

## 8. Contract Administration in the Office

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### 8.1. Contract Administration – General

Construction contract administration involves more than simply inspecting and testing the construction operations, and measuring and accepting them. This Section covers many of the other administrative responsibilities of the Project Engineer and project staff. A few of them, along with Section references where more information may be found, are the following:

**Communication requirements:** coordination with maintenance and operations personnel (Section 3.12) and with federal agency representatives; keeping all the communication channels open with the prime contractor and all of the subcontractors (Sections 3.9 and 9.1); reporting the progress of the project (Section 10.5).

**Review and approval requirements:** subcontracts (Section 8.2); materials submittals (Section 8.3); mix designs (Section 11.3); transportation management plans (Sections 3.10 and 9.8); storm water pollution prevention plans and hazardous materials control plans (Sections 3.11 and 9.9).

**Monitoring requirements:** utility relocation or extension agreements; attainment of DBE goals (Section 7.2); construction progress schedule updates (Section 8.5); compliance with federal and/or state labor (Section 7.3) and occupational safety requirements (Section 6.4 and 6.5); compliance with the TMP (Sections 3.10 and 9.8), with the airport construction safety plan (Sections 3.7 and 9.7) and with the SWPPP and HMCP (Sections 3.11 and 9.9); contractor, subcontractor and owner-operator insurance certificates.

**Financial requirements:** evaluating, recommending and authorizing contract changes (Section 12); preparing progress payments (Section 12); authorizing federal reimbursement requests (Section 8.6); and constantly monitoring the status of project expenses and project funding (Sections 3.1 and 8.6).

**Record keeping requirements:** documenting and reporting the contractor's operations (Sections 10.3 and 10.5); maintaining the project records (Sections 4.2 and 4.3); keeping quantity records updated (Sections 10.4 and 12.4); updating as-built drawings (Section 8.7).

### 8.2. Subcontract Process

Within five days of the identification of the apparent low bidder (AS 36.30.115), the apparent low bidder must submit its Subcontractor List (Section 3.4) to the Department, indicating which pay items they intend to subcontract and to which firms. Once the contract is awarded, the contractor is obligated to subcontract the pay items as indicated on the form.

The contract (specifications Section 103-1.02 or GCP 30-02) and AS 36.30.115 state the only grounds under which the contractor may deviate from the **Subcontractor List** without the possibility of penalty or termination of contract. *Contracting Officers Bulletins 98-001 and 99-003*, clarify the penalties for violating the requirements of the contract and Alaska Statute. The contractor may enter into additional subcontracts as a result of change documents without violating the terms of the contract or Alaska Statutes.

Directions regarding subcontract review are given to the contractor at the preconstruction conference (Section 3.8).

Before a subcontractor (including lower tier subcontractors) can begin work on the contract, the Department must have either received, or reviewed and approved, the subcontractor's information using one of the two following methods:

#### 8.2.1 Self Certification Process

The contractor must submit a Contractor Self Certification for Subcontractors and Lower Tier Subcontractors (Form 25D-042) and other documents required by contract for each subcontractor. The contractor may submit documents to the Regional

Contract Compliance Liaison (RCCL) either directly or through the Project Engineer.

The RCCL reviews Contractor Self Certified subcontracts by comparing each self certification against the Subcontractor's List and DBE Utilization Report.

The RCCL will select at least one in ten contractors self certifications per project for full compliance review. The RCCL will review the subcontractor agreement, licenses, and any other documentation relating to the certification (see full subcontractor agreements below). The RCCL may select more than the required one in ten for full review, for any reason.

The RCCL does not need to provide written approval to the contractor of Form 25D-042 and subcontracts submitted to the Department.

The RCCL must keep a detailed record identifying which certifications were selected and reviewed for full compliance.

Demonstrating that at least one in ten receives a full compliance review is a condition of FAA and FHWA approval of the Contractor Self Certification process.

### **8.2.2 Full Subcontractor Agreements Process**

The Department may, at its discretion, require the contractor to submit any or all subcontract agreements to the RCCL either directly or through the Project Engineer for review and approval. If the subcontract agreements are acceptable the RCCL will give written approval for each subcontract.

