

## 921 - Substantial Completion

**921.1 Process for Accomplishing the Substantial Completion Punch List:** The process should be reviewed with the Contractor, A/E, Using Agency and Division of Engineering and Contract Administration at the following times (as a minimum):

- Pre-Construction Meeting
- At the Progress Meeting which is held at least one month (1) prior to the Date of Substantial Completion as defined in the Special Conditions of the Contract Documents.
- On the Date of Substantial Completion as defined in the Special Conditions of the Contract Documents.
- On the Date the Substantial Completion Punch List is being accomplished.

**921.2 Who must attend the Substantial Completion Punch List Meeting:**

- The Contractor, major Sub-contractors, the Architect and all Sub-consultant discipline representatives, Division of Engineering and Contract Administration Project Manager, Construction Specialist and Using Agency Representative.
- **At a minimum**, at least one (1) representative of the A/E, the Division of Engineering and Contract Administration Project Manager and the Using Agency Representative shall be present and participate in the official Substantial Completion Punch List.
- **The mechanical, electrical and plumbing inspections for Substantial Completion** may be conducted by a separate team of representatives (with A/E representation of **EACH** discipline) but should be performed in conjunction with and simultaneously to the Architectural Substantial Completion Punch List Inspection.

**921.3 Date of Substantial Completion vs. Date of Certificate of Occupancy:**

- **The Certificate of Occupancy** issued by the Department of Housing, Buildings and Construction is a requirement for Substantial Completion. However, Substantial Completion is not determined by the date on which the Certificate of Occupancy is issued.
- **The Date of Substantial Completion** can be on the date when the Certificate of Occupancy is issued or LATER, but never earlier.
- **The issuance of a “Temporary Certificate of Occupancy”** by the Department for Housing, Buildings and Construction which allows a limited use of the building by occupants should not be confused or accepted in lieu of a “Certificate of Occupancy” for complying with the requirement for obtaining a Certificate of Occupancy prior to Substantial Completion except in rare circumstances and with the approval of the Division of Engineering and Contract Administration.

**921.4 Prerequisites for the Substantial Completion Punch List Meeting.**

**Contractors responsibility is to provide the following prior to the Substantial Completion inspection.**

- Written assertion to the Architect-Engineer that the Work is Substantially Complete.
- A written list of items to be completed or corrected and the schedule for completion.
- Operations and Maintenance Manuals that shall be submitted prior to maintenance personnel orientation and training.
- Written certification that orientation and training for designated facility maintenance personnel has been completed prior to punch list inspection.

**Architect-Engineer responsibility:** Once the Contractor’s responsibilities have been met, the Architect-Engineer shall schedule a Substantial Completion Punch List inspection with the Contractor, major Sub-contractors, all Sub-consultants, Project Manager, Construction Specialist and Using Agency Representative.

**For large or complex projects:** the Architect-Engineer may inspect the work prior to the Substantial Completion inspection meeting in order to create a list for review of Work that should be completed prior to the Substantial Completion Punch List Meeting. **This list shall not be titled “Punch List”** and shall not be viewed as a complete definition of all Work required for completion of the project. Additional Architect-Engineers responsibilities include the following:

- **It is important to indicate to all participants** that the Punch List that is being compiled at this date will be the official Punch List and shall be for the purpose of defining the Corrective Work necessary for the Work of this project to be deemed complete.
- **On the date requested by the Contractor for the Official Substantial Completion Punch List**, if the team discovers that the Work is not Substantially Complete to the degree that allows for a Punch List of reasonable length, the team should not perform the Substantial Completion Punch List and the A/E shall inform the Contractor in writing that the Work is not Substantial Complete.

**921.5 Notification of Non-Compliance for Substantial Completion:** At the first opportunity for discovery prior to the date established by the Construction Contract for Substantial Completion, preliminary and official discussions with the Contractor should be started to notify him that it appears that Substantial Completion will not be achieved.

