



TO: The Contracting Community
District Deputy Directors
District Capital Program Administrators
District Construction Engineers

FROM: Dave Slatzer, P.E. Deputy Director, Division of Construction Management *OES*

SUBJECT: COVID-19/Coronavirus – Potential Impacts to Construction Contracts

DATE: March 24, 2020

As a follow-up to the March 16, 2020 letter, the Ohio Department of Transportation (ODOT) has received many questions regarding the COVID-19/Coronavirus impacts to construction projects. In response to those questions, ODOT would like to issue the following clarifications and positions.

1. COVID-19/Coronavirus project specific impacts

The majority of questions and concerns have been related to potential project delays caused by the COVID-19/Coronavirus through:

- Staffing and labor availability;
- Material and supply availability;
- Workplace safety concerns; and
- Utility relocation delays.

ODOT is requesting that all contractors work to identify specific circumstances directly caused by the COVID-19/Coronavirus that:

- A. May require a revision to the Contract Documents in accordance with ODOT Construction and Material Specification (CMS) Section 104.02 et seq.;
- B. May result in a dispute as defined in CMS 101.03 and has the potential to trigger the Department's Dispute Resolution Process as described in CMS 108.02(G); or
- C. May require a Time Extension to the Completion Date as described in CMS 108.06.

ODOT will handle all specific, identifiable impacts directly caused by the COVID-19/Coronavirus to projects in accordance with the CMS. Please follow the procedural requirements in the CMS, beginning with CMS 108.02(F). Contractors are discouraged from submitting general notice statements that do not identify specific circumstances directly caused by the COVID-19/Coronavirus, as those notices do not meet the requirements of the CMS.

ODOT remains committed to working with contractors to mitigate the impacts of the COVID-19/Coronavirus to ODOT's construction program. ODOT will evaluate time extensions and/or potential accelerations proposed.

2. ODOT's position on COVID-19/Coronavirus delays

ODOT's position is that specific circumstances directly caused by the COVID-19/Coronavirus are excusable, non-compensable delays in accordance with CMS 108.06(B)(5). If the contractor contends that an excusable delay is also compensable, as specified in CMS 108.06(D), the contractor must submit a detailed cost analysis of the requested additional compensation along with requests for extension of the Project Completion Date.

3. ODOT's position on maintaining an active workforce

ODOT has received requests for guidance on whether or not contractors should send their workforces home because of the COVID-19/Coronavirus. ODOT will not provide guidance to industry related to their COVID-19 response. Contractors should act in accordance with their current company guidelines or visit [Coronavirus.ohio.gov](https://www.coronavirus.ohio.gov) for additional information.

4. Termination for convenience

At this time, ODOT has no plans to terminate any contract for its convenience pursuant to CMS 108.09 due to the COVID-19 response.

5. Future Updates

ODOT will be issuing future updates using this format, as well as posting the letters on ODOT's Office of Construction Management website. ODOT will provide updates when appropriate.