

MINNESOTA DEPARTMENT OF TRANSPORTATION
STATE AID FOR LOCAL TRANSPORTATION
Technical Memorandum No. 03-SA-02
April 2, 2003

TO: County Engineers (Distribution 618)
City Engineers (Distribution 650)
Consulting Engineers (Distribution 612)
District State Aid Engineers

FROM: Julie Skallman
State Aid Engineer

SUBJECT: Approval of Supplemental Agreements and Change Orders

EXPIRATION

This Technical Memorandum revises Section 5-892.141 of the State Aid Manual related to the processing of supplemental agreements and change orders, and will remain in effect until superseded or placed in the State Aid Manual.

PURPOSE AND IMPLEMENTATION

In the 2001 Federal Audit, it was noted that some DCP supplemental agreements were inappropriately signed for approval. Upon review, it was discovered that the State Aid Manual was providing conflicting instructions on the processing of supplemental agreements and change orders.

The purpose of this Technical Memorandum is to revise the State Aid Manual and to clarify the procedure for approval of supplemental agreements and change orders for state-aid and Federal-aid projects. This Technical Memorandum will take effect immediately.

POLICY

For state-aid, Federal-aid, and other types of municipal agreements, the general policy for executing supplemental agreements or change orders is that they should be executed in the same manner as the original contract. If Mn/DOT is not a party to the contract, any Mn/DOT signatures on the documents must clearly indicate funding approval only. If Mn/DOT is a party to the contract, then Mn/DOT must sign as a party to the supplemental agreement or change order.

GUIDELINES

For state-aid projects, the supplemental agreement or change order should be completely executed (signed by the local agency and the contractor) before any work contemplated by the supplemental agreement is started. Because supplemental agreements and change orders represent changes to the

approved plans, the District State Aid Engineer (DSAE) must approve them prior to the release of state-aid funds. There is no specified procedure for how that approval must happen, but approval is typically documented by the DSAE's signature on a copy of the supplemental agreement or change order. Approval could also be indicated by letter or other method.

If the DSAE indicates approval by signing a copy of the supplemental agreement or change order, it should be clearly indicated that the signature is for funding approval only. Caution must be taken to insure that the DSAE does not sign as a party to the agreement. Mn/DOT is not a party to state-aid or DCP contracts or supplemental agreements.

For state-aid projects, it is not necessary to have the supplemental agreement or change order approved by the DSAE prior to undertaking the work, however, if the supplemental agreement or change order alters the original plans and creates a condition that does not meet standards, some or all of the state-aid funds may need to be repaid or a variance requested.

For Federal-aid DCP projects, the same procedure is followed, unless federal funds are being requested to participate in the subject work. In that case, DSAE approval must be obtained prior to the commencement of work. The work called for in a supplemental agreement must be necessary to carry out the intent of the improvement contemplated by the Contract, as approved by the ATP and documented in the Project Development Reports.

For DCP Federal-aid projects, approval for funding only denotes eligibility. It does not encumber funds. It is the responsibility of the city or county to keep track of how much of their funding is still available. If a supplemental agreement or change order will result in higher project costs, and Federal funds are desired, the form DCP 12 should be completed and sent to the DSAE.

For traditional Federal-aid projects, the supplemental agreement or change order must be processed by Mn/DOT as agent for the city or county, using the supplemental agreement form found in the Mn/DOT Contract Administration Manual.

QUESTIONS:

For information on the contents of this technical memorandum, contact Mark Gieseke, State Aid Program Delivery Engineer at (651) 296-7679.