



Oregon

John Kitzhaber, MD, Governor

Department of Transportation
Construction Section
800 Airport Road, SE
Salem, OR, 97301-4792
Phone: (503) 986-3000
Fax: (503) 986-3096

June 20, 2014

CA001

To: ODOT Area Managers, Project Managers, and Local Agency Liaisons
From: Steve Cooley, PE, PLS, Contract Administration Engineer *SC*

Subject: Subcontract Amendments between the Prime Contractor and Subcontractors

As discussed at the June 4th statewide PDLT meeting, the Construction Section has been approached by Industry through our monthly ODOT Industry Leadership meeting regarding Contract Amendments between the Prime Contractor and Subcontractors.

Associated General Contractor (AGC) representatives indicated some ODOT Project Manager Offices have required the entire subcontract to be resubmitted when a Contract Amendment is executed between the Prime Contractor and Subcontractors. They also stated that this is not consistently enforced by ODOT Project Managers statewide.

ODOT Standard Specification 180.21(b) includes the requirement for the Prime Contractor to submit "... any amendments or modifications proposed to Agency-approved subcontract agreements, at any tier...".

In our ODOT Construction Manual, Chapter 14, guidance is provided on how subcontract amendments will be handled when ODOT executes a CCO or EWO. This should be the same requirement when the Prime contractor initiates a Contract Amendment with their subcontractors. Below is a portion of page 14-2 of our Construction Manual, which in part states:

If the Work in a current subcontract, at any tier, is modified by Contract Change Order (CCO) or Extra Work Order (EWO), the Contractor must submit an amended subcontract to the PM. The PM must provide written consent to the amended subcontract before any of the modified Work can start.

The subcontract amendment can be accomplished by:

1. *Submittal of a revised subcontract, showing the additional or changed Work; or*
2. *Submittal of a letter of agreement between the Contractor and Subcontractor which details the amendment to the original subcontract. The agreement must include all of the following:*
 - a. *Identification of Project name, contract number, Contractor and Subcontractor, and original subcontract number;*
 - b. *Description of the added or changed Bid items, including pay units and unit costs;*
 - c. *Incorporation by reference of all the original subcontract terms and requirements;*
 - d. *Signed and dated by both the Contractor and Subcontractor;*
 - e. *Approved by the PM.*

The amendment letter can be a short, one-page document, signed by both parties and approved by the PM, which is then attached to the original, approved subcontract.

Action Requested:

- Ensure we are receiving all amendments to approved subcontract agreements.
- Please use the guidance provided by item 2, above, unless there are revisions to the terms and conditions of the underlying subcontract agreement.
- Be cognizant of Contract Amendments involving DBE Subcontractors. These amendments may affect DBE goal compliance.

If you have questions, please contact my office. Thank you.

Cc: Ric Miller, AGC - Highway Council Co-chair