

Construction Contract Change Order Procedures

1. Applicability.

This policy applies to all change orders associated with construction contracts awarded by the School Board.

2. Definitions.

The following words and phrases shall have the meanings as provided below:

Change Order means a written amendment to the construction contract issued and signed by the Superintendent or designee, the architect-engineer, and the contractor authorizing a change in the scope of work, an adjustment in the contract sum and/or an adjustment in the contract time.

Construction means demolition, renovation, remodeling or new construction. It does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

Construction Contract and/or Contract Documents means the agreement between the School Board and the contractor or architect-engineer, plans and specifications, approved construction change orders and any addenda issued prior to the execution of the contract, and other written modifications.

Critical Path means the longest sequence of critical activities in a project plan which must be completed on time for the entire project to be completed on the due date. An activity on the critical path cannot be started until its predecessor activity is complete. The completion of the construction project is delayed when one of the critical path activities is not started and/or not finished on time.

Emergency means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population of the school community or substantial damage to or loss of School Board property.

Final Completion means when the Work and the requirements of the construction contract documents are fully and finally completed.

Guaranteed Maximum Price means the fixed amount in a negotiated contract within which the construction will be achieved. It includes both the fee and construction cost.

Major Construction Projects means projects for the construction, renovation or repair of new or existing buildings, facilities, or other permanent improvements with approved budgets of more than \$1 million in cost.

Minor Construction Projects means projects for the construction, renovation or repair of new or existing buildings, facilities, or other permanent improvements with approved budgets of up to \$1 million in cost.

Project means the total design and construction of which the Work performed under the contract documents may be the whole or a part.

Substantial Completion means the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use. When substantial completion occurs for a portion of a construction contract for which the contract states a separate price, substantial completion occurs only to the work under that portion of the contract.

Work means the construction and services required by the construction contract documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the architect, construction manager, or contractor to fulfill their obligations to the School Board. The Work may constitute the whole or a part of a construction project.

3. Policy Statement.

The School Board recognizes that construction projects are complex undertakings and as such unforeseen conditions, market conditions, errors, omissions, and a number of other factors may impact the cost or schedule of projects, necessitating a construction change order. However, the School Board further believes that thoughtful planning should minimize the construction change orders that are necessary to a construction contract for any construction project. Thus, all changes which may be required after a construction contract has been awarded must be approved in accordance with this policy and be appropriately documented.

A construction change order shall not be binding on the School Board unless in writing, approved and executed by duly authorized parties as provided herein. All work which is the subject of a construction change order shall not commence until approved as provided herein. Otherwise, the School Board will not be responsible for payment on a construction change order.

Such authorized and fully executed construction change order shall be attached to and become a part of the original contract.

All construction change orders shall be funded by contingencies approved by the School Board.

A construction project shall not be separated into smaller segments of funding, cost, work, or function to avoid the approval by a higher administrative or governing authority as provided herein.

4. Initiation of Change Orders.

A construction change order is required for a change in the scope of work, an increase or decrease in the amount of the construction cost, or to adjust the substantial or final completion

date of a construction project. Construction change orders may be accomplished by use of either a Change Order (CO) or a Construction Change Directive (CCD).

Change Order (CO). A CO may be issued only when the contractor is in agreement and the backup to the construction change order contains no qualifying language from the contractor. This method should be used when the change affects items not on the critical path schedule and as provided herein.

Construction Change Directives (CCD). CCD changes may be authorized in a day or less and should be used for items that would delay the project's critical path, or when the contractor is not in agreement with the terms on the face of the construction change order. When terms of a CCD are finally agreed upon, a COPR should be issued.

Construction Manager Role (CM). Where a Construction Manager is involved as the representative of the District, the CM shall validate, approve and make a recommendation as to the approval or disapproval of any CO or CCD. The CM may be designated by the Board to carry out additional duties pursuant to this policy. In some circumstances, the CM may work in lieu of or together with the architect/engineer in fulfilling the architect/engineer's role in the change order process.

