

## ORIGINATION FORM

**Date:** 5/14/12

**Originator:** Rudy Powell

**Contact Information:** 850-414-4280

**Specification Title:** Section 4 Scope of the Work

**Specification Section, Article, or Subarticle Number:** Article 4-3 Alterations of Plans or of Character of Work

**Why does the existing language need to be changed?** See comments in the attached file.

**Summary of the changes:** See comments in the attached file.

**Are these changes applicable to all Department jobs? If not, what are the restrictions?**  
Yes.

**Will these changes result in an increase or decrease in project costs? If yes, what is the estimated change in costs?** N/A

**With who have you discussed these changes?** District Construction Engineers and General Counsel's Office

**What other offices will be impacted by these changes?** None.

**Are changes needed to the PPM, Design Standards, SDG, CPAM or other manual?** No

**Is a Design Bulletin, Construction Memo, or Estimates Bulletin needed?** No

Contact the State Specifications Office for assistance in completing this form.  
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ANANTH PRASAD, P.E.  
SECRETARY

**MEMORANDUM**

**DATE:** June 6, 2012  
**TO:** Specification Review Distribution List  
**FROM:** V. Y. "Trey" Tillander, III, State Specifications Engineer  
**SUBJECT:** Proposed Specification: **0040302 Scope of the Work.**

In accordance with Specification Development Procedures, we are sending you a copy of a proposed specification change.

This change was proposed by Rudy Powell of the State Construction Office to clarify that calendar days granted for time extensions are not limited to delays but also to extra work that is not already being performed as part of the project and to address payment for overhead costs on subcontracted work.

Please share this proposal with others within your responsibility. Review comments are due within four weeks and should be sent to Mail Station 75 or to my attention via e-mail at SP965TT or [trey.tillander@dot.state.fl.us](mailto:trey.tillander@dot.state.fl.us). Comments received after **July 5, 2012**, may not be considered. Your input is encouraged.

TT/dt  
Attachment

**SCOPE OF THE WORK.**  
**(REV 5-14-12)**

SUBARTICLE 4-3.2.1 (Pages 20 - 24) is deleted and the following substituted:

**4-3.2.1 Allowable Costs for Extra Work:** The Engineer may direct in writing that extra work be done and, at the Engineer's sole discretion, the Contractor will be paid pursuant to an agreed Supplemental Agreement or in the following manner:

(a) Labor and Burden: The Contractor will receive payment for actual costs of direct labor and burden for the additional or unforeseen work. Labor includes foremen actually engaged in the work; and will not include project supervisory personnel nor necessary on-site clerical staff, except when the additional or unforeseen work is a controlling work item and the performance of such controlling work item actually extends completion of the project due to no fault of the Contractor. Compensation for project supervisory personnel, but in no case higher than a Project Manager's position, shall only be for the pro-rata time such supervisory personnel spent on the contract. In no case shall an officer or director of the Company, nor those persons who own more than 1% of the Company, be considered as project supervisory personnel, direct labor or foremen hereunder.

Payment for burden shall be limited solely to the following:

Table 4-3.2.1	
Item	Rate
FICA	Rate established by Law
FUTA/SUTA	Rate established by Law
Medical Insurance	Actual
Holidays, Sick & Vacation benefits	Actual
Retirement benefits	Actual
Workers Compensation	Rates based on the National Council on Compensation Insurance basic rate tables adjusted by Contractor's actual experience modification factor in effect at the time of the additional work or unforeseen work.
Per Diem	Actual but not to exceed State of Florida's rate
Insurance*	Actual

\*Compensation for Insurance is limited solely to General Liability Coverage and does not include any other insurance coverage (such as, but not limited to, Umbrella Coverage, Automobile Insurance, etc.).

At the Pre-construction conference, certify to the Engineer the following:

- (1) A listing of on-site clerical staff, supervisory personnel and their pro-rated time assigned to the contract,
- (2) Actual Rate for items listed in Table 4-3.2.1,
- (3) Existence of employee benefit plan for Holiday, Sick and Vacation benefits and a Retirement Plan, and,
- (4) Payment of Per Diem is a company practice for instances when compensation for Per Diem is requested.

Such certification must be made by an officer or director of the Contractor with authority to bind the Contractor. Timely certification is a condition precedent to any right of the Contractor to recover compensations for such costs, and failure to timely submit the certification will constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to recover such costs. Any subsequent changes shall be certified to the Engineer as part of the cost proposal or seven calendar days in advance of performing such extra work.

(b) Materials and Supplies: For materials accepted by the Engineer and used on the project, the Contractor will receive the actual cost of such materials incorporated into the work, including Contractor paid transportation charges (exclusive of equipment as hereinafter set forth). For supplies reasonably needed for performing the work, the Contractor will receive the actual cost of such supplies.

(c) Equipment: For any machinery or special equipment (other than small tools), including fuel and lubricant, the Contractor will receive 100% of the "Rental Rate Blue Book" for the actual time that such equipment is in operation on the work, and 50% of the "Rental Rate Blue Book" for the time the equipment is directed to standby and remain on the project site, to be calculated as indicated below. The equipment rates will be based on the latest edition (as of the date the work to be performed begins) of the "Rental Rate Blue Book for Construction Equipment" or the "Rental Rate Blue Book for Older Construction Equipment," whichever is applicable, as published by Machinery Information Division of PRIMEDIA Information, Inc. (version current at the time of bid), using all instructions and adjustments contained therein and as modified below. On all projects, the Engineer will adjust the rates using regional adjustments and Rate Adjustment Tables according to the instructions in the Blue Book.

Allowable Equipment Rates will be established as set out below:

(1) Allowable Hourly Equipment Rate = Monthly Rate/176  
x Adjustment Factors x 100%.

