300 | Construction

The Sections in this Group describe the construction process and related issues. The Sections consist of the following:

310 | Contracts
320 | Construction Schedule
330 | Contractor Payment
340 | Interpretation & Modification
350 | Meetings & Reports
360 | Notices & Correspondence
370 | Submittals
380 | Claims & Disputes
390 | Contractor Closeout
This Section identifies the procedures for selecting and approving Subcontractors, Material Suppliers, and Consultants.

Contract Award and Execution

The Contract and Related Documents

- The award and execution of the Contract is based upon the expectation that the lowest responsive and responsible Bidder will comply with all conditions precedent for Contract Execution within the timeframe specified in the Notice of Intent to Award (L250-09).
- As soon as possible after receipt of the A/E’s Letter of Recommendation, the Project Coordinator will issue a Notice of Intent to Award, which will notify the apparent successful Bidder that, subject to the Contractor’s compliance with all conditions precedent for Contract Execution within the time specified, OFCC intends to award a Contract to the Bidder. OFCC reserves the right to rescind any Notice of Intent to Award if it determines that the Notice was issued in error.
- The Notice of Intent to Award directs the Contractor to provide the following submittals within 10 days of the date of the Notice of Intent to Award.
  - “Bid Information” to be held in escrow – instructions concerning the content and handling the Bid Information Escrow are in the Instructions to Bidders.
  - Contract Bond (if, in lieu of a Bid Guaranty and Contract Bond, the Contractor submitted with its bid a certified check, cashier’s check or letter of credit as its bid guaranty).
  - Certificate of Compliance issued by the Department of Insurance, showing the Surety for all bonds is licensed to do business in Ohio.
  - Power of Attorney (for a contract bond only).
  - Certificate of Good Standing issued by the Secretary of State to certify that the firm is registered to do business in the State of Ohio (required for firms incorporated outside the State of Ohio only).
  - Signature Authorization (if the bid was signed by a person other than the company president).
  - Ohio Workers’ Compensation Certificate.
  - Certificate of Compliance with Affirmative Action Programs, issued pursuant to ORC 9.47.
  - Certificate of Insurance (ACORD form is acceptable) with indicated Builder’s Risk or Installation Floater for the amount required by the General Conditions, and copy of additional insured endorsement. OFCC reserves the right to request a certified copy of the Contractor’s insurance policies. The Certificate or form must include the correct project number and name.
  - Proof of licensing by the Department of Commerce, Industrial Compliance Division, Ohio Construction Industry Licensing Board (OCILB) pursuant to ORC Chapter 4740 for Contractors performing plumbing, electrical, hydronics, refrigeration; or heating, ventilating and air conditioning.
  - For all projects issued for bidding using a DAS construction contract model, all Bidders for projects must be enrolled in, and in good standing in a Drug-Free Safety Program (DFSP) approved by the Ohio Bureau of Workers’ Compensation prior to submitting its Bid. Further, the successful Bidder must require that in its subcontracts with any subcontractors that provide or performs labor on the project site to also be enrolled in a OBWC-approved DFSP before providing or performing labor on the project site. Refer to OAC 4123:17 and the Standard Requirements for additional information.
  - If necessary, the PC communicates with the Contractor and attempts to ensure that the Contactor provides the required documents in the required time frame.
  - If the Bidder fails to provide the submittals within the required time, OFCC may cancel the Notice of Intent to Award, and award the Contract to the next low responsive and responsible Bidder or rebid the Contract.
  - The PC will ask the Bidder to provide a bid extension letter to extend the bid through the anticipated Contract Execution Date, if there is a chance that the Contract may not be awarded within 60 days of.
the bid opening. If the Contract is awarded within 60 days of the bid opening, any increases in material,
labor and subcontract costs will be borne by the Bidder without alteration of the amount of the bid. If the
cause of the failure to execute the Contract within 60 days of the bid opening is due to matters for which
the State is solely responsible, the Bidder will be entitled to a Change Order authorizing payment of
verifiable increased costs in materials, labor or subcontracts. If, however, the approved increase in cost
makes the Bid higher than another Bid, the Contract may be awarded to the Contactor who submitted
that lower Bid, or all the bids on the Contract may be rejected and the Contract may be rebid.

- Next, the Project Coordinator prepares the following documents (formerly known as the merge
  package):
  - Contract Form (M140-01-00 52 00-CF)
  - Contract and a related cover letter
  - Certified payroll information, requesting a payroll schedule and including a sample payroll reporting
    form
  - A completed Tax Exemption Certificate
  - IRS W-9 form
  - Certification of Contractor's Signature form, for use if any documents will be signed by a person
    other than the company president

As soon as possible after issuance of the Notice of Intent to Award, the Project Coordinator sends these
documents to the Contractor for it to sign and return, or retain and use, as applicable. This is concurrent
with the Owner's effort to obtain Controlling Board approval of release of the required funds.

- The A/E, and CM if applicable, will review and recommend or deny any requested increase. If any
  increase is determined to be due, the A/E, and CM if applicable, must write a letter to the Bidder, with
copies to OFCC and the Owner, indicating the recommended increased cost. Any increase will be the
first order of business when the Contract is issued and will be approved via Change Order. The A/E is
required to prepare the Change Order in advance of the pre-construction meeting for signing at that
meeting. If a mutual agreement cannot be made regarding increased costs, the State reserves the right
to determine the amount.

- If the cause of the failure to execute the Contract within 60 days of the bid opening is due to matters for
  which the Contractor is responsible, no request for increased costs will be granted.

**Funding**

- As soon as possible after the issuance of OFCC's Letter of Recommendation, the Owner must provide
to OFCC evidence of funding for the Contracts, Owner's Construction Contingency and other
obligations.

- The Project Coordinator will generate and send to the Owner a Construction Recommendation Letter
  (L140-01), which provides basic information required by the Controlling Board.

- The Owner must submit a Controlling Board request to obtain release of the State capital funds required
to fund the construction contracts and related expenses. Occasionally it may also be necessary to
transfer previously released funds from another line item to the line item for the project. A list of
Controlling Board meeting dates and the submission deadlines for requests is available from the
Controlling Board, Office of Budget and Management. The Owner must follow the policies and
procedures of the Controlling Board. Guidance for completing Controlling Board requests is available

- The Owner must have a representative attend the Controlling Board meeting at which the request will
  be heard to respond to any questions. OFCC will have a representative at the meeting who will also
support the agency's request if required.

- Approval by the Controlling Board will result in the issuance of an encumbrance document which will
  serve as evidence of funding.
The Owner must also encumber any other funds which may be involved and send a copy of the encumbrance to OFCC.

**Contract Execution**

Once the PC has received evidence of funding, the PC will forward the Contract to the Executive Director for the DAS Director’s signature. The Project Coordinator will then forward the Contract to the Business Counsel Section of the Attorney General’s Office for signature. The Attorney General will return the executed contracts back to the Project Coordinator. The Project Coordinator sends one executed contract and a Notice to Proceed to the Contractor, with copies to the A/E and Owner. The Project Coordinator also sends a copy of the Notice to Proceed to the Project Manager. The Notice to Proceed authorizes the Contractor to proceed with the work and establishes the date for commencement of the Contract and the required Contract Completion Date.

None of the rights, duties, and obligations described in the Contract Documents become binding and effective until the Contract Form is executed by DAS and approved by the Attorney General.

When the Contract Form has been approved, the Project Coordinator will notify the Contractor’s Surety and the agent of the Surety of the award in writing. See **Surety Notice of Award** (L250-14).

**Plan Approval and Conformed Documents**

At the start of construction, the A/E will deliver the Certificate(s) of Plan Approval and a complete set of the original, stamped/signed Permit Documents approved by the Division of Industrial Compliance, with addenda and any adjudication letters, to the job site and give them to the General Contractor, Lead Contractor, or CM. In the Design-Build project delivery method, the Design-Builder is responsible for obtaining the Plan Approval and Permit Documents. The General Contractor, Lead Contacter, CM, or Design-Builder will post the Certificate of Plan Approval(s) in a conspicuous place in the temporary facilities, and the place the approved drawings and specifications in a secured location for the Division of Industrial Compliance’s use only.

No later than 7 days after the issuance of the Notice to Proceed, the A/E will deliver to the Contractor Contract Documents into which all Addenda issued during the bidding stage have been incorporated. The number of sets to be issued to the Contractor is stipulated in the General Conditions. The A/E will also distribute one set of the revised documents to the Owner and OFCC. The cost of reproduction and shipping will be paid for by the A/E, which will be reimbursed from the printing allowance included in the A/E agreement. The Contractor or others may obtain additional copies of the documents from the printer at the cost of reproduction, plus shipping if the Contractor requests delivery.

**Subcontractors and Material Suppliers**

**OAKS Capital Improvements Procedure**

The Contractor must submit the A/E, and CM if applicable, will review and recommend approval or disapproval to the Contracting Authority of each Subcontractor and Material Supplier through the **Subcontractor Supplier Declaration** business process.

Refer to Appendix C | Guide to OAKS CI and the associated Help File for additional information.

The State reserves the right to reject any Subcontractor or Material Supplier not identified through the Subcontractor Supplier Declaration business process or on the Subcontractor & Material Supplier Declaration form. Failure of the A/E or CM to notify the Contractor within 10 days of submitting the Subcontractor Supplier Declaration will constitute notice that the State has no objection to the firms listed.

**Traditional Paper-based Procedure**

If the Project is not administered using OAKS CI, the Contractor must identify its proposed Subcontractors and Material Suppliers on the **Subcontractor & Material Supplier Declaration** form (F310-01).

This form, along with the related instructions for completion, is available on the OFCC website at [http://ofcc.ohio.gov](http://ofcc.ohio.gov), then click on “Documents.”
Should the State reject any Subcontractor or Material Supplier, the Contractor must replace the Subcontractor or Material Supplier at no additional cost.

The Contractor must not replace any Subcontractor or Material Supplier after execution of the Contract without written approval of the Project Manager. The Contractor must submit an amended form and a written justification for any change to the Contractor’s Subcontractors or Material Suppliers.

- The Contractor must timely provide a certified statement from any displaced EDGE-certified business indicating that it no longer wishes to participate in the project contract and agrees to hold harmless the Contractor and the State and that it will protect and defend the State and the Contractor from any action resulting from the displaced certified EDGE business enterprise not participating in the project contract.

- In the event the displaced EDGE-certified business does not supply such a certification, the Contractor must timely provide certification that the Contractor will hold harmless and protect and defend the State against any action resulting from the displaced EDGE-certified business not participating in the project contract.

The Project Coordinator also reviews the Subcontractor & Supplier Material Declaration and confirms that all subcontractors listed on the form are enrolled in the BWC Drug Free Safety Program and that all subcontractors and material suppliers indicated as EDGE-certified businesses are identified on the EDGE-certified business listing on the Equal Opportunity Division’s EDGE website. The Project Coordinator also checks the OFCC files to determine if there are any contractor evaluations that might cause the Project Manager to further evaluate the use of a subcontractor. The Project Coordinator forwards all of these documents and the superintendent resume to the Project Manager for signature and acceptance.

In the CM at Risk and Design-Build project delivery methods, first tier Subcontractors are prequalified by the CM or DB in consultation with the contracting authority. Lower tier Subcontractors are evaluated through a process very similar to the process delineated above.

**Schedule Consultant / Manager**

**Obtaining the Schedule Consultant**

- Under the Multiple-Prime project delivery method without a CM, the Schedule Consultant for a project is engaged by the Lead Contractor, in consultation with the Contracting Authority as described below, and compensated through an Allowance. See Section 200 – General Design Requirements. On General Contracting projects, the Contractor typically provides scheduling services. On Construction Management projects, the CM typically provides scheduling services. For Design-Build projects, the DB typically provides scheduling services. The Contracting Authority may also provide scheduling services for the project, or engage their own consultant to perform schedule analysis.