When the proposed need for a change order is first known by the architect/engineer, a change order proposal shall be prepared. The architect/engineer shall prepare the change order proposal in accordance with the following instructions and submit it to the Superintendent or his designee:

- a. The architect/engineer 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.
- b. The architect/engineer shall describe completely and definitively the change or changes proposed.
- c. The architect/engineer shall state on the change proposal the condition, circumstance or occasion which makes the change proposal necessary. The architect/engineer shall be precise and specific, indicating precisely what code change has been made, what condition was encountered, or what error or omission exists.
- d. The architect/engineer shall name the originator of the proposed change and identify the original proposer (i.e., architect, contractor, District).

The architect/engineer must provide an estimate of the additional cost or credit for the proposed change. If the architect/engineer 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 architect/engineer. The architect/engineer may obtain assistance in obtaining the estimated construction costs from the architect/engineer's consultants, when appropriate.

When the proposed change originates from the contractor, and the contractor submits a cost, the architect/engineer shall review the contractor's cost estimate, using, where appropriate, the architect/engineer's consultants and shall determine whether the contractor's estimated cost is or is not a valid cost for the work done.

The architect/engineer must also provide an estimate of the extra architect/engineer 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 due to an error or omission from contract documents, the estimated design cost shall always be indicated as \$0.

Upon completion of the charge order proposal, the architect/engineer must sign and then submit the change proposal to the Superintendent or his designee. The Superintendent or his designee shall determine whether or not to proceed with the proposed or requested change. If the Superintendent or his designee determine to proceed with the proposed change, they may approve the change if it falls within their authority. If not, they must present the change to the School Board for approval.

If the change proposal is approved by the appropriate authority, the architect/engineer shall complete four original copies of a contract change order form, all four copies with original signatures (including the architect/engineer's signature), attach to each copy all back-up materials, and send all four copies to the contractor for signature. The architect/engineer 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.

The contractor shall review and sign the change order and send all copies, each with back-up materials, to the Superintendent or his designee for signature. The Superintendent or his designee shall review each change order for conformance to the approved change proposal and review all attached back-up for completeness. Once the change proposal has been approved by the appropriate authority, the Superintendent or his designee may sign said change order on behalf of the District.

5. Change Order Approval Authority.

*50,000
150,000.00
liquidated
damages
anything over
150,000
goes to
Board*

Board Authority. The Superintendent shall recommend to the School Board for its review and approval any major or minor construction change order:

a. Greater than \$50,000, or that increases the cumulative total of all construction change orders of a construction project approved by the Superintendent or designee to greater than \$150,000, or by more than 8% of the original construction contract amount, whichever is less;

or ~~more~~ 2 greater

b. That alters or eliminates the School Board's right to pursue liquidated damages, due to late delivery or untimely performance;

- c. That impacts the occupancy date of a construction project; or,
- d. That provides for facilities not approved in the specifications as approved by the School Board; or significantly alters the design or extent of facilities provided for in the original contract documents.

Delegation of Authority for Major Construction Projects. The Superintendent may approve a construction change order request, whether a ~~COPR~~ or CCD, for a single, major construction contract in an amount not to exceed \$50,000; provided however, the cumulative total of all approved construction change orders for a single, major construction contract by the Superintendent or designee does not increase the original construction contract amount by more than 5% or \$150,000, whichever is less. The School Board must approve all change orders in excess of the maximums referenced above.

If the Superintendent delegates any of his authority as provided herein, the delegation shall be limited to the following:

- a. The designee has authority to approve a construction change order request, whether a COPR or CCD, for a single, major construction contract in an amount not to exceed \$50,000; provided however, the cumulative total of all approved construction change orders for a single, major construction contract by the Superintendent or designee does not increase the original construction contract amount by more than 5% or \$150,000, whichever is less;
- b. The designee may not re-delegate such authority; and
- c. The designee may not approve matters falling within the School Board's authority.

Delegation of Authority for Minor Construction Projects. The Superintendent may approve a construction change order request, whether a ~~COPR~~ or CCD, for a single, minor construction contract in an amount not to exceed \$50,000; provided however, the cumulative total of all approved construction change orders for a single, minor construction contract by the Superintendent or designee does not increase the original construction contract amount by more than 10% or \$150,000, whichever is less. The School Board must approve all change orders in excess of the maximums referenced above.