The RCCL reviews the supporting subcontractor agreement and other documentation including:

- Licenses
- Mandatory standard language,
- Subcontractor prompt payment requirements (AS 36.90.210),
- Certification that the subcontractor is adequately insured,
- Cumulative percentage of the contract that is being subcontracted.

### **8.2.3 Unauthorized Subcontractors**

Under the terms of the contract, the Project Engineer cannot allow a subcontractor to perform any work on the project prior to the Department receiving the completed and signed Contractor Self Certification

(Form 25D-042) and other documents required by the contract. If the contract or RCCL requires full subcontract agreement submittals, no subcontractor can perform any work on the project prior to the approval letter from the RCCL.

If the Contractor does not submit Form 25D-042 or a full subcontract agreement for a subcontractor, and the subcontractor works on the project, upon discovery the Engineer should:

- contact the RCCL
- direct the Contractor to remove the subcontractor from the worksite
- withhold progress payments for the subcontractor's work until proper paperwork is submitted or approved

## **8.3. Reviewing Materials Submittals & Working Drawings**

Certain off-site manufactured, fabricated, structural and/or specialized contract pay items obligate the contractor to provide the Project Engineer with information, verifying that the material or assembly meets the contract requirements, before the items can be ordered. This information, in the form of materials submittals, may vary from manufacturer's tear sheets and catalog cuts on standard manufactured items, to laboratory test results, to certifications establishing a material's point of origin or manufacture, to manufacturer's certifications and, in some cases, to working (shop) drawings on custom manufactured items.

The contract requires the Project Engineer to review and approve all submittals prior to the contractor ordering material. The Project Engineer may also require fabrications or assemblies to be inspected and approved prior to their shipment to the project site.

The contractor can begin making submittals of materials, products, and drawings after they receive a Letter of Award.

The contract requires that the contractor provide the Project Engineer with a list of their materials suppliers (Section 3.8); and a list showing anticipated dates for procurement of materials and equipment, furnishing of working drawings, and other reviewable items.

### **8.3.1 Special Clauses**

FHWA-funded projects contain Buy America Act requirements (Section 7.5). The contractor is required

to sign a Buy America Material Origin Certificate (Form 25D-60) and provide a certification of origin for all applicable items prior to their incorporation into the project.

FAA-funded projects (Section 7.4) require the contractor to sign a Buy American Certificate, (Form 25D-061).

State-funded projects contain Alaska Product Preferences (Form APPW) requirements, usually for timber. The contractor is required to submit a copy of the product specifications, any exceptions to the product specifications that are applicable to the specified product, evidence substantiating the declared value of the product, and an installation schedule for the item (ACM 7.6).

### **8.3.2 Submittal Process**

The contract requires that the contractor prepare a Submittal Register (Form 25D-030) to track working drawings, and other submittal items. Material submittals are tracked with the MCL. The submittal process, with review procedure and time deadlines, is described in the contract under Highway Specification 106-1.08 or Airport Specification GCP 60-08. Some other specifications have alternate submittal review processes and deadlines.

The Project Engineer reviews submittals for content and completeness, and to determine whether the project staff or other reviewer has the expertise to determine the submittal's acceptability. If the submittal changes a sealed design in a technical manner (see ACM 13.6), the submittal review should include the designer of record (or designated professional in their section).

If a submittal is incomplete, it should be marked resubmit and returned to the contractor with the reasons listed. The reasons (insufficient information) may or may not include a comprehensive list of missing information.

The Project Engineer distributes complete submittals to the reviewers. The reviewer should mark the submittal with a review stamp or written direction, and sign the mark. Indicate the submittal status as: approved, conditionally approved with the conditions listed, resubmit (due to incomplete information), or rejected (disapproved) with the reasons for rejection listed. When the Project Engineer returns a conditionally approved or rejected submittal to the

contractor, the Project Engineer must explain in detail the requirements to make the submittal acceptable.

### **8.3.3 Bridge Submittal Reviews**

The Project Engineer should send shop drawings and other structural submittals for Department designed bridges to the bridge design section for review. The Project Engineer should send shop drawings and other structural submittals for consultant designed bridges to the consultant for review. The Project Engineer should choose which section will review other bridge related items based on Department or consultant staff expertise. The bridge design section also reviews the submittals for temporary bridges used by the public, including an Independent Design Check letter and a Temporary Bridge Package (design calculations, working drawings, and specifications). See Appendix for Temporary Bridge Submittal Checklist.

