 – Project Scope provides a summary description of the physical components of the Project that the Design-Builder shall design, construct, and/or install and the associated management, control, monitoring, compliance, and professional services and other elements of the Work required in accordance with the Design-Build (DB) Agreement included in Appendix A.

The Design-Builder shall not rely solely on the description contained herein to identify all Project components to be designed, constructed, and/or installed. The Design-Builder shall determine the full scope of the Project through thorough examination of the Contract Documents and the Project Site or as may be reasonably inferred from such examination.

The Design-Builder shall, for the generally described improvements, perform all design engineering and analysis; provide construction engineering and inspection services; provide quality control services; and furnish, construct, and/or install all materials and components of the Project required to meet the requirements of the Contract Documents, except where the Department will furnish and/or install items as listed in Section 5.0.

2.0 Project Configuration

The Project shall include the major components listed in this Project Scope.

2.1 Project Limits

The Dover Transit Center will be located on Water between West Street and Queen Street in Dover. A conceptual plan for the bus boarding area was developed, but requires refinement.

2.2 Project Description

DART First State's existing transfer center along Water Street in Dover will be relocated to this site. Currently the fixed route system in Dover works on a pulse system in which thirteen (13) fixed route buses enter and exit the site every thirty (30) minutes. Interwoven into the pulse system are the paratransit and intercounty buses that travel north and south out of the transfer center. The site shall also be designed to handle privately run intercity bus operations (Trailways/Greyhound).

2.3 Project-Specific Requirements

A) Bus Loop

- 1) The bus loop requires a Canopy to cover passengers moving to, from, and between buses. Canopy will be designed to connect to the future building.
 - Eleven stalls for forty foot (40') buses.
 - Three stalls for forty five foot (45') buses.
 - Bus circulation shall be kept separate from passenger vehicles.
 - Sawtooth design must allow buses to independently enter and exit bus stalls without backing up.
 - Bus stalls shall allow passengers to disembark from all doors.
 - Curbside space for two paratransit vehicles to park and transfer customers needs to be provided. This does not need to be in the bus loop, but it is our preference to keep the location close to the future building and to minimize conflicts with automobiles and pedestrians.

- The outside passenger waiting/boarding area shall be covered with a canopy. The canopy shall provide coverage as passengers travel between the bus stalls. The area shall be furnished with the appropriate amenities, including seating, trash cans, etc.
- The following other amenities shall be provided:
 - Newspaper dispensers
 - Pay Phone
 - Advertising – potential revenue source for DTC
 - Kiosk
 - Art Work
- Geometric Design: Roadways and parking lot areas should conform to the AASHTO GREEN BOOK - A Policy on Geometric Design of Highways and Streets and relevant sections of the Delaware Road Design Manual.
- The pavement design will be the sole responsibility of the Proposer. The pavement design shall meet the requirements of Part 3, Appendix A, Concrete Pavement Requirements. The final design will be approved by the DelDOT prior to construction. Portland cement concrete shall be used for the bus loop. All materials used in the pavement design will be tested as per DelDOT's Standard Specifications, Supplemental Specifications, Special Provisions, Plan Notes, and all applicable Manuals within the Department.

B) Parking

- 1) Daily (employees and passengers) and short-term (passenger drop-off and pick-up) parking shall be provided for customers and appropriately located on the site
- 2) Provide parking to support a future +/- 30,000 square foot building
- 3) Provide parking for four ambulances in close proximity to the building. The location of the parking stalls should allow for quick access from the building and timely egress with minimal conflicts with other vehicles. The spaces do not need to be secured or enclosed.

