



CHAPTER 5

CONSTRUCTION AUTHORIZATION

5-1 Construction Authorization

The ODOT Procurement Office (OPO) - Construction Contracts Unit (CCU) is responsible for developing a Construction Authorization for each construction Project. Please note that many of the activities discussed in this chapter are CCU processes. Construction Authorization is the total gross budget established for the Project, including the value of materials produced for Maintenance or a third party. Each construction Project has an approved Construction Authorization. (See Exhibit 5A.)

The Construction Authorization summarizes the commitment to fund expenses for the construction phase of the Project. It generally includes amounts for the following items:

1. **Contract Amount** - The sum of the bid items included in the Bid.
2. **Anticipated Items** - These are potential items of Work performed on the Project, not included in the contract amount or the engineering amount. Anticipated items are identified prior to the PS&E phase of a Project. The Resident Engineer (RE) should be involved during the Project development process in identifying these items. (See Operational Notice PDLT-07 and the PS&E Delivery Manual.)

NOTE: *If the Project utilizes a Design-Build delivery method, the authorization includes preliminary engineering and construction engineering funds.*

If the Project utilizes the Construction Manager/General Contracted (CM/GC) delivery method, the original authorization funds for pre-construction services, the Resident Engineer (RE) will submit requests for increases to the original authorization for amendments or change orders.

3. **Contingencies** - This amount is currently 3.5% of the Contract Amount (Contractor's original bid) and provides funding to cover typical fluctuation of Project quantities, as well as changes on a Project.
4. **Construction Engineering** - This includes the costs of Project administration, inspection, surveying, design, materials testing, etc., performed by the Agency or its agents charged to the Project during construction or after Award. See Operational Notice PDLT-08 for further discussion on this process.
5. **Performance Items** - APC smoothness
6. **Law Enforcement**

OPO will electronically post the Construction Authorization to the Project e-Construction system. The Construction Authorization is shown and tracked in the Contractor Payment System (CPS). [Refer to Chapter 25 – Payments to Contractors/Retainage.] (See Exhibit 5A, at the end of this Chapter for Summary of Bids Received and Construction Authorization.)

5-2 Overrun or Increase in the Construction Authorization

The RE has the responsibility to assure that the Construction Authorization is not exceeded without proper approval. There are different processes to obtain an overrun or increase in Construction Authorization. The process will initially depend on the type of Project, funding source and, in some cases, the total amount of the request for Projects contracted through ODOT, as follows:

1. Increase in Construction Authorization (Local Program Projects)
 - a. Projects are on or off the State Highway System.
 - b. No set maximum amount, uses local funds.
 - c. No mechanism to overrun.
 - d. For Certified Local Agency Projects, refer to the LAG Manual.

2. Overrun in Construction Authorization (Non-Local Program Projects)
 - a. Amount is cumulative, but less than \$500,000.
 - b. May also have Local Agency funds.
 - c. Requires approval from the Region Manager.
3. Increase in Construction Authorization (Non-Local Program Projects)
 - a. Amount is greater than \$500,000 but less than \$1,000,000.
 - b. May also have Local Agency funds.
 - c. Requires approval from the Region.
 - d. Amount is greater than \$1,000,000 but less than \$2,000,000 (May also have Local Agency funds.
 - e. Requires approval by the Delivery & Operations Administrator and, if applicable, review by the Oregon Transportation Commission (OTC).
4. Increase in Construction Authorization (Non-Local Program Projects)
 - a. Amount is greater than \$2,000,000 but less than \$5,000,000.
 - b. May also have Local Agency funds.
 - c. Requires approval by the Director and, if applicable, review by the Oregon Transportation Commission (OTC).

The RE does not have authority to exceed the Construction Authorization. REs for outsourced or local agencies administering ODOT construction contracts need to Work with their ODOT representative (ODOT RE or Transportation Project Manager) on matters, including assuring that the Construction Authorization is not exceeded without approval. [Refer to Chapter 3 - Delegation of Authority and Section 5-3 Authority for Request to Overrun or Increase.]

Expenditures for the construction Project are charged against the Construction Authorization. The Construction Authorization can only be changed by the formal process of overrunning or increasing the Construction Authorization. **Funding from outside sources to pay for Work added during the Project does not automatically increase the Construction Authorization.**

For example, rock production Work added for Maintenance during the Project will increase construction expenditures. The funds Maintenance contributes to pay for the rock does not automatically increase the Construction Authorization. If the Construction Authorization is exceeded, the formal overrun or increase of authorization process must be followed

to address the rock and associated funding.

The Agency allocates each Region and the Program Managers a budget for its construction program, which includes all the Region/BDU Projects. The Region is responsible for managing its construction program within budget, including any overruns of individual Projects.

The Region may fund an overrun or increase on a Project from underruns or decreases in scope on other Projects. Additional funds may be acquired by delaying a future Project, or with funding from other programs, with agreement of the responsible program manager. Each Region will maintain a listing of expected Project costs so that the Region is able to respond to needs for increased funding on a Project. The Region will identify the source and confirm the availability of the additional funds for each request to overrun or increase a Construction Authorization.