### **8.3.4 Materials Certification List (MCL)**

On highway and airport projects, a MCL is included in each contract (ACM 4.5). The MCL lists all material certifications required by contract, and lists Department positions that have approval authority.

The Project Engineer will maintain the MCL in the field office and use the MCL to track the status of all material submittals on airport and highway projects that require material certification. If the MCL is not complete, list other materials that are required by contract to have material certifications on the MCL.

The MCL may require that the Design Engineer of Record, Regional Materials/QA Engineer, Statewide Bridge Engineer, Regional Traffic Engineer, or the Statewide Materials/QA Engineer approve the submittal. Write the date that approval is received in the box on the MCL. After receipt of the approved submittal note the file location of the material certificate.

The Project Engineer may accept a product without a manufacturer's certification (or other Department approvals), if it appears on the Qualified Products List (ACM 4.6) or the FAA AC 150/5345-53, provided it meets contract requirements. An invoice, catalog cut, or proof of purchase is still required, and is stored in project files.

### **8.3.5 Airport L Series Items**

The Airport standard specifications require that materials or equipment in the L series of bid items must be chosen from the current FAA Advisory

Circular (AC) 150/5345-53, Airport Lighting Equipment Certification Program. The Project Engineer can only approve material or equipment that is certified by FAA. Any L series bid items not included in the FAA certified list, such as beacon towers and electrical duct, will be evaluated by the Department using submittal documents.

### **8.3.6 Off Site Testing**

If a particular material requires off-site testing and/or inspection, the Project Engineer usually contacts the Project Manager to make the arrangements for use of the Term Contracts managed by Statewide Materials, see Section 11.7 Term Contracts and Job Order Procedures.

### **8.3.7 Inspection**

When each off-site manufactured item is received at the project site, it should be inspected and compared to the approved materials submittal. The item should be undamaged by shipping and storage. Note the inspection in the Inspector's Daily Report or diary.

### **8.3.8 Project Materials Reports**

If the item is an off the shelf purchase or small quantities of miscellaneous materials on the MSTF table, use the Project Materials Report (Form 25D-080) to document the item.

### **8.3.9 Material Records**

The Project Engineer keeps records on all material certifications, material invoices, freight bills, and mill certificates that are submitted. These records must provide enough information to identify the date, company and location of invoice (bill, certificate); project name and number where material will be incorporated, manufacturer, product number, and quantity.

### **8.3.10 Building Plans**

If the contract requires the contractor to submit detailed building plans, the Project Engineer and the State Fire Marshal's Office must review and approve those plans (13 AAC 50.027). Building and site development plans may also need to be submitted to local government agencies for their review and approval. When plans have been approved, the State Fire Marshal's permit and local government building permits must be kept in the field office.

## **8.4. Other Administrative Approvals**

On projects involving truck haul operations, a bona fide *truck owner-operator* is not considered a subcontractor and is not an employee of the contractor provided that he or she complies with the contract conditions establishing owner-operator status. The truck owner-operator does not have to be on the subcontractor's list.

However, the contractor is responsible for reviewing the credentials of each owner-operator and approving that status. Prior to the review and approval of their credentials, owner-operators are treated as employees of the contractor and must appear as employees on the certified payroll.

Truck owner-operators must submit to the contractor their Alaska Driver's License, their truck registration, their Alaska Business License, and proof of ownership or their ownership interest in the truck. The contractor must review and approve this information before the contractor can list the owner-operator as such on their certified payroll. The contractor must maintain this documentation in the files for the period of time specified in the contract. In addition to these requirements, the truck owner-operator must qualify as an independent contractor under Alaska Department of Labor criteria; further details on this and on other owner-operator matters are contained in the contract.

If the Project Engineer receives notice of the *loss of a contractor's insurance coverage or bonding coverage*, through cancellation or insolvency, the contractor must immediately be notified that he or she must completely restore the lost coverage. The contract specifies the time frames, if any, that apply and the procedures the contractor must follow in replacing the coverage.

