

Section 7.2

TIME EXTENSIONS

7.2.1 Purpose

To provide a uniform process for administering construction contract time extension requests and for documenting, executing and distributing time extensions.

7.2.2 Authority

Sections 20.23(3)(a), 334.048(3), Florida Statutes (F.S.)

7.2.3 Reference

337.015, Florida Statutes (F.S.)
Articles 8-6 and 8-7, Specifications for Road and Bridge Construction

FHWA Approved: February 6, 2015

7.2.4 General

This section will address the three specification conditions that will occur.

- (1) The granting of time extensions to account for effects of inclement weather: These contracts will contain specifications requiring an ongoing evaluation to occur and time adjustments, when justified, will be granted by the Districts. This condition is covered in detail under **Section 7.2.5**.
- (2) The granting of time extensions for reasons other than the effects of inclement weather, Holidays or Special Events. The contract specifications and operating procedures for these contracts will require early identification and resolution of time extension requests. This condition is covered in detail under **Section 7.2.6**.
- (3) The granting of time extensions to account for effects caused by the suspension of contractor's operations for Holiday(s) and Special Events as defined in **Specification 8-6**, contract plans or Request for Proposal. These contracts will contain specifications requiring an evaluation to occur and time adjustments, when justified, will be granted by the Districts. This condition is covered in detail under **Section 7.2.7**.

7.2.5 Time Extensions for Delays Caused by Weather

Resident Level Responsibilities

7.2.5.1 Weather Delays to Controlling Items of Work

Extensions of contract time for delays caused by the effects of inclement weather are justified only when rain or other inclement weather conditions or related adverse soil conditions prevent the Contractor from productively performing controlling items of work resulting in:

- (1) The Contractor being unable to work at least 50% of the normal work day on predetermined controlling work items; or
- (2) The Contractor must make major repairs to work damaged by weather, provided the damage was not attributable to a failure to perform or neglect by the Contractor.

7.2.5.2 Project Administrator's Weather Time Recommendations

The Project Administrator will continually monitor the effects of weather and when found justified, recommend to the Resident Engineer time extensions, on either a bimonthly or monthly basis. The Contractor will not be required to submit a request for additional time due to the effects of weather. The following procedures are to be followed in completing these time extensions.

- (1) The Project Administrator will be directly responsible for accurately documenting weather data for each assigned construction project and the extent that work is performed on a controlling item of work on the **Daily Work Report**.
- (2) The Project Administrator will make a recommendation to the Resident Engineer to grant time as a result of the effects of weather as defined. The recommendation will include a copy of the **Daily Work Report** and the **Work Plan - Controlling Item of Work, Form No. 700-010-15** as back-up if a Critical Path Method schedule is not a contract requirement. This recommendation may not be contingent on whether the Contractor appears at the project on any given day but had intentions of doing so. If it is reasonable to conclude, based on the weather forecast, that there is little likelihood of productive work being accomplished on a controlling work item for 50% of that day, a time extension should be granted and the Contractor should not be expected to mobilize labor and equipment that day. Such determinations can be made in advance for a period no greater than a week.

7.2.5.3 Weather Delays For Projects

Time extensions will be granted on a contract day per delayed day.

- (1) The contractor provides a schedule which identifies the intended work week, thus determining the scheduled work days and the controlling items of work. If inclement weather effects the contractor's ability to productively perform controlling items of work on one of the scheduled work days as allowed by **Specification 8-7**, a day is granted. Weekend days are eligible for weather days provided the weekend day is a scheduled workday and is shown as a scheduled workday on the accepted schedule or **Work Plan - Controlling Item of Work, Form No. 700-010-15**. The Project Administrator and the Contractor's representative must agree ahead of time as to the controlling items of work and the number of days of the week to be worked. No weather delays will be recognized before the Contractor begins work or attempts to begin work in accordance with the approved project work schedule. Weather days will be granted only during the authorized Contract Time Period.
- (2) The Resident Engineer will notify the Contractor of the number of weather days granted. This notice will be sent out either on a bimonthly or monthly basis. See **Guidance Document 7-2-A** for a sample letter.

