

Chapter 5 - Construction Authorization

Construction Authorization

Construction Contracts Section (CCS) develops a Construction Authorization for each construction project. ODOT's Design-Build Program is currently evolving. Many of the activities that this chapter attributes to the CCS may be the responsibility of others for Design-Build projects.

Each construction project has an approved Construction Authorization. This funds all expenses for the construction phase of the project. The Construction Authorization generally includes amounts for the following items (also refer to discussion below regarding overruns and additional authorization):

- **Contract Amount.** This is the sum of the values of the bid items included in the Contractor's bid.
- **Anticipated Items.** These are items that may be performed for the project, but that are not part of the Contract Amount or the Engineering amount. The Project Manager (PM) should be involved, during the project development process, in identifying these items.

Anticipated Items must be identified and included in the anticipated project costs before PS&E is approved. See PD-08 for exceptions. Such items generally are for work that may or will be necessary during the project, such as slide repair, but that cannot be quantified or identified adequately to include as a bid item.

Anticipated Items may also include work that is specifically identified to be accomplished by ODOT or other non-Contractor forces. Before the work is performed, it must be determined that either it is more cost effective to do such work with public or other forces, or it is not reasonable to accomplish the work with Contractor forces. Refer to Chapter 15 - Change Orders/Force Account/Work By Public Forces.

- **Contingencies.** This amount is 3.5% of the Contract Amount and allows funding to cover normal fluctuation of project quantities, as well as changes on a project.
- **Engineering.** This includes the costs of project administration, inspection, surveying, design, materials testing, etc., performed by ODOT or its agents that are charged to the project. Operational Notice PD-07 addresses engineering. Also see further discussion below.
- **Credits.** This item is seldom used, but it identifies the value of items that will be salvaged from the project work and will remain the property of ODOT to be transferred to Maintenance or to be used for future projects.

The Construction Authorization is the total gross budget established for the project, including the value of material that is produced for Maintenance or a third party.

The CCS will electronically distribute the Construction Authorization to appropriate parties. The Construction Authorization is shown and tracked within the Contractor Payment System (CPS). Refer to Chapter 25 – Payments to Contractor/Retainage.

Construction Engineering (CE) Budget

Operational Notice PD-07 addresses this subject.

During the latter stages of project development, the CCS develops the preliminary Construction Authorization for each project to assure that adequate funding is available. To estimate the value of CE, the CCS uses the Guideline Percentage for CE in Operational Notice PD-07.

After bids are opened for a project, the PM is responsible to develop and submit the requested CE budget for each assigned project. For outsourced or local agency projects this may be done by the CPM or LAL.

Following are the steps in the CE budget process:

1. Shortly after each bid opening, the CCS will distribute the Project Summary (listing the low bidder and bid total for each project in the bid opening) to the PM and others.
2. Each ODOT Unit that expects to charge work to the contract Expenditure Account (EA) must prepare a budget request for its estimated CE budget and submit it to the PM. The CPM or LAL are responsible for consultant or Local Agency budgets. The PM should discuss and negotiate the requested CE budget if the PM determines that they may not reflect expected costs. The PM may include estimated amounts for those groups or units that will perform work on the project but that did not submit a budget.
3. The PM must compile all amounts to be included in the CE Budget and submit the proposed budget to the Area Manager, or in a case of BDU CPM, submit the budget to the BDU Manager. If the requested CE budget exceeds the Guidelines in PD-07, the PM must include a written explanation with the budget request.
4. The Area Manager or BDU Manager, as appropriate, will review the CE budget request, approve the budget if acceptable, and send it to the CCS such that the CCS receives it within one week after the date of the bid opening for the project. If the requested CE budget exceeds the Guidelines in PD-07, the Area Manager or BDU Manager, as appropriate, must approve the reasons for the extra funding and include the reasons and approval with the CE budget submitted to the CCS.

5. The CCS will include the CE budget in the Construction Authorization.

The CCS will:

- Prepare the Construction Authorization for each project in the bid opening
- Obtain the concurrence of FHWA when appropriate
- Obtain the approval of the Chief Engineer before ODOT executes the contract
- Send the Construction Authorization electronically to appropriate parties

For questions about the Construction Authorization process, contact the Contract Administration Unit.

Overrun or Increase of Construction Authorization

The PM has the responsibility to assure that the Construction Authorization is not exceeded without proper approval. The PM does not have authority to exceed the Construction Authorization. Refer to Chapter 3 - Delegation of Authority. PM's for outsourced or local agency work administering ODOT construction contracts need to work with their ODOT CPM or LAL on all matters, including assuring that the Construction Authorization is not exceeded without proper approval.

