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# Special Provisions

Current Process, Tips for Writing Unique Special Provisions & Upcoming Changes

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## What is a Special Provision?

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- A specification that describes work or contract requirements not adequately covered by the Standard Specifications or other contract documents



# What is a Special Provision?

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The 2<sup>nd</sup> most important contract document:

1. Instruction to Bidders & Pay Items
2. Special Provisions
3. Plans (Inc. Std. Drawings & Recurring Plan Details)
4. Supplemental Specifications
5. Standard Specifications



# What is a Special Provision?

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Serves 2 functions:

- Modifies the existing Standard Specifications

*and/or*

- Adds material not addressed in the Standard Specifications



# What is a Special Provision?

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Can be:

- *Constructive* – Describes an item of work to be done
- or*
- *Restrictive* – Sets a limitation on the work



# What is a Special Provision?

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*A Constructive Provision*

Defines the “Big 5”:

1. Description
2. Materials
3. Construction Requirements
4. Method of Measurement
5. Basis of Payment



# What is a Special Provision?

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*A Restrictive Provision*

Defines Limits, i.e. -

- Where borrow may be obtained
- Time for a road closure period
- When work may begin or must be finished
- Utility cooperation requirements
- "Green" = "Red" provisions



## What is a Special Provision?

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- Often serves as an interim specification until the provision is adopted into the next edition of the Standard Specifications

*(As determined by the Standards Committee)*





# What is a Special Provision?

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3 types of Special Provisions:

- Standard Recurring Special Provisions
- Contract Specific Recurring Special Provisions
- Unique Special Provisions



# What is a Special Provision?

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## Standard Recurring Special Provisions

- Cannot be modified by the designer
- When selected, INDOT adds the current approved version
- Typically will become a Standard Specification
- If a modification is *necessary*, a Unique Special Provision must be written



# What is a Special Provision?

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## Contract Specific Recurring Special Provisions

- “Fill-in-the-blank” provisions
- Designer completes pre-defined fields
- Any other *necessary* changes will require a Unique Special Provision



# What is a Special Provision?

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## Unique Special Provisions

- Covers a specific situation on a specific contract
- Intended for limited use
- *Only* used if the Standard Specifications or Recurring Special Provisions cannot cover the situation



## What is the Special Provision Process?

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- Research the RSP Menu & BFU to determine which RSPs will be required for the contract.
- Cross check specs with items and items with specs.
- Review the “How to Use” file.



## What is the Special Provision Process?

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- Complete the Menu by selecting the necessary RSPs.
- Create a Word file of any Contract Specific RSPs with blanks filled in.
- Submit the completed Menu with the Word files for CSRSPs.

# What is the Special Provision Process?

Recurring Special Provisions and  
Recurring Plan Details  
Menu and Basis for Use

Rev. 10/29/08

Contract IR-39000

District Greenfield

NOTE: This Menu is divided into two sections:

**SECTION I - Standard Recurring Special Provisions and Recurring Plan Details**  
and

**SECTION II - Contract Specific Recurring Special Provisions.**

Please review both sections to locate and ensure the correct items are placed in the contract.

Place In Contract (X)	Attach. Req'd. (X)	RSP Number	Title	Adopted (A) or Revised (R) Date	Letting Effective Date	Basis for Use
<b>SECTION I - Standard Recurring Special Provisions and Recurring Plan Details</b>						
X		<a href="#">100-C-147</a>	Payment of Predetermined Minimum Wage (Davis-Bacon) IN 080006	R 02-08-08	04-02-08	Required for all projects in counties other than Lake, LaPorte, Porter and St. Joseph except building construction. Do not use with mowing, herbicide, sweeping, & light bulb replacement.
X		<a href="#">100-C-151a</a>	FHWA 1273	R 03-10-94	09-01-07	Required for all Federal aid contracts.
X		<a href="#">100-C-151b</a>	Disadvantaged Business Enterprise Procedure and Good Faith Efforts	R 04-09-07	09-01-07	Required for all federal aid contracts with DBE goal.
X		<a href="#">100-C-151c</a>	Executive Order 11246	R 03-09-06	09-01-07	Required for all federal aid contracts.
X		<a href="#">100-C-188</a>	2006 Standard Specifications	R 04-18-07	09-01-07	Required for all contracts.
X		<a href="#">213-R-448</a>	Flowable Backfill	R 09-20-07	04-01-08	Pay Item: Required for all 211 or 213 items with contracts let on or after April 1, 2008 thru November 30, 2008.
X		<a href="#">801-R-148</a>	Removal of Guardrail	A 09-01-05	09-01-07	To be included in contracts as requested by District Operations for salvage guardrail to become property of the Department. The designer should contact District Operations for guidance.
<b>SECTION II - Contract Specific Recurring Special Provisions</b>						
X	X	<a href="#">101-B-042</a>	Structure Numbers for Pay Items	R 09-01-05	09-01-07	Required for more than one bridge file number in contract, and lump sum pay items shown to be required for each such bridge file.
X	X	<a href="#">107-R-189</a>	Statements About Existing Conditions of Utilities, Additional Right-of-Way, and Encroachments	R 02-18-08	05-01-08	Required for all contracts let on or after May 1, 2008.



