



مستندسازی تاخیرات و تمدید مدت؛

از متن قرارداد تا دفاع حرفه‌ای

ارائه دهنده:

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CMAA Authorized Trainer

(PhD, PMP, CMIT)

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Agenda

- ☐ Your responsibility
- ☐ Relief
- ☐ PBS policy and advantages to you
- ☐ Contract changes
- ☐ Equitable adjustment
- ☐ Differing site conditions or changed conditions
- ☐ Excusable delays (other than the foregoing)



About me

- ❑ Founder and CEO of Alavipour Construction Engineering and Management Institute (**ACEMI**)
- ❑ Vice Chairman of the Board at **Ofoq Negar**
- ❑ Board Member at **Paran Beton**
- ❑ PhD in Construction Engineering and Management (**Illinois Tech**)
- ❑ **CMAA Authorized Trainer**
- ❑ Former Research Assistant (Professor **David Arditi**)
- ❑ Former Teaching Assistant (Professor **Raymond Lemming**)
- ❑ Former Research Associates of Construction Management Association of America (**CMAA**)
- ❑ Former Research Associates of Management Practices in Construction Industry (**MPIC**) of American Society of Civil Engineers (**ASCE**)
- ❑ Project Management Professional (**PMP**)
- ❑ Construction Manager in Training (**CMIT**)
- ❑ **Author** of 1st Construction Management Standard (Written in Farsi)
- ❑ **Translation** of 2nd **SCL Delay and Disruption Protocol** (Translated in Farsi)
- ❑ Researcher, Reviewer of international publications, Instructor and Consultant for more than 16 years
- ❑ **Outstanding Reviewers** selected by the editor of COENG (ASCE) Journal (2021)
- ❑ **Outstanding Reviewers** selected by the editor of Journal of Procurement for 2022 (ASCE) Journal (2021)
- ❑ The member of **International Construction Law Conference Committee** (2020 & 2022)
- ❑ The referee of **1st National Construction Law Competition** (2022)





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Name	Organization	City	State
M. Hosney Abdelgelil	AECOM	Houston	TX
David Ahern, CCM	Orange County Public Works	Santa Ana	CA
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S. M. Reza Alavipour, Ph.D., CMIT	Alavipour Construction Engineering and Management Institute (ACEMI)	Tehran	Iran
Mohammed Aljuboori, CCM	Hill International, Inc.	Haverhill	MA
Kimberly Armstrong	Naval Facilities Engineering Systems Command NAVFAC	Washington	DC
John Arrabito, PE, CCM	Port Authority of NY & NJ	Brooklyn	NY



About me





About me



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References



References

INSTRUCTIONS TO CONTRACTORS (Construction Contract)

Data Required to Substantiate Equitable Adjustments of Time and Time Extension

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Your Responsibility



Your responsibility

- ☐ You have **contractually undertaken** to complete the work within the **period of time specified**.
- ☐ You are expected to plan the work, order materials, employ labor and coordinate all details to ensure completion **within that period**.
- ☐ Remember, too, that because **you alone are committed** to the Government for completion of the work within the allotted time,
you are **responsible for timely** performance by suppliers and subcontractors.

مسئولیت در نشریه ۴۳۱۱

□ نشریه ۴۳۱۱

❖ ماده ۱۸- مسئولیت حسن اجرای کار، برنامه کار، گزارش پیشرفت کار، هماهنگی با پیمانکاران دیگر، رئیس کارگاه

۱۸-د)

پیمانکار متعهد است که هماهنگی لازم با دیگر پیمانکاران یا گروه‌های اجرایی متعلق به کارفرما، که به نحوی با موضوع قرارداد مرتبط هستند، به عمل آورد. برنامه‌ریزی چگونگی این هماهنگی توسط مهندس مشاور به پیمانکار ابلاغ می‌شود.

Relief

❑ In the event you **fail to diligently prosecute** the work or complete the work within the **time specified**

you are subject to **termination of your right** to proceed with the work for **default** and/or the **assessment of damages**

as provided in Clause 2 of Standard Form 19 or Clause 5 of Standard Form 23-A, one of which is incorporated in the contract.

Current Equivalents

In modern federal contracts (as of 2026), these specific clauses have been replaced by standard FAR clauses:

- **For SF 19 Clause 2 (Changes):** See FAR 52.243-4, Changes.
- **For SF 23-A Clause 5 (Default/Excusable Delay):** See FAR 52.249-10, Default (Fixed-Price Construction).

