

## Section 8 Prosecution and Progress

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### 3-801 Subcontracting

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Contractors can use subcontractors on their projects provided the subcontractor and the prime contractor comply with the applicable contract specifications and with state and federal laws and regulations. When projects use subcontractors, the resident engineer must focus primarily on the following:

- Always know which subcontractors are working on the project.
- Of the contract amount, ensure that prime contractor performs at least 30 percent or the percentage allowed by the special provisions.
- Ensure that listed subcontractors are not improperly removed or replaced.
- Ensure the prime contractor achieves the subcontracting level pledged to meet requirements of the disadvantaged business enterprise (DBE), the disabled veteran business enterprise (DVBE) and small business when the contract was awarded. For more information on the DBE and DVBE subcontracting requirements, see Section 8-3, “Disadvantaged Business,” of the *Construction Manual*.
- Ensure adherence to the provisions of the Public Contract Code.

In the same manner as for other contractual obligations, construction personnel must review the contract and administer the subcontracting provisions.

#### 3-801A Amount of Work Subcontracted

Section 8-1.01, “Subcontracting,” of the *Standard Specifications*, requires that the prime contractor perform no less than the percentage of work specified in the contract using the contractor’s own organization.

The percentage of work subcontracted is calculated for first-tier subcontractors only. A contractor’s organization must include only workers employed and paid directly by the prime contractor and only equipment owned or rented by the prime contractor, with or without operators.

The following examples portray common situations encountered when attempting to determine if work should be considered as subcontracted:

- The contractor pays a unit price or lump sum for work performed at the jobsite. The contractor purchases cement for cement-treated base, and the price per ton includes spreading on the project. Consider the work as subcontracted.
- Materials are purchased “FOB” to the jobsite from a commercial source. (FOB is the abbreviation for “free on board” and means the price includes delivery to the jobsite.) Do not consider the delivery as subcontracted work.
- Materials are purchased FOB at a location off the project and delivered by a commercial freight line. Do not consider the hauling as subcontracted work.
- Materials are obtained at a location off the project and hauled to the project by a truck broker or independent trucker. Do not consider the hauling as subcontracted work.

In unusual cases, the resident engineer should discuss the situation with the construction engineer. If the situation then indicates that additional information is necessary but only available through an inspection of the contractor's records, discuss with Division of Construction personnel the possibility of an audit.

### 3-801B Calculating the Amount of Work Subcontracted

The contractor must submit Form CEM-1201, "Subcontracting Request," stating what portion and dollar amount of an item will be subcontracted. The resident engineer must verify the amount. Any rational method of determining the amount will be acceptable. For example, methods using the following would be acceptable:

- The percent of an area, volume, or length.
- The portion applicable to material cost.
- The portion of labor and equipment cost.

When an entire item is subcontracted, the amount is the prime contractor's bid price, not the amount of the subcontract. When a portion of an item is subcontracted, the value of the work subcontracted will be based on the percentage of the contract item bid price.

To ensure that the contractor is not requesting approval for a subcontractor other than those listed in the bid documents, the resident engineer must check the DBE, DVBE, and small business commitment listings and the list of subcontractors. If a discrepancy is noted, the resident engineer must advise the contractor and ask for an explanation. The resident engineer must not approve the subcontracting request until the contractor provides an acceptable explanation.

### 3-801C The Subletting and Subcontracting Fair Practices Act

#### *3-801C (1) Subcontracting in the Bidding Process*

Sections 4100 through 4114 of the Public Contract Code are called the "Subletting and Subcontracting Fair Practices Act" (Act) and apply to Caltrans construction projects. This act is designed to prevent prime contractors from "bid shopping" for subcontractors after bids are opened and the low bidder is known.

The Act requires that subcontracted work in excess of 0.5 percent of the contractor's bid amount or \$10,000 (whichever is greater), must be listed in the prime contractor's bid proposal. When a prime contractor fails to list a subcontractor in its bid, the law requires that the prime contractor must perform the work with its own forces. The prime contractor may not add an unlisted subcontractor by requesting a substitution. The only exceptions to this rule are when a change order caused a deviation in the work, [Public Contract Code 4107 (c)], or there is a public emergency or necessity which has been documented as required by Public Contract Code 4109.

For building projects such as a maintenance station or other off-highway project, all subcontracted work in excess of 0.5 percent of the contractor's bid amount must be listed.

The resident engineer must ensure that the listed subcontractor performs the work or that the contractor complies with the Act regarding substitution.

Listed subcontractors can be substituted only if the procedures in the Act have been followed.

### 3-801C (2) Substitution Process

To replace a subcontractor listed in the bid documents, the prime contractor must submit a written request based on the reasons identified in Public Contract Code Section 4107:

- When the subcontractor listed in the bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid, when that written contract, based upon the general terms, conditions, plans, and specifications for the project involved or the terms of that subcontractor's written bid, is presented to the subcontractor by the prime contractor.
- When the listed subcontractor becomes bankrupt or insolvent.
- When the listed subcontractor fails or refuses to perform the subcontract.
- When the listed subcontractor fails or refuses to meet the bond requirements of the prime contractor, as set forth in Public Contract Code Section 4108.
- When the prime contractor demonstrates to Caltrans that the name of the subcontractor was listed as the result of an inadvertent clerical error. This reason can only be used within two days of bid opening and for an inadvertent clerical error pursuant to Public Contract Code Section 4107.5.
- When the listed subcontractor is not licensed pursuant to the Contractors License Law.
- When Caltrans determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications or that the subcontractor is substantially delaying or disrupting the progress of the work.
- When the listed subcontractor is ineligible to work on a public works project, pursuant to Section 1777.1 or 1777.7 of the Labor Code.
- When Caltrans determines that a listed subcontractor is not a responsible contractor.

For more detail on the authorized reasons for substituting listed subcontractors, see Sections 4107 and 6109 of the Public Contract Code.

When the prime contractor requests a substitution, proceed as follows:

- Send the request to the district construction office for review.
- The district construction office must send a written notice to the listed subcontractor by certified mail, overnight mail or faxed confirmation of the prime contractor's request to substitute the subcontractor and the reasons for the request. The notice must provide the subcontractor with five working days to submit a written objection to the substitution.
- If the listed subcontractor does not file a timely written objection, the resident engineer must approve the substitution. The resident engineer must approve the new subcontractor, following the guidelines under "Procedure for Approval or Acknowledgment of Subcontractors" in this section. If the removed subcontractor's firm was a listed DBE, DVBE, or small business refer to Section 8-3, "Disadvantaged Business," of this manual for additional information.
- If the listed subcontractor submits timely written objections to the substitution, the district must conduct a hearing. Normally, the hearing officer is the district

construction deputy director. The prime contractor and the subcontractor objecting to the substitution must receive written notice of the hearing a minimum of five working days before the hearing is conducted. The written notice should include a request that any substantiating documents be provided before the hearing. See the following Section 3-801C(3) below for more information on hearings.

### *3-801C (3) Hearing Process for Substitutions*

The intent of the substitution hearing is for both parties to have the opportunity to explain to the hearing officer why a substitution should or should not occur. Substitution hearings should be informal.

#### 3-801C (3a) Before the Substitution Hearing

- Documents should be obtained from both parties to substantiate the reason(s) for substitution.
- Review all information submitted by both parties. If the hearing officer believes legal or other assistance may be required during the substitution or hearing process, the district must contact the construction field coordinator, who will arrange for such assistance as appropriate.
- The hearing officer must develop a line of questioning to ensure that sufficient evidence exists on which to base a decision about the request.

#### 3-801C (3b) During the Substitution Hearing

- Tape or video recording can be used to assist in taking notes; however, it is not required.
- The hearing officer should allow each party sufficient time to present its position and offer a counter argument on the substitution request. Any additional supporting information presented by either party should be listed in the notes of the hearing.

#### 3-801C (3c) After the Substitution Hearing

- The hearing officer will issue written findings and a decision on the substitution request. As soon as possible after the hearing, the prime contractor and the objecting subcontractor must receive a copy of the decision by certified mail return receipt.
- Send the Division of Construction a copy of the final decision.

### *3-801C (4) Violations of the Subletting and Subcontracting Fair Practices Act*

The following presents typical examples of some of the more common violations of the Act by a prime contractor:

- Subcontracting work in excess of the threshold requirements that was not listed as subcontracted work.
- Using a subcontractor that was not listed.
- Substituting subcontractors without the consent of Caltrans.
- Performing work that a subcontractor was designated in the bid documents to perform.

If these or any other violations occur, proceed as follows:

- Discuss the apparent violations with the construction engineer and the district labor compliance officer.

- If the construction engineer and district labor compliance officer agree that an apparent violation has occurred, send the prime contractor a certified letter stating the following:

It has come to our attention that you are in apparent violation of the Subletting and Subcontracting Fair Practices Act, Public Contract Code, Sections 4100 through 4114, for work being performed on item(s) \_\_\_\_ of State Contract No. \_\_\_\_.

You will be assessed a penalty of \$ \_\_\_\_ as provided in the Subletting and Subcontracting Fair Practices Act. If you wish to dispute this penalty, you should request a hearing. Caltrans will schedule a hearing on this apparent violation and the penalty to be assessed. Should you request a hearing, you will be given five days notice of the time and place thereof, in accordance with Section 4110 of the Public Contract Code. If you do not request a hearing, the penalty will be assessed as a permanent deduction on the next progress pay estimate.

Send copies of the letter to the subcontractor and to the district labor compliance officer.

At the contractor's request, the district must schedule a hearing using the same scheduling procedure as described in the substitution process.

Occasionally, the contractor will list subcontractors not required to be listed by the Act. In this case, changes require only an updated subcontracting request to identify the new subcontractor. Refer to Section 3-801D, "Procedure for Approval or Acknowledgment of Subcontractors," of this manual for the process. If the subcontractor is a DBE, DVBE, or small business refer to Section 8-3, "Disadvantaged Business," of this manual for additional information.

### *3-801C (5) Hearing Process for Substitution Violations*

Section 4110 of Public Contract Code requires Caltrans to conduct a hearing for violations of the Subletting and Subcontracting Fair Practices Act. The intent of the violation hearing is to determine whether a penalty should be assessed against the prime contractor for violation of the Act. Each party is entitled to present their respective arguments on the alleged violations. The hearing should follow the process outlined below.