(2) Allowable Hourly Operating Cost = Hourly Operating  
Cost x 100%.

(3) Allowable Rate Per Hour = Allowable Hourly  
Equipment Rate + Allowable Hourly Operating Cost.

(4) Standby Rate = Allowable Hourly Equipment  
Rate x 50%.

The Monthly Rate is The Basic Machine Rate Plus Any Attachments. Standby rates will apply when equipment is not in operation and is directed by the Engineer to standby at the project site when needed again to complete work and the cost of moving the equipment will exceed the accumulated standby cost. Standby rates will not apply on any day the equipment operates for eight or more hours. Standby payment will be limited to only that number of hours which, when added to the operating time for that day equals eight hours. Standby payment will not be made on days that are not normally considered work days on the project.

The Department will allow for the cost of transporting the equipment to and from the location at which it will be used. If the equipment requires assembly or disassembly for transport, the Department will pay for the time to perform this work at the rate for standby equipment.

Equipment may include vehicles utilized only by Labor, as defined above.

(d) Indirect Costs, Expenses, and Profit: Compensation for all indirect costs, expenses, and profit of the Contractor, including but not limited to overhead of any kind, whether jobsite, field office, division office, regional office, home office, or otherwise, is expressly limited to the greater of either (1) or (2) below:

(1) Solely a mark-up of 17.5% on the payments in (a) through (c), above.

(i) Bond: The Contractor will receive compensation for any premium for acquiring a bond for such additional or unforeseen work at the original Contract bond rate paid by the Contractor. No compensation for bond premium will be allowed for additional or unforeseen work paid by the Department via initial contingency pay item.

(ii) The Contractor will be allowed a markup of 10% on the first \$50,000 and a markup of 5% on any amount over \$50,000 on any subcontract directly related to the additional or unforeseen work. Any such subcontractor mark-up will be allowed only by the prime Contractor and a first tier subcontractor, and the Contractor must elect the markup for any eligible first tier subcontractor to do so.

(2) Solely the formula set forth below and only as applied solely as to such number of calendar days of entitlement that are in excess of ten cumulative calendar days as defined below.

$$D = \frac{A \times C}{B}$$

Where A = Original Contract Amount  
B = Original Contract Time  
C = 8%  
D = Average Overhead Per Day

Cumulative Calendar Days is defined as the cumulative total number of calendar days granted for time extension due to *either extra work, excluding overruns to existing contract items, that extended the duration of the project or* delay of a controlling work item caused solely by the Department is, or the cumulative total number of calendar days for which entitlement to a time extension due to delay of a controlling work item caused solely by the Department is otherwise ultimately determined in favor of the Contractor to be.

Further, in the event there are concurrent delays to one or more controlling work items, one or more being caused by the Department and one or more being caused by the Contractor, the Contractor shall be entitled to a time extension for each day that a controlling work item is delayed by the Department but shall have no right to nor receive any monetary compensation for any indirect costs for any days of concurrent delay. No compensation, whatsoever, will be paid to the Contractor for any jobsite overhead and other indirect impacts when the total number of calendar days granted for time extension due to delay of a controlling work item caused solely by the Department is, or the total number of calendar days for which entitlement to a time extension due to delay of a controlling work item caused solely by the Department is otherwise ultimately determined in favor of the Contractor to be, equal to or less than ten calendar days and the Contractor also fully assumes all monetary risk of

**Comment [Rudy1]:** To clarify compensation is not limited to delays but also extra work that is not already being performed as part of the project.

any and all partial or single calendar day delay periods, due to delay of a controlling work item caused solely by the Department, that when cumulatively totaled together are equal to or less than ten calendar days and regardless of whether monetary compensation is otherwise provided for hereunder for one or more calendar days of time extension entitlement for each calendar day exceeding ten calendar days. All calculations under this provision shall exclude weather days, *Holidays, and Special Events.*

**Deleted:** and days granted for performing additional work.

SUBARTICLE 4-3.2.2 (Page 24) is deleted and the following substituted:

**4-3.2.2 Subcontracted Work:** For work performed by a subcontractor, compensation for the additional or unforeseen work shall be solely limited to as provided for in 4-3.2.1 (a), (b), (c) and (d)(1). *In addition, the Contractor is expressly limited to the greater of either 4-3.2.1(d)(1) or (d)(2) except that the Average Overhead Per Day calculation is as follows:*

$$Ds = \frac{As \times C}{B}$$

**Field Code Changed**

*Where As = Original Contract Amount minus Original*

*Subcontract amount(s)\**

**Comment [Rudy2]:** The Department should not pay overhead again on subcontracted work performed as part of the original contract.

*B = Original Contract Time*

*C = 8%*

*Ds = Average Overhead Per Day*

*\* deduct Original Subcontract Amount(s) of subcontractor(s) performing the work*

The subcontractor may receive compensation for any premium for acquiring a bond for the additional or unforeseen work; provided, however, that such payment for additional subcontractor bond will only be paid upon presentment to the Department of clear and convincing proof that the subcontractor has actually provided and paid for separate bond premiums for such additional or unforeseen work in such amount *and that the subcontractor was required by the Contractor to acquire a bond.*

**Deleted:** , with the exception of, in the instance of subcontractor performed work only, t

The Contractor shall require the subcontractor to provide a certification, in accordance with 4-3.2.1 (a), as part of the cost proposal and provide such to the Engineer. Such certification must be made by an officer or director of the subcontractor with authority to bind the subcontractor. Timely certification is a condition precedent to any right of the Contractor to recover compensation for such subcontractor costs, and failure to timely submit the certification will constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to recover such subcontractor costs.