

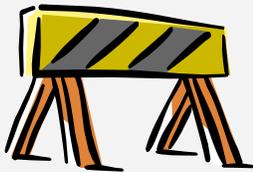
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Modifications

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## Timely Processing of Contract Modifications

Industry has provided comments to MDOT leadership about delayed processing of contract modifications on local agency projects and/or projects with consultant oversight.

In one case it has been stated that MDOT offices are directing local agencies and their consultants to wait and process one contract modification after all the work is complete in lieu of processing contract modifications as the work is completed. In other cases the local agencies or their consultants are delaying processing of contract modifications for various reasons.

The revision of any contract work is to be identified and processed per the procedures outlined in the following documents.

Page 5 of Bureau of Highway Instructional Memorandum (BOHIM) 2012-12, Timely Progress Payments to Contractors states in part the following under the heading of "Action Items When Processing Progress Pay Estimates and Contract Modifications" (bold emphasis added):

1. *Pay estimates are to be processed for reported quantities even if there is a dispute on the final quantity. An example is when the field office states that 50 feet of curb was completed and the contractor states that 60 feet was completed, the field office is to pay the 50 feet of curb and timely resolve the discrepancy in final quantity.*
2. *Field offices need to ensure that payment is processed in a timely manner when all required documentation is received, reviewed, and approved. Procedures to ensure timely payments are encouraged (e.g. FieldManager reports reviewed by engineer, etc.).*
3. ***Contract modifications are to be processed on a weekly basis or when there is a minimum of \$10,000 in items over authorized quantity, whichever occurs first to ensure timely payment for work completed. With electronic approvals, more frequent contract modification processing is suggested. Waiting until the end of the project to process balancing contract modifications for increased quantities is not appropriate.***
4. *Engineers are to ensure that unit costs for contract revisions are incorporated per subsection 109.05 of the 2012 Standard Specifications for Construction. Any related correspondence is to be maintained in the project files.*
5. ***Budgeted pay item quantities for extra work or monetary amounts for force account work are to be immediately processed via a contract modification to allow timely payment for extra work.***

Page 4 of BOHIM 2012-03, Processing Contract Modifications, (Supersedes BOHIM 2004-14) states in part the following under the heading of "Revisions to the Contract":

*If the engineer does not receive an estimate or lump sum price quote for any work within five calendar days of their request, the contract modification shall be generated with an estimated budget and the work is performed by force account procedures. **In no case shall it take longer than seven business days after commencement of any contract revision work to generate the contract modification covering the revised work and send the contract modification to the contractor for signature.***

Electronic signatures allow faster processing of contract modifications and there is no limit to the number of contract modifications per project. Contract modifications are to be processed timely and not delayed until the end of the project. This same guidance should be emphasized in discussions with local agencies and consultants. MDOT, local agencies and the consultants supporting these agencies are charged with ensuring timely payment to contractors. All groups must process contract modifications as quickly as possible to ensure timely contractor payment.

Please share this construction advisory with consultants and local agencies in your area as well as TSC staff.