AUTHORIZATION OF EXTRA WORK (AEW)

Q: Is an Authorization of Extra Work form required for all increases in quantities, even for an FCP?
A: An Authorization of Extra Work (AEW) form is required for all work that:
- was not included in the original contract, and
- will be performed prior to OOC approval, including work that will be paid by FCP.
  The EIC will generate and print this form in CEES (option 34) and send to the RCE for approval. A copy of the approved AEW should be included with the FCP or OOC.

TAXES & INSURANCES

15% Labor markup

Q: Can the 15% markup decision be addressed each year?
A: Since the 15% markup is based on and annualized calculation, we have determined that contractors can select their option on an annual basis.

Q: Do Subcontractors have to follow the method that the prime chooses?
A: The word "Contractors" has been interpreted to include both subs and primes. Once a method is chosen, all OOCs submitted by a prime or sub on that contract must use same method for that calendar year. Primes and subs may choose different options.

Q: Does the 15% markup get applied to Gross Wages and benefits?
A: For Force Account Work, the 15% markup is applied to Gross Wages only.
   For Price Analyses, the 15% markup is applied to Gross Wages and fringe benefits.

Q: Does Overhead and Profit get applied to the 15% markup?
A: The 15% markup has the 20% OH&P built in and therefore should not be included in the totals when calculating the 20% OH&P on Labor. However, a subcontractor’s 15% Markup costs would be eligible for the Prime Contractor’s additional 5% OH&P.

Workers Compensation

SPECIFICATION 109-5 B.1.a.

..."Workers compensation insurance rate will be the base rate and the territorial differential only established by the NYS Workers Compensation Insurance Rating Board, subject to the Construction Employment Limitation Program limits. No other additional charges or modifiers will be included."

Q: We have received some verbal guidance stating, whatever the FA work was, that is the classification code to be used. Should the rate be based on the “type of Force Account work” or the “type of contract”? i.e. How would an EIC handle “waterline FA” (classification code 6319) on a “bridge project” (classification code 5222)?
A: The Workers Compensation rate should be based on the work classification code documented by the Contractor’s Insurance provider for the project.
Commercial General Liability

SPECIFICATION 109-5 B.1.g.

"Commercial General Liability (CGL) insurance will be reimbursed at the rate paid by the Contractor in accordance with the method procured from its insurer.

(1) Contractors that pay commercial general liability on the basis of a percentage of payroll will be paid that percentage of item specification 109-05B.1.a. Labor.

(2) Contractors that pay commercial general liability on the basis of a percentage of gross sales will be paid that percentage of items specification 109-05B.1.a. through f."

Q: Should contractors be reimbursed for CGL based on LABOR COST (as stated in spec above), or PAYROLL COST (Gross Wages)?

A: Per Section 109-05B.1. g. Commercial General Liability (CGL) Insurance, CGL will be reimbursed at the rate paid by Contractor, either as a percentage of the payroll cost (for Force Account work) or a percentage of gross sales (of the value of Force Account work, not including costs for Services). The reimbursement will be made at the rate established and documented by the insurance provider, applied to either gross sales or payroll (as defined by the insurance provider). If the method of application for the CGL rate is payroll, but "payroll " is not specifically defined by the insurance provider, the CGL rate should be applied to gross wages. The CGL documentation from the insurance provider should be given to the EIC at the preconstruction meeting in accordance with Section 109-05B.1.

Q: Section 109-05 B of the specification only indicates that we reimburse for CGL. CGL is not defined in the specification and is listed as one of the components of 107-06 B, Liability and Property Damage Insurance. Although the specification only addresses the CGL component, are these other insurances reimbursable for force account work? If so, are they lumped together as one percentage?

