

DATE: March 13, 2009

TO: Region Engineers
Region Delivery Engineers
TSC Managers
Resident/Project Engineers
Region Construction Engineers

FROM: Larry E. Tibbits
Chief Operations Officer

Mark A. Van Port Fleet, Acting Director
Bureau of Highway Development

SUBJECT: Bureau of Highway Instructional Memorandum 2009-03
Unreasonable Delays due to Utility Companies (supercedes BOH IM 1999-16)

Section 1.09.03 of the *2003 Standard Specifications for Construction*, Payment for Increased Contractor Costs, provides . . . conditions for determining when a contractor may receive extra compensation for project delays due to a utility not moved according to the contract. When it becomes clear that a project may be delayed by a utility, the project/resident engineer shall complete the following:

- Send written notice to the utility stating the utility may be responsible for the cost of a project delay, if the utility conflict is not resolved by a specific date.
- Convene a meeting with the utility to discuss the utility conflict, the utility's prior commitments, the potential project delay claim and associated costs. Ensure there is a clear understanding of the established timeframe for utility conflict resolution before project delay charges are incurred by the utility.

When a project is delayed by a utility and the above requirements have been completed, the following shall occur:

- Process a Contract Modification for the project delay that states the costs incurred are the responsibility of the utility. The utility contact name and company address shall be included in the Contract Modification.
- Send a copy of the authorized Contract Modification and supporting documentation to the Real Estate Division, Utility Coordination and Permits Section. The supporting documentation shall provide specific responsibilities, commitments, timeframes, and

notifications. Thorough documentation is essential for recovering project delay costs due to a utility.

The Real Estate Division, Utilities Coordination and Permits Section is responsible for recovering Michigan Department of Transportation (MDOT) project delay costs from the utility. In addition, the Utility Coordination and Permits Section may be contacted at any point throughout the process for assistance with documentation, attendance at meetings, or questions.

For local agency projects, it is the responsibility of the local agency to recover utility delay costs. The MDOT Transportation Service Center staff should advise the local agency to pursue cost recovery from the utility.

If you have any questions or need additional information, please contact Matthew W. DeLong, Administrator of the Real Estate Division at 517-373-2200.

Chief Operations Officer

Director, Bureau of Highway Development

BOHD:RED:NL

Index: Utilities

- cc: C & T Division Staff MAA
- J. Polasek MCA
- J. Friend MCPA
- M. DeLong MITA
- M. Van Port Fleet MML
- M. Dionise
- N. Lefke
- J. Reincke
- J. Culp
- B. O'Brien
- P. Collins
- C. Rademacher
- P. Sebenick
- G. Moore
- K. Reincke
- T. Fudaly, FHWA
- ACEC
- APAM
- CRAM