



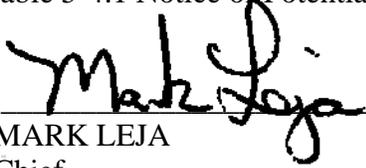
Construction Policy Bulletin

CPB 09-14 Request for Information

References: *Standard Specifications* Amended Section 4-1.03A, "Procedure and Protest"
Amended Section 9-1.04, "Notice of Potential Claim"
Construction Manual Section 5-402, "Types of Disputes"
Section 5-403, "Dispute Resolution Process"
Table 5-4.1 Notice of Potential Claim Process

Effective Date: December 3, 2009

Approved: _____


MARK LEJA
Chief
Division of Construction

Approval Date: December 2, 2009

Background

The 2006 *Standard Specifications* amendments included several improvements to the notice of potential claim process and terminology with the June 5, 2009, and July 31, 2009, contract amendments. A Request for Interpretation added under the June 5, 2009, contract amendments later changed to a Request for Information (RFI) under the July 31, 2009, contract amendments.

Contractors may use an RFI when an event or question of fact occurs under the contract. This bulletin formalizes the RFI and its inclusion in the potential claim process, establishes a date when the dispute starts, and supports early and better communication with the contractor.

Using an RFI allows resolution of an issue before a contractor needs to file an initial potential claim record.

This policy applies to both the request for information and the request for interpretation.

Existing Procedure

No procedure exists for a Request for Information.

Contractors submit a notice of potential claim for contracts under the 2006 *Standard Specifications* on forms: CEM-6201A, "Initial Notice of Potential Claim"; CEM-6201B, "Supplemental Notice of Potential Claim"; and CEM-6201C, "Full & Final Documentation." The resident engineer must provide a timely response to the contractor's dispute in accordance with Section 5-403A, "Response Guidelines," of the *Construction Manual*.

New Procedure

The contractor may submit an RFI at any time to clarify contract provisions, notify the resident engineer of a change in condition, or file a protest. The RFI must be in writing, numbered sequentially, and delivered to the resident engineer (in person, by mail, or by email) by the contractor. The resident engineer references the contractor's RFI number and responds in writing using any mode of delivery identified above within five business days. The date of the resident engineer's response to the RFI is the event trigger date for the initial potential claim record. The contractor must submit the initial potential claim record within five business days of the contractor's receipt of the resident engineer's response.

The resident engineer who cannot resolve an incomplete RFI submittal or a complex issue on a RFI within five business days should send a response to acknowledge the RFI, invite further discussion, request clarification, or advise the contractor of the date for a complete response.

The contractor has 15 business days to submit an RFI to protest any engineer's decisions, including approved contract change order, adjustment of contract time, delay, progress payment, weekly statement of working days, or liquidated damages.

When the contractor's RFI is not on time, Caltrans may be disadvantaged by limiting available corrective actions. The timeliness of the original RFI is one of the many considerations in evaluating a contractor's protest, especially when quantifying the contractor's damages and compensation requests.

The resident engineer has five business days from the date of receipt to respond to the contractor's initial potential claim record. The response acknowledges the dispute, directs the contractor on how to proceed with the potential claim work, and advises on the contractual timeline requirements to submit the supplemental and full and final potential claim record.

The attached revised Table 5-4.1 Request for Information and Potential Claim Process illustrates the RFI process and relationship with the notice of potential claim process.

The contractor must file potential claims on forms CEM-6201D, "Initial Potential Claim Record"; CEM-6201E, "Supplemental Potential Claim Record"; and CEM-6201F, "Full and Final Potential Claim Record," for contracts containing the June 5, 2009, or later amendments. Existing forms will continue to be used on projects under the 2006 *Standard Specifications*.

If you have any questions please contact Ronald Bacani, Division of Construction, at (916) 654-4452 or email at Ronald.Bacani@dot.ca.gov.

Attachments: Table 5-4.1, Request for Information and Potential Claims Process
References to the July 31, 2009, Contract Amendments
Sample Response to Initial Potential Claim Record
CEM-6201D, "Initial Potential Claim Record"
CEM-6201E, "Supplemental Potential Claim Record"
CEM-6201F, "Full and Final Potential Claim Record"