#### 3-801C (5a) Before the Violation Hearing

- Retain a neutral decision-maker. In the interests of keeping the process as short as possible, this person would preferably be a Caltrans employee completely out of the chain of command for the project at issue.
- Hire a certified court reporter to transcribe the proceedings. Contact the Division of Construction, Labor Compliance Program Manager for assistance with this process.
- If necessary, subpoena third parties (for example, the subcontractor, supplier or others). Contact the Division of Construction, Labor Compliance Program Manager for assistance with this process.

#### 3-801C (5b) During the Violation Hearing

- The resident engineer and district labor compliance officer should testify under oath as to the facts which led Caltrans to conclude there was an issue or apparent

violation. They should be prepared to provide copies of all documents or other evidence relied on to reach that conclusion (for example, correspondence, diaries, and payroll records). Caltrans should provide the original documents relied on. Conclusions drawn from the documents can be verbally summarized as testimony.

- The hearing officer will conduct direct and cross examination of witnesses under oath.
- The hearing officer will accept any documents provided by each party and have the court reporter place them into the record as part of the certified transcript. The hearing officer will verbally verify documents were received by noting what they are and assigning them an exhibit number.
- The hearing officer will ensure that the only issue addressed at the hearing is the violation of the Act (for example, not a DVBE violation or labor compliance issue).

#### 3-801C (5c) After the Violation Hearing

- The hearing officer must evaluate the evidence provided at the hearing and render a decision on the violation within 10 days of the hearing.
- If the prime contractor is found to be in violation of the Act, the contractor must be assessed a penalty, taken as an administrative deduction, ranging from 0 to 10 percent of the subcontract amount. The hearing officer will determine the penalty amount, which will vary depending on the circumstances involved. The hearing officer's finding is the final Caltrans administrative decision on the application and enforcement of the Act.
- The decision must be sent to the contractor and, if applicable, the subcontractor. A copy must also be sent to the Division of Construction. The Division of Construction may refer the violation to the Contractors State License Board pursuant to Section 4111 of the Subletting and Subcontracting Fair Practices Act.
- The resident engineer must ensure that the penalty amount is deducted from the next estimate.

#### 3-801D Procedure for Approval or Acknowledgment of Subcontractors

The resident engineer has the responsibility of approving subcontractors on federally funded projects or acknowledging subcontractors on state-financed projects.

In general, approving or acknowledging subcontractors is necessary only for first-tier subcontractors.

To request subcontracting, the contractor must submit Form CEM-1201, "Subcontracting Request," to the resident engineer. When the contract was awarded, the contractor received a blank Form CEM-1201, along with other documents. The resident engineer should provide to the contractor additional blank forms when necessary. The last page of the form contains instructions for completing the form.

Upon receipt of Form CEM-1201, the resident engineer completes the lower portion of the form and, before approving the contractor's request, must do the following:

- Check the contractor's portion of the form.
- Verify that subcontractors are not on the Department of Industrial Relation's Debarred Contractors list on the Caltrans Labor Compliance intranet website.

<http://pd.dot.ca.gov/construction/LaborCompliance/index.htm>

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- Complete lines 1 through 9. Lines 2 and 6 will contain running balances, depending on the percentage of work required so process requests in order of request number. Complete the remainder of the form as outlined on the form.
- Verify that subcontractors comply with DBE, DVBE and small business goals submitted by the contractor before the contract award. Ensure that no conflict exists between DBE, DVBE, and small business requirements and the listing requirements of the Act.
- If the contractor's request meets all the requirements, sign, date, and distribute the form as indicated on the form.

The special provisions for most contracts considered non-highway related (building contracts) waive the requirements of Section 8-1.01, "Subcontracting," of the *Standard Specifications*. The effect of this waiver is that a subcontractor who is listed in the bid proposal may perform the work without advance notification to the resident engineer, and the requirements about the prime contractor performing a specified percentage of the work are not applicable. However, contracts that contain federal funding still require that subcontractors receive prior approval and that prime contractors perform a specified percentage of the work. Such federally funded contracts must be processed as discussed above.

### **3-802 Beginning of Work**

This section covers the subject of when the contractor begins work. This subject is not to be confused with the beginning of contract time and the preparation of Form CEM-2701, "Weekly Statement of Working Days," which is covered below in Section 3-805, "Time of Completion."

The contract normally requires the contractor to begin work on a project within 15 calendar days after receiving notice that the contract has been approved. The special provisions may modify the 15-day requirement.

The resident engineer must determine when to record the beginning of work, based on judgment and experience. For example, setting up signs might be the only work underway. If conversations with the contractor indicate movement toward pursuing the work, the setting up of signs is sufficient to indicate the beginning of work. Record the date the contractor begins work on Form CEM-2701 in the resident engineer's daily report, and on the original or supplemental Form CEM-6003, "Progress Pay-Estimate, Project Initiation or Update." For more information, see Section 5-103B (1), "Completing Form CEM-6003, "Progress Pay-Estimate Project Initiation or Update," of this manual.

Adequately record the district's actions toward encouraging the contractor to begin work. Notes of discussions from the preconstruction conference or other conversations with the contractor provide the necessary records. If a contractor fails to begin work by the specified time, remind the contractor of this failure under "Remarks" on Form CEM-2701. Send a separate letter with an additional reminder.

When the district decides that failure to begin work will result in unsatisfactory progress, discuss the situation with the construction field coordinator.

#### 3-802A Work Before Contract Approval

After the contractor has executed and returned the contract to Caltrans, the contractor, after submitting the specified notice, may enter the site and begin operations.

### **3-802 Beginning of Work**

When a contractor wants to start work before contract approval, call the Office of Office Engineer, contract documents unit, to determine whether Caltrans has received the executed contract documents. If the office has received the documents, proceed as set forth in Section 8-1.03, "Beginning of Work," of the *Standard Specifications*.

If a contractor wants to begin work before contract documents have been delivered to Caltrans, the contractor must obtain an encroachment permit from the district. The permit must incorporate the same terms stated in Section 8-1.03 that apply after the contractor has returned the executed contract documents to Caltrans but before the time of the contract's approval. In addition, the permit must include the following:

- A statement that the contractor is responsible and liable for any personal injury or property damage resulting from the work.
- The requirements for cooperation contained in the special provisions and in Section 7-1.14, "Cooperation," of the *Standard Specifications*. The terms of the permit should include notice that the contractor may be working on the site concurrently with others performing utility relocation, right-of-way clearance work, or other construction operations and that the work of the others will take precedence over the contractor's operations.
- When obvious conflicts are apparent, a permit should not be issued.
- The limits of the area in which work will be performed.
- The operation or operations to be performed.
- A statement that the contractor will comply with the requirements of the contract plans, the *Standard Specifications*, the project's special provisions, and any order of work specified in these documents.
- A statement that the contractor's operations will not deprive property owners of access.
- A requirement to provide an adequate bond (or cash deposit) to cover the work contemplated before starting any work. The amount should be the same as for other types of work, as covered in the *Manual for Encroachment Permits on California State Highways*.
- A reference to the contract's water pollution control requirements.

When extra work must be a first order of work, it should be performed under a "prior authorization," as covered in Section 5-3, "Contract Change Orders," of this manual. After the executed contract documents have been delivered as specified, contract change orders may be approved in the normal manner.

The district must not process requests for relief from maintenance or for contract acceptance until after the contract's approval.

### **3-803 Progress Schedule**

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When the special provisions require a progress schedule, the resident engineer must make every effort to obtain a reasonable schedule at the beginning of the contract. Any communication regarding the progress schedule must be recorded in the daily report. Notify the contractor in advance if a progress payment will be withheld for failure to submit a satisfactory schedule.

Schedules should do the following to satisfy general specification requirements:

- Separate the major items into activities that are likely to become the controlling operation or operations.





- Accurately show progress of the work, determine controlling items of work, and analyze time impacts from contract changes or work delays.
- Be consistent with contract time requirements.
- Display milestones such as placing traffic on detours or new pavement and beginning new phases of the work in staged construction.

The resident engineer must require an updated or revised progress schedule regularly or when significant changes occur in the project.

The special provisions may require a progress schedule using the critical path method (CPM). The special provisions will contain all the requirements for such a schedule. Resident engineers should also refer to the CPM training publications, *Introduction to Construction Scheduling Manual* and *Advanced Construction Scheduling Manual*, located on the Division of Construction’s intranet website on the contract administration page:

<http://pd.dot.ca.gov/construction/contractmanagement/cmpage.htm>

### 3-804 Temporary Suspension of Work

Temporary suspension of work, covered under Section 8-1.05, “Temporary Suspension of Work,” of the *Standard Specifications*, falls into two general categories:

1. The contractor’s failure to carry out orders or to perform any provision of the contract. Any letter ordering such a suspension must include references to applicable sections of the specifications and, if possible, state the conditions under which work may be resumed. Such action is taken only after careful consideration of all aspects of the problem.
2. Unsuitable weather or conditions unfavorable for the suitable prosecution of the work. This type of suspension may result from anticipated heavy traffic because of a holiday or a special event.

- a. Suspension of an item or operation

A suspension that affects one or several items may be ordered. Usually this suspension is used when either the work or the public will be affected adversely by continued operation.

Although this type of suspension is an option available only to the engineer, consider the contractor’s opinion on such a suspension.

- b. Suspension of the entire project

In areas subject to severe weather, it is permissible to suspend an entire project if this action is considered to be in the best interest of Caltrans. However, the engineer’s authority to suspend is limited to the reasons stated in Section 8-1.05, “Temporary Suspension of Work,” of the *Standard Specifications*. When an entire project is suspended for reasons that do not fall under the scope of Section 8-1.05, the suspension must have the contractor’s concurrence.

During any suspension, advise the contractor of the conditions under which maintenance will be performed.

During a suspension, preferably use the contractor to perform the necessary work to provide for public convenience or public safety. If Caltrans must perform such work, the district will request a director’s order, financed from the contract allotment. This order allows the district to hire a contractor to perform the work at force account.

### 3-804 Temporary Suspension of Work

When the reason for a suspension no longer exists, or when favorable conditions are expected soon for resuming work, the resident engineer must notify the contractor in writing. The letter must state the date when working days are expected to be resumed and must allow sufficient time to permit the contractor to remobilize the necessary labor and equipment. Generally speaking, a period of ten working days is considered reasonable.

