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Title: Control of Nonconforming Items During Construction		

1.0 PURPOSE:

This document is to define the procedure for how to handle all items not meeting plans or specifications in NTTA construction projects, and to create a means for the NTTA to accept substandard work.

- 1.1 This procedure includes the ability to isolate the item(s) not meeting plans or specifications, stopping all work related to the item(s) and ensuring a timely resolution of the matter.
- 1.2 This procedure excludes all Visual Quality and Environmental item(s) which are described in separate QMS Nonconformance procedures.

2.0 RESPONSIBILITIES:

2.1 NCR Originator – shall be responsible for:

- Individual associated with NTTA Construction may initiate a Construction NCR or that individual who becomes aware of a nonconforming condition shall bring it to the attention of the Construction Manager or NTTA Resident Engineer (RE) to create a Construction NCR.

2.2 Material Test Acceptance Lab – (Firm under contract or a sub to a contract with NTTA as part of a traditional delivery (Design - Bid - Build) shall be responsible for:

- Immediately notify the Contractor and the Construction Manager or NTTA RE of all failing test results.

2.3 Construction Manager or NTTA Resident Engineer (RE) – shall be responsible for:

- Creating a Construction NCR for each instance of not meeting plans or specifications to document resolution of each issue
- Investigate and follow this procedure for all Construction NCRs created and submitted by others
- Immediately submit all substantiated instances of not meeting plans or specs to the Contractor requesting a proposed resolution and for the Contractor to stop all subsequent and related work items until the issue is resolved
- Determining if payment to the Contractor will be withheld until issues are resolved

2.4 Contractor – shall be responsible for:

- Investigating all Construction NCRs sent to them and proposing a resolution for all item(s) including those where the Contractor was the originator of the Construction NCR
- Preparing a timely comprehensive solution that seeks the best solution for all parties involved including the minimization of any potential time impacts to the completion of the project
- Proposed planned completion date for solution

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2.5 NTTA Manager of Construction – shall be responsible for:

- Owner review and monitoring of Construction NCRs, Environmental NCRs (ENV-03) and Visual Quality NCRs (VQ-03).
- Reviewing the proposed solution and provides comments if anything needs changed to be able to be approved by NTTA.
- Redlining the proposal or providing alternate solution(s) with attachments that would be acceptable to NTTA.
- If the proposed solution involves Accept-As-Is or any proposed solution is in any way less than full compliance with the current plans and specs, the NTTA Manager of Construction is required to consult with the Director of Project Delivery and the Assistant Executive Director of Infrastructure (AEDI) and optionally with NTTA Corridor Manager before accepting on behalf of the NTTA.
- Review and provide direction and comments to the NTTA Manager of Construction on all construction NCRs if so requested.
- At their discretion, he or she may obtain the approval of the Director of Project Delivery (DPD) and /or the Assistant Executive Director of Infrastructure (AEDI).

3.0 SCOPE/APPLICABILITY:

This procedure shall apply to construction generated nonconformance, inclusive of failing material tests when they cannot be accepted via Construction Management Delegation, on all NTTA corridors and CIP projects within the Project Delivery Department.

4.0 REFERENCES:

- CON-03 Construction Contract Change Order (CO) Process
- QM-10 Corrective and Preventative Action
- CRV-01 Sampling, Testing and Reporting Requirements
- VQ-03 Visual Quality NCR
- ENV-03 Environmental NCR

5.0 DEFINITIONS & ACRONYMS

- **Nonconformance (Construction/Environmental or Visual Quality)** - is defined as the failure to meet plans and/or specifications upon the completion of a discrete and measurable element of construction (i.e. individual pre-cast units, individual concrete placements, lift of earthwork, etc.).

Subsequent work that builds upon an identified nonconforming element shall not proceed until approval of the proposed solution has been received or proceeds entirely at the Construction Contractor's risk of either direction to remove and replace at their cost or non-payment for work deemed substandard.

