

SECTION 22
ALLOWANCE PROCEDURES
CONTRACT CHANGE ORDER PROCEDURES

Reference: SUAM Sections 9721.08 and 9820
Contract General Conditions, Contract Change Order provisions (Article 6.00)
Project Administration Reference Manual Section 4.00

1.00 ALLOWANCE PROCEDURES

1.01 General

Bid allowances are typically included in base bids as estimates for work that will be completed under the base construction contract, but the exact costs or scope are indeterminate at the time of bid. These amounts are later adjusted to actual costs, once the work is completed. The Trustees, with advice from the Architect, should specify the scope and value for each allowance. Examples of allowances include: keying, hard rock excavations, special utility permits or utility connection fees, signage, or unspecified finishes. The total of all allowances shall not exceed ten percent of the project's construction value.

Allowances should be specifically included and listed on the bid proposal form, on the schedule of values, and referred to and defined in Division One (01020) specifications. It is important to include in the division one specifications exactly how mark-ups will apply to allowances, as detailed in the following section. This should eliminate claims or disputes regarding application or mark-ups on allowances.

1.02 MARK-UPS FOR ALLOWANCES ON DESIGN-BID-BUILD PROJECTS

Treatment of mark-ups is as follows:

- Allowances are a part of the base contract work; no additional mark-up is credited to the general contractor for work performed within the allowance by the general contractor or any subcontractor. A six percent mark-up should be included from the general contractor on a credit change order for any unused portion of an allowance.
- Debits from allowances and mark-ups on allowance work performed by subcontractors shall be in accordance with the Contract General Conditions change order provisions.
- Work performed in excess of an allowance is subject to normal general contractor mark-ups in accordance with the Contract General Conditions change order provisions.
- Both the general contractor and the Trustees shall maintain an allowance log, indicating each debit from each allowance. The logs shall be reconciled to each other monthly and at project completion.

1.03 ALLOWANCES ON CM AT RISK PROJECTS

For trades where the CM is not able to receive a bid, or when bid normalization reveals necessary work that is not included in trade bids, the CM is to estimate the cost for that scope of work and put that amount into a CM allowance to be included in the Guaranteed Maximum Price (GMP). The CM shall provide a line item breakdown of all allowances on a separate schedule as part of the GMP submittal. The CM allowance shall be for a discrete and specific scope of work; it shall not be aggregated to create another Project contingency. The CM bears the cost risk of completing the work covered by a CM allowance, and shall returned unused portions of the CM allowance to the Trustees.

Before the CM issues the GMP, the Trustees may insert a Trustees' allowance into the CM at Risk construction (GMP) agreement whenever there is a discrete scope of work that is indeterminate at the time of bidding. An example of a Trustees' allowance would be for the CM to purchase an unspecified quantity of an item. The Trustees bear the cost risk of completing the work covered by a Trustees' allowance.

1.04 PROCESS FOR ALLOWANCES ON CM AT RISK PROJECTS

- The CM shall carry both types of allowances (CM's and Trustees') in its schedule of values as part of the GMP, and apply its fee for construction services, contingency and overhead and profit to them.
- Each debit from an allowance by a CM shall be authorized by the Trustees in writing using a field instruction, so that the item may be logged and tracked.
- The charges against either type of allowance shall consist of either time-and-material or approved lump sum direct costs from trade contractors in accordance with the Contract General Conditions change order provisions.
- The trade contractors shall mark up direct cost items in accordance with the Contract General Conditions change order provisions, however, Trustees will not award to CM additional mark-ups or fees on allowances.
- Allowances shall not be used by the CM for other than its specific and discrete purpose without written authorization by the Trustees.
- Upon completion of an allowance item, and if the allowance has not been fully expended, the Trustees shall process a credit change order for the unused balance of the allowance plus the CM's fee for construction services, contingency and overhead and profit.
- Before the CM exceeds a Trustees' allowance, the Trustees shall process a change order in accordance with the Contract General Conditions change order provisions to increase the Trustees' allowance.
- Both the CM and Trustees shall maintain an allowance log, indicating each debit from each allowance. The logs shall be reconciled to each other monthly and at project completion.