7.2.6 Time Extensions Not Related to Weather Delays, Holidays or Special Events

Resident Level Responsibilities

Contract time extensions will be considered only for the reasons set forth under the terms of the contract. A time extension letter shall not be used to document a contract time reduction. A **Supplemental Agreement** or **Work Order** must be used for that purpose. Time extensions may be granted during the contract time period or authorized extensions of the contract time period. The time needed by a Contractor for permit applications and approval is not an allowable reason to grant additional contract time, except as may be allowable under the provisions of **Specification 120-6.2**. The following establishes the process for evaluating, documenting and making decisions to approve or deny time extensions.

- (1) The Contractor has access to all the required construction forms through

the Department provided web-based collaboration site and is to electronically submit all written communication associated with the Contract through the site in accordance with **Specification 4-1**.

- (2) When the Contractor submits a request for a time extension after the commencement of a delay and in accordance with **Specification 5-12 and 8-7**, the standard time extension request form shall be used.
- (3) When the Contractor submits a time extension request after the elimination of the delay and in accordance with **Specification 5-12 and 8-7**, the standard time extension request form shall be used.
- (4) The Resident Engineer shall provide written acknowledgment of each Contractor's time extension request. If the information submitted on the standard form is determined to be incomplete or fails to meet the requirements of the contract for consideration as a time extension request, the Resident Engineer will reject it. See **Guidance Document 7-2-D** for a sample response for these actions.
- (5) The Resident Engineer has the authority to approve time extension requests up to a cumulative maximum of thirty (30) days or 5% of the original contract time, whichever is greater. The District Construction Engineer (DCE) shall approve all time extension requests in excess of thirty (30) days or 5% of the original contract time, whichever is greater. Documentation of the reasons for decisions on granting or denying time extension requests shall be maintained in the project file. When a decision on approval for a time extension is made by the DCE, the DCE will inform the Resident Engineer of that decision including the reasons for it. The Resident Engineer will send a letter to the Contractor granting the additional time or denying the request. The denial or approval should include a concise response explaining the findings and decision for each issue raised by the Contractor's request. Time granted as part of a work order does not require a separate letter to the contractor. All backup documentation would still be required in the project file.

Time extension approval letters not related to Weather, Holidays and Special Events shall include the following standard disclaimer statement:

"By your acceptance of this time extension, you agree to pursue no further claim in connection with the above request. Please sign and return one copy of this letter, to acknowledge your agreement with these terms and conditions."

Terms and Conditions Accepted

(Contractor's corporate name)

By: _____ Date: _____

7.2.7 Time Extensions for Delays Caused by Suspension of Contractors Operations for Holidays and Special Events

Resident Level Responsibilities

7.2.7.1 Suspension of Contractors Operations – Holidays and Special Events Delays to Controlling Items of Work

Extensions of contract time caused by the suspension of contractor's operations for Holidays and Special Events as defined in **Specification 8-6** are justified only when said suspension prevents the Contractor from productively performing controlling items of work.

7.2.7.2 Project Administrator's Recommendation

The Project Administrator will monitor the effects that Holidays and Special Events as defined in **Specification 8-6** have on controlling items of work and recommend to the Resident Engineer Holiday and Special Event related time extensions. The Contractor is to submit a written request to work on a Holiday or Special Event at least ten (10) days in advance of the requested date and receive written approval from the Engineer. The Department will grant contract time for each day noted in the Specification or on the Plans, even if the Holiday or Special Event falls on a contract day shown in the contractor's schedule as a non-work day. An exception to this would be if the contractor requested and received approval from the Department to work on a holiday or special event day as allowed for in Specification 8-6.4. Holiday or Special Event time extensions do not require DCE approval and do not count toward the time extensions approval thresholds under **Section 7.2.5 (5)**. Holiday or Special Event days will be granted only during the authorized Contract Time Period.

The contractor provides a schedule which identifies the intended work week, thus determining the scheduled work days and the controlling items of work. If the contractor is unable to productively perform controlling items of work due to the suspension of operations for a defined Holiday or Special Event, the contractor would be granted time for the Holiday or Special Event suspension.

The Resident Engineer will notify the Contractor of the number of days granted

related to the Holiday or Special Event suspension. See **Guidance Document 7-2-B** and **Guidance Document 7-2-C** for sample letters.

7.2.8 Appeals

District Level Responsibilities

In the event the Contractor appeals the Department's decision, the DCE will evaluate any new facts. All needed coordination will be accomplished with the district's support staff, the district's legal counsel, the central office staff and the FHWA. The DCE will coordinate with the District Director of Operations and the District Secretary to notify the Contractor of the results of the Department's review of the appeal.