فسخ در نشریه ۴۳۱۱

□ نشریه ۴۳۱۱

ماده ۴۶- موارد فسخ پیمان

(۴۶-الف-۴)

تأخیر در شروع عملیات موضوع پیمان، بیش از یک دهم مدت اولیه پیمان یا دو ماه هر کدام که کمتر است.

(۴۶-الف-۵)

تأخیر در اتمام هر یک از کارهای پیش‌بینی شده در برنامه زمانی تفصیلی، بیش از نصف مدت تعیین شده برای آن کار با توجه به ماده ۳۰.

(۴۶-الف-۶)

تأخیر در اتمام کار به مدت بیش از یک چهارم مدت پیمان با توجه به ماده ۳۰.

ماده ۵۰ – هزینه تسریع کار، خسارت تأخیر کار

(۵۰-ب)

در پایان کار، در صورتیکه مدت انجام کار، بیش از مدت اولیه پیمان به علاوه مدتهای تمدید شده پیمان باشد، مهندس مشاور با رعایت ماده ۳۰ و رسیدگی به دلایل پیمانکار، مدت تأخیر غیرمجاز پیمانکار را تعیین می‌کند، تا پس از تصویب کارفرما، به شرح زیر، ملاک محاسبه خسارت تأخیر قرار گیرد.

52.243-4 Changes.

As prescribed in [43.205\(d\)](#), insert the following clause: The 30-day period may be varied according to agency procedures.

CHANGES (JUNE 2007)

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes-

- (1) In the specifications (including drawings and designs);
- (2) In the method or manner of performance of the work;
- (3) In the Government-furnished property or services; or
- (4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contracting Officer written notice stating-

- (1) The date, circumstances, and source of the order; and
- (2) That the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) of this clause.

(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

(End of clause)

52.249-10 Default (Fixed-Price Construction).

As prescribed in [49.504\(c\)\(1\)](#), insert the following clause:

DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984)

(a) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if-

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include-

- (i) Acts of God or of the public enemy,
- (ii) Acts of the Government in either its sovereign or contractual capacity,
- (iii) Acts of another Contractor in the performance of a contract with the Government,
- (iv) Fires,
- (v) Floods,
- (vi) Epidemics,
- (vii) Quarantine restrictions,
- (viii) Strikes,
- (ix) Freight embargoes,
- (x) Unusually severe weather, or

(xi) Delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Government.

(d) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

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- ❑ However, both Clause 2 and Clause 5 provide that your **right to proceed**
 - 1. shall **not be terminated**
 - 2. **nor shall you be charged** with damages
- if delay in completion of the work arises from **unforeseeable causes**
- 1. beyond the control and
 - 2. without the fault or negligence of you, your subcontractors or your suppliers regardless of tier.

- ☐ In the event you are **delayed for any reason** which you believe entitles you to an extension of time as provided within the contract documents, you should submit a **timely request** in writing to the **Contracting Officer**.

PBS Policy and Advantages to You



PBS policy and advantages to you

- ❑ It is the **policy of PBS** to consider all requests or claims for additional time
 1. at the time, or
 2. promptly after, the delay occurs.
- ❖ **Prompt time adjustment** makes it easier for you to **schedule remaining work** within the remaining time as thus extended.
- ❖ It will be in your **own best interest** to furnish as much detailed, factual information as you can to **facilitate** and **expedite** the contracting officer's action on **determination** of the additional time to which you may be entitled.
- ❑ It will also be advantageous to **comply as fully** as possible with the suggestions outlined herein.

Contract Changes



Contract Changes

❑ If you **believe** that you will need **additional time** in order to perform work required by **any change order** under the provisions of the Changes clause, of Standard Form 23-A or the Changes and Changed Conditions clause of Standard Form 19,

your claim for **equitable adjustment** should be accompanied by

1. a **statement** listing those **portions of the work affected** by the change order,
2. the **overall effect** on the project,
3. the **man-hours** added,
4. the dates on which **affected work** was **performed**, and
5. any **additional data** which will aid the contracting officer to reach a prompt determination on the **equitable adjustment** of time.



Contract Changes

- ☐ To be entitled to an extension of time for a **contract change** you **must demonstrate** that the change will **delay the completion** of the contract in its entirety.



Contract Changes



52.243-4 Changes.

As prescribed in [43.205\(d\)](#), insert the following clause: The 30-day period may be varied according to agency procedures.