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- **Nonconformance (Material Tests)** - is defined as those failing materials in which specifications do not allow any additional provisions to rectify the material. The situation is required to be resolved in a manner satisfactory to the NTTA.
- **EDMS** – Electronic Data Management System, which may be utilized on NTTA construction projects to serve as the repository for all material test results as well as the documentation of engineering judgment decisions to accept failing tests, (this is not currently a part of EPDS).
- **ELVIS** – Electronic Laboratory Verification and Information System is a proprietary EDMS product formerly used by NTTA on a few corridors. It contained documentation of engineering judgment decisions to accept failing tests within the NTTA delegated Authority, (this is not currently a part of EPDS).

6.0 PROCEDURES:

- 6.1 The Originator should fully describe and locate the Construction NCR nonconforming condition including reference to failed requirements of plans or specs where applicable and create a Construction NCR in EPDS. If the individual does not have EPDS access, then the information regarding the item(s) not meeting plans or specs shall be given to the Construction Manager or NTTA Resident Engineer (RE) and they shall create a Construction NCR in EPDS. A separate Construction NCR should be created for each item that is not considered an inseparable construction process or unit or would have a possible different proposed solution by the Contractor.
- 6.2 All Construction NCRs shall be reviewed and evaluated by the Construction Manager or NTTA RE. The Construction Manager or NTTA RE shall utilize engineering judgment and acceptance delegation given to them by the NTTA in CON-07-A2 and CON-07-A3 to evaluate failing material tests. All item(s) accepted in this manner do not need to have a Construction NCR created.
- 6.3 The Construction NCR shall be sent to the Contractor by the Construction Manager or NTTA RE in EPDS. The Contractor shall be responsible to:
 - Ensure that all item(s) not meeting plans or specs are identified, separated or isolated and controls established to prevent the inadvertent use or installation of the nonconforming item(s)
 - Ensure if nonconforming item(s) are identified after its use has begun, any of the remaining nonconforming item(s) shall be identified and separated or isolated and controls established to prevent further use until the issue has been resolved.
 - Identify all areas where nonconforming material may have been used and evaluate for resolution.
 - Realize any further use of nonconforming material(s) or nonconforming item(s) of work are done at the Contractor's risk of nonpayment for work performed until the issue has been resolved
 - Prepare a response to all Construction NCRs within 5 business days in EPDS including the proposed solution completion date.

