



Construction Policy Bulletin

CPB 10-6 Revised Special Provision for Asphalt Price Adjustments

References: Contract Special Provisions “Payment Adjustments for Price Index Fluctuations”
Construction Manual Section 5-314, “Examples of Contract Change
Orders,” Example 5-3.11

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Background

Caltrans projects include provisions for adjusting payment for asphalt contained in paving materials. The adjustment is made by contract change order when the monthly price index at the time of paving is greater or less than the index at bid opening by an amount exceeding the specified trigger threshold.

Projects advertised after February 1, 2010, include a newly revised standard special provision (SSP), “Payment Adjustments for Price Index Fluctuations.” The revised SSP has several changes from the existing SSP, “Compensation Adjustments for Price Index Fluctuations,” resulting from recommendations made by a joint Caltrans-industry committee.

The revised SSP applies to asphalt in paving materials such as hot mix asphalt (HMA), rubberized HMA, HMA containing reclaimed asphalt pavement, modified asphalt binder in HMA, tack coat, asphaltic emulsions, slurry seals, and seal coats.

The revised SSP has these changes:

1. Specifies use of a new index, “California Statewide Crude Oil Price Index.”
2. Includes formulas for calculating asphalt quantities for various paving materials.
3. Removes the 90/10 cost sharing factor from adjustment formulas.
4. Includes sales tax in adjustments.
5. Allows bidders to opt out of payment adjustments for price index fluctuations at the time of bid.

The committee recommended developing a new price index not affected by one-day spikes in crude oil prices for use with the revised SSP. The existing index is affected by one-day spikes because it is based on the median of crude oil prices the oil companies post on the first business day of each month. The new index is not significantly affected by one-day spikes because it is based on the average of all daily crude oil prices posted in the previous month. The new index is used to calculate adjustments on projects with the revised SSP, and the existing index is used on projects with the existing SSP.

Existing Procedure

For projects with the existing SSP, "Compensation Adjustments for Price Index Fluctuations," calculate payment adjustments according to its formulas and requirements.

Calculate payment adjustments using the California Statewide Paving Asphalt Price Index from the Division of Engineering Services internet website specified in the existing SSP. Use two monthly indexes along with the bid-opening index in calculations when the contractor paves in two calendar months but the total quantity of paving material is paid on one progress pay estimate. For more information see CPB 09-2, "Asphalt Price Adjustments."

Do not include sales tax in payment adjustments. Bidders are not allowed to opt out of payment adjustments for price index fluctuations at the time of bid.

New Procedure

For projects with the revised SSP, find out from the Division of Engineering Services website if the contractor has opted out of payment adjustments for price index fluctuations at the time of bid.

Use this website for projects with a bid opening date before July 1, 2010.

http://espn1/fmi/iwp/cgi?-db=OE_PM_Status&-loadframes

Press the "Search by District" tab, and input the project EA. In the notes section of the "Contract Award Status" screen, a sentence will be inserted when the contractor has opted out of payment adjustments.

Use this website for projects with a bid opening date on or after July 1, 2010.

<http://www.dot.ca.gov/hq/esc/oe/bidsub/>

Use the "Search for contract" function. The website has project bid documents and an opt out form is included in the bid book. The contractor awarded the contract must have completed the form in the submitted bid book in order to opt out of payment adjustments for price index fluctuations.

If the contractor has opted out of payment adjustments, requirements of revised SSP, "Payment Adjustments for Price Index Fluctuations," do not apply to the project. Do not make asphalt payment adjustments.

If the opt out form in the bid book is not completed, then all requirements of revised SSP, "Payment Adjustments for Price Index Fluctuations," apply to the project. Calculate payment adjustments using the new California Statewide Crude Oil Price Index from the specified Division of Construction website.

Include sales tax in adjustments. The revised SSP requires the contractor to submit the current sales tax rate in effect for the tax jurisdiction where the paving material will be placed. Use this website to verify the sales tax rate for cities and counties throughout California:

<http://www.boe.ca.gov/sutax/pam71.htm>