1. Contractor’s Liability Insurance
2. Owners Protective Liability Insurance
3. Contractor’s Protective Liability Insurance
4. Completed Operations Liability Insurance
5. **Commercial General Liability Insurance**
6. Automotive Liability and Automobile Property Damage Insurance
7. Disability Insurance
8. Training and Other Benefits
9. Retirement Plan
10. Vacation Holiday Pay

A: Items 1 through 6 above are generically classified as CGL by the insurance industry, and are therefore the only insurances reimbursable as CGL in accordance with Section 109-05B.1. g. For force account recording, the percentages should be totaled and recorded as one CGL percentage. The reimbursement for CGL is NOT eligible for overhead and profit. Item 7, Disability Insurance, is reimbursable as a percentage of Labor (109-05B.1.a). Items 8 through 10 are generally included in the supplemental (fringe) benefits, and should not be reimbursed separately.

Q: Are Umbrella policies for liability insurance reimbursable?

A: We have been informed by the Office of the State Comptroller, that umbrella insurance coverage costs are not reimbursable under our current specifications. The umbrella insurance coverage costs may not be specifically listed as such on the price analysis or force account summary sheet, however, they may be listed in the required backup documentation from the contractor’s insurance provider, and lumped in with CGL or liability insurance. If umbrella coverage costs are included in price analysis or force account work costs, they should be deleted.
Steel Adjustment Guidance

For use on Contracts which have the Steel Adjustment Item in the list of original items

1.) The Contractor shall submit a detailed list of all items eligible for adjustment, per EI 05-020, at the beginning of the Project.

2.) The EIC enters the monthly PPIs from either the Semi Finished Mill Product Chart or the Shredded Carbon Steel Scrap Chart, depending on the steel adjustment item in the Contract (refer to the appropriate item specification – #20698.0302 and #698.06 use Semi Finished Steel Chart for #698.03 use Steel Scrap Chart). Monthly PPIs are entered regardless if an eligible item was entered into CEES and are to be entered at the same time the Fuel/Asphalt Adjustment Index prices are entered.

   Use CEES Left side option #19 – Monthly PPIs
   - enter the Contract Index PPI for the month of Project letting (will need to adjust if Final PPI not given).
   - enter the Cost Basis from the Project Proposal (only need to enter once)
   - enter the monthly PPIs from the current EB (note: use Preliminary and update as Final PPIs are issued).
   - Hit Save PPI button

3.) When invoices are received, the Contractor needs to show the Wt. conversion if not indicated on the invoice. Only need to use one unit of weight, CEES will calculate so all the weight fields are filled in. The total invoiced qty needs to correlate to the total contract item qty.

   Use CEES Left Side Option #20 – Steel Adjustment
   - enter FS number
   - enter weight (only need to use one unit of weight)
   - enter effective date (date of invoice)
   - enter Reference Type (use drop down menu)
   - enter description (use item # & description)
   - Hit Save Steel Adjustment button

4.) If invoices are not received, use the date of installation (IR entry) as the effective date. The weights also need to be entered at this time – use standard item weights or contact Region for assistance.

5.) CEES Right Side Option #37 prints out the monthly PPIs entered, keep in file and use as an entry check.

6.) CEES Right Side Option #38 prints out the total weights report and amount owed or charged.

7.) If amount is owed the contractor, **no payment will be made until all necessary invoices are received** to support the payment.

8.) If amount is a charge, advise the Contractor in writing to submit all necessary invoices - if invoices not are received to show otherwise, the charge is to be entered on the next progress estimate.

9.) EIC is to keep a Steel Adjustment File. **Ensure Final PPIs are entered** – if they are not available the Project can be finaled, discuss with the Region. When running the Final, check the box for “Final Steel Adjustment” and submit a copy with the Final package along with the Total Weights Report (opt #38).
**STEEL PRICE ADJUSTMENTS - Example Scenarios**

(CEES version 4.15a)

**Scenario #1**
After weights are entered, CEES will automatically pay the $100.00 initial contract amount when the estimate is closed (if the adjustment is greater than $100.00).

If you never meet the plus $5000 threshold, this initial $100.00 payment will automatically be deducted on the Final.