If a contractor wishes to designate a third party to receive the payments on the contract or wishes to transfer the remaining work to another contractor, this is known as an *assignment*. The approvals of the contracting officer and of the contractor's bonding agent are both required. The contractor must present a written request to the Project Engineer, in accordance with the contract. The request will be subject to the review of the contracting officer. If an assignment of payments is approved, it is for the contractor's convenience only, and does not relieve the contractor of any contract obligations. When applicable,

withholding and/or liquidated damages are withheld, it is the same as if the assignment had not occurred.

## 8.5. Construction Progress Schedule

A copy of the contractor's current construction progress schedule should be posted in the field office. The contractor's progress on the individual pay items and the overall estimated value of work completed to date, should be calculated and posted on the schedule each week. This gives the Project Engineer and project staff members an idea of the contractor's actual versus intended progress.

If the contractor falls behind or consistently works ahead of the schedule, or if significant changes are made to the contract via contract change documents or quantity changes, to the extent that the dates and sequence of the information lose their significance as a scheduling or monitoring tool, the Project Engineer should request that the contractor submit a revised progress schedule. Revised schedules should be reviewed in the same manner as the original schedule (Section 3.5).

## 8.6. Coding, Monitoring Expenses & Reimbursement Requests

Staff members involved in coding invoices for payment, including contractor payment, must be careful to properly establish the eligibility for reimbursement of each item authorized for payment, and properly code each item. Section 2.1 covers the mechanics of the coding system; if questions arise concerning eligibility of the individual items, the Project Engineer should review Departmental Policy and Procedure 26-3501 covering the categories of costs and should consult with the Group Chief/PM.

The Project Engineer or regional traffic control coordinator should randomly spot check law enforcement billings to ensure the dates and times invoiced are in substantial agreement with the actual work. Ensure billing is consistent with the overall law enforcement agreement. Compare the billable hours with independent records in the project staff diary or daily report. If dates and hours are not in substantial agreement then resolve the billing discrepancies with law enforcement. Document the items spot checked, discrepancies found, and their resolution.

On federally funded projects, construction costs are divided into two categories: participating expenses and non-participating expenses (Section 2.2). This

breakout of expenses is shown on the progress payments on the Recapitulation Sheet (Form 25D-199) by properly coding the construction costs to either the participating ledger code or to the non-participating ledger code. All construction costs are coded to the same account code and all are also coded to the same program code except for:

- contractor-furnished engineering items (field office, field lab, vehicles, meals and lodging), and
- ARFF vehicles and snow removal equipment purchased by the Department on federally funded airport projects.

The **Group Chief/PM or designee** should review total expenses in each funding category (participating and non-participating), and accumulation of expenses for each support group, under their program codes on line in AKSAS. The **Group Chief/PM** should periodically compare the buildup of expenses with the support groups' budgets for those program codes. If expenses in any budget segment look out of place, review the individual charges via the on-line audit trail or request a printed audit trail from the project control unit. Any excessive or potentially erroneous expenses should be brought to the attention of the **project control unit, and the support group that charged the expense. If there is an error the responsible** party must initiate the correction.

Support groups **may submit** a revised budget for the Group Chief/PM's **or designee's approval**. If the need for additional funding in the construction phase arises, the Group Chief/PM should coordinate with the project control unit. Each project's financial situation is unique, but in all cases the more advance notice that the project control unit has, the more likely it is that additional funding will be available.

On federally funded projects, the Department periodically requests reimbursement for eligible expenses from the federal funding agency (14 CFR 151.61 ff and 23 CFR 140.105).

On FHWA-funded projects, the Department's Federal Aid unit prepares the project Progress Vouchers using the expenditure information in AKSAS. One billing covering a number of projects is submitted directly to the FHWA. The Project Engineer and project staff involve themselves in this process through their review of their projects' expenditure information in AKSAS.

On FAA-funded projects the reimbursement requests are prepared, on a grant-by-grant basis, according to regional procedures using the same AKSAS expenditure information. The Project Engineer reviews these Grant Reimbursement Requests for accuracy and reasonableness. The Group Chief/PM or the Project Engineer signs the request and submits it to the FAA for a draw down on the project's letter of credit.

The Department follows similar reimbursement procedures on projects containing Reimbursable Services Agreements (RSAs) or utility agreements. The regional finance unit prepares the reimbursement requests periodically, using the financial information in AKSAS. The Project Engineer reviews the billings, and the finance unit submits them directly to the other agency or utility. The Project Engineer monitors the reimbursements from the FHWA, the FAA or from any other entity on-line in AKSAS.

