

DIVISION OF LOCAL ASSISTANCE



CALTRANS OVERSIGHT INFORMATION NOTICE



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Welcome to the COIN!

This is a Caltrans Oversight Information Notice, or "COIN" for short. These short, single-topic bulletins are intended to provide outreach information and guidance to local agencies on issues pertaining to Federal-aid projects. They cover a wide variety of subjects, including discussions of findings resulting from process reviews by Caltrans and/or FHWA, changes in procedures or regulations, reminders of existing procedures or best practices, and other timely information. The goal is to ensure proper and timely delivery of Federal-aid projects.

TOPIC: Documentation for the Use of Extra Work at Force Account (also known as Time and Materials) as a Method of Payment for Contract Change Orders (CCO's)

One area of construction contract administration that is coming under increasing emphasis and scrutiny is involving the use of Extra Work at Force Account as a method of payment on Contract Change Orders (CCO's).

Commonly known as "Time and Materials", this method of payment compensates the Contractor for Equipment (at established Equipment Rental Rates), Labor (at Prevailing Wage Rates) and Materials, plus prescribed markup percentages, for the actual utilization of resources on work covered by the applicable Contract Change Order.

Pursuant to 23 CFR 635.120 (d),

"In establishing the method of payment for contract changes or extra work orders, force account procedures shall only be used when strictly necessary, such as when agreement cannot be reached with the contractor on the price of a new work item, or when the extent of work is unknown or is of such character that a price cannot be determined to a reasonable degree of accuracy."

According to a recent Office of Inspector General (OIG) audit, contract changes should be settled primarily through negotiations, and force account type procedures should be used only when necessary, and then be appropriately documented.

Per the Caltrans Construction Manual, the payment methods for CCO's should reflect the following order of preference:

1. Bid Item Unit Prices
2. Agreed Unit Price or Agreed Lump Sum Price
3. Extra Work at Force Account

It is acknowledged by FHWA and Caltrans that there are many of examples of proposed CCO work where it is difficult to ascertain the scope, extent, and the level of effort required to accomplish the desired result or end product, and thus the use of Extra Work at Force Account (Time and Materials) may be the most appropriate method of payment for such extra work.

So in summary, the point of this COIN is twofold:

1. To encourage the use of Extra Work at Agreed Lump Sum or Extra Work at Agreed Unit Price as the preferred method of payment for CCO's whenever possible, and
2. To affirm the requirement that if the Extra Work at Force Account method of payment is utilized, the local agency shall document (via the CCO Justification memo or a separate Memo to File) the particular circumstances whereby it was not feasible or practical to reach an Agreed Price for the work of the CCO.