

## CHANGES IN THE WORK STILL CAUSE PROBLEMS FOR GPO PRINTERS

*By Frederic G. Antoun Jr., Esq.*

Although many Commercial printers do not fully detail job changes and price increases before a change is made, they are generally in control of the change-order process: if the customer refuses to pay the quoted price or reasonable hourly rate for the additional work, the printer simply doesn't move forward with the change.

In the government printing market however, the government - not the printer - has primary control of the change-order process. GPO Contract Terms, which is incorporated by reference into all GPO contracts, has a clause specifically dealing with changes.

**Contract Clause 4 gives the GPO Contracting Officer (C.O.) the power to make changes after the contract is awarded, by written change order, in the following areas: 1) specifications; 2) method of shipment or packing and place of delivery.**

Since the specifications include just about everything relating to the job, the CO has a broad authority to make changes. However, the C.O. *cannot* shorten the schedule or make such a major change that he creates a new job, unless the printer agrees.

Note that the right to make changes – which may originate with the agency customer – is not given to the agency customer. **The GPO C.O must confirm any changes made by the agency customer in writing.**

**Contract Clause 4(b) states that if any change made by the C.O. causes an increase or decrease in the cost of the work, or the time required to complete the work, the printer is entitled to a contract price adjustment and an extension of the delivery schedule, or both.** A contract price increase and/or a schedule extension are supposed to be granted by the C.O. by a written contract modification issued under Contract Clause 4(b).

While this system seems fair and straightforward, problems can arise. The main reason for the problems is that with small jobs, or any jobs moving at a rapid pace to meet a schedule, communications regarding the work and changes are generally by telephone. The printer may well be expending time and money to make a change requested by the C.O. before receiving a written contract modification. Later when the contract modification arrives, it may not reflect what the printer thought was agreed to. Or the contract modification may not arrive at all. This is a serious problem, since **the printer cannot bill for the extra work without that piece of paper known as the “contract modification”**.

**To address the issue of changes properly, and to avoid or minimize problems with changes and payment, printers should follow up every verbal change by promptly completing and faxing a confirmation to the C.O.** This will create a paper trail that

can be used later in the event a dispute arises over what changes were requested for or what contract price increase was agreed to.

Be sure to clearly communicate to the C.O. the additional labor and materials that will be necessary to accomplish the change, and quote a reasonable additional charge. Do not assume that the C.O. or contract administrator knows everything that has to be done to accomplish the change.

If the printer and the C.O. quickly reach an agreement on the amount of increased cost, that should be confirmed by the printer in a note or letter sent by fax to the C.O. detailing the following: the specific changes to be made; the price increase and/or schedule extension to which the GPO agreed; a request for a contract modification reflecting the changes in work/scheduling/pricing; and a statement that the printer will be proceeding with the work immediately based on the above agreement, and that the C.O. should immediately notify the printer if he doesn't agree with the information in the letter. A copy of that fax and confirmation of receipt should be kept in the job jacket.

If the cost of the work can't be determined in advance, the contract modification should state the work to be done and the hourly rate. Printers should not accept modifications that call for a "fair and reasonable price increase" or a "price increase to be negotiated" unless there is no other option. That language is unacceptable if the price was already agreed upon when the changes were discussed.

One important and unique thing about the GPO system is that **Contract Clause 4.5, requires the printer to move ahead with changes ordered by the C.O. even where they can't agree on a price.** The theory is that the government has deep pockets, and the printer can be assured of payment. The problem with that theory is that without some written communication before the work is done, such as a signed contract modification or a confirmation letter, problems may arise.

If an agreement on money cannot be reached quickly, the C.O. can simply order the printer to proceed with the changes, with pricing to be determined on a 'fair and reasonable' basis later. Many GPO vendors believe that this provision allows the C.O. to arbitrarily fix the price for the changes. That is not the case. While the printer can be ordered to move forward with the changes even though pricing hasn't been agreed to, the printer cannot be ordered to accept the GPO's price. The printer should move forward with the changes *ordered by the C.O.*, whether or not the price for the change has been agreed, to avoid a shipping or delivery delay. The GPO does not add extra time to the schedule money disagreements after a change has been ordered. Here again, the printer's management of the change order process is essential. The printer should fax the GPO a letter containing the following information: specific changes ordered by the C.O.; a detailed breakdown of the charges for the changes; that the charges have not yet been accepted by the GPO; any additional time that will be necessary to complete the

changes; a request for a contract modification; confirmation that the printer will immediately make the changes ordered, and requesting that the GPO contact the printer immediately if anything in the letter is inaccurate. As always, a copy and fax confirmation should be included in the job jacket.

**Contract Clause 5 provides that if there is a dispute the printer must move forward with the work ordered by the C.O. and then file a dispute with the C.O.** (a common dispute arises when the printer and the C.O. can't agree on the price of the changes). The "dispute is filed by simply sending a letter to the C.O. If that dispute is resolved to everyone's satisfaction, the matter is ended. If the printer is dissatisfied with the C.O.'s "final decision," the printer can file an appeal to the GPO Board of Contract Appeals.

Contract Clause 4 (c) provides that **the printer must submit any request for a contract price increase in writing within 30 days of the date it receives the written change order from the C.O.** Although the C.O. can consider request for additional payments made by the printer more than 30 days after the change order was issued, they do not always do so.

**Making changes that are not authorized or confirmed in writing can result in a job being rejected, or a price reduction.** These "unauthorized" changes can occur when a printer makes a change that he feels will benefit the agency customer, or receives conflicting instructions (copy does not match specs, etc.) and the printer chooses what he believes is the obvious or logical choice. That choice can constitute an unauthorized change that could result in rejection of the job or a price reduction. **Contract Clause 7 requires that when there is an obvious conflict created by the government, the printer – not the government – has the duty to "bring any discrepancies to the attention of the C.O." before proceeding.** Failing to do so makes the printer responsible for a wrong assumption—even if it seemed logical at the time.

By becoming familiar with the rules and regulations governing changes orders, and by taking some time to discuss the work involved (and confirm changes and prices in writing), the GPO printer will not only be increasing the service provided to its government customer, but also ensuring fair and prompt payment for extra work.

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