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- 6.4 The Contractor may request an extension through the Construction Manager or NTTA RE if a proposed solution to the Construction NCR cannot be prepared within 5 business days.
- The Construction Manager or NTTA RE has the authority to grant reasonable time extensions for the Contractor to prepare a complete response.
 - The Construction Manager or NTTA RE has the authority to withhold all payment for items in dispute while awaiting a Contractor's Construction NCR response.
 - The Construction Manager or NTTA RE has the authority to request suspension of any related work items deemed in their opinion that are not easily reversible if the Contractor is unreasonably delaying a proposed solution to a Construction NCR just to complete other work that will now bias the proposed solution in the Contractor's favor.
- 6.5 The Contractor has the following four possible EPDS Response Types (In a drop down in EPDS NCR record) and after filling out all required information goes to workflow tab and selects Submit Solution and hits save to transmit the information in EPDS:
- **Remove & Replace** – The Contractor at their expense agrees to remove all item(s) not meeting plans or specs and replace totally with item(s) that are fully compliant with plans or specs. This choice is approved by the Construction Manager or NTTA RE in the field.
 - **Rework** – The Contractor's proposed solution brings the item(s) into full compliance with the plans or specs. This choice is approved by the Construction Manager or NTTA RE in the field.
 - **Repair** – The Contractor's proposed solution meets the required functional use but cannot be made to or does not meet the plans or specs. The concept of the Contractor's proposed rework solution requires recommendation by the Construction Manager or NTTA RE to the NTTA Manager of Construction. This may also include a potential credit or additional expense and a potential change order that may require additional action and approvals. The Construction Manager or NTTA RE shall document the Record Drawings or Specifications for any allowed modifications granted through this process.
 - **Accept As Is** – The Contractor's proposed solution is to not do any additional work to the item(s) that do not meet plans or specs and request a waiver from meeting plans or specs from the NTTA. The concept of the Contractor's proposed solution to request a waiver from meeting plans and specs to accept work as is requires recommendation by the Construction Manager or NTTA RE to the PD Construction Manager. The NTTA Manager of Construction is required to consult with the Director of Project Delivery (DPD) and may also consult with the Assistant Executive Director of Infrastructure (AEDI) before accepting on behalf of the NTTA. This may also include a potential credit or additional expense and a potential change order that may require additional action and approvals. The Construction Manager or NTTA RE shall document the Record Drawings or Specifications for any allowed modifications granted through this process.
- 6.6 The Contractor's proposed solution will be reviewed to determine if it will correct the item(s) not meeting NTTA plans or specifications.
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- 6.7 The Construction Manager or NTTA RE shall create a separate Internal Review Attachment (IRA) record in EPDS for NCRs to evaluate each Construction NCR. The Construction Manager or NTTA Resident Engineer can use Team Input in the NCR Workflow Tab in EPDS to get assistance consisting of the Project Delivery subject matter expert(s), Design Section Engineer subject matter expert(s), in addition to the subject matter expert(s) on their staff to put forward recommendations and/or counter proposals or suggestions.
 - 6.8 The Construction Manager or NTTA RE shall resolve any conflicting comments (if any) and prepare a response back to the Contractor, either rejecting the contractor's proposed solution, or forwarding a recommendation for approval to the NTTA Manager of Construction.
 - 6.9 The NTTA Manager of Construction shall review the recommended proposed solution and either reject it or approve it. The NTTA Manager of Construction has the option to forward the recommendation to the Director of Project Delivery (DPD) and/or the Assistant Executive Director of Infrastructure (AEDI) before giving NTTA approval.
 - 6.10 Once the Contractor's proposed solution is accepted by the NTTA or their delegated authority the Contractor shall be notified by the Construction Manager or NTTA RE.
 - 6.11 The Contractor shall begin the proposed solution as quickly as possible and notify the Construction Manager or NTTA RE when it starts, the progress of the work and when it is estimated to be complete.
 - 6.12 The Construction Manager or NTTA RE assigns inspector(s) to watch the effort in the same method as other inspection with all appropriate tests (if any are applicable) and oversight to determine if the NCR work effort meets the current plans and specs or a change order approved or in the signature process because of this NCR that will alter the plans or specs.
 - 6.13 Contractor notifies NTTA through Construction Manager or NTTA RE that the agreed upon work effort in the NCR is complete and ready for inspection. If approved this will allow the NCR to be closed and payments made per the agreed upon solution.
 - 6.14 Construction Manager or NTTA RE creates Inspection Team after Contractor notifies NTTA that the NCR work in their opinion has been completed. The Inspection Team includes all normal members relative to the agreed upon work effort (may include VQ, Wall Engineer, Geotechnical Engineer, Engineer of Record or others as appropriate to the work effort).
 - 6.15 NCR Inspection Team creates NCR Inspection Report with all attachments and includes a recommendation for acceptance or rejection by NTTA.
 - 6.16 The Inspection Report is made a part of the EPDS Internal Review Attachment (IRA) for this NCR Construction record by the Construction Manager or NTTA RE. They provide a brief narrative of the
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Inspection Report in the place provided, add in EPDS the date of the Inspection Report and in EPDS add all attachments from the Inspection Team that need to be included in the record including the Inspection Report with a recommendation for NTTA acceptance or NTTA rejection.

