



INDIANA DEPARTMENT OF TRANSPORTATION

Driving Indiana's Economic Growth

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Michael R. Pence, Governor
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CONSTRUCTION MEMORANDUM 14-02

TO: District Deputy Commissioners
District Construction Directors
District Technical Services Directors
District Area Engineers
District Project Management Director
Project Management Director
Environmental Services
Stormwater Team Lead
District LPA Coordinators
Field Engineers
Project Engineers/Supervisors

FROM: *for* Mark A. Miller, Director 
Division of Construction Management and District Support

SUBJECT: Notice of Termination (NOT)

SUPERSEDES: Construction Memorandum 13-04

As everyone should be aware by now, we are required to request a Notice of Termination (NOT) on contracts before they can be accepted and closed out. **This is required on any contract on which there is a Rule 5 permit.** In order to successfully get acceptance of a contract and get an NOT, INDOT is required to have 70% uniform vegetation density for turf areas on its projects. Until the NOT is successfully obtained, INDOT is required to have weekly and rain event inspections completed and must keep erosion control measures in place where needed.

There are two (2) issues that are being covered by this memo:

1. What are the procedures required in obtaining an NOT?
2. What do you do if your project does not meet the requirements for the NOT?

There are three (3) different scenarios/contract types that need to be looked at when deciding what you need to do to successfully obtain an NOT. **It is important to note that this memo is intended to be read in conjunction with the processes included within the attached Appendices and is intended to be complementary.**

1. **Single Signature Contracts** makeup the majority of INDOT contracts, and do not entail design/build, either by line item or by total contract. For this type of contract, follow the attachment in Appendix A for **Single Signature Contracts NOT Process**.

The process is relatively self explanatory but a few comments should be made. It is recommended that pictures for both the panoramic and spot locations are taken at the time of day that best minimizes shadows. This time period would normally be between 10:00 am and 2:00 pm. Also, when taking panoramic pictures make sure the general focus of the pictures is on the turf areas offset from the road. Image 1 is an example of both poor placement of the roadway in the picture and poor lighting conditions. In other words, pick a time of day when a good representation of the area can be seen as in Image 2 and, do not center the road in the picture.

Environmental Services (ES) is trying to get a feel for the overall look of the turf, its health and coverage and the general slope conditions in the area. If there is any question about the contract meeting the 70% requirement, go ahead and take the pictures to send in for review (See appendix C for pictures showing examples of vegetation density). Based on what we have been seeing, it is possible that you may not have attained the 70% density but, based on where the worst areas are, they may still be serving the intended purpose of permanent erosion and sediment control. For example, an area with less growth but occurs on a flat area may be sufficient. However, if the same density is located on a slope or area of higher erosion potential it may be determined that it is not acceptable. Another issue is the health of the turf. If the vegetation appears to be yellow in color it may be viewed as being unhealthy and may require soil enrichment, see image 3. This will be discussed further in the memo.



Image 1



Image 2



Image 3

2. **Co-signature Contracts** are contracts that either are design/build contracts or are contracts with an item for Design/Build Erosion and Sediment Control. For either of these types of contracts, follow the attachment in Appendix B for **Co-signature Contracts NOT Process**. Again, the process is relatively self explanatory but, read and use the comments as given in **Single Signature Contracts** above.
3. **Local Public Agency, (LPA) Contracts** will need to follow the appropriate process based on the type of contract except that the LPA's "Person in Responsible Charge" or its designee will fulfill the role of ES.

If your project DOES meet the requirements for 70% uniform vegetation density and you DO receive the approval of ES:

- Direct the Contractor to remove and repair all temporary erosion and sediment control measures.
- If all other work is complete on the contract, except waiting for the NOT process to take place, the Contractor may take down permanent signs and bring out temporary signs to complete any needed work at a later date.

If your project DOES NOT meet the requirements for 70% uniform vegetation density and you DO NOT receive the approval of ES:

- Report preparation will need to continue until an NOT is obtained.
- The erosion and sediment control devices will need to remain in place in areas where the 70% density requirement has not been attained, and in areas where sediment may leave the project or enter waterways.
- If it is deemed that the Contractor performed the work as required by the specifications, then additional costs will be considered for payment.
- Additional costs will be reviewed for payment on a case by case basis. These costs may include but are not limited to document preparation on projects that go beyond the completion date for the reason of the NOT, for additional seeding or work needed for erosion and sediment control items, etc.

