

**DEPARTMENT OF TRANSPORTATION - District 4 Toll Bridge Program**

333 Burma Rd.  
Oakland, CA 94607  
(510) 622-5660, (510) 286-0550 fax



CC Myers - YBI  
51 Macalla Road  
San Francisco, CA 94130

Attn: Mr. Bob Coupe

Ref: 215-STL.00227

February 2, 2006

Contract No. 04-0120R4  
04-SF-80-12.6, 13.2  
South – South Detour

Letter No. 05.03.01-000672

Subject: Notice of Potential Claim No. 16 - Design Review

Dear Mr. Coupe,

This Office has received and reviewed C.C. Myers, Inc.'s and Imbsen and Associates, Inc.'s (IAI) Notice of Potential Claim No. 16 requesting additional time and costs for the production of Temporary Bypass Structure (TBS) design documents due to the involvement of the State's reviewers.

In reviewing the NOPC, it is apparent that time and costs are being requested for two distinct issues, the failure to complete submittal reviews within the allotted time, and the State's involvement in the design review process.

With regards to the untimely review of submittals, the State has already acknowledged that review comments for two separate design packages were returned beyond the allotted time and has also noted in past correspondence that the Contractor will be duly compensated. This will be based upon the criteria set forth in Special Provisions Section 5-1.14, "Contractor Design." If the controlling operation on the critical path is delayed as determined by this Office, an extension of time will be granted in accordance with Standard Specifications Section 8-1.07, "Liquidated Damages," and Special Provisions Section 10-1.19, "Progress Schedule." Compensation will only be provided for actual loss as defined by Standard Specification Section 8-1.09, "Right of Way Delays," and Special Provisions Section 10-1.20, "Time Related Overhead." These costs and the substantiating information must be submitted by the Contractor.

With regards to the State's involvement in the design review process, the NOPC is not clear in stating how the State has acted above and beyond what is required by the contract. At no time has either the production of the Design nor the fabrication of the structural steel been suspended. Please provide additional information to clarify NOPC 16 as the body of the claim is broad and does not specify exactly how the State acted beyond its contractual rights. In addition, IAI's letter # 154 requests compensation for an act or failure to act by the Engineer. Please clarify exactly what this encompasses. Until such time, this Office cannot make a determination of merit regarding this NOPC.

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05.03.01-000668  
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If you have any further questions, please contact this Office at (510) 286-0511.

Sincerely,

**<<< ORIGINAL SIGNED >>>**

Gary Lai  
Structure Representative  
for  
Resident Engineer  
Lourdes David

cc: M. Anigol  
R. Morrow

file: 05.03.01, 62.02.16