2.00 CONTRACT CHANGE ORDER PROCEDURES

Prior to the first change order, the Construction Administrator (CA) shall request and receive the first two weeks of certified payroll and the Hourly Labor Rate Worksheet for the Contractor's workers and all subcontractors on the project. The CA may request additional weeks of certified payroll as necessary. This information is required to establish the Contractor's and subcontractors' labor burden. The CA shall also request that the Contractor submit a Subcontractor Status Report, which will assist in identifying whether a listed subcontractor is a subsidiary of the Contractor or whether the subcontractor is owned or partially owned by the Contractor (shared profits), and therefore, help CA safeguard against abuse of change order mark-ups.

The CA shall request that the Contractor shall use the Contractor Change Order Request Summary Worksheet and require its subcontractors to use the Subcontractor Change Order Request Summary for all change order requests.

2.01 General

When the proposed need for a change order is first known by the design professional, he/she shall prepare a change proposal. It is the conceptual approval form and should be prepared for each change as early as possible, in order to reserve funds for the proposed change.

The design professional shall discuss all proposed or requested changes to the contract with the CA prior to or concurrent with preparing a change proposal. The CA shall determine whether or not to proceed with the proposed or requested change. When so notified by the CA, the design professional shall proceed with the change proposal. No extra services are to be used by the design professional prior to the approval.

A partial purpose of the change proposal is to eliminate unnecessary cost proposal requests to the Contractor and to control additional construction and design costs.

2.02 Normal Change Orders

- a. The need for a change order usually arises from one of the following reasons:
 1. Error in or omission from the contract documents;

2. Unforeseeable job site conditions such as rock, expansive soil, unrecorded utility lines or similar circumstances;
 3. Change in the requirements of a regulatory agency, such as revisions in building codes, fire, safety or health regulations;
 4. A change originated by the Campus;
 5. Changes in specified work due to the unavailability of specified materials.
- b. Design professional shall prepare a change proposal, in accordance with the following instructions, which are keyed to the numbers on the form, and submit it to CA.

2.03 Change Proposal Procedures

- a. The design professional shall complete the heading block and Items 1 through 6 on the change proposal form. The design professional shall assign numbers to change proposals sequentially. Should a change proposal be voided or not used, then the change proposal log shall reflect that status.
1. Description of Proposed Change: The design professional shall describe completely and definitively the change or changes proposed.
 2. Necessity for Proposed Change: The design professional shall state on the change proposal the condition, circumstance or occasion which makes the change proposal necessary. Be precise and specific. Indicate precisely what code change has been made, what condition was encountered, or what error or omission exists.
 3. Origin and Originator of Proposed Change: The design professional shall name the originator of the proposed change and identify the original proposer, i.e. design professional, Contractor, Inspector, Campus Representative.
 4. Classification of Proposed Change: Circle the appropriate classification. If '4.6' or 'Other' is selected, it should clearly not fit any of the other classes and must be described. Classification '4.6' is not allowed on annual reports to the Trustees, so it is best to classify the change by primary class, '4.0' to '4.5.' If multiple classifications are necessary, split the proposed change into separate classifications, along with cost and other identifying information. Do not combine multiple classifications and assign '4.6' to that change.
 - 4.0 Error in the contract documents.
 - 4.1 Omission from the contract documents.
 - 4.2 Unforeseeable job site condition such as rock, expansive soil, unrecorded utility lines or similar circumstances.
 - 4.3 Change in the requirements of a regulatory agency, such as revisions in building codes, safety or health regulations.
 - 4.4 A change originated by the University.
 - 4.5 Changes in specified work due to the unavailability of specified materials.
 - 4.6 Other, describe when applicable.
 5. Estimated Cost of Proposed Change
 - (a) Construction Cost (A/E Estimate): The design professional must provide an estimate of the additional cost or credit for the proposed change. If the design professional estimates a change proposal to be a no-cost change, the estimated cost should be indicated as \$0.

When the proposed change is originating from other than the Contractor, the cost estimate should be made by the design professional. The construction cost estimate should be of the "order of magnitude" or "probable cost" type. The design professional should obtain assistance in obtaining the estimated construction costs from the design professional's consultants, when appropriate. The design professional should not discuss his estimate of the construction cost with the Contractor. At this stage there is no assurance a change will be approved.