Increasing expenditures by Change Orders or extending bid item Work does not increase the Construction Authorization. The RE remains responsible for staying within the Construction Authorization or approved overrun.

If a Change Order causes the Project to exceed the Construction Authorization amount, then the RE (ODOT or Local Agency) will complete a request for increase or overrun prior to the Change Order being executed. [Refer to Chapter 15 – Change Orders/Force Account/Work by Public Forces.]

The RE should use information contained in the Contractor Payment System (CPS) to estimate Project costs and calculate needed funding. For instance, the RE will update the corrected estimate with the estimated final quantities. The CPS will calculate the estimated Project cost (corrected estimate) for use on the Request for Overrun or Increase in Project Authorization, form 734-3372. [Refer to Chapter 25 Payments to Contractors/Retainage.]

5-3 Authority for Requests to Overrun or Increase

The Oregon Transportation Commission (OTC) has delegated to the Agency certain authorities for Construction Authorizations:

Local Program Projects: The Program and Funding Services Manager in the Active Transportation Office (ATO) has the authority to approve the funding availability on an increase in the Construction Authorization.

Non-Local Program Projects: The Highway Division Administrator, through sub-delegation orders, has provided the following authorities to

approve an overrun of a Construction Authorization:

1. To the Statewide Project Delivery Manager/Chief Engineer, total overruns up to \$500,000.
2. To the Region Managers total overruns up to \$1,000,000.

By Letter of Authority, the Statewide Project Delivery Manager/Chief Engineer has provided the authority:

- To the State Construction & Materials Engineer (SC&ME), total overruns up to \$1,000,000.
- To the Contract Administration Engineer (CAE), total overruns up to \$1,000,000 for claim settlements.

By Letter of Authority, the Region Managers may have provided the authority to specific subordinates to approve overruns. Such authority must be within PDLT guidelines, and cannot exceed \$1,000,000 above the current Construction Authorization. Provide Current Letters of Authority to the CAE. [Refer to Chapter 3 - Delegation of Authority.]

If the scope of a Project has been significantly decreased or the cost of Project Work will underrun the Construction Authorization, the Region may request that the Construction Authorization for that Project be decreased. By de-obligating these funds, they will be available for other Projects. The process for such a request is similar to that for an overrun or increase in Construction Authorization. See previous Section 5-2, Overrun or Increase in Construction Authorization.

If more than \$1,000,000 above the current Construction Authorization is necessary to complete the Project, the RE must follow the increase in Construction Authorization as described in Section 5-4, Submitting a Request to Overrun or Increase.

The RE (ODOT, Consultant or Local Agency) is responsible to manage assigned Projects and request an overrun or increase in authorization, if necessary. The RE must secure the approval for the additional funding prior to having the Contractor perform the Work. Contact the Region Local Agency Liaison (LAL) or the Contract Administration Unit (CAU) for additional assistance.

5-4 Submitting a Request to Overrun or Increase

The RE must submit a request to overrun or increase the Construction Authorization, as well as needed information relating to the source prior to the need for the additional funding. The request must be specific regarding the funding source(s). If Projects will be delayed, postponed, or if funding is available through savings on another Project, then the request must identify those Projects. For Projects involving Local Funding, contact the Program and Funding Services Manager for funding availability.

The processes of obtaining consent to overrun or increase the Construction Authorization are essentially identical. For outsourced or Local Agency Projects, work with the ODOT RE or in completing this process. For Certified Local Agency Projects, refer to the LAG Manual and work with the ODOT on the procedure.

1. The RE should first determine which type of request in Construction Authorization is required. See Section 5.2, Overrun or Increase in the Construction Authorization.
2. The RE must complete a Request For Overrun or Increase in Construction Authorization, form 734-3372. The Region will confirm the source and the availability of, the additional funding.
3. The RE must also complete the Request for Overrun or Increase in Construction Authorization Supporting Data, form 734-2538 and provide information on the funding source for any additional funds needed to complete the Project. Work with Area and Region Manager as needed.

a. Submitting an “Increase” in Construction Authorization

(Local Program Funds):

- i. The RE must coordinate the following with the ODOT and attach a memo to forms 734-3372 and 734-2538 that explains the principle reasons or events that contributed to the “increase” on the Local Program Funded Project. (See Exhibit 5B.) The memo, with supporting documentation, must answer the following:
 - » What happened on the Project that caused the need for additional Construction Authorization?
 - » Why did this event occur?
 - » How can this be prevented on future Projects?
 - » What will happen in the event the request is not approved?
 - » How will this increase be funded?
- ii. The RE should also attach related email correspondence that support the principle reasons or events that contributed to the increase.
- iii. The RE must coordinate with the ODOT to obtain the signatures on form 734-3372 from the following:
 - » The Local Agency, if they have provided any Project funding or are responsible for the design and/or maintenance of the finished Work.