7.2.9 Federal-Aid Participation

7.2.9.1 FHWA Projects of Division Interest

Construction projects with Federal funding require that Department staff must have considered and decided on Federal-Aid participation or requested Federal-Aid participation in any time extension. The FHWA shall decide the amount, if any, of Federal-Aid participation time extensions granted for Projects of Division Interest (PODI). The District will determine the amount on Delegated Federal-Aid projects.

Resident Level Responsibilities

On PODIs, a letter shall be prepared by the Resident Engineer on In-House CEI projects and the Department's Construction Project Manager on Consultant CEI Projects, requesting FHWA for Federal Aid participation based on the facts stated in the letter. See **Guidance Document 7-2-E** for a sample letter.

When the copy of the request for a time extension indicating FHWA denial (partial or whole) is received, the Resident Engineer on In-House CEI projects and the Department's Construction Project Manager on Consultant CEI Projects, will decide whether or not to appeal the decision.

When the appeal of the FHWA's denial of a time extension receives another denial, such denial may be considered final FHWA determination, and their copy of the transmittal will be distributed as previously described.

7.2.9.2 Delegated State Oversight Projects

Neither FHWA approval nor State Construction Office concurrence in Federal Aid participation is required for time extensions granted on FHWA Delegated Projects.

(A) Resident Level Responsibilities

The Resident Engineer's staff shall develop the contract change document, submit the document to the DCE for review and solicit a determination of FHWA participation before any time extension is granted.

(B) District Level Responsibilities

The DCE shall determine the number of days eligible for Federal Aid participation. The guidelines contained in the latest version of the *Florida Federal-Aid Partnership Agreement, Procedure No. 700-000-005, CPAM 7.3.11.1*, as well as past precedents, should be used in determining Federal Aid participation. The DCE shall approve, in writing, the number of days determined to be Federal-Aid Participating or Non-Participating. The approval from the DCE, identifying the number of days which are Federal-Aid Participating or Non-Participating, shall be maintained in the project file. An email from the DCE or delegate will suffice as documentation of approval. The DCE can delegate such approval authority to a person within District Construction Office staff, but not to a Resident Engineer. Such delegation shall be maintained on file in the District Construction Office.

7.2.10 Contract Change Tracking System

District Level Responsibilities

Within fifteen (15) calendar days after the date of a time extension letter, the DCE, or designee, shall decide upon the final contract change coding and enter the time extension information into SiteManager and/or the Contract Change Tracking System. Time Extensions granted for Weather, Holidays and Special Events are to be entered into SiteManager only and are not to be entered into the Contract Change Tracking System. All other Time Extensions granted to the Contractor are to be entered into both systems. If the DCE's designee is not a member of the District Construction Office staff, the DCE's delegation shall be maintained on file in the District Construction Office. Further, if the DCE's designee is not a member of the District Construction Office staff, the DCE shall develop a quality assurance process to ensure accurate contract change coding and compliance with this section. Such process shall be documented and maintained on file in the District Construction office.

For an explanation of the codes involved, see the information published under "Coding Contract Changes" heading as an attachment to **CPAM Section 7.3** on the State Construction Office website at: <http://www.dot.state.fl.us/construction/Manuals/cpam/New%20Clean%20Chapter%207.3/CodingContractChanges.pdf>

7.2.11 Quality Control Process for Contract Changes

District Level Responsibilities

The DCE shall develop a process to annually review a representative sample of all time extensions to ensure such changes were necessary and comply with the construction contract documents. Such process will be documented and maintained on file in the District Construction Office for State Construction Office and FHWA review

Guidance Document 7-2-A
SAMPLE WEATHER LETTER TO CONTRACTOR

Date:

Contractor's NAME
ADDRESS
CITY, STATE, ZIP CODE

Re: Adjustment to Contract Time for the Effects of Inclement Weather
Financial Project ID:
Project No.:
State Job No:
Contract No.:
F.A.P. No.:
County:

Dear Sir or Madam:

The daily reports documenting the effects of inclement weather have been evaluated for the period beginning (date) through (date). It has been determined (number) of calendar day(s) meet the criteria established by the contract for granting additional contract time due to the effects of inclement weather. It has been determined that (number) contract day(s) will be added to the total authorized contract time.

Your company has ten (10) days from receipt of this notice to appeal the number of days granted herein. Any such appeal must be accompanied by all available specific facts that support your position. Failure to make an appeal or to provide the specific facts supporting your positions within ten (10) days from receipt of this notice shall constitute a waiver of any rights to appeal the Department's decision at a later date.

