

AGC Road Contractors Reminded:

**'Your Contract Is With Your State,
Not The Federal Bureau'**

Legally, the Bureau of Public Roads doesn't even know you exist," Highway contractors were reminded at AGC's midyear board meeting.

These words came from Frank C. Turner, the BPR's chief engineer, who had flown to Portland, Ore., on September 20 to address the Highway Directors session. As anticipated by *Roads and Streets* in its September editorial page, Turner accepted the invitation to appear at this session and explain the Bureau's role in the Federal-aid highway program—a subject of much confusion and concern among the nation's road contractors.

Turner's Key Points

Speaker Turner's forthright but carefully worded talk answered many, but not all, of the questions on the delegates' minds. Some of his key points:

1. The contractor as holder of a Federal-aid road job works under a two-party contract with the state highway department only.

2. The state in turn has a counterpart Project Agreement with the U.S. Bureau of Public Roads. Under the law, the Bureau can approve, disapprove, or require modification of the project every step of the way.

3. The Bureau, legally, has nothing to do with the contractor—the body of law "doesn't even mention you as contractors." And the Bureau's representatives cannot deal directly with the contractor—a point which Turner was asked to restate and reaffirm during the floor discussion following his Portland talk.

4. This dual contractual setup puts the state highway department squarely in the middle. Turner left the clear inference that much of the confusion, delay and hes-

itancy in decision making over work put in place can be blamed on state personnel.

Turner began by tracing the solid legal background of the Federal-state relationship. The first highway fund authorization acts of 1916 and 1921 have been amended or supplemented almost every year, but "neither the philosophy nor in fact the words themselves, of the statements underlying the relationship and general procedures, have been altered."

Bureau Role Made Clear

"In fact, in the directive of 1954 to codify the Federal-aid highway law, just the opposite was required. The Congress directed us to change nothing in existing law except as needed to put it in better format so as to be easier to use. We were specifically forbidden to make substantive changes . . . It is apparent, therefore, that there is a solid body of experience on which to base conclusions, with respect to what is the Bureau role in the Federal-aid highway program.

"This role is to approve, disapprove, or require modifications or revisions in the individual State proposals, as made by them for use of the Federally apportioned aid monies—and to do so at each step in the process in such manner and degree as to be able to certify to the Congress through the various executive agencies that the proposals have been accomplished in accordance with the proposal as approved, before these Federal-aid funds are finally paid out of the Treasury to the State."

"Then, when and if a State chooses to avail itself of these funds, there are responsibilities that must be met . . . necessarily there are certain agreed upon

rules for use of partnership assets.

"Such rules as the Bureau makes on state use of these apportioned funds, then, can hardly be complained about unless these rules abuse the public trust. I don't believe many—if any—of these rules can honestly be so classified. But in any event, what either you or I might personally think or feel about them makes little difference. The rules all are either spelled out in the law as statutory requirements, or are derived from the law by regulations which the statute authorizes to be issued to govern use of the funds."

Turner then traced the procedures beginning with state program submission and approval through the preparation of plans, specifications and cost estimates (so-called PS&E) and the paper work required in getting the job done and accepted.

"Finally, your contract is with the State and in no way, shape or manner do you have a contract with the Bureau. True, the State's selection of you as the contractor has been referred to the Bureau and has received our concurrence before you were officially awarded the contract. And the contract itself, the plans and specifications, and every feature connected with the project have also received our prior approval . . . But there is a separate contract between the Bureau and the State covering the project for which you have contracted with the State.

"The State is truly in the middle. It is perhaps this situation which raises the question you are asking me to discuss, because it is the State's performance in this middle position which affects us both."

At this point in his talk Turner then got directly into the detailed

Frank C. Turner, Chief Engineer, Bureau of Public Roads, Washington, D.C., was feature speaker at AGC's "Highway" session at Portland, Ore.



Personalities in the News at AGC's Portland Meeting

procedures which, in the manner of their day-by-day execution in the various states, have caused the contractor so much concern.

