

Chapter 4

CONTRACT MODIFICATIONS

4.1	THIS SECTION HAS BEEN ELIMINATED	4-1-1
4.2	Construction Contract Time Extension Procedure	4-2-1
4.2.1	Purpose	4-2-1
4.2.2	Authority	4-2-1
4.2.3	Background	4-2-1
4.2.4	General	4-2-2
4.2.4.1	Time Adjustments for Delays Caused by Weather	4-2-3
4.2.4.2	Contract Time Reduction	4-2-6
4.2.4.3	Time Extensions for Delays Other Than Those Related to Weather	4-2-6
4.2.4.4	Summary	4-2-12
Attachment 4-2-1	Sample Letter to Contractor	
Attachment 4-2-2	Contractor's Time Extension Request, Form 700-010-56	
Attachment 4-2-3	Sample Letter Resident Engineer Time Extension Response	
Attachment 4-2-4	Sample Electronic Mail Request For State Construction Engineer's, Concurrence for Time Extension on C. A. Project	
Attachment 4-2-5	Sample Letter to FHWA Requesting Concurrence and Participation of an Approved Time Extension	
4.3	Supplemental Agreements and Unilateral Payments	4-3-1
4.3.1	Purpose	4-3-1
4.3.2	Authority	4-3-1
4.3.3	Reference	4-3-1
4.3.4	Definitions	4-3-2
4.3.5	Identifying the need for a Supplemental Agreement or Unilateral Payment	4-3-3
4.3.5.1	Unilateral payments will be used to pay the Contractor for work performed on a project when:	4-3-4
4.3.6	Initiating Supplemental Agreements and Unilateral Payments	4-3-4
4.3.6.1	Significant Changes	4-3-5
4.3.6.2	Plan or Specification Changes	4-3-5
4.3.6.3	Quantity Overruns	4-3-6
4.3.7	Establishing a Fair and Equitable Value for a Significant Change	4-3-6

4.3.7.1	The portion of the cost for equipment will be based on the Rental Rate Blue Book for Construction Equipment, current at the time of letting, in accordance with the following: . . .	4-3-7
4.3.7.2	Where no price is provided in the contract, and a price cannot be negotiated for additional work, payment shall be made in accordance with the following:	4-3-8
4.3.8	Determining and Documenting the Basis for Contract Time Adjustments	4-3-8
4.3.9	Obtaining Department Legal Approval	4-3-9
4.3.10	Preparing Supplemental Agreement Documents	4-3-10
4.3.11	Requesting Certification of Funds from the Department's Comptroller's Office	4-3-11
4.3.12	Obtaining Federal Highway Administration Approval and Participation for Construction Contract Changes on Federal Aid Projects . . .	4-3-12
4.3.12.1	General	4-3-12
4.3.12.2	FHWA Oversight Projects	4-3-13
4.3.12.3	Certification Acceptance Projects	4-3-16
4.3.12.4	District Oversight Projects (Exempt)	4-3-17
4.3.13	Documenting and Approving the Work, and Issuing the Notice to Proceed with the Work	4-3-17
4.3.14	Executing and Processing Supplemental Agreement and Unilateral Payment Documents	4-3-19
4.3.15	Obtaining an Updated Project Schedule	4-3-22
4.3.16	Distributing Executed Supplemental Agreement and Unilateral Payment Documents	4-3-23
Attachment 4-3-1	Encumbrance Input, Form No. 350-020-01	
Attachment 4-3-2	Summary Record of Negotiations/Engineer Cost Estimate, Form No. 700-010-46	
Attachment 4-3-3	Supplemental Agreement, Form No. 700-010-45	
Attachment 4-3-4	Unilateral Payment, Form No. 700-010-05	
Attachment 4-3-5	Sample Transmittal Letter for Unilateral Payment	
Attachment 4-3-6	FHWA Approval - Major and Minor Construction Changes, Form No. 700-010-47	
Attachment 4-3-7	State Construction Engineer Concurrence, Form No. 700-010-43	
4.4	Documentation and Analysis of Construction Contract Claims	
4.4.1	Purpose	4-4-1
4.4.2	Authority	4-4-1
4.4.3	Background	4-4-1

