

Extra Work Performed on Force Account Basis

When the Project Manager orders the Contractor to perform Extra Work on Force Account basis, at least four different documents or types of documentation must be performed or processed. These items are discussed in detail below. They are:

1. The Project Manager must prepare an Order For Extra Work to Be Performed on Force Account Basis (EWO), form 734-3208. This order formalizes the proper approval authority, defines the work to be done by the Contractor, and tells the Contractor the Order number to use on its billings. If the work must be started before the Project Manager issues the EWO, issue a written order as discussed below.
2. For each day that work is performed on an EWO, the Inspector must complete a Daily Force Account Record (DFAR), form 734-3428. The Inspector and Contractor's representative must both sign the sheet daily, indicating agreement on the resources involved for that day.
3. When work on each EWO is completed, or no more frequently than on a monthly basis, the Contractor will submit billings to the Project Manager. The billings will be on a Force Account Invoice for Labor - Standard Calculation, form 734-1863A, or on a Force Account Invoice for Labor Over \$10,000 or NCCI Rate Over 25%, form 734-1863B, and on a Force Account Invoice for Equipment and Materials, form 734-1864. The Contractor may use its own billing form, instead of the ODOT form, as long as the form includes all required information in a similar format. This is discussed later in this section of this Manual.
4. The Project Manager will complete and submit a Force Account Summary, form 734-3385.

Force account work is addressed in Section 00197 of the contract. The Project Manager must become familiar with that section.

As described in Section 00197.01, ODOT will solely determine the manner and method in which the force account work is performed. Before ordering the force account work to be performed, the Project Manager needs to discuss the work with the Contractor and seek the Contractor's comments and advice on the manner and method to perform the work.

In ordering the work to be performed and in directing the force account work, the Project Manager personnel should only give direction through the Contractor superintendent or supervisor assigned to the work. The Project Manager should not give direction directly to the Contractor workers, but should answer questions or provide other clarification requested by the workers.

If force account or other added or changed work will change the work in any subcontract, the Contractor must submit an amended subcontract for review and consent by the Project Manager. Refer to the Subcontracts section (14) of this Manual.

Following is a discussion of each of the above documents:

Order for Extra Work to Be Performed on a Force Account Basis (EWO)

The Project Manager must prepare an EWO as soon as the Project Manager:

1. Defines the work
2. Concludes that the work must be done on a force account basis
3. Has obtained proper approval

Refer to the Change Orders/Force Account/Work by Public Forces section (15) of this Manual.

If the force account work must be started before the EWO is prepared, the Project Manager must give the Contractor a written order to allow the work to start. The written order must include at least two things:

1. A description of the work, its location, and when the work must be accomplished
2. A statement that the work will be done on a force account basis and telling the Contractor the EWO number for the billing

Before the Project Manager orders the work to start, the Project Manager and the Contractor must meet to discuss the work and determine the manner and method of performing the ordered work.

Daily Force Account Record (DFAR)

For each day that work is performed on an EWO, the Inspector must complete a DFAR. The DFAR must list all labor, equipment, materials, and other resources that were used for that day's work on the EWO. See the example in Exhibit A.

Do not have or allow the Contractor to complete a DFAR for EWO work.

Both the Inspector and the Contractor's representative must sign the DFAR to indicate agreement on the information shown on the DFAR. If they are unable to agree on some item(s), the Project Manager and Contractor must resolve it promptly.

The Project Manager may also modify the DFAR form and use it to record information on a disputed item. See the Disagreements, Disputes, and Claims section (27) of this Manual for discussion of this use.

Following are some comments on information to be recorded on the DFAR when work is done under an EWO:

1. Heading Area

Be sure to enter the contract number, EWO number, and date of the work.

Include as much detail under “Description of Work” as possible. If appropriate, this information is used to determine the workers compensation insurance rate. An inaccurate description may result in an improper payment for the work.

2. Labor

Record the name, first and last, of each person, as well as the person’s craft and grade within the craft. Record the hours that each person actually worked on the EWO for that day.

Pay for only **one level of supervision** on the EWO. Do not pay for other supervisors or Contractor office staff on the EWO. If more than one crew is involved, it may be appropriate to pay for two different supervisors. If so, note that on the DFAR.

ODOT must pay for travel and subsistence if the Contractor pays those expenses for other similar work on the project. The Project Manager and Contractor must agree on this **prior** to the start of the EWO work. Rates should be reasonable. Rates paid to State employees for travel and subsistence are generally considered to be “reasonable”.