The district construction office must forward to the Division of Construction copies of the letters notifying the contractor of suspension and resumption of work.

Because of an ordered suspension of work, the contractor may be due additional compensation, contract time, or both, that was not provided for elsewhere in the specifications. The specification allowing such compensation applies only to situations where the work is suspended for an unreasonable period. A one-day suspension because of traffic generated by a planned major event is not unreasonable. However, a suspension resulting from an unplanned major incident could be reason for granting additional compensation, time, or both.

### **3-805 Time of Completion**

#### **3-805 Time of Completion**

This section discusses the method of tracking contract time and uses the terms “days,” “working days,” and “controlling operation.” Section 1, “Definitions and Terms,” of the *Standard Specifications*, defines “days.” Section 8-1.06, “Time of Completion,” of the *Standard Specifications*, defines “working days” and “controlling operation.” However, the contract’s special provisions may modify the definition of working days.

The total time allowed for completion of a contract is a specified number of working days. The “computed date for completion” of a contract is the date of the last working day. On most projects situations arise that extend the date for completion beyond the “computed date for completion.” This extension is called the “extended date for completion.”

The “computed date for completion” can be extended in two ways:

- A day that normally would be charged as a working day is not charged. The number of working days remains the same. The result of this situation is that the “computed date for completion” is extended by one working day. This method of extending the date for completion is used when work is suspended or when working days are not charged for the reasons given in paragraphs (b) and (c) in Section 8-1.06, “Time of Completion,” of the *Standard Specifications*.
- The number of working days in the contract is increased, resulting in an extension of the date for completion. However, the actual working day or days on which an event occurred that resulted in an extension of time are charged as working days. This method of extending the date for completion is called a time extension. Reasons for time extensions are specified in Section 8-1.07, “Liquidated Damages;” Section 8-1.09, “Right of Way Delays;” and Section 8-1.10, “Utility and Non-Highway Facilities,” of the *Standard Specifications*.

#### 3-805A Weekly Statement of Working Days

The resident engineer must use Form CEM-2701, “Weekly Statement of Working Days,” to report the status of contract time to the contractor.

As soon as possible and no later than the middle of the following week, forward the original statement to the contractor. Send one copy to the district construction office for review, and file another copy with the project records. When working days are not being charged because of a work suspension, the weekly statement does not need to be submitted until working days are charged again. The first weekly statement after resumption of work will show the total suspension days to date.

Form CEM-2701 consists of three basic sections:

*3-805A (1) The Record Section (Upper Block)*

This section is used to record all working days; nonworking days as defined in Section 8-1.06, “Time of Completion,” of the *Standard Specifications*; and working days on which no productive work was performed on the controlling operation. In this section, tabulate every elapsed working and nonworking day during the life of the project.

Each day, the resident engineer must determine whether to charge a working day, and, if necessary, discuss the decision with the contractor. The “current controlling operation” is the basis of this determination; therefore, the resident engineer must base the decision on conditions effective on the day under consideration. If the progress schedule does not accurately represent conditions effective on that day, the resident engineer will request that the contractor update the next progress schedule to provide an accurate representation. The resident engineer will note on Form CEM-2701 the operation that, in the resident engineer’s opinion, is currently controlling. If the contractor does not concur, the entry will give the contractor an opportunity to protest formally, in accordance with Section 8-1.06, “Time of Completion,” of the *Standard Specifications*.

If the controlling operation is an activity not dependent upon weather, such as concrete curing or an embankment settlement period, a working day must be charged during inclement weather.

When determining nonworking days, loss of time because of inclement weather may extend beyond the period of actual inclement weather. The following list provides examples of this type of situation:

- The grade may still be too wet to work because of previous days of inclement weather.
- Earthwork may be saturated and unstable from previous days of inclement weather, requiring the rebuilding of haul roads, removal of saturated material from the tops of fills, or other earthwork repair with no progress toward contract completion, although a full crew may have worked the entire day.

Inclement weather can be other than wet or cold weather. For instance, it may be too hot to produce concrete that meets specified temperatures. If all specified precautions have been complied with and the concrete work is the controlling operation, a weather nonworking day should be granted.

If a nonworking day is granted because of requirements in Section 10, “Maintaining Traffic,” of the special provisions, state the reason as “traffic restriction” in the “Remarks” section of Form CEM-2701.

A temporary short-term suspension for reasons such as anticipated heavy traffic for an event or holiday must be noted in the “Weather, Weather Conditions, or Other Conditions” section and explained in the “Remarks” section. Do not show any charges for working or nonworking days. Include the suspension day in the “Days contract

suspended to date” line on Form CEM-2701 under the heading “Computation of Extended Date for Completion.”

In the column “Working Days No Work Done on Controlling Operation,” record any working day on which no work is done on the project or on the controlling operations. If the resident engineer knows the reasons for lack of work, the resident engineer should note them in the “Remarks” section and on the resident engineer’s daily report.

### 3-805A (2) Time Extensions (Center Block)

This section is used for recording extensions of time for causes specifically set forth in Section 8-1.07, “Liquidated Damages”; Section 8-1.09, “Right of Way Delays”; and Section 8-1.10, “Utility and Non-Highway Facilities,” of the *Standard Specifications* or for applicable requirements in the special provisions.

Analyze possible time extensions while the circumstances are still fresh in the minds of the inspection and contractor’s crews.

In the “CCO” column under “Days Approved,” record working days granted for contract change orders. In the “Other” column, record all other time extensions covered by the above-mentioned sections not included in contract change orders.

Use the following procedure for approving an “other day”:

- Under “Remarks,” acknowledge the receipt of a letter from the contractor requesting a time extension.
- Forward the contractor’s letter to the construction engineer with a cover letter containing the following information:
  1. Number of days requested and the contractor’s justification for the request.
  2. Cause of delay.
  3. Statement describing the controlling operation(s) delayed and the duration of the delay.
  4. Resident engineer’s recommendation.
  5. Supporting data.
  6. On federal oversight projects, comments from the area engineer of the Federal Highway Administration.
- The construction engineer or appropriate approving engineer (depending on district policy) will note approval, if appropriate, on the resident engineer’s letter and return a copy to the resident engineer or notify the resident engineer of other steps to be taken.
- If the time extension is approved, the resident engineer will enter it on Form CEM-2701, “Weekly Statement of Working Days,” as an approved extension, with a statement under “Remarks” similar to that shown on Example 3-8.4 in this section.

The Division of Construction must approve “other days” granted after the completion of the final weekly statement of working days.

If contract time has expired, the resident engineer may consider time extensions for causes described in the fifth paragraph of Section 8-1.07, “Liquidated Damages”; in Section 8-1.09, “Right of Way Delays”; and in Section 8-1.10, “Utility and Non-Highway Facilities,” of the *Standard Specifications*. The director must approve all

other time extensions for causes occurring after the contract working days have expired.

In considering time extensions for any of the specific causes designated in the contract, deduct all nonworking days within the extension period, and ensure that the extension is made only for the working days charged to the contract during the extension. For additional information on time extensions after contract completion, see “Liquidated Damages” later in this section.

### *3-805A (3) Computation of Extended Date for Completion (Lower Block)*

In the lower section of the form, summarize the information the contractor will receive.

The “first working day” is the calendar day specified in Section 4, “Beginning of Work, Time of Completion, and Liquidated Damages,” of the contract’s special provisions. This day is usually the 15th calendar day after contract approval. If the contractor starts work before the 15th day after contract approval, the first working day is the day the contractor starts work. However, when the project has a “55-day beginning of work” specification and if required submittals are approved early, this 55-day specification allows the contractor to start earlier than the specified day after contract approval without counting working days.

Several methods are used to specify the first working day. The resident engineer must read and understand the contract’s specifications and correctly record the date of the first working day.

Use the Construction Workday Calendar to determine the correct values to place in the “Numbered Day” column on Form CEM-2701 for the first working day, the computed date for completion, and the extended date for completion. Standard five-day and seven-day calendars are available online at the following address:

<http://www.dot.ca.gov/hq/construc/calendar/index.htm>

The number shown on the calendar on a particular date is that date’s numbered day.

### *3-805A (4) Final Weekly Statement of Working Days*

Designate the Form CEM-2701 that is used for the week when a contract is accepted as the “Final Weekly Statement of Working Days.” Prepare this statement on the day the district accepts the contract and ensure that the statement reflects the “approved status of time” on this date. For revising the status of time from that shown on the final weekly statement of working days, see Section 3-806, “Liquidated Damages,” later in this section.

### *3-805A (5) Examples*

The following pages show examples of typical entries for Form CEM-2701, “Weekly Statement of Working Days.”

Example 3-8.1 First Working Day/Begin Work

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
**WEEKLY STATEMENT OF WORKING DAYS**  
 CEM-2701 (REV. 2/2001)

(JOB STAMP)

					REPORT NUMBER 1
CONTRACTOR					WEEK ENDING (month, day, year) 04/09/99
Date	Day	Weather, Weather Conditions or Other Conditions <sup>1</sup>	Working Day	Nonworking Day	Working Day No Work Done on Controlling Operation <sup>2</sup>
4/5/99	Monday				
4/6/99	Tuesday	First working day - clear	1		1
4/7/99	Wednesday	Clear	1		1
4/8/99	Thursday	Contractor began work - clear	1		
4/9/99	Friday	Clear	1		
Days this week _____			4		2
Days previously reported _____					
Total days to date _____			4		2
<b>Time Extensions<sup>3</sup></b>			<b>CCO Numbers<sup>4</sup></b>	<b>Days Approved</b>	
				CCO	Other
Days this report _____					
Days previously reported _____					
Total days to date _____					
<b>Computation of Extended Date for Completion</b>			<b>Number of Days</b>	<b>Numbered Day<sup>5</sup></b>	<b>Date</b>
1. First working day _____				528	4/6/99
2. Working days specified in contract _____			140		
3. COMPUTED DATE FOR COMPLETION (line 1 + line 2 - 1) _____				667	10/25/99
4. Days contract suspended to date _____			0		
5. Total time extension days approved to date (CCO plus other) _____			0		
6. Total Nonworking days to date <sup>6</sup> _____			0		
7. Subtotal (line 4 + line 5 + line 6) _____			0		
8. EXTENDED DATE FOR COMPLETION (line 3 + line 7) _____				667	10/25/99
9. Revised working days for contract (line 2 + line 5) _____			140		
10. Total working days to date _____			4		
11. WORKING DAYS REMAINING (line 9 - line 10) _____			136		
CONTROLLING OPERATIONS (S)					
Construction area signs					
REMARKS					
Contract approved March 22 <sup>nd</sup> , 1999 (Refer to Section 4 of the special provisions to determine the first day of work)					
<p>The contractor will be allowed fifteen (15) days in which to protest in writing the correctness of the statement; otherwise, the statement shall be deemed to have been accepted by the contractor as correct.              NOTE: Footnote instruction for resident engineer are on reverse side.</p>					
RESIDENT ENGINEER SIGNATURE					DATE

