

Potential Design Errors & Omissions Process Summary

Potential Design Errors & Omissions Process Goal:

The goal of NJDOT's Potential Design Errors and Omissions (E&O) Process is to reinforce Design accountability and recover additional project costs due to carelessness or negligence from Consultant Designers. A desired outcome of enforcing the process is higher quality plans and contract documents, which in turn will enable the Department to deliver projects according to approved schedules and within fiscal constraints.

This Process will also be used against a Construction Inspection Consultant (CIC) when a Contractor alleges a potential Construction Inspection (CI) "Error" claim.

Potential Design Errors & Omissions Process Objectives:

NJDOT's objective is to communicate, as soon as possible, to a CIC or a Designer (Consultant or NJDOT's in-house) when a potential E&O or Design "issue" or a CI "error" is discovered, to minimize potential costly delays to the Project, to provide the Consultant (or NJDOT's in-house) the earliest opportunity to participate in determining a solution, in an effort to resolve issues and mitigate damages, and to provide a process between the Department and Consultants that is fair and cultivates a working partnership.

Potential Design Errors & Omissions Process Outline:

- a) **Discovery**- The Department is either "noticed" by the Contractor or Department staff identify a potential E&O or Design "issue" or CI "error";
- b) **Notification**- Once a potential E&O or Design "issue" or CI "error" is identified, it is important that the Department send the Consultant* the appropriate written Potential E&O letter as soon as possible; (*note: A DOT Memorandum will be used to notify DOT's Design Services when they are the Designer);
- c) **Investigation/Verification**- The Department, when conducting its inquiry, considers the Consultant's response when verifying if there was an Error and Omission and if the costs are recoverable. A Consultant may use several steps in defending, mitigating or making a settlement for an Error and Omission;
- d) **Negotiation**- The Department will enter into negotiations with a Consultant to recover a settlement. Several negotiation "steps" may be offered to a Consultant;
- e) **Recovery /Collection**- A settlement may require the Department and Consultant to enter into a formal Agreement with Releases. The Department shall collect any settlements per the Department's Policy and Procedure No. 230;
- f) **Tracking/Reporting**- The Department will utilize a newly established Project Reporting System (PRS) tab to track and report the status of an Error and Omission. The Project Manager will be responsible to record the status of each Potential E&O; and

Procedures are subject to change without notice. Check the Capital Project Delivery web site to ensure this is the current version. Last Update: 08/13/2008.

- g) **Training/Evaluation**- The Department's Program Management Office (PMO) will assist in conducting training of all involved personnel and in evaluating the procedures.