

Table 5-4.4 Delegation of Authority

Claims Resolution		
Period	Item(s)	Entitlement Authority ¹
Before issuance of the proposed final estimate	Notices, protests, and potential claims	Authority to approve contract change orders resolving entitlement may be delegated under the authority to approve contract change orders ² .
From return of the proposed final estimate	Claims	Authority to approve contract change orders resolving entitlement may be delegated under the authority to approve contract change orders ² .
To deputy district director of construction's letter		For contract change orders subject to district approval: <ul style="list-style-type: none"> • Deputy district director of construction approves. Authority may be delegated to construction managers, but not to construction engineers. • Send copy to the Division of Construction contract change order engineer. (Overhead claims³)
		For contract change orders subject to Division of Construction approval: <ul style="list-style-type: none"> • Deputy district director of construction signs under "submitted by" on contract change order memorandum⁴. • Division of Construction field coordinator provides signature of approval on contract change order memorandum⁴. (Overhead claims³)
From deputy district director of construction's letter	Claims	Approvals of contract change orders resolving entitlement are subject to the district director's determination and the delegation of authority for contract change orders ² .
To District Director Determination of Claims ⁵		For contract change orders subject to district approval: <ul style="list-style-type: none"> • Deputy district director of construction approves. Authority may be delegated to construction managers, but not to construction engineers. • Send copy to the Division of Construction contract change order engineer. (Overhead claims³)
		For contract change orders subject to Division of Construction approval: <ul style="list-style-type: none"> • Deputy district director of construction signs under "submitted by" on contract change order memorandum⁴. • Division of Construction field coordinator signs recommending approval on contract change order memorandum⁴. • Division of Construction chief signs approval on contract change order memorandum⁴. (Overhead claims³)

¹ Entitlement—merit, even partial, requiring compensation under Public Contract Code, section 10227 and Section 3-403, "Changes," of the *Construction Manual*

² Section 5-311, "Contract Change Order Approval," of the *Construction Manual*

³ Approval authority on contract change order memorandum for overhead entitlement:

Field office overhead: <\$200K, construction field coordinator.
 \$200K to \$1.0M, Division of Construction chief.
 >\$1.0M, Project Delivery deputy director.

Home office overhead: ≤\$1.0M, Division of Construction chief.
 >\$1.0M, Project Delivery deputy director.

⁴ Revise the contract change order memorandum as appropriate.

⁵ The District Director Determination (DDD) is Caltrans' final written decision of the claims. After the DDD is issued, no further discussion with the contractor regarding claims should occur.

Table 5-4.4 Delegation of Authority

Claims Resolution																
Period	Item(s)	Negotiated Settlement Authority ⁶														
From start of work	Notices, protests, claims, and potential claims	Approval authority and responsibilities for a confidential claim settlement request depend on the settlement amount, as follows ^{2, 7, 11} :														
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⁶ Negotiated Settlement—according to Public Contract Code section 9201 and Section 5-406B, "Claim Payments Based on Negotiated Settlements," of the *Construction Manual*.

⁷ Attach the contract change order and contract change order memorandum to the claim settlement request and submit it to the Division of Construction. Attach form CEM-2702, "Overrun in Contract Time," to the claim settlement request if recommending action related to time extensions, liquidated damages, or engineering and inspection costs. The Division of Construction contract change order engineer will provide authorization or notify the district to authorize approval. File the approved claim settlement request in the Division of Construction confidential files. Destroy all drafts.

⁸ The Division of Construction field coordinator, deputy district director of construction, Legal Division representative, Division of Construction chief, and FHWA transportation engineer meet to discuss the settlement offer. If the offer is greater than \$1.0M, the Project Delivery deputy director may also attend.

⁹ The deputy district director of construction is responsible for obtaining FHWA concurrence with the settlement on high-profile and non-delegated projects.

¹⁰ The district, after obtaining approval from the Division of Construction field coordinator, negotiates the settlement and submits the settlement request to the district director.

¹¹ The claim settlement request is the written decision of the claim. After the claim settlement request is approved, no further discussion with the contractor regarding the settled claim should occur.

Table 5-4.4 Delegation of Authority

Arbitration																	
Period	Item(s)	Negotiated Settlement Authority¹²															
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Arbitration	Settlements reached before the arbitrator issues a decision.	<ul style="list-style-type: none"> • Use negotiated settlement authority request for settlement item for the period from filing of arbitration to arbitration hearing (above). • Division of Construction issues the contract change order and notifies the district to process estimate. 															
	Arbitrator issues a decision award to contractor	<ul style="list-style-type: none"> • District processes request for additional funding, if required. • The Division of Construction issues the contract change order and notifies the district to process estimate. 															
	Arbitrator issues a decision award to Department	<ul style="list-style-type: none"> • Division of Construction establishes an accounts receivable with the Division of Accounting. • Division of Construction coordinates additional judicial remedies with the Legal Division, if required. 															

¹². Negotiated Settlement—according to Public Contract Code section 9201 and Section 5-406B, "Claim Payments Based on Negotiated Settlements," of the *Construction Manual*.

¹³. Attach form CEM-2702, "Overrun in Contract Time," to the claim settlement request if recommending action related to time extensions, liquidated damages, or engineering and inspection costs.

¹⁴. The Division of Construction field coordinator, deputy district director of construction, Legal Division representative, Division of Construction chief, and FHWA transportation engineer meet to discuss the settlement offer. If the offer is greater than \$1million, the Division of Project Delivery deputy director may also attend.

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