

DNR EL Section Interpretation of EJCDC Change Order Language

The following is DNR's interpretation of the EJCDC Standard General Conditions of the Construction Contract as it relates to contract change orders. This document will be used as a guide for determining eligibility of change order costs for construction contracts funded through programs within the Environmental Loans Section.

Methods of Amending a Contract

In general, a change order is used to amend a contract price and/or contract time. If there is no change to the time or cost of the contract, a field order shall be issued, and field orders shall be incorporated into change orders to document the additional work.

A work change directive can be used to agree on a contract change to time and/or cost; this gives the contractor approval to proceed with the work. All work change directives shall be incorporated into a change order to document the additional work.

A change order is the official amending document for a construction contract. All change orders shall be submitted to DNR for an eligibility review and contract cost tracking.

Change in Price Change Order (Work Change Directive) Options

For lump sum contracts, change orders shall either be lump sum or time and materials.

- For lump sum change orders, contractors shall show a breakdown for their costs. The minimum required breakdown shall include labor, equipment, materials, all sub-contractors' breakout of cost, overhead, and bond cost. For some costs, such as paving, landscaping, etc., these costs may be broken down into a per unit price and then cost based on the total install unit quantity.
- For time and material change orders, each contractor will need to have detailed documentation for the change order costs performed by their employees. Daily work sheets shall be included showing which employees worked on the change order, equipment used, and materials used for each day. Daily work sheets shall be signed by the contractors and owners' onsite representatives to be valid. All daily work sheets will be used to document the labor, equipment, and material costs. Materials used will also need to have documentation from the supplier showing their cost to the contractor. Sub-contractors are expected to supply the same level of documentation and all contractors must show any sub-contractors, overhead, and bond costs as well.

For a unit price contract:

- A final as-built quantities change order shall be required. Generally only quantities will see any changes; however, if there is a change in price the contractor and/or their supplier must document the difference in price.

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- Bid items may be removed from the contract and alternate bid items may be included in the contract without additional documentation if the bid items were included for all bidders and the amount and quantities have generally not changed.
- All other changes to the contract need to be documented with greater detail.
 - New unit price bid items require documentation of all costs of equipment, labor, material, overhead, and bonds/insurance to verify the unit price provided.
 - Work may be done on a lump sum or time and material basis and will follow the same method as laid out for lump sum contracts above. Many unit price street contracts should document a crew rate for each crew on a street contract. A crew rate will include all labor, and equipment used on a per hour basis, including any eligible overhead. Material invoices will be required on a time and material change as stated above.

Contractors Fee (Overhead / Profit) Rates

The contractor's fee will be approved under the following conditions:

- The maximum allowed contractors fee for additional costs shall be 15% on the contractor's own work.
- The minimum contractors fee for deduction costs shall be 5% on the contractor's own work. In the case of sub-contractors, the minimum deduct of 5% needs to be taken only once. Specifically, an additional 5% of the net deduct amount should be returned to the owner.
- Contractors are allowed to markup sub-contractors work by a maximum contractor's fee of 5%, for management of sub-contractors.
- If both additions and credits are involved in any one change or change proposal; the adjustment of the contractor's fee will be computed by determining the sum of the cost in each of the cost categories and the appropriate fee
 - Payroll
 - Incorporated materials
 - Equipment costs
 - Sub-contract costs
 - Special consultants
 - Other costs
- In general Contractors Fees may be included on the following:
 - Payroll of direct employee on site of contractor performing work. Superintendent, foreman, safety manager, safety representative and other personnel employed full time onsite. Include salaries, wages, fringe benefits, taxes, health vision dental insurance, sick leave, holiday pay, etc.

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- Materials and equipment furnished and incorporated into the work including transportation and storage (cash discount to contractor/sale of leftover material money goes to owner).
- NO Contractors Fee for
 - special consultants (engineers, architects, testing labs, surveyors, attorneys, accountants, etc.
 - proportion of necessary transportation, travel, and subsistence expenses of contractor's employees in duties connected with the work.
 - Administrative costs including transportation and maintenance of all materials, supplies, equipment, machinery, appliance, office, and temporary facilities at the site.
 - Rentals of all construction equipment (only bill for time actually used, sales tax is allowed).
 - Costs for equipment owned by the contractor or contractor's related entity (only bill for time actually used).
 - Sales, consumer, use, and other similar taxes that the contractor may be liable for.
 - Deposits lost and losses and damages (not due to negligence).
 - Cost of utilities, fuel, and sanitary facilities at site.
 - Minor expenses at the site, such as communication service at site, express and courier services, and similar petty cash items.
 - The cost of premiums for all bonds and insurance that contractor is required by contract to purchase and maintain.

Change Order Cost's that are not allowed

- Cost excluded – not allowed on change orders
 - Payroll cost and other compensation of contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by the contractor - at site or home office. These are to be covered by the contractor's fee.
 - Any cost of small and hand tools.
 - Expenses at contractor's principal and branch offices other than the site office.
 - Any part of the contractor's capital expenses, including interest on contractor's capital employed for the work and charges against delinquent payments.
 - Cost due to negligence of contractor or sub-contractor or anyone directly or indirectly employed by any of them. This includes defective work, wrongly disposed of materials, or wrongly supplied equipment, and any damage to property.
 - Expenses incurred for preparing or advancing claims.

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- Other overhead and general expenses not specifically allowed.

Notes about Allowances

- General cash and/or contingency allowances are ineligible for DNR Environmental Loan funding.
- Specific allowances for items which are eligible for funding under NR 162 & NR 166 are eligible for DNR Environmental Loans funding.
 - Eligibility will be determined before the FAA is issued.
- All allowance costs shall have no overhead or bond added per EJCDC.
- All allowances will be balanced by change order prior to final contract acceptance.