

How to Write an Approvable Change Order

What does the GC's contract with the Owner say?

§ 13.2 Adjustments in the Contract Sum and Contract Time resulting from a change in the Work shall be determined by mutual agreement of the parties or, in the case of a Construction Change Directive signed only by the Owner and Architect, by the Contractor's cost of labor, material, equipment, and reasonable overhead and profit, unless the parties agree on another method for determining the cost or credit. Pending final determination of the total cost of a Construction Change Directive, the Contractor may request payment for Work completed pursuant to the Construction Change Directive. The Architect will make an interim determination of the amount of payment due for purposes of certifying the Contractor's monthly Application for Payment. When the Owner and Contractor agree on adjustments to the Contract Sum and Contract Time arising from a Construction Change Directive, the Architect will prepare a Change Order.

§ 13.4 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be equitably adjusted as mutually agreed between the Owner and Contractor; provided that the Contractor provides notice to the Owner and Architect promptly and before conditions are disturbed.

§ 14.5 If the Contractor is delayed at any time in the commencement or progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties or any causes beyond the Contractor's control, or by other causes which the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine, subject to the provisions of Article 21.

What does the Subcontractor's contract with the GC say?

Contractor may, at any time, unilaterally or by agreement with Subcontractor, make changes in the Work covered by this Subcontract. Any unilateral order or agreement under this article shall be in writing, and the Subcontractor shall proceed without delay when directed to do so in writing by Contractor. Subcontractor shall submit an itemized written proposal as indicated below within the time frame outlined within the Contract Documents but not later than five (5) days after receipt of Contractor's change request. If the Subcontractor does not respond within five (5) days, Contractor shall provide an estimated cost for the change, and the Subcontractor shall accept that amount, or the amount approved by the Owner. If a time extension is required for the change, then the Subcontractor must submit the request for time extension with the estimated cost proposal or no time extension shall be considered. A proposed change request in no way invalidates this Subcontract. The following items shall be included within the estimated cost proposal:

1. Reference to Project name.
2. Reference specific change request or RFP issued by the Contractor.
3. Itemized description of each change.
4. Itemized quantity for each itemized description
5. Itemized unit cost for each itemized description
6. Maximum mark-up inclusive of overhead and profit in accordance with Exhibit "A".
7. Total proposal cost.
8. Time extension request.
9. All Subcontractor's proposed changes which must be submitted on Contractor's "Subcontract Proposal Change Summary Form" included in Exhibit "A".

Field Work Orders must be signed by the Contractor's superintendent or project manager on the day the work is performed. A cost proposal for the Field Work Orders must be submitted to Contractor within five (5) days of the date the work is performed. The proposal shall be itemized with quantities, unit costs and a clear description of the work performed, as indicated above. Unit costs must be in accordance with the Subcontract unit cost amounts when applicable. If no unit costs are outlined within the Subcontract, then the unit cost must be acceptable to the Contractor and Owner. In addition to the other conditions of payments set forth in this Agreement, payment of Field Work Orders shall be subject to approval by Contractor's Project Manager.

G. ALLOWABLE MARK-UP FOR OVERHEAD & PROFIT FOR CHANGES IN WORK:

1. For Work Performed by Subcontractor, the cost of the changes shall be sum of the following: Materials, supplies, equipment or rental costs, incorporated or consumed into the changed work at Subcontractor's actual cost including applicable taxes, sustained by verifiable invoices or data.
2. Labor at Subcontractor's "out-of-pocket" cost sustained by employee-hour computations at the wage scale paid the worker actually performing the labor plus a percentage to cover labor overhead (social security, Federal and State taxes, insurance and health benefits) not to exceed (40%) Forty percent.
3. Subcontractor's overhead, supervision and profit charges, not to exceed Ten percent (10%) of the above items 1 and 2.
4. For each Subcontractor, for changed Work performed by its Sub-subcontractors, Five percent (5%) of the amount due the Sub-subcontractor (no additional general conditions expenses allowed as a separate item for such Subcontractor or Sub-subcontractor).