6.17 After completion of the proposed solution, it will be evaluated by the Construction Manager or NTTA RE and will be handled according to the following scenarios:

- If the proposed solution was not done correctly by the Contractor according to the NCR Inspection Report, and did not resolve the issue, the Contractor will be prompted by the Construction Manager or NTTA RE to propose a fix for the failed proposed solution. The process starts again and repeats until the issue is resolved.
- If the proposed solution was done correctly by the Contractor, but did not resolve the issue, the Contractor will be prompted by the Construction Manager or NTTA RE to propose a fix for the failed proposed solution. The process starts again and repeats until the issue is resolved.
- If the proposed solution resolved the issue, the Construction Manager or NTTA RE will notify the Contractor in EPDS. The Construction Manager or NTTA RE shall compile or prepare all as-built documentation and deposit in EPDS Document Manager, and include reference to any plan or spec changes or payment modifications through an NTTA and Contractor signed Change Order.

6.18 In the event that the Contractor does not complete the Construction NCR in a timely manner the Construction Manager or NTTA RE shall notify the NTTA Manager of Construction. The NTTA Manager of Construction attempts to resolve the NCR issue and if unable, sends NCR for further escalation to the Director of Project Delivery (DPD) and/or Assistant Executive Director for Infrastructure (AEDI) for assistance in resolving the issue.

7.0 REGULATORY REQUIREMENTS:

N/A

8.0 RELATED BOARD POLICY:

N/A

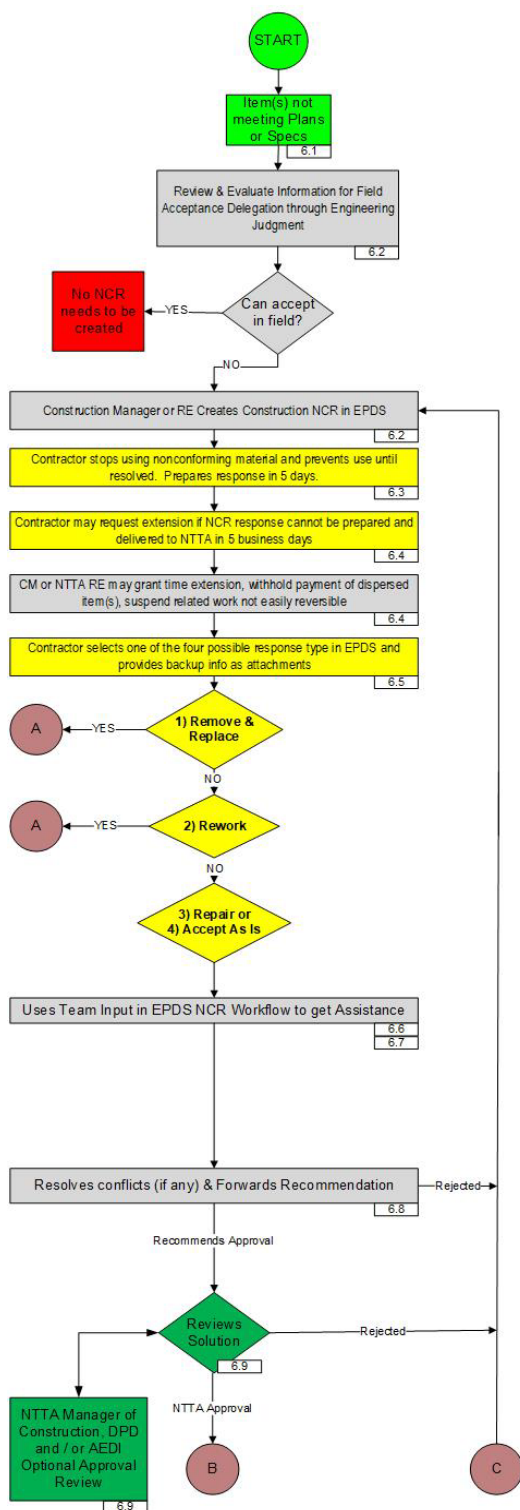
9.0 COMPONENT DOCUMENTS:

CON-07-A2 NTTA Guiding Principles for Construction Manager Acceptance Decision Delegation
 CON-07-A3 NTTA Construction Manager Acceptance Decision Delegation
 CON-07-A4 Contractor Performed Material Testing Disposition Protocol
 CON-07-A5 Time Requirements for Material Test reporting into an EDMS

10.0 FLOWCHART:

(See next page)

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Construction Nonconformance Workflow Process

NCR Originator:

- Fully describes and locates nonconforming condition with references to failed requirements of plans and specs
- If individual doesn't have EPDS access then info sent to Construction Manager or NTТА RE to evaluate if it is an NCR

Construction Manager or NTТА RE:

- Evaluates NCR info with Engineering judgement and NTТА acceptance delegation given in CON-07-A3 and CON-07-A4
- If can not be accepted in field, then Construction NCR is created in EPDS

Contractor:

- Ensures all item(s) not meeting plans or specs are identified, separated or isolated and controls are established to prevent the inadvertent use or installation of the nonconforming item(s) immediately upon getting NCR
- Prepares response to NCR within 5 business days in EPDS including the proposed solution completion date
- May request time extension to prepare response

Construction Manager or NTТА RE:

- Has authority to grant reasonable time extension
- Has authority to withhold all payment for items in dispute
- Has authority to request suspension of related work not easily reversible

Contractor:

- Selects one of these 4 response type in EPDS
 - **Remove and Replace**
Contractor at their expense removes all nonconforming item(s) and replaces with item(s) fully compliant
 - **Rework**
Contractor's proposed solution brings item(s) into full compliance
 - **Repair**
Contractor's proposed solution meets required functional use, but can not be made to or doesn't meet plans and specs
 - **Accept As Is**
Contractor's proposed solution is to not do any additional work to the item(s) and request a waiver from NTТА

Construction Manager or NTТА RE:

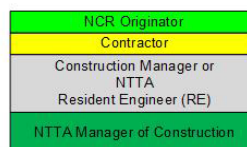
- Creates Internal Review attachment in EPDS for NCR
- Names IRA same as NCR
- Reviews proposed solution from contractor
- Evaluates if it will correct item(s) not meeting plans and specs
- Determines if Assistance is needed for review
- Consults with NTТА Manager of Construction
- If needed uses Team Input in EPDS NCR Workflow for Assistance

Construction Manager or NTТА RE:

- Resolves conflicting comments (if any) and prepares recommendation
- Recommended for Approval goes to NTТА Manager of Construction
- Recommended for Rejection is return to the Contractor for revision

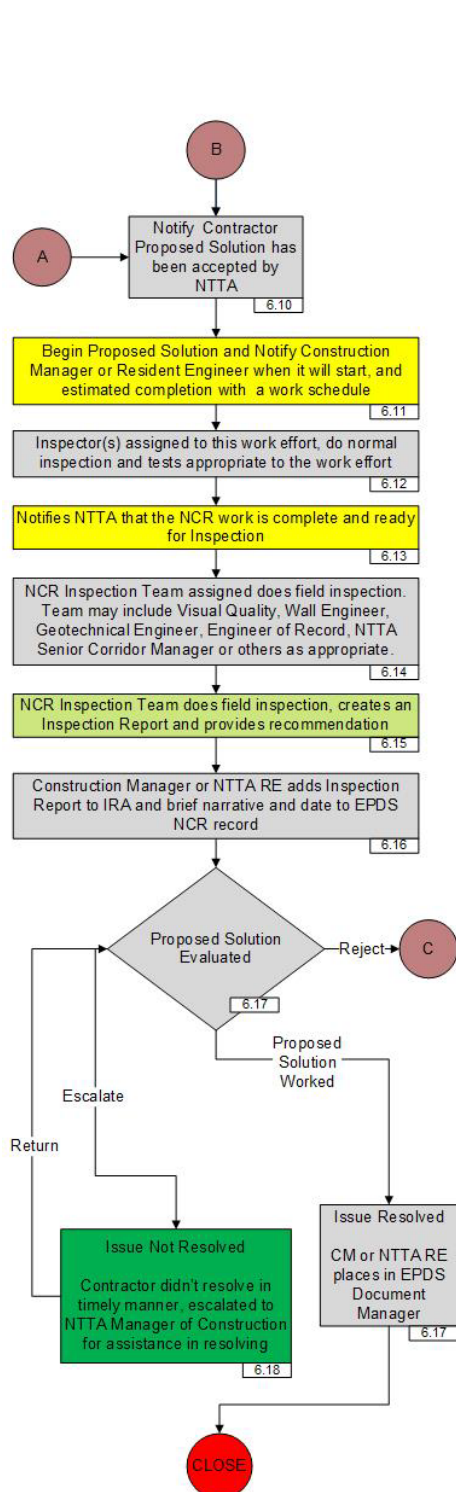
NTТА Manager of Construction:

- Reviews proposed solution
- May ask NTТА Director of Project Delivery or Assistant Executive Director of Infrastructure for assistance if needed
- Rejects or Approves proposed solution



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Construction Nonconformance Workflow Process



NCR Originator
Contractor
Construction Manager or NTTA Resident Engineer (RE)
NCR Inspection Team
NTTA Manager of Construction

Construction Manager or NTTA RE:

- Notifies Contractor proposed solution has been accepted by NTTA

Contractor:

- Upon notification of NTTA accepting proposed solution prepares to carry out the agreed solution in the field and submit any necessary details or shop drawings (if appropriate to the solution agreed upon)
- Provides schedule or incorporates into the current Project Schedule

Construction Manager or NTTA RE:

- Assigns or has assign Inspector(s)
- Has testing scheduled (If appropriate for the work solution)

Contractor:

- Notifies NTTA NCR work is complete and ready for inspection

Construction Manager or NTTA RE:

- Assigns NCR Inspection Team in EPDS by Team Input in EPDS Workflow
- Chooses team members based on work scope in agreed NCR solution

NCR Inspection Team:

- Does field inspection, reviews issue, provides recommendation to Accept or to Reject solution by NTTA in EPDS NCR Workflow Team Input response

Construction Manager or NTTA RE:

- Adds NCR Inspection Report in EPDS Internal Review Attachment (IRA)
- Adds brief narrative and date in EPDS Construction NCR record

Construction Manager or NTTA RE:

- Evaluates Proposed solution against Inspection report
- NCR fits into one of these three scenarios:
 - 1) Contractor work did not follow proposed solution according to Inspection Report and did not resolve issue. Contractor asked to propose a solution. Process starts again and repeats until the NCR issue is resolved.
 - 2) Contractor followed proposed solution according to Inspection Report, but it did not resolve the issue. The proposed solution didn't work. Contractor asked to propose a solution. Process starts again and repeats until the NCR issue is resolved.
 - 3) Contractor resolved the issue according to the Inspection Report. All parties agree, document all work and inspections, make all payments due as terms of the solution and close the NCR.
- Escalates to NTTA Manager of Construction if Contractor doesn't complete NCR work in a timely manner and becomes non responsive

NTTA Manager of Construction:

- Attempts to resolve NCR if Contractor hasn't finished work or is non responsive
- May escalate to Director of Project Delivery (DPD) or Assistant Executive Director for Infrastructure (AEDI) if further escalation is needed

Construction Manager or NTTA RE:

- Issue is resolved, All parties agree, places in EPDS

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11.0 REVISION HISTORY:

Revision	Revised by:	Release Date	DRN	Reason for Revision
0	David Kastendick	05/06/2011	10307	Original Issue – This procedure was originally QM-09 Control of Nonconforming Product which has been made obsolete.
1	Bryan Dennis	07/23/2025	11144	Update for EPDS software change from Proliance to PMWeb and to match current practice, updated role titles, flowchart.