

BULLETIN 11

ADJUSTMENTS IN CONTRACT PRICE DUE TO TARIFFS

2025

This bulletin addresses the standard wording found in CCDC 2 – 2020 GC 10.1 – TAXES AND DUTIES and similar provisions across other CCDC contracts.

While different terms are used in different contexts, the intent of GC 10.1 of CCDC 2 – 2020 is to capture all taxes and duties, including tariffs, imposed by any government, that are levied against the Contractor in their performance of the Work. With the exception of Value Added Taxes (which are explicitly excluded from the Contract Price), these amounts are to be included in the Contract Price. However, when there are changes to such taxes and duties after bid that result in a change in the Contractor's costs, GC 10.1.2 stipulates the Contract Price shall be adjusted accordingly.

It should be noted that this adjustment in the Contract Price can be either an increase in the price if a tariff is levied or a credit if an existing tariff is reduced or removed. The right to an adjustment to the Contract Price is therefore one available to both the Owner and the Contractor.

Similar provisions exist across the majority of CCDC contracts except the CCDC cost plus contracts, those being CCDC 3 and the CCDC 5B (where the stipulated price option has not been exercised). Since these amounts are included in the Cost of the Work in cost plus contracts, they are reimbursable by the Owner and do not require any special adjustment.

As with any claim, the party making the claim must substantiate the proposed adjustment to the Contract Price. The CCDC 2 – 2020 contains standard provisions under GC 6.6 – CLAIMS FOR A CHANGE IN CONTRACT PRICE that address processes for required notices and making findings. The best mechanism to determine the appropriate adjustment for tariff-related impacts will ultimately depend on the specific project. One such method is provided below.

In any event, it is important that the parties have a common understanding concerning how any adjustment is to be processed since preparing the necessary documentation can be resource intensive and there is the possibility of a delay in payment. If the parties wish to prescribe a specific process governing the method of adjustment, they can do so in their Division 01 'General Requirements'.

It is also important to note that the administration of these types of adjustments would not be a contemplated service under most Owner-Consultant agreements. As such, if the Owner expects the Consultant to provide this as a service there needs to be an equitable adjustment to the Consultant's fees as well.

Sample method to determine adjustment

Where any new or adjusted tariff or other tax or duty is imposed and the Contractor intends to seek an adjustment to the Contract Price pursuant to GC 10.1 – TAXES AND DUTIES, or the Owner seeks a credit due to a reduction or elimination in any tax, duty or tariff, the party seeking the change shall provide Notice in Writing to the other party and the Consultant to that effect within 14 days. This notice shall be accompanied by:

1. A list of the Products, Construction Equipment and other items necessary for the performance of the Work which are impacted by the tariff; and
2. The price differences for each of the impacted items.

The party seeking the adjustment should also provide the following supporting documentation:

1. Updated quotes of the impacted Products, Construction Equipment and other items necessary for the performance of the Work showing the tariff changes
2. Official documentation (e.g. Certificate of Origin, Customs Declaration) evidencing the applicable tariffs; and
3. Itemized breakdown detailing the particulars of the cost changes.

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