CHANGES (JUNE 2007)

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes-

- (1) In the specifications (including drawings and designs);
- (2) In the method or manner of performance of the work;
- (3) In the Government-furnished property or services; or
- (4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contracting Officer written notice stating-

- (1) The date, circumstances, and source of the order; and
- (2) That the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) of this clause.

(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

(End of clause)

Equitable Adjustment



Equitable adjustment

(a) This clause governs the determination of **equitable adjustments** to which the Contractor may be entitled under

- ❖ the “Changes” clause prescribed by FAR 52.243-4,
- ❖ the “Changes and Changed Conditions” clause prescribed by FAR 52.243-5,
- ❖ the “Differing Site Conditions” clause prescribed by FAR 52.236-2, and
- ❖ any other provision of this contract allowing entitlement to an equitable adjustment.

This clause does not govern determination of the Contractor's relief allowable under the “Suspension of Work” clause prescribed by FAR 52.242-14.

Equitable adjustment

(b) At the **written request** of the Contracting Officer, the Contractor shall submit a **proposal**, in accordance with the **requirements** set forth herein, for an **equitable adjustment** to the contract for changes or other conditions that may entitle a Contractor to an equitable adjustment.

❖ If the Contractor **deems** an **oral or written order** to be a change to the contract,

it shall **promptly submit** to the **Contracting Officer** a **proposal** for equitable adjustment attributable to **such deemed change**.

The proposal shall also conform to the requirements set forth herein.



Equitable adjustment

(c) The **proposal** shall be submitted within the time specified in the “Changes”,
“Changes and Changed Conditions”, or
“Differing Site Conditions” clause,
as applicable, or
such other time as may reasonably be required by the Contracting Officer.



Equitable adjustment

(d) **Proposals** for equitable adjustments, including no cost requests for adjustment of the contract's required completion date, shall include a **detailed breakdown** of the following elements, as applicable:

- (1) Direct Costs.
- (2) Markups.
- (3) Change to the time for completion specified in the contract



Equitable adjustment

(e) Direct Costs.

- ❖ The **Contractor** shall **separately identify**
 - ❖ each item of deleted and added work associated with
 1. the change or
 2. other conditiongiving rise to entitlement to an equitable adjustment,
 - 3. including increases or decreases to **unchanged work** impacted by the change.
- ❖ For each item of work so identified, the Contractor shall propose for itself and, if applicable, its **first two tiers** of subcontractors, the following direct costs:



Equitable adjustment

(1) Material cost

❖ broken down by

- I. trade,
- II. supplier,
- III. material description,
- IV. quantity of material units, and
- V. unit cost

(including

- all manufacturing burden associated with material fabrication and
- cost of delivery to site,

unless separately itemized);



Equitable adjustment

(2) Labor cost

- ❖ broken down by
 - ❖ trade,
 - ❖ employer,
 - ❖ occupation,
 - ❖ quantity of labor hours, and
 - ❖ burdened hourly labor rate,
 - ❖ together with **itemization of applied labor burdens**
(**exclusive** of
 - employer's overhead,
 - profit, and
 - any labor cost burdens carried in employer's overhead rate);



Equitable adjustment

(3) Cost of equipment

required to perform the work, identified with material to be placed or



Equitable adjustment

(4) Cost of preparation and/or revision to

shop drawings and other submittals with
detail set forth in paragraphs (e)(1) and (e)(2) of this clause;



Equitable adjustment

- (5) **Delivery costs**, if not included in material unit costs;
- (6) **Time-related costs**
 - i. **not separately** identified as direct costs, and
 - ii. **not included** in the Contractor's or subcontractors' overhead rates, as specified in paragraph (g) of this clause; and
- (7) **Other direct costs.**



Equitable adjustment

(f) **Marked-up costs** of subcontractors **below the second tier** may be treated as **other direct costs** of a **second tier subcontractor**,
unless the Contracting Officer requires a detailed breakdown under paragraph (i) of this clause.



Equitable adjustment

(g) Extensions of Time and Time-related Costs.

❖ The Contractor shall propose

- i. a **daily rate** for each **firm's time-related costs** during the affected period, and, for each firm,
- ii. the **increase** or **decrease** in the **number of work days** of performance **attributable to**
 - a) **the** change or
 - b) other condition giving rise to entitlement to an equitable adjustment,
- iii. with **supporting analysis**.

