

0040304-CONDITIONS REQUIRING A SUPPLEMENTAL AGREEMENT OR
UNILATERAL PAYMENT
RESPONSES TO COMMENTS FROM INDUSTRY REVIEW

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Comments:

Some Contractors refuse to go to work unless they have a signed instrument. To avoid that argument, I would suggest language clearly stating something to the effect of:

“The Contractor shall go to work upon receiving written authorization from the Engineer, regardless of the status of an unexecuted Unilateral or Supplemental Agreement payment.”

This should remove an unnecessary argument.

Response: The State Construction Office does not wish to put this language in the specifications. The written authorization letter to proceed with the work from the District to the contractor should state that the funds to do the work have been encumbered.

William Sears
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Comments:

Turnpike Construction supports this revisions which documents our current method of operation.

Response: No response required.

Brian Gibbs, Vice President
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Comments:

In review of the proposed specification change to 4-3.4 Conditions Requiring a Supplemental Agreement or Unilateral Payment, I offer the following inquiry:

1. if the FDOT plans to stop utilizing SA's and Unilateral's to document quantity overruns, what contract documentation will be added to assure contractor that proper compensation will be provided for any and all items of pay item work exceeding the 5%.

The CEI's are quick to offer an overrun but when final estimates comes in, they have a tendency to take the dollars/quantities back. In my experience, even if the CEI team has the extra funds are encumbered for the project thru SA or Unilateral. If you are on a 700 day project, trying to research back thru project correspondence to try and justify the previously agreed overruns, it is

an absolute nightmare for the CEL and the Contractor. Long story short, if an SA or Unilateral is not written, how will the FDOT justify/guarantee proper compensation for pay item overruns.

Response: This change is the result of the passage and signing into law of **HB 1681 (2005)** which eliminated the requirement of a Supplemental Agreement for major quantity differences resulting in the Contractor's work effort exceeding the original contract amount by more than five percent. **CPAM 7.3.6.4 Quantity Overruns** addresses how overruns are to be handled.

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Comments:

Turnpike Construction could support the volume calculation utilizing the nominal pavement thickness if there was an adjustment to pay for materials only on any additional depth that was unforeseen. ie: Change the last sentence to "Additional compensation for material costs only will be allowed for additional concrete required to bring proposed concrete slab up to proposed grade." We do not agree with asking the contractor to bid unknown quantities. We realize the contractor's labor cost for removal and replacement will not vary significantly based on unforeseen additional depth, but his material costs will vary and he should be compensated.

Response: I do not think this comment applies to this spec. change.
