



CHAPTER 3

DELEGATION OF AUTHORITY

3-1 Delegated Authority

The Oregon Transportation Commission (OTC) has delegated certain authorities to various positions in the Agency. The Director, Assistant Director for Operations, and the Delivery and Operations Division Administrator have delegated, through sub-delegation orders, some authority to lower levels in the Agency. Since approval of some construction related items may take some time to obtain, the Resident Engineer (RE) must stay aware of project funding, authorization, and expenditures, as well as any potential changes or other issues that may require approval at other levels. The RE must define the needed actions and obtain proper approvals within the expected timeframes.

The Authorities pertaining to ODOT's Construction Program are summarized in the next table. See comments listed below the table concerning Local Public Agencies (LPAs).

Type	OTC	Director Action	Delivery & Operations Administrator Action	State Construction and Materials Engineer	Contract Administration Engineer
Authorization Increase	\$5,000,000 or greater	\$2,000,000 to \$5,000,000	\$1,000,000 to \$2,000,000	All*	All*
Authorization Overrun	N/A	N/A	N/A	Up to \$1,000,000	Up to \$1,000,000*
Change Orders - \$ Value	N/A	N/A	N/A	All	All
Change Orders - Time	N/A	N/A	N/A	All	All

Type	Region Manager/ UMO Deputy Director	Area Manager/ UMO Project Director	Resident Engineers & RE-CPs
Authorization Overruns	Up to \$1,000,000	Up to \$250,000	None
Change Orders - \$ Value	\$250,000	\$250,000	\$100,000
Change Orders - Time	30 days	30 days	14 days

*Overruns or Increases on Claims Settlements only

The Delivery and Operations Division Administrator establishes the original construction authorization and can change the construction authorization as needed to deliver the STIP. The Delivery and Operations Division Administrator may submit some requests for increase in authorizations to the Assistant Director for Operations, Director, and or OTC for approval.

Adding/Cancelling a project or construction phase:

OTC authorization is for any program in which ODOT is in charge of the selection process.

The following types of projects would **require** OTC, Director or Delivery & Operations Administrator action:

- Fix-it (Pres, IM, Bridge, Culvert, Fish Passage, Operations, etc.)
- All Roads Transportation Safety
- Enhance
- Transit
- Rail
- Federal discretionary grants (FAST Act, TIGER, etc.)

The following types of projects would be **exempt** from OTC action; unless ODOT shares more than the minimum match requirements:

- Federal Lands Access Program
- Federal Emergency Relief
- MPO Selected projects
- AOC/LOC agreement projects through fund exchange and Local Bridge Program

Projects not presented to the OTC will follow the administrative process and follow the public involvement procedures for STIP amendments.

For new projects or new construction phases (pre-award), the approval matrix is as follows:

OTC Action:

- For new projects \$5,000,000 or more
- For new construction phases \$5,000,000 or more

Director Action:

- For new projects between \$1,000,000 and \$5,000,00
- For new construction phases between \$1,000,000 and \$5,000,00

Delivery and Operations Administrator Action:

- For new projects under \$1,000,000
- For new construction phases under \$1,000,000

ODOT Delegation:

- Not applicable

Cost Change (Project Development Phase)

For project total cost changes. the approval matrix is as follows:

OTC Action:

- Total project cost change that is above \$5,000,000

Director Action:

- Total project cost change between \$2,000,000 and \$5,000,000

Delivery and Operations Administrator Action:

- Total project cost change \$1,000,000 and \$2,000,000

ODOT Delegation:

- Total project cost change less than \$1,000,000

Construction Authorization Increase

For construction authorization increases, the approval matrix is as follows:

OTC Action:

- Construction authorization increase \$5,000,000 or more

Director Action:

- Construction authorization between \$2,000,000 and \$5,000,000

Delivery and Operations Administrator Action:

- Construction authorization increase between \$1,000,000 and \$2,000,000

ODOT Delegation:

- Total project cost change less than \$1,000,000

Immediate Opportunity Fund (IOF) Project Approval

Direct Action for all IOF projects.