- The Lead Contractor is required to submit qualifications of three Schedule Consultants to OFCC. The Scheduling Consultant will be selected by OFCC based upon qualifications and experience, not cost.

- The Lead Contractor must enter into agreement with the Schedule Consultant for the Consultant to provide services as outlined in the specifications.
  - The Schedule Consultant is responsible to preparing the initial schedule, updating the schedule, and making visits to the construction site.
  - Payment for schedule modifications required due to a Contractor’s lack of performance must be paid by the Contractor responsible for non-performance, not paid from the Schedule Consultant Allowance.

- Once engaged, the Schedule Consultant is referred to in the General Conditions as the Schedule Manager.

**Schedule Manager**

- The Schedule Manager must attend and participate in the Pre-Construction Meeting.
• The Schedule Manager may be paid by the Lead Contractor but is obligated to facilitate the project for all Contractors, the A/E and the Owner.

• The Lead Contractor is responsible to report all variances from the approved schedule, in writing, to the A/E at the weekly Progress Meeting, or, by mutual agreement, prior to the Progress Meeting, and to the Scheduling Consultant on at least a monthly basis.

• All Contractors are responsible to report their weekly progress with regard to the approved construction schedule. Schedule deviations or delays caused by the Contractors to perform in accordance to the approved schedule must be reported by the Contractor involved in writing to the A/E and the Schedule Manager no later than the first weekly progress meeting after the occurrence.
Construction Scheduling

Approved Schedule

- The Schedule Manager will develop in consultation with the Contractors, a comprehensive schedule, which is acceptable to the Contractors. The Schedule will be used as the management tool to govern the sequences and the length of tasks to perform the Work during the Construction Period.

- All Contractors approve the Construction Schedule. The A/E, Construction Manager, the Owner, and OFCC accept the Construction Schedule. All parties agree to manage their Work according to the approved schedule.

- In a D-B-B project delivery method, the Schedule Manager must prepare an interim schedule for use by all parties to guide and coordinate Work until the approved project schedule is produced and accepted. The approved Construction Schedule must be produced no later than 90 days after the start of construction. In the CM at Risk and Design-Build delivery methods, the Construction Schedule is typically prepared during the Construction Documents Stage.

Where required in the Project Manual, the Lead Contractor must obtain the services of an independent Schedule Consultant, who will create a Construction Progress Schedule. See Section 200. The Lead Contractor must include an allowance in its bid to cover the cost of the Scheduling Consultant.

The allowance can only be used for work performed by the Schedule Consultant to coordinate, prepare, and update the Construction Schedule for the project based on the requirements of the specifications.

The Contractor includes in its Base Bid all costs to participate in the preparation of the schedule and in the schedule update process including developing and furnishing schedule information regarding the Contractor’s work. These costs are not part of the allowance for the independent scheduling consultant.

The Lead Contractor, through its Schedule Consultant, General Contractor, CM, or DB, is responsible for preparing and coordinating the Construction Schedule in cooperation with the other Contractors, if applicable. The development of the schedule will start with a kickoff meeting. The purpose of this meeting is to restate the schedule requirements and what is expected of all Contractors on the project with regard to creating the schedule.

The Contractors, Owner, OFCC, CM and Schedule Manager are required to attend the schedule kickoff meeting. The agenda for this meeting includes the following items for discussion:

- Schedule submittal due dates
- Contract Notice to Proceed and contract completion date
- Milestones as identified within the Contract Documents
- Work tasks, sequence and phasing
- Schedule format and details
- Resource loading
- Monthly updates and signoff requirements
- Float – ownership and use
- Activity duration
- Schedule of Values and coordination with schedule activities
- Weekly schedule information:
  - Previous progress
  - Scheduled progress
Anticipated possible problems
Explanation of out of sequence work

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<td>The Schedule Manager must distribute original and revised schedules to each Contractor, the Contractors will review and approve and forward the schedule to the A/E, and the CM if applicable, who will receive, review and distribute the schedule to each Contractor, the Contracting Authority, and the Owner through the Schedule Approvals business process.</td>
<td>If the Project is not administered using OAKS CI, the Schedule Manager may distribute original and revised schedules to each Contractor, the Contractors will review and approve and forward the schedule to the A/E, and the CM if applicable, who will receive, review and distribute the schedule to each Contractor, the Contracting Authority, and the Owner through traditional means as directed by the Contracting Authority.</td>
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Refer to Appendix C | Guide to OAKS CI and the associated Help File for additional information.

The Construction Schedule must be completed within 90 days after the Notice to Proceed and comply with the following guidelines:

- Approved and signed by all Contractors
- Includes a critical path
- A schedule format that reports both scheduled and actual dates
- Place the following information on the first page of the schedule:
  - OFCC project number, project number and phase, if applicable
  - Name of Owner
  - Notice to Proceed date(s) and completion date(s)
  - Legend defining symbols used
  - Revision box with the date of the original schedule date and spaces where all updates can be recorded and retained throughout the project
- Each schedule page will be numbered as a page of the total pages e.g., “Page 1 of 3”
- Use a standard computer sheet size of 24” x 36”, 36” x 42”, or 11” x 17”
- Schedule line items are separate. Each line item is labeled identifying the responsible Contractor
- Provide a horizontal time schedule on each page indicating the month and the date of the first work day (Monday) of each week, and to identify a weekly schedule of activities.
- List the schedule of activities in chronological order, identified by the Construction Specifications Institute’s MasterFormat number for major divisions of work, followed by specific tasks and subtasks. It is often useful and appropriate to cross-reference specification sections when possible. This list must include period(s) for construction close out including correction of punch list items, testing and balancing, document submittals and demonstration.
- The first or last page of the Construction Schedule also includes the company name, address, and telephone number of the A/E, the CM and all Contractors, including space for review, approval and acceptance by these stakeholders.
- The A/E reviews the Construction Schedule and recommends the Schedule to the Project Manager for their review and acceptance. The Project Manager returns copies of the accepted schedule to the A/E and the Contractors. The Project Coordinator documents the Schedule accepted date on Contractor Payment Ledger.
- The A/E or CM will not process any Application for Payment after the interim Schedule without a Construction Schedule approved by all Contractors and accepted OFCC.
The Contractor will prepare and submit a written report each week to the A/E prior to the weekly Progress Meeting outlining the following:

- Activities that have started or have been completed during the preceding week
- Activities that have been completed during the preceding week
- Work in progress; percent complete
- Remaining duration
- Projection of all activities to be started or completed in the following 2 to 6 weeks

The Schedule Manager will update the Construction Schedule monthly. Each updated Construction Schedule must be signed by the Contractors that serve as an affirmation that the Contractors can meet and will adhere to the requirements of the updated schedule.

A Contractor which does not perform Work in compliance with the critical path of the schedule is subject to a 72-Hour Notice issued by the A/E or OFCC. See Section 360 | Notices & Correspondence for additional details related to 72-Hour Notice.

The Lead Contractor or CM must provide monthly progress reports to the A/E, OFCC, and the Owner which include, if required, recommendations for adjusting the construction progress schedule to meet project milestones and contract completion dates.

The A/E or CM review the monthly progress reports and confirm the recommendations, or make other recommendations for adjustment relative to the project milestones and contract completion dates. Recommendations may include but are not limited to the following:

- Increase Contractor’s workforce to eliminate backlog of work
- Increase working hours per shift
- Increase shifts per workday
- Increase workdays per week
- Quantity of construction equipment
- Rescheduling activities
- Any combination of the above
This Section identifies the procedures for Interpreting and Modifying the Contract Documents, and Contractor Payment.

Schedule of Values

**OAKS Capital Improvements Procedure**

The Contractor must develop and submit its draft Schedule of Values on the Contract SOV Upload Template (F140-02), which is an Excel spreadsheet, and submit it via e-mail to the A/E, the CM if applicable, and the Contracting Authority prior to uploading it to the OAKS CI database.

Once the draft SOV on the upload template is acceptable to the Project Manager, the Contractor may submit and the A/E, and CM if applicable, will review and recommend approval or disapproval to the Contracting Authority of the Contractor’s Schedule of Values through the Contract Schedule of Values business process.

Refer to Appendix C | Guide to OAKS CI and the associated Help File for additional information.

The Schedule of Values must be used to breakdown the construction cost into line items. Include specific detail for what each line item represents. The following represents items required:

- The Contractor must complete items using an accurate and detailed breakdown for the work. The breakdown must cross-reference the MasterFormat numbers and titles used in the Project Manual.
- Mechanical and Electrical Contractors must include separate line items for all major pieces of equipment and group the smaller equipment items by type.
- A “Per Floor” or “Per Wing” breakdown may also be used, depending on building configuration.
- The line items for labor and material must accurately reflect the cost for each item, including overhead and profit.
- Allowance items must be identified separately and provide sufficient detail to determine the progress for each allowance item.
- The Schedule of Values must identify in sufficient detail the type(s) and cost(s) of labor, materials, goods, and services provided by each certified EDGE business on the project contract and must clearly identify which certified EDGE business provided the indicated labor, materials, goods, or services.

The Contractor must submit the completed Schedule of Values within 30 days of Notice to Proceed to the A/E and CM. The A/E and CM review and recommend the Schedule of Values to OFCC for its acceptance.

OFCC will return the Schedule of Values to the Contractor for re-submittal if it does not meet the required line items and details of the work.

OFCC will review the Schedule of Values for accuracy and the distribution of dollars between material and labor.

The Project Coordinator forwards the proposed Schedule of Values to the PM for review and acceptance. Upon the PM’s acceptance, the Schedule of Values may be used in conjunction with future Payment Requests. No Application for Payment will be processed without an approved Schedule of Values.

**Traditional Paper-based Procedure**

If the Project is not administered using OAKS CI, the Contractor must submit its proposed Schedule of Values on the Contractor Payment Request form (F140-01) or the “short form” version (F140-02).

These forms, along with the related instructions for completion, are available on the OFCC website at [http://ofcc.ohio.gov](http://ofcc.ohio.gov), then click on “Documents.”

The Contractor must obtain the form and review the instructions prior to sending a completed Schedule of Values to the A/E for review and recommendation to OFCC for approval.
Payment Requests

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<td>The Contractor must submit and the A/E, and CM if applicable, will review and recommend approval or disapproval to the Contracting Authority of the Contractor's Payment Request through the Contractor Payment Request business process.</td>
<td>If the Project is not administered using OAKS CI, the Contractor must submit its Payment Request on the Contractor Payment Request form (F140-01) or the “short form” version (F140-02), in accordance with the instruction sheets.</td>
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Payment of funds for work or material by a Subcontractor or Material Supplier cannot be made prior to its approval on the Subcontractor & Material Supplier Declaration.

The Contractor monthly payment request process includes the following:

- Contractor submits a draft (pencil copy) of the payment request approximately 1 week before final review.
- The A/E, the CM and the Project Manager review the pencil copy for formal submittal and execution.
- Contractor submits up to 5 copies of the Payment Request for signature and processing. Verify exact number of copies at the preconstruction meeting.
- The Contractor must submit one Certified Payroll Report with each Payment Request on the Payroll for Contractors & Subcontractors on the Payment Request form, Part G, and in accordance with Document 00 73 43 – “Wage Rate Requirements.” The Certified Payrolls Report should be attached to the back of the second copy of the Payment Request.
  - One Certified Payroll Report is required for each week of work reflected on the Payment Request.
  - Use of computerized payroll or other reports containing the required information are acceptable.
  - If a Payment Request is submitted for a period when no labor was performed by the Contactor, the Contactor must submit a Certified Payroll Report stating, “no labor was performed during this period”.
  - If a subcontractor performed no work in a period for which a Payment Request is submitted, a payroll report is not required to be submitted for the subcontractor.
  - The A/E, the CM, and the Project Manager sign in blue ink indicating their approval. The A/E, the CM, the Project Manager and the Contractor will keep a copy of each Contractor Payment Request. Approved copies will only be returned if OFCC makes a change.
  - The Payment Request must be sent by the A/E or CM directly to OFCC. OFCC will reviews, approve, and send the application for payment to the Owner who will attach a voucher and send to State Accounting. State Accounting will direct deposit the payment into the contractor’s account.