When the proposed change originates from the Contractor, and the Contractor submits a cost, the design professional shall review the Contractor's cost, using, where appropriate, the design professional's consultants and shall recommend that the Contractor's cost is or is not a valid cost for the work done.

- (b) A/E Extra Service Compensation: The design professional must also provide an estimate of the extra A&E compensation required to make changes in the contract documents or produce additional drawings and/or specifications necessary to proceed with the execution of the proposed change. If the proposed change is Item 4.1 (4.0--error in or 4.1--omission from contract documents), the estimated design cost shall always be indicated as \$0. The extra compensation requested by the design professional may be allowed if it is in accordance with the design professional's Agreement and is approved by the University Design Manager.

Failure to include extra compensation in the change proposal may preclude the design professional from claiming such extra compensation at a later date. Incorrectly quoted compensation may be revised upon submittal by the design professional of a complete description and substantiation for the additional compensation prior to approval of the proposed change order. A delay in this submission may result in a rejection of the amended compensation request.

If approved, a letter authorizing the extra services compensation will be sent to the design professional from the University Design Manager.

6. Preparation and Recommendation: The design professional must include his/her signature and date in the space provided, and then submit the change proposal to the CA. The CA will then secure the following reviews/ approvals. Again, the numbers are keyed to the numbers in the form.
7. Funding: This item shall be completed by the CA with consultation with the University Fiscal Manager, if necessary.
8. Recommendations: (those titles listed first herein reflect Campus administration of the project. Those titles that are listed after the '/' reflect CPDC administration of the project)
 - (a) CA/CA
Before recommending and/or authorizing the proposed changes, the CA shall review the contingency balance and shall ensure that funds are available to pay for the proposed changes. The contingency balance should take into account all approved changes, change proposals, all known possible claim costs and an allowance for future unknown costs. It is the CA's responsibility to ensure that the contingency balance is not exceeded nor excessively depleted and any nonessential change should not be approved, if in the CA's opinion, the contingency balance is not sufficient to complete the project. The CA shall keep the Executive Facilities Officer and the Project Team aware of the contingency balance on at least a monthly basis and shall immediately consult with the Executive Facilities Officer and Project Team, if the contingency balance is to be subjected to any large change order or claim costs.

Note: the following is a recommended authority, but shall be specifically set in accordance with each campus signature authority and structure as identified in the University's approved Management Plan.

CA shall make a recommendation on all proposed changes and is authorized to approve changes not exceeding \$20,000 under the following circumstances:

- (1) The change is essential to the project and is not a change in scope, including change originated by the Campus, or a change dealing with administrative items.
- (2) The design professional, and/or his consultant, agree to the need for the change, and, if possible, the estimated cost.

Note: A change "originated by the Campus" is considered an "elective change" for the purpose of these recommendations.

- (b) University Facility Planner/CPDC Facility Planner
All proposed changes with a possible change in scope or costing over \$20,000 require the University Facility Planner's recommendation signature.
- (c) University Design Manager/CPDC Architect
All proposed changes with a possible change in scope and/or design professional extra compensation or costing over \$20,000 require a recommendation signature by the University Design Manager.
- (d) Executive Facilities Officer/Chief of Construction Management
All proposed changes costing over \$20,000, but less than \$100,000, require a recommendation signature of the Executive Facilities Officer.
- (e) Vice President of Administration/Assistant Vice Chancellor
All proposed changes costing over \$100,000 require a recommendation signature of the Vice President of Administration.

9. Approval of Change Proposal: The CA shall indicate whether the change proposal is approved or rejected.

10. Request for Design Professional to Prepare a Cost Request Bulletin or Change Order: Once all recommendations have been received, it is incumbent upon the CA to resolve any differences in the recommendations. The signature of the CA will be the authorization for the design professional to prepare a cost request bulletin, or if the final cost is known, to prepare a change order.

b. The CA then distributes copies of the change proposal form to the design professional, Project Manager/Construction Inspector.