C) Future Building Design

- 1) Design space for the future +/- 30,000 sq. ft. building.
 - Design Development plans for the Ground floor space to be occupied by the transit center to include +/- 3,000 square feet for passenger waiting area with public restrooms, ticketing, and vending machines. Specifications are not required.
 - Schematic Design plans of the remainder of the Ground floor level and Upper floor level(s) (+/- 27,000 square feet) of the building; including leasable space for offices and retail, tenant circulation, and mechanical space. Specifications are not required.
 - **The following shall be provide for both Schematic and Design Development plans:**
 - **Wall thickness and type**
 - **Structural system/grid**
 - **Building core elements – elevators, stairs, restrooms, and major mechanical/electrical spaces**
- 2) Provide a Developed Design of the building: style, type of construction, exterior finish, size (footprint), placement on site, type of foundation, and tie-ins to the passenger canopy. Specifications are not required.
- 3) Clearly define building service access that allows trash removal and deliveries without mixing with or affecting bus operations.

- 4) Construction phasing:
 - How the building can be constructed without interrupting operations;
 - Describe proposed staging areas and all parking, pedestrian, automobile and bus movements/disruptions during building construction.
- D) Stormwater Management
- E) Site Landscaping

2.4 Project-Wide Requirements

The Project includes the following:

- A) Fencing and cameras to provide security
 - 1) Security cameras to provide coverage of all passenger waiting and boarding areas;
- B) Signage and Pavement Markings that include regulatory, pathfinders, informational and real time informational displays. All Signing and Pavement Markings must conform to the standards in the Manual on Uniform Traffic Control Devices (MUTCD) - Federal and Delaware editions. Structural sign supports must comply with AASHTO and Delaware standards;
- C) Safe and efficient accommodations for bicycles and pedestrians in accordance with the Design Criteria, including, but not limited to; bicycle racks and lockers, bike and pedestrian paths between the transit center and surrounding areas in particular the development at Eden Hill, the capital complex, and potential future rail transit station;
- D) Low maintenance landscaping that incorporates plants native to Delaware at the complex;
- E) Roadway lighting design conforming to AASHTO Roadway Lighting Design Guide;
- F) Site Lighting designed so that it can be reduced during non-operating hours;
- G) Development of a Context Sensitive Transit Center Design that creates a sense of place and fits into the surrounding community;
- H) Potential energy efficiencies or green energy technologies that could be used on the site or in the future building shall be described, including the initial construction cost impact and pay back analysis (*Title 29 DelCode Chapter 69 Subchapter V*);
- I) The Proposer shall maintain as-built drawings. DeIDOT shall have access to review these drawings during regularly scheduled progress meetings. Following construction, the Proposer shall electronically update construction plans to reflect as-built conditions and submit to the DeIDOT. The Proposer shall also maintain as-built drawings of any renovation or changes in site conditions and shall supply DeIDOT copies thereof;
- J) Appropriate circulation patterns for passengers that are; bicycle-safe; American Disabilities Act (ADA) compliant; and provides separation between buses, cars and other vehicular traffic;
- K) Provisions for the positive prevention of vermin/bird habitat/nesting within and on any structure; and
- L) Clearly and fully address the following:
 - 1) Any utility relocations required and how they will be accomplished;
 - 2) Any existing road and/or intersection improvements; and

- 3) Any additional land acquisition required.

2.4.1 **Adjacent and Concurrent Projects**

There are no known adjacent or concurrent projects.

The Department reserves the sole right to unilaterally alter the scope, nature, construction start and completion dates of all future Contracts.

The Design-Builder is hereby alerted and advised that other contracts may be ongoing simultaneously with this Contract. All Contractors, including Design-Builders, shall coordinate and cooperate with the Department and Contractors and/or other Design-Builders working on the associated and/or adjacent contracts in accordance with DB Section 105 – Control of Work in Part 2. Contractors and/or Design-Builders shall not impede or limit access to the work being performed by others. All costs associated with the Design-Builder’s coordination and cooperation shall be included in the Lump Sum Contract Price.

2.4.2 **Work Hour Limitations**

The following work hour restrictions shall apply for the duration of the contract:

- Holidays – Scheduled Holidays shall be in accordance with Part 2, DB 101.
- Any limitations placed on the Design-Builder by local ordinances.

