Department of
General Services

Construction Contracts & Statute of Limitations

Stakeholder Meetings

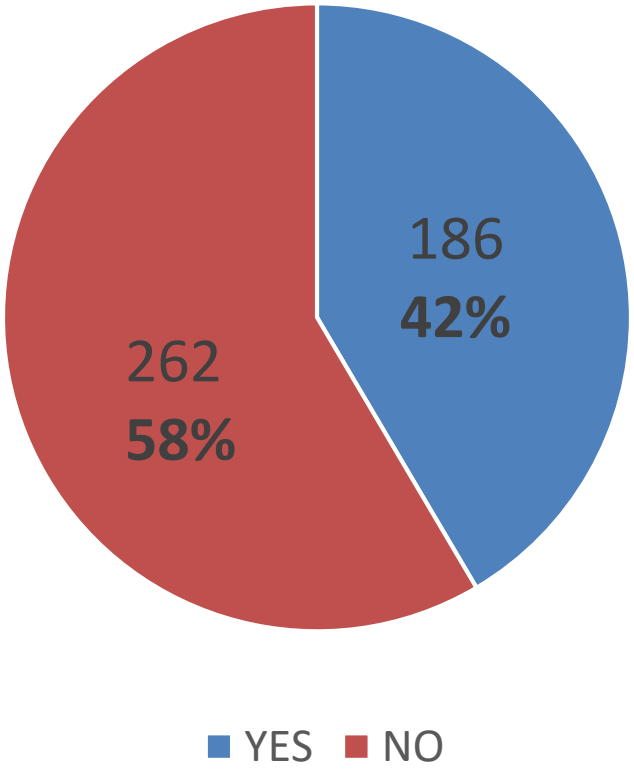
Joe Damico, Director

Introduction

- Directed by 2019 Appropriation Act
- Sent survey to 1,558 stakeholders on 8/19/19
- Received 507 responses

The data shown is actual responses received for each question. Not all respondents answered every question.

Question: Were you aware that the Commonwealth of Virginia does not have a statute of limitations regarding construction and professional services contracts claims?



Survey Response Overview

	A/E	Contractor	Attorney	Surety	State Govt/ Higher Ed	Local Govt
# of responses (Total 507)	269 53%	138 27%	10 2%	24 5%	19 4%	47 9%
30+ Years of Experience	60%	67%	80%	67%	74%	83%
Certified Small Bus (Yes)	119 44%	78 57%	0	1 4%	0	0
Aware COVA does not have a SOL (yes)	74 of 233 32%	69 of 131 53%	6 of 6 100%	18 of 22 82%	7 of 15 47%	12 of 41 29%
Claims responses	19 (15 PS, 4 CS)	9 (4 PS, 5 CS)	0	0	4 (2 PS, 2 CS)	3 (3 CS)

Nature of Claims

voltage/load subconsultant architect contract
comply parking expected reconfig Owner failure
rework supplemental Water death place new
money infiltration boilers error
incomplete ramp deficient irregularities
remediation Contractor beyond damage Defective
caused pipes Engineer responsibility built Structural
ADA excavation illness alleged
Tenant Claims Envelope provided Lack specifications
Stair heat sewage Leaks leak
Subsurface work perform design deck incorrect substandard
complete stone builder
collapse things Cracked violation discrepancy concrete
humidity without inadequate keep ultimately resulting
materials case
pump construction Drywall incorrectly
workmanship durability tank compliant
items Claim sediment project
undergound failed basins
system drawings designed
Piping specification
HVAC building
claimed Electrical installed
issues

Claims Overview

Parties to the claim:

A/E	19
Contractor	9
Attorney	0
Surety	0
State Government/ Higher Education	4
Local Government	3

Type of Claim:

Professional Services	21
Construction	14

Claims Overview Continued

Procurement Method Used:

DBB	CM	DB	Emergency	A/E	Don't Know
20	5	5	1	2	2
57%	14%	14%	3%	6%	6%

TIME BEYOND COMPLETION	TYPE OF CLAIM	INITIAL VALUE OF CONTRACT	INITIAL VALUE OF CLAIM	SETTLED AMOUNT OF CLAIM
Less than 1	Professional Services	$ 331,835,000.00	$ 23,295,000.00	$ 11,030,000.00
Less than 1	Construction	$ 15,675,000.00	$ 3,291,000.00	$ 1,091,000.00
1 - 3	Professional Services	$ 45,684,562.00	$ 10,406,500.00	$4,765,000.00
1 - 3	Construction	$ 16,968,000.00	$ 2,906,477.00	$ 1,420,096.00
4 - 6	Professional Services	$ 34,400,000.00	$ 1,565,000.00	$0.00
4 - 6	Construction	$ 11,300,000.00	$ 26,250,000.00	$108,000.00
7 - 9	Professional Services	0	0	0
7 - 9	Construction	Do Not Know	$ 2,000,000.00	$ 600,000.00
10 or more	Professional Services	0	0	0
10 or more	Construction	$ 79,000,000.00	$ 20,130,000.00	$12,000,000.00

Review of data in the handout

Errors and Omissions

If the Commonwealth of Virginia adopted a statute of limitations, how would it affect your Errors and Omissions Insurance based on the following:

Value	SOL Limit
$5 Million	5 year, 10 year, 30 year
$50 Million	5 year, 10 year, 30 year
$200 Million	5 year, 10 year, 30 year

(The charts reflect the A/E responses– pages 2-4)

Performance and Payment Bond

If the Commonwealth of Virginia adopted a statute of limitations, how would it affect your Performance and Payment Bond based on the following:

Value	SOL Limit
$5 Million	5 year, 10 year, 30 year
$50 Million	5 year, 10 year, 30 year
$200 Million	5 year, 10 year, 30 year

(The tables reflect Contractor responses - pages 5-7)

Additional Survey Questions

- Additional data charts showing the following:
  - Would adding a statute of limitations affect the overall cost of construction/design projects?
  - Would a statute of limitations require a greater need to extend warranties?
  - Would a statute of limitations require a greater need for more inspections?

Presentations