Payment must be made for an approved Payment Request within 30 days from the date of approval of A/E.

Retainage and Escrow Account

- Retainage will be withheld from the Application for Payment in the amount of 8 percent of the labor for only the first 50 percent of the contract.

- The first payment application after the contract is 50 percent complete will not have additional funds retained from payments for labor. Retainage is not withheld on projects whose total awarded contract amounts are less than $15,000.

- The Project Coordinator will issue a cover letter, attaching a copy of the contractor's payment request and signed escrow agreement, notifying the Owner that it needs to prepare a voucher to set up an escrow account. The Project Coordinator will update the electronic escrow file. (An escrow account is set up after 50 percent of the contract is completed as evidenced by payment including approved change orders to date).
The Owner will prepare the voucher and send it to the GSD Business Office, which will forward the voucher to State Accounting. Upon receipt of the check from State Accounting, the check is forwarded to the Fiscal Officer. The Fiscal Officer sends the check and a signed copy of the escrow agreement to escrow bank that receipts the deposit. A signed copy of the escrow agreement will also be sent to the master file.

Payment for Stored Material

- A Contractor may request payment for not more than 92 percent of the value of stored material delivered to the project site or other approved storage site. The Contractor must prepare and submit with the Payment Request for the stored material a Letter of Certification that includes the following information and attachments.
  - Invoice for the materials stored
  - Identification of the storage site, which must be acceptable to the A/E.
  - Proof of Insurance
  - Certification that the materials are in conformity with the Specifications
  - Certification the materials have been tagged with the project name and number

- The Contractor must pay all costs for the A/E or CM, if applicable, to visit a storage site other than the project location. Such costs may include, without limitation, the following:
  - Airfare
  - Car Rental
  - Lodging
  - Meals
  - Direct Personnel Expense

Change Orders

- Work performed on an approved Change Order during a period covered by the Contractor Payment Request may be invoiced by the Contractor in that Payment Request.

Prevailing Wages

Within 7 business days after receipt of a notice of a change in the prevailing wage rates, the Project Coordinator will notify the Contractor of the change. The Contractor must obtain the wage rate revisions from the Department of Commerce, Wage and Hour Bureau and pay any wage rate increase during the term of the Contract.

The Contractor is required to submit payroll reports with each Application for Payment. The reports are to be certified by the Contractor that the payroll is correct and complete, and the wage rates shown are not less than those required by the Contract. The Contractor will be responsible for submitting all payroll reports of the Contractor’s Subcontractors. The payroll reports must comply with the requirements provided in Document 00 73 43 – “Wage Rate Requirements.”

If a Contractor does not perform work on the site during a given pay period, the Contractor must submit a payroll report form annotated “No work performed” with the respective Payment Request. If a subcontractor does not perform work at the site in a given pay period, the Contractor is not required to submit a payroll report for that subcontractor.

If a Contractor employs an apprentice on the project, the Contractor must attach a copy of the Apprenticeship Agreement to the Contractor’s certified payroll at the first involvement by an apprentice. The Contractor is also required to maintain the proper ratio of apprentices to journeymen as required in the Wage Rate Schedule.
Liens

If the A/E or CM receives a Claim Affidavit for Lien, it must be immediately forwarded to the Fiscal Officer. A Subcontractor, Material Supplier or Laborer requesting information or assistance regarding payment from a Contractor, should be referred to the Notice of Commencement of Public Improvement (F310-06) for further information. The Notice provides the necessary information for a Subcontractor, Material Supplier or Laborer to file a Claim Affidavit or make a claim against the Contractor's Bond.

It is not the responsibility of the A/E or CM to make judgment as to the validity of a claim or to withhold payments from the Contractor because of the claim. All Contractor Applications are to be processed and forwarded to OFCC which will take the appropriate actions regarding a lien. OFCC may direct the A/E or CM to make appropriate reductions on Payment Requests to avoid payment delays. This approach may be recommended if the Owners are issuing vouchers prior to OFCC approval of Payment Requests.
This Section identifies the procedures for Interpreting and Modifying the Contract Documents, and Contractor Payment.

Requests for Interpretation

The Contractor, Owner, or other party may submit to the A/E a formal request for interpretation or clarification of the Contract Documents via a Request for Interpretation (RFI). The Contractor may indicate whether, in the Contractor's opinion, the issue raised may involve an adjustment in the Contract Sum or Contract Time or both.

**OAKS Capital Improvements Procedure**

The Contractor or Owner must submit its request and the A/E must render its interpretations to the Contracting Authority, the Owner, the CM if applicable, and each Separate Contractor through the Request for Interpretations business process.

Refer to Appendix C | Guide to OAKS CI and the associated Help File for additional information.

The A/E must respond to each RFI within 3 business days and distribute the response to each Contractor. A Contractor that submitted an RFI may respond to the A/E's response within 3 days to indicate any adjustment to the Contract, which the Contractor believes may result from the A/E's response. The Project Manager will verify that the A/E and Contractor are providing timely responses to RFIs.

**Traditional Paper-based Procedure**

If the Project is not administered using OAKS CI, the Contractor must submit its request on the Request for Interpretation form (F310-07).

This form is available on the OFCC website at http://ofcc.ohio.gov, then click on “Documents.”

Changes in the Work

When the need arises during construction to make a change in a Contract or Contracts, the A/E may use one of three processes to initiate the change. The following identifies the processes and provides guidance in making the determination of which process to use.

- **Change Directive**
  - Immediate or urgent need
  - Must be converted to Change Order within 14 days of issuing a Change Directive except when performed on a time and materials basis

- **Change Order via Proposal Request (PR)**
  - Used when a change in the Work will not have an imminent impact on the Construction Schedule.
  - May affect multiple Contractors
  - May involve matters of low or moderate complexity
  - May be relatively complex and require detailed work descriptions.
  - The Owner reserves the right to decline to perform the proposed work.

- **Change Order via Request for Change Order**
  - Sometimes initiated by a Contractor after the A/E’s response to an RFI.

When considering a change, the A/E will make preliminary inquiries to determine the cost or impact that requested changes may have on the project, and will determine whether the change should be initiated as a Change Directive or a Proposal Request. The selection of the appropriate process for each change may vary somewhat by individual and circumstance, but is a matter requiring sound professional judgment. The A/E will consult with the Project Manager to verify the appropriate use of each process.
The A/E reviews all Requests for Change Orders and recommends justifiable changes to the Owner and OFCC for a Change Order. The A/E will include a cost estimate to determine the Owner’s exposure of the Change Order as part of the A/E’s recommendations. The Project Manager and Owner may authorize the A/E to prepare documents for the Change Order. The A/E will direct minor changes on an issue by issue basis. This Section will focus on changes of a substantial nature, are required and for which a formal Change Order process is necessary.

A separate Change Order may be issued for each change or small group of closely related changes. Unrelated issues must not be combined on a Change Order. Accordingly, each Change Order must have a single justification (or in unusual situations, a combination of justifications.)

The Change Order form (F310-04), with attachments, is required to formally incorporate the change into the Contract. Refer to detailed instructions in Article 7 of the General Conditions.

Change Directives

A Change Directive (F310-12), formerly called a Field Work Order, is used for any change to the project scope that requires immediate attention or is urgent. The Change Directive is prepared by the A/E or CM. It is signed by the Owner confirming that funds are available, and signed by OFCC so that the work can start immediately.

### OAKS Capital Improvements Procedure

The A/E may issue and distribute Change Directives using the Change Order business process.

If the A/E issues the Change Directive as a paper document, it must subsequently attach the executed paper forms to the Change Directive record within OAKS CI and process it through the Change Order workflow.

Within 14 days after issuing a Change Directive the A/E must prepare a Change Order and circulate it for signatures. This action is required regardless of whether the Change Order pricing documentation provided by the Contractor is complete or acceptable to the A/E. The intent is to ensure that the work of any Contractor is not delayed while detailed issues are resolved.

The Contractor must complete all required or necessary components of the Contract which is included in an Allowance that is a part of the Contract. Change Directives are not required to authorize work which is paid for from an Allowance (because the allowance is part of the Contract) but a Change Directive may be used to document an authorization to proceed with the work. The work of each Allowance must be identified in the Schedule of Values as an Allowance and be presented in sufficient detail to determine the progress of the Allowance work. The A/E and the Project Manager must review and approve the progress of the Allowance work with each Contractor Pay Application. Upon determining the anticipated actual cost of the Allowance work, the A/E will implement a Change Order to adjust the Contract. At the completion of the project, if any funds remain in an Allowance, the A/E will issue and all parties will execute a Change Order to deduct the balance of the Allowance from the Contract.

### Traditional Paper-based Procedure

If the Project is not administered using OAKS CI, the A/E may issue and distribute Change Directives through traditional means as directed by the Contracting Authority.

Proposal Requests

A Proposal Request may be a letter, sketch, specification, or other communication which the A/E provides to the Contractor to solicit a proposal for a change in the Work. The A/E will issue and distribute the PR to all Contractors with a copy to the Owner, CM, and OFCC.
The A/E must issue and distribute Proposal Requests using the Change Order business process.

If the Project is not administered using OAKS CI, the A/E may issue and distribute Proposal Requests through traditional means as directed by the Contracting Authority.

Each Proposal Request must include notice to the Contractor of a specified period within which the Contractor must report the cost and time impacts of the change on the Contract.

After receiving the Contractor’s proposal, the A/E will review it and make a recommendation to the Owner whether it should be converted into a Change Order. If the Owner chooses to accept the proposal, the A/E will issue an appropriate Change Order.

Each Proposal Request must incorporate a request for the proposed cost and time adjustment for the proposed change and must give notice to the Contractors of a specified time period within which the Contractors must report the cost and time impacts of the change in the Work on the Contracts. The A/E will issue a Change Order at the end of the response period. If the Contractor does not respond within the period specified, the A/E may issue a zero-cost adjustment Change Order and describe the adjusted scope of work. The Proposal Request may incorporate a Change Directive that authorizes the Contractor(s) to begin some work immediately; however this must be done with careful discernment.

**Request for Change Order**

A Request for Change Order is a formal request by the Contractor(s) with the cost and time impact from the proposed change(s).

If the A/E responds to a Request for Interpretation (RFI) by instructing the Contractor to perform Work that the Contractor believes is beyond the scope of the Contract, the Contractor must notify the A/E in writing no more than 3 days after receiving the RFI response.

The Contractor may then submit a Request for Change Order to the Contract associated with the RFI response no more than 7 days after giving the required notice. The allowable time for the Contractor’s response may be adjusted by mutual consent of the Contractor and the A/E.

The Contractor must submit its Request for Change Order using the Change Order business process.

If the Project is not administered using OAKS CI, the Contractor may submit its Request for Change Order through traditional means as directed by the Contracting Authority.

If the Contractor does not notify the A/E, does not submit a Request for Change Order, or does not request an extension of response time, the Contractor will have accepted the RFI response without an adjustment to the Contract.