3.0 **ASSOCIATED WORK**

The Design-Builder shall perform elements of Work in association with the design and construction of the physical components of the Project. The following list is not an exhaustive list, but is representative of the Work required to result in a complete functioning transit center in accordance with the Design-Builder’s accepted plans:

- A) Associated aesthetics and landscaping;
- B) Design and construction management;
- C) Coordination with Project stakeholders and other contractors adjacent to the Work (if any);
- D) Design Quality Control and Design Review (*see* Part 2 – DB Section 111);
- E) Construction Quality Control (*see* Part 2 – DB Section 112);
- F) All additional environmental investigations and monitoring associated with or resulting from the Design-Builder’s actions;
- G) Maintenance of traffic;
- H) Project safety and security;
- I) All engineering (including, but not limited to, supplemental surveys and geotechnical investigations) in addition to that provided by the Department;
- J) All harmful and hazardous materials remediation created by the design-builder through design and/or construction or as identified in the RFP (none known to exist by the Department);
- K) Drainage, Stormwater Management, and Erosion Control;
 - 1) Storm water management shall be designed for completed built out of the site, including the future building.

- 2) Storm water management plans must include a means of treating oil, grease, etc that may come from the buses using the facility.
 - 3) Regulatory requirements that must be followed in design and construction:
 - The NPDES Phase II permit states that DeIDOT must "...implement and enforce a program to address stormwater runoff from new development and redevelopment projects that disturb areas greater than or equal to one acre, including projects that disturb less than one acre that are part of a larger common plan of development, and that discharge to the storm sewer system." Therefore, in the RFQ, the consultant must include water quality BMPs as part of the design. BMPs for water quality should consider nutrient and bacteria removal efficacies.
 - Regulations Governing Storm Water Discharges Associated with Industrial Activities, Part 2 – Special Conditions for Storm Water Discharges Associated with Construction Activities.
 - Delaware Sediment and Stormwater Regulations.
 - DeIDOT ES2M Design Guide.
 - All DeIDOT standard specifications related to stormwater and Erosion and Sediment (E&S) controls.
 - 4) Both the DeIDOT Stormwater Engineer and the DeIDOT NPDES Section must review and approve the design as it pertains to stormwater quantity and quality control to ensure that designs comply with all related regulations and permits and that stormwater runoff at the site is treated to the maximum extent practicable.
- L) Landscaping and its maintenance should be designed so as to minimize applications of pesticides, herbicides and fertilizers, which may harm water quality when they enter the runoff from the site. All outdoor applications of pesticides and herbicides must be done according to DeIDOT standards and procedures.
 - M) Construction waste disposal and handling;
 - N) Required clearances, licenses, construction easements, and permits for the Design-Builder's Work, Work sites, and storage areas on- or off-site;
 - O) All modifications to existing permits previously obtained by the Department as required for the Project and/or as a result of the Design-Builder's design, actions, and construction scheduling;
 - P) All ancillary Work, such as, access roads, driveways, temporary fencing, relocation of drainage, Work sites, and temporary Work;
 - Q) Location, acquisition, permits, and transportation for Material;
 - R) Coordination of the relocation of any utilities and municipal drainage facilities and the design and relocation, if any;
 - S) Site clearing and restoration;
 - T) Demolition of a radio tower, three existing houses and associated structures and equipment. The Department will remove all known asbestos from the buildings. The Department will share with the Proposer a copy of the building assessment and abatement report. The Proposer shall be responsible for immediately notifying the Department if at any time during demolition they encounter a material they believe may be hazardous;
 - U) Maintenance of the Project location during the Contract period; and

- V) All other activities, functions, or elements necessary to the successful completion and subsequent approval of the Project by the Department.

