Meet Your Instructor

Scott Lowe, P.E.
Principal, Trauner Consulting Services
• 30+ years experience
• Claims Analyst, Scheduler, Expert Witness, Author, Instructor
What is a Change?

- An opportunity for the contractor to make a killing.
- Something owners want a lot of, but never want to pay for.
- “Not the result of a design error,” says the design consultant.
- The successful resolution of a potential claim.
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- Another example of an owner wanting something for nothing.
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So, To Avoid a Claim:

- Reduce the potential for changes.
- Provide the project team with the tools to resolve disputes and execute changes.
A Common Knot

There is an issue

The issue has a time component

The issue isn’t quickly resolved

The contractor inserts activities into the next schedule update related to the issue.

The owner rejects the updated schedule because it includes unapproved revisions.
A Common Knot
The Contractor’s Position

- The issue is a change.
- Even if it’s not a change, it’s still work that has to be done that isn’t in the schedule.
- To be a useful planning tool, the schedule has to reflect the work that has to be done.
The Owner’s Position

- The contract requires schedule revisions to be approved before they are inserted.
- The contract requires schedule updates to show the project work finishing on time.
- Approval of a schedule that shows late completion will establish the contractor’s entitlement to a time extension.
- Approval of a schedule that shows late completion waives the owner’s rights.
E. Monthly Update Schedule. A monthly update schedule is a schedule in which only progress is updated from the prior data date to the current data date. Work added and/or excusable delays encountered since the prior data date must be represented as a schedule revision as described in Section F.
E. Monthly Update Schedule.

…The Engineer may withhold estimates if the updated schedule is not submitted as required by this section…
F. Revisions… Addition of new activities…or logic constitute a revision…Any revision which modifies the critical path or impacts [the]…project completion date must be represented on a companion schedule submitted with the monthly update schedule or as a fragnet within the monthly update schedule…If submitted as a fragnet, the Contractor shall compute two Finish Dates. The first Finish Date shall be computed without consideration of any impact by the fragnet…The Engineer shall “approve” or “reject” proposed revisions…
I. Recovery Schedule. If the Monthly…or Revised Monthly Update Schedule projects a finish date for the Project more than 14 calendar days later than the current Completion Date, submit a recovery schedule showing a plan to finish by the current Completion Date…The Department will withhold Estimates until the Engineer approves the recovery schedule…In the event the current Completion Date is in dispute, the recovery schedule will need to be submitted once the dispute has been resolved.
Contract Section 153.03.02, CPM Progress Schedule Updates, states:

…The RE will designate the data date to be used for each schedule update. **Provide CPM progress schedule updates to the RE on a monthly basis.**

Also:

…Update and submit the subsequent schedule updates if the RE has not approved the previous schedule update.
1. Update Requirements. On the tenth day of the current month, during the life of the Project, submit an updated schedule and all required information with a data date of the last day of the preceding month.
G. Time Extensions for Delays...

1. Determine project progress prior to circumstance(s) necessitating the time extension. The previous accepted monthly update, updated to the date of the circumstance alleging to have caused delay, shall be used to display the prior progress of the project. This schedule is referred to as the Un-impacted Schedule.
G. Time Extensions for Delays…

2. Prepare a fragmentary network (fragnet) depicting the circumstance that is believed to have delayed the project.

3. Insert the fragnet into the Un-impacted Schedule, run the schedule calculations and determine the finish date. This schedule is referred to as the Impacted Schedule.
G. Time Extensions for Delays…

4. Compare the Impacted Schedule finish date with the Un-impacted Schedule finish date in order to determine the duration of any warranted time extension…All approved time extensions will be incorporated into the monthly update with the fragnet used to determine impacts incorporated into the schedule.
Untying the Knot

- Insist that the contractor submit monthly updates, even if the prior month’s update has not been approved.
- Do not insist that schedules include only approved revisions.
- Decouple the approval of time extensions from the schedule updating process.
- Insist on compliance with the time extension provision to quantify the time extension due.
108.08 Unsatisfactory Progress and Default of Contractor…reasons: …

B. The Contractor does not proceed with the Work in a manner necessary for completion of the Project by the Completion Date…

If the Contractor does not respond to the satisfaction of the Director, the Director may declare the Contractor in default…
For More Information:

Please contact Scott at:

1617 John F. Kennedy Blvd.
Suite 475
Philadelphia, Pa 19103
Phone: (215) 814-6400
Fax: (215) 814-6440

scott.lowe@traunerconsulting.com

www.traunerconsulting.com