### **8.7. Recording As-Built Changes**

The Project Engineer should clearly identify to all project staff members the set of drawings that is set aside for recording as-built changes (see Section 4.2). Throughout the project, as changes occur to the design shown in the plans and as new pay items are added to the contract and original items are deleted, project staff must revise and update the designated set of marked up as-built drawings in the field office on a timely basis. The Project Engineer should impress on each staff member the importance of entering the changes to the plans immediately on the drawings.

The Project Engineer or project staff member associated with the change should enter all corrections, revisions, or additions to the work on the as-built drawings. New drawings or sketches should be added to the set as appropriate. Certain information on the drawings does not need to be updated, particularly information of no significance to the finished project like temporary construction features, staged construction schedules, or temporary traffic control measures.

Update the following information on the as-built drawings: changes in horizontal or vertical alignment; changes in typical sections or new typical sections; new or revised utility locations; changes to electrical wiring diagrams and installations; changes to automated traffic recorders; as-built location and dimensions of all structures; changes in survey control or right of way/property monuments; changes in

drainage features; as-built data on materials sources including areas developed and waste areas (if included in the drawings); as-built location and dimensions of piles, foundation elevations and subsurface structural details; revisions/substitutions of materials or equipment; estimated quantities should be revised to final quantities; all change document work. In short, any change made during construction to a permanent feature of the project, should be correctly shown on the final as-built drawings.

### **8.8. Administrative Reviews & Inspections by Others**

The Project Engineer and project staff, in addition to inspecting the contractor's operations, are themselves subject to inspections and reviews by numerous groups.

Periodically the Group Chief/PM will visit the project site, as may other regional employees including the contracting officer, the design engineer, traffic and safety, environmental, and maintenance and operations employees.

#### **8.8.1 Regional Quality Reviews**

On all projects, the regional quality assurance/review unit may make periodic field reviews to check project documentation, record keeping and progress payment quantity calculation procedures, as well as to inspect field laboratory equipment, record keeping, and testing procedures.

#### **8.8.2 Annual Regional Traffic Reviews**

Each region must conduct an annual work zone traffic control and safety review (except for the year the joint review is held in that region) according to P&P 05.05.015. The Regional Construction Engineer must write a review summary memorandum to the Chief of Design and Construction Standards within three weeks of the review.

#### **8.8.3 Annual Joint Traffic Control Review**

D&ES will perform a joint traffic control review in one region each year as defined in P&P 05.05.015. The reviews are rotated each year, so each region has a review every three years. The reviews may evaluate all aspects of the traffic management plan (including TCP, PIP and TOP) implementation, traffic routing plans, impacts on traffic delay, safety, inter project coordination, quality of daily reviews by the

contractor and Department personnel, project records, and other aspects of the project.

D&ES will write a review summary memorandum and distribute it to the regions and to the FHWA within three weeks of the review. Significant issues identified in the review will be reported to FHWA and Department construction personnel at regional spring construction meetings.

#### **8.8.4 Statewide D&ES Reviews**

D&ES staff may review projects and project records to evaluate the implementation of TMPs, work zone traffic and safety, and SWPPPs, and for conformance with the *Alaska Construction Manual* and the Department's policy and procedures. D&ES staff will not direct the Project Engineer, project staff, or the contractor.

Regional construction management will be notified before a review occurs. Regional staff will, typically, participate in the review to assist and inform the reviewer. The results of the review will be distributed to the regional construction management.

#### **8.8.5 Other State Reviews and Audits**

The Department's Internal Review unit auditors and Legislative Budget and Audit auditors, may review the project's records as they relate to financial matters such as contractor and consulting engineering contract payments and reimbursement requests to federal and other agencies. DOLWD may conduct OSHA safety inspections. DEC may conduct SWPPP inspections.

#### **8.8.6 Federal Reviews**

On federally funded projects, federal agencies can inspect the contractor's operations and the field operations of the Department (14 CFR 151.49a). The funding agency, The Office of Management and Budget, and the Inspector General may inspect the project's records.

The United States Coast Guard and the American Bureau of Shipping (and COE, USFW, NMFS, and DEC) may conduct periodic inspections of marine vessel projects to insure compliance with their agencies' regulations.

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