Sincerely,

Resident Engineer

cc: District Construction Engineer

Guidance Document 7-2-B
SAMPLE HOLIDAY LETTER TO CONTRACTOR

Date:

Contractor's NAME
ADDRESS
CITY, STATE, ZIP CODE

Re: Adjustment to Contract Time for the Effects of Holiday Suspensions
Financial Project ID:
Project No.:
State Job No:
Contract No.:
F.A.P. No.:
County:

Dear Sir or Madam:

Since your firm did not request to work during the holiday period specified above, as outlined in **Specification 8-6.4**, the Daily Report documenting this holiday period have been evaluated. It has been determined (*number*) calendar day(s) meet(s) the criteria established by the Contract for granting additional time due to the suspension of operations for this holiday period. Pursuant to **Specification 8-7.3.2**, (*number*) contract day(s) will be added to the total authorized contract time.

Your company has ten (10) days from receipt of this notice to appeal the number of days granted herein. Any such appeal must be accompanied by all available specific facts supporting your position. Failure to make an appeal or to provide the specific facts within ten (10) days from receipt of this notice shall constitute a waiver of any rights to appeal the Department's decision at a later date.

Sincerely,

Resident Engineer

cc: District Construction Engineer

Guidance Document 7-2-C
SAMPLE SPECIAL EVENT LETTER TO CONTRACTOR

Date:

Contractor's NAME
ADDRESS
CITY, STATE, ZIP CODE

Re: Adjustment to Contract Time for the Effects of Special Event Suspensions

Financial Project ID:

Project No.:

State Job No:

Contract No.:

F.A.P. No.:

County:

Dear Sir or Madam:

Since your firm did not request to work during the Special Event period specified above, as outlined in **Specification 8-6.4**, the Daily Report documenting this Special Event period have been evaluated. It has been determined (*number*) calendar day(s) meet(s) the criteria established by the Contract for granting additional time due to the suspension of operations for this Special Event period. Pursuant to **Specification 8-7.3.2**, (*number*) contract day(s) will be added to the total authorized contract time.

Your company has ten (10) days from receipt of this notice to appeal the number of days granted herein. Any such appeal must be accompanied by all available specific facts supporting your position. Failure to make an appeal or to provide the specific facts within ten (10) days from receipt of this notice shall constitute a waiver of any rights to appeal the Department's decision at a later date.

Sincerely,

Resident Engineer

cc: District Construction Engineer

Guidance Document 7-2-D

**SAMPLE LETTER
RESIDENT ENGINEER TIME EXTENSION RESPONSE**

Date:

Contractor NAME/ADDRESS
TOWN, STATE, ZIP CODE

SUBJECT: Time Extension Request
Financial Project ID:
Project No.:
State Job No:
Contract No.:
F.A.P. No.:
County:

Dear Sir or Madam:

On ____ (date) ____, you submitted a request for an extension of the contract time for State Project No. _____.

(This request has been received by this office and is presently under review. Upon completion of the Department's review, you will be notified of the approval or denial of the time extension. It is anticipated that this notification will be given on or before (date)).

or

(This information you submitted is incomplete and is being returned. Upon receipt of complete information, we will continue to process your request.)

or

(Your request fails to meet the requirements of the contract for consideration as a time extension for the following reasons:)

(State Reasons)

Sincerely,

Resident Engineer

cc: District Construction Engineer

Guidance Document 7-2-E

SAMPLE LETTER TO FHWA REQUESTING CONCURRENCE AND PARTICIPATION OF AN APPROVED TIME EXTENSION UNDER FHWA PROJECT OF DIVISION INTEREST

Date:

Mr. (Division Administrator)
Division Administrator
Federal Highway Administration
545 John Knox Road, Suite 200
Tallahassee, Florida 32303

Attention: (Area Engineer)

Subject: Recommendation on Time Extension Request
Financial Project ID:

Contract No.:
Federal Aid Project No.:
Contractor's Request No.:

Enclosed is a copy of the District staff's evaluation of the subject time extension request. Our analysis concludes the following time extension item(s) is/are justified:

(List each item identified by the time extension, the number of days requested, and the number of days to be granted. Include a short summary of the basis for the decision to grant or not grant time.)

We respectfully request FHWA concurrence and participation.

Sincerely,

Resident Engineer or
Construction Project Manager