

Significant Changes in the Character of Work.

In most states' standard specifications, a project Owner/Engineer retains the right to make alterations to the quantity and manner of work to be performed under a contract with no change in compensation to the Contractor. However, if this work amounts to a "significant" change in the character or quantity of the work, a contract adjustment between the Owner and the Contractor needs to be agreed upon, in writing.

While standards vary from state to state, a typical definition for what constitutes "significant" might include similarly nebulous language discussing whether the change in work differs "materially" from what was originally contemplated. Or, a standard might include a % range characterizing work that is significantly greater (125% greater, for example) or significantly less (75% less, for example) as a "significant change" in work.

Most state specifications reserve the right to make these contract adjustments to the states themselves, but it is important for the Contractor to be in (written) contact with the Owners as early as possible in this process, so it can provide feedback on what might be an equitable outcome for both parties. In any event, a Contractor should not provide changed work until a written agreement and basis for the change is agreed upon. Throughout this process, early contact with an attorney can be helpful to ensure the proper procedures are followed and so that equitable compensation for a Contractor's changed work may be provided for.