4.0 BASIC PROJECT CONFIGURATION

The Basic Project Configuration shall consist of the following:

- A) The Project Limits;
- B) The horizontal and vertical alignments for the roadway surface;
- C) The bus loop;
- D) Canopy;
- E) Site lighting;
- F) Stormwater management;
- G) Location of the future building;
- H) Number and size of parking spaces, shoulders, sidewalks, barriers, handrails, bike paths, and tie-ins to existing roadways;
- I) The minimum vertical and horizontal underclearances for vehicular traffic; and
- J) The Right-of-Way limits.

4.1 Standard for Determining Materiality of Change in Basic Project Configuration

The following are the standards for determining materiality of Basic Project Configuration changes:

- A) A change in the proposed location;
- B) Any significant reduction or significant expansion of Project Scope;
- C) A change in the Contract utility provisions;
- D) Any change in the Project Right-of-Way limits depicted; and/or
- E) Any change in this Section requiring a change in the Environmental Assessment/Finding of No Significant Impact.

5.0 DEPARTMENT-PROVIDED MATERIAL OR EQUIPMENT

The Department will not be providing any design, Material, or Equipment for the Design-Builder's use.

Remainder of page blank

STATE OF DELAWARE



DEPARTMENT OF TRANSPORTATION

DESIGN-BUILD PROJECT

for

DOVER TRANSIT CENTER

Dover Transit Center
State Contract # 25-020-01
Federal Contract # ERRA-2009(31)

SCOPE OF SERVICES PACKAGE

CONTRACT DOCUMENTS

PART 1 – APPENDIX A

AGREEMENT

This page blank

AGREEMENT

for

CONTRACT NO. 25-020-01

Federal Aid Project No. ERRA-2009(31)

THIS AGREEMENT, made and executed in quadruplicate, the day, month, and year affixed by the signature of the Department of Transportation's representative.

BY AND BETWEEN THE DELAWARE DEPARTMENT OF TRANSPORTATION (**Department**), a department created under the laws of the State of Delaware, party of the first part, and ~DESIGN-BUILDER NAME~, ~ DESIGN-BUILDER ADDRESS~, ~ DESIGN-BUILDER CITY~, ~ DESIGN-BUILDER STATE~ ~ DESIGN-BUILDER ZIP~ (**Design-Builder**), party of the second part.

WITNESSETH that the **Design-Builder** in consideration of the covenants and agreements herein contained and made by the **Department**, agrees with the **Department** as follows:

ARTICLE ONE. The **Design-Builder** shall and will provide and furnish all the material, machinery, implements, appliances, and tools, and perform the work and labor required as defined in the Project Scope Part 1 of the Contract Documents, in Kent County in the State of Delaware, as shown in the contract documents identified by the signature of the **Design-Builder** and the Secretary of the **Department** or designee and are hereby incorporated by reference as part of this contract. The Contract consists of the "Contract Documents" including, but not limited to, the following:

- A) Part 1 - Project Scope;
- B) Part 1, Appendix A - Agreement (this instrument);
- C) Part 1, Appendix B - Errors and Omissions Policy;
- D) Payment/Performance Bonds;
- E) Part 2 - Design-Build Section 100;
- F) Part 3 - Design Requirements and Performance Specifications;
- G) Part 4 - Design-Build Special Provisions;
- H) Part 5 – Right-of-Way Certification;
- I) Part 6 – Location and Environment Statements; and
- J) Part 7 - **Design-Builder's** Proposal.

For these purposes, all of the provisions contained in the listed Contract Documents are incorporated herein by reference with the same force and effect as though said Contract Documents were herein set out in full.

The **Design-Builder**, after the execution of the Contract and approval of the bond, shall begin work within ten (10) days from the Notice to Proceed, as the Engineer may direct, and have the transit center available for operation no later than April 30, 2011, and shall complete the Contract on or before July 31, 2011.

ARTICLE TWO. It is understood and agreed by and between the parties hereto that all the construction and work included in this Contract is to be done under the direction of the Secretary of the **Department** and that his/her decision as to the true construction and meaning of the proposal, plans and

specifications shall be final.