Distribution: Original-contractor, copies-asst/ct, resident engineer





Example 3-8.2 Begin Work Before First Working Day

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
**WEEKLY STATEMENT OF WORKING DAYS**  
 CEM-2701 (REV. 2/2001)

(JOB STAMP)

					REPORT NUMBER 1
CONTRACTOR					WEEK ENDING (month, day, year) 04/09/99
Date	Day	Weather, Weather Conditions or Other Conditions <sup>1</sup>	Working Day	Nonworking Day	Working Day No Work Done on Controlling Operation <sup>1</sup>
4/5/99	Monday	Clear - Contractor began work			
4/6/99	Tuesday	First working day - clear	1		
4/7/99	Wednesday	Clear	1		
4/8/99	Thursday	Clear	1		
4/9/99	Friday	Clear	1		
Days this week .....			4		
Days previously reported .....					
Total days to date .....			4		
<b>Time Extensions<sup>2</sup></b>			<b>CCO Numbers<sup>2</sup></b>	<b>Days Approved</b>	
				CCO	Other
Days this report .....					
Days previously reported .....					
Total days to date .....					
<b>Computation of Extended Date for Completion</b>			<b>Number of Days</b>	<b>Numbered Day<sup>3</sup></b>	<b>Date</b>
1. First working day .....				528	4/6/99
2. Working days specified in contract .....			140		
3. COMPUTED DATE FOR COMPLETION (line 1 + line 2 - 1) .....				667	10/25/99
4. Days contract suspended to date .....			0		
5. Total time extension days approved to date (CCO plus other) .....			0		
6. Total Nonworking days to date <sup>2</sup> .....			0		
7. Subtotal (line 4 + line 5 + line 6) .....			0		
8. EXTENDED DATE FOR COMPLETION (line 3 + line 7) .....				667	10/25/99
9. Revised working days for contract (line 2 + line 5) .....			140		
10. Total working days to date .....			4		
11. WORKING DAYS REMAINING (line 9 - line 10) .....			138		
CONTROLLING OPERATIONS (S)					
Construction area signs					
REMARKS					
Contract approved March 22 <sup>nd</sup> , 1999 (Refer to Section 4 of the special provisions to determine the first day of work)					
<p>The contractor will be allowed fifteen (15) days in which to protest in writing the correctness of the statement; otherwise, the statement shall be deemed to have been accepted by the contractor as correct.              NOTE: Footnote instruction for resident engineer are on reverse side.</p>					
RESIDENT ENGINEER SIGNATURE					DATE

Distribution: Original- contractor, copies- district, resident engineer



Example 3-8.3 Contract Change Order Time Extension

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
**WEEKLY STATEMENT OF WORKING DAYS**  
 CEM-2701 (REV. 2/2001)

(JOB STAMP)

				REPORT NUMBER 5	
CONTRACTOR				WEEK ENDING (month, day, year) 05/07/99	
Date	Day	Weather, Weather Conditions or Other Conditions <sup>1</sup>	Working Day	Nonworking Day	Working Day No Work Done on Controlling Operation <sup>2</sup>
05/03/99	Monday	Cloudy	1		1
05/04/99	Tuesday	Rain		1	
05/05/99	Wednesday	Clear - embankment too wet		1	
05/06/99	Thursday	Clear	1		
05/07/99	Friday	Clear	1		
Days this week			3	2	1
Days previously reported			16	3	4
Total days to date			19	5	5
<b>Time Extensions<sup>3</sup></b>			<b>CCO Numbers<sup>4</sup></b>	<b>Days Approved</b>	
				<b>CCO</b>	<b>Other</b>
Days this report			CCO #2	2	
Days previously reported					
Total days to date				2	
<b>Computation of Extended Date for Completion</b>			<b>Number of Days</b>	<b>Numbered Day<sup>4</sup></b>	<b>Date</b>
1. First working day				528	4/6/99
2. Working days specified in contract			140		
3. COMPUTED DATE FOR COMPLETION (line 1 + line 2 - 1)				667	10/25/99
4. Days contract suspended to date			0		
5. Total time extension days approved to date (CCO plus other)			2		
6. Total Nonworking days to date <sup>5</sup>			5		
7. Subtotal (line 4 + line 5 + line 6)			7		
8. EXTENDED DATE FOR COMPLETION (line 3 + line 7)				674	11/3/99
9. Revised working days for contract (line 2 + line 5)			142		
10. Total working days to date			19		
11. WORKING DAYS REMAINING (line 9 - line 10)			123		

CONTROLLING OPERATIONS (S)

Embankment Construction

REMARKS

April 21<sup>st</sup> and 22<sup>nd</sup> 1999 granted for CCO #2

The contractor will be allowed fifteen (15) days in which to protest in writing the correctness of the statement; otherwise, the statement shall be deemed to have been accepted by the contractor as correct.

NOTE: Footnote instruction for resident engineer are on reverse side.

RESIDENT ENGINEER SIGNATURE

DATE

Distribution: Original- contractor, copies- district, resident engineer



Example 3-8.4 Approval of a Time Extension

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
**WEEKLY STATEMENT OF WORKING DAYS**  
 CEM-2701 (REV. 2/2001)

(JOB STAMP)

				REPORT NUMBER 10	
CONTRACTOR				WEEK ENDING (month, day, year) 06/11/99	
Date	Day	Weather, Weather Conditions or Other Conditions <sup>1</sup>	Working Day	Nonworking Day	Working Day No Work Done on Controlling Operation <sup>1</sup>
6/7/99	Monday	Clear	1		
6/8/99	Tuesday	Clear	1		
6/9/99	Wednesday	Cloudy	1		
6/10/99	Thursday	Clear	1		
6/11/99	Friday	Clear	1		
Days this week			5		
Days previously reported			38	5	5
Total days to date			43	5	5
Time Extensions <sup>2</sup>			CCO Numbers <sup>4</sup>	Days Approved	
				CCO	Other
Days this report					2
Days previously reported				2	
Total days to date				2	2
Computation of Extended Date for Completion			Number of Days	Numbered Day <sup>5</sup>	Date
1. First working day				528	4/6/99
2. Working days specified in contract			140		
3. COMPUTED DATE FOR COMPLETION (line 1 + line 2 - 1)				667	10/25/99
4. Days contract suspended to date			0		
5. Total time extension days approved to date (CCO plus other)			4		
6. Total Nonworking days to date <sup>6</sup>			5		
7. Subtotal (line 4 + line 5 + line 6)			9		
8. EXTENDED DATE FOR COMPLETION (line 3 + line 7)				676	11/5/99
9. Revised working days for contract (line 2 + line 5)			144		
10. Total working days to date			43		
11. WORKING DAYS REMAINING (line 9 - line 10)			101		
CONTROLLING OPERATIONS (S)					
Settlement periods for bridge abutment fills					
REMARKS					
A review of our records indicates that the controlling operation of embankment construction was delayed by a labor dispute on May 6-7, 1999. In accordance with Section 8-1.07 of the Standard specifications and your letter dated June 3, 1999, two days are granted					
The contractor will be allowed fifteen (15) days in which to protest in writing the correctness of the statement; otherwise, the statement shall be deemed to have been accepted by the contractor as correct. NOTE: Footnote instruction for resident engineer are on reverse side.					
RESIDENT ENGINEER SIGNATURE				DATE	

Distribution: Original- contractor, copies- district, resident engineer



Example 3-8.5 Non-Working Day Due to "Maintaining Traffic" and Suspension

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
**WEEKLY STATEMENT OF WORKING DAYS**  
 CEM-2701 (REV. 2/2001)

(JOB STAMP)

					REPORT NUMBER 13
CONTRACTOR					WEEK ENDING (month, day, year) 07/02/99
Date	Day	Weather, Weather Conditions or Other Conditions <sup>1</sup>	Working Day	Nonworking Day	Working Day No Work Done on Controlling Operation <sup>2</sup>
6/28/99	Monday	Clear	1		
6/29/99	Tuesday	Clear	1		
6/30/99	Wednesday	Clear	1		
7/1/99	Thursday	Clear - Suspension			
7/2/99	Friday	Clear - Traffic nonworking day		1	
Days this week			3	1	
Days previously reported			53	5	5
Total days to date			56	6	5
<b>Time Extensions<sup>3</sup></b>			<b>CCO Numbers<sup>4</sup></b>	<b>Days Approved</b>	
				CCO	Other
Days this report					
Days previously reported				2	2
Total days to date				2	2
<b>Computation of Extended Date for Completion</b>			<b>Number of Days</b>	<b>Numbered Day<sup>4</sup></b>	<b>Date</b>
1. First working day				528	4/6/99
2. Working days specified in contract			140		
3. COMPUTED DATE FOR COMPLETION (line 1 + line 2 - 1)				667	10/25/99
4. Days contract suspended to date			1		
5. Total time extension days approved to date (CCO plus other)			4		
6. Total Nonworking days to date <sup>5</sup>			6		
7. Subtotal (line 4 + line 5 + line 6)			11		
8. EXTENDED DATE FOR COMPLETION (line 3 + line 7)				678	11/9/99
9. Revised working days for contract (line 2 + line 5)			144		
10. Total working days to date			56		
11. WORKING DAYS REMAINING (line 9 - line 10)			88		

CONTROLLING OPERATIONS (S)  
 Paving Main Street connector.

REMARKS

Work was suspended on July 1<sup>st</sup> in accordance with Section 8-1.05, "Temporary Suspension of Work," of the Standard Specifications due to city holiday weekend preparations.  
 Section 10-1.14, "Maintaining Traffic," of the special provisions prohibits work on Friday, Saturday, and Sunday when a designated legal holiday falls on Monday. See Section 8-1.06 of the Standard Specifications

The contractor will be allowed fifteen (15) days in which to protest in writing the correctness of the statement; otherwise, the statement shall be deemed to have been accepted by the contractor as correct.  
 NOTE: Footnote instruction for resident engineer are on reverse side.

