CONTRACT DOCUMENTATION GUIDELINES
WHAT FORM, WHEN, AND WHAT SHOULD IT SAY

Reference the State Aid Manual Chapter 5.6 Section D for more detailed guidance relating to the information that is contained in this document.

Change Order: (CO)

- Use for permissible adjustments, minor plan changes or corrections, rulings with respect to omissions and discrepancies, and intent of plans and specifications.
- Basically does not change the scope and intent of the project but clarifies and refines the means to the intended outcome.

  EXAMPLES – NOT all inclusive
- Revision of measurement method, waive liquidated damages
- Unacceptable work or materials
- Substitution of materials or change in work method
- Ride incentives
- Change resulting from new standards

  NOT USED FOR
- Change of contract specification special provisions, change in contract time or character of work

Work Order: (WO)

- Use to authorize additional "minor" work where there is no contract unit price for the work or work item
- Work orders do not have to be written on the standard form, but it is the best practice. If another written format is used the writing must clearly state the work type, and total estimated cost. If materials are involved the unit cost and estimated quantity must be present.
- Work orders MUST be submitted to the DSAE for approval for State Aid or Federal Aid.
- DSAE MUST sign all work over $25,000

  EXAMPLES – NOT all inclusive
- Value of work that does not exceed $50,000
- Force account work
- Prices may be negotiated

  NOT USED FOR
- Add working days to the contract or extend completion time

Supplemental Agreement: (SA)

- This is a legally binding document and it can modify the original contract. This is the ONLY document that can revise contract items
- According to the Stewardship Agreement between MnDOT and the FHWA any SA for a value of $100,000* or greater, alters termini, character or scope of work; incorporates an experimental product or feature; or terminates a contract **requires prior FHWA approval.** *(*this includes an increase or reduction – only for Federal Funds)*

  EXAMPLES – NOT all inclusive
- MUST be used if the value of the work is greater than $50,000
- Change in contract time
- Alterations to the scope of the contract or character of work
- Experimental work
- Major revisions

  NOT USED FOR
- Items correctly reported on WO or CO

Overrun Justification: If there is a project overage on federal eligible items and the federal funding cap has not been met, this form MUST be completed and submitted to the DSAE . It will apply to costs resulting from a CO, WO, or SA. This form is required to request additional federal funds. This form is ALWAYS required on a full federal oversight project.

Force Account Agreement: This document MUST be included in the paperwork anytime utility, rail road, or local forces other than the contractor do work on a project that results in a payment request for State Aid or Federal Aid funds.

TERMINOLOGY AND SPECIFIC ISSUES

There are circumstances and certain phrases that trigger the FHWA to take a closer look at the documents supporting contract revisions and changes. (CO, WA, SA) This is NOT a complete list of things to be aware of but a list of things that have been brought to our attention. As time goes forward and other things arise we will attempt to keep adding to this list.

Buy America: To vary from this a waiver must be approved by FHWA prior to any contract payment.
Cooperative Contracts: Verbiage referencing a change requested by the agency that is NOT the contract authority should be worded carefully. Reference made to "the city requested" or "the county wanted" should be avoided. A preferred statement would be "the engineer determined", or some other context that indicates it was project determination.
Consistent Treatment: Items must be treated as par or non-par consistently through the project payment process. To change the eligibility or split the item between the categories will cause questions.
Consulting Services: Detailed invoices for labor, material and equipment are required. The invoice should include overhead rates and project or site reference for FHWA.
Damages: Generally the word "damages" causes a second look. It is possible that they are federally eligible if there are extraordinary circumstances that could not be avoided by the contractor or local agency.
Higher Standard: FHWA will assess a cost increase or change that reflects a "preference" or work building something to a higher than required standard because it was "desired", not required.
Ownership: Avoid the use of terms such as "road authority" and "owner" when referencing the party that is requesting the work. A preferred statement would be "the engineer determined", or some other context that indicates it was project determination.
Restocking Fees: These are not federally eligible
Safety Items: When adding items that increase safety statements inferring a singular benefit or a standard higher than required should be avoided. Incorporate the benefit into the original project intent if possible.
Utility / Rail Invoices: Detailed invoices for labor, material and equipment are required. The invoice should include overhead rates and project or site reference for FHWA.
Vandalism: Contractor is responsible for the work until the final acceptance is signed. (Spec 1716) Damage is not federal or state aid eligible.

Items not eligible for Federal or State Aid funding

- Surplus Materials
- Costs relating to a state shutdown
- Incentives that are not in the original contract
- Vandalism
- Ornamental signage referencing the local agency's name (Ornamental city name sign)

***ALWAYS keep federal project files until you are notified by State Aid Finance that the project is truly finaled by FHWA. This can take up to 5 years.