2.04 Cost Request Bulletin Instructions

a. Design professional, upon receiving an approved change proposal from CA, shall prepare a cost request bulletin describing work to be performed and submit it to the Contractor requesting the Contractor's cost for the work described. The cost of the change may already have been established by a change order request or other means. In this case, a cost request bulletin is not required.

b. Contractor shall submit completed cost request bulletin with complete back-up material to design professional for his review, with copies to Project Manager/Construction Inspector and CA.

c. Design professional, with consultation of the Project Manager/Construction Inspector, shall review the cost request bulletin and the back-up material for conformance to the contract. For costs greater than \$5,000, if the cost is within twenty percent (20%) of the approved estimated cost, design professional may prepare the

formal contract change order. If the cost is more than twenty percent (20%) over the approved cost, a revised change proposal should be submitted to the CA for reconsideration.

2.05 Contract Change Order Procedure

- a. Design professional shall complete two original copies of the contract change order form, each copy with original signatures (including the design professional's signature), attach to each copy all back-up materials, and send both copies to the Contractor for signature. The design professional shall assign numbers to change orders sequentially. Should a change order be voided or not used, then the change order log shall reflect that status.
- b. Contractor shall review and sign contract change order and send both copies, each with back-up materials, to the CA for signature.
- c. CA shall review contract change order for conformance to the approved change proposal(s) and review all attached back-up for completeness and conformance to the contract specifications. CA may sign all change orders not exceeding \$20,000. If there are multiple change items on a single change order, the CA may sign the change order only if the absolute value of each separate item listed on the change order does not exceed his/her authority. If one or more of the items exceeds the CA's signature authority, regardless whether the total amount of the change order does not exceed \$20,000, the CA must secure a signature from someone with a higher level of signature authority, i.e. the Executive Facilities Officer or the Vice President of Administration. CA shall initial all change orders exceeding his/her signature authority. CA's signature and/or initials signify that he/she has complied with all policies and procedures in the processing of this change order. Executive Facilities Officer may sign all change orders over \$20,000, but less than \$100,000. However the same restriction on the CA's signature authority applies to the Executive Facilities Officer, in that he/she may sign a change order only if the absolute value of each separate item listed on the change order does not exceed his/her authority. Vice President of Administration shall sign all change orders over \$100,000, and any change order with multiple change items, if the absolute value of any separate change item listed on the change order exceeds the signature authority of the Executive Facilities Officer.

Note: specific levels of signature authority must be established on each campus; the levels of authorization specified herein are recommendations.

2.06 Emergency Change Orders

- a. Emergency change orders, as defined in the Contract General Conditions, Section 6.02, are those requiring immediate action to avoid a serious work stoppage, delay and/or extra costs.
- b. Design professional, Project Manager/Construction Inspector shall advise CA of the emergency situations and, if possible, estimate the cost of the change. University Facility Planner shall give verbal approval to all changes involving a change in scope, including a change originated by the University. A lump sum cost shall be agreed with the Contractor. If the agreement on cost is not reached, Contractor shall proceed on a time and material basis, with an "authorization limit", if required, and utilizing a field instruction or letter from the CA.
- c. CA shall direct Project Manager/Construction Inspector to issue Contractor a field instruction on which CA has authorized Contractor to proceed on the agreed lump sum cost or on a time and material basis, or on other agreed cost basis.
- d. Design professional shall immediately prepare a change proposal, including an estimate of the cost, as normal, and submit it to CA for approvals. When work is completed, the design professional shall prepare a formal contract change order. The design professional shall attach necessary documentation, including copies of time and material logs, if required, to the contract change order. Cost of the change may be according to an agreed lump sum, based on certified time and material costs, or a combination as appropriate.

2.07 Disputed Work

Should the Contractor dispute the changed work, the Contract General Conditions, Article 5.02, states:

“5.02 Issuance of Interpretations, Clarifications, Additional Instructions

Should the Contractor discover any conflicts, omissions, or errors in the Contract or have any question concerning interpretation or clarification of the Contract, the Contractor shall request in writing interpretation, clarification, or additional detailed instructions, before proceeding with the Work affected. The written request shall be given to the Architect with copies to the Project Manager/Construction Inspector and the Trustees.

The Architect, with review as required by the Trustees, shall, within a reasonable time, issue in writing the interpretation, clarification, or additional detailed instructions requested.

Should the Contractor proceed with the Work affected before receipt of the interpretation, clarification, or instructions from the Architect, the Contractor shall replace or adjust any work not in conformance therewith and shall be responsible for any resultant damage or added cost.

