

Contract Time

Contract time is defined and described in Section 00180.50. The contract time (completion dates) for each project is specified in Section 00180.50 of the contract for that project, including applicable liquidated damages.

The Project Manager should discuss contract time, completion dates, and adjustment of contract time at the pre-construction conference. The Project Manager must also issue the required Notifications of Commencement and Completion Dates for Contract Projects.

In completing the required Prime Contractor Performance Evaluation, the Project Manager also must address whether the project was completed within the adjusted contract time.

Notification of Commencement and Completion Dates

Refer to the definitions of "First Notification", "Second Notification", and "Third Notification" in Section 00110.20 of the contract. The Project Manager must issue a Notification of Commencement and Completion Dates for Contract Projects, form 734-3233, (see example in Exhibit A), to record and notify the Contractor of First Notification, each Second Notification, and Third Notification.

Each Notification should generally include all of the appropriate information, except signature and date of signature, from the previous Notification. For example, Third Notification will include the information from the First and all Second Notifications. Third Notification, however, would not need to include the listing of items remaining to be performed from the Second Notification.

- **First Notification**

First Notification is defined in Section 00130.90 of the contract. It is the date when the Contractor or a subcontractor begins erection of a plant, the development of sources of aggregates, or the performance of a construction operation called for by the contract.

Record the date of First Notification on form 734-3233. Submit the original to the Construction Section, with ^{*} a copy to the Contractor and Region.

- **Second Notification**

Second Notification is defined in Section 00180.50(g) of the contract. It is the date that all required construction work, including change order work and Extra Work, has been satisfactorily completed and is the date that contract time charges stop for one or all of the completion times listed in Section 00180.50 of the contract.

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Contract time for a project can only be modified by a Contract Change Order (CCO). If the Project Manager has suspended contract time for reasons that are not the responsibility of the Contractor, the Project Manager must issue a CCO to modify the contract time due to the suspension.

When the Project Manager issues a CCO to modify a contract completion date (including CCOs needed due to suspension of work), the Project Manager must assure that the proper contract completion date is shown on the Second Notification portion of this form. It is very helpful to list, in the Second Notification or Remarks portion of the form, the CCOs that affected the contract completion date.

As defined in Section 00180.50, the Contractor may perform certain types of corrective and cleanup work after Second Notification. The Project Manager should list the known items, yet to be completed, on the Second Notification. As the Project Manager becomes aware of other uncompleted items, the Project Manager should tell the Contractor of the item. The Project Manager should remind the Contractor, preferably on a monthly basis, of the items yet to be completed.

Record the date of each Second Notification on form 734-3233 as it occurs. Submit the original to the Construction Section, with a copy to the Contractor and Region.

For projects with landscape establishment periods, the date of Second Notification is when all of the required plants have been planted and all of the other required work, except for establishment, cleanup, etc., has been performed.

If the Project Manager adds work to the contract after Second Notification has been issued, the Project Manager must rescind that Second Notification and re-start contract time. If needed, the Project Manager must issue a CCO to modify contract time due to the added work. When appropriate, the Project Manager must re-issue the Second Notification.

When the Project Manager issues the final Second Notification, the Project Manager must enter the appropriate date in the statement “**All claims for additional compensation must be submitted by _____.**” Refer to Section 00199.30(b).

Notice that the Project Manager must submit more than one Second Notification if the contract includes multiple completion dates.

- Third Notification

Third Notification is described in Section 00150.90(b) of the contract and is further discussed in the Third Notification section (40) of this Manual.

The date of Third Notification is the date that the Contractor has completed all of its work under the contract, including cleanup, removal of equipment and material, and submittal of all required documentation.

After Second Notification, remind the Contractor monthly of items that still need to be completed or submitted before the Project Manager may issue Third Notification.

Do not withhold issuance of Third Notification if the Contractor's only unfinished activity is to resolve a claim issue or to submit billings for force account work.

Issue Third Notification when the Project Manager concludes that the Contractor has completed or submitted all known items. If the Project Manager later realizes that some work is incomplete or some additional documentation must be submitted, the Project Manager may rescind Third Notification and re-issue it when the issue is resolved.

Record the date of Third Notification on form 734-3233. Send the original to the Construction Section, with a copy to the Contractor and Region.

Issuance of Third Notification is important because it notifies the Construction Section to make the final payment to the Contractor if ODOT and the administering agency have completed all required processes and procedures.

If final payment is not made within 30 calendar days after the date of Third Notification, ODOT must pay interest, to the Contractor, at the rate specified by statute, on any unpaid monies due the Contractor. That includes any retainage that is still being held. If ODOT must pay interest because it failed to make final payment within 30 calendar days after Third Notification, that interest will not receive Federal-Aid participation.

Weekly Statement of Contract Time Charges

For projects with contract time specified in calendar days, the Project Manager must complete a Weekly Statement of Contract Time Charges, form 734-3483, (see example in Exhibit B), as described in Section 00180.50 (c) and (d). Send the original to the Contractor, with a copy to the Construction Section and Region.

For projects with specified completion dates, the Project Manager must complete and send form 734-3483 only after expiration of contract time for any of the specified dates until Second Notification is issued for that completion date.

Many projects also limit times for other items, such as Railroad flagging, lane closures, road closures, etc. The Project Manager must also complete form 734-3483 to record those times and send the original to the Contractor with a copy to the Construction Section* and Region. That form is the basis for assessing liquidated damages for those issues.

When contract completion dates (contract times) are modified by CCOs, note those modifications on the Weekly Statement of Contract Time Charges to assure that the proper completion date is used.

