

Steel Escalation Price Adjustments Industry Meeting Minutes

Virtual meeting held on September 21, 2022 at 10 AM

Opening

Kerry Bates, VDOT State Construction Engineer

- Steel Escalation Price Adjustments Memo released on July 27, 2022
- Submittals must come through Prime Contractor of a Contract.
- Steel price adjustments do not apply to all items. Raw steel material cost only and incorporated from January 1, 2022 to August 1, 2022.
- This adjustment applies only to material cost changes that occurred between receipt of bids by the Department and the date the material was shipped to the fabricator.
- Does not apply to labor, shipping, fabrication, or other inflationary increases.
- If you opted to apply the steel price adjustment special provision to items in a contract, the elected items are not eligible for compensation under this memorandum. However, adjustments may apply to items not elected in the contract.
- On submissions received to date, the Department has not received the required backup documentation to approve and process the steel escalation adjustments. Contractors are likely need to work with fabricator to get price quotes, bid papers, purchase orders, or other documentation that trace back to the mill and steel cost increase. Adjustments that cannot be properly documented will not be processed.
- For example, fabricator for plate steel had a contract where the mill was not going to honor the price (increase to \$X.XX per pound).
- Prime Contractor must review and certify information is true and accurate to the best of their knowledge.
- The Department has received a significant amount of information on items that are difficult to track all the way to their mill origin. If they can't be tracked and documented, there will be no steel price adjustment.
- There are 10 days left to submit for steel escalation price adjustment, by midnight October 1, 2022.
- The Department will only review raw steel material price increases for the period between January 1, 2022 and August 1, 2022. The Department understands that there are a lot of inflationary costs previously incurred and inflation pressure continues today, but the Department is not able to accommodate all cost increases.

If you have any additional questions submit to Kerry.Bates@VDOT.Virginia.gov.

Question Period

Question 1: In memorandum, window in-between those dates when material was incorporated into the job. In our case, we will buy the steel as soon as we could so we purchased steel delivered between January 1 and August this year (2022). Is that eligible? What do you consider incorporate into the job or project?

Response 1: If it was delivered to jobsite, installed, or paid as materials on hand in that eight month window (January 1, 2022 – August 1, 2022).

Question 2: You have eight month window, prior to that will nothing be considered? I was told to send that all to you by my ACE.

Response 2: We are only considering that eight month window.

Question 3: I have invoices at time of bid and invoices at time of delivery. Is that what you are looking for?

Response 3: Yes, however the compensation is not determined by the invoice from the fabricator/supplier to you, but specifically the cost escalation of the steel sold by the mill. It will be challenging for certain markets and groups for them to participate.

Question 4: If this is a quote from supplier at time of bid, do you need the mill cost increase?

Response 4: Yes, this is only for raw material increase. For example, \$100/lb and fabricator had to pay mill \$105/lb; it's only for the \$5/lb increase.

Question 5: We received indication that P3 projects are eligible under this program. Had pushback from Concessionaire not wanting to participate and wanted guidance on that. Could we copy your office with what we submit in case they don't pass it along? Prime Contractor is supportive, Concessionaire is not.

Response 5: Yes, at the end of the day it has to come through the Prime. If it is eligible for payment, we will create a change order out of this office to issue to the District to the Prime Contractor and will specify who will receive payment based on the paperwork. Mills were not able to honor prices or obtain steel and this is for making them whole for that cost increase.

Question 6: We order a lot of material to keep in our inventory so if we have five projects that each require four MSKTs, I'll order 20 at a time. I may not necessarily put all the project numbers on the quotes from suppliers, how would I handle documentation process on that if it's coming out of my inventory?

Response 6: If it's in inventory, it might have been purchased at a different timeframe. We don't know when it was purchased and what was paid for and it can't be considered.

Question 7: If I buy a truckload of 40 MSKTs in February to account for work occurring in the next few months and it's all incorporated into 9 or 10 projects in March and April, do I need to go back, pull the heat numbers, and track all of that?

Response 7: Yes, you do.

Question 8: Package we are putting together is going to contain multiple claims from different subs and vendors, is Department going to outline which subs and vendors portions are claimable and agreed to or is it going to come to us at a lump sum for us to determine distribution?

Response 8: Once we get all the information, we will look at each individual that submitted and as long as there is clarity there, we will write a change order that specifically indicates who receives payment.

Question 9: We have a contractor that bought caisson pipe and they bought the last phase of the project in July. Trying to track back what the price Trinity (fabricator) is giving them is the domestic rolling prices per month. They are saying that is how they are paying it. Is that sufficient?

Response 9: Based on that description, not sure that will fit. You can send it in and we will review it, but not sure it will cover what we are asking for.

Question 10: How does the Department envision dealing with shortfalls on submittal packages? Is this a one shot deal? Because of the gray area of what you all want and what you will allow and us not having an exact blueprint of what that is, how is the Department going to deal with that?

Response 10: We will be fair. If you submit something by October 1, 2022 and it looks like a good faith effort, we will work with you over a reasonable amount of time, which may be an additional 30 or 45 days to get the required information. At some point, we will have to cut it off and let you know you are not giving us what is needed. As long as you have submitted a request for this by October 1, we will look at what's there and if we have any questions or need additional information, we will follow up with you on those.

Question 11: What happens if General Contractor doesn't submit on our behalf?

Response 11: Unfortunately, we don't have any other contract mechanism to pay you and as part of the agreement with Industry, it has to come through the Prime Contractor.

Question 12: Will all communications go back through the Prime on information submitted to you?

Response 12: We will keep both in the loop and work with whoever packaged the information.

Question 13: Given that we are primarily a subcontractor, we have a lot of a substantial amount of Prime Contract that would qualify for this subsidy. Is there any recourse against the Prime Contractor from our standpoint being a DBE, if we submit to them the paperwork and they don't submit to you? We have no way of knowing that they didn't submit it to you for a particular project. Do I have any recourse against the Prime Contractor for that?

Response 13: Work through your contract with them, see what you have. If necessary, you may have to work through VDOT Civil Rights Section or your hired legal counsel. We have no contractual privity outside of the Prime Contractor for our contracts. In order for us to make payment, we must work through our contracts.

Closing

Please submit information by October 1, 2022 at midnight. If you have any further questions, we will follow up with you. If you have submitted something, but are missing information, we will give you the opportunity to provide that within a reasonable amount of time. Do not feel like you are overburdening us with paperwork; would rather have more than not enough. Again, this is only for raw steel material.

All submittals must be sent to Kerry.Bates@VDOT.Virginia.gov and copy the Area Construction Engineer for the contract.