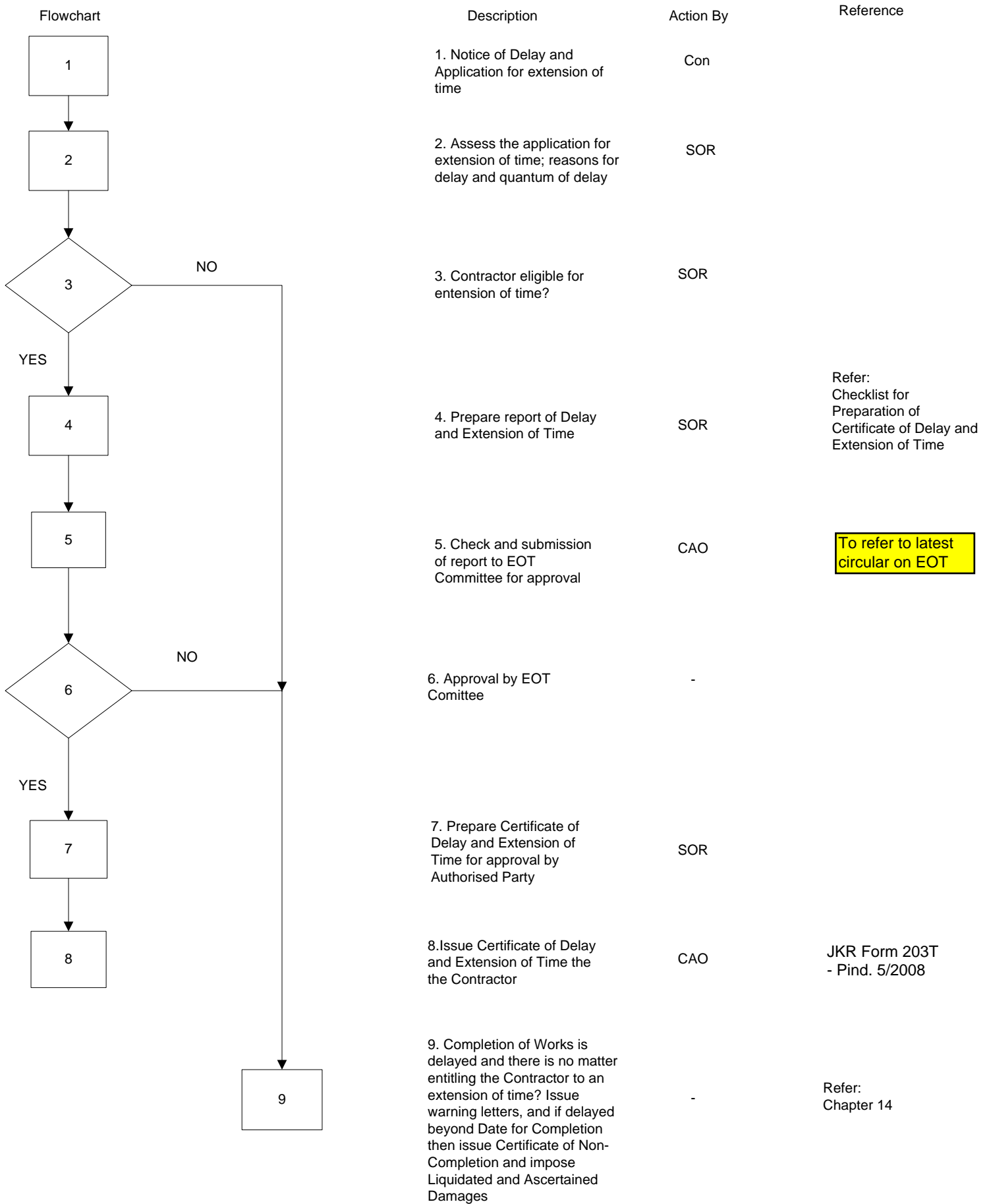


Flowchart 13.1 - Delay



Flowchart 13.2 – Extension of Time

13 DELAYS AND EXTENSION OF TIME

13.1 INTRODUCTION

This chapter provides:

- An overview of the delay and extension of time provisions and procedure for works contracts
- The standard forms of contract use for DID projects

13.2 PROCEDURES

Please refer to Flowchart 13.1 – Delay and Flowchart 13.2 – Extension of Time.