Suspensions of Work

Suspensions of work are defined in Section 00180.70. The Project Manager and Region have the same authority to approve a suspension of work as they do to adjust contract time (see the Delegation of Authority section (3) of this Manual or Adjustment of Contract Time below). Local agencies need to contact the ODOT Local Government Liaison who will request the Region approval.

Unless contract time and the work have been suspended, contract time must continue and liquidated damages must be assessed. If the Project Manager has suspended work for reasons beyond the Contractor's control, the Project Manager must evaluate the impact on contract time and issue a CCO to modify the contract time accordingly.

Work should be suspended only for the reasons shown in Section 00180.70. The Project Manager must issue a written Suspension of Work order and then issue a written Resume Work order when appropriate. The Inspector may issue those written orders if the Inspector must suspend work in order to get the Contractor to correct deficiencies.

Send a copy of Suspend and Resume Work orders to the Area Manager and the Construction Section*.

Do not grant or recommend additional time if work was suspended in order to get the Contractor to correct deficiencies or for natural conditions that could have been reasonably anticipated. The Project Manager must, however, issue a CCO to grant additional time if work was suspended for reasons considered to be in the public interest (see Adjustment of Contract Time below).

If a contract completion date is modified by a CCO due to a suspension of work, note that on the Notification of Commencement and Completion Dates for

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Contract Projects and on applicable Weekly Statements of Contract Time Charges.

Liquidated Damages

Whenever contract time, as specified in Section 00180.50 or modified by Contract Change Order, has been exceeded, the Project Manager must assess liquidated damages, as defined in Section 00180.85, unless the contract time has been adjusted, as discussed below, so that liquidated damages are not applicable.

The Project Manager must assess liquidated damages, when appropriate, as an Adjustment Item (6000 series) on each progress estimate.

Delays

If the Contractor feels that it has been delayed, it should submit a notice of delay to the Project Manager, as described in Section 00180.60, so that the Project Manager can record the information that will be needed to analyze the delay.

The contract does not require the Project Manager to respond to the notice of delay. The Project Manager, however, must take appropriate action to record the details and impacts of the alleged delay so that the Project Manager can initiate changes, grant or recommend additional time, or take other actions to mitigate the delay, including accelerating the work if appropriate.

If the delay is due to added or Extra Work that impacts the critical path, the Project Manager should summarize the impacts to the critical path and grant or recommend additional contract time as described below. If the delay is due to other reasons, remind the Contractor to submit a Request for Adjustment of Contract Time on form 734-3320.

If needed by the Project Manager, the Contract Administration Engineer can provide training and assistance to the Project Manager in understanding, reviewing, and analyzing the project schedule and impacts to the project schedule.

Also refer to delays caused by utilities in the Work Done By Utilities and Railroads section (24) of this Manual.

Adjustment of Contract Time

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Adjustment of contract time is done through the process defined in Section 00180.80 (a) through (d), including the Contractor's submittal of a Contractor's Request for Adjustment of Contract Time, form 734-3320, if appropriate.

It is ODOT's expectation that contract time will be adjusted within one month after the Project Manager receives the request from the Contractor.

If the Project Manager adds project work that impacts the project critical path and requires additional contract time, the Project Manager should include the additional contract time as part of the CCO for the added work, if possible. If Extra Work impacts the project critical path and requires additional contract time, the Project Manager must issue a separate CCO to grant the additional time.

If the Project Manager has issued any CCOs that adjust contract time, note them on the Notification of Commencement and Completion Dates and on applicable Weekly Statements of Contract Time Charges to assure that the proper completion date is used.

If needed by the Project Manager, the Contract Administration Engineer can provide training and assistance to the Project Manager in understanding, reviewing, and analyzing the project schedule and impacts to the project schedule.

As stated in the Delegation of Authority section (3) of this Manual and the Letters of Authority, the Project Manager has authority to adjust contract time by up to 3 calendar days and the Region has authority to adjust contract time by up to 14 calendar days. Also refer to Suspension of Work above.

If the Contractor has submitted a Request for Adjustment of Contract Time or if the Project Manager feels that additional contract time is due for acceptable reasons, the Project Manager should analyze the request or situation. For requests or delays of 3 calendar days or less, the Project Manager must prepare a CCO to grant the additional time that is justified in the analysis of contract time.

For requests or delays of more than 3 calendar days, the Project Manager must submit a recommendation, along with the Contractor's request and the Project Manager's analysis, to the Region. The Region will analyze the request, modify the Project Manager's recommendation if appropriate, and issue a CCO, for additional contract time of 14 days or less, or submit the request and its analysis and recommendation to the Construction Section.

For requests or delays* of more than 14 calendar days, the Contract Administration Engineer will analyze the request and recommendations and will

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issue a CCO to grant additional time as appropriate and justified. The Contract Administration Engineer will also request FHWA participation when needed.

If the Contractor feels that ODOT has improperly evaluated the request for additional contract time, it must notify the Project Manager within 10 calendar days that it requests ODOT to do further review of the request. It may:

1. Submit further information for ODOT to evaluate. ODOT will evaluate the further information and take appropriate action on the information. This will not take the place of a review by the State Construction and Materials Engineer, as follows.
2. Request to appeal the issue to the State Construction and Materials Engineer, as described in Section 00180.80(d). The findings of such an appeal are final. If the Contractor does not wish to accept the findings, its only action would be to pursue litigation. Issues involving only contract time are not subject to review under the claims procedure of Section 00199.40.