As part of these discussions:

- The Contractor shall be reminded that Liquidated Damages per the Contract will be assessed if in fact the Date for Substantial Completion is not met.
- When practical, the Contractor should be advised of the portion of the Work that appears to be behind schedule.
- The Contractor is to be required to provide a detailed plan of action that he intends to undertake to improve his progress and meet the Date of Substantial Completion per his Construction Contract.
- **During the progress of the Work, as situations arise** that delay the Work on the critical path and are not in the control of the Contractor, the Date for Substantial Completion established by the Construction Contract must be modified by Change Order.
- **During the progress of the Work, as situations arise** that delay the Work on the critical path that are in the control of the Contractor, the A/E should inform the Contractor that it appears the Work is behind schedule and require that the Contractor provide a plan of action he intends to undertake to improve his progress sufficiently to enable him to meet the Date of Substantial Completion per his Construction Contract.

#### **921.6 Substantial Completion Punch List Meeting**

**Significant Work defined in the Contract Documents must be substantially completed prior to the punch list meeting.** If there is significant Work to be completed and cannot for a justified reason be accomplished prior to Substantial Completion, the Contractor shall notify the Architect/Engineer and the Division of Engineering and Contract Administration Project Manager in writing of this fact and a determination made to excuse that portion of the work from the Substantial Completion Requirements.

- **The Contractor in making this written notice** shall provide explanation of the reason this work cannot be accomplished and a scheduled date for the completion of this item of Work.
- **The awarding of a waiver excusing** an item of significant Work from the requirements for Substantial Completion must be contingent upon the Contractor's completion of that item of Work on or before the agreed time for late completion of that item of Work.
- **The A/E's written notification to the Contractor** that the team was unable to perform the Substantial Completion Inspection requested by the Contractor should contain sufficient

detail including written explanation and photographs to document the fact that the Work was not Substantially Complete at the date requested for Substantial Completion.

**After the passing of the Date established by the Construction Contract for Substantial Completion, should the Contractor request a date for the Substantial Completion Punch List to be performed** (allowing reasonable time for the scheduling of the meeting) and the team cannot convene for the purpose of performing the Substantial Completion Punch List Inspection, the following criteria shall be used to establish the Date of Substantial Completion:

- When the team does convene for the purpose of performing the Substantial Completion Punch List, it **finds that the Work is Substantially Completed**; the Date of Substantial Completion shall be the date the Contractor requested for the inspection.
- When the team does convene for the purpose of performing the Substantial Completion Punch List at a date later than the Contractor requested, it **finds that the Work is not Substantially Completed**, the Contractor shall be charged by a credit Change Order for the costs incurred by the Commonwealth for the team to convene to make that determination.

**921.7 Substantial Completion Inspection (Punch List)** in this Procedures Manual indicate that:

- **The Architect-Engineer shall fully coordinate** the inspection of the Work and compile a Substantial Completion Punch List of remaining items and/or corrections of the Work.
- **The completed Substantial Completion Punch List** shall be distributed to the Contractor, the Architect's Sub-Consultants, Division of Engineering and Contract Administration Project Manager, Construction Specialist, and Using Agency Representative. (This distribution should occur as quickly as possible following the inspection, but no later than three working days following the inspection). The Contractor shall distribute the Punch List to all Subcontractors as applicable.
- **This Punch List shall be titled "Substantial Completion Punch List"** and shall be comprehensive in detailing the Corrective Work necessary for the Contractor to accomplish Final Completion.
- **Once the Punch List is distributed, the list shall not be modified.**
- **When Corrective Work on the list is determined to be accomplished**, an indication is to be made on the list that the item is acceptable and shall be dated and initialed by the reviewer. (The accomplished item should not be removed from the list).
- **The Owner and/or Architect-Engineer may make additions** to the Punch List for Work clearly within the scope of the Project or needing correction until the time of Final Acceptance. How these additions are to be handled discussed in section 921.9.
- **In case of disagreement**, the Contractor shall prepare a written response to each item, to be submitted to the Architect-Engineer and Division of Engineering and Contract Administration Project Manager for review and response.
- If following this review, the A/E and Division of Engineering and Contract Administration Project Manager determine that the Contractor is correct for a particular item, the item is to be noted on the Punch List as "waived" and dated. (The waived item should not be removed from the list).
- **The Date of Substantial Completion according to the Construction Contract** is officially the date in which Substantial Completion of the Work is to be accomplished.
- **It is critical that on this Date (per the Construction Contract) that the status of the Work is documented as either "Substantially Complete" or "Not Substantially Complete"**.
  - When it is obvious that the Contractor has not accomplished Substantial Completion on the Date of Substantial Completion per the Contract, it is important that the A/E perform at least a cursory review of the work on that date and document in writing that the Contractor is not Substantially Complete.