Entitlement to time and timerelated costs shall be determined as follows:



Equitable adjustment

(1) Increases or decreases to a firm's time-related costs shall be **allowed only** if such increase or decrease necessarily and **exclusively** results from **the change or other condition** giving rise to entitlement to an equitable adjustment.



Equitable adjustment

(2) The Contractor shall **not be entitled** to an extension of time or recovery of its own time-related costs

except to the extent that **such change or other condition** necessarily and exclusively **causes** its duration of performance

to **extend beyond** the completion date specified in the contract.



Equitable adjustment

(3) **Costs** may be characterized as **time-related costs** only

1. if they are **incurred solely** to support performance of this contract and
2. the increase or decrease in such costs is **solely dependent** upon the duration of a firm's performance of work.



Equitable adjustment

(4) Costs may **not be characterized** as time-related costs if they are included in the **calculation of a firm's overhead rate**.



Equitable adjustment

(5) Equitable adjustment of time and time-related costs

shall **not be allowed** unless

1. the analysis supporting the proposal
2. complies with **provisions specified elsewhere** in this contract
3. regarding the **Contractor's project schedule**.



Equitable adjustment

(h) Markups.

For each firm whose **direct costs** are **separately identified** in the proposal, the Contractor shall propose an overhead rate, profit rate, and where applicable, a bond rate and insurance rate.

Markups shall be determined and applied as follows:



Equitable adjustment

- (1) **Overhead** rates shall be **negotiated**, and may be subject to audit and adjustment.
- (2) **Profit** rates shall be negotiated, but shall not exceed ten percent, **unless** entitlement to a higher rate of profit may be **demonstrated**.
- (3) The Contractor and its **subcontractor[s]** shall **not** be allowed overhead or profit on the overhead or profit received by a subcontractor,
except to the extent that the subcontractor's costs are properly **included in other direct costs** as specified in paragraph (f) of this clause.



Equitable adjustment

(4) Overhead rates shall be **applied to the direct costs** of work performed by a firm, and

shall **not be allowed** on the **direct costs of work performed** by a **subcontractor to that firm** at any tier

except as set forth below in paragraphs **(h)(6) and (h)(7)** of this clause.



Equitable adjustment

(5) **Profit rates** shall be applied to the sum of a **firm's direct costs** and the **overhead** allowed on the direct costs of work performed by that firm.

(6) **Overhead** and **profit** shall be allowed on the **direct costs of work performed** by a **subcontractor** within two tiers of a firm

at **rates equal to only fifty percent** of the overhead and profit rates **negotiated** pursuant to paragraphs (h)(1) and (h)(2) of this clause for that firm,

but **not in excess** of ten percent when combined.



Equitable adjustment

(7) Overhead and profit shall **not be allowed** on the direct costs of a subcontractor **more than two tiers**

below the firm claiming overhead and profit for subcontractor direct costs.



Equitable adjustment

(8) If changes to a Contractor's or subcontractor's **bond or insurance premiums** are computed as a **percentage of the gross change** in contract value,

markups for bond and insurance shall be applied after all overhead and profit is applied.

☐ Bond and insurance rates **shall not be applied** if the associated costs are **included in the calculation** of a firm's overhead rate.



Equitable adjustment

(9) **No markup** shall be applied to a **firm's costs other than** those specified herein.



Equitable adjustment

(i) At the **request of the Contracting Officer**, the Contractor shall provide **such other information** as may be reasonably necessary to allow evaluation of the proposal.

❖ If the **proposal** includes significant costs incurred by a **subcontractor** below the second tier,

the **Contracting Officer** may require the **same detail** for those costs as **required for the first two tiers** of subcontractors, and **markups shall be applied** to these subcontractor costs in accordance with paragraph (h).



Equitable adjustment

(j) Proposal Preparation Costs.

- ❖ If **performed** by the firm claiming them, **proposal preparations costs** shall be included in the labor hours proposed as **direct costs**.
- ❖ If performed by an outside consultant or law firm, **proposal preparation costs** shall be treated as other direct costs to the firm incurring them.

Requests for proposal preparation costs shall include the following:



Equitable adjustment

- (1) A copy of the contract or other documentation identifying the **consultant or firm**,
the **scope** of the services performed,
the manner in which the consultant or firm was to be **compensated**, and
if **compensation was paid** on an hourly basis, the **fully burdened** and **marked-up hourly rates** for the services provided.



Equitable adjustment

(2) If **compensation was paid** on an hourly basis,

documentation of the **quantity of hours worked**, including

1. descriptions of the activities for which the hours were billed, and
2. applicable rates.