More of Turner's Talk

Continuing with Mr. Turner's talk with minor abridgement, without quotes:

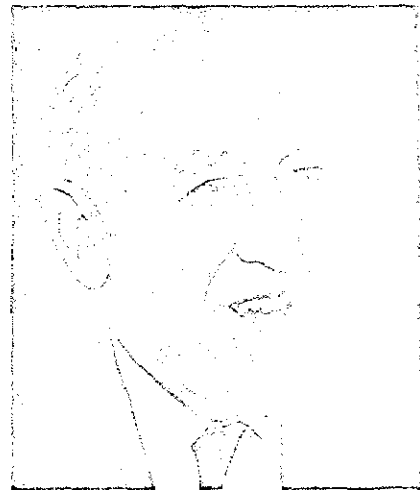
After you, the contractor, begin work, a Bureau man will appear periodically on your project to make an inspection. Generally he will find everything going satisfactorily. But he may find that some operations are not in accord with the PS&E approval. So he calls this to the attention of the State with a request for corrective action—this of course eventually reaching on to the contractor. But this Bureau representative is there for the purpose of reviewing the State's performance in causing the project to be constructed in accordance with the approved PS&E—this he must do, before he can make a determination that the work and materials conform reasonably to the approved PS&E and thus permit the Bureau to certify that the materials are in conformity with the approved PS&E and make payment to the State.

Of course, you, the contractor, are affected indirectly by such Bureau action. It may seem pretty direct or at least inevitable, to you. But actually you look to and depend on the State and the State's

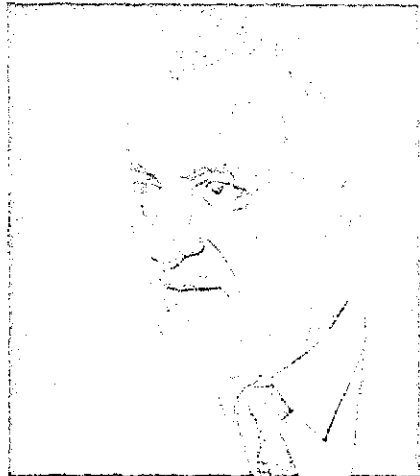
project engineer for approval of materials test reports as you dig the material and place it on the roads. It is the State that has given you to understand that the material is meeting the specifications. Disregarding other aspects of such a situation as described, I will use it to illustrate and emphasize the point that the State is free to go right ahead with the work, and is obligated by terms of their contract with you to pay you for the material, if in their supervision of the contract they consider it satisfactorily meets the contract terms.

Of course, that decision is not binding on the Bureau. The State's contract with you contains no clauses making it contingent on what the Bureau may later approve and pay for. We do not necessarily have to accept and reimburse the State for every item of payment which they may make to you—ours is an entirely separate legal documentary contract between the State and Bureau.

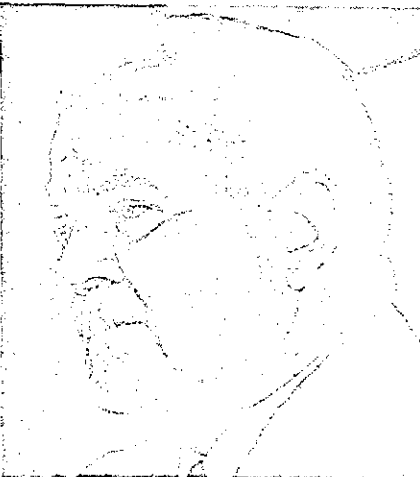
I'm fully aware that you don't care about the fine point of distinction I have made between the two contract documents; that you may say it doesn't make any difference to you whether the Bureau representative is only inspecting the State's performance, rather than yours; and that the net effect on you and your operation is just the same as though we rather than the state were directly inspecting



Ira H. Hardin, president-nominee for 1965. President of Ira H. Hardin Co., Atlanta building firm and currently AGC vice-president. A strong exponent of construction safety and past chairman of AGC's Safety Committee.



Alton V. Phillips, vice-president nominee, founder and head of heavy construction firm in Seattle bearing his name, and currently chairman of AGC's Heavy Construction and Utilities Contractors Division.



W. Ray Rogers, of Rogers Construction Co., Portland, Ore., 1961 president of AGC and former chairman of AGC's Highway Contractors Division.

and supervising your contract. In practice, this is true, for the simple reason as I have just stated, that your own contract with the State is incorporated verbatim and in toto in the contract which the State in turn has then made with us.

Since the requirements governing the workmanship and materials are the same, it follows then that the only things which the Bureau inspecting engineer requires the State to do are the same ones which the State in its own supervision of the project should already have required you to do. The terms of the contract must obviously be met in both cases. I'm confident that there is no disposition on your part to do otherwise.