It is understood and agreed by and between the parties hereto that such additional drawings, plans and specifications as may be necessary to detail and illustrate the work to be done are to be furnished by the Engineer, and they agree to conform to and abide by the same so far as it may be consistent with the purpose and intent of the original proposal, plans and specifications incorporated by reference as part of this Contract as provided in Article One.

ARTICLE THREE. If the construction or work to be done under this Contract shall be abandoned, or if this contract, or any part thereof shall be sublet without the previous written consent of the **Department**, or if the Contract shall be assigned by the **Design-Builder**, otherwise than as herein specified, or if at any time the Director of Transportation Solutions shall be of the opinion, and shall so certify in writing, that the work, or any part thereof, is unnecessarily or unreasonably delayed, or that the **Design-Builder** has violated any provision of this contract, the **Department** may notify the **Design-Builder** to discontinue all work or any part thereof; and thereupon the **Design-Builder** shall discontinue such work or such part thereof as the **Department** may designate, and the **Department** may thereupon, by a Contract or otherwise, as it may determine, complete the work, or such part thereof, and charge the entire expense of so completing the work or part thereof to the **Design-Builder**; and for such completion the **Department** for itself or its contractors, may take possession of or use or cause to be used in the completion of the work or any part thereof, any of such machinery, implements, tools, or materials of any description as shall be bound upon the line of the work, and thereafter accounting for, or paying to the **Design-Builder** a reasonable compensation for the use of the machinery, implements, tools, or materials.

All costs and charges that may be incurred under this article or any damages that should be borne by the **Design-Builder**, shall be withheld or deducted from any moneys then due, or to become due to the **Design-Builder**, under this contract, or any part thereof; and in such accounting the **Department** shall not be held to obtain the lowest cost for the work of completing the Contract or any part thereof, but all sums actually paid therefore shall be charged to the **Design-Builder**. In case the costs and charges incurred are less than the sum which would have been payable under the contract, if the same had been completed by the **Design-Builder**, the **Design-Builder** shall be entitled to receive the difference and in case such cost and charges shall exceed the sum, the **Design-Builder** shall pay the amount of excess to the **Department** for the completion of the work.

ARTICLE FOUR. It is further mutually agreed between the parties hereto that no estimate given or payment made under this Contract shall be conclusive evidence of the performance of this Contract either wholly or in part, and that no payment shall be construed to be an acceptance of defective work or improper materials.

(REMAINDER OF PAGE BLANK.)

IN WITNESS WHEREOF, the parties to these presents have duly executed this **AGREEMENT** in quadruplicate the day, month and year affixed by their signatures.

SEALED, AND DELIVERED IN THE
presence of

Name of **Design-Builder**

Attest: _____

By: _____

Authorized Signature

CORPORATE SEAL

Title

Dated: _____

In the case of a corporation, firm, or partnership, this contract must be signed by the appropriate officials of such corporation, firm, joint venture, or partnership and their corporate seal must be affixed hereto.

FOR THE STATE OF DELAWARE, DEPARTMENT OF TRANSPORTATION

SEAL

Attest: _____

By: _____

Martha N. Dobson, Director, Technology
and Support Services

Natalie Barnhart, Director of Transportation Solutions

Dated: _____

Approved as to Form:

Frederick H Schranck
Deputy Attorney General

Dated: _____

STATE OF DELAWARE



DEPARTMENT OF TRANSPORTATION

DESIGN-BUILD PROJECT

for

DOVER TRANSIT CENTER

Dover Transit Center
State Contract # 25-020-01
Federal Contract # ERRA-2009(31)

SCOPE OF SERVICES PACKAGE

CONTRACT DOCUMENTS

PART 1

APPENDIX B – ERRORS AND OMISSIONS

This page blank

**DEPARTMENT POLICY IMPLEMENT A-26
ERRORS AND OMISSIONS**

The following document is a policy implement of the Department required in all Agreements that involve professional services. The policy was not created with Design-Build procurement in mind. Therefore, for this Project the word “Consultant” as used in this policy shall be interpreted to mean “Design-Builder.”