- » The Region Manager, who will review and approve the request (if appropriate). The Region will notify the RE and will send the original approved request to the Construction Section.
- iv. The ODOT , Area Manager or Region Manager, will submit the Increase to the ODOT Construction Section.
- v. The ODOT Construction Section will review the request for completeness, and submit the request to the Active Transportation Office (ATO) for approval of the available funds.

b. Submitting an “Overrun” in Construction Authorization

(Non-Local Program Funds, less than \$500,000):

- i. The RE must attach a memo to form 734-3372 and 734-2538 that explains the principle reasons or events that contributed to the “overrun”. (See Exhibit 5C.) The memo, with the supporting documentation, must answer the following:
 - » What happened on the Project that caused the need for additional Construction Authorization?
 - » Why did this event occur?
 - » How can this be prevented on future Projects?
 - » What will happen in the event the request is not approved?
 - » How will this “overrun” be funded?
- ii. The RE should also attach related email correspondence that support the principle reasons or events that contributed to the overrun.
- iii. The RE must obtain the signatures on form 734-3372 from the following:
 - » Local Agency, (not typical) only if they have provided any Project funding or are responsible for the design and/or maintenance of the finished Work.
 - » Area Manager, who will review and approve the request as needed up to \$250,000.
 - » Region Manager, who will review and approve the request as needed. The Region will notify the RE and will send the original approved request to the Construction Section.
- iv. The ODOT Construction Section will review the request for completeness and coordinate with the ATO for approval of the availability of funds.

- v. For a request of up to \$500,000 to overrun a Project on the State Highway System, the SC&ME will note the request and distribute to the appropriate parties.

c. Submitting an “Increase” in Construction Authorization

(Non-Local Program Funds, greater than \$5,000,000):

- i. Any Construction Authorization increase that is more than \$5,000,000 shall be prepared for approval by the OTC (Oregon Transportation Commission).
- ii. The RE, Region must submit a draft cover letter (from the ODOT Director to the OTC) in a MS Word document to the Construction Section accompanying forms 734-3372 and 734-2538. (See Exhibit 5D.) The draft cover letter must explain the principle reasons or events that contributed to the “increase.”
- iii. The draft cover letter with the supporting documentation must answer the following:
 - » What happened on the Project that caused the need for additional Construction Authorization?
 - » Why did this event occur?
 - » How can this be prevented on future Projects?
 - » What will happen in the event the request is not approved?
 - » How will this “overrun” be funded?
- iv. Attach a vicinity and location map of the Project (from ODOT GIS Unit, 503-986-3154).
- v. The RE must obtain the appropriate signatures on form 734-3372 from the following:
 - » The Local Agency, (not typical) only if they have provided any Project funding or are responsible for the design and/or maintenance of the finished Work.
 - » The Region/BPU Manager will review the request, sign as “recommended”. Submit the signed request with an electronic copy of the draft letter to the Construction Section.
- vi. The ODOT , Area Manager or Region Manager must coordinate with The Construction Section:
 - » To ensure that approval is given prior to performing the Work. This coordination will include deadlines and processes established by the Active Transportation Office (ATO) and the OTC (ODOT Hwy OTC Agenda Items).

ODOT_Hwy_OTC_AgendaItems@odot.state.or.us.

- » To allow for seven (7) working days prior to the ATO Deadline, for time to be added to the OTC agenda, if applicable.
- vii. The State Construction & Materials Engineer (SC&ME) will:
- » Review the request for increase in Construction Authorization and determine if any additional information from the Region/BPU or the RE is needed.
 - » Review the draft letter from the Region requesting the Delivery and Operations Division Administrator to approve of the increase.
 - » Make a recommendation to the Delivery and Operations Division Administrator, based on reason or scope of the request. (In the case of an Emergency or High Priority Repair, contact the SC&ME.)
 - » Sign the request (if applicable) and forward it, with the letter, to the ATO for a preliminary review.
- viii. The Delivery and Operations Division Administrator has delegated authority to approve increases in Construction Authorization to \$2,000,000.
- » If the Delivery and Operations Division Administrator approves the increase in Construction Authorization, then the Delivery and Operations Division Administrator signs and returns the increase in Construction Authorization to the State Construction & Materials Engineer.
- ix. The Delivery and Operations Division Administrator may also determine if the increase in Construction Authorization will be forwarded to the Director or the OTC for approval. (Although an increase in Construction Authorization does not require a STIP amendment, the Delivery and Operations Division Administrator may determine that some increases in Construction Authorization be brought to the OTC.)
- » If the Delivery and Operations Division Administrator decides to seek Director or OTC approval, then the Delivery and Operations Division Administrator will forward the completed packet to the ATO for review.

- x. Once reviewed, ATO will forward to the Commission Assistant to add to the OTC agenda.
- xi. Once approved by the OTC, the Commission Assistant will email the Contract Administration Lead.

Note: After approval of the increase, it is required that the RE office obtain concurrence of the CAE on all CCOs that may be generated from the approval of the increase.

- xii. When a request is approved and/or noted, the Construction Section will electronically distribute a copy of the request to the Region/BDU, RE, and the Program and Funding Services Manager.
- xiii. The Contract Administration Unit will update the information in the CPS and retain the original.

Note: Once an increase in Construction Authorization has been approved, any subsequent requests under \$500,000 will start over as "over-run" requests in Construction Authorization.