**Change Order Fees**

Except for Change Orders issued to correct an error or omission, each Change Order results in a fee for the A/E. The fee is paid with funds from the Change Order Fee Allowance established in the Architect/Engineer Agreement. A/E’s are NOT compensated for their work which results from an error or omission. The Change Order fee percentage for the Project is stipulated in the Architect/Engineer Agreement.

**Time Extensions**

All requests for additional time resulting from issues, which affect items on the critical path require careful consideration with regard to the sequence of activities on the Schedule. The A/E will not consider requests
for extensions if activities on the critical path are not affected. Change Orders, which involve substantial site work or address below-grade soil problems, may warrant additional time due their effect on the critical path of the schedule.

Each Proposal Request must indicate that the cost for which the Contractor proposed to accomplish the change will reflect work accomplished within the allotted time and sequence of the approved project schedule, and will reflect no time extension. By so doing, the A/E ensures that progress of the project will not be slowed by the change. However, the Proposal Request may request and the Contractor must identify any premiums to the Owner for cost of acceleration to allow the Owner the option to approve a time extension instead of accepting the cost of the accelerated work schedule.

The A/E and CM will review the various proposals, determine if an extension is in the best interest of the Owner and project. If, after consulting with the Owner and Project Manager, the A/E and CM determine that a time extension is warranted, they will determine the proper additional time and revised Contract Completion Date, which will be indicated on the Change Order. In general, small Change Orders issued early in the project will rarely warrant additional time for completion, however, changes during the last 25 percent of construction period often warrant additional time.

In order to receive a time extension for Change Order Work, the Contractor must conclusively demonstrate, within the context of the approved Construction Schedule, that the added work will affect Critical Path activities throughout the schedule, such that the completion date is affected. Time extensions modify the Contract Completion date and apply to the project in its entirety, not just a single activity or group of activities.

**Contingency**

Construction contingency reserve funds are established to pay for approved scope changes in the Contractor's Work. The justification for the scope changes varies. The following represent the acceptable justifications for scope changes to the Contractor’s Work:

- Errors and Omissions
- Differing Site Condition
- Field Resolution
- Value Engineering
- Owner’s Request (the Project Manager should review sufficiency of remaining funds)
- Other:
  - Acceleration of Schedule
  - Code Requirements
  - Severe Weather Conditions

Additionally, construction contingency funds are used to resolve issues that are in dispute or gray areas for the betterment of the project and to facilitate a positive outcome for all stakeholders. These issues are not true legal disputes but are conflicts that can readily be resolved to allow the project to progress. The justification for such items will be indicated as “Field Resolution”.

Meetings & Reports

This Section identifies the procedures for Meetings and Reports.

Meetings Prior to Construction

The A/E, the CM, the Owner and the Project Manager will meet prior to the pre-construction meeting (“Construction Stage Kickoff Meeting”) to address the following topics:

- The amount of time and frequency that the A/E’s field representative(s) will spend on the job site. OFCC reviews and approves the qualifications and experience of the A/E’s field representative.
- The A/E identifies the mechanical, electrical and specialty consultants and their project representatives. The Consultant’s role and time commitment to the project is assessed and approved by the Project Manager.
- The requirements for monitoring the schedule, including unusually severe weather or events such as lost time due to strikes or delivery delays. Identify the process for tracking time extension requests by all Contractors.
- Review the requirements for processing the Contractors’ Applications for Payment, including on site and off-site stored material payments.
- Confirm the shop drawing submittal process. Identify submittal turn around time from the A/E and consultant. Identify any unusual time which will be required for approval of shop drawings, other submittals, or fabrication and delivery. Identify the process and timing of color submittals, selections and sample approvals. Submittal turn around time is to be included on the Schedule as a line item.
- Identify the process for preparing and processing Change Orders.
- Identify the process by which the field representatives of the A/E and any consultant and CM will confirm that materials and equipment meet Specifications.
- Identify procedure and time frames by which Contractor will notify the A/E of required inspections or special testing.
- Establish paperwork routing. Copies of all correspondence are to be transmitted to all parties involved, including the Owner and the Project Manager. Show the distribution on the bottom of all correspondence. Advise all parties to use the Project Name and number on all documents.
- A copy of the Division of Industrial Compliance plan approval set of Contract Documents, and permits will be kept on the Project site at all times.

OAKS Capital Improvements Procedure

The A/E or CM will distribute the agenda and minutes for the Construction Stage Kickoff Meeting through the Meeting Minutes business process.

Issues identified during the Construction Stage Kickoff Meeting that requires resolution by one or more participants, shall be documented through the Action Items business process.

Refer to Appendix C | Guide to OAKS CI and the associated Help File for additional information.

Traditional Paper-based Procedure

If the Project is not administered using OAKS CI, the A/E or CM may transmit the agenda and minutes for the Construction Stage Kickoff Meeting using traditional means as directed by the Contracting Authority.
Pre-construction Meeting

The Pre-construction Meeting starts the Construction Stage of the project. Representatives from the following project stakeholders must attend:

- **A/E**: Project manager, field representatives, consultants
- **CM**, if applicable
- **OFCC**: PM, and on occasion, PC
- **Owner**: Owner's project manager, administrative representative, operational representative, maintenance and security personnel
- **Contractors**: Project managers, superintendents, administrative staff

The A/E or CM schedules the Pre-construction Meeting following the Notice to Proceed and prior to mobilization by the Contractors. The A/E or CM conducts the Pre-construction Meeting, writes and distributes the meeting minutes.

- If the Project is administered using OAKS CI, the A/E or CM will attach the agenda and minutes for the Pre-Construction Meeting to the Project record through the Meeting Minutes business process. For additional information, refer to Appendix C | Guide to OAKS CI and the associated Help File within OAKS CI.
  - Issues identified during the Pre-Construction Meeting that requires resolution by one or more participants, shall be documented through the OAKS CI Action Items business process.

The A/E and the CM prepare the meeting agenda, in consultation with the Owner and OFCC. The following is the outline used for a pre-construction meeting (based on the Multiple-Prime Section numbers):

- **Introductions**
- **Communications**
- **Partnersing** ([General Conditions ("GC") 5.1](#)) (M160-00 72 13, M140-00 72 16, or M140-00 72 26).
- **Contractor Responsibilities** ([GC Article 1](#), [Article 5](#), and [Article 6](#), et. seq.).
- **Status of Contracts**
- **Permits. Turnover of approved plans to Contractor**
- **Project Coordination** ([GC Article 5](#) and [GC 6.8](#), et. seq.).
- **Construction Scheduling** ([GC 6.6](#)) and Specification Sections 01 21 00, 01 32 16, and others, as applicable)
- **Meetings (Progress & Coordination)** ([GC 6.7](#) and [GC 6.8](#)).
- **Project Reports**
- **Contractor Payment Request** ([GC 9.4](#))
- **Process** (e.g., Subcontractor and Material supplier declaration, schedule of values and certified payroll reports)
- **Onsite/Offsite Material Payments** ([GC 9.6.2](#))
- **Submittals** ([GC 6.21](#))
- **Change Orders** ([GC Article 7](#))
- **Preparation**
- **Process**
Partnering Process

To most effectively and efficiently accomplish the construction of the project, OFCC encourages the formation of a cohesive, mutually beneficial partnering arrangement among all project stakeholders. As such, OFCC makes this a contract obligation.

This arrangement strives to draw on the strengths, skills and knowledge of each of the stakeholders in an effort to achieve a quality project, within budget and on schedule.

Purpose

“Can’t we all just get along?” is the common message and desire of OFCC and the Owner. The purpose of the partnering arrangement is to build cooperative relationships between the stakeholders in order to avoid or minimize disputes and to strengthen a more collaborative sense of duty that is characterized by trust and teamwork.

It is intended that this process fosters an attitude of shared risks and responsibilities for the entire project.

Partnering Session

All stakeholders will meet for the purpose of developing a partnering arrangement. The arrangement should identify:

- Common goals and objectives
- A problem solution and dispute resolution strategy including a formal set of procedures for Alternative Dispute Resolution
- Clear lines of communication
- An Implementation Plan
- A neutral facilitator will moderate the Partnering session in a location neutral to all stakeholders.

Session Participants

Key project stakeholders will attend the Partnering session. At a minimum, the following should participate:

- OFCC – Program Manager and Project Manager
- Owner – Primary Representative
- A/E – Project Manager, field representatives, major consultants
- CM – Principal-in-Charge and Project Manager
- Contractors – Principal-in-Charge or Project Manager, and Superintendent
- Major Subcontractors (masonry, fire protection) – Principal-in-charge, Project Manager or Superintendent
- Scheduling Consultant – Scheduler

Participants must be management level, empowered with the ability to make decisions and speak on behalf of their firm or organization.

Stakeholder Commitment

- Throughout the project, the stakeholders must be:
  - Willing to honor the commitment
  - Reasonable and cooperative
  - Prepared to utilize an alternative dispute resolution process
  - Open-minded
  - Pro-Active

Partnership Allowance

- The A/E will include an allowance in the “Allowances” Section in Division 01 in the Contract Documents to cover the cost of the partnering facilitator and neutral location. The allowance will usually be in the Lead Contractor's Contract. However, it may also be included in the A/E or CM agreement as a reimbursable expense.

Progress Meetings

The A/E or CM must schedule weekly construction progress meetings in consultation with the Project Manager and the Owner. The purpose of the meetings is to review progress of the work during the previous week, discuss anticipated progress during the following weeks, and review critical operations and potential issues.

Each representative attending the Progress Meeting must have signature authority to make decisions regarding possible modification of the Contract Documents. The Contractor must have any of the Contractor's Subcontractors and Material Suppliers attend the progress meeting as necessary, or as requested by the A/E or CM.

The A/E, or on projects with a CM, the CM, will conduct the meeting and is solely responsible for generating the written record or minutes of each Progress Meeting. The A/E distributes progress meeting minutes to the Owner, OFCC and the Contractor(s). All objections or corrections are noted as such at the next progress meeting or in writing to the A/E. A/E is to be notified at the next progress meeting or in writing explaining the objection. The minutes of the next Progress Meeting will reflect any objection or response by the A/E.

OAKS Capital Improvements Procedure

The A/E or CM will distribute the agenda and minutes for each Progress Meeting through the Meeting Minutes business process.

Issues identified during each Progress Meeting that requires resolution by one or more participants, shall be documented through the Action Items business process.

Traditional Paper-based Procedure

If the Project is not administered using OAKS CI, the A/E or CM may transmit the agenda and minutes for each Progress Meeting using traditional means as directed by the Contracting Authority.
The Project Manager will attend progress meetings and file a written report for each meeting with the respective Program Manager.