RESIDENT ENGINEER SIGNATURE

DATE

Distribution: Original-contractor, copies-district, resident engineer



Example 3-8.6 Type 2 Plant Establishment. Highway Work Not Complete

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
**WEEKLY STATEMENT OF WORKING DAYS**  
 CEM-2701 (REV. 2/2001)

(JOB STAMP)

				REPORT NUMBER 83	
CONTRACTOR				WEEK ENDING (month, day, year) 3/5/99	
Date	Day	Weather, Weather Conditions or Other Conditions <sup>1</sup>	Working Day	Nonworking Day	Working Day No Work Done on Controlling Operation <sup>1</sup>
10/4/99	Monday	Partly cloudy	1		
10/5/99	Tuesday	clear	1		
10/6/99	Wednesday	Clear	1		
10/7/99	Thursday	Clear	1		
10/8/99	Friday	cloudy	1		
Days this week			5	0	0
Days previously reported			382	16	23
Total days to date			387	16	23
<b>Time Extensions<sup>2</sup></b>			<b>CCO Numbers<sup>4</sup></b>	<b>Days Approved</b>	
				<b>CCO</b>	<b>Other</b>
Days this report					
Days previously reported			#16, #21	14	2
Total days to date				14	2
<b>Computation of Extended Date for Completion</b>			<b>Number of Days</b>	<b>Numbered Day<sup>5</sup></b>	<b>Date</b>
1. First working day				255	3/2/98
2. Working days specified in contract			400		
3. COMPUTED DATE FOR COMPLETION (line 1 + line 2 - 1)				654	10/5/99
4. Days contract suspended to date					
5. Total time extension days approved to date (CCO plus other)			16		
6. Total Nonworking days to date <sup>6</sup>			16		
7. Subtotal (line 4 + line 5 + line 6)			32		
8. EXTENDED DATE FOR COMPLETION (line 3 + line 7)				686	11/22/99
9. Revised working days for contract (line 2 + line 5)			416		
10. Total working days to date			387		
11. WORKING DAYS REMAINING (line 9 - line 10)			29		

CONTROLLING OPERATIONS (S) Striping and signs

REMARKS

**Status of plant establishment and working days**

1. Plant establishment period started	9/23/99
2. There are 250 plant establishment days in this contract	250
3. Working days previously credited	7
4. Working days credited this week	5
5. Total plant establishment days credited to date	12
6. Plant establishment days remaining	238

The contractor will be allowed fifteen (15) days in which to protest in writing the correctness of the statement; otherwise, the statement shall be deemed to have been accepted by the contractor as correct.

NOTE: Footnote instruction for resident engineer are on reverse side.

RESIDENT ENGINEER SIGNATURE

DATE

Distribution: Original--contractor, copies--district, resident engineer



Example 3-8.7 Type 2 Plant Establishment. Non-Plant Establishment Work Completed

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
**WEEKLY STATEMENT OF WORKING DAYS**  
 CEM-2701 (REV. 2/2001)

(JOB STAMP)

				REPORT NUMBER 92	
CONTRACTOR				WEEKENDING (month, day, year) 12/10/99	
Date	Day	Weather, Weather Conditions or Other Conditions <sup>1</sup>	Working Day	Nonworking Day	Working Day No Work Done on Controlling Operation <sup>2</sup>
12/6/99	Monday	Clear	1		
12/7/99	Tuesday	Partly cloudy	1		
12/8/99	Wednesday	Partly cloudy Relief of maint. For all non-P.E. work	1		
12/9/99	Thursday	Rain	1		
12/10/99	Friday	rain	1		
Days this week			5		
Days previously reported			424	16	23
Total days to date			429	16	23
<b>Time Extensions<sup>3</sup></b>			<b>CCO Numbers<sup>4</sup></b>	<b>Days Approved</b>	
				<b>CCO</b>	<b>Other</b>
Days this report					
Days previously reported			16, 21	14	2
Total days to date				14	2
<b>Computation of Extended Date for Completion</b>			<b>Number of Days</b>	<b>Numbered Day<sup>5</sup></b>	<b>Date</b>
1. First working day				255	3/2/98
2. Working days specified in contract			650		
3. COMPUTED DATE FOR COMPLETION (line 1 + line 2 - 1)				904	10/2/00
4. Days contract suspended to date					
5. Total time extension days approved to date (CCO plus other)			16		
6. Total Nonworking days to date <sup>6</sup>			16		
7. Subtotal (line 4 + line 5 + line 6)			32		
8. EXTENDED DATE FOR COMPLETION (line 3 + line 7)				936	11/17/00
9. Revised working days for contract (line 2 + line 5)			666		
10. Total working days to date			429		
11. WORKING DAYS REMAINING (line 9 - line 10)			237		

CONTROLLING OPERATIONS (S)

Plant establishment

REMARKS

Relief of maintenance for all non-plant establishment work on 12/8/99. 21 calendar days overrun in contract time for non-plant establishment work.

Status of plant establishment

1. 250 day Plant establishment period started	9/23/99
2. working days previously credited	49
3. working days credited this week	5
4. Total plant establishment days credited to date	54
5. Plant establishment days remaining	196

The contractor will be allowed fifteen (15) days in which to protest in writing the correctness of the statement; otherwise, the statement shall be deemed to have been accepted by the contractor as correct.

NOTE: Footnote instruction for resident engineer are on reverse side.

RESIDENT ENGINEER SIGNATURE

DATE

Distribution: Original-contractor, copies-district, resident engineer





Example 3-8.8 Final Weekly Statement of Working Days

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
**WEEKLY STATEMENT OF WORKING DAYS**  
 CEM-2701 (REV. 2/2001)

(JOB STAMP)

				REPORT NUMBER 34	
CONTRACTOR				WEEK ENDING (month, day, year) 5/26/00	
Date	Day	Weather, Weather Conditions or Other Conditions <sup>1</sup>	Working Day	Nonworking Day	Working Day No Work Done on Controlling Operation <sup>1</sup>
5/1 5/00	Monday	Clear	1		
5/1 6/00	Tuesday	Clear	1		
5/1 7/00	Wednesday	Clear - contract accepted	1		
5/1 8/00	Thursday				
5/1 9/00	Friday				
Days this week			3		
Days previously reported			152	26	10
Total days to date			155	26	10
Time Extensions <sup>2</sup>			CCO Numbers <sup>4</sup>	Days Approved	
				CCO	Other
Days this report					
Days previously reported				18	2
Total days to date				18	2
Computation of Extended Date for Completion			Number of Days	Numbered Day <sup>5</sup>	Date
1. First working day				528	4/6/99
2. Working days specified in contract			140		
3. COMPUTED DATE FOR COMPLETION (line 1 + line 2 - 1)				667	10/25/99
4. Days contract suspended to date			101		
5. Total time extension days approved to date (CCO plus other)			20		
6. Total Nonworking days to date <sup>6</sup>			26		
7. Subtotal (line 4 + line 5 + line 6)			147		
8. EXTENDED DATE FOR COMPLETION (line 3 + line 7)				814	5/24/00
9. Revised working days for contract (line 2 + line 5)			160		
10. Total working days to date			155		
11. WORKING DAYS REMAINING (line 9 - line 10)					
CONTROLLING OPERATIONS (S)					
Final clean up and punch list					
REMARKS					

The contractor will be allowed fifteen (15) days in which to protest in writing the correctness of the statement; otherwise, the statement shall be deemed to have been accepted by the contractor as correct.  
 NOTE: Footnote instruction for resident engineer are on reverse side.

RESIDENT ENGINEER SIGNATURE	DATE
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Distribution: Original- contractor, copies- district, resident engineer



Example 3-8.9 Contract in Overrun

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
**WEEKLY STATEMENT OF WORKING DAYS**  
 CEM-2701 (REV. 2/2001)

(JOB STAMP)

						REPORT NUMBER 80
CONTRACTOR						WEEK ENDING (month, day, year) 02/12/99
Date	Day	Weather, Weather Conditions or Other Conditions <sup>1</sup>	Working Day	Nonworking Day	Working Day No Work Done on Controlling Operation <sup>1</sup>	
2/8/99	Monday	Clear	1*			
2/9/99	Tuesday	Clear	1*			
2/10/99	Wednesday	Cloudy	1*			
2/11/99	Thursday	Rain	1*			
2/12/99	Friday	Holiday	1*			
Days this week						
Days previously reported			314	59	27	
Total days to date			314	59	27	
<b>Time Extensions<sup>2</sup></b>			<b>CCO Numbers<sup>4</sup></b>	<b>Days Approved</b>		
				<b>CCO</b>	<b>Other</b>	
Days this report						
Days previously reported				14		
Total days to date				14		
<b>Computation of Extended Date for Completion</b>			<b>Number of Days</b>	<b>Numbered Day<sup>5</sup></b>	<b>Date</b>	
1. First working day				115	8/5/97	
2. Working days specified in contract						
3. COMPUTED DATE FOR COMPLETION (line 1 + line 2 - 1)				414	10/16/98	
4. Days contract suspended to date						
5. Total time extension days approved to date (CCO plus other)			14			
6. Total Nonworking days to date <sup>6</sup>			59			
7. Subtotal (line 4 + line 5 + line 6)			73			
8. EXTENDED DATE FOR COMPLETION (line 3 + line 7)				487	2/3/99	
9. Revised working days for contract (line 2 + line 5)			314			
10. Total working days to date			314			
11. WORKING DAYS REMAINING (line 9 - line 10)						
CONTROLLING OPERATIONS (S)						
Functional tests						
REMARKS						
*WORKING and NON-WORKING Days are shown for record only since the contract time has elapsed. There is a total of 9 calendar days overrun through February 12, 1999.						
<p>The contractor will be allowed fifteen (15) days in which to protest in writing the correctness of the statement; otherwise, the statement shall be deemed to have been accepted by the contractor as correct.                  NOTE: Footnote instruction for resident engineer are on reverse side.</p>						
RESIDENT ENGINEER SIGNATURE					DATE	
Distribution: Original--contractor, copies--district, resident engineer						



STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
**WEEKLY STATEMENT OF WORKING DAYS**  
 CEM-2701 (REV. 2/2001)

(JOB STAMP)

