

DIVISION OF LOCAL ASSISTANCE



CALTRANS OVERSIGHT INFORMATION NOTICE



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Welcome to the COIN!

This is a Caltrans Oversight Information Notice, or "COIN" for short. These short, single-topic bulletins are intended to provide outreach information and guidance to local agencies on issues pertaining to Federal-aid projects. They cover a wide variety of subjects, including discussions of findings resulting from process reviews by Caltrans and/or FHWA, changes in procedures or regulations, reminders of existing procedures or best practices, and other timely information. The goal is to ensure proper and timely delivery of Federal-aid projects.

TOPIC: Administration of Contract Time

Recent ARRA project review findings indicate some local agencies struggle with proper administration of contract time. Common observations include failure to clearly define the working day definition within the contract, poor handling of temporary suspensions of the work, lack of support documentation for contract change orders that adjust contract time, and untimely reporting and documentation of working days charged to the contract. Poor contract time administration can result in contractor claims (e.g. acceleration claims) against the local agency. In addition, by failing to clearly report and document contract time, assessment of liquidated damages for overruns in contract time becomes problematic.

During development of the project's PS&E package it is important that the local agency's design and construction teams are on-board with the definition of a working day for the contract. Local agencies may wish to utilize the standard five-working day week with defined holidays and exceptions for weather and traffic days as a standard practice. Local agencies must consider the additional expense that will be incurred by both the contractor and the agency if defined working days include Saturdays, Sundays, holidays, weather and/or traffic days. Regardless of the definition chosen by the local agency it is critical that the contract provisions clearly identify how working days will be charged on the contract.

Frequently, contracts will need to suspend charging of working days because conditions outside of the contractor's reasonable control (e.g. winter suspension) will not allow for prosecution of work on the controlling operation. These type of suspensions are generally excusable and non-compensable. In these instances it is important that the administering agency timely documents in writing when the suspension begins, forecast an anticipated end date of the suspension and the actual suspension end date with resumption of charging of working days. Agencies should also retain written requests from the contractor for these types of suspensions within the project records. Suspension days need to be reflected on timely issued weekly statement of working days.

Contract change orders that adjust contract time need to be supported by a time impact analysis within the project records. The time impact analysis evaluates the impact of the change on the controlling operation and contract completion date. Time adjustments by reason of a contract change order should be shown on the weekly statement of working days when the associated CCO is approved.

A variety of problems concerning weekly statement of working days have been observed, including absence thereof, incorrect charging of working days (e.g. incorrect working day calendar), failing to send reports to the contractor, untimely completion of reports, failure to record CCO days, etc. A weekly statement of working days report, similar to that shown in Exhibit 16-A of the LAPM, is critical to the proper administration of contract time. By reporting on the expenditure of contract time on a weekly basis to the contractor, future misunderstandings and claims may be avoided. Allowing the contractor the opportunity to protest the weekly statement of working days is important and even more so on contracts that do not require critical path method (CPM) schedules.

Local agencies need to ensure the many aspects of contract time administration are applied correctly and timely.