Meeting Agenda

- The A/E and the CM prepare the typical meeting agenda, in consultation with the Owner and the Project Manager. The following is the recommended outline and process:
  - Distribute a sign-in sheet to confirm attendees. All principal parties not in attendance will be noted as such in the progress meeting minutes.
  - Review the previous meeting minutes item-by-item and update status or respond to any pending issues.
  - Contractors will report their current total job site workforce, including the number of workers by trade or subcontractor. Compare the construction schedule to the manpower requirements for compliance of the Work with the schedule. Report Subcontractor activities and review their manpower for schedule compliance as well.
    - This information may be reported in writing in a standardized format to reduce the note-taking required at the meeting. If provided in writing, the information will be read aloud so that all attendees cannot fail to be aware of the information.
  - As an alternative to performing the schedule review entirely in the meeting, on projects where management resources suffice, the information may be received in writing at some specific time before the meeting and analyzed by the A/E or others who can identify and raise relevant issues in the meeting.
  - Discuss problems, material delivery or shortages, site problems, RFI's, Shop Drawing submissions and approvals, construction conflicts, etc. An updated log of the status of these items will be attached to the meeting minutes.
  - Review the Contractor Progress Report and Construction Schedule. Identify all delays and their cause(s). Review and resolve action to regain lost time. The minutes will include documentation of lost time.
  - Discuss conflicts and concerns, particularly those pertaining to the schedule. Each Contractor will be given a specific opportunity to state whether or not the Contractor has any concerns. Identify the stakeholders not performing and resolve action to address the conflict or concern.
  - Discuss new business. All progress meeting participants will have an opportunity to speak, or indicate no new business.
  - Discuss status of Proposal Requests, Change Directives and Change Orders in progress.
  - Contractor payment topics are discussed in general, especially to verify the monthly cycle of pencil copies and payment approvals.
  - The Owner discussion points are coordination of Owner supplied equipment and Owner staff moves as it relates to renovation and occupancy.
  - Allow for a comments/questions period.
  - Verify the time and place of the next meeting.
  - Adjourn to the project site or group meetings in order to review on-site or specific problems.

Project Coordination Meetings

The Lead Contractor or CM will schedule and conduct the weekly coordination meeting with all Contractors and appropriate Subcontractors and Material Suppliers.

The purpose of the project coordination meeting is to discuss the following:

- The sequence of construction consistent with the Construction Schedule.
- The sharing of construction lay-down/storage space.
- The exact location of each piece of equipment, pipe, duct, conduit or other component of the project.
- Coordination of anticipated deliveries of major equipment, supplies, and materials anticipated at the site will be coordinated to avoid conflicts.

The Lead Contractor or CM will prepare written minutes for each Coordination Meeting and distribute them to the Owner, A/E, Project Manager, Contractors and all attendees.

### OAKS Capital Improvements Procedure

The A/E or CM will distribute the agenda and minutes for each Coordination Meeting through the Meeting Minutes business process.

Issues identified during each Coordination Meeting that requires resolution by one or more participants, shall be documented through the Action Items business process.

### Traditional Paper-based Procedure

If the Project is not administered using OAKS CI, the A/E or CM may transmit the agenda and minutes for each Coordination Meeting using traditional means as directed by the Contracting Authority.

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### Project Reports

The project reports and logs must document and track the progress of construction. Additionally, the reports must document submittal or review turnaround deadline extensions and whether or not they affect stakeholders.

#### OAKS Capital Improvements Procedure

The A/E, the CM if applicable, and the Contracting Authority will issue written reports through the Field Reports business process. Reports of on-site observations may be recorded on the Field Report form (F310-10) and uploaded to OAKS CI.

The business process logs within OAKS CI may be used in lieu of a formal report for items such as RFIs, Submittals, Change Orders upon authorization of the Contracting Authority.

The following list identifies the required reports, logs, and suggested formats, and the party responsible for preparing the reports:

### Architect/Engineer or CM

- The following reports must be submitted by the A/E if a CM is not involved in the project, or by the CM otherwise:
  - Request for Interpretation Log
  - Submittal Log
  - Change Order/Proposal Request/Change Directive Log
  - Non-Compliance Log
  - Daily Job Report
- On projects in which a Construction Manager is involved, the CM must provide the following additional reports:
  - Monthly Status Report
  - Budget Tracking Report

This form is available on the OFCC website at [http://ofcc.ohio.gov](http://ofcc.ohio.gov), then click on “Documents.”
Contractor

- Daily Job Report
- Contractor Progress Report
- Safety-Tool Talks Report
- Monthly work progress update submitted to the Schedule Manager
- EDGE Participation Reports:
  - Monthly, or other interval, with each Contractor Pay Request; and,
  - Final Report and Certification of EDGE Participation, delivered in the Construction Closeout Period of the Construction Stage, with or prior to the final pay application for all contracts. (See Section 390)
This Section addresses notices and correspondence related to the Contract. This section also describes the termination process. Many variables can affect the decisions and actions that are required when there is a termination.

72-Hour Notice

A Contractor that fails to perform Work in compliance the Contract Documents or within the critical path of the schedule is subject to a 72-Hour Notice issued by the A/E or the Contracting Authority. The A/E and CM with the approval of the Project Manager will notify the Contractor(s) in writing to correct defective work or perform in accordance to the Approved Schedule. The notice must state the specific areas of non-conformance, define the action steps, and time that the Contractor must bring work into conformance.

- Failure to comply with the 72-Hour Notice, within 3 days is grounds for the A/E to recommend that the cost of work be deducted from the Contractor, and for OFCC to assign the work to another contractor. Compliance of the 72-Hour Notice does not relieve the Contractor from damages that other contractors or the Owner suffers due to the failure or neglect to adhere to the requirements of the approved construction progress schedule. Costs to amend the Construction Progress Schedule is the responsibility of the Contractor causing the schedule amendments to be necessary.

- The A/E will issue a Change Order deducting the cost of the scope of work re-assigned from payments then or thereafter due the Contractor. The cost of reassigning work, damage(s) and schedule adjustment(s) must be paid by the Contractor, the Contractor’s Surety, or both. The decision by the State to backcharge the Contractor is final.

OAKS Capital Improvements Procedure

Traditional Paper-based Procedure

The A/E or Contracting Authority will issue reports of Defective Work or failure to comply with the critical path of the schedule through the 72 Hour Notice business process.

Refer to Appendix C | Guide to OAKS CI and the associated Help File for additional information.

If the Project is not administered using OAKS CI, the A/E or Contracting Authority may issue reports of Defective Work or failure to comply with the critical path of the schedule on the 72-Hour Notice form (L310-03).

This form is available on the OFCC FTP site at ftp.ohio.gov, then click on “Local.” Contact OFCC Program Services for the username and password.

Emergency Notices

The Contractor must respond to emergencies as follows:

- Examples of Project Emergencies:
  - Death, loss of a limb, or life threatening injury on a job site
  - Building collapse
  - Fire

- Emergency Procedures:
  - Call 911 and report the incident.
  - Assist emergency personnel as they direct.
  - The Lead Contractor or CM must notify the Program Manager in charge of the project or, if the Program Manager is not available, the Executive Director, by telephone as soon as possible (within no more than a few hours of the incident.) If neither is available, do not leave a voicemail message; give the information to another person at OFCC and make a note of the person’s name.

The Lead Contractor or CM must notify the manager of the facility where the emergency has occurred, or if that person is not available, another representative of the Owner, in person or by telephone as soon as
possible (within no more than a few hours of the incident.) Speak to a person; do not leave a voicemail message.

Stop Work Order

The A/E or CM has the authority to disapprove or reject any item of work which is defective, or that does not conform to the Contract Documents, or that is inconsistent with the intent of the design. The A/E or CM must immediately notify the Contracting Authority and the Owner in writing at any time that work has been disapproved or rejected.

Only the Contracting Authority may issue a notice for the Contractor to stop work on the project or a portion thereof. The A/E or CM must provide justification to OFCC regarding the basis for issuing a stop work order with OFCC and the Owner.

Suspension of the Work

The Contracting Authority reserves the right to suspend the work for such period as may be necessary. The Contractor must, upon receipt of the Notice of Suspension, cease work immediately and take all necessary or appropriate steps to minimize costs and losses. OFCC must notify the Contractor’s Surety at the time of any suspension.

In the event of a suspension of the work, the Contractor is to provide a report describing the status of the work, and any additional costs incurred resulting from the suspension. An extension of time will be allowed, as provided in the Contract Documents, should the suspension be considered no fault of the Contractor’s performance. The Contractor is entitled to payment for work completed and additional costs incurred.

Termination for Convenience

OFCC reserves the right to terminate the contract in whole or in part for the Owner’s convenience. Upon such termination, the Contractor is paid in accordance with the Schedule of Values for Work completed. This includes any amount retained, and the value of materials ordered and delivered, less any salvage or credit the Contractor may receive for them. The Contractor is to be paid a fair and reasonable profit for all work completed and all expenses directly attributable to the termination of the contract. Under no circumstances will the Contractor’s compensation exceed the total contract price.

Termination for Cause

If a Contractor consistently fails to adhere to the schedule or perform the work under contract, the A/E or CM may recommend to OFCC that a 5-Day Notice (L310-04) be issued to the Contractor. The A/E or CM must forward their recommendations to the attention of the Project Manager and the Owner.

The A/E or CM may report to OFCC that the Contractor's Work is failing to comply with the terms of the contract or Construction Progress Schedule and that the Contractor is failing to correct such deficiencies. The A/E or CM must indicate the reasonable opportunities given to the Contractor to correct the deficiencies, or to provide an explanation to which, if given, the A/E or CM will evaluate and respond to accordingly. It is important to recognize that delays in taking action by the A/E, CM and or the Contractor may cause further problems. Occurrence of progressive failures or multiple deficiencies requires immediate action by the A/E and or the CM.

A 5-Day Notice may be issued only by OFCC to the Contractor and the Contractor's Surety based on the recommendation of the A/E and CM. The Contracting Authority may provide an additional force as is necessary or terminate the contract, if the Contractor fails to comply within 15 days of receipt of the notice to complete the work to the satisfaction of the A/E, CM and the Project Manager.

The A/E or CM will determine and recommend to OFCC whether the Contractor has corrected the deficiencies prior the expiration of the specified 15 day period. OFCC will decide whether the Contractor has
failed to respond appropriately, and whether to terminate the contract by issuing a Default /Termination Letter (L310-05). In the event of such termination, the Contractor will not be entitled to any further payment.

The Surety of the Contractor that is in default has the option, under Ohio law, to perform the contract. The Contractor's Surety has 10 days of the date on which they received the termination notice to commence performance of the contract. The State reserves the right to complete the work if the Surety does not commence work within the 10-day period. The provisions of the contract documents govern the Surety's performance of the Work. The Surety will be substituted for the Contractor in all such provisions, including without limitation, provision for payment for the work and provisions about the right of the State to complete the work.

The Contractor or the Contractor's Surety must pay for any cost beyond the balance of the contract price for the State to complete the work. The Contractor or the Contractor's Surety must also pay for any cost incurred by the State for consequential damages as a result of the termination of the Contract.

Options open to the Surety for the completion of work are as follows:

- A minor amount of work remaining with another on-site Contractor that has the resources to perform the work:
  - The Surety may elect to allow the A/E to assign by Change Order the Work to another Contractor. A deduct Change Order is processed against the defaulting Contractor's contract for the purpose of funding the work as an add Change Order to the other Contractor's Work. In such a case, an agreement is executed with the Surety to reflect the arrangements made to complete the work and close out the contract. There will usually not be sufficient funds in the defaulting Contractor's Contract, so the Surety will be required to pay the difference to the Contractor who completes the work.

- Surety-authority to contract with a Takeover Contractor:
  - The Surety may procure the completion of the work in any manner within the Surety's discretion, however, the work is subject to "prevailing wage requirements". In this situation, the Owner prepares a "Change of Vendor Name" encumbrance payable to the Surety. The new Contractor or Surety submits partial payment requests on the same Payment Request form which was used by the original Contractor. The name on the Payment Request form is changed to the Surety's name.
  - The experience of OFCC is that a Surety held takeover contract is simpler because the Surety usually finishes the work and requests only a final payment. In such a case, OFCC executes a Memorandum of Understanding with the Surety to reflect the arrangements made to complete the work and close out the contract.

