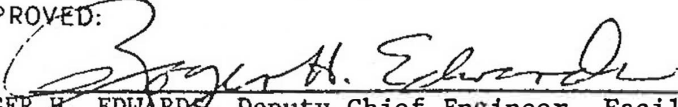


TO: SUPERSEDED BY EI 93-007 EFFECTIVE 11/18/93	<h1>ENGINEERING INSTRUCTION</h1> <p>NEW YORK STATE DEPARTMENT OF TRANSPORTATION</p>
	SUBJECT: VALUE ENGINEERING Subject Code: 7.27-1-104
Distribution: 31 Main Office 33 Regions <input type="checkbox"/> Special APPROVED:  ROGER H. EDWARDS, Deputy Chief Engineer, Facilities Design Div.	Code: EI.83-7 Date: 1/31/83 Supersedes:

The Value Engineering concept as an incentive to reduce construction costs is standard policy of the Federal Highway Administration and detailed in Federal Highway Program Manual 6-1-1-1.

Basically, the Contractor is encouraged to submit cost saving suggestions and is rewarded via a 50% share of the savings generated by his accepted suggestion.

In order to obtain the support for this concept from the State Comptroller Office and the Division of the Budget, we incorporated a special value engineering note in five large, complex contracts in 1980 and 1981 on a trial basis.

No contractor proposals were forthcoming. However, at the suggestion of the Federal Highway Administration, the note was modified to make it less restrictive and proposals should be forthcoming.

The approval of the Comptroller's Office and the Division of the Budget authorizing us to include the note in all contracts carried a stipulation that a two year study following implementation be conducted and reported to them. This study will be conducted by the Construction Division.

Attached is a copy of the approved value engineering note which will be inserted into all projects by the Final Plan Review Bureau beginning with the letting of April 7, 1983.

VALUE ENGINEERING

A. *PURPOSE AND SCOPE*

It is the intent of this provision to share with the Contractor any cost savings which may be generated on this contract as a result of a proposal or proposals offered by the Contractor and approved by the Department. The purpose is to encourage the use of Contractor's ingenuity and experience in arriving at alternative, lower cost construction than that reflected in the contract documents by the sharing of savings resulting therefrom.

The value engineering proposals contemplated are those that could produce a savings to the Department without, in the sole judgment of the Department, impairing essential functions and characteristics of the facility including but not limited to service life, economy of operation, ease of maintenance, desired appearance and safety.

B. *SUBMITTAL OF PROPOSAL*

As a minimum, the following materials and information shall be submitted with each proposal plus any additional information requested by the Department.

1. A statement that the proposal is submitted as a value engineering proposal.
2. A description of the difference between the existing contract requirements and the proposed change, and the comparative advantages and disadvantages of each, including considerations of service life, economy of operation, ease of maintenance, desired appearance and safety.
3. Complete plans and specifications showing the proposed revisions relative to the original contract features and requirements.
4. A complete cost analysis indicating the Final Estimate costs and quantities to be replaced by the proposal, the new costs and quantities generated by the proposal, and the cost effects of the proposed changes on operational, maintenance and other considerations.
5. A statement of the time by which an order-on-contract adopting the proposal must be executed so as to obtain the maximum cost reduction during the remainder of the contract. This date must be selected to allow the Department ample time for review and processing an order-on-contract, but without affecting the Contractor's schedule. Should the Department find that insufficient time is available for review and processing, it may reject the proposal solely on such basis. If the Department fails to respond to the proposal by the date specified, the Contractor shall consider the proposal to be rejected and shall have no claims against the State as a result thereof.
6. A statement as to the effect the proposal will have on the time for completion of the contract.
7. A description of any previous use or testing of the proposal on another Department project or elsewhere and the conditions and results therewith. If the proposal was previously submitted on another Department project, indicate the date, contract number, and the action taken by the Department.

C. *CONDITIONS*

Value engineering proposals will be considered only when all of the following conditions are met.

1. The Contractor is cautioned not to base any bid prices on the anticipated approval of a value engineering proposal and to recognize that such proposal may be rejected and that he will be required to complete the contract in accordance with the plans and specifications at the prices bid.
2. All proposals, whether or not approved by the Department for use in this contract, apply only to the on-going contracts or contracts referenced in the proposal and become the property of the Department and shall contain no restrictions imposed by the Contractor on their use or disclosure. The Department shall have the right to use, duplicate and disclose in whole or in part any data necessary for the utilization of the proposal. The Department retains the right to utilize any accepted proposal or part thereof on any other or subsequent project without any obligation to the Contractor submitting the same.

3. If the Department already has under consideration certain revisions to the contract or has approved certain changes in specifications or standards for general use which are subsequently incorporated in a value engineering proposal submitted by the Contractor, the Department shall reject the Contractor's proposal and proceed with such revisions if it so desires without any obligation to the Contractor.
4. The Contractor shall have no claim against the State for any costs or delays due to the Department's rejection of a value engineering proposal, including but not limited to development costs, anticipated profits or increased material or labor costs resulting from delays in the review of such proposal.
5. The Department shall be the sole judge as to whether a proposal qualifies for consideration and evaluation. It may reject any proposal that requires excessive time or costs for review, evaluation and/or investigations, or which is not consistent with the Department's design policies and basic design criteria for the project.
6. The Engineer may reject all or any portion of work performed pursuant to an approved value engineering proposal if he determines that unsatisfactory results are being obtained. The Engineer may direct the removal of such rejected work and require the Contractor to proceed in accordance with the original contract requirements without reimbursement for any work performed under the proposal, or for its removal. Where modifications to the value engineering proposal are approved in order to adjust to field or other conditions, reimbursement will be limited to the total amount payable for the work at the contract bid prices as if it were constructed in accordance with the original contract requirements. Such rejection or limitation of reimbursement shall not constitute the basis of any claim against the State for delay or for any other costs.
7. The proposal shall not be experimental in nature but shall have been proven to the Department's satisfaction under similar or acceptable conditions on another Department project or at another location acceptable to the Department.
8. Proposals shall be considered only if equivalent options are not already provided in the contract documents.
9. The savings generated by the proposal must be of sufficient significance, in the sole judgment of the Department, to warrant review and processing.
10. A proposal changing the types and/or thickness of the pavement structure will not be considered.
11. If additional information is needed to evaluate proposals, this information must be provided in a timely manner. Failure to do so will result in rejection of the proposal. Such additional information could include, where design changes are proposed, results of field investigations and surveys, design computations, and field change sheets.

D. PAYMENT

If the value engineering proposal is accepted by the Department, the changes and payment therefore will be authorized via an order-on-contract. Reimbursement to the Contractor will be made as follows:

1. The changes will be incorporated into the contract via changes in the quantities of unit bid items, new agreed price items or by force account, as appropriate, in accordance with the Standard Specifications.
2. The cost of the revised work as determined from the aforementioned changes in quantities, new items or force account will be paid directly. In addition to such payment, the Department will pay to the Contractor, via a separate item, 50 percent of the savings to the Department as reflected by the difference between the above payment and the cost of the related construction required by the original contract plans and specifications computed at contract bid prices.
3. The Contractor's costs for development, design and implementation of the value engineering proposal are not eligible for reimbursement.
4. The Contractor may submit value engineering proposals for an approved subcontractor, provided that reimbursement is made by the Department to the Contractor and that the terms of the pass through to the subcontractor are satisfactorily negotiated and accepted before the proposal is submitted to the Department. Subcontractors may not submit a proposal except through the prime Contractor.