Step	Procedures / Tasks	Action By / Reference
1	<p>Notice of Delay and Application for extension of time</p> <p>Contractor to put in application for extension of time as soon as it becomes apparent that the progress of the Works is delayed.</p> <p>Contractor to extent Performance Bond and all Insurances until the estimated new completion date.</p>	For information
2	<p>Assess the application for extension of time</p> <p>It is the duty of the SOR to review the extension of time application based on the supporting documents submitted by Contractor.</p> <p>SOR to assess reasons and quantum of delay as allowed and acceptable grounds in contract.</p>	Action by: SOR <i>Refer : AP201 – Perubahan Dan Pelanjutan Tempoh Kontrak Untuk Kontrak Bekalan Dan Perkhidmatan</i>
3	<p>Contractor eligible for extension of time?</p> <p>If Contractor is eligible, determine new Date of Completion. If not eligible, go to step 7.</p>	Action by: SOR
4	<p>Prepare report of Delay and Extension of Time</p> <p>Prepare report of Delay and Extension of Time complete with grounds, quantum and calculation.</p>	Action by: SOR <i>Refer to Checklist for the Preparation of Certificate of Delay and Extension of Time.</i>
5	<p>Check and submit report of Delay and Extension of Time</p> <p>Check and submit report of Delay and Extension of time for approval from Delay and Extension of Time Committee.</p>	Action by: SOR

Chapter 13 – DELAYS AND EXTENSION OF TIME

Step	Procedures / Tasks	Action By / Reference
6	<p>Approval</p> <p>Approval by Delay and Extension of Time Committee.</p>	For information
7	<p>Prepare Certificate of Delay and Extension of Time</p> <p>Prepare Certificate of Delay and Extension of Time for approval by Authorised Party</p>	Action by: SOR
8	<p>Issue Certificate of Delay and Extension of Time to the Contractor</p> <p>As soon as it is approved issue to Contractor the Certificate of Delay and Extension of Time and inform on new Date for Completion.</p>	Action by: CAO
9	<p>Completion of Works is delayed and there is no matter entitling the Contractor to an extension of time?</p> <p>Refer Chapter 14 – Non-completion</p>	<p>For information</p> <p><i>Refer: Chapter 14 – Non-completion</i></p>

13.3 DELAY AND EXTENSION OF TIME

Most construction contracts will specify a time for completion. The contractor is obliged to complete the works within the stipulated date subject to any extension of time.

Time is of the essence is a phrase loosely used in construction contracts to underscore the Government's insistence on the contractor's performance obligation by the stipulated date of completion. It often has to do with extension of time application by contractors and for disruption and delays with related money application in the form of direct loss and/or expense application and on the Government's side, the right to Liquidated And Ascertained Damages for delays on the part of the Contractor.

Time will be at large where the extensions of time provisions have been improperly applied or administered, or where the original time for completion has been waived.

13.4 PURPOSE OF EXTENSION OF TIME PROVISIONS

For the Government

- Enables to fix a new completion date
- Keeps alive the Government's right to Liquidated And Ascertained Damages

For the Contractor

- Reduces the liability to pay Liquidated And Ascertained Damages
- May entitle to claim for prolongation costs incurred

Other consequences

- Avoids time being at large
- Extinguishes the previously issued certificate of non-completion (if any)

13.5 GROUNDS FOR EXTENSION OF TIME IN STANDARD FORMS OF CONTRACT

The grounds of extension of time allowed in JKR 203A form of contract is under Clause 43: Delays and Extension of Time as follows:-

- a) Force majeure
- b) Exceptionally inclement weather
- c) Instructions consequential upon disputes with neighbouring owners
- d) Fire or other insurable damage
- e) Compliance with S.O's / P.D.'s instruction for discrepancies, variations, date of commence and completion or postponement
- f) Late issue of instruction, drawings, levels or instruction in regards to NSC/NS
- g) Delay in giving possession of site
- h) Civil commotion, strike or lockout
- i) Delay by artists, tradesmen and other direct contractors
- j) Shortages of labour or materials
- k) Delay by NSC/NS

In JKR Design & Build / Turnkey Contract (2002 Edition) the relevant clause for Delay and Extension of Time is found in Clause 45.

Other requirements related to submission of extension of time application by contractor include:-

- Notice Provisions
 - a) Provide advance warning of delays so that necessary mitigation measures can be undertaken before it become too late
 - b) When it becomes reasonable apparent

13.6 POINTS TO REVIEW FOR CONSIDERATIONS OF EXTENSION OF TIME

It is the duty of the SOR to review the extension of time claim.

