The actual construction is the second step in the construction phase: As noted in Section 6853, the construction phase consists of two steps: awarding the bid (previous section) and actual construction (this section). Section 3.00 of the Budget Act stipulates that "construction, when used in connection with a capital outlay project, shall include all such related things as fixtures, installed equipment, auxiliary facilities, contingencies, project construction, management, administration and associated costs." Construction may also include departmental staffing costs for agency-retained construction work.

Construction cannot begin until the contractor receives a notice to proceed from the project manager (which occurs after DOF has approved the DF-14D and released construction funds as described in Section 6853). Construction occurs in accordance with contract requirements. Any changes must be by contract amendment, and in some cases, DOF must concur with those changes (see following change orders). The phase ends when construction is complete and the contractor files a *Notice of Completion* with DGS or other project manager.

Competitive versus non-competitive construction: In a competitive bid situation, work during the construction phase is accomplished under a contract. In non-competitive situations, the work is done by either the DGS, the California Department of Corrections inmate labor, or departmental staff, as appropriate.

What are the contract documents? The contract documents consist of the agreement between the state and the contractor, notices to contractors, instructions to bidders, the written specifications and drawings prepared by the architect/engineer for constructing a project, general and supplementary conditions, contract bonds, addenda, change orders, and supplementary agreements.

What are the cost elements of construction?

1. **Construction support:** The terms *construction support* or *project administration* are applied to all project expenses incurred during the construction phase other than actual construction costs. The major construction support/project administration cost items are inspection, construction management, architect/engineer review, and special consultants—primarily for materials testing and asbestos abatement monitoring. Project *soft costs* include costs for all pre-construction phases, plus construction support expenses.

2. **Construction contract**: This is the actual amount of the construction bid award, plus any approved change orders (referred to as "hard costs").

   a. **Change orders** are formal contract amendments executed during the course of construction as required to address unforeseen site conditions, errors and omissions in the contract documents, and changes in the work resulting from client department requests. When a proposed change order potentially modifies project scope or would require a project augmentation, the client department must discuss the desired change with DOF **before executing the change order** to determine if the matter requires DOF/PWB action. (See Section 6863 for scope changes.) Change orders are funded from the contingency line item of the project budget, discussed in the following text. Approved scope changes may be funded partially or entirely from the contingency line-item, depending upon cost and how close the project is to completion. DOF makes this determination, in consultation with the client department, on a case-by-case basis.

Construction contingency: The construction contingency is a set percentage of the construction contract amount budgeted for unforeseen emergencies or design shortfalls identified *after* a construction project commences.

a. Construction contingencies are limited to 5 percent of the construction estimate/bid for a new facility and 7 percent of the construction estimate/bid for remodeling/renovation projects.

b. A construction contingency is included in the budget so the project can proceed with minimal interruption for small (non-scope) changes or cost overruns. The typical construction contract includes a specific completion date or working days to complete clause, and the contractor can be assessed liquidated damages if the work is not completed within this specified time. Concurrently, the contractor is entitled to proceed with the work without interruption. To minimize state-caused delays, the client department must be able to implement *minor* (i.e., non-scope) changes without administrative delay.

c. Generally, the project manager approves the use of contingency funds. However, if the project requires an augmentation or a scope change, DOF may require that contingency funds be used in part to meet that need. This decision is made on a case-by-case basis. (Likewise, if an augmentation is requested and a review of change orders reveals that contingency funds were used for a non-essential purpose, PWB may disapprove the request for additional funds and direct the client department to identify alternative solutions.)

Construction augmentations: See Section 6861.