

# Construction Advisory

CA 2015-14  
(Supersedes CA 2010-16)  
July 13, 2015

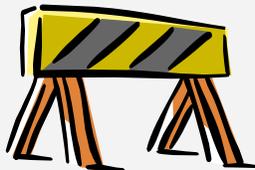
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Index: Authorizations

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## Documenting Price Negotiations and Impacts to Contract Time on Contract Modifications

Supporting documentation for negotiated costs and time impacts to the project schedule must be retained in the project files.

The specific regulations governing this topic are located in Title 23 CFR (Code of Federal Regulations) 635.120, titled Changes and extra work. The regulation is available here: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=23&PART=635&SECTION=120&YEAR=2001&TYPE=TEXT>

### Documenting Price Negotiations

The CFR states that MDOT perform and adequately document a cost analysis of each negotiated contract change. Payment is to be based on the following methods and Subsection 109.05 of the Standard Specifications for Construction:

#### **1. Contract Unit Prices (109.05.B)**

This justification is based on similar work and pay items in the existing contract.

#### **2. Negotiated Prices (109.05.C)**

When using negotiated unit prices the analysis, justification and documentation should include all applicable information from the following:

- Comparison with weighted average unit prices or actual unit prices for recent contracts in the regional area.
- Cost analysis based on planned materials, labor and equipment to be used for the work.
- Quantity of work to be completed; small quantities tend to have higher unit costs.
- Other factors such as weather impacts, staging issues, mobility restrictions, scheduling issues and similar impacts to support the negotiated price is reasonable

The preceding information and cost justification is to be noted in the reason section for extra work items on contract modifications.

#### **3. Force Account (109.05.D)**

When the previous two methods do not provide or the scope of work does not facilitate an agreement on cost and the engineer has determined that bidding the work in a separate project is not in the best interests of the public, then force account procedures may be used to determine the cost of the revised work. Guidance on force account procedures is available in the construction manual.

**Documenting Impacts to Contract Time**

Contractors are to provide a progress schedule for controlling items of extra work per the justification requirements in Subsection 109.05.C of the Standard Specifications for Construction. Contract modifications are to be processed including the extension of time as requested and approved by the engineer.

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