- OFCC authority to contract with a Takeover Contractor to perform the work:
  - OFCC may contract with a Takeover Contractor to perform the work if, solely in OFCC's opinion, the other Contractors are not capable of completing the work, and the Surety does not take timely action to begin completion of the work. The A/E or CM are to confirm the remaining scope of work for purposes of obtaining a Takeover Contractor. In such a case, OFCC executes a Memorandum of Understanding with the Surety to reflect the arrangement agreed to to complete the work and close out the contract. The Takeover Contractor is required to comply with all the requirements for public improvement contracts, including Bonding, Prevailing Wage, Material and Supplier Lists, Certified Payroll Reports and the Drug Free Safety Program requirement.
  - For capital projects administered by OFCC, OFCC is authorized to contract, with the consent of the Director of OBM, without the competitive bidding process, a Takeover Contractor to complete work under an existing contract where the original Contractor is in default and the Surety has declined or failed to take over the project.

- Any cash received from the Surety as a settlement for completion of the project is deposited in the original fund from which the capital appropriation for the project was made. Notwithstanding any other provision of law to the contrary, the Director of OBM may approve contracting with the takeover Contractor. The Director of OBM may specify additional uses for the funds related to the completion of
the project without CB approval and increase the appropriation authority in the line item used to fund the project by the amount equal to the cash received from the Surety.

Contractor Bankruptcy

The Contractor must provide written notification to OFCC if the Contractor is files a bankruptcy petition. OFCC will serve written notice on the Contractor and the Contractor's Surety stating that any failure of the Contractor to provide adequate assurances of continued performance is considered a rejection of the Contract, which will result in termination of the contract for cause.
This Section identifies the procedures for creating and reviewing various Project submittals.

**Action Submittals**

Shop Drawings, Product Data, Samples, and other submittals for the A/E’s review and action must be provided by the Contractor for any item required by the Contract Documents but not fully described in the Contract Documents, unless waived by the A/E, and include, but are not limited to:

- Construction of the various parts, method of joinery, type of materials, grade, quality and thickness of materials, alloy of materials, profiles of all sections, reinforcement, method of hanging doors or installing windows, anchorage, and type and grade of finish;
- Capacities, types of materials and performance charts that are pertinent to the materials, and performance charts that are pertinent to the equipment item; and
- Wiring diagrams, control diagrams, schematic diagrams, working and erection dimensions, arrangement and specifications.

Submittals are not Contract Documents. In the event of conflicts between submittals and the Contract Documents, the Contract Documents take precedence and govern the Work.

The A/E shall review Submittals for conformity with design intent and conformity with the Contract Documents within 14 days of receiving Submittals or in accordance with the approved submittal schedule, or other period as mutually agreed by the A/E and the Contractor.

The A/E shall also review drawings, calculations, and designs required of Contractors and provided with such Submittals (except calculations and designs of manufacturers of original equipment and systems to be installed in the Project and except calculations and designs which the Contract Documents expressly make the sole responsibility of one or more Contractors, Subcontractors, Material Suppliers or other persons).

The A/E must act upon resubmission of corrected Submittals within 14 days of receiving them, or other period as mutually agreed by the A/E and the Contractor.

A Contractor must review and stamp “approved” all Submittals before forwarding them to the A/E. If it is apparent to the A/E that the Contractor has not reviewed the Submittals, or has conducted an incomplete review, the A/E may reject the Submittals.

The A/E may hold samples and other Submittals used to coordinate finishes, colors, patterns, textures, or other characteristics until Submittals for adjacent materials are available. The A/E must issue a written notice to the Contractor stating that its Submittal is being held, within 7 days of receiving it.

**OAKS Capital Improvements Procedure**

If the Project is administered using OAKS CI, the Contractor must attach scanned submittals, and the A/E will receive and forward submittals to its Consultants, and return reviewed submittals to the Contractor, using the Submittals business process.

Refer to Appendix C | Guide to OAKS CI and the associated Help File within OAKS CI for additional information.

**Traditional Paper-based Procedure**

If the Project is not administered using OAKS CI, the Contractor will submit, and the A/E will receive and forward submittals to its Consultants, and return reviewed submittals to the Contractor through traditional means as directed by the Contracting Authority.

**Coordination Drawings**

The purpose of HVAC Coordination Meetings is to identify areas of the project that require special attention (the “Coordination Areas”) and the need for a Coordination Drawing for any Coordination Area. The Contractor responsible for the HVAC system will schedule and conduct the coordination meetings.
Usually all Contractors play some role in developing the Coordination drawings, accordingly, the general, fire protection, mechanical and electrical trades must participate.

The Coordination Drawing process, in accordance with **GC 6.8** includes the following:

- The Contractor responsible for the HVAC system will prepare the preliminary coordination drawings, for each coordination area, showing all ductwork, equipment and HVAC pipe in plan and elevation.
- The Contractor responsible for the HVAC system will provide the preliminary Coordination Drawings to all Coordination Participants and the Prime Contractors for review and comment.
- Each Coordination Participant will use the Preliminary Coordination Drawings to develop drawings and illustrate work within each area.
- Each Coordination Participant marks the drawings illustrating the location of their work and returns its drawing to the Contractor responsible for the HVAC system.
- The Contractor responsible for the HVAC system will incorporate each participants’ work and meets with all the participants to coordinate and agree on the final details. The HVAC responsible for the HVAC system will prepares the final Coordination Drawings that all the participants approve and utilize to sequence and install work.
- The Contractor responsible for the HVAC system will forward copies of the Coordination Drawings for comment to the following:
  - OFCC
  - Owner
  - A/E and CM
  - Coordination Participants
  - Other Prime Contractors

### OAKS Capital Improvements Procedure

If the Project is administered using OAKS CI, the Contractor responsible for the HVAC system must attach the Coordination Drawings, and the A/E will receive and forward the Coordination Drawings to its Consultants using the **Submittals** business process.

- Discrepancies are to be reported, in writing, to the Contractor responsible for the HVAC system within 3 business days of receipt.
- The A/E reviews the final Coordination Drawings in accordance with the General Conditions. Concerns are to be reported to the Coordination Participants within 10 business days of receipt.

### As-Built Documents

Throughout the performance of Work the Contractor must mark-up or otherwise modify one set of drawings to keep an accurate record of all approved changes made to the Drawings, and show conditions encountered, materials used, and locations where installation varied from the Work as shown in the Contract Documents as issued for bidding. Markings must be made neatly and in a contrasting color. Such drawings must show the exact location and depth of underground utility lines and the location of other concealed components which could be useful to the Owner after occupancy.

In the preparation of such documents the Contractor must cross out text and graphics pertaining to any Alternates which were not accepted, or Work which was deleted by Addendum, Change Order or other cause and label the item “Alternate Not Accepted”, or “Deleted by Addendum No. x, item x”, “Changed by Change Order x, item x” respectively, or other appropriate notation.
The Contractor must tape the document or portion of the document which created the change over the changed or voided area of the drawing, tape the document onto a blank area of the drawing, and, if more than one area of the drawings is affected, must circle the other changed items and manually note the changes on the drawings and provide a note which directs the reader to the actual document which created the change, which is taped to the back of the preceding drawing in the set. Any taped item which covers text or graphics must be taped at the top edge only, to permit review of the deleted or modified item below.

The Contractor must annotate one copy of the Project Manual indicating As-built conditions, changes or deviations from the installation requirements. Where multiple materials or manufacturers are specified, the Contractor must highlight with colored marker the items actually incorporated into the project. Only the Specifications portion of the Project Manual need be so annotated or modified. (Changes to General Requirements may be omitted.)

Where inserted items have been cut from the original document, to permit tracking the origin of the change, the Contractor must mark it with revision mark. Use a unique symbol for each kind of change, such as triangle for Change Order, circle for RFI, square for Addendum, etc. Assign each item a number and mark it in the symbol. Item numbers for each kind of change must be sequential and start from “1” on each sheet or page. Each change on drawings must be logged in a Revision Table on the drawing which identifies its document of origin. (Create such a Table and tape to the sheet if space requires.) The source of each change on a specification page must be noted on the page changed.

Added documents must be inserted into the drawings and Project Manual by unbinding them, inserting the new documents the appropriate location, and rebinding.

During the performance of the Work the Contractor must incorporate, each month and prior to submission of its Contractor Payment Request, all approved changes and other relevant issues into the Drawings and in the Specifications. Failure to do so may cause payment to be withheld or delayed.

<table>
<thead>
<tr>
<th>OAKS Capital Improvements Procedure</th>
<th>Traditional Paper-based Procedure</th>
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<tr>
<td>If the Project is administered using OAKS CI, the Contractor must attach the As-built Drawings, and the A/E will receive and forward the As-built Drawings to its Consultants using the Submittals business process.</td>
<td>If the Project is not administered using OAKS CI, the Contractor will submit, and the A/E will receive and forward the As-built Drawings to its Consultants through traditional means as directed by the Contracting Authority.</td>
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380 | Claims & Disputes

This Section addresses the types of schedule impacts and processes for resolution that will be used to determine if the Contractor is entitled to either an extension of time, additional compensation or both. Many variables can affect the decisions and actions that are required when there is a project delay or dispute. The A/E or CM contacts the Project Manager to communicate a specific project issue(s) related to schedule impacts for assistance.

Types of Delays and Remedies

Owner Caused Delay
- Example: Failure to provide the project site as scheduled. Failure to manage the oversight of the Contractor’s project schedule or excessive design modifications.
- Remedy: Compensation and a time extension may be warranted.

Contractor Caused Delay
- Example: Failure to properly man or equip the project in accordance with agreed upon construction schedule.
- Remedy: No time extension or compensation is due from the Owner. The Contractors causing delays will be responsible to pay for a recovery schedule and remedies. Examples of such delays:
  - A manufacturer does not provide material or equipment in conformance with the schedule.
  - A Contractor performs work that does not comply with the Contract Documents and has to be removed and reconstructed.
  - A Contractor’s subcontractor, for any reason, fails to perform its work in conformance with schedule.
- In each of these cases, if the work of other Contractors is delayed, the Contractor responsible for the delay will be required to reimburse the other Contractors for the cost of overtime and reduced efficiency when their work is accelerated to make up for the time lost, pay the Scheduling Consultant and the Contractors for preparation for the recovery schedule, and pay any other costs to any of the parties involved in the project.
- Delays caused by the Contractor’s Subcontractor or Material Suppliers will be deemed to be delays within the control of the Contractor.

Other Delays
- Example: Labor strikes or unusually severe weather conditions which affect the critical path and which are not normally prevailing in the particular season.
- Remedy: A time extension only will be granted. If it is not possible due to Owner’s need to occupy, compensation may be paid for Contractor acceleration.

“No Damage for Delay” Clause

Concurrent delay involves one delay for which the Owner is responsible and another delay for which the Contractor is responsible. In such cases, the delay caused by the Owner is generally considered to be moot and the Contractor cannot collect damages from the Owner.

The A/E and CM are required to manage the project in a manner such that issues are identified and resolved promptly so that OFCC or the Owner do not delay the project.

Award of Separate Contracts

The Contractor acknowledges, by a certification on the Bid Form, that the award of separate contracts for the project will require sequential work, and work that is coordinated and interrelated which may create or involve
delays in the progress of the Contractor’s work. To minimize the delays that typically occur in the day-to-day activity of a project, the Contractor must:

- Complete work in a reasonable, efficient and economical sequence;
- Cooperate with other Contractors, Subcontractors and Material Suppliers; and
- Perform the work in the sequence and duration shown in the Construction Schedule.

Delays due to the interference between several Contractors and lack of coordination will have the sole remedy of providing a time extension to complete the work with no additional compensation by the Owner.

**Third Party Beneficiary**

A Contractor that enters into a contract with the State agrees to “third party beneficiary status” with the other Contractors on the project. The Contractor obtains the legal right to seek recovery from another Contractor who is responsible for any damages.