Exceptions to OTC Action

The following items are exceptions to OTC approval, as these actions are required based on legal requirements

- Claims -when claims are filed during active projects, the legal cost and the associated claim settlement/award are unavoidable.
- Eminent Domain -the cost of expropriating private property for public use and the legal costs associated to it

The authorities delegated to ODOT REs are **not** delegated to Local Agencies or Consultants who may be employed by the Agency or Local Agencies. For those projects, that authority remains at the Region level.

Authority to approve increases in the Project Authorization for Local Public Agency (LPA) projects not on the State Highway System (local funds involved) has been delegated to the Manager of Statewide Investment Management.

When determining who has delegated authority, the dollar value of a Change Order is the absolute dollar value of all Change Order items. There are situations, however, where the dollar value of the change may be small, but the magnitude or type of the change is significant, such as a change in scope, project limits or a particular Specification change. In those cases, the RE must secure approvals including the Professional of Record (POR) and/or the appropriate Specification Technical Resource before proceeding with the Changed Work.

The Construction Section has authority to approve all Change Orders and adjustments of Contract Time that are beyond the Region Manager authority.

The Agency does not have the authority to change the scope or intent of the requirements in Sections 00100 through 00199 of the Contract without concurrence from the Department of Justice (DOJ). Before such changes can be made, the RE must contact the Contract Administration Engineer (CAE), who will request the agreement from the DOJ for such changes.

The RE shall obtain advance approval before authorizing the Work to commence when the RE delegated authorities are exceeded unless a public safety issue or an emergency is evident. The RE must submit an actual Change Order into AASHTOWare Project (AWP) shortly thereafter. There shall be no fragmentation of Change Order items to avoid required approvals. Document all prior approvals or other discussions on the Contract Change Order form 734-1169, submitted with the appropriate Change Order. [Refer to Chapter 15 of this Construction Manual.]

In emergency situations, the RE may take action as necessary to protect the public and the transportation facility and may obtain formal approval after the emergency Work has started. This only applies to emergency situations and the RE must obtain proper approvals soon thereafter.

The RE must obtain all proper approvals before ordering any Work that is beyond authority level of a RE. FHWA may not participate in the cost of Work that was started prior to its concurrence of the Work. Certain changes (see 3-2 below) made without FHWA concurrence could jeopardize federal funding for the project.

3-2 FHWA Oversight

Major Contract changes require the written approval of FHWA prior to commencement. Listed below are changes to the Contract that will require prior FHWA approval on Federal-Aid projects.

- Changes to the beginning or end of project limits.
- Any changes to environmental mitigation or commitments.
- Changes to the scope of the Work as defined in the Special Provisions (Work To Be Done).
- Waiver of Buy America Provisions.
- Waiver of Build America Buy America provisions
- CCOs that have significant impact to Contract amount or time should be discussed with FHWA Operations Engineers.
- Addition of or changes to warranty provision (NHS only)
- Right of way control revisions (NHS only)
- Other changes considered to be significant by a reasonable interpretation.

In addition to the above, FHWA retains the right to designate projects of significance, and will notify the Regions of Risk-Based Project Involvement (RBPI) plans, that will establish criteria regarding when FHWA approval is required for CCOs.

For such projects, the RE is responsible to obtain FHWA approval, as required, prior to signing the CCO. The RE shall retain documented approval from FHWA as part of the CCO's supporting documentation and will enter information on the supporting data sheet for the CCO.

Other Contract changes should request concurrence only from FHWA to keep them informed. Listed below are examples of changes where concurrence should be requested.

- Contract time changes over 120 days(excluding project suspension)
- Construction Authorization increases greater than 20%
- Net value of CCOs greater than \$500,000
- Post Award Letters of Public Interest Findings (LPIFs)

Alternative Contracts

Alternative Contracts (CM/GC, Design-Build, multi parameter, ID/IQ, etc.) will have differing criteria for involvement of FHWA regarding CCOs. FHWA Operations Engineers will notify the RE office of specific requirements for each Alternative Contract. For Alternative Contracts, the RE is responsible to obtain FHWA approval, as required, prior to signing the CCO. The RE shall retain documented approval from FHWA as part of the CCO's supporting documentation and will enter information on the supporting data sheet for the CCO.