## What is the Special Provision Process?

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- Determine if there is a need for any Unique Special Provisions.
- Complete the USP summary sheet.
- Create a Word file of the USPs and submit with the Menu and Summary sheet.





# What is the Special Provision Process?

Unique Special Provision  
Summary Sheet

08-04-08

Contract No: DR-39000

District: Greenfield

Standard Specifications Section	Unique Special Provision Title	Document Filename
203	FWD for Compaction Testing	fwdfwdt.doc
604	Special Texture Finish Sidewalk	textbr.doc
805	Modified Traffic Signal Pole	modsignpole.doc



## How Do I Write a USP?

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- Thoroughly review the guidance in Chapter 19 of the Indiana Design Manual



# How Do I Write a USP?

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## *General Guidelines*

- Define the need for the USP
- Research the topic
- Use correct structure and format
- Method or performance spec?
- Outline and write a draft USP



# How Do I Write a USP?

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## *General Guidelines*

- Be clear and concise
- Check for completeness
- Cross check with other documents
- Get a peer review
- Submit for INDOT approval



## How Do I Write a USP?

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### *Points to Remember*

- Use the “Big 5” for constructive specs
- Follow typical structure & format
- Use “Shall” and “Will” correctly
- Check for testing requirements
- Use typical SS terminology



# How Do I Write a USP?

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## *Points to Remember*

- Be clear about what you ask for
- Review by others
- Coordinate with all contract documents



# What Changes are Coming?

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## *Revised IDM Chapter 19*

- Updated INDOT information
- Clarifies types of Special Provisions
- Defines use of each type SP
- Improved “How To” instructions



# What Changes are Coming?

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## *Combined Menu and USP Summary*

- Sections I, II and III
  - I - Standard RSPs
  - II – Contract-Specific RSPs
  - III – USPs
- All on 1 spreadsheet



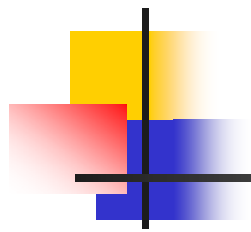


# What Changes are Coming?

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## *Long Term Goals*

- Improved BFU
- Item codes in the specifications
- Reduction of number of RSPs
- Automated Item / SP cross reference



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# Questions?

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# Contract Awards

## Changes in the State Code

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# Estimates are the Primary Determinant of Awardability

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- **IC 8-23-9-4**
- **Acceptance of proposals; criteria**
- Sec. 4. The department may accept a proposal and award a contract for the construction, improvement, or maintenance of a road if:
  - (1) the bids are not more than five percent (5%) above the estimated cost of the project;
  - (2) the commissioner believes that awarding a contract under this section is in the best interests of the state; and
  - (3) the award would comply with any requirement imposed under section 13 of this chapter.
- *As added by P.L. 18-1990, SEC.218.*



# Overall 2007 Award Performance

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- Out of 496 Proposals Let in CY2007:
  - 72 (15%) were rejected for bids exceeding 105% of the Estimate.
  - 46 (9%) were awarded for bids between 100 and 105% of the Estimate
  - 8 (2%) were rejected for other reasons (conditional bids, irregular bids, or no bids received)
  - On average, the low bid was 93.5% of the Estimate



# Senate Bill 175

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- Starting on July 1, INDOT can now award any contract if the low bid is:
  - (A) less than one million dollars
  - (B) one of four or more bids received for the contract, or
  - (C) not more than fifteen percent above the Engineer's Estimate



# Where Do We Go From Here?

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- In the future, Contract awards can and will be made based on the total effect on the program instead of a hard and fast 5% rule
- Under the new rules the Estimating Section can spend less time on tuning individual estimates and will spend more time on bid analysis and improving the estimating tools
- Consequently more emphasis will be placed on the Design Estimates and by extension the Preliminary Estimates

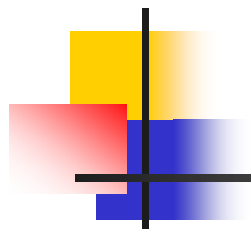


# Recent Bidding Results

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- FY2007
  - 61% of Contracts were under \$1.0 Million
  - 24% of all Contracts bid received 4 or more bids
- FY2008
  - 57% of Contracts were under \$1.0 Million
  - 41% of all Contracts bid received 4 or more bids
- FY2009 to date
  - 62% of Contracts have been under \$1.0 Million
  - 46% of all Contracts bid received 4 or more bids





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# Questions?

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