
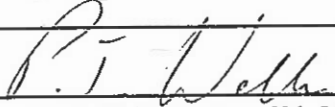


TO:  <b>SUPERSEDED BY          EB 96-027          EFFECTIVE 6/18/96</b>	 <h2 style="text-align: center;">ENGINEERING BULLETIN</h2> <p style="text-align: center;">NEW YORK STATE DEPARTMENT OF TRANSPORTATION</p> <p><b>SUBJECT: TIMELY NOTICE AND DOCUMENTATION FOR          ALTERED AND DISPUTED WORK</b></p> <p>Subject Code: 7.27-</p>
Distribution: 30 Main Office 32 Regions 34 Consultants	Code: EB #94-011
APPROVED:  <hr/> P. T. Wells, Deputy Chief Engineer Construction Division	Date: 5/19/94  Replaces:

Approximately five years ago the Department introduced new contract provisions and procedures for dealing with disputed work issues. For the past two years, the contract adjustment provisions of Section 109-16 have applied to all NYSDOT construction contracts. The stated intent of these provisions is to resolve disputes and adjust contracts in a fair and timely manner.

There are two themes which are the essence of these changes. First, NYSDOT is sharing in the risk of certain unknown or changed conditions by allowing adjustment to contract prices or time of performance. Second, these adjustments are intended to be made in a timely manner, reflecting actual project impacts resulting from certain conditions which are beyond the contractors and/or the Department's control. Critical components in assessing and adjusting contract work, which is changed or disputed, are timely knowledge and accurate documentation of the issues.

There are several instances in the specifications where timely notice and documentation are required. Recently issued EI 94-008 includes a reinforcement of the timely notice requirements for certain changed conditions. Department personnel should carefully review each contract for specific requirements regarding timely notice and documentation.

Regional Offices shall continue to consider compliance with the timely notice and documentation provisions of the Disputed Work and contract adjustment (Section 109-16) provisions when evaluating issues at the Regional level. This should include a reasonable interpretation of when the contractor(s) knew, or should have known, of a change or issue. This is the basis for timely notice and submission of documentation. In addition, Regional comments relating to disputes submitted to the Commissioner shall include an evaluation of timely notice and documentation.

The intent of the timely notice and documentation provisions is to allow consideration for contract adjustment based on the actual project conditions. While each issue deserves to be considered on its own merits, it is appropriate to determine that either of the contract parties has waived the right to adjustment by failing to provide notice or documentation in accordance with the contract.