All expenditures on the construction project are charged against the Construction Authorization. The Construction Authorization can only be changed by the formal process of Overrunning or Increasing the Construction Authorization. Funding from outside sources to pay for work added during the project does not increase the Construction Authorization. As an example, rock production work added for Maintenance during the project will increase construction expenditures, but the funds Maintenance contributes to pay for it does not automatically increase the Construction Authorization. If the Construction Authorization is going to be exceeded, the maintenance funds would need to be added through the formal Overrun or Increase of Authorization process. The PM remains responsible for staying within the Construction Authorization or approved Overrun. Contact the CAU if you have questions about funding splits for particular Contracts. Refer to Chapter 2 - Project Funding/Contract Administration Responsibility.

ODOT allocates the Region/BDU a budget for its construction program. The Region/BDU is responsible to manage its construction program within budget, including any overruns of projects.

The Region/BDU may fund an overrun or increase on a project from underruns or decreases in scope on other projects, by delaying a future project, or with funding from other programs with agreement of the responsible program manager. Each Region/BDU should maintain a listing of projected project costs so that it is able to respond to needs for increased funding on a project. With each request to overrun or increase a Construction Authorization, the Region/BDU must identify the source and confirm of the availability of the additional funds.

Increasing expenditures through the use of Change Orders or extending Bid Item work does not increase the Construction Authorization. The Construction Authorization contains Contingency funding to allow for normal Change Orders and fluctuations in pay item quantities. The PM remains responsible for staying within the Construction Authorization or approved Overrun.

The Oregon Transportation Commission (OTC) has delegated to ODOT certain authorities for Contract Authorizations.

For projects not on the State Highway System (local funds involved), the Funding & Program Services Manager has the authority to approve an Increase in the Construction Authorization. There is no process to overrun the Construction Authorization on these projects.

For projects on the State Highway System, the Director/Deputy Director have, through sub delegation orders, provided the following authorities to approve an overrun of a Construction Authorization:

- To the Tech Services Manager/Chief Engineer, total overruns up to \$500,000
- To the Region Managers and the BDU Manager, total overruns up to \$500,000

By Letter of Authority, the Technical Services Manager/Chief Engineer has provided the authority:

- To the State Construction & Materials Engineer, total overruns up to \$500,000
- To the Contract Administration Engineer, total overruns up to \$500,000 for claim settlements

By Letter of Authority, the Region Managers and BDU Managers may have provided the authority to specific subordinates to approve overruns. Such authority must be within PDLT guidelines, and can not exceed \$500,000 above the current Construction Authorization. Current Letters of Authority must be provided to the Contract Administration Engineer.

If more than \$500,000 above the current Construction Authorization is necessary to complete the project, ODOT must obtain the approval of the OTC to increase the Construction Authorization for that project.

If the scope of a project has been significantly decreased or the cost of project work will underrun the Construction Authorization, the Region/BDU may request that the Construction Authorization for that project be decreased in order to make funding available for other projects. The process for such a request is similar to that for an overrun or increase in Construction Authorization.

The PM is responsible to manage all assigned projects and request an overrun or increase in authorization if necessary. Contact the Region or the CAU for additional assistance.

The PM should use elements of the contract payment system to estimate project costs and calculate needed funding. For instance, the PM will enter the estimated final quantities, update the value of anticipated items, etc. and the system will calculate the estimated project cost (corrected estimate), for use on form 734-3372. Refer to Chapter 25 - Contract Payment.

The PM must submit a timely request to Overrun or Increase the Construction Authorization, as well as needed information relating to the source for the additional funding. It is essential that the PM secures proper approval for the additional funding prior to having the Contractor perform the work, since the PM could be held personally responsible for the costs expended if the additional funding is not approved by the proper authority.

The processes of obtaining permission to Overrun or Increase the Construction Authorization are essentially identical. The process is:

1. PM completes a Request for Overrun or Increase in Construction Authorization, form 734-3372. For outsourced or Local Agency projects the PM must work with the CPM or LAL in completing this process. Following are explanations of some of the items on form 734-3372:
 - a. The Current Authorization-Contract Amount is the Contractor's bid amount. If an increase in authorization has previously been approved, the increased amount would be included in this item. Approved overruns of the Construction Authorization do NOT change the Current Authorization-Contract Amount or the Current Authorization-Total Project Cost.
 - b. The Current Authorization-Anticipated Items are the items listed in the Original Authorization, Contract Payments beginning with 94001 to 940XX. Refer to Chapter 25 - Contract Payments.
 - c. The Current Authorization-Contingency is item 98999 in the Contract Payments Original Authorization.
 - d. The Current Authorization-Credits is very rare. It is zero unless one is included in the original Construction Authorization.
 - e. The Current Authorization-Engineering is item 99999 in the Contract Payments Original Authorization.
 - f. The Current Authorization-Total Project Cost is the sum of the Current Authorization items and will match the total shown in the Contract Payments

“Original Authorization” column. It will include all increases in authorization that have been previously approved. Previously approved overruns do not increase the Construction Authorization and will not appear in this column.

