



INDIANA DEPARTMENT OF TRANSPORTATION

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Indianapolis, Indiana 46204

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Eric Holcomb, Governor
Michael Smith, Commissioner

September 20, 2022

CONSTRUCTION MEMORANDUM 22-08

TO: District Deputy Commissioners
District Construction Directors
District Technical Services Directors
District Area Engineers, Project Engineers/Supervisors
District Project Management Director, Project Management Director
District Traffic Engineers, District Testing Engineers
District LPA Coordinators, Field Engineers, Division of Materials and Tests

FROM: Gregory G. Pankow, P.E., Director *p.p. J. J. Navak*
Division of Construction Management and District Support

SUBJECT: Change Orders on Construction Contracts Policy

SUPERSEDES: Construction Memorandum 14-05

Attached is the revised change order policy which became effective September 19, 2022. This policy supersedes the previous policy issued with Construction Memorandum 14-05.

Notable revisions to the previous policy:

- New section 3.5.1: A Change Order is not to be used to purchase a license for software without documented approval from the DDCM in advance.
- Removed sections 4.3 and 5.4: Supplemental approvals are no longer needed when change orders cumulatively reach or exceed 4% of the contract value or 25 days of contract time.
- Revised section 6.1.8: Recoverable change orders should only be pursued for financial recovery from a design Consultant when the industry standard of care is breached.

Additional instructions for completing change orders are provided in the General Instructions to Field Employees, Chapter 2.

ATTACHMENT: Change Orders on Construction Contracts Policy

GGP/JJN



CHANGE ORDERS ON CONSTRUCTION CONTRACTS POLICY

Policy Department: Division of Construction Management

PURPOSE

The purpose of this Policy is to formalize the requirements related to Change Orders on Construction Contracts

EFFECTIVE DATE

September 19, 2022

SUPERSEDES

This Policy supersedes the previously published Change Orders on Construction Contracts Policy issued with Construction Memorandum 14-05

APPROVAL


Roland L. Fegan
Deputy Commissioner of Construction

Date: September 19, 2022

1. GENERAL PROVISIONS

- 1.1 Change Orders are utilized to document an impact to a Construction Contract and authorize the changes required to mitigate the impact. These changes include, but are not limited to, monetary adjustments, time adjustments, plan revisions, and specification changes.
- 1.2 This Policy is implemented in conjunction with Section 104 of the Standard Specifications. The Policy is not to be construed to supersede the Standard Specifications or any State or Federal statute.
- 1.3 The provisions contained herein are to be applied in a consistent manner that strives to complete INDOT projects by the originally established completion date at the lowest cost possible as compared to the contract award amount.

2. RESPONSIBILITIES

- 2.1 The Project Engineer or Project Supervisor (PE/S) who initiates the Change Order will provide for notification to be sent to the Project Manager (PM) when a Change Order is being drafted.
- 2.2 The PE/S is responsible for notifying FHWA of Change Orders on Contracts that have been pre-selected by the Federal Highway Administration (FHWA) for oversight. The Change Orders will require documented FHWA approval prior to proceeding with the work.
- 2.3 Change Orders on Local Public Agency (LPA) Contracts require documented approval from the LPA prior to proceeding with any change to the Contract.

- 2.4 The District Construction Office will review Change Orders to ensure compliance with the Policy.
- 2.5 The State Construction Engineer in the Division of Construction Management will conduct process reviews to verify compliance with the Policy.

3. GENERAL INSTRUCTIONS

- 3.1 Each Change Order is to only address one specific impact to a Contract and clearly identify the reason for the change. Multiple items may be included on a Change Order, but all are to be related to the same specific impact and are to indicate the same reason for the change.
- 3.2 Change Orders require authorization by the appropriate authority, as shown in the tables in 4.2 & 5.1, prior to proceeding with any change to the Contract.
- 3.3 When a Change Order includes both monetary and time adjustments, the appropriate approval authority is the higher authority required when considering the monetary and time adjustments separately.
- 3.4 Change Orders are not to be split into multiple documents to reduce the approval authority level required.
- 3.5 A Change Order is not to be used to purchase any equipment intended to remain the property of the State without documented approval from the Director of the Division of Construction Management (DDCM) prior to proceeding with any change to the Contract.
- 3.5.1 A Change Order is not to be used to purchase a license for software without documented approval from the DDCM in advance.
- 3.6 A Change Order is not to be used to authorize a Contractor to perform work on State property such as buildings, vehicles, equipment, or other items not included in the Contract without documented approval from the DDCM prior to proceeding with the work.
- 3.7 A Change Order will include documentation necessary to describe the impact to the contract and the justification for the change. The documentation is to be of sufficient detail that a person generally familiar with the construction process, but not associated with the specific contract, is able to understand the impact and the justification for change.
- 3.8 Justification of new unit prices is to be documented along with the Change Order.
- 3.9 Additional instructions are provided in the General Instructions to Field Employees.