- For unhealthy vegetation areas soil mitigation measures may be considered by INDOT.
- Costs and potential costs should be discussed with the AE, especially if the magnitude of the costs will be high as INDOT may wish to consider additional options.
- If obtaining the NOT causes contract time to overrun, a time extension will not be required. It is our intent that the time it takes to get the NOT after the completion date be covered by a Final Inspection Time Waiver just as if you had added extra work to the contract at the final inspection.
- When you receive a copy of the NOT from either ES or your Area Engineer, enter it into the SiteManager correspondence log (“Notice of Termination” has been added to the “Correspondence Type” in the Correspondence Log area), and attach a copy of the NOT into SiteManager.

NOTE: Appendix C contains five pages of pictures that will help determine the different percentages of uniform vegetation density (Percentage of Green) could look like. **The important thing to remember is that if the turf is green and looks healthy, go ahead and make the request to ES even if the density may only appear to be 60% +/-.**

If you should have any questions relating to this memo, please do not hesitate to call the Field Engineer assigned to your district.

ATTACHMENT: **Appendix A, B and C**

MAM/ggp

Appendix (A)

Single Signature Contracts NOT Process

Step 1:

- PE will notify Environment Services, ES, or district erosion and sediment control, E&SC, district coordinator of substantial completion.
- A site visit by INDOT district E&SC or ES or appointed representative to review site for problem areas in developing turf and provide recommendations to correct the problems may be needed.

Step 2:

- Contractor and PE/PS will evaluate the project and agree 70% uniform vegetation density of permanent cover (turf or other) has been achieved or is close.
- PE/PS will document site conditions by:
 - Written statement that both parties agree that the site meets the 70% vegetation density coverage of turf areas.
 - Document project site by taking panoramic pictures of turf areas while making sure the least vegetated areas on site are captured. (picture in focus)
 - Take 4 spot pictures from the least vegetated turf areas trying to capture the worst areas.
 - Picture should be taken perpendicular to the ground
 - In a standing position
 - Using a digital camera (pictures in focus)

Step 3:

- PE notifies ES of their desire to request NOT from IDEM by:
 - Email the request to the Storm Water Team Leader, Rick Philabaum, and copy appropriate persons involved with the contract (PM, E&SC district coordinator, etc.)
 - Attach documentation (Written statement and site pictures listed above)
- ES manger or team lead will make a determination of the site's compliance to IDEM regulations based on PE/PS/Contractor documentation, site visit, and other sources.
 - If documentation fails to confirm compliance, ES will schedule a field review with District Construction and Contractor to discuss work that needs to be completed or considered.
 - When the work is completed start at the beginning of this step.

Appendix (A)

- If documentation confirms compliance, ES will notify PE/PS and copy the appropriate persons involved with the contract (PM, E&SC district coordinator, etc.) of the decision to sign the NOT. The PE/PS should direct the Contractor to remove and repair all temporary erosion control measures prior to ES sending the NOT form to IDEM.
- ES will send the NOT form on to IDEM for release.

Step 4:

If IDEM rejects the NOT request, ES will set up an immediate meeting with an IDEM representative, contractor and PE/PS to address rejection of NOT and to understand what corrections are needed to be made in order to be in compliance and gain acceptance.

Step 5:

When corrections have been completed start again at step 3.

Step 6:

If IDEM accepts the NOT request, ES will provide a copy of IDEM's acceptance to the PE/PS so final acceptance can occur.

NOTE:

When you get to the end of the allowable time for the contract District Construction will make a decision on how it is going to proceed if documentation fails to show compliance. Normally, INDOT will keep the contract open until compliance is met. Weekly and rain event site inspection reports and maintenance must continue until compliance is met and the NOT is satisfied.

Appendix (B)

Co-signature Contracts NOT Process

Step 1:

- PE will notify ES of substantial completion.
- Site visit by INDOT district E&SC or ES or appointed representative to review site for problem areas in developing turf and provide recommendations to correct any problems.

