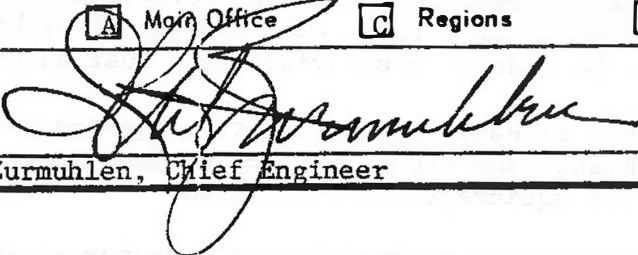


TO: Director, Preliminary Plan Review Bureau	<h1 style="text-align: center;">ENGINEERING INSTRUCTION</h1> <p style="text-align: center;">NEW YORK STATE DEPARTMENT OF TRANSPORTATION</p> <p style="text-align: center;">SUBJECT: AVAILABILITY OF CONSTRUCTION PROJECT RECORDS TO CONTRACTORS</p> <p style="text-align: center;">Subject Code: 7.32-1-1.00</p>
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APPROVED:  F. H. Zurmuhlen, Chief Engineer	

PRELIMINARY PLAN REVIEW
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There have been instances of delays in progressing final agreements due to late disputes regarding the eligibility of certain work for reimbursement and final quantities. Furthermore, there is need for a uniform policy regarding the degree of accessibility of certain types of project records to contractors. The following procedures and policies shall be effective immediately:

1. As soon as the engineer-in-charge of a construction project has determined the final quantity for a contract item (or several items), he shall promptly notify the contractor of such quantities on a periodic basis in order to attain concurrence therewith. The determination of such final quantities should be made as soon as is physically possible and not be deferred until the completion of the project. The final estimate should be substantially completed by the time the project is accepted. Whenever possible, advantage should be taken of Method of Measurement provisions which decrease the labor and time involved in determining final quantities. One such Method of Measurement, which has the potential for large labor and time savings, is 203-4.01 Payment Lines, in Section 203-Excavation and Embankment. On a job with simple typical sections, the final quantities could be computed well in advance and there would be no need for taking cross sections.
2. Where the contractor expresses a desire to review the final quantities, an opportunity should be afforded him to review with the project and/or regional personnel the methods of measurement and computations. The contractor should be allowed access to entries in final books and final computations and cross sections under the supervision of a Departmental employee.
3. Under the Freedom of Information Law, it is possible for a contractor, or for that matter an interested citizen, to have made available to him, any notes, records or documents which he desires, when such disclosure is not specifically exempted by statute or does not constitute an unwarranted invasion of personal privacy.

Therefore, this Department's policy will be to allow a contractor to inspect and, if he desires, to copy any records, notes, documents, etc., which apply to his particular contract while it is in the construction phase. The construction phase shall be defined to be the period of time between the date of award and time of final payment.

Such requests must be limited to concerns relevant to his operations; i.e.,

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engineering and payment information. Should a request seem to violate these bounds, it should be referred to the Deputy Chief Engineer (Construction). If a contractor's request is deemed to exceed the bounds for normal contract information, he will be so informed and, if he still desires the information, he may apply for access to the information under the provisions of the Freedom of Information Act (M.A.P. 2.7-1). In either case, should copies be required, appropriate arrangements must be made or appropriate fees must be charged.

4. The contractor may be permitted to have a representative witness and record for his own use final measurements and cross sections by Department engineers provided he does not handle any equipment or recordation.
5. Where the review of final computations desired by a contractor exceeds the normal amount of time required for a comparison of quantities at a meeting with Department staff, the personal service cost for the monitoring of such review should be charged to the contractor in accordance with standard charging procedures for Departmental services.
6. Periodically, there are requests from owners of borrow pits, plants, quarries and other supply sources for the quantities of certain items paid to the contractor. This information may be supplied under the Freedom of Information Act, see M.A.P. 2.7-1.
7. Where any discrepancy in final quantities or methods of payment cannot be mutually resolved between the Regional office and the contractor, such matters should be promptly called to the attention of the Deputy Chief Engineer (Construction), who may provide a satisfactory solution or request the initiation of a disputed work letter.