



Change Orders and the State Auditor's Office

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What is SAO?

- SAO – State Auditor’s Office.
 - **Authority**
 - The Washington State Constitution, Article III, Section 20 and Chapter 43.09 RCW establish the State Auditor’s Office as the auditor of all public accounts.
 - **Mission Statement**
 - The State Auditor’s Office independently serves the citizens of Washington by promoting accountability, fiscal integrity and openness in state and local government. Working with these governments, we strive to ensure the proper use of public resources.

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SAO Organization

- 14 Local Teams
- 6 State Teams
- 8 Support Teams/Fiscal Teams

- Brian Sonntag is the Elected State Auditor

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SAO - Entity resources

- www.sao.wa.gov
- Help Desk
- Local Audit Team
- Whistleblower/Constituent

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Change Orders

- Any alteration to a project during construction that is not consistent with the bid specifications upon which the contract was awarded is a “change order” .

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What SAO thinks about change orders

- At the end of a public works contract the amount of the original contract plus or minus any change orders should equal the amount paid to the contractor.
- There should be supporting documentation for all additional costs, RCW Title 39 Chapter 04 (39.04) is the resources for public work projects.

RCW Title 39 References

- **RCW 39.04.050 Contents of original estimates.**
Original estimates shall show in detail the estimated cost of the work; the estimated quantities of each class of work; the estimated unit cost for each class; the estimated total cost for each class; the time limit, allowed for the completion of the work and the estimated dates of commencement and completion.
- **RCW 39.04.060 Supplemental estimates.**
Supplemental estimates shall show the estimated increase or decrease in the total quantities of each class, in the unit cost of each class, in the total cost for each class and in the total cost of the work as shown by the original estimate, together with any change in the time limit and in the estimated dates of commencing and completing the work.
- **RCW 39.04.070 Account and record of cost.**
Whenever the state or any municipality shall execute any public work by any means or method other than by contract or small works roster, it shall cause to be kept and preserved a full, true and accurate account and record of the costs of executing such work in accordance with the budgeting, accounting, and reporting system provisions prescribed by law for the state agency or municipality.
- **RCW 39.04.120 Change orders due to environmental protection requirements--Costs-Dispute resolution.**
If the successful bidder must undertake additional work for public construction projects issued by the state of Washington, its authorities or agencies, or a political subdivision of the state due to the enactment of new environmental protection requirements or the amendment of existing environmental protection statutes, ordinances, or rules occurring after the submission of the successful bid, the awarding agency shall issue a change order setting forth the additional work that must be undertaken, which shall not invalidate the contract. The cost of such a change order to the awarding agency shall be determined in accordance with the provisions of the contract for change orders or, if no such provision is set forth in the contract, then the cost to the awarding agency shall be the contractor's costs for wages, labor costs other than wages, wage taxes, materials, equipment rentals, insurance, and subcontracts attributable to the additional activity plus a reasonable sum for overhead and profit. However, the additional costs to undertake work not specified in the contract documents shall not be approved unless written authorization is given the successful bidder prior to his undertaking such additional activity. In the event of a dispute between the awarding agency and the contractor, dispute resolution procedures may be commenced under the applicable terms of the construction contract, or, if the contract contains no such provision for dispute resolution, the then obtaining rules of the American arbitration association.



What SAO thinks about change orders cont'd

- Change of Scope
 - Was there a substantial and material departure from the original specifications.
 - The generally accepted rule is that where a statute requires that a contract for public works shall be let to the lowest responsible bidder, a municipal corporation cannot evade the law by making substantial changes in the contract after it has been awarded pursuant to the law.
 - Bid requirements should not be construed so strictly as to divest a local government of the power to let extra work required by unanticipated developments in the performance of a construction contract, or to make minor changes and additions after a contract has been awarded.



- Change of Scope

- The questions auditor's ask themselves to help them decide if it is a change of scope:

- Does it appear as if it is a new undertaking/project?
- What is the % value of the change orders in comparison to the total contract value?



- Change of Scope

- Although there is no set dollar threshold set by RCW for change orders, the State Auditor's Office has set a 10% threshold for audit purposes.

- We set this as a benchmark for additional audit review.
- Each change order is reviewed in an of itself and collectively.

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Change Order Considerations

1. The legitimacy of the reasons for the change;
2. Whether the reasons for the change were unforeseen at the time the contract was made;
3. The timing of the change in context of work being performed;
4. Whether the contract contains clauses authorizing modifications and meaning of specific clauses;
5. The extent of the change relative to the original contract;

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Change Order Considerations Cont'd

- Essentially, we look to see if the change is so materially different from the main purpose of the contract that it constitutes a new undertaking that should have been subject to competitive bidding.

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SAO Reporting Levels

- Verbal/Exit Recommendation
- Management Letter
- Finding

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Recent Change Order Audit Issues