**Note** - any amount greater than $100.00 will flag the steel item as a Status “A” – do not do an OOC for the over run until it hits the $5000 threshold AND Actual Invoices are received.

If the $5000 threshold is reached at the end of the project AND the Contractor has **not provided** ACTUAL invoices, no payment is to be made. CEES will however leave this payment in, so the EIC needs to backup the project, print out all reports then delete the steel entries so the are not paid on the Final.

**Scenario #2**
If the $5,000.00 minimum is met, the Steel Summary (CEES right side option #38) will show the dollar amount. Do an OOC for the over run. Once the OOC is approved, CEES will automatically pay the amount in the next progress estimate.

**Scenario #3**
A steel OOC is processed and approved, if at a later date the steel adjustment increases due to Final PPIs or for added weights, in the next estimate period you will see the CEES auto generated payment in the item history as well as seeing the item as a Status “A” again. Again, the increase needs to be processed thru an OOC.

**Scenario #4**
If an OOC increased the Steel Adjustment authorized qty. and payment is made, then during the life of the Contract the dollar amount decreases due to a PPI adjustment from preliminary to final or for added weights in a month with a posted PPI below the index or for a correction entry, CEES will automatically deduct.

**Note** - If the D.C. value drops below the pay $5,000.00 threshold, CEES will automatically deduct the decrease quantity (from the recalculated Steel Summary) on the next progress estimate. However - you will not see the ENTIRE previously authorized/paid D.C. amount deduction until the Final – which again CEES automatically deducts (no payment since threshold has not been met).

**Example:** OOC increased to $7000, PPI adjustments recalculated to $4000 - CEES will deduct $3000 in next progress estimate (brings amount below $5000 threshold). The remaining $4000 will then be deducted on the Final.

EIC will need to explain and provide Summary print out as back up for the Final. Sample explanation for Final: “The final Steel Adjustment amount is below the $5000 threshold. Per Specifications, no payment is due the contractor, the authorized should be zero.”
Scenario #5
If you enter weights and CEES computes a negative D.C. value in excess of $5,000.00, CEES will automatically create the charge when the estimate is closed or on the Final.

**Note** - if after subsequent PPI adjustments or added weights, the charge is reduced to an amount less than the $5,000.00 threshold, CEES MAKES NO ADJUSTMENT. You have to go into the Charges to Contractor left side option and manually eliminate the charge.

Example: If the CEES generated charge is $7,000.00 and a PPI adjustment changes the dollar amount charge to $4,000.00, you need to enter a "-7,000.00". This needs to be done since the $5,000.00 minimum in charges has no longer been met.

Comments:
1) CEES automatically deducts any the initial $100.00 payment on the Final. The only EIC manual entry is if Scenario #5 happens.
2) Future CEES version may change the Steel automatic payment method to function like Fuel & Asphalt.
3) For Projects let after 9/8/05 which no longer have retainage held, a charge at the Final could present a problem.
TAXES & INSURANCES - cont’d

Social Security, Medicare, and Federal Unemployment Tax (FUTA)

Q: Where can I find the current years rates and wage limitations for Social Security, Medicare, and Federal Unemployment Taxes?

A: The IRS publishes these rates for each tax year in Publication 15 titled “Circular E: Employer’s Tax Guide”. The Publication 15 for the current and past tax years is available from the IRS web site using the following link:

http://www.irs.gov/formspubs (select “Publication Number”)

PRICE ADJUSTMENTS

Steel Price Adjustments

Q: Confusion on $5000.00 limit on steel adjustments....unless there is an aggregate increase or decrease of $5000.00, there should be no adjustments to this item, even at final. Is this correct?

A: Yes, this is correct. No adjustments should be paid until at least $5000.00 worth of adjustments have been documented.

Q: Contractors are not giving us the information required by the Specification (invoices, weights). Can the following logic be applied at the time of a final?