**Extension of Time with No Compensation**

A delay which entitles a Contractor to an extension of time but no monetary compensation is referred as “excusable.” The following causes may be deemed to be excusable and may be a basis to extend the completion date, with no additional compensation:

- Delay due to suspension of the work for which the Contractor is not responsible; unusually severe weather conditions not normally prevailing in the particular season; labor dispute; fire; flood;
- Neglect, delay or fault of any Contractor having a contract for adjoining work, or work in the same physical space as the Contractor.
- By any unforeseeable cause beyond the control and without fault or negligence of the Contractor.

Delays in completing a project are often the culmination of a number of events. The A/E and CM will facilitate and require compliance with the Construction Schedule in order to effectively manage the project and mitigate claims, especially those which result from protracted, unresolved issues which have consequential, often unforeseen impacts which can be particularly difficult and costly to resolve.

**Extension of time related to Change Orders**

The completion date will not be extended for changes in the work, unless the change impacts the current Critical Path of the Construction Schedule. A time extension is granted if a Change Order substantially increases the scope of work to any Contractor. A Change Order also extends the contract completion date only for those specific elements so delayed, with the remaining work to be completed by the original completion date(s). A Change Order may further provide for equitable adjustment of Statutory Delay Forfeiture (Liquidated Damages).

**Extension of Time Request**

The following steps outline the process for a Contractor to request a time extension:

- The Contractor must request an extension of time in writing to the A/E or CM within 10 days after the initial occurrence or condition that, in the Contractor’s opinion, requires additional time. The Contractor will be determined to have waived any right of claim for extension of time or for mitigation of liquidated damages if the Contractor does not provide timely and proper notice.
- The A/E and CM will review the request for damages due to any delay to the work.
- The A/E or CM will provide written recommendation to OFCC either denying or approving the request for an extension. A recommendation for approval will include a specific number of days for the extension that may be different from the number of days requested by the Contractor.
Failure to Comply with the Schedule

The A/E or CM will document conditions that may impact the completion date. The A/E or CM will review the circumstances and initiate reasonable efforts to enforce the Construction Schedule. Any directive issued by the A/E or CM to a Contractor to modify the pace of its work to comply with the schedule must be issued in writing.

The A/E or CM will issue written notice to any Contractor causing damage to another Contractor due to failure or neglect in their work. See GC 6.24 for the description of the requirements to backcharge a Contractor for failure to perform.

Acceleration

Acceleration of Work is the act of requiring Work to be performed prior to the approved schedule to accommodate or reflect any excusable delays (e.g., delays beyond the control and without fault of the Contractor). For example, unusually severe weather not normally prevailing in the particular season, or a strike during the project may cause a delay to the Schedule. The Owner or other Contractors may insist that the project still be completed in accordance with the schedule, in which case, the Contractor may make a claim for acceleration.

Under these circumstances, from the Contractor's point of view, the requirement to complete the work without an extension is equivalent to a Change Order to accelerate Work. When the situation is analyzed, if it is found that the Contractor submitted a proper request and was entitled to a time extension for excusable delay but was subsequently required to meet the original schedule, then the Contractor may be able to recover costs associated with the acceleration.

Dispute Resolution

Any claim against the State must be submitted no more than 10 days after the initial occurrence of the events that are the basis of the claim. These claims must be in writing and filed prior to Contract Completion to the A/E, CM, and OFCC. Failure of the Contractor to provide this information in a timely manner will constitute a waiver by the Contractor of any claim for additional compensation or for mitigation of liquidated damages.

The Contractor must provide a written claim with the following information as supporting documentation:

- Nature and amount of the claim;
- Identification of persons, entities and events responsible for the claim;
- Activities on the Construction Schedule affected by the claim or new activities created by any delay and the relationship with existing activities;
- Anticipated duration of any delay; and
- Action recommended avoiding or minimizing any future delay.

The Contractor must perform the work during any dispute resolution process, unless a written agreement otherwise is in place between the Contractor and OFCC. The Owner must continue to make payment in accordance with the contract documents pending final resolution of a claim.

The dispute is to be resolved by the parties indicated in the contract documents, within the applicable periods, as provided in Article 8 of the General Conditions. The process generally consists of an initial effort to resolve the dispute at the field level by the A/E or CM, in conjunction with the Project Manager and the Owner.

The Contractor may appeal claims not resolved at the field level to the Executive Director, for a final administrative decision on the merits of the claim. In the event that the Contractor is still not satisfied with the final administrative decision, the Contractor may then file a complaint in the Ohio Court of Claims.
Contract Termination

Only the Contracting Authority can suspend or terminate a Contractor's contract and contact the Contractor's surety. It is important for the A/E and the CM to recognize that OFCC requires accurate factual information in order to act upon a recommendation to suspend or terminate a contract.

The simplest form of default is abandonment. Abandonment also requires documentation and notification to the Contractor at the Contractor's last known address.

The Surety is responsible under the Bond to indemnify the State from any damages that may be incurred by failure of the Contractor to perform the work. It is important that the A/E and CM separately track any additional time they have spent resulting from a Contractor's failure to perform or subsequent default and provide written notification to OFCC of the Costs of Recovery.

For specific issues, the A/E and CM may obtain assistance and directions from OFCC. See Section 360 | Notices & Correspondence for additional information related to Contract Termination.
Closeout procedures are different for the various stakeholders of each project. This Section of the manual defines the responsibilities of the stakeholders and the approximate time required for completion of the task. The first stakeholder(s) to finish its part of the project is the Contractor(s). The closeout tasks of the remaining stakeholders are dependent on the completion and the closeout of the contractors.

The closeout task for the Contractors must be scheduled as part of the project construction schedule to allow all stakeholders to coordinate their closeout responsibilities.

The project as a whole is not technically complete until all of the stakeholders are completed with their closeout task responsibilities. Generally speaking, the closeout responsibilities for stakeholders are grouped into three closeout periods:

- **Construction Closeout Period (Included in the Contract Completion Period)**
- **Architect/Engineer Closeout Period** (See Section 410)
- **Owner Closeout Period** (See Section 420)

The Project Manager is responsible to manage and monitor all of the closeout periods to assure the completion of the project. The A/E and Owner Closeout Periods commence during the Construction Closeout Period, parallel the Contractor's Work, but are not completed until the Post-Construction Period.

**Construction Closeout Period**

The project construction schedule must identify the Contractor closeout tasks, and associated sequence and duration of those tasks for each individual Contractor.

The commencement of the Construction Closeout Period is early in the Construction Contract Period when the outline of Contractor shop drawing submittals is issued to the A/E.

- The Contractor submits to the A/E a list of all submittals required for shop drawing submittals, identifying the related specifications section, and urgency of review necessary to maintain the project construction schedule. This submittal will establish the format of the future final operation and maintenance manual required at the completion of the project.

- As shop drawings, samples, product information, manufacturer’s warranties, and MSD sheets are approved and returned, the contractor will incorporate these approved documents into the Operation & Maintenance Manuals (O&M Manuals) for final submittal at the completion of the project.

The Contract Completion Period commences after construction is complete and the Building Authorities approve the Project for occupancy.

The Construction Contract Period ends once the Contractor, A/E and CM, Owner and Project Manager sign the Certificate of Contract Completion form as “Complete” with no work remaining to be performed.

Before the Contractor requests and Building Authorities perform the life safety inspection the Contractor must complete all construction and following tasks (see Figure 310.T.1):

- The completion of the Contractor’s Punch list including self-performed work and sub-contractor’s work
- Submission of the balancing report
- The Contractor’s equipment start-up and preliminary equipment test (shake-down period)
- Project Cleaning
After the Building Authority has approved the project for occupancy, the Contractor may consider the Contractor's punch list to be complete and may request the Final Inspection by the A/E and Owner. The Contractor shall do so in writing to the A/E on the Contractor's letterhead, stating that the Contractor's punch list has been completed, that the Contractor certifies that the construction is complete, and that the Contractor accepts responsibility for any costs which are incurred by the A/E or others as a result of the construction not actually being complete.

**Contract Closeout Period**

- The "Contract Completion Period" is comprised of the tasks required to complete the Contractor's deliverables beyond the actual construction portion of the contract. (See Figure 390.1) The first task is the completion of the Contractor's Punch List. The last task is typically the approval of the Certification of Contract Completion as Final.
Contractor's Punch List

- The Contractor, prior to request for final A/E inspection, must prepare the Contractor’s Punch List identifying all non-compliant items remaining on the work. The Contractor must proceed to correct the non-compliant items and certify that the incomplete items on the Contractor's Punch List are an accurate and complete list before submitting a request for final inspection to the A/E or CM. The Contractor will provide a copy of the non-compliant items with the proposed steps of action to correct or complete to the A/E or CM. This represents the start of the Contract Completion Period.

The A/E's Review of the Work includes the following:

- The A/E and CM receive and accept, as legitimate, the final inspection request from the Contractor.
- The A/E and CM conduct the final inspection with the Contractor, the Project Manager and the Owner.
- Within 3 days, the A/E notifies the Contractor of any items remaining in a deficient or unacceptable condition. This is called the A/E’s Punch List.
- The Contractor must complete and correct all items on the A/E’s Punch List by the date indicated by the A/E and before the Contract Completion Date:
  - Work on the A/E’s Punch List not completed by the designated date is subject to appropriate resolution of the issue. The A/E, the CM, OFCC, and the Owner shall review for approval a time extension and damages to the Owner.
  - The A/E or CM may issue a 72-hour Notice according to Article 5.3 of the General Conditions. Work which remains incomplete after a 72-hour Notice, may be completed by another Contractor with the cost of the work deducted from the Contractor’s Contract.
  - A/E Punch List items are to be completed to satisfaction of the A/E, the CM, OFCC and the Owner.
  - The Demonstration Period for Equipment and Systems is performed after the Contractor’s request for the Final Punch List. Punch List items from the Demonstration period are considered part of the A/E’s Final Punch List.
Operation & Maintenance Manuals and Equipment Demonstration

The Contractor must deliver Operation & Maintenance (O&M) Manuals to the Owner prior to the demonstration period and the Owner will review them before demonstration and training is performed.

The Contractor must schedule and manage the equipment startup demonstration as follows:

- Verify with all the appropriate parties that the equipment is ready for use in the demonstration and start-up activities.
- Schedule the date or dates with all appropriate parties. (e.g., A/E, Owner’s personnel, Contractor, and manufacturer demonstrator/trainers)
- The A/E or the A/E’s sub-consultant and a representative of the Owner must witness the demonstration.
- Major equipment shall be verified as operating properly before it will be accepted. Prior to completion of construction the A/E will issue a list of equipment which is subject to the Performance Period.
- Evaluation of equipment during the Performance Period will be conducted as follows:
  - The Performance Period begins on the date the equipment is placed in service and ends when the equipment has operated properly for a period of 30 consecutive days. A determination of proper operation will be made, when, in the opinion of the A/E, the equipment has performed fully and properly, as designed, and in conformance with the manufacturer’s specifications as reflected in approved submittals or in the manufacturer’s literature, which is included in the Operation Manual submitted by the Contractor, for a period of 30 consecutive days.
  - In the event the equipment does not perform properly during the initial 30 consecutive days, the Performance Period will be extended on a day-by-day basis until the equipment has performed properly for a total of 30 consecutive days. A separate Performance Period will be observed for any replacement equipment, and for equipment, which is added or field-modified after having completed a successful Performance Period.
  - If the equipment fails to operate properly after 90 calendar days from the date indicated in item a), OFCC may require that the Contractor replace the equipment or take other corrective actions. The Contractor must reimburse the A/E for the A/E's expenses resulting from the improper performance.
  - All equipment proposed will be new, not reconditioned or refurbished. All equipment will be at the latest engineering change level (deliverable) as offered by the original manufacturer.
  - The A/E will complete and forward the Certificate of Equipment Demonstration to the Owner.
  - The A/E will also send a letter of transmittal with copies of the certificates to OFCC, before the Contractor’s final Payment Request will be processed.

