

## *Project Delivery Directive*

To: Project Delivery Employees

Number: PD-04-R1

References: Construction  
Contract Development Guide,  
Section 7.7

Effective Date: 10/6/22

Supersedes: PD-04 dated  
10/14/09

*TITLE:* Project Contingencies and Supplemental Work

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### *DIRECTIVE*

Project contingencies are limited to 5 percent of a project's estimated total costs for contract items, supplemental work items and Department-furnished materials and expenses, unless approved by the Chief, Division of Design as outlined in this directive.

Project supplemental work is limited to 5 percent of a project's estimated total cost for contract items, unless approved by the Chief, Division of Construction as outlined in this directive.

The need and cost for project contingencies and supplemental work items must be documented.

Supplemental work items are limited to standard items shown on the Federal Highway Administration Pre-Approved Supplemental Work Items list or non-standard project-specific supplemental work items approved by the Chief, Division of Construction as outlined in this directive. See Section 7.7 of the *Construction Contract Development Guide (CCDG)* for the current Pre-Approved Supplemental Work Items list.

This Project Delivery Directive includes responsibilities for:

- Approving increases or decreases to the standard 5 percent project contingencies.
- Approving increases greater than the 5 percent supplemental work limit.

- Approving supplemental work items not on the Pre-Approved Supplemental Work Items list.

Any approvals related to project contingencies or supplemental work must be secured before project advertisement.

## BACKGROUND

Caltrans limits funding for contingencies and supplemental work and has set limits of supplemental work items. This assures full and open competition and helps to avoid “cardinal changes” in contracts. Work outside the general scope of the contract is commonly called a cardinal change.

Section 4-1.05, “Changes and Extra Work,” of the *Standard Specifications* states that Caltrans has the right to make changes within the general scope of the contract, and the contractor has the obligation to perform this additional work. A contractor has no duty to perform work outside the general scope of the contract. If a change is considered a cardinal change, its work constitutes a new procurement and cannot be added by change order unless authorized as an exemption to the requirement for full and open competition.

Section 10120 of the Public Contract Code states, “Before entering into any contract for a project, the department shall prepare full, complete, and accurate plans and specifications and estimates of cost, giving such directions as will enable any competent mechanic or other builder to carry them out.” Providing supplemental funds for work that can be reasonably designated as biddable by contract item is a potential violation of the Public Contract Code.

Caltrans requires justification for the need and cost of all supplemental work items. The Federal Highway Administration (FHWA) requested that Caltrans develop a procedure for documenting justification for the necessity and cost of supplemental work items. Caltrans and FHWA representatives have worked together to develop the supplemental work item need and cost justification procedure shown in Appendix A of this project delivery directive. Supplemental funds may not be used as an additional unsubstantiated reserve amount in establishing the engineer’s estimate.

To reduce the number of project exceptions to the supplemental work cost limitations established in the memorandum, it has been determined that some supplemental work items with well defined need and cost justification can be excluded when calculating the 5 percent cost limitation. Excluded items are identified in Section 7.7 of the CCDG.

To implement this project delivery directive, Appendix A provides the approval procedures for both contingencies and supplemental work.

### DEFINITIONS

Contingency is the amount included in the engineer's estimate to cover the cost of unforeseen factors related to construction within the defined project scope.

Supplemental work is the anticipated work within the scope of the project which is included in the engineer's estimate for a project to cover work of such an uncertain nature that it cannot be quantified as a contract bid item.

### RESPONSIBILITIES

#### District Directors:

- Request approval from the Chief, Division of Design to change project contingencies from 5 percent of the project's estimated total cost for contract items.
- Approve or reject requests to exceed supplemental work limits up to 10 percent of the project's estimated total cost for contract items. This authority may not be delegated to a level of authority lower than the deputy district director or region division chief.
- Request approval from the Chief, Division of Construction to exceed supplemental work limit of 10 percent of the project's estimated total cost for contract items. This authority may not be delegated.
- Request approval from the Chief, Division of Construction for supplemental work items not on Pre-Approved Supplemental Work Items list. This authority

may not be delegated to a level of authority lower than the deputy district director or region division chief.

Chief, Division of Design:

- Provides policy, procedures, and guidance in the PDPM and CCDG to ensure compliance with this directive.
- Approves or rejects requests to change project contingency from 5 percent. This authority may be delegated for a project contingency up to 10 percent. This authority may not be delegated for a project contingency greater than 10 percent nor for a reduction of contingency below 5 percent of the project estimated total cost.

Chief, Division of Construction:

- Provides policy, procedures, and guidance in the CCDG to ensure compliance with this directive.
- Approves or rejects district director requests for supplemental work to exceed 10 percent of project's estimated total costs for contract items.
- Approves or rejects district director requests for supplemental work items not on the Pre-Approved Supplemental Work Items list.
- Maintains the Pre-Approved Supplemental Work Items list in Section 7.7 of the CCDG and notifies FHWA of any updates.

Deputy District Directors or Region Division Chiefs:

- Concurs with requests to change project contingencies from 5 percent.
- For projects in which the total supplemental work item cost exceeds the 5 percent limit, recommends approval of justification for supplemental work items requests to the district director.
- For projects that include supplemental work items not on the Pre-Approved Supplemental Work Items list, recommends approval of justification for supplemental work items requests to the district director.

- If delegated by the district director, the deputy district director or region division chief recommends justification for supplemental work items approval requests. This delegated authority may not be delegated to a lower level of authority.

Project Engineers:

- Prepare a request and obtain concurrence from the deputy district director or region division chief to change project contingencies percentage from 5 percent when it is determined that the standard contingency amount is inadequate or excessive.
- Prepare a justification for a supplemental work items memorandum for all projects and obtain necessary approval for supplemental work item needs and costs.
- Obtain a recommendation from the deputy district director or region division chief, as well as approval from the district director on the justification for a supplemental work items memorandum when the supplemental work items total cost exceeds the 5 percent limit but is less than or equal to 10 percent.
- Obtain a recommendation from deputy district director or region division chief and recommendation from the district director on the justification for supplemental work items memorandum when the supplemental work items total cost exceeds 10 percent or for supplemental work items that are not on the Pre-Approved Supplemental Work Items list.

Resident Engineers: Manage projects' fund balances and administer contract change orders for both contingency and supplemental work.



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Deputy Director, Project Delivery

10/6/2022

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Date