

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
BUREAU OF PUBLIC ROADS
WASHINGTON, D.C. 20591

September 9, 1968

CIRCULAR MEMORANDUM TO: Regional Federal Highway Administrators
and Division Engineers

FROM: G. M. Williams, Director of Engineering and Operations
32-34

SUBJECT: Time extensions due to utility and right-of-way delays

We believe that during the past several years there has been a reduction in the number of State requests for Public Roads approval of time extensions caused by utility and right-of-way delays. This reduction is no doubt due to the improved adequacy and effectiveness of the States' practices and planning in advance of actual construction and the pertinent requirements of PPM 20-11.1, PPM 21-12, PPM 30-4, and PPM 21-6.3. These requirements are intended to preclude, almost without exception, Public Roads approval of time extensions related to utility and right-of-way delays. However, it is recognized that occasionally, very unusual circumstances may justify granting an exception to this rule.

As a minimum, exceptions to the above-stated rule should not be granted unless it can be shown that, (1) the construction work was actually delayed by the right-of-way or utility difficulty, (2) the contractor did everything required of him by the contract to minimize the delay and, (3) the State was unable to exercise effective control of the situation despite its best efforts. Examples of situations wherein Public Roads approval of time extensions can probably be justified are as follows:

1. Delays where the State had an adequate basis for expecting right of occupancy and use prior to construction and the provisions of paragraph 6e of PPM 21-6.3 were not considered applicable.
2. Delays attributable to delivery of critical materials to utility companies when all acceptable alternative sources and designs have been exhausted. Also other delays beyond the control of the utility company such as those resulting from strikes and natural disasters.
3. Delays resulting from the relocation of underground utilities which were not known to exist prior to construction.

(more)

Each case involving a time extension request for an exception to the above-stated rule should be independently evaluated on its merits. Questionable cases should be forwarded to the regional office for advice.

If particular types of right-of-way or utility delays recur because of the State's inability to exercise effective control, consideration should be given to improving the situation through appropriate legislative and/or administrative changes.

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