If the Superintendent delegates any of his authority as provided in this subsection, the delegation shall be limited to the following:

- a. The designee has authority to approve a construction change order request, whether a COPR or CCD, for a single, major construction contract in an amount not to exceed \$50,000; provided however, the cumulative total of all approved construction change orders for a single, minor construction contract by the Superintendent or designee does not increase the original construction contract amount by more than 10% or \$150,000, whichever is less;

- b. The designee may not re-delegate such authority; and
- c. The designee may not approve matters falling within the School Board's authority.

Exclusion of District-Purchased Materials Change Orders. The values of District-Purchased Materials change orders shall not count towards any cumulative limits specified herein.

6. Emergency Change Orders.

In an emergency situation, the Superintendent may approve a change order, beyond his/her authority limits described in this policy, which is reasonably necessary for emergency purposes to:

- a. Prevent or minimize an imminent threat to the health, welfare and safety of District students, employees, volunteers, contractors and visitors; or,
- b. Protect the work, the structural integrity of a facility, equipment, material to be used in the work, human safety, or the environment at or near the work from substantial and immediate danger or injury; or,
- c. Protect, where damage or injury has occurred, work equipment or materials to be used in the work, human safety, or the environment at or near the site of the work, from further or additional damage or injury or deterioration.

The Superintendent shall present a written finding of the existence of the emergency and the change order in a report to the School Board at the next subsequent meeting following approval by the Superintendent.

7. Documentation Required.

A construction change order shall be in writing on a District-specified form and supported by a written justification, appropriate backup and a written cost proposal from the contractor/construction manager showing quantities and sizes of materials; unit cost (itemized costs and/or credits); labor; profit and overhead; a statement indicating what the proposed change in work will have on the contract/project time and/or cost; and a narrative justification of the change in relation to the original bid/educational specifications. Change order requests shall include any work that is added, omitted or deleted, along with attached costs or deductions where applicable. On Design-Bid-Build and Construction Management at Risk projects, the architect/engineer shall examine the requested change order to determine that the request is justified and reasonable and the information provided is accurate. Such documentation shall be signed by the architect/engineer and the contractor prior to submission the School Board, Superintendent or his designee. If additional information is requested by the School Board, Superintendent or his designee for the purposes of evaluating the change order request, such information shall be timely submitted.

Where a construction change order is made at no additional cost, or where added or deleted work balance in cost, the change order shall be prepared to record the fact that such changes were made, including a description, explanation and monetary sums.

When considering cumulative limits as provided for herein, deductive change orders shall be tracked separately from and not count towards the cumulative limits.

For each construction contract, the Director of New Design and Construction shall ensure a construction change order log and all related change order documentation are maintained in an auditable manner.

~~9.~~ General Counsel Review

Prior to a construction change order being presented to the School Board, the Superintendent or his designee, the General Counsel shall review and sign-off on all construction change orders to ensure the change order is in conformance with this policy and otherwise legally sufficient.

10. Reporting of Change Orders

All COPRs and CCDs approved by the Superintendent or his designee, must be reported to the School Board at the next regular meeting.

A report detailing the construction change orders, activities and finances shall be provided to the School Board comparing the initial budget approved by the School Board for the construction project and the actual cost to construct the project so that the School Board is informed, in a summary format, of construction change orders affecting the project costs and schedules. The information shall be entered into the official minutes of the School Board.

11. Implementation of Policy

The Superintendent or his designee is responsible for ensuring that this School Board policy covering construction change orders is properly implemented.

12. Prohibitions

Construction change orders shall not be divided to evade the provisions of this policy or South Carolina law.

A proposed change to a construction contract shall not be split so that the resulting change orders do not exceed the limits established by this policy.

13. Administrative Procedures or Directives

The Superintendent shall add any additional conditions necessary to protect the policies and interests of the School Board and promulgate any necessary administrative procedures or directives.