1. Look at only big items, such as structural steel, steel piles, guide rail, culverts, signs on a sign contract (otherwise we are creating a nightmare for our EIC’s)
2. Use either shop drawings, standard sheets or contract plans to determine weight of steel.
3. Use delivery date to job as invoice date.
4. Enter the monthly prices for Steel Escalation
5. If the cost decreases in accordance with the specification we will Charge the Contractor and note on the Steel Report that the Contractor provided no information and what method we used to determine charge.
6. If the cost increases in accordance with the specification we will note on the Steel Report that the Contractor provided no information and are therefore in non-compliance and not entitled to compensation.

A: Yes, in the cases where the Contractors are not providing the required documentation, use the following guidance (prepared by Region 1 and Region 5):
**PRICE ANALYSIS / FORCE ACCOUNT WORK**

**Labor**

**Q:** The contractor pays their employees prevailing wage rates and a portion of the fringe benefits are given to the employee as cash (increases their take home pay). Would the "extra" fringe money be included in gross wages?

**A:** The "extra" fringe money given as cash should be included in the gross wages.

**Equipment**

**Q:** How do we reimburse equipment costs for a piece of equipment used for more than 176 hours on a force account work item?

**A:** The ownership cost would continue to be reimbursed at the Monthly Blue Book rate divided by 176. Reimburse at this rate up to the Original Purchase Cost of the equipment. It is good practice to check the purchase costs of the equipment when the hours used approaches 176. Contact the Regional OOC Engineer to obtain Equipment Purchase Costs from the Green Guide for Construction Equipment.

**Q:** The contractor rented an excavator to perform some of the work. The excavator was rented for two separate days, non-consecutive. The first day of rental they used the excavator for 4 hours, the second day of rental they used the excavator for 4.5 hours. They were billed a daily cost of $560.00 or $1120.00 for two days. In accordance with specification 109-05 B.1.c, I have to compare this to the blue book rates. Question is what numbers do we use?

**Equipment Information:**
Blue Book Ownership rate for excavator time used= $6966 monthly rate / 176 = $39.58
Blue Book Ownership rate for time required to be present but not used= $39.58 x50% = $19.79
Blue Book Operating rate for excavator time used= $30.65
Rental Invoice cost = $1120.00 including operating costs
Time used = 8.5 hours
Time present but not used = 7.5 hours

**A:** The Reimbursement for the excavator would be the lesser of the Rental Invoice Cost (including operating cost) or the Blue Book ownership cost + Blue Book Operating cost calculated as follows:

\[
\text{Ownership cost} + \text{Operating Cost}
\]

\[
\frac{($39.58 \times 8.5\text{hrs}) + ($19.79 \times 7.5\text{hrs})}{($30.65 \times 8.5\text{hrs})} = $745.37 \text{ which is less than the rental invoice cost of $1120. Total equipment reimbursement should be $745.37.}
\]

**Q:** The Blue Book web page lists FHWA rates for equipment, why don't we use this rate for reimbursement?

**A:** The FHWA rate includes both ownership costs (monthly rate/176) and hourly operating costs in one rate. Since the FHWA rate will not fit all of our specification conditions (i.e. Idle/standby time rates, shift rates), the separate ownership (monthly/176) and hourly operating rates should be used.

**Q:** Should traffic control devises (such as cones, barrels, barricades, barrier, and steel road plates) be reimbursed as material or equipment, and how do we determine an acceptable rate?

**A:** The Office of Construction has determined that traffic control devices should be reimbursed as equipment, and are therefore not eligible for overhead and profit. The following daily reimbursement
rates should be used to reimburse for these devices. Note: the rates are for the equipment only, not including labor to setup and remove.

