Message from the Nebraska Department of Transportation regarding Change Orders – Justification of additional time and cost

This information may help both the Department and the Contractors to understand why we ask follow-up questions on change orders.  The Project Managers have recently experienced reluctance on the part of some members to comply with the NDOT staff’s request to break down or substantiate prices submitted for change order work.

We are complying with federal regulations in order to maintain federal participation on federal aid projects. To maintain consistency, we treat all projects, federal aid or not, the same relative to justification of cost and time in change orders.   If the contractors could keep this in mind when they are quoting change order work, I think it would help us get change orders processed more efficiently.

When a change order adds new items to a contract, the Department is required to analyze and document the cost of each change order independent of the contractor’s price proposal.  Consequently, the contractor may be asked to break down the elements included in the price to assist the Department in justifying acceptance of the price quoted.  Items quoted as Lump Sum or Each may require that the contractor provide additional information relative to the price quote.

Mobilization, for example, cannot be compared to mobilization bid prices when justifying its cost relative to additional work.  Mobilization after bid needs to consist of the costs required to mobilize and demobilize equipment not available on the project.  Costs of readying the equipment for transport, hauling the equipment, and standby rates while equipment is hauled may be included in mobilization.  The PM may need to know where the equipment is being transported from as a part of justifying the cost. Mobilization may include bond, and other related items which may be unique to the change order work.

When a contractor requests that a change order add time to a contract, the Department must determine what the controlling operation is and assess the potential impact of the proposed work on the controlling operation.  The contractor’s submittal of a critical path schedule, followed by regular updates, will help project staff to verify potential schedule impacts of the proposed work.

If the contractor would submit their cost breakdown and their justification at the time prices or additional time requests are submitted for consideration on a change order, it would make processing and subsequent approval of the change order more efficient.

For reference, the Code of Federal Regulations contain the requirements of the Department.

23 CFR 635.102 – Definitions

23 CFR 635.120 – Changes and extra work.

Subpart (e) states that the Department shall “perform and adequately document a cost analysis of each negotiated contract change or negotiated extra work order. The method and degree of the cost analysis shall be subject to the approval of the Division Administrator.”

23 CFR 635.121 – Contract time and contract time extensions.

            Subpart (b) states that time extensions “shall be subject to the concurrence of the Division Administrator and will be considered in determining the amount of Federal participation. Contract time extensions submitted for approval to the Division Administrator, shall be fully justified and adequately documented.”

FHWA-NHI-134077  Contract Administration Core Curriculum Manual provides further guidance relative to the regulations.