				REPORT NUMBER <b>7</b>	
CONTRACTOR				WEEK ENDING (month, day, year) <b>03/04/01</b>	
Date	Day	Weather, Weather Conditions or Other Conditions <sup>1</sup>	Working Day	Nonworking Day	Working Day No Work Done on Controlling Operation <sup>2</sup>
2/26/01	Monday	Clear	1		
2/27/01	Tuesday	Suspended		1	
2/28/01	Wednesday	Cloudy	1		
3/01/01	Thursday	Rain		1	
3/02/01	Friday	Wet Grade, no work		1	
3/03/01	Saturday	Partly cloudy	1		
3/04/01	Sunday	Clear	1		
Days this week			4	3	
Days previously reported			36	11	
Total days to date			40	14	
Time Extensions <sup>3</sup>			CCO Numbers <sup>4</sup>	Days Approved	
				CCO	Other
Days this report			#8	4	
Days previously reported				3	
Total days to date				7	
Computation of Extended Date for Completion			Number of Days	Numbered Day <sup>5</sup>	Date
1. First working day				N/A	1/10/01
2. Working days specified in contract			80		
3. COMPUTED DATE FOR COMPLETION (line 1 + line 2 - 1)				N/A	3/30/01
4. Days contract suspended to date					
5. Total time extension days approved to date (CCO plus other)			7		
6. Total Nonworking days to date <sup>6</sup>			14		
7. Subtotal (line 4 + line 5 + line 6)			21		
8. EXTENDED DATE FOR COMPLETION (line 3 + line 7)				N/A	4/20/01
9. Revised working days for contract (line 2 + line 5)			87		
10. Total working days to date			40		
11. WORKING DAYS REMAINING (line 9 - line 10)			47		

CONTROLLING OPERATIONS (S)  
 Earthwork

REMARKS

Contract Change Order #8 approved 3/02/01  
 Contract work suspended 2/27/01 because of anticipated heavy traffic due to the annual Snow Maiden Festival.

The contractor will be allowed fifteen (15) days in which to protest in writing the correctness of the statement; otherwise, the statement shall be deemed to have been accepted by the contractor as correct.

NOTE: Footnote instruction for resident engineer are on reverse side.

RESIDENT ENGINEER SIGNATURE

DATE

Distribution: Original- contractor, copies- district, resident engineer



### 3-805B Progress of Work

After each progress estimate, update Form CEM-2601, "Construction Progress Chart." The Contract Administration System uses the formula contained on this form to determine progress. For a description of this process, see Section 5-1, "Project Records and Reports," of this manual.

The contractor's progress is usually considered unsatisfactory when the contractor's progress curve falls below the curve of the contract progress chart or when successive points on the contractor's progress curve indicate the contractor's progress rate will soon fall below the curve.

Whenever the contractor fails to prosecute the work adequately, as evidenced by the plot of actual progress and the resident engineer's concurrence, the resident engineer must notify the contractor of the apparent lack of progress. If the resident engineer judges that the work on the original schedule will not be completed by the original due date, the resident engineer must request that the contractor submit a revised schedule showing how the balance of the work will be carried out.

Whenever the district believes the contractor's bonding company should be notified of unsatisfactory progress, advise the Division of Construction of the reasons supporting such an action. If appropriate, the Division of Construction will initiate the notification.

If the district believes the lack of progress on a contract justifies a meeting, request the Division of Construction to arrange a conference to be attended by the contractor's representatives, the bonding company, and Caltrans. If appropriate, the Division of Construction will arrange the conference. For more information, refer to "Termination of Control" in this section.

## **3-806 Liquidated Damages**

### **3-806 Liquidated Damages**

Section 8-1.07, "Liquidated Damages," of the *Standard Specifications* covers various items such as director's days, time extensions, and shortage of materials. Liquidated damages is defined in Section 1, "Definitions and Terms," of the *Standard Specifications* and is also referenced in Section 4, "Beginning of Work, Time of Completion, and Liquidated Damages," of the special provisions.

#### 3-806A Overrun in Contract Time

If the "Extended Date for Completion" on the final "Weekly Statement of Working Days" contains a date before the date of the contract's completion, an apparent overrun has occurred. Proceed as follows:

##### *3-806A (1) Case 1*

The district intends to assess liquidated damages for the overrun shown on the final "Weekly Statement of Working Days." Enter the deduction for liquidated damages into the project records, and proceed with the proposed final estimate.

##### *3-806A (2) Case 2*

The district intends to change the status of time from that shown on the final "Weekly Statement of Working Days" by time due on contract change orders. Time extensions resulting from contract change orders should have been resolved before the contract's completion in accordance with instructions covered elsewhere in this manual. For those instances where extenuating circumstances result in unresolved time for contract change orders after completion, complete all deferred-time contract change

orders, enter the data into the project records, enter any remaining deductions for liquidated damages into the records, and proceed with the proposed final estimate.

*3-806A (3) Case 3*

The district intends to change the status of time from that shown on the final “Weekly Statement of Working Days” as a result of “other day” time extensions still under consideration on the date of the contract’s acceptance. Obtain concurrence for making such changes from the Division of Construction. Report the recommended disposition of each item of unresolved time in a form sufficiently clear and complete that no interpretation or further explanation is needed. Upon receipt of the recommendations, the Division of Construction will advise the district of what action to take.

Include a status of contract time in a form similar to the following:

	Calendar Date	Working Days or Numbered Day
Date attorney general approved contract	7-05-00	842
First working day	7-20-00	853
Working days specified in contract		140
Computed date for completion	2-13-01	993
Total time extensions, contract change order, final Form CEM-2701		5
Total time extensions, other, final Form CEM-2701		15
Nonworking days, final Form CEM-2701		45
Additional contract change order days (if applicable)		14
Additional time extensions recommended (if applicable)		10
Extended date for completion	6-20-01	982
Date contract completed	6-20-01	882
Remaining overrun		0

After the disposition of overruns has been determined, the district will advise the contractor directly.

Place copies of all memoranda in the project files to serve as the record of final disposition of overruns.

For any unresolved overrun in time, show a deduction to assess liquidated damages on the proposed final estimate. If the contractor objects to this assessment, follow the claim procedures outlined in Section 5-4, “Disputes,” of this manual.

### 3-806A (4) Case 4

When the final quantities of individual contract items have exceeded 125 percent of the engineer's estimate, not as a result of ordered changes, the district may recommend the director's approval of a commensurate time extension. Such a recommendation is subject to *all* of the following provisions:

- Time is allowable only to the extent that each item was considered to be controlling.
- Any time extension is applicable only to the excess above 125 percent of the engineer's estimate.
- The maximum allowable time extension for each item cannot exceed the amount of time determined by applying normal production rates to the increased quantity of the item involved.

Time extensions for reasons other than those specifically enumerated in the contract are made at the discretion of the director and are to be deferred until completion of the contract. When the director grants additional days at this stage, the days are referred to as "director days." Forward requests for director days to the Division of Construction together with the district's recommendation and reasons. The request should contain sufficient information and justification to allow the construction field coordinator to complete Form CEM-2702, "Overrun in Contract Time." Director days are approved by the Division of Construction chief. Do not record these director days on the "Weekly Statement of Working Days."

### 3-806B Shortage of Material

Section 8-1.07, "Liquidated Damages," of the *Standard Specifications* strictly defines and limits a shortage of materials for which a time extension may be granted. Before a time extension may be granted, several determinations must be made:

- | • Whether a timely notice of delay exists.  
The contractor's notice of delay, whether a protest of a "Weekly Statement of Working Days" or a separate letter, must be received no later than 15 days after the material shortage first caused the work delay.
- | • The effect on the controlling item of work.  
If the delay does not affect the controlling item of work, advise the contractor accordingly in writing. If the contractor requests to be allowed to substitute the unavailable material with available material, the resident engineer must seek assistance from those responsible for the design. Contract change orders are to be processed as contractor-requested changes.
- | • Whether the materials, articles, parts, or equipment are standard items.  
Standard items are produced to meet the specifications of such industry-wide organizations as the American Association of State Highway and Transportation Officials (AASHTO), the American Society for Testing and Materials (ASTM), the American Wood-Preservers' Association, the American Institute of Steel Construction (AISC), and the United States Department of Agriculture (USDA), among others. The fact that Caltrans' specifications refer to these standards does not alter the item's status.

Standard items include those that are listed in a catalog and are available for immediate delivery and also items that are normally shelf items available for purchase at supply houses. Items that are manufactured only upon order are not standard items even if included in a catalog.



Examples of materials that are usually considered standard items:

1. Commercial fertilizer (industry specification)
2. Soil amendment (industry specification)
3. Iron sulfate (USDA)
4. Straw (USDA)
5. Seed (USDA)
6. Lumber (industry specification)
7. Plants (USDA)
8. Pipes and conduit, except cast-in-place (industry specification)
9. Backflow preventers (industry specification or catalog item)
10. Lime (industry specification or shelf item)
11. Asphalt (industry specification or shelf item)
12. Timber piles (industry specification)
13. Steel plates or shapes shown in the AISC handbook (shelf item)
14. Prestressing steel (industry specification)
15. Expansion joint materials (industry specification)
16. Elastomeric bearing pads (industry specification)
17. Steel bars for reinforcement—the material, not the bending and cutting (shelf or catalog item)
18. Bolts (industry specification)
19. Pumping plant equipment, components only (catalog items)
20. Miscellaneous metal, material, not fabrication (industry specification)
21. Fence posts, wire, fabric, hardware (industry specification)
22. Guide marker posts, plates, reflectors, hardware (industry specification)
23. Metal beam guard railing (industry specification)
24. Metal beam barrier (industry specification)
25. Type 1 lighting standards (industry specification)
26. Electrical conductors (industry specification)
27. Controller components (industry-wide catalogs)
28. Traffic signals and fittings (proprietary item)
29. Lamps for luminaries (proprietary item)
30. Ballasts (proprietary item)
31. Cement (industry specification or shelf item)
32. Pavement markers (proprietary item)

Items that do not fall into the above list and that are produced to meet the requirements of Caltrans' plans and specifications are not standard items. For example, the following materials are usually not standard items:

1. Processed structure backfill material.
2. Pervious backfill material.
3. Aggregates for bases and subbases.
4. Aggregates for cement-treated base, asphalt concrete, portland cement concrete, rock slope protection, and screenings.
5. Wood chips.
6. Portland cement concrete.
7. Traffic signal and lighting standards (except Type 1).
8. Controller assembly.
9. All material manufactured to meet a state specification such as curing compound, paint, or epoxy.
10. Concrete piling.