The rub comes when there is a difference of opinion or judgment as to what does actually constitute a meeting of the contract's requirements. And in this field we will forever find some differences between individuals when each is conscientiously bringing to the problem his individual and varied range of training, experience, and objective judgment based thereon.

This judgment can, of course, be abused by our Bureau engineer, but I'm not aware of any case where it has actually occurred. We're no more willing to condone abuse of this responsibility than you are to experience it. Honest differences of opinion and judgment are usually constructive for both parties and in our system there has to be a referee to reconcile the difference. Sometimes we have to act in that capacity.

To bring some remedy to this problem is why so much work has been done in the past few years by the AASHO, AGC and others on improved specifications—largely through some standardization of specification requirements so that there can be built up a consistent body of uniform interpretation and application from State to State and job to job.

Urges Upgrading of Inspectors

Likewise, a great deal of relief can be obtained by better trained and qualified project inspector personnel. Many of the individual instances which you have experi-

State Can Often Give Faster OK

One of the widespread "heresay" complaints about the dual inspection-approval process is that it occasions useless, long delays. Let's take a dispassionate look at such a situation.

Suppose there is a final record test that has been made on a section of base course which you are ready to prime and put the top on, but the test report has not yet been approved by the Bureau. There is no requirement on our part that once the work has been found satisfactory to the State, it must await our concurrence before the State allows the contractor to proceed with the topping.

If the test was made properly by the State—and the test pro-

cedures are standard and developed by AASHO rather than the Bureau—and the State has confidence that their own test operations were properly carried out—then I can't see why the State's representatives should delay the contractor. If they (state's men) do delay, then it can seem to mean only that they do not have full confidence in themselves, sufficient to justify the position of trust and responsibility required of them under the Federal-aid statute.

In effect, the State representatives are abdicating their rightful position and handing their independence over to the Bureau.

enced are traceable to errors of decision. Interpretation made by untrained inspectors—whose errors must be subsequently corrected by the State or Bureau supervisory engineers.

And some of the complaints arise also from inexperienced personnel lacking in confidence in their own decisions and thus being reluctant or unable to make a decision. Better trained personnel will bring sizeable reduction in this problem. This is why we are working hard with appropriate AASHO committees to institute regular formalized training programs for project personnel in each highway department. While there are a number of such training programs already in operation in individual State highway departments, we need to enlist all States in this important and worthwhile effort. I believe you can help yourself by continuing your active support of both these remedial measures.

Change orders represent a special problem. In effect a change order on extra work order goes outside of the approved project documents and must be treated in much the same general way as the initial project. Any work that the Bureau participates in must be approved in advance. This is not a whim of a power-hungry

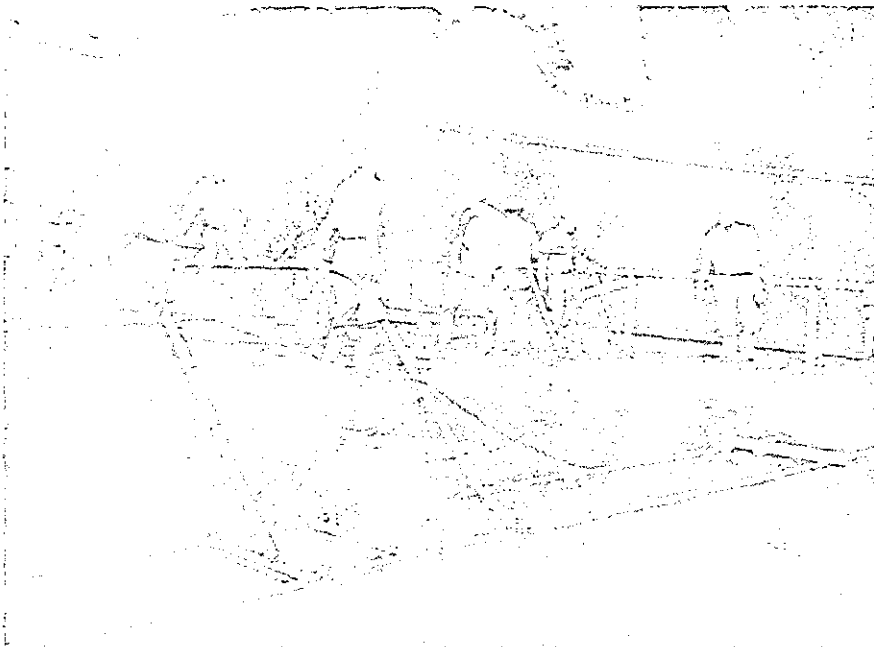
bureaucracy—it is just simply the law, and has been since 1916, without change. Therefore it is necessary for the State to get Bureau approval on change orders or extra work orders in advance if we are to participate financially at all—regardless of the merits of the order or the obvious need therefore.