- a) Records and Contract Provisions
 - Actual facts and record are critical
 - Programmes and notices should not be ignored or left
- b) Sequence of works
 - The order in which works logically have to take place
- c) Critical paths
 - Those items which must be completed in a certain order
- d) Use of float time
 - Spare time / capacity in the programme between critical events
 - Over estimation of activity durations
- e) Ownership of float
 - As a general rule, the party which needs it uses it
- f) Mitigation measures undertaken by contractor
 - Limitation of actual delay impact
 - Contractor must progress work diligently
- g) Contractual duties
 - Contractor must limit the impact of any delay
 - S.O / P.D. should grant extension of time as the works progress, wherever possible
- h) Concurrency
 - A number of competing connected events
 - A number of unrelated events occurring at the same time
- i) Dominant cause
 - The event which really causes the delay
 - Usually determined by using as-built programmes / critical path analysis

13.7 METHODS FOR ASSESSMENT OF EXTENSION OF TIME

- a) Based on programme analysis – Critical Path Method (CPM) / As built
- b) Must demonstrate actual cause and subsequent event
- c) Net vs. Gross Assessments
 - Granted extension of time to be added to previous Completion Date
 - Assessment based upon time related to the relevant event
 - Not a consideration of when the event actually occurred

- d) Nominated Sub-Contractors or Nominated Supplier
 - Delays caused by NSC / NS (such delay shall be caused by the same reasons affecting their work as stated in item 13.5 (a) – (i)) are acceptable grounds provided the Contractor has done all possible to mitigate loss of time
- e) Direct Contractors
 - Delays caused by Direct Contractors are not acceptable grounds

13.8 REFERENCE DOCUMENTS

Please refer to Volume 10A for the standard reference or sample documents mentioned in the procedures or processes outlined in this Chapter.

- (Form JKR 203T - Pin. 5/2008) : Perakuan Kelambatan dan Lanjutan Masa

13.9 REFERENCES

Please refer to the latest Treasury Circulars and DID Circulars on the administration of delays and extension of time.

Treasury Circular

(Surat Pekeliling Perbendaharaan / Surat Arahan Perbendaharaan)

- [1] Surat Arahan Perbendaharaan S/K.KEW/PK/PP/1100/000000/10/31 Jld. 22 (7) 16 Mei 2007: Prolongation of Time (Extension of Time) Bagi Kontrak Projek Kerja

Treasury Instructions

(Arahan Perbendaharaan)

- [1] AP 201: Perubahan Dan Prolongation Tempoh Kontrak Untuk Kontrak Bekalan Dan Perkhidmatan

DID Circulars

(Surat Pekeliling / Edaran JPS)

- [1] SPJPS Bil. 3/2009 - Perlantikan Pegawai Penguasa (P.P), Perwakilan Kuasa Pegawai Penguasa (Wakil P.P) Dan Pegawai-Pegawai Yang Diberi Kuasa (PYDK) Dalam Urusan Pentadbiran Kontrak. (Pembatalan kepada Surat pekeling SPJPS 1/2003)

Chapter 13
– Delays and Extension of Time

APPENDIX 13A

**Checklist for the
Preparation of Certificate of
Delay and Extension of Time**

[Form JKR 203T]

(Senarai Semakan Penyediaan
Perakuan Kelewatan dan Lanjutan Masa)

Revision Number :	Revision 0
Revision Date :	March 2009

APPENDIX 13A CHECKLIST FOR THE PREPARATION OF CERTIFICATE OF DELAY AND EXTENSION OF TIME (SENARAI SEMAKAN PENYEDIAAN PERAKUAN KELEWATAN DAN LANJUTAN MASA)

TAJUK PROJEK					
Untuk Tindakan	Nama Pegawai	Tarikh Diberi Kepada	Tarikh Diterima Oleh	Tarikh Siap Semakan	
PMK 1					
PMK 2					
AK*					
BIL.	KETERANGAN	PMK1	PMK2	AK*	ULASAN
1.	<p>(i) Perakuan Kelambatan dan Lanjutan Masa hendaklah disediakan sebaik sahaja tempoh kelambatan dapat ditentukan, dan seboleh-bolehnya tidak lewat daripada dua bulan sebelum berakhirnya tempoh siap kontrak.</p> <p>(ii) Pastikan Kontraktor telah mengemukakan permohonan untuk lanjutan masa secara bersurat dengan menyatakan alasan-alasan kelewatan, tempoh lanjutan masa yang diperlukan dan sebagainya.</p> <p>(iii) Pastikan semua polisi Insuran, Bon Perlaksanaan (sekiranya recoument belum habis dibuat) telah dilanjutkan oleh kontraktor untuk tujuan lanjutan masa ini. Sekiranya kontraktor gagal melanjutkan polisi insuran, PMK hendaklah menguruskan pelanjutan (hendaklah ditolak daripada wang yang kena bayar kepada kontraktor).</p>				Tandakan (✓) selepas semakan
2.	<p>Borang yang digunakan ialah JKR 203T yang terkini.</p> <p><u>Muka surat 1 (Borang 203T)</u></p>				
3.	<p>KERAJAAN – bermaksud 'KERAJAAN MALAYSIA' bagi projek Persekutuan atau 'KERAJAAN' BAGI PROJEK Negeri.</p>				