This page blank

POLICY IMPLEMENT
STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION

P.I. Number: A-26

Errors and Omissions Policy

References:

Issued: 1/1/1999

Revised: n/a

Expires: n/a

Table of Contents

I. Insurance

II. Assignment of Responsibility

III. Error and/or Omission Discovery

This document includes a general discussion on errors and/or omissions occurring during project implementation, how to initiate a correction for an error or omission, and what each party's responsibilities are in making the correction. The Department intends to seek reimbursement for additional costs (defined below) associated with correcting errors and omissions during planning, design and construction, including but not limited to, multiple report rewrites, construction costs, and construction engineering.

I. INSURANCE

This document does not address the types of liability insurance a firm may need to carry. Insurance usually carried by consultants includes Comprehensive General Liability, Comprehensive Automobile Liability, Workers Compensation and Employers Liability, Professional Liability, and other specialty insurance required in an agreement or that a firm may consider prudent based on the scope of work. The actual agreement covering the work will specify the minimum insurance requirements.

II. ASSIGNMENT OF RESPONSIBILITY

Services procured under the auspices of this document are considered "Professional Services". This in itself infers that, no matter what the scope of work entails, there are associated, industry professional, standards which are expected to be met. For projects involving public safety, meeting these standards takes on even more significance. Firms selected through the process described in the DelDOT Professional Services Procurement Manual are the best technically qualified, with a proven history of meeting similar contract obligations. Such designation carries with it an acknowledgement of the firm's responsibility to know the accepted standards for doing business in Delaware. Because of the Department's review process and the involvement of many internal support sections as well as other state agencies, utility companies, public groups, municipalities, and the like, acceptance of the responsibility for an error and/or omission in a professional manner will depend on good project monitoring. The Project Manager must ensure that full and complete review and comment records are kept by both the Consultant and the Department. It is required that an office copy of each marked or edited review submission and comments be prepared and retained for future reference. Detailed minutes of project review meetings are also required.

Because of the underlying expectation that a firm will comply with established standards throughout project development, there are occasions when a Project Manager and their Section Head will determine that a firm may not have met this obligation. When discovered, the error and/or omission should be reported immediately to the Consultant for resolution. While invoices should annotate the time and associated costs for correcting the lapse, the Department shall not be charged to correct errors and/or omissions.

III. ERROR AND/OR OMISSION DISCOVERY

Definitions:

Errors are defined as unknown, ignorant, or unintentional deviations from accuracy or correctness. Errors may arise from mistaken judgment, misplaced confidence, incorrect belief as to the existence or effect of matters of fact, or other actions. Errors also include failure to meet established Delaware requirements, or design standards for that type of project, (i.e., AASHTO, FHWA, EPA, FTA, DelDOT or other established government requirements or design standards).

Omissions are defined as missing or unmentioned detail or requirements through either failure to perform properly, neglect, or failure to use reasonable care. Omissions also include failure to identify and implement cost-effective solutions.

Additional costs refers to that portion of the project cost the consultant is responsible for which includes those expenses over and above the cost the Department would have incurred had the error or omission not been made.

Example #1: A mistaken quantity that results in an unbalanced bid situation shall constitute an error whereas a mistaken quantity that results in the expense of additional materials to the Department shall not cause additional costs to the consultant except for the recalculation.

Example #2: If the consultant under-designs a sign structure, the consultant shall be responsible for the re-design as well as the construction cost, if any, of the under-designed structure. Likewise, if the consultant overdesigns a sign structure, the consultant shall be responsible for the redesign as well as the increased cost of the over-designed structure.

Example #3: The Department will pay the expense of the first re-write of any reports being developed under contract. The cost of report re-writes after that first re-write will be considered additional costs to the consultant.