- The A/E's written notification to the Contractor that the Work is not Substantially Complete on the Date established by the Construction Contract for Substantial Completion must contain sufficient detail to document the fact that the Work was not Substantially Complete at the date. (It is not intended that the A/E compile a comprehensive "Substantial Completion Punch List" as proof that the Work is not Substantially Complete, but in general terms the A/E shall provide sufficient detail to document that Substantial Completion has not be accomplished on that date).

**921.8 Proposals Requests and Executed Change Orders** and their effects on the Date of Substantial Completion:

- It is important that whenever possible, Proposal Requests and Change Orders should be undertaken with sufficient time remaining on the Construction Schedule to allow for the accomplishment of the Work prior to the Date established by the Construction Contract for Substantial Completion.
- **At the time of execution of any Change Order**, if additional time is determined to be required to perform Work that is on the critical path, a reasonable time extension should be granted to the Contractor and the Change Order should reflect a change in the Construction Contract Time.
- **When by necessity (although this should be an exception to the rule)**, Proposal Requests and Change Orders must be undertaken without sufficient time remaining on the Construction Schedule to allow for the accomplishment of the Work prior to the Date established by the Construction Contract for Substantial Completion and when this work is not on the critical path of the Construction Schedule a determination must be made as to how to address the time of completion of this specific work as it relates to the Date of Substantial Completion of the entire Work.
- **When by mutual agreement** of the A/E, Division of Engineering and Contract Administration Project Manager and Contractor it is determined that the additional Work is not critical to the Substantial Completion of the entire Work, the Change Order executed for this specific item of Work should indicate that the Work defined by the Change Order does not modify the Contractual Date for Substantial Completion. Additionally, the Change Order should establish the time frame for the accomplishment of this specific item of Work outside the time established for Substantial Completion.

**921.9 Adding items to the "Substantial Completion Inspection (Punch List)"** after the original issuance is allowed, but the following should be considered:

- **The Contractor is by the Construction Contract responsible** for completion of all Work defined by the Contract terms whether or not the work is discovered as not completed at the time of the Substantial Completion Punch List.
- **When an item is discovered within the first 1/3** of the time between Substantial Completion and the Date for Final Completion, it should be added to the punch list by attachment of a supplemental list, and there is normally no need for a reasonable adjustment to the scheduled Date for Substantial Completion.
- **When an item is discovered later than the first 1/3** of the time between Substantial Completion and the Date for Final Completion, a determination needs to be made as to whether this item should simply be added by attachment of a supplemental list to the punch list with no adjustment to the scheduled Date for Substantial Completion, or if there should be an adjustment to the scheduled Date for Substantial Completion, or if the item should be handled as a item outside the Substantial Completion Punch List process.
- **When an item on the Substantial Completion Punch List is accomplished in such a way** that the work to accomplish the item created an additional condition that requires correction, it is not to be viewed as an addition of an item to the punch list but as additional work required to complete the original item. The original item is to be viewed as only partially complete until the additional corrective work is also completed. This additional corrective

work should be added to the punch list as a comment about the completion of the original item. The Contractor should not be granted any additional time to complete this corrective work beyond the time provided for completion of the original item.