OAKS Capital Improvements Procedure

The A/E must issue the Certification of Equipment Demonstration through the Closeout - Contractor business process.

Refer to Appendix C | Guide to OAKS CI and the associated Help File for additional information.

Traditional Paper-based Procedure

If the Project is not administered using OAKS CI, the A/E will issue the Certification of Equipment Demonstration on the Certification of Equipment Demonstration form (F320-03).

This form is available on OFCC website at http://ofcc.ohio.gov, then click on “Documents.”

The Owner will review the O&M Manuals prior to participating in demonstration and training.

Extra Materials

The Contractor will deliver the “extra materials” after the final Punch List Work is completed by the Contractor and accepted by the A/E. The Owner will designate where the extra materials are to be received. The
Contractor will transmit a copy of a transmittal of items, quantity, location and person receiving the extra materials.

Original Documents / As-Built Documents

The Contractor will transmit the original plan approval drawing and specifications with the Building Authority's stamps to the A/E as part of the deliverables at the Contract Completion Period. Other deliverables that the Contractor transmits to the A/E are:

- Copies of the Building Authority's signed approval form or card
- Operation & Maintenance Manuals (deliver prior to the Equipment Demonstration & Training)
- Applicable Certifications, which may include:
  - Certification of elevator inspection & approval
  - Certification of pressure piping
  - Certificate of Piping Purification
  - Certificate of Boiler Inspection
  - Certification of Warranty Commencement (F390-02)
  - Certification of Equipment Demonstration (F390-03)
- Contractor's set of "As-Built" Documents
  - The "As-built" set of documents is a record of formal change orders as well as incidental modifications required to construct the facility.

Completing the As-Built Documents

- The Contractor must complete the annotation and modification of the As-Built Documents as required by GC 6.24. In doing so, the Contractor may discard drawing sheets voided in their entirety by Addendum or Change Order, insert drawing sheets added by Addendum or Change Order, assemble the As-Built Documents into manageable bound sets.
- If Addenda, Change Orders, or other changes to the Contract Documents issued during bidding or construction are too voluminous to be transcribed on or physically incorporated into the Record Drawings or Record Specifications, the Contractor must provide bound copies of such documents divided into sets or binders corresponding to those of the As-Built Drawings and As-Built Specifications. Documents in an 8-1/2 x 11 inch or similar format must be professionally bound or placed in 3-ring binders with major sections separated by labeled and tabbed dividers which are identified in a Table of Contents, and individual documents or small groups of documents separated by neatly labeled colored divider pages. All such documents must be clearly referenced by notation on the As-Built Drawings and As-Built Specifications where appropriate and the reader must be directed to the location of the referenced information.
- Addenda, Change Orders, or other changes to the Contract Documents issued during bidding or construction, which did not involve changes to the Drawings or the Specifications must be assembled and included in the As-Built Documents, and may be assembled and bound with those documents which did change the Drawings and Specifications, or may be assembled and bound separately, as the content and format of the documents warrants, and as the Contractor sees fit. To avoid duplication of effort, unless otherwise specified in the Supplementary Conditions, the responsibility for assembling such documents lie solely with the Lead Contractor of Construction Manager if applicable.
- Except for Project Manuals bound in their original covers, the Contractor must neatly mark the front of the sets or binders, in black ink, with the name of the project, project number, and the contents of the set or binder. Binders must be labeled on the front and the spine.
The Contractor must certify the accuracy of the revisions by indicating the Contractor’s company name, and providing an authorized signature and date of submission on each cover sheet and on the original cover of each volume of the Project Manual.

Prior to the completion of the Work, the Contractor must deliver the Completed As-Built Documents to the A/E through the Construction Manager. The Construction Manager will review the Completed As-Built Documents and verify that, to the best of the Construction Manager’s knowledge based upon the Construction Manager’s observations during the progress of the Work, that the Completed As-Built Drawings detail the actual construction of the Project and are assembled is such a way as to be durable and convenient for use by the Owner. When the review is complete the A/E or the Construction Manager will deliver the As-Built Documents to the Owner. Before releasing the As-Built Documents, the A/E will use the documents in preparation of the Record Documents.

The Owner may thereafter use the Completed As-Built Documents for any purpose relating to the Project including completion of, renovation of, or additions to the Project.

- Contractor’s Notice to the A/E that all final punch items are completed. (See Section 390)
- Payment Release Affidavit (F390-04)
- Certified Payroll Report (F330-03)
- Final Payment Request (See Section 390)
- Maintenance Bond (Optional)
- Final report and certification of EDGE participation.

Final Payment

The Contractor sends the “final” Contractor Payment Request form to the A/E, which is 100 percent of the contract amount when the project is complete (including the punch list items). The Contractor also sends the A/E a separate Payment Request form for its retainage in escrow. The A/E will review and forward the approved requests to OFCC for processing.

The Contractor sends an Affidavit with both billings. The A/E prepares the Contract Completion Certificate, which must be signed by the Contractor, A/E and Owner. The Project Coordinator processes the payment of all monies due the Contractor, once a FINAL Contract Completion Certificate is approved by all parties.

The Program Manager signs the Contractor’s final application for payment. The Project Coordinator processes the payment and transmits it to the Owner for its processing and approval for payment.

OFCC does not support the partial release of retainage unless the Contractor is not the cause of the delay in completion, the completed work is available for use by the Owner, the amount of retainage is substantial, and the amount of time until the Contract will be complete is so long that it would be an unreasonable hardship on the Contractor for OFCC to continue to hold the entire retainage amount until completion. Partial release of retainage is subject to approval by the A/E, the CM, and the Project Manager.

Retainage held in escrow is not intended to be held after corrections on punch list work has been completed. The A/E will not approve payment for work not completed and accepted in place as completed. Money will be held for independent line items to complete punch list items. 100 percent payment of a line item implies that the A/E is accepting the line item by the with all punch list items completed. Work found to be defective must be replaced at the Contractor’s cost. Payment of retainage for work which is concealed and for which no later inspections will be made, such as foundations or buried utilities may be made when the work is covered.

Final payment requests must include the following:

- Contractor’s Payment Request form
- Certified Payroll Reports for the period since the previous Payment Request
- Certification of Contract Completion
Affidavit of Contractor and Waiver of Lien

Final Report and Certification of EDGE Participation

- With or prior to submitting its Request for Final Payment, the Contractor must provide on its letterhead, to OFCC, through the A/E and the CM, one original Final Report and Certification of EDGE Participation that provides an accounting of the Contractor's expenditures to each EDGE-certified business, including the Contractor's business if applicable, for the contract. Include a substantiating certification, which may be on the same document, signed by each applicable EDGE-certified business for the contract. Additionally, provide one identical original of the report directly to the Equal Opportunity Division.

- At the Contractor's option, the Final Report and Certification related to each EDGE business participant may be prepared and submitted at any time after the EDGE business has completed its required obligation and has been paid by the Contractor.

The accounting must indicate the expenditures both in dollars and in a percentage of the total construction contract. If the Contractor expends a lesser percentage to EDGE-certified firms than the advertised EDGE participation goal or the allowed percentage amount approved for the contract as provided by successful Demonstration of Good Faith, the Contractor must submit a reconciliation document to OFCC detailing the difference between the advertised EDGE participation goal and the actual percentage of the construction project amount expended with EDGE-certified firms and must submit its explanation of why the EDGE participation was not achieved. OFCC must review the EDGE reconciliation document and include the document in the Contractor's permanent evaluation file.

OFCC will include a Contractor's EDGE participation performance in the final evaluation of the Contractor. The evaluation and all EDGE reconciliation documents will become part of the permanent Contractor performance evaluation file.

OFCC and any interested party may consider the Contractor's conduct and performance concerning EDGE, in any future evaluation of the Contractor's qualifications for subsequent projects.

Certification of Contract Completion

Certification of Contract Completion as "Final": The Certification of Contract Completion (CCC) is considered "Final" when there are no remaining contract obligations for the Contractor. The A/E drafts the CCC, as "Final" and obtains certification from the Contractor, and approval from the Construction Manager, OFCC, and Owner.

- If the Owner elects to occupy the project prior to 100 percent of the Work being complete the A/E may issue a CCC as "Partial", and list the incomplete work or documents that the Contractor has not delivered or completed. This list must state the anticipated completion date for each item individually.

- All Work must be completed before the Contract Completion Date. Time extensions to complete work beyond the Contract Completion Date are subject to the standard liquidated damage clauses from the General Conditions.

**OAKS Capital Improvements Procedure**

The A/E must process the Certification of Contract Completion through the Closeout - Contractor business process.

**Traditional Paper-based Procedure**

If the Project is not administered using OAKS CI, the A/E will issue the Certification of Contract Completion on the Certification of Contract Completion form (F390-01).

Certification of Contract Completion as "Partial:" A partial CCC is only issued when the Owner elects to occupy areas of the project prior to the completion of the Contractor's Work. A Partial CCC does not exempt the Contractor from the completing the work within the Contract Completion Date.
- The CCC is considered Partial when there are outstanding contract obligations for the contractor to complete. Outstanding Work may include construction work, closeout materials, demonstrations and training, commissioning, or warranty deliverables.

- If the Owner occupies a portion of the project while substantial portions remain uncompleted, as in a multi-phase project, the date of partial completion for each area so occupied will serve as the Warranty Commencement date for that area.

- If the Owner requires occupancy of a portion of the project contrary or additional to what was included in the contract documents, prior to Contract Completion, the A/E or CM will initiate the procedures to process a CCC. The area of Partial Occupancy requested must be approved for Temporary Occupancy by the Division of Industrial Compliance of the Ohio Department of Commerce.

- The following steps will occur in order to process Partial Occupancy Requirements by the Owner:
  - The area must be approved for Temporary Occupancy by the Division of Industrial Compliance of the Ohio Department of Commerce.
  - The Contractor will prepare a Contractor’s Punch List remaining on the work in the Partial Occupancy area. (Correct items now or later?)
  - The A/E, the CM, the Project Manager, the Owner and the Contractor will inspect the Partial Occupancy area for conditions satisfactory for occupancy.
  - The A/E and CM will process the Certification of Contract Completion including all required signatures and forward it to OFCC.
  - OFCC approves the CCC and returns the executed copies to the A/E, the CM and the Project Manager.

- The Owner will be responsible for costs related to occupying the Partial Occupancy area.

- The Contractor must complete all Punch List items and continue to carry the required insurance during the performance of Punch List work. The final acceptance of the work or Contract Completion is dependent on the Contractor completing the Punch List, in addition to satisfying all other conditions of the Contract.

- Note: The CCC may be used to acknowledge acceptance and occupancy of a substantial portion of a project before Contract Completion, not to document lesser events. When the objective is to initiate the guarantee period on a piece of equipment or other product only, the appropriate procedure is to initiate a Certification of Warranty Commencement. Otherwise, the date of the Executive Director’s signature on the CCC will be the effective date for any guarantee on equipment listed on the CCC or otherwise included in the occupied area.

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<tr>
<th>OAKS Capital Improvements Procedure</th>
<th>Traditional Paper-based Procedure</th>
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<tr>
<td>The A/E must process the Certification of Warranty Commencement through the Closeout - Contractor business process.</td>
<td>If the Project is not administered using OAKS CI, the A/E will issue the Certification of Warranty Commencement on the Certification of Warranty Commencement form (F390-02).</td>
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