

FOR STATE USE ONLY	
Received By	Date
(For resident engineer)	

TO	CONTRACT NUMBER	DATE	IDENTIFICATION NUMBER
Pedro Sanchez <small>(resident engineer)</small>	04-0120E4	3-16-07	#05-031707

This is an Initial Notice of Potential Claim for additional compensation submitted as required under the provisions of Section 9-1.04, "Notice of Potential Claim," of the Standard Specifications. The act of the engineer, or his/her failure to act, or the event, thing, occurrence, or other cause giving rise to the potential claim occurred on:

DATE: 3-13-07

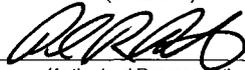
The particular nature and circumstances of this potential claim are described as follows:

Attachment included describing nature & circumstances.

(attach additional sheets as needed)

The undersigned originator (Contractor or Subcontractor as appropriate) certifies that the above statements and attached documents are made in full cognizance of the California False Claims Act, Government Code sections 12650-12655. The undersigned further understands and agrees that this potential claim to be further considered, unless resolved, must fully conform to the requirements in Section 9-1.04 of the Standard Specifications and must be restated as a claim in the Contractors written statement of claims in conformance with Section 9-1.07B of the Standard Specifications.

Kiewit/FCI/Menden a JV
SUBCONTRACTOR of CONTRACTOR
(Circle One)


(Authorized Representative)

For a subcontractor potential claim

This notice of potential claim is acknowledged, certified and forwarded by

PRIME CONTRACTOR

(Authorized Representative)

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

KFM Transmittal #513
March 16, 2007
Initial NOPC #5-031707
Attachment to Form CEM-6201A

Narrative:

The State issued 27 draft project plans for incorporation into the work in August/September 2004. They were to be associated with CCO#17 and 18 and were forwarded to KFM under State letters #150 and #180 respectively.

These revised contract plan sheets were issued while KFM and its consultant, Norcal Structural (previously Abbas Engineering) were developing the Integrated Shop Drawings as required by Specification 5-1.105. The revised plan sheet details were incorporated into the ISD as directed by the State. The final ISD package was submitted to the State in the Spring of 2006 after project restart

The delay in producing this final package was a result of a temporary termination initiated by the State on January 5, 2005 which continued through July 29, 2005. While under temporary termination, KFM, Norcal and the State negotiated CCO#17/18 to compensate Norcal for the effort needed to incorporate the details shown into the initial set of Integrated Shop Drawings. A total of \$156,000.00 was paid to KFM/Norcal for this effort; this amount did not include any compensation for the cost of the changed work.

On July 29, 2005, the Department of Transportation issued a letter to KFM withdrawing the termination. KFM obliged itself to submit a restart schedule by August 29, 2005. This restart schedule along with the subcontractor/supplier's termination/restart proposals formed the basis of determining the total compensation paid to KFM to restart and continue the contract work.

CCO#29 was executed on December 2, 2005. Its scope was limited to only those costs associated with restarting and completing the work as described in the base contract, previous executed Contract Change Orders and CCO#29 itself. Final CCO#29 language went on to state, as pointed out in State Letter #2958, that "It is the intent of the parties that the compensation provided in this CCO, together with all other CCOs issued prior to the date of acceptance of this CCO and the base contract, will resolve all issues related to restarting the contract and establish a new contract price for the completion of the contract, except as listed in Section 4.0 of this CCO".

KFM did not provide a detailed cost/credit analysis for incorporation of the revisions shown in CCO#17/18 into the finished work since the ISD effort was never completed prior to termination or restart. An accurate analysis could not be done until the ISD effort was completed and any resulting changes to the contract drawings were made.

On June 20, 2006 after the ISD packages had been submitted and approved, the State issued letter #1485 which directed KFM to "proceed with the construction of Pier T1 and

KFM Transmittal #513
March 16, 2007
Initial NOPC #5-031707
Attachment to Form CEM-6201A
Page 2 of 2

Pier E2 per the Project Plans with conflicts resolved in accordance with the approved ISD revisions and related RFI responses” but failed to issue revised contract plans to illustrate the same.

KFM’s letter #172, dated June 29, 2006 requested a contract change order and the issuance of revised contract drawings to cover the work associated with the Integrated Shop Drawing process. Included was a request for compensation for the affects of incorporating details shown in CCO#17/18. On September 13, 2006 the State issued CCO#41 which provided 25 new revised project plans. Sixteen of these replaced drawings originally issued under either CCO#17/18. The remaining eleven of 27 drawings issued by CCO#17/18 have not been incorporated into the contract by change order for construction.

Conclusion:

The work of incorporating the details described in CCO#17/18 draft contract plans into the final construction fell outside of the base contract scope as indicated by State Letters #150 and #180. Compensation for those detail changes was not addressed in any CCOs executed prior to the execution of CCO#29 on December 2, 2005.

Similarly, other contractual issues that were not handled in CCO#29 were the Isolation Material Spec Change that was later handled in CCO#30 and the PJP-UT Change that was handled in CCO#31.

Further, the official accounting records for CCO#29 clearly indicate that there is an absence of money allocated to offset the potential cost and time associated with such changes.

KFM, therefore, believes this work is compensable under Standard Specification Section 4-1.03D, “Extra Work” and requested compensation for such in KFM letter #172. State letter #2958, received on March 13, 2007, denied our request and thereby prompted the filing of this Initial Notice of Potential Claim in accordance with Specification 0-1.04, “Notice of Potential Claim.”