Equitable adjustment

(3) Written proof of payment of the costs requested.

- ❖ The **sufficiency of the proof** shall be determined by the **Contracting Officer**.



Equitable adjustment

(k) Proposal preparation costs shall be allowed only if—

- (1) The nature and complexity of the change or other condition giving rise to entitlement to an equitable adjustment warrants estimating, scheduling, or other effort not reasonably foreseeable at the time of contract award;
- (2) Proposed costs are not included in a firm's time-related costs or overhead rate; and
- (3) Proposed costs were incurred prior to a Contracting Officer's unilateral determination of an equitable adjustment under the conditions set forth in paragraph (o), or were incurred prior to the time the request for equitable adjustment otherwise became a matter in dispute.

Read it Yourself



Equitable adjustment

(m) If the **Contracting Officer** determines that it is in the **Government's interest** that the Contractor proceed with a change before negotiation of an equitable adjustment is **completed**,

the **Contracting Officer may order** the Contractor to proceed on the basis of a unilateral modification to the contract **increasing or decreasing** the contract price by an amount to be **determined later**.

❖ Such increase or decrease shall **not exceed** the increase or decrease proposed by the Contractor.



Equitable adjustment

(n) If the **parties cannot agree** to an equitable adjustment, the **Contracting Officer** may determine the equitable adjustment **unilaterally**.



Equitable adjustment

(o) The **Contractor** shall **not be entitled** to any **proposal preparation costs** incurred

subsequent to the date of

1. a unilateral determination or
2. denial of the request

if the Contracting Officer issues a unilateral determination or denial under any of the following circumstances:



Equitable adjustment

- (1) The **Contractor** fails to submit a proposal **within the time required** by this contract or such time as may **reasonably** be required by the Contracting Officer.
- (2) The **Contractor** fails to submit additional information requested by the Contracting Officer **within the time reasonably required**.
- (3) **Agreement** to an equitable adjustment **cannot** be reached within 60 days of
 - a) submission of the Contractor's proposal or
 - b) receipt of additional requested information,despite the Contracting Officer's diligent efforts to negotiate the equitable adjustment.

Differing Site Conditions or Changed Conditions



Differing site conditions or changed conditions

52.236-2 Differing Site Conditions.

As prescribed in [36.502](#) , insert the following clause:

DIFFERING SITE CONDITIONS (APR 1984)

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of-

(1) Subsurface or latent physical conditions at the site which differ materially from those indicated in this contract; or

(2) Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

(b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; *provided*, that the time prescribed in paragraph (a) of this clause for giving written notice may be extended by the Contracting Officer.

(d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

(End of clause)



Differing site conditions or changed conditions

❑ If you encounter

1. **differing site conditions** (as described in the Differing Site Conditions clause of Standard Form 23-A) or
2. **changed conditions** (as described in the Changes and Changed Conditions clause of Standard Form 19),
you **must notify** the contracting officer **promptly before proceeding** with the work affected by such conditions.



Differing site conditions or changed conditions

- ❑ If the conditions are such as described in either of the applicable clauses and are such that it **takes you longer to perform** the affected work than it would otherwise have taken,
thereby **delaying completion** of the project in its entirety, your request for equitable adjustment of time **should be supported** with factual data similar to that described **above with respect to Changes**.

Excusable Delays (Other Than the Foregoing)



Excusable delays (other than the foregoing)

- ❑ If **your performance** of the work is delayed by any of the causes specified or contemplated in Section 5 (d) of the clause Termination for Default-Damages for Delay-Time Extensions of Standard Form 23-A or Section 2(b) of the parallel clause in Standard Form 19, you may be **entitled to extension** of the performance period so that you will be **relieved (in whole or in part)** from liability for damages and from the possibility of being terminated for default.



Excusable delays (other than the foregoing)

☐ In **requesting an extension** of time under the provisions of either of these clauses,

your **submittal should** (where based on any of the grounds discussed below) **include** the following:



Act of the government in its contractual capacity

- ☐ If your performance of the contract has been delayed for an **unreasonable length of time** as a result of
1. the **Government's act** or
 2. failure to act in its contractual capacity (as, for example, where the Government unreasonably delays in making **available Government-furnished equipment** to you),
you must notify the contracting officer within 10 days of the commencement of the time when **lack of equipment** began to **cause actual delay** in completing the project.