The nonstandard items listed above may contain components that are in short supply. They may then be eligible for consideration in a material shortage situation if the component is a standard item.

- If a “physical shortage” exists.

The term “physical shortage” means that the standard item or component of a standard item is not available at the time it becomes a time-controlling factor. However, do not consider an extension if the physical shortage results from any of the following:

1. Untimely ordering of material.
2. Failure to make a requested down payment.
3. Lack of credit.

You must presume that a contractor, when submitting a bid, thoroughly considers all aspects of procuring materials and bids accordingly. This thorough consideration can include timely delivery commitments, price, and responsibility for meeting specifications.

Whenever it has been determined that an industry-wide shortage exists, the Division of Construction will advise all districts.

A physical shortage will not be considered to exist if either the contractor or a subcontractor has failed to perform any required fabrication or processing.

- Whether the contractor diligently tried to obtain the material.

Require the contractor to furnish documented proof of dates that material was ordered and confirmed. The orders must have been placed sufficiently in advance of the desired delivery to cover a normal lapse time in the particular industry. However, you cannot expect the contractor to have placed orders before contract approval.

If the contractor’s order was timely, request documented proof of efforts to obtain material from alternate sources that normally supply such materials to projects in the area. Alternate sources include, when possible, production of an item using the contractor’s own forces.

If written proof is unavailable from an alternate source, the resident engineer may accept a verbal confirmation from a supplier. Record such confirmation in the daily report and in the letter to the district recommending the time extension. When no alternate source exists or when procurement from an alternate source may delay delivery even longer than procurement from the original source, also record confirmation of this situation.

For information on approving a time extension because of a shortage of material, see Section 3-805A (2), “Time Extension,” of this manual. Time extension days will generally be recorded as “other days.”

### **3-807 Termination of Control**

Section 8-1.08, “Termination of Control,” of the *Standard Specifications* explains the contractual requirements for terminating the contractor’s control. Sections 10253 through 10260 of the Public Contract Code cover defaulted contracts.

Termination of control may occur only when a contractor fails to supply an adequate work force, fails to supply material of proper quality, fails to make proper and timely payments to subcontractors, or fails in any other respect to prosecute the work with the diligence and force specified by the contract. The following are guidelines for determining if the contractor may be failing to supply an adequate workforce:

- If the “percent completed” of the contract is more than 25 percent behind the “percent time elapsed.” These percentages can be found in the project status report. Normally, when Caltrans terminates the contractor’s control, the surety (bonding company) assumes responsibility for completing the contract.
- Complete cessation of the work.
- The work has not started within a period equal to 10 percent of the original working days or 50 working days, whichever is less.

If the resident engineer suspects termination may be necessary, the resident engineer must immediately notify the construction engineer.

With agreement from the construction engineer, the construction field coordinator, and the senior structure engineer (if applicable), the resident engineer sends a letter to the contractor that describes the defaults to be remedied. The letter also specifies the amount of time allowed to remedy the defaults and states that, in accordance with Section 8-1.08, “Termination of Control,” of the *Standard Specifications*, Caltrans will start the termination process if the defaults are not remedied. A copy of this letter is sent to the contractor’s surety. Typically, Caltrans allows five days to remedy either failure to supply an adequate work force or failure to supply proper quality material. Generally, 15 days are allowed to remedy failure to pay subcontractors.

If the contractor fails to promptly remedy the defaults outlined in the resident engineer’s letter, the district construction deputy director will send a request to the Division of Construction chief to start the termination process. The request must include:

- The defaults to be remedied.
- Current status of the contract, including dates the contractor last performed work.
- Any other information considered pertinent.

### **3-807 Termination of Control**

To determine what action is necessary, the Division of Construction chief may call a conference with the contractor's representatives, its surety, the construction field coordinator, and the district.

If terminating the contractor's control is necessary, the Division of Construction chief will send a letter to the contractor, with a copy to the surety, notifying the contractor that it has five days to remedy the defaults or Caltrans will terminate the contractor's control of the work. The contractor and surety will be responsible for any costs Caltrans incurs to complete the work.

If available, the contractor must be personally served with the five-day notice letter. If both the contractor and its representative are unavailable and their addresses are known, send the letter by registered mail. If both the contractor and its representative cannot be located and their addresses are unknown, post the five-day notice letter in the most conspicuous place within the project limits. If the contractor does not remedy the defaults within the five days, the Division of Construction chief will send a letter to the contractor notifying the contractor that its control of the work has been terminated. The construction field coordinator will notify the district of the effective starting date of the notice and will transmit any further instructions deemed necessary.

All five-day notices and termination of control letters must include the following language:

Your default may result in a review of your responsibility to perform future work with Caltrans.
--

Once the contractor's control has been terminated, the construction field coordinator will notify the arbitration engineer in the Division of Construction by forwarding a copy of the termination letter. The arbitration engineer will update and maintain the termination database.

The district will maintain a file that could be used as evidence to defend the termination or in a future responsibility hearing for the terminated contractor. The file should remain in the district for a minimum of three years.

The Division of Construction chief will send a letter to the surety requesting the surety to fulfill its obligations under the bond to complete the work with other forces. Because it is typically preferred that the surety proceed with the contractual work, the resident engineer should assist the surety in its efforts to complete the work. The resident engineer will determine and resolve with the surety the precise quantities and costs necessary to complete the work.

The following two sections describe the process to complete the contract after the contractor's control has been terminated.

### 3-807A Work Completed by the Surety

As requested by the surety, the construction field coordinator, with the assistance of the district, negotiates a takeover agreement or a tender-and-release agreement with the surety. A takeover agreement is an agreement between Caltrans and the surety outlining terms and conditions for the remaining contract work to be performed by the surety or a contractor hired by the surety. The surety is not released from contract responsibility until the contract is accepted. A tender-and-release agreement

is an agreement between Caltrans and the surety outlining the terms and conditions for the remaining work to be performed by a contractor hired by the surety. The hired contractor agrees to do the remaining work and provides new bonds, and the surety pays the additional contract costs. The surety is then released from any further contractual responsibility.

Once the construction field coordinator has negotiated an agreement with the surety, the coordinator sends a draft copy of the appropriate agreement to the surety and requests that the surety make project specific revisions as needed. The construction field coordinator will review the agreement and forward it to the Legal Division. Both the construction field coordinator and the Legal Division will recommend approval. The Division of Construction chief approves either agreement.

In the interim between the termination of the contractor's control of the work and completion by other forces, the district must take all necessary steps to preserve the already completed work. The district may use a separate work order for interim maintenance work by "day labor." Day labor may be obtained by entering into a service contract with another contractor to perform the contract work. To use day labor, a director's order is necessary.

### 3-807B Work Not Completed by the Surety

If time or circumstance does not permit the surety to complete the work, Caltrans may elect to complete the work with its own forces. If the surety elects not to complete the contract after termination of the contractor's control over the work, the district may complete the work by day labor or by informal contract. The district will determine the amount of completed work, the amount of work remaining to be performed, materials on hand, and extra work authorized. In the interim between the termination of the contractor's control of the work and completion by other forces, the district must take all necessary steps to preserve the completed work. The district may use a separate work order for interim maintenance work by day labor.

An informal contract permits a short advertising period. If the work will be completed by informal contract, the resident engineer, with the assistance of the district office engineer, will put together plans and specifications to complete the work, select three to five bidders, and take informal bids for the work. The informal bids must be sent to the surety for its acceptance before the informal contract proceeds. In some cases, additional funds will be needed to complete the work. The resident engineer must request that the surety provide these funds although, under the Public Contract Code, the surety is allowed to wait until completion of the work to make payment. If the surety does not immediately provide these funds, the resident engineer may use available contingency funds or submit a supplemental funds request, if needed.

If either the surety asks Caltrans to complete the work or Caltrans elects to complete the work, the surety and the original contractor are liable to the state for the costs to Caltrans resulting from the original contractor's failure to complete the work. These costs include:

- The sum paid to the completion contractor to complete the various items to the extent it exceeds the sum that would have been payable to the original contractor.
- The sum of all costs to protect the work during the period between the original contractor leaving and the completion contractor arriving (usually day labor costs).

- The sum of all costs related to corrective contract change order work required to bring the original contractor's work into contract compliance and Caltrans' engineering costs to develop a completion contract and administer it. If appropriate, liquidated damages may be used to estimate these costs.

During completion of the work, the resident engineer must maintain current contract records to expedite billing. The project files must show the following:

- Segregated quantities of work performed under the original contract and under the day labor or informal contract for completion.
- Overruns and underruns greater than 25 percent requiring adjustment.
- Contract change orders.
- All other pertinent information.

When the surety does not complete the work, the resident engineer must prepare a bill for the original contractor and surety and break down the billing into the following five sections:

#### *3-807B (1) Section 1*

Subsection A lists the amount Caltrans paid for the entire contract item work. This amount would be equal to the sum of the amount paid to the original contractor for item work before the termination plus the amount paid to the completion contractor to complete the item work.

Subsection B shows the amount that would have been paid for the item work assuming the original contractor had not defaulted on the contract.

Subsection C lists the amount billable to the original contractor or surety under Section 1 of the billing. This amount would be the difference between Subsection A and Subsection B. If Subsection A is less than Subsection B, the original contractor must not be credited with this amount; instead, a zero balance will apply.

#### *3-807B (2) Section 2*

Section 2 lists the costs Caltrans incurred to maintain the contract during the period between the original contractor's departure and the arrival of the completion contractor. These costs are usually day labor costs but may include costs incurred by Caltrans' maintenance forces.

#### *3-807B (3) Section 3*

Section 3 lists the contract change orders and related costs to correct any defects left in the original work by the original contractor.

#### *3-807B (4) Section 4*

Section 4 lists the engineering costs Caltrans incurred to develop, implement, and administer the completion contract. Separate the administrative costs from the development and implementation costs. Compare the total administrative engineering costs with the liquidated damages costs incurred in the original contract, assuming the original contract was not complete until the completion contractor finished its contract.

#### *3-807B (5) Section 5*

In Section 5, show the amounts determined in Sections 1, 2, 3, and 4, and add them together. List the penal sum of the bond, along with the bond number.