We recognize that such orders involve going projects—and that decisions are needed fast—so we have long had in operation a rapid approval process. Often this involves sight-unseen approval by telephone, based on the State's verbal presentation, with the required "red-tape" papers called for by statute coming later on in due course.

The act of 1921 has weathered the test of time, and its philosophy and principles have been proven. They are good today not simply because they are old—rather they have been allowed to become old but basically unchanged simply because they have been found to be a good basis for operating our highway program.

As a practical matter and in keeping with the legislative philosophy, we are dependent in a very large measure on the capability and integrity of the individual State highway departments. By and large—

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Two portable light-weight vibratory screeds, each covering half the wide deck.

Small Paired Screeds Strike Off 35-Foot Deck

Problem: how to strike off in one pour—a monolithic concrete deck slab 35 ft. wide, for a bridge being built for the Corps of Engineers at Santa Cruz Small Craft Harbor, California. Because of the width and size, hand strike-off would be inefficient, while an elaborate bridge strike-off machine would be too expensive.

Solution: Power Construction Inc., of Mountain View, Calif., used two Stow \$195 light-weight Porto-Screeds, such as are often

seen striking off sidewalks and other short slabs. One was mounted on two 20-ft. 2 x 6 beams and the other on two 19-ft. 2 x 6s.

A pipe laid in the deck center was supported by screed chairs to act as a centerline screed rail. An adjustable feature permitted setting vibration amplitude to best suit the mix. The operators, one on each screed, pulled the units along to strike off the slab. A uniform, workable surface was obtained after two passes. Further inspection showed that the final surface was well within the allowable tolerance.

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with notably small percentages of failure in any of the important and significant matters—the arrangement has worked well. By emphasizing that the present method has worked well I do not mean in any way to say we are against change—just the opposite, in fact, where proof has been advanced to demonstrate with reasonableness that another way would be better. Few programs and agencies have been as free of scandal charges having substance—and few programs have had the year-after-year overwhelming bipartisan support of the Congress.

To resume it now, the Bureau's role is large and admittedly one of influence. But the right to initiate,

the responsibility to actually contract and maintain, and the final ownership of the roads rest with the State. Ours is a role of approval or concurrence as each step is taken by the State, including the right and responsibility to disagree and disapprove when in our judgment that is necessary to meet the principles and objectives stated in the enabling legislation.

The results that are clearly visible to all prove the value of the scheme because we have unquestionably produced in the United States the safest, finest, most efficient highway network in the world, serving national, local, and personal needs—defense, industry, business and pleasure.—END

HIGH BRIDGE PIERS

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dling. The full 36 ft. form section was used for all pours.

Forms were stripped after 48 hours, with curing continued through seven days. The scheme was to bring the two shafts up together, alternating between them for each lift with the one set of forms. Forms usually were brought to the ground between pours.

One 36 ft. lift for both shafts was thus completed in a 5-day single-shift week in a planned schedule.

Fast Hoisting Speeds Concreting

With river piers rising up to 165 ft. above the gravel work platform, this operation focused attention on the advances made in crane design. The P&H Model 545-TC machine used with hydraulic outrigger employed boom lengths in 20 ft. increments up to 150 ft. plus 30 ft. jib. (Seen here with 150 plus 30.) The crane's fast three-speed hoist contributed to the feasibility of topping the piers out from the ground. Scores of hoist-ups per day were made with the concrete bucket, rebars and forms. In former years the time necessary for such vertical round trips would have been a formidable cost factor. On this job a 1-yd. concrete bucket made it from truck-mixer spout to a 150-foot-up pour and back often in only one and a half minutes.

The 13,000 cu. yd. of concrete in the contract was mixed at the site of Jaeger 7 cu. yd. truck mixers batched from a Blaw-Knox automatic batch plant erected near the site by Shufflin and Green, of Butler, Pa. This commercial ready-mix firm installed the portable plant at a strategic location, under a plan to supply culvert and bridge concrete for several adjoining I-80 projects.

Wayne Sekinger is project engineer for this bridge, William S. Balint is the bridge engineer under the Indiana district of the Pennsylvania Department of Highways, William S. Stephens, district engineer.—End