

CONSTRUCTION

MEMORANDUMS

MEMO NO. 55

DATE OF ISSUE:

May 9, 2005

SUBJECT:

UTILITY DELAY COST RECOVERY

DATE OF REVIEW:

May 2006

The specifications require the contractor to communicate, coordinate and schedule utility work with the utility owners. Document at the preconstruction conference that the contractor understands that the communication, coordination and scheduling must be with the utility **owner** throughout the project and not the utility **subcontractor**. Utility owners could justifiably claim that they were unaware of project requirements and therefore are not liable for project delay costs.

If delays at no fault of the contractor do occur, and the contractor has done everything possible to mitigate impacts because of the delay, the contractor may be entitled to an adjustment (i.e. time and costs) to the contract.

Take the following actions at the first indication of project delays due to utility work:

- 1) Discuss the situation with the contractor. Confirm and/or verify that the contractor has been complying with Subsection 105.07. If the contractor indicates that the delay will have an impact to the project, remind the contractor of their duty to mitigate any damages, and that the contractor should provide written notice of project delay to both the Department and the utility **owner**.
- 2) If applicable, contact the utility **owner** and discuss the potential project delay. Follow up with written correspondence documenting the discussion. The correspondence should also indicate that the Department may pursue reimbursement of any costs associated with the delay from the utility company if it is deemed that the utility company was the cause of the delay.
- 3) If it is deemed that the utility company is at fault, contact the Construction Section. The Construction Section will coordinate with the District, Legal and the Utilities Engineer to determine what actions, if any, should be pursued to recover delay costs from the utility company.

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