The penal sum of a performance bond limits the responsibility of the surety. The original contractor may be billed for the full cost of completion even when that cost exceeds the penal sum of the bond.

### 3-807C Billing

The resident engineer will send the detailed billing, as described above, to the Division of Accounting Services, Abatements Section, with instructions to prepare the accounts receivable bill and to mail it to the contractor. If the contractor is not available, the resident engineer should mail it to the surety. After payment is received, the Abatements Section will credit the payment to a specific expenditure authorization.

If payment is not received within 45 calendar days, the Abatements Section will inform the district construction deputy director that payment has not been received. Representatives of district construction, the Division of Construction, and the Legal Division will meet to discuss alternate courses of action and choose the appropriate one. The Abatements Section must not submit the billing to a collection agency unless the meeting participants have agreed to this action.

Keep backup documents in the project files and make them available to the surety upon request. To ensure special handling of defaulted contracts, identify all related internal correspondence with the words “Defaulted Contract” under the job’s file reference.

### 3-808 Right-of-Way Delays

Section 8-1.09, “Right of Way Delays,” of the *Standard Specifications* covers provisions relating to right-of-way delays. The contract contains these provisions from the *Standard Specifications*.

Resident engineers must monitor the progress of any work that may cause a right-of-way delay. To avoid or mitigate the effects of delays, initiate action such as the following:

- Adequately perform all duties related to the engineer as covered in “Utility and Non-Highway Facilities” below.
- Initiate requests to the district utility coordinator to modify agreements that would allow the contractor’s forces to perform work under contract change order. Section 8-1.10, “Utility and Non-Highway Facilities,” of the *Standard Specifications* covers such work by the contractor.
- Initiate any changes in the order of work that would eliminate or mitigate a right-of-way delay, provided that any cost involved would not exceed the estimated cost resulting from a delay.

If a right-of-way delay occurs, take the following actions:

- Determine the length of the delay.
- Make a list of the equipment that will be affected by the delay. Attempt to get agreement from the contractor regarding the list’s accuracy.
- Estimate the cost of the delay using the method specified in Section 8-1.09, “Right of Way Delays,” of the *Standard Specifications*.
- Estimate the cost of removing the affected equipment from the project and returning it when the delay is over.

### 3-808 Right-of-Way Delays

- Compare the costs and choose the most cost-effective option. If the contractor removes the equipment, but the cost for doing so is higher than leaving the equipment on the project, pay only the delay cost for idle equipment.
- If the contractor does not remove the equipment, attempt to determine how the contractor intended to use the delayed equipment. Review the progress schedule to determine if the contractor intended to use the delayed equipment full time or if the contractor intended some idle time. Use this estimate of time when determining delay costs.

**3-809  
Utility and  
Non-Highway  
Facilities**

**3-809 Utility and Non-Highway Facilities**

3-809A General

An engineer must be assigned to coordinate and inspect utility relocation that is being done to clear the right-of-way before construction. A resident engineer, once formally assigned to a project, assumes primary responsibility for coordinating and inspecting this kind of utility relocation. Either the resident engineer or an assigned assistant resident engineer must make all contacts with utility facility owners to schedule work and coordinate with the contractor's operations. The district right of way unit, acting through the district utility coordinator, is responsible for making changes to "Notice to Owner" forms and to right-of-way agreements. The district right of way unit must also make all decisions about financial liability between Caltrans and owner for utility work. All change orders involving utility work must be sent to the district utility coordinator for concurrence.

3-809B Duties of the Utility Relocation Resident Engineer

The utility relocation resident engineer must perform the following duties:

- Review all documents about utility relocation work, including the "Notice to Owner," encroachment permits, special provisions, contract plans, and correspondence about utilities not shown on the plans.
- Check the location of proposed or existing utility installations for possible conflicts with proposed construction.
- Determine whether Caltrans or utility forces must establish necessary lines and grades. If Caltrans forces are responsible, ensure that necessary lines and grades are properly established so that relocation crews can efficiently pursue the work. For possible conflicts, compare all facilities with available plans. Also, spot-check survey marks at critical locations for possible conflicts. Require changes where necessary.
- Submit to the district utility coordinator any changes or any notices of newly discovered facilities. These changes or new discoveries should be entered on the contract plans or in the special provisions whenever such entries can be made before contract advertising. Notify the project resident engineer of any such changes or new facilities that cannot be included in the contract.
- Include utility owners and the district utility coordinator in preconstruction conferences with the contractor. On larger projects with a number of utility relocations, it is advisable to schedule a separate meeting for each owner. In these meetings, discuss the following items:
  1. Special provision requirements.
  2. The contractor's schedule as it affects relocation work, project safety, and traffic control.



3. Any potential problems.

Keep records of such meetings, and confirm any decision through letters to all parties.

- Before allowing any change in the planned location of a utility facility or any excavation to determine the location of underground utility facilities, ensure such action complies with the “Policy on high and low risk underground facilities within highway rights of way,” in Appendix LL of the *Project Development Procedures Manual*.
- The district utility coordinator will advise the resident engineer when utility relocation work warrants full-time inspection. Keep records of utility relocation work on Form CEM-4601, “Assistant Resident Engineer’s Daily Report.” When inspection is full time, keep the records as complete as possible for the following:
  1. Number of workers
  2. Equipment description
  3. Hours worked
  4. Materials salvaged
- When inspection is part-time, record all detail consistent with observed activity. At a later date, the district right of way unit will request these records to verify the utility owner’s final bill.
- Keep the contractor advised of any utility work that will require a change in the contractor’s operations. Keep detailed records of any alleged or actual right-of-way delays related to utilities. Make recommendations to the district on any requests for time extensions or other adjustments resulting from such delays. See Section 3-805A (2), “Time Extensions (Center Block),” of the *Construction Manual* for procedures for time extensions.
- The contractor is required to notify the resident engineer in writing of discovery of any underground facility not indicated on the plans or in the special provisions. In the absence of such written notification from the contractor, you should document the location of the underground facility and include this documentation in written confirmation with the contractor.
- Whenever the contractor has not received prior indication of an existing facility, change orders, including the repair of any accidental damage, will be considered for approval. However, Caltrans will not pay for the repair of any accidental damage caused by negligence after the contractor was notified of the existence of a utility facility.
- Whenever underground facilities are discovered that are not in the plans or the special provisions, notify the district utility coordinator. The various parties involved can then reach an agreement with the utility owner about satisfactory protection before the Caltrans contractor begins any physical work. If the contractor must protect the utility facility, prepare a change order to cover the payment for such work. “Protection work,” as used in contract administration, must include any work necessary to ensure the utility’s service, reliability, or both, and continue at approximately the same level as before any disturbance from construction operations. This work may include exploration to find exact locations, placement of barricades or warning devices, shoring, or even temporary

bypass facilities or permanent relocation. However, this protection work will not include facility repairs for damage resulting from negligent equipment operation around properly protected facilities.

- Notify the district utility coordinator immediately of any utility facility that is in conflict with the planned work. Follow up the notification in writing. Include drawings or plan sheets showing the location of the existing facility, the affected work, recommended action, and the estimated date when the conflict will begin to affect the contractor's operations and time of completion. The district utility coordinator must arrange any relocation work necessary to resolve the conflict.
- Determine whether facilities shown on the plans or specifications are being adequately protected from damage as required by the contract. Notify the contractor in writing of any inadequacies.
- When judging the extent of compliance the specifications require, take into account the type of facility involved. Consider such things as the consequence of a potential accident. When these consequences involve life and limb, do not permit work in such areas unless the contractor has made physical checks of the facility location. When working around hazardous facilities, do not assume takeoffs from plans (either Caltrans' or those from an owner) are accurate.

### **3-810 Termination of Contract**

#### **3-810 Termination of Contract**

Section 8-1.11, "Termination of Contract," of *the Standard Specifications* specifies the contractual requirements for termination when the district director determines and the deputy director of Project Delivery approves that it is in Caltrans' best interest not to continue with the project.

When the majority of the contract work has been completed, it is normally not the preferred alternative to terminate the contract. Instead, it is preferred to delete the remaining work by contract change order, accept the contract, and provide additional payment to the contractor, if necessary, in accordance with Section 9-1.08, "Adjustment of Overhead," of *the Standard Specifications*.

Termination of contracts is comparatively rare. Section 4412 of the Government Code covers contracts terminated for convenience in the best interest of Caltrans. The Division of Construction must ensure that all necessary steps are taken in handling contracts terminated for Caltrans' convenience. To ensure the special handling of these types of terminated contracts, identify all internal correspondence related to them with the words "Convenience Termination" under the job's file reference.

To initiate contract termination, the district director must write a letter to the Division of Construction chief stating the reasons for requesting the termination. The letter should include:

- Reasons for the termination.
- Work performed.
- Work yet to be performed.
- Any information pertaining to the advertisement date of the new contract.

If the Division Construction chief concurs, the Division of Construction will prepare a letter to the deputy director of Project Delivery to reiterate the relevant points from the district's letter and recommend approval for terminating the contract.



If appropriate, the deputy director of Project Delivery approves the termination. Upon approval, the Division of Construction chief will issue a letter to the contractor, signed by the deputy director, notifying the contractor that Caltrans will terminate the contract as soon as any work the resident engineer requested is complete. A copy of the letter will be sent to the arbitration engineer in the Division of Construction who will input the information into the termination database. When all work is complete, the district must accept the project.

The contractor will be paid all reasonable costs as computed according to Section 8-1.11, "Termination of Contract," of the *Standard Specifications*. An audit of the contractor's cost records is normally required to resolve compensation issues. After contract acceptance, payments can be made in accordance with Section 9-1.07B, "Final Payment and Claims," of the *Standard Specifications*.

### 3-810A Federal-Aid Contracts on the National Highway System

For full oversight and state-authorized federal-aid contracts on the National Highway System, the resident engineer or construction engineer must contact the Division of Construction's field coordinator to obtain concurrence from the Federal Highway Administration's engineer on the termination of a contract. Refer to the Code of Federal Regulations, Title 23, Part 635 (23CFR 635.125). For additional information, refer to the *Construction Coordinator's Termination Desk Guide* on the Division of Construction's intranet.

Maps of the National Highway System may be accessed on the following Federal Highway Administration website:

<http://www.fhwa.dot.gov/hep10/nhs/index.html>