Act of the government in its contractual capacity

- ❑ If you incur **unreasonable delay** as a result of an **order to suspend** all or part of the work pursuant to the Suspension of Work clause in Standard Form 23-A, you must submit **notice of delay** as required by Clause 5.



Act of the government in its contractual capacity

- ❑ In all cases, although the **contract clause** provides that it is the **contracting officer's responsibility** to **find facts** in order to make his determination of the **additional time** to which you might be entitled, **much or most** of the **data** he will have to secure is **available only from you**.



Act of the government in its contractual capacity

□ Accordingly, you can **facilitate** and **expedite** his reaching a **sound** and **objective decision** by **promptly**

providing him with as much accurate **factual data** as possible, such as

1. a **statement** of the **portions** of work affected,
2. **inclusive dates** during which each portion was **affected**,
3. the **net loss of time** from the point of view of **over-all project completion** and
4. **any other data** which may be in your possession and **which** will aid the contracting officer.



Act of the government in its contractual capacity

❑ If you

1. fail or
2. refuse

to provide information which the contracting officer needs, **he may be forced** to make a determination

1. **only after delay**
2. while **attempting to discover** the facts **independently** and
3. on the basis of **incomplete** information,
to your **disadvantage**.



Strikes and jurisdictional disputes

❑ If you have been **delayed in completing** the work because of a **strike or jurisdictional dispute**,

your request for an extension of time should include

1. a **statement** of the circumstances which led to the strike or jurisdictional dispute,
2. **inclusive dates**,
3. **trades** involved,
4. other **trades** affected,
5. **portions** of the work affected,
6. the **net effect** on over-all project completion time, and
7. any other appropriate **factual data**.



Unusually severe weather

- ❑ Weather which hinders or prevents work is **not** a basis for a time extension **unless** it **surpasses** in severity the weather reasonably to be expected in the **locality** at the particular **time of year**.



Unusually severe weather

- ☐ If you **file timely notice** that you were delayed by **weather sufficiently severe** as to entitle you to additional time,
- you should furnish as **promptly as possible** thereafter
1. a **statement** of the portions of the work affected,
 2. an **explanation** as to the reasons work was **prevented or hindered** by the weather if **not readily apparent**,
 3. the **dates** on which such **portions of work** were **affected**,
 4. the **total number of days** by which you believe the job in its **entirety** was **delayed**, and
 5. any **other information** which would be of assistance to the contracting officer such as official weather bureau climatological data for several prior years.



Late delivery of materials and/or equipment

- ☐ You are **expected to have assured** yourself, prior to submitting your bid, of **adequate** and **timely availability** of materials and equipment.



Late delivery of materials and/or equipment

❑ If, however, **deliveries** of material and equipment are **delayed**,
you **may be entitled** to an extension of time **if you are able to clearly establish**

by the **submittal of copies** of

1. **your correspondence and**
2. **documents**

from you and your subcontractors

that deliveries were delayed for **unforeseeable causes beyond**

the **control and without** the fault or negligence of

1. yourself,
2. your lowest tier supplier or
3. your lowest tier subcontractor involved.



Late delivery of materials and/or equipment

❑ Such correspondence and documents should **include but not be limited** to

1. a **statement** of the circumstances;
2. copies of **correspondence** showing that **prior to bidding** you had had reasonable assurance of timely supply;
3. copies of **orders** showing the date placed;
4. copies of
 - i. invoices,
 - ii. delivery receipts and
 - iii. the like showing shipping or delivery dates; and
5. copies of **correspondence** showing **diligent attempts** to obtain materials when needed from other sources.



General application

- ☐ Documentation should demonstrate that **any delay was**
 1. **unforeseeable** and
 2. **without**
 - i. the **fault** or
 - ii. **negligence** of
 - a) you or
 - b) your lowest tier subcontractor or
 - c) supplier involved.
- ☐ You will be **entitled only** to the additional number of days the **project is delayed in its entirety**.



General application

- ☐ Furthermore, you **cannot be granted** additional time for a delay which is
1. **concurrent** with **another delay** for which you have been **previously granted** a time extension or
 2. **concurrent** with delay for which **you are responsible** and which gives you no right to a time extension.



General application

- ☐ The **Contracting Officer** has **no authority** to **grant relief** by extending the time specified for contract completion **unless you are entitled** to an extension of time as specifically provided by an **existing provision of the contract**.

موسسه مهندسی و مدیریت ساخت علوی پور (ACEMI)

دفتر آموزش



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