Step 2:

- Contractor and PE/PS will evaluate the project and agree 70% uniform vegetation density of permanent cover (turf or other) has been achieved.
- Contractor/ PE/PS shall document site conditions by:
 - Written statement that both parties agree that the site meets the 70% vegetation density coverage of turf areas.
 - Document project site by taking panoramic pictures of turf areas while making sure you it captures the least vegetated areas on site.
 - Take 4 pictures from the least vegetated turf areas trying to capture the worst areas.
 - Picture should be taken perpendicular to the ground
 - From standing position
 - Using a digital camera

Step 3:

- The Contractor sends notification to the Storm Water Team Leader, Rick Philabaum, of their desire to request the NOT from IDEM and copy appropriate persons involved with the contract (PM, E&SC district coordinator, PE, etc.) Email to include:
 - A request for determination of the site's compliance and willingness to sign NOT to ES manager and permit coordinator. Contractor shall copy appropriate persons involved with the contract (PE, PM, E&SC district coordinator, INDOT AE, etc.)
 - Attachments showing documentation listed above (Written statement and site pictures)
- The ES Manger or the Storm Water Team Leader will make a determination of site compliance to IDEM regulations based on Contractor/ PE/PS documentation, site visit and other sources.
- If documentation fails to show compliance, then ES will schedule a field review with the PE and Contractor to discuss work that needs to be completed.
- When the work is completed start at the beginning of this step.

Appendix (B)

- If the documentation confirms compliance, ES will notify the Contractor of its decision to sign the NOT.
 - The Contractor will prepare and sign the NOT form. The Contractor shall remove and repair all temporary erosion control measures prior to ES sending the NOT form to IDEM.
 - The Contractor delivers the signed form to ES for signature.
 - The Contractor will then deliver the form to IDEM in order to obtain final compliance.
 - The Contractor will have the document time-date stamped and provide a hard copy to ES

Step 4:

If IDEM rejects the NOT request, the contractor will set up an immediate meeting with IDEM representative, INDOT PE/PS and ES (or representative) to address the rejection of the NOT and to understand what corrections needed to be made in order to be in compliance and gain acceptance.

Step 5:

When corrections are made the process will start again at the beginning of step 3.

Step 6:

If IDEM approves the request, the Contractor will provide the PE/PS and ES a copy of the NOT response by IDEM so final acceptance can proceed.

NOTE:

When you get to the end of the allowable time for the contract, District Construction will make a decision on how it is going to proceed if documentation fails to show compliance. Normally, INDOT will keep the contract open until compliance is met. Weekly and rain event site inspection reports must continue along with maintenance of the site until compliance is met and the NOT is satisfied.

Appendix (C)

A series of pictures have been taken and analyzed using the INDOT Vegetation Analyzer. Some sample images and results are shown as follows:

Pictures taken by Sony DSC-F505 camera under acceptable light intensity with less than 50% of green



Percentage of Green: 46.88%
Percentage of Gray Shades: 8.44%



Percentage of Green: 48.89%
Percentage of Gray Shades: 10.00%

Pictures taken by Sony DSC-F505 camera under acceptable light intensity with more than 50% of green but less than 60% of green



Percentage of Green: 53.66%
Percentage of Gray Shades: 6.48%



Percentage of Green: 59.13%
Percentage of Gray Shades: 8.67%

Pictures taken by Sony DSC-F505 camera under acceptable light intensity with more than 60% of green but less than 70% of green



Percentage of Green: 68.60%
Percentage of Gray Shades:
6.74%



Percentage of Green: 66.87%
Percentage of Gray Shades:
7.01%

Pictures taken by Sony DSC-F505 camera under acceptable light intensity with more than 70% of green but less than 80% of green



Percentage of Green: 76.22%
Percentage of Gray Shades:
7.86%



Percentage of Green: 77.17%
Percentage of Gray Shades:
6.42%

Pictures taken by Sony DSC-F505 camera under acceptable light intensity with more than 80% of green but less than 90% of green



Percentage of Green: 85.79%
Percentage of Gray Shades:
8.12%



Percentage of Green: 86.37%
Percentage of Gray Shades:
6.99%