- g. The Current Estimate-Bid Items is the best estimate of the value of bid item work at the completion of the project.
- h. The Current Estimate-Contract Change Orders, Extra Work Orders & Adjustments is the estimate of all change orders in the process, including adjustments to the contract that affect the Contractor and are not included in the line above. Include any anticipated item work that will be performed by the Contractor.
- i. The Current Estimate-Contingencies for Completion is the budget included in the request to fund any unknown or unforeseen problems in the remainder of the project. If the project is 75% complete, a reasonable amount of contingencies would be 25% of what was originally set up for the project. Include an explanation if the requested amount is greater than that amount and for Additional Anticipated Items or similar items yet to be encountered or addressed. Also, include any anticipated items that have not yet been assigned to the Contractor or other forces with an explanation.
- j. The Current Estimate-Orders for Force Work is the best estimate of the value of Force Order work that will be performed on the project. Include any anticipated items that will be work performed by forces other than the Contractor.
- k. The Current Estimate-Engineering is the estimate of the Construction Engineering Expenditures that will be reflected in ODOT's accounting system at the time that ODOT makes final payment to the Contractor.
- l. The Current Estimate-Total Project Cost is the sum of the Current Estimate items.
- m. The estimated overrun or increase is The Current Estimate-Total Project Cost (item l) minus The Current Authorization-Total Project Cost (item f).
- n. List Major Overruns and Underruns- The PM shall list the specific items that total, at minimum, the estimated increase or overrun that is being requested.
- o. Principal Reasons for Overruns- The PM shall describe and explain the reasons or events that contributed to the increase or overruns that is being requested with supporting documentation that answers:
 - What happened on the project that caused the need for additional Construction Authorization?
 - Why did this event occur?

- How can this be prevented on future projects?
 - How will this increase or overrun be funded?
2. PM, with assistance from the Region/BDU as appropriate, completes form 734-2538, Project Overrun/Increase Authorization Supporting Data, to provide information on the funding source for any additional funds needed to complete the project (see example in Exhibit B).
 3. PM obtains the signature of the Local Agency if the Local Agency has provided some project funding or if the Local Agency will be responsible for the design or maintenance of the finished work.
 4. PM submits to Region/BDU, with a cover letter that includes a narrative discussion of the causes for the overrun or increase, for signature. The narrative discussion may vary widely in length depending on the nature, amount, and reasons for the request, but should provide adequate information to convey the reasons and justification for the request.
 5. The Region/BDU will identify the source for, and confirm the availability of, the additional funding and will:
 - a. For a request of less than a \$500,000 overrun for a construction project on the State Highway System, review and approve the request if appropriate. The Region/BDU will notify the PM and will send the original approved request to the Construction Section.
 - b. For a request of more than a \$500,000 above the Construction Authorization for a construction project on the State Highway System, review the request and submit to the Construction Section. This request will require the approval of the Oregon Transportation Commission (OTC) and result in the Increase of Construction Authorization. The Region/BDU is responsible to draft the letter from the Director to the OTC requesting the additional Construction Authorization. (See Exhibit C). After review, send the signed request with an electronic copy of the draft letter to the Construction Section. Coordinate with the Construction Section to ensure that OTC approval is given prior to performing the work. This coordination will include deadlines and processes established by the Highway Finance Office and the OTC.
 - c. For any request for a project not on the State Highway System, review the request, include additional information if needed, sign, and send to the Construction Section.
 6. The State Construction & Materials Engineer will review the request and may request additional information from Region/BDU or the PM. The State Construction & Materials Engineer will make needed modifications or additions to the request, and:

- a. For a request of up to \$500,000 to overrun a project on the State Highway System, will note the request and distribute to the appropriate parties.
 - b. For a request to increase the Project Authorization by \$500,000 or more for a project on the State Highway System, will:
 - Review the request and add information if needed
 - Review the draft letter from Region/BDU requesting the OTC's approval of the increase
 - Sign the request and forward it, with the letter, to the Highway Finance Office for further processing
 - c. For any request for a project not on the State Highway System, will review the request, add information if needed, and send to the Program & Funding Services Manager for approval.
7. When a request is approved and/or noted, the Construction Section will distribute a copy of the request to the Region/BDU, PM, and the Program & Funding Services Manager. The Construction Section will also update the information in the CPS.

Overruns and Increases of Authorization Flowchart

