
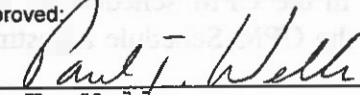


To: <p style="text-align: center;">SUPERSEDED</p> <p style="text-align: center;">BY EB 96-027 EFFECTIVE 6/18/96</p>		<p style="text-align: center;">ENGINEERING INSTRUCTION</p> <p style="text-align: center;"><i>New York State Department of Transportation</i></p>	<p style="text-align: center;">95-028</p> <hr/> Supersedes:
Title: CHANGES TO CONTRACT INTERIM TIME FRAMES			
Distribution: <input checked="" type="checkbox"/> Main Office(30) <input type="checkbox"/> Local Gov.(31) <input checked="" type="checkbox"/> Regions(32) <input checked="" type="checkbox"/> Contractors/AGC(39) <input checked="" type="checkbox"/> Consultants(34) <input type="checkbox"/> _____ ()	Approved:  <hr/> P.T. Wells Deputy Chief Engineer Construction Division		

EFFECTIVE DATE: This procedure shall be effective on the date of this Instruction.

PURPOSE: This instruction establishes the procedure to be followed to adjust a contract required interim milestone date or time period that has an associated monetary incentive or disincentive provision. The procedure shall be used if the following special provisions are included in the contract:

- Interim milestone dates or time periods with liquidated damage provisions.
- Interim milestone dates or time periods with Incentive/Disincentive provisions.
- A + B (cost plus time bidding) provisions that require the B portion work to be completed prior to the contract required project completion date.
- Lane rental provisions

I. RATIONALE: Contract documents allow adjustment to time of performance for changes beyond the control of the contractor. Acceptable justification for changes in time of performance are found in Specification Sections 108-04 Extension of Time; 109-16A.1, Differing Site Condition; and 109-16A.2, Suspensions of Work Ordered by the Engineer; or may be included in project specific "Special Notes".

Any such changes alter the contract and must be documented.. Specification Section 104-03 provides for alteration to the contract by order-on-contract. It is desirable that the Department and the Contractor agree on any such changes.

Agreements are to be in letter form identifying the change, the justification for the change and an analysis of schedule(s). This agreement should be signed by the Contractor and the Regional Construction Engineer.

Changes in contract time frames may be increases or decreases in time, depending upon the nature of the change or event impacting the schedule.

Manual	Code EI 95-028	Date 06/28/95	Page 2
Subject: CHANGES TO CONTRACT INTERIM TIME FRAMES			

II. PROCEDURE: All projects containing interim time frames require the contractor to utilize and submit CPM Schedules (Ref. EI 94-007 and 95-023). Adjustment of time frames must be tied to changes in the CPM schedule as approved by the EIC. For purposes of adjusting interim time frames, the CPM Schedule adjustment process is summarized as follows:

- A change or event beyond the Contractor's control causes an impact on the schedule of work.
- Written notice must be given within 10 days of knowledge of the change or event.
- The contractor proposes CPM change to the EIC with reasons for revisions.
- EIC reviews proposed CPM change with appropriate Regional Personnel, and discusses further modifications with the Contractor.
- EIC and Contractor agree on change to schedule.

If the EIC and the contractor cannot agree on schedule changes, the discussions shall be elevated to the RCE and then the Construction Division in a manner similar to disputed work. After the Department and Contractor agree on the schedule changes, a letter of agreement shall be prepared. This letter summarizes the project change, including justification and schedule impact. The agreement shall be signed by the Regional Construction Engineer and the Contractor. (SEE ATTACHED EXAMPLE) A copy of the agreement and supporting documentation shall be sent to the Construction Division.

There may be situations where alteration of time of performance provisions is not desirable. An analysis of schedule impacts should be part of the EIC's review with other Regional personnel (Regional Construction Engineer, Project Manager, RPPM, etc.) Any decision to order the contractor to accelerate work efforts, as a means to meet original schedules, needs to be documented and included in the order-on-contract which adds acceleration costs. These orders require advance coordination with and approval by the Construction Division.

III. ORDER-ON-CONTRACT: In as much as the agreement alters contract conditions, the alteration must be made part of the contract by order-on-contract.

Where the agreement changes time of performance or dates only, the OOC submission shall be the signature sheet of an OOC (Form CONR 7.2) and a copy of the signed letter of agreement. The OOC shall indicate that the purpose of the OOC is to alter interim payment time frames, with no associated change in funds. (SEE ATTACHED EXAMPLE) If the letter of agreement does not fully explain the reasons for the change, then a detailed explanation shall also be included with the OOC.

Manual	Code EI 95-028	Date 06/28/95	Page 3
Subject: CHANGES TO CONTRACT INTERIM TIME FRAMES			

If any pay items are introduced or altered as a result of the agreement, then these shall be submitted via an order-on-contract which includes the agreement in the time changes. This OOC shall include a full explanation of the changes in contract payments as well as the signed letter of agreement and any other supporting documentation.

If the end of a special time of performance provision coincides with the project completion date, altering the time of performance may require an extension of the project completion date. In this situation, alteration of the special time of performance provision shall be in accord with this section and an extension of the project completion shall be submitted as outlined in Section 108-04 of the Construction Supervision Manual.

CONTACT PERSON: Any questions regarding this procedure should be addressed to John Brizzell or Jim Tynan in the Construction Division at (518) 457-6472. Specific, project related questions should be addressed through the Regional Liaison contact at the Construction Division.

ICANDOTT, INC.
Regional Construction Engineer

Manual	Code EI 95-028	Date 06/28/95	Page 4
Subject: CHANGES TO CONTRACT INTERIM TIME FRAMES			

EXAMPLE:

**Contract D31000: Route 111 Bridge over Yellow Creek
Agreement to Adjust "B" Portion of Project**

This contract is for replacement of the Rte. 111 Bridge over Yellow Creek in the Town of Blue, Orange County. The contract includes A + B provisions, whereby the contractor; ICANDOIT, Inc., submitted a bid of 125 days for the "B" portion of the work.

During excavation for the north abutment, bedrock was encountered at an elevation some 6' above that which was anticipated. This condition was determined to be a "Differing Site Condition" in accordance with Section 109-16 A.1 of the Standard Specifications. After analysis of the contractors schedule, it is agreed that this situation will add 14 days of work to the "B" portion of the work.

It is hereby agreed to modify the "B" time of performance to 139 calendar days with no further changes to the maximum number of days for incentive payment nor the contract completion date.

Regional Construction Engineer

ICANDOIT, INC.