Should any interpretation, clarification, or additional detailed instructions, in the opinion of the Contractor, constitute Work beyond the scope of the Contract, the Contractor must submit written notice thereof to the Architect within seven (7) Days following receipt of such interpretation, clarification, or additional detailed instructions and in any event prior to commencement of Work thereon. The Contractor shall send copies of such correspondence to the Trustees and the Project Manager/Construction Inspector. Within seven (7) Days after the Contractor issues its written notice, the Contractor shall submit an explanation of how the interpretation, clarification, or additional detailed instruction constitutes Work beyond the scope of the Contract, along with a detailed cost breakdown and an explanation of any delay impacts.

The Architect shall consider such notice and make a recommendation to the Trustees. If, in the judgment of the Trustees, the notice is justified, the interpretation, clarification or additional detailed instructions shall be revised or the extra Work authorized by Contract Change Order or by Field Instruction with a Change Order to follow. If the Trustees decide that the claim is not justified, the Trustees shall give the Contractor a written order that the claim is not justified and direct the Contractor to perform such Work.

The Contractor must proceed with the Work upon receipt from the Trustees of a written order to do so, in accordance with the Architect’s interpretation of the Contract requirements. If the Contractor objects to the order, the Contractor must notify the Architect and the Trustees in writing of its objections and the reasons therefor, within seven (7) Days of receipt of the order. The Contractor shall have the right to have this claim later determined by a Claims Review Board pursuant to this Contract (see Article 7.01, Claims). When performing disputed Work, the Contractor shall prepare time and materials records for each day, and the Construction Inspector shall verify these records at the conclusion of each day. The Contractor shall have no claim for additional compensation because of such interpretation, clarification, or additional detailed instruction, unless it gives written notice to the Architect within seven (7) Days as specified above.”

In the case of disputed work, the CA shall issue written notification to the Contractor either under Article 5.02 or Article 6 change order provisions of the Contract General Conditions. Should the Trustees and the Contractor fail to agree as to cost of the added or deleted work, both the Contractor and the Trustees shall proceed according to Contract General Conditions, Article 6.01-c.

2.08 Time Extensions

- a. Contractor may request a time extension when submitting its cost for a change. A time extension may be allowed only upon justification in accordance with the Contract General Conditions. Schedule impact of

critical path work which will cause the project to complete later than the official completion date is the base criterion for a time extension.

- b. Time extensions should be reviewed by the design professional with consultation of the Project Manager/ Construction Inspector prior to making recommendations to the CA. Acquire the CA's concurrence prior to including a time extension on a change order. Time impacts are often critical to academic considerations and must be reviewed seriously with mitigating cost impacts. To allow time may cause extended overhead cost, and to deny it may cause construction acceleration. (It may be prudent for CA to agree to a time extension in a letter to the Contractor, and reserve the right, per Contract General Conditions Article 4.16, to make up time through expediting review of critical path submittals, expediting review of shop drawings submittals, deleting critical path work, and/or directing acceleration on critical path work.)

If the Trustees agree that a time extension is warranted and that the Contractor should be reimbursed for its extended field office overhead costs, the change order mark-up for field and home office overhead and profit must be reduced to only include their home office overhead and profit. This reduction needs to be negotiated, but a guideline is a reduction from 15% to 9% on the first \$50,000 of the change order amount, and a reduction from 10% to 6% on the change order amount over \$50,000.

- c. After completion of major construction milestones, i.e. foundation, structural steel, etc., if possible, and if it is in the best interests of the Trustees, CA shall settle all outstanding issues, reconcile time, and memorialize in a milestone settlement change order. If attempts to settle the issues fail, document the attempts and place in the project file. Doing this will lessen the burden of settling these issues at the end of the project and will prevent the snowballing of claims in these areas. See also SUAM Sections 9792.01, 9820-03 and 9833.

2.09 Scope

The CA must be careful to review the scope of every change order that may have regulatory review concerns. If any change fits this category it should be brought to the attention of the campus Deputy Building Official for a determination of the need to submit the change for review. This could involve the State Fire Marshal, DSA for handicapped access changes, County Health Department or others.

For the scope of changes that may be an elective cardinal change, caution is recommended. Refer to SUAM 9820.02 for cautions passed down from General Counsel, regarding scope changes that represent a new project.