During Project Development

Errors and/or omissions discovered during project development are relatively easy to resolve when identified early because the Consultant's Project Manager and the Department's Project Manager are both aware of the circumstances surrounding the problem. The major issue remaining involves arriving at a mutual agreement on whether full, partial or no compensation is due the Consultant to correct the problem. (See Resolution below.)

During Implementation or Construction

Most often it will be obvious if a Consultant error and/or omission truly occurred. Frequently, however, there is a time lapse between the completion of professional services to develop the project and actual implementation of the plan, project, or construction. Associated with this delay is the updating and modification of completed work because of changes in specifications, updated regulations, legislative initiatives, or additional valid comments for improving a project. Most often, corrections or modifications are performed by Department staff, however, they must be immediately reported to the Department's Project Manager and in turn, to the Consultant. In essence, the quality and content of a project become a shared responsibility. Changes of specifications, updated regulations, legislative initiatives, or comments

for improving a project after acceptance of the final design, shall in no way be construed as an error/or omission.

Professional responsibility of the Consultant preparing the project does not terminate with acceptance of the product and/or final payment for its development. Failure to discover the error and/or omission during the design, review or implementation of the project does not relieve the Consultant of their responsibility to correct the effects of the error and/or omission. The extent of the responsibility of the consultant for payment for correcting any errors and/or omissions may be in question, but the active participation of the firm in resolving a problem upon request is mandatory. The level of the Consultant's participation shall be determined by the Department.

The procedure to initiate the correction of an error and/or omission lies with the person responsible for ensuring proper implementation of the plan, project, or construction. At the first indication of an error and/or omission, the Department's representative should notify the project Supervisor. All subordinates should be instructed to keep detailed documentation on the work being performed.

At this same time, the Department's Project Manager responsible for developing the project, if not the person identifying the error and/or omission, should be notified. Depending upon how critical a correction is to project scheduling, report preparation and review may be impractical. When such timing is critical, the Project Manager is verbally notified, and guidance is requested with emphasis on what additional data is needed to document and resolve the error and/or omission. The Department's Project Manager, in turn, should immediately advise the consultant, the supervisor, and up through the chain of command as necessary.

The Department holds the prime Consultant responsible for all work performed or not performed under an agreement including that of any subconsultants. When necessary, based on the opinion of the Department's Project Manager, section head, District Engineer, Deputy Director, and/or Director, the prime consultant will be notified of the problem and requested to participate in a solution in cooperation with Department staff. There will be no compensation to either the prime or subconsultant for services related to the verification and correction of an error and/or omission unless as otherwise agreed. The primary objective is to keep the project on schedule by proposing a viable alternative. Records should be kept of any immediate action taken to correct the situation.

Resolution

The Department's Project Manager shall document the error and/or omission that was identified, collect all supporting materials, review their findings with the Consultant, determine the required action to correct the error and/or omission and analyze the cost impact of the resolution (including but not limited to materials, overtime, and force account). All documentation shall be presented to the Section Head. The prime Consultant is expected to participate at the appropriate level, from site visits to preparation of corrective documents. Much of this participation is mutually agreed to as solutions are developed.

The Section Head (or Assistant Chief Engineer for Project Management Team) will review the materials, discuss the resolution options with the Consultant and make a final recommendation to their Assistant Director (or Chief Engineer for Project Management Team) for review. At the conclusion of the Assistant Director's review, the recommendation will be presented to the Director or Deputy Director for approval. For the Project Management Team, the Chief Engineer's decision shall govern.

Appeal

Should the Consultant not participate in the resolution process or disagree with the finding of financial responsibility as presented, the Consultant can schedule a review with the Deputy Director or Director (Chief Engineer for Project Management Team). The Deputy Director or Director can modify the terms of the resolution or refer the appeal to the Secretary per the Consultant agreement's appeal process.

Default

Should the Consultant not honor the terms of the final resolution, the Department, for just and definable acts, has the option of filing a Consultant insurance claim, filing legal process for restitution, terminating all current agreements, or barring the firm from further work with the Department for up to five years, or any combination thereof.

Remainder of page blank