BIL.	KETERANGAN	PMK1	PMK2	AK*	ULASAN
4.	PKLM No. – sila pastikan nombor berturutan.				
5.	Rujukan – sila masukkan nombor fail projek pejabat Pegawai Penguasa yang menyediakan.				
6.	Pejabat – isikan alamat pejabat Pegawai Penguasa.				
7.	Tarikh - Tarikh PKLM ditandatangani oleh Pegawai Penguasa.				
8.	Kepada (Nama dan alamat kontraktor), Kelas Pendaftaran, No. kontrak dan nama kontrak - hendaklah sama seperti yang terdapat di dalam dokumen kontrak.				
9.	Bahagian - masukkan nama penyiapan bahagian- bahagian (jika berkenaan) sepertimana yang dinyatakan dalam lampiran kepada Syarat-Syarat Kontrak JKR 203/203A Rev. 2007 Klausu 41.				
10.	Para 1 – (i) Masukkan Tarikh Siap Asal atau Lanjutan yang telah diluluskan sebelumnya. (ii) Nyatakan sebab-sebab iaitu alasan-alasan yang menyebabkan berlakunya kelewatan atau kelambatan kerja sepertimana yang dibenarkan di bawah klausa 43 Syarat-syarat Kontrak. Lampirkan sinopsis dan dokumen-dokumen sokongan yang lengkap dan munasabah sesuai dengan setiap alasan/sebab- sebab yang diberi. (iii) Klausu - sila nyatakan sub-klausu untuk klausa 43 yang bersesuaian dengan setiap alasan/sebab yang dikemukakan.				

BIL.	KETERANGAN	PMK1	PMK2	AK*	ULASAN
10 (Samb.)	(iv) Tempoh Kelambatan dan Lanjutan Masa – nyatakan tempoh dalam kiraan hari dan tarikh sebenar berlakunya kelambatan tersebut (di dalam kurungan) <u>Muka surat 2 (Borang 203T)</u>				
11	Para 2 - masukkan jumlah bilangan hari yang diperakukan untuk lanjutan masa. Jumlah hari bertindih hendaklah ditolak dari jumlah keseluruhan.				
12	Para 3 – (i) Tarikh siap yang ditetapkan hendaklah sama seperti mana yang dinyatakan di dalam Para1(i). (ii) Tarikh dilanjutkan ialah tarikh baru setelah tarikh siap ditetapkan dicampurkan dengan jumlah hari pada Para 2 iaitu :- Tarikh lanjutan masa baru = Tarikh Para 1 + bilangan hari Para 2 <u>Maklumat Tambahan</u>				
13	Sebarang maklumat tambahan seperti :- (i) Peratus Kemajuan Kerja Sebenar pada tarikh PKLM dikemukakan. (ii) Nombor dan tempoh lanjutan Gerenti Bon Perlaksanaan, Gerenti bayaran pendahuluan, polisi dan insurans CAR. Endorsement asal untuk tiap-tiap polisi tersebut hendaklah disertakan bersama-sama PKLM ini. boleh dimasukkan dalam sinopsis sebab-sebab lanjutan masa yang dilampirkan bersama PKLM.				
14	Tandatangan, Nama dan Jawatan Pegawai Penguasa				

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BIL.	KETERANGAN	PMK1	PMK2	AK*	ULASAN
15	Tandatangan, Nama dan Jawatan Pegawai Yang Diberikuasa Menandatangani PKLM				
<p>Tandatangan Pegawai Semakan Tarikh Selesai Tugasan: Tandatangan Pegawai Pengesahan Tarikh Selesai Tugasan: Tandatangan Kualiti Audit Tarikh Selesai Tugasan:</p>					

* Jika berkenaan