3. Equipment

Record each piece of equipment, with identification, that is used for the EWO work on that day. For equipment owned by the Contractor, record the equipment type, model, year of manufacture, and type of attachments, particularly those used for the EWO work. This information is needed to determine the proper rental rate for the equipment. Other information needed to determine the proper rental rate may include:

- Type of fuel-gasoline, diesel, etc.
- Two wheel or four wheel drive
- Horsepower rating
- Speed (RPM, etc.)
- Weight/mass or capacity rating
- ROPS or EROPS (roll over or enclosed roll over protection)
- Number of axles
- For lowboys, etc., is it a tilt deck gooseneck, fixed gooseneck, or folding gooseneck?

If the Contractor has rented the equipment from an entity other than its own organization, note that on the DFAR. ODOT will pay the cost determined from the invoice submitted with the Contractor's billing. Also refer to discussion of this issue under Invoice for Equipment and Materials later in this section of this Manual.

If a piece of equipment has multiple attachments, ODOT will only pay for the attachment with the higher rental rate, provided that the attachment is needed for the EWO work.

ODOT does not pay for rental of small tools that have a daily rate of less than \$5 or for equipment, not listed in the Rental Rate Blue Books for Construction Equipment, with a value of \$400 or less.

4. Materials

List enough detail such that invoices can be supported by entries on the DFAR.

Do not list items such as safety goggles, hammers, etc. Such items are reusable and are not eligible for payment.

Before work starts, negotiate how to pay for expendable items or items that are only partly used on the EWO work. For example:

- For teeth on a pavement grinder, determine how you will agree how much of the life of the teeth will be used up on the EWO work.
- If the Contractor purchased a spool of cable for the EWO work, but only used a portion of it and ODOT has no need for the remainder, agree on the value and let the Contractor retain the remainder.

Give accurate information. Do not use words like "All", "Lump Sum", or "per attached invoice".

5. Signatures

Both the Inspector and the Contractor's representative **must** sign the DFAR. The signatures indicate that the information on the DFAR is correct and complete. Involve the Project Manager, if necessary, to resolve disagreements.

Billings (Invoices) for Force Account Work

As stated above, the Contractor will submit billings for the EWO work. It may use the ODOT form or another form or format as long as all needed information is shown in similar format to the ODOT form. The Contractor may submit billings no more frequently than monthly for EWO work.

The Project Manager is responsible to check the billings for EWO work and make payment on the progress estimate. If the Contractor has included resources other than those shown on the DFAR, the Project Manager must resolve the issue.

After checking, include payment on the next progress estimate and send the billings to the Contract Services Group of the Construction Section. Contract Services will perform the final review of the billings and will provide feedback to the Project Manager, including any corrections that the Project Manager must make on the progress estimate. The Project Manager must furnish copies of the corrections to the Contractor.

1. Invoice for Labor

- Name and Craft

Assure that the proper "group" is used for the craft required to perform the work. Assure that the wages paid are correct for the area of the work and are no less than required by the contract. ODOT should pay the wages that the person received for performing other similar work on the project, if the Contractor requests wages above those required by the contract.

Check the hours and rates on the billing against the Contractor's payrolls. Use the payroll rates, if there is a difference. Use the hours from the DFAR if different on the billing. If the hours on the DFAR exceed the payroll hours, the Project Manager must resolve the issue.

- Supervisors (foremen)

ODOT pays for only one level of supervision. The costs of other Contractor personnel (Superintendent unless the Superintendent is also the supervisor of the work, Office Engineer, home office, etc.) are included in the markup on force account work.

A supervisor can be paid less than a craft person only if the supervisor is performing supervisory duties at least 80% of the time. Otherwise, the supervisor must be paid at least as much as the craft that the supervisor is performing.

- For work performed under the 2001 or newer specifications, ODOT will generally pay the Contractor two times the actual base hourly wage in the instances specified in Section 00197.30(a) of the contract. That amount includes all costs, including markups. Appropriate subsistence will be paid in addition to that amount. The Contractor would submit its billing on form 734-1863A or similar format. See the example in Exhibit B.
- If labor is to be paid as specified in Section 00197.30(b) (or under the 1996 or other specifications), the Contractor would submit its billing on form 734-

1863B or similar format. See the example in Exhibit C. Use the following guidelines for information on that form:

- a. Workers Compensation Insurance. Obtain the correct class code for the work and the assigned risk rate from information published yearly by the Contract Services Group (See Exhibit D, pages 1 through 4). Record the class code near the Base Rate on the invoice.

