

“LEGAL LIABILITY”



**CONSTRUCTION ENGINEERING TECHNOLOGY SERVICES, P.C.
(CTS GROUP)**

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STUART SOKOLOFF, P.E., P. ENG ONTARIO

- 150 VE Studies $\approx$ 20 years
- Contractor's Engineer:
(Kiewit, Skanska, Granite, Perini, Carillion, etc.)
- Forensic Engineering/Expert Witness $\approx$ 750 cases
(United States and Canada)

QUALITY STUDY PARAMETERS

- **TEAM >:** Expertise
Size
Participation: Owner/Eng.
- **CVS:** Efficiency/Time Allocation
- **Owner:** Duration

HOW TO INCREASE STUDY BENEFITS

- PRE-STUDY: 8 -16 HRS
- DURATION: 5 DAYS
- FUNCTION ANALYSIS: 1 HOUR
- TEAM SIZE: 10-12 (TOTAL INCLUSIVE)
- DESIGNER PRESENTATION: 1 HOUR
- RISK ASSESSMENT
- NO DRAFT REPORT HANDOUT
- CVS TIGHT TIME CONTROL



EFFICIENT
USE OF TIME

PHASES OF A VE STUDY

- | | |
|-----------------|----|
| Pre study | 1. |
| 1. Information | 2. |
| 2. Functions | 3. |
| 3. Ideas | 4. |
| Risk | 5. |
| 4. Selection | 6. |
| 5. Development | 7. |
| 6. Presentation | 8. |
| Implementation | 9. |

MOST IMPORTANT PHASE

- Functions?: :NO:
Usually Relatively Obvious
(For Physical Projects)
 - Bridge • Building • Tunnel • Station • Waste Water Treatment Plant

- **DEVELOPMENT**

**“THE IDEA NOT IMPLEMENTED HAS NO
VALUE”**

HOW ARE BENEFITS DIMINISHED

$$V = \frac{F(P)}{\text{COST}}$$

$$V = F(P) \left[\frac{1}{\text{COST}} \right]$$

FUNCTION = PERFORMANCE



RESPONSE TO A POOR VALUE IDEA (COST OR TECHNICAL)

- Not My Decision
- Not My Fault
- Was Your Choice

**“SO WHO SAID YOU SHOULD IMPLEMENT OUR
RECOMMENDATIONS ANYWAY?”**

**IS THE CVS AND STUDY TEAM
RESPONSIBLE FOR A POOR
VALUE IDEA?**

YES!

(unless you are careful)

ACTUAL CASE LEGAL ACTION vs. VE ENTITY

VE Recommended Project Implementation

Project Not Financially Sound (Project Discontinued)

≈ > \$40 Million Action

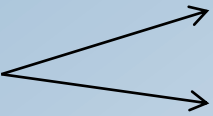
Owner vs. Prime Engineer vs. CVS vs. Each Team Member

COMPLAINT

Counts:

- Negligent Misrepresentation
- Malpractice
- Breach of contract
- Unjust Enrichment

AVOID LIABILITY

Mitigation Of 

- Inaccurate Costing
- Poor Value: Poor Performance

~~“Recommendation”~~

~~“Verify”~~

~~“Confirm”~~

~~“Validate”~~

~~“Assure”~~

$$V = \frac{\text{Performance}}{\text{COST}}$$

DON'T VOLUNTEER FOR LIABILITY

SUGGESTIONS

1. Allow Sufficient Time For Experts To Be Experts
2. Do Not Offer Costs/Use Given Project Costs
3. Do Not Offer “~~Recommendations~~” Offer “Ideas”
4. Disclaimer In Response To RFP/and in Report
5. Carry Insurance

DISCLAIMER

“The costs used are those provided by the Engineer. Where the VE team has offered alternate costs, they are provided for information only reflective of the extremely short duration of the VE study and should be evaluated by the Owner and its Engineer. VE Ideas are provided to the Owner/Engineer for their evaluation. Implementation is made



YOU HAVE BEEN WARNED