**Daily Equipment Reimbursement Rates for Traffic Control Devices**

The following Traffic Control Devices will be considered as equipment for all Price Analysis and Force Account work. The tabulated Daily Ownership Costs for these devices were established by the Office of Construction as fair and reasonable, based on purchase cost, estimated number of uses, and an estimated replacement rate. These rates should be used to reimburse the Traffic Control Devices (TCD) for short duration periods of work. However, when severe job conditions result in damage and/or destruction of TCDs at an extraordinarily high rate, higher daily ownership costs may be justified. In that case, it would be necessary to support the higher rate with a workup showing the invoiced purchase price and life expectancy of the M&PT device.

<table>
<thead>
<tr>
<th>Traffic Control Device</th>
<th>Daily Ownership Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONES</td>
<td>$0.20 Each</td>
</tr>
<tr>
<td>BARRELS</td>
<td>$0.65 Each</td>
</tr>
<tr>
<td>BARRELS W/LIGHTS</td>
<td>$0.85 Each</td>
</tr>
<tr>
<td>TYPE II BARRICADE</td>
<td>$0.40 Each</td>
</tr>
<tr>
<td>TYPE II BARRICADE W/LIGHTS</td>
<td>$0.60 Each</td>
</tr>
<tr>
<td>TYPE III BARRICADE</td>
<td>$1.50 Each</td>
</tr>
<tr>
<td>TYPE III BARRICADE W/LIGHTS</td>
<td>$1.70 Each</td>
</tr>
<tr>
<td>CONSTRUCTION SIGNS</td>
<td>$0.95 per SM</td>
</tr>
<tr>
<td>SIGN STAND – WINDMASTER (or similar DOT approved)</td>
<td>$1.25 Each</td>
</tr>
<tr>
<td>SIGN STAND – TRIPOD W/ FLAG HOLDER</td>
<td>$0.55 Each</td>
</tr>
<tr>
<td>TEMP. CONCRETE BARRIER</td>
<td>$0.10 per M</td>
</tr>
<tr>
<td>STEEL ROAD PLATES</td>
<td>$0.65 per SM</td>
</tr>
</tbody>
</table>

**NOTE:** Sand bags used as ballast for sign stands will be considered as overhead and will not be reimbursed separately.
**PRICE ANALYSIS / FORCE ACCOUNT WORK - cont’d**

**Material - Transportation Costs**

**Q:** When are material transportation costs eligible for overhead and profit?

**A:** If the transportation of the material is provided for by the material supplier and is included on the material invoice, then the transportation cost may be included in the total material cost and be eligible for OH&P. If the Contractor used his own equipment and labor or hired independent trucking (manned equipment) to haul the material, then the transportation would be paid separately from the material and therefore, not be eligible for the OH&P. The following example scenarios will help to clarify further:

**EXAMPLE:** Contractor hires a trucking firm (3 trucks) to get stone (trucking invoice is $50/hr)

*If the contractor is using the rented trucks (w/drivers) to obtain the material, then there should be no additional material transportation costs. The rented trucks should be considered as equipment, paying the invoice hourly rate.*

... pay from time truck leaves job site? ... pay from time truck starts loading? ... pay till truck gets back to site?

*The rented trucking firm should be fairly compensated for the actual time they are providing the trucking, including travel time to and from source, as well as any (reasonable amount of) time spent in line waiting to either load or unload. These are actual costs incurred by the trucking firm, for which they should be compensated.*

... pay unloading on site over extended period of time: stock pile versus unloading at several locations on job? Example: material is topsoil instead of stone. Rented dump truck travels around job site with skid steer to unload truck and move material around.

*The 'stock pile versus unloading at several locations on job' issue is specific to the operation. If it is more feasible to travel around the site with the skid steer (ex. small quantities spread throughout the jobsite), then the rental truck should be paid for the time required to accomplish the work this way.*

When it makes more sense to stockpile (ex. large quantities of material required in one general area), then the trucking firm should be reimbursed for the time it takes to travel to the source, load up, return to the site and unload.

... what if 8 loads are delivered to the job which equates to a total of 10 hours rental trucking, but only 6 loads are used for FAW and 2 loads are for a different operation on the job... should rental be pro-rated?

