

INCLUDING “PROCESS PIPING” IN PLUMBING CONTRACTS INCREASES CONSTRUCTION COSTS WITHOUT ADDING VALUE

In 2010, the New York State Department of Labor (DOL) rendered opinions regarding the definition of “process piping” on two wastewater treatment projects in Rockland County and the Village of Ellenville that will have a major economic impact on future water and wastewater treatment projects throughout New York State that exceed certain minimum threshold limits.

Section 101 of General Municipal Law (except as provided in Section 222 of the Labor Law) requires every officer, board or agency of a political subdivision or of any district therein, charged with the duty of preparing specifications or awarding or entering into contracts for the erection, construction, reconstruction or alteration of buildings when the entire cost exceeds certain thresholds to prepare separate specifications for the following three subdivisions of the work to be performed:

- Plumbing and gas fitting (plumbing);
- Steam heating, hot water heating, ventilating and air conditioning (HVAC); and
- Electric wiring and standard illuminating fixtures (electrical)

Engineering and architectural design firms have traditionally included “process piping” on major water and wastewater treatment projects as part of the general construction contract. However, the DOL, in its role as arbiter of Wicks Law, has determined that “process piping” in a water or wastewater treatment plant that is “contained in the footprint of the building” should be included in the plumbing contract. DOL has further opined that process pumps, air blowers and related piping, chemical feed pumps and related equipment should also be included in the plumbing contract. This scope of work is drastically greater than prior practice whereas the scope of the plumbing contract has typically consisted of piping related to the water service of the building (i.e. potable drinking water, water closet flushing supply), the drains from the various plumbing facilities to a point outside the building footprint and natural gas service lines within the building.

Both the Associated General Contractors of America – New York (AGC) and ACEC New York view the DOL’s recent interpretation as changing the historical practice for owners, consultants and contractors regarding the scope and limitations of what work needs to be done by each prime contractor. Inclusion of “process piping” in the plumbing contract will:

- Increase contractor overhead costs to cover increased insurance, supervision and general condition costs due to a longer project schedule;
- Increase construction costs to the owner due to coordination issues;
- Separate the responsibility of portions of equipment and integrated structural components into different contractors, increasing costs and the frequency of construction conflicts and the corresponding delays and related costs;
- Delay projects due the need to wait for multiple contractors to submit shop drawings on pumps, piping and related structural components, as well as purchased and installed equipment;
- Increase engineering costs during construction due to the need to provide observation and administration services for a longer duration;
- Unnecessarily increase the likelihood of coordination and delay claims as the work historically performed as part of the General Contract is undertaken by Plumbing Contractors that are most likely unfamiliar and inexperienced with this construction;

ACECNY strongly encourages the Governor's office in concert with the DOL to revert back to the traditional interpretation and approach that was successfully used for decades throughout New York State to avoid unnecessarily increasing construction, contract coordination and construction administration costs, and to maximize the benefit of every taxpayer dollar spent on water and wastewater construction programs.

*Founded in 1921, the **American Council of Engineering Companies of New York** (ACEC New York) is the state's premier organization for consulting engineering firms, representing 280 companies and over 20,000 employees in New York. The organization's mission is to further the business interests of its members through advocacy, networking, education and business services. For more information, visit www.acecny.org.*

(Approved January 2012)