4.4.4	Definitions	4-4-1
4.4.5	Notice	4-4-2
4.4.6	Claim Recognition	4-4-3
4.4.6.1	Changes to the Contract Documents	4-4-3
4.4.6.2	Changed Site Conditions	4-4-3
4.4.6.3	Schedule Related Problems	4-4-4
4.4.6.4	Performance of the Department	4-4-4
4.4.6.5	Substandard Work by the Contractor or Subcontractor	4-4-4
4.4.6.6	Qualified Acceptance	4-4-4
4.4.7	Coordination	4-4-4
4.4.7.1.	Claims Involving a Utility	4-4-5
4.4.7.2	General Counsel	4-4-5
4.4.7.3	Federal Aid Participation (F.A.P.) Projects Including Both Federal Oversight Projects and Certification Acceptance (C.A.) Projects	4-4-5
4.4.8	Documentation	4-4-5
4.4.8.1	Comprehensive Documentation	4-4-6
4.4.8.2	Concurrent Documentation	4-4-6
4.4.8.3	Record of Contractor's Equipment, Labor and Material	4-4-6
4.4.8.4	Claim File	4-4-7
4.4.8.5	Sources of Documentation	4-4-7
4.4.9	Contractor's Submission of Claim	4-4-7
4.4.10	Analysis of Claim Packages	4-4-8
4.4.10.1	Establishing the Facts	4-4-9
4.4.10.2	Claim Eligibility	4-4-9
4.4.10.3	Extent of Compensation	4-4-10
4.4.10.4	Settlement Processing	4-4-13
4.4.11	Preparation of Claim Review Packages	4-4-13
4.4.11.1	Forwarding Memorandum	4-4-14
4.4.11.2	Claims Against Utility Performance	4-4-15
4.4.12	Claim Settlement	4-4-16
4.4.12.1	Federal Aid Participation (F.A.P.) Projects with Claim Settlements Less than \$200,000.	4-4-16
4.4.12.2	All F.A.P. Projects with Claim Settlements of \$200,000 or More	4-4-18
4.4.12.3	Claim Settlement Greater than \$500,000	4-4-18
4.4.12.4	Settlement Supplemental Agreement	4-4-19
4.4.12.5	Court Ordered Claim Settlement	4-4-19
4.4.13	Claim Denial	4-4-20

4.4.14	Claim Appeal	4-4-20
4.4.15	Claim Documentation	4-4-21
Attachment 4-4-1	Sample Letter - Utility Company Notification	
Attachment 4-4-2	Resources of Information and Documentation	
Attachment 4-4-3	Sample Letter No. 2 Utility Company Notification	
Attachment 4-4-4	Sample Letter Utility Company Notification	
Attachment 4-4-5	Sample Electronic Mail Requesting for State Construction Engineer's Concurrence for Federal Aid Participation on C.A. Projects	
Attachment 4-4-6	Sample Letter to FHWA Requesting Concurrence and Participation in a Claim Settlement	
Attachment 4-4-7	Sample Letter Claims Settlement Certification	
Attachment 4-4-8	Sample Contract Invoice Transmittal, Form No. 350-060-02	
Attachment 4-4-9	Flow Chart Construction Claims	
4.5	Construction Contract Default	
4.5.1	Purpose	4-5-1
4.5.2	Authority	4-5-1
4.5.3	Default Provision	4-5-1
4.5.4	Surety Bond	4-5-1
4.5.5	Reasons for Default	4-5-2
4.5.6	Recourse and Remedies	4-5-4
4.5.7	Cost Liability	4-5-4
4.5.8	Determination of Number of Days of Default	4-5-5
4.5.9	Liquidated Damages During Default	4-5-5
4.5.10	Termination of Contractor's and Surety's Responsibility	4-5-5
4.5.11	Default Proceedings	4-5-6
4.5.12	Suspension of Certificate of Qualification	4-5-7
4.5.13	Contractor Suspension Report	4-5-8
4.6	Change Orders	4-6-1
4.6.1	Purpose	4-6-1
4.6.2	Authority	4-6-1
4.6.3	Reference	4-6-1
4.6.4	Definitions	4-6-1
4.6.5	Initiating a Construction Contract Change Order	4-6-2
4.6.6	Implementing the Budget	4-6-3
4.6.7	Obtaining FHWA Approval and Participation	4-6-3
4.6.8	Executing Change Orders	4-6-4
4.6.9	Issuing the Notice to Proceed with the Work	4-6-4
4.6.10	Distributing Executed Change Orders	4-6-5

Attachment 4-6-1 Change Order, Form No. 700-010-68

4.7 Contingency Supplemental Agreements and Work Orders (Unforeseen Additional Work)

4.7.1	Purpose	4-7-1
4.7.2	Authority	4-7-1
4.7.3	Reference	4-7-1
4.7.4	Background	4-7-2
4.7.5	Definitions	4-7-2
4.7.6	Funding	4-7-3
4.7.6.1	Certification of Availability of Funds	4-7-3
4.7.6.2	Contingency Pay Item	4-7-4
4.7.7	Contingency Supplemental Agreement	4-7-5
4.7.7.1	General	4-7-5
4.7.7.2	Numbers, Dates, Codes	4-7-6
4.7.7.3	Contract Time	4-7-6
4.7.8	Work Order	4-7-7
4.7.8.1	General	4-7-7
4.7.8.2	State Construction Engineer Authorizations	4-7-8
4.7.8.3	Numbers, Dates, and Codes	4-7-8
4.7.8.4	Costs	4-7-8
4.7.8.5	Contract Time	4-7-10
4.7.8.6	FHWA Approval	4-7-10
4.7.9	Document Distribution	4-7-10
4.7.9.1	Contingency Supplemental Agreement	4-7-11
4.7.9.2	Work Orders	4-7-11
4.7.10	Accounting	4-7-12
4.7.11	Forms Access	4-7-13

Attachment 4-7-1 Encumbrance Input, Form No. 350-020-01

Attachment 4-7-2 Contingency Supplemental Agreement,
Form No. 700-010-79

Attachment 4-7-3 Work Order for Unforeseen Additional Work,
Form No. 700-010-80

Attachment 4-7-4 Contract Reporting System - Card Type 5
Form No. 700-010-75

Attachment 4-7-5 Contract Reporting System - Card Type 2
Form No. 700-010-73