Reduction Rates are unique to each contractor and reflect the accident record of that contractor. Contact the Contract Services Specialist in the Contract Services Group at (503) 986-3029 to verify this rate. Use the rate for the Contractor or subcontractor that actually performed the work.

- b. Other insurances or taxes. ODOT also pays the following:
 - Social Security (combination of Social Security at 6.20% and Medicare at 1.45%) 7.65%
 - Oregon Unemployment Compensation 1.0 to 5.4%
 - Federal Unemployment Compensation 0.8%
 - Transit District Taxes (Tri-Met in Portland area, LTD in Eugene area, and Chariots in Salem)

ODOT does **not** pay for:

- Oregon Hourly Assessment
- State of Oregon Assessment
- Medicare Tax (included with Social Security)
- SDI or other liability insurance.

- c. Fringe Benefits. Pay the fringe benefits that are required by the contract.
- d. Markup. Pay the 22% markup specified in Section 00197.80. Be sure that the invoice does not include other, unacceptable markups.

After checking the Invoice, sign and date the Invoice.

2. Invoice for Equipment and Materials

See example in Exhibit E.

- Rental rates. For equipment owned by the Contractor, verify the rental rates from rates shown in the Rental Rate Blue Books for Construction Equipment. The procedure is defined in Section 00197.20(c). This is why it is important that the Inspector recorded proper information on the DFAR.

Some Contractors may have several sub-entities within their organization that perform specific work or provide specific services, such as leasing equipment.

Use only the rates from the Rental Rate Blue Books to determine rental rates for any equipment owned by the Contractor or any one of several sub-entities that it may own. Do not pay different rates if the Contractor attempts to lease or rent equipment within its own organization and do not pay any additional markup on such usage.

Be sure that you use the proper Volume of the Blue Books for the equipment rates. Contact the Contract Services Specialist in Contract Services if you need assistance or the use of Volume 3.

Use the rate that applies to the period when the work was performed, since the Blue Books are updated frequently. Rental rates are effective on the first of the month of the quarterly "code" date on the revision. For example, a section with a code of 2Q00 would be effective on April 1, 2000. If the EWO work covers two code periods, use the code in effect when most of the work was done.

If the Contractor has not done so, enter the section/page and code on the Invoice.

If an equipment year goes below the low end of Table 2 on the Rate Adjustment Table, use the oldest rate for that type of equipment.

If a piece of equipment has a date in parenthesis, that means that the equipment was discontinued the year in parenthesis. To calculate the rate adjustment for discontinued equipment, divide the rate for the year that the equipment was manufactured by the rate for the year that it was discontinued. Show that calculation on the Invoice for checking purposes.

It may be helpful to compile a listing of the Contractor's equipment with rental rates and codes to allow quick checking of Invoices. If requested, Contract Services will verify the rates on the list. Be sure to update the listing if the rates have changed due to a rate revision.

- Regional Adjustment Factor. ODOT does not allow a Regional Adjustment Factor.
- Standby Time. Pay standby time only when the Project Manager ordered the equipment to remain on site. Pay according to Section 00197.20(e).
- Invoices for Rented Equipment or Materials. Invoices must include the vendor's name, date, quantity, rate, and extended amount for materials or rented equipment. Quantities must be enough to cover those shown on the DFAR and billing. Dates must match those on the DFAR.

As discussed earlier, do not accept invoices for equipment that the Contractor obtained from within its own organization, since that equipment would be paid as determined for equipment owned by the Contractor.

Do not accept an invoice on the Contractor's letterhead.

Unless requested by the Project Manager, the Contractor does not need to submit invoices for \$10.00 or less.

Pay for the operating expense on equipment at the rate listed in the Rental Rate Blue Books when the invoice states that the rental charge does not include fuel, lubricants, or field repairs.

Verify all equipment hours with the DFAR.

As specified in Section 00197.80, pay markup of 17% on all equipment and materials.

After checking the Invoice, sign and date the Invoice.

Include the prime contractor markup, as specified in 00197.80, if a subcontractor performed the work.

Force Account Summary

See example in Exhibit F.

The Project Manager completes this form and pays for the EWO work on the next progress estimate payment. The Project Manager then submits the form, with the Contractor's Invoice and supporting documents, to the Contract Services Group.

Before making payment and submitting the documents, do a mental check of the Invoice by comparing the amount paid on force account to a value paid for similar work as a bid item.

Contract Services will perform the final review of the Invoices and provide feedback to the Project Manager on needed corrections. The Project Manager must notify the Contractor of the changes and correct the progress estimate as needed.