*Yes - we should only be paying for the time involved with the specific Force Account Work item.*

**Concern:** determining difference between material transportation expense (w/ overhead and profit) versus equipment expense.

**Scenario 1:** In the Force Account example above, the contractor hired the trucking firm to pick up stone from the quarry. The expenses incurred would be the material costs (plus 20% OH&P) and the rented equipment w/operator cost for the trucking (no OH&P).

**Scenario 2:** If however, the quarry delivered the stone and included a $/ton or $/cy transportation cost on the material invoice, then these costs would be included in the material costs and therefore be eligible for the 20% OH&P.

**Scenario 3:** If the contractor used his own trucks and drivers to pick up the material, the driver would be included in the FAW Labor, and the truck would be included in the FAW Equipment.
**MISCELLANEOUS**

**Federal Aid Numbers**

**Issue:** The Federal Highway Administration (FHWA) requires that if a contract is Federally Funded, all Order On Contracts and Contract Extensions must include the correct Federal Aid Number, regardless of the share that is being charged. "NA" does not apply to a contract that has Federal Funding. The correct Federal Aid Number can be obtained from the Contract Status Book. Contact the Construction Supervisor for the correct number if you do not have access to the Contract Status Book.

**Job Order Contracts**

**Q:** The proposal for the JOC contract includes language about extending the term of the contract. What does this mean and how is it accomplished?

**A:** The word **Term** as used in JOC contract proposals is defined as:

- The **Original Contract Duration** + the **Original Contract Dollar Amount**.

If a JOC contract depletes its funding before the contract duration is reached, or if the contract completion date is reached prior to depleting funding, the Term may be extended by Order-on-Contract. A contract Extension of Time must also be filed when extending the Term. Up to three terms may be added to a contract.
**PRICE ADJUSTMENTS — cont’d**

**Fuel & Asphalt Adjustments**

**Q:** How do we handle Fuel and Asphalt Price Adjustments if they are less than the specifications $5000.00 limit?

**A:** At the end of the job, write an IR for the F & A adjustment quantity, and CEES will automatically include in the final payment.

**Q:** Specification for Item 402, Asphalt 50 and 60 compaction series, indicates that we pay test section, and the first 100 and 200 metric tons respectively will be paid at a 1.5 factor (150, and 300 mt). Do we pay asphalt adjustment on the quantity placed (100, 200) or the factored quantity (150, 300)? This could be a CEES audit issue.

**A:** The asphalt adjustment should only be applied to the quantity of asphalt placed, not the factored quantity.

**Work Around Solution:**
Pay the first 200 MT under the contract pay item and create a new item 4X402.XXXX to pay the factored quantity. Example: Pay 200 MT of test strip asphalt under contract item 402.126101 and create a new item 4X402.126101, A- 60 Series Asphalt Pavement Test Strip Adjustment Quantity to pay the factored quantity of 200 x 0.5 = 100 MT. This new item quantity would not be eligible for asphalt adjustment.

**Q:** The proposal has both Virgin and Rap mix adjustment factors listed. Producers are using a combination of mixes within a production day. CEES can only handle one factor per item. We are overpaying the producers, because we have been instructed to use only the virgin factor. This cost is significant, an example that was hand calculated for one project, two items, for two months had a cost difference of +/-47k. This multiplied by all Regions, all projects, full season, could be astronomical and considering that the Comptroller is interested in CEES payments. Wouldn’t this be an audit issue?

**A:** Producers may supply a combination of Virgin and RAP mixes within a production day. If suppliers are producing a combination of mixes for an item, the lower of the Virgin or RAP asphalt adjustment factors for should be entered into CEES for the item.

**Issue:** The first time F&A adjustments are being included in an OOC or FCP, remember to subtract out the original authorized quantity from the “Total Remaining Amounts” from CEES Fuel and Asphalt Summary Totals Report.