4. MONETARY ADJUSTMENTS

- 4.1 A Change Order is not required to authorize minor changes in existing Contract pay item quantities that are typically necessary to meet the scope and design of the Contract. Changes are considered minor if the total impact to the Contract is less than \$20,000.00 in increased or decreased costs compared to the current approved Contract amount. Once this limit is exceeded, a Change Order that includes all increases or decreases in existing Contract pay item quantities is required to authorize the revisions. Additional Change Orders due to further changes in existing Contract pay item quantities are not required until the \$20,000.00 limit is again exceeded.
- 4.2 The Department's level of authority for approval per Change Order for monetary adjustments to a Contract is as shown in the following table:

Monetary Adjustment Approval Authority

Approval Authority	Maximum Adjustment (Positive or Negative)
Project Engineer/Supervisor	\$50,000.00
Area Engineer	\$250,000.00
District Construction Director	\$750,000.00
State Construction Engineer	\$2,000,000.00
Director, Division of Construction Management	Over \$2,000,000.00

5. TIME ADJUSTMENTS

- 5.1 The Department's level of authority for approval per Change Order for time adjustments to a Contract is as shown in the following table:

Time Adjustment Approval Authority

Approval Authority	Maximum Adjustment (Positive or Negative)
Project Engineer/Supervisor	10 days
Area Engineer	50 days
District Construction Director	100 days
State Construction Engineer	200 days
Director, Division of Construction Management	Over 200 days

- 5.2 For Change Orders which extend any combination of an Intermediate Contract Completion Date, a Closure Period or the Contract Completion Date, the appropriate approval authority is based on the longest time adjustment included in the Change Order.
- 5.3 For Change Orders which delete an Intermediate Completion Date, a Closure Period, or any other milestone date or time period from a Contract, the approval authority is the DDCM.

6. SCOPE OR DESIGN CHANGE APPROVAL

- 6.1 The approved scope or design of a Contract is not to be changed without documentation of approval from the appropriate authority, obtained through the PM, in addition to the approval authority based on the magnitude of the Change Order monetary and time adjustments. Any of the following are classified as changes to scope or design elements of the Contract:
- 6.1.1. Alterations to the intent or scope of the Contract or character of the work, including significant revision of the project limits.
 - 6.1.2. Revisions to geometric design of the mainline roadway, ramps, frontage roads or crossroads.
 - 6.1.3. Revisions to structural section of the pavement, including, but not limited to subgrade, subbase, PG binder grade, pavement type, pavement depth, individual pavement courses and aggregate designations.
 - 6.1.4. Additions, deletions, changes or relocations to bridges or structures that affect the functional scope and intent of the approved design.

- 6.1.5. Deviations from planned access control, including drives or pedestrian access features.
- 6.1.6. Revisions to the specifications, special provisions or other contract requirements for maintaining traffic.
- 6.1.7. Revisions that result in new environmental impacts, changes in previously permitted activities or reductions in environmental mitigation measures provided for in the Contract.
- 6.1.8. When the Change Order is potentially due to a design error or omission (E&O), the PE/S will notify the PM as soon as the potential error or omission is found. For projects designed by a consultant, the PM will promptly notify the Consultant Engineer of Record (EOR) of the potential E&O. A solution will then be determined by the EOR, INDOT or a combination of the two. The PE/S will track the costs associated with the solution and prepare the necessary Change Order. This procedure will be used for all projects whether designed in-house or by consultant.

For projects designed by a consultant, a recovery process may be started as determined by the PM. Recovery should be pursued if the E&O was a breach of the standard of care. An assessment, if requested by the EOR, will be made by the PM, PE/S and EOR to better determine the Consultant's responsibility for the possible E&O. If the EOR does not agree with the assessment it may request an INDOT Staff Review through INDOT Legal for further assessment. Based on the assessment, INDOT will pursue recovery of any premium costs that are the result of Consultant E&O, guided by the anticipated recovery amount and the likelihood of a successful recovery effort. If at any point in the process, INDOT decides not to pursue recovery, the PM will document the decision in the project file and notify the EOR. INDOT Legal will maintain a database of identified E&O along with a record of the final disposition of each, including disposition on appeal by the EOR if applicable.

The complete process can be found in chapter 6 of the **INDOT Professional Services Contract Administration Manual**.