

New Jersey Department of Transportation

CONSTRUCTION ADVISORY

NUMBER: 34	UNACCEPTABLE WORK	04/13/2018
CATEGORY: Miscellaneous		

This advisory reinforces Subsection 105.01.02 of the Standard Specifications regarding REs authority to direct the Contractor to expose portions of the finished work that the RE suspects is not according to the Contract, and advises REs how to address instances where complying work is placed on noncomplying work.

Finished work can be requested to be exposed because the Contractor covered the work with subsequent work before the RE had a chance to inspect and approve the previous work or because of a non-complying report, or for whatever reason the RE deems appropriate.

Work covered before it is inspected

If the exposed work is unacceptable, direct the Contractor to correct the work and restore the exposed area. If subsequent work prevents inspection of the previous work, the RE has the right to direct the Contractor to remove and replace the subsequent work. The Department will not make payment for exposing, correcting, or restoring work or removing and replacing nonconforming work and all subsequent work that was required to be removed.

The Department will make payment and may modify Contract Time for exposing the work and restoring the area as New Work if all of the following conditions are met:

1. The exposed work was acceptable as specified in the Contract.
2. The daily communications, as specified in 108.03, were given to the Department reasonably before the exposed work was originally performed.
3. The work was not covered by subsequent work if the RE directed that such subsequent work not be performed.

Work covered prior to receiving non-complying report

For instances where noncomplying work was covered by subsequent work, the RE will direct the Contractor to remove and replace the noncomplying work and the subsequent work at no cost to the Department.

In both these instances the Contractor is responsible for carrying out the provisions of the Contract for control of the quality of the Work regardless of whether an authorized inspector is present or not. Neither the observations of the RE in the administration of the Contract, nor inspections, tests, or approvals relieve the Contractor from its obligation to perform the Work in accordance with the Contract.

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