



# INDIANA DEPARTMENT OF TRANSPORTATION

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**Eric Holcomb, Governor**  
**Michael Smith, Commissioner**

July 07, 2023

## CONSTRUCTION MEMORANDUM 23-07

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

FROM: Gregory G. Pankow, P.E., Director   
Division of Construction Management and District Support

SUBJECT: Notice of Termination (NOT)

SUPERSEDES: Construction Memorandum 19-10

An NOT must be obtained on any contract that requires a Construction Stormwater General Permit (CSGP) before the contract can be accepted and closed out. To successfully obtain an NOT, CSGP requires 70% uniform density of permanent vegetation for turf areas. When using native seed as required by waterway permits or the design of a stormwater measure, NOT may be accepted with established vegetation levels less than 70% if the area does not pose a risk of offsite sedimentation. **Until the NOT is successfully obtained for these contracts, inspections are required to be completed.** This memorandum will apply to all currently active contracts.

Answers to the following questions will be covered in this memo:

1. What are the required procedures to obtain an NOT?
2. What is the NOT documentation process?
3. What to do if the NOT is not obtained?
4. What is the process to close-out a contract?

## **1. What are the required procedures to obtain an NOT?**

There are two different contract types that should be reviewed when deciding what is required to successfully obtain an NOT.

**INDOT Permitted Contracts** comprise the majority of Department contracts, including Design-Build but not including Local Public Agency (LPA) contracts. For this type of contract, follow the process described in **Appendix A**, INDOT NOT Process.

**Third-Party Permitted Contracts** include CSGPs that are submitted by the LPA's or Contractor's employee in responsible charge (ERC) who initially applied for the CSGP. For this type of contract, follow the process described in **Appendix B**, Third-Party NOT Process. The documentation of an LPA or Contractor NOT determination may be used for process reviews performed by the Department on those contracts as a means of quality assurance for the process.

## **2. What is the NOT documentation process?**

The documentation process is intended to provide a consistent and uniform methodology to assess the condition of any particular contract site for NOT review. Guidance to assist with the process is available in **Appendix C**, Photographic Documentation Instructions.

## **3. What to do if the NOT is not obtained?**

Environmental Services (ES) or the ERC will inform the Project Engineer/Manager/Supervisor (PEMS) if the project meets the requirements of 70% uniform density of permanent vegetation. If the project does not meet the requirements, the Contractor must stabilize the project and continue to perform stormwater maintenance along with inspections until the NOT is obtained. The Contractor should be paid additional costs for corrections if it is determined that all prior work was performed as required by the Specifications.

- Additional costs will be reviewed for payment on a case by case basis. Additional costs may include, but are not limited to, document preparation on projects that go beyond the contract completion date due to the NOT, additional seeding or work needed for stormwater management items, etc.
- For unhealthy vegetation areas, soil mitigation measures may be considered by the Department.
- Costs and potential costs should be discussed with the Area Engineer (AE), especially if the magnitude of the costs is estimated to be high. The Department may wish to consider additional options.
- A time extension will not be required if obtaining the NOT causes contract time to overrun. It is the Department's intent that the time it takes to get the NOT after the original 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.

#### **4. What is the process to close-out a contract?**

The following procedures provide information on documenting that the NOT has been obtained and completing the contract closeout process.

##### **INDOT Permitted Contracts:**

ES will provide the PEMS a copy of the IDEM email submittal confirmation.

##### **Third-Party Permitted Contracts:**

The ERC will provide the PEMS a copy of the IDEM sufficiency statement.

Appendices A and B contain information outlining the steps for the NOT process for INDOT and third-party contract types respectively.

Appendix C contains documentation guidance as well pictures that will help determine the percentage of uniform density of permanent vegetation and percentage of green. **If the turf is green and looks healthy, go ahead and contact ES or the ERC even if the density may not appear to be 70%.**

If you have questions relating to this memo, please contact the Field Engineer assigned to your district.

ATTACHMENTS: Appendices A, B, and C

GGP/pdp

**INDOT NOT Process**

**Step 1:**

- The PEMS and the Contractor will evaluate the project and agree that 70% uniform density of permanent vegetation has been obtained.
- All temporary stormwater Best Management Practices (BMPs) shall be removed prior to applying for the NOT.
- The PEMS will confirm and document the following:
  - All temporary stormwater BMPs have been removed.
  - No further earth disturbing activities are planned for the project.
  - All excess silt accumulations have been removed.
  - All areas have been dressed.
  - Vegetation has been re-established to all bare areas in accordance with the contract requirements.
  - Both parties agree that the site meets the 70% uniform density of permanent vegetative coverage for turf areas.
- The PEMS will document actual site conditions by taking photographs as detailed in Appendix C.

**Step 2:**

- The PEMS will notify ES of their desire to request the NOT with the following:
  - Email the request to the INDOT's Stormwater Team ([csgp@indot.in.gov](mailto:csgp@indot.in.gov)) and copying the appropriate persons involved with the contract (DCD, AE, INDOT Project Manager (PM), and District Stormwater Specialist).
  - Attach the documentation, listed in Step 1 above, to the email along with a written statement of agreement from the Contractor, and site photographs as described in Appendix C.
- The Stormwater Team will determine if the site meets the requirements for NOT based on the provided documentation, site visits, and/or other sources.
- If documentation confirms that the site meets NOT requirements, ES will notify the PEMS of the decision on the NOT by providing the PEMS and all appropriate persons involved with the contract (AE, DCD, INDOT PM, District Stormwater Specialist) with a copy of the IDEM email submittal confirmation.
- If documentation fails to confirm that the site meets NOT requirements, ES may schedule a field review with District Construction and the Contractor to discuss additional work that needs to be completed or considered. When any necessary work is completed, the

INDOT NOT process will start back at Step 1.

**Step 3:**

- The PEMS will attach a copy of the NOT submittal confirmation from IDEM into SiteManager.

**NOTES:**

At the end of the allowable time for a contract, District Construction will decide on how to proceed if documentation fails to confirm that the site meets the requirements for NOT. Normally, the Department will keep the contract open until the requirements of NOT are met. Site inspection reports and maintenance must continue until the requirements for NOT are met.

**Third-Party NOT Process**

**Step 1:**

- The PEMS and the ERC will evaluate the project and agree that 70% uniform density of permanent vegetation has been obtained.
- All temporary stormwater Best Management Practices (BMPs) shall be removed prior to applying for the NOT.
- The PEMS will confirm and document the following:
  - All temporary stormwater BMPs have been removed.
  - No further earth disturbing activities are planned for the project.
  - All excess silt accumulations have been removed.
  - All areas have been dressed.
  - Vegetation has been re-established to all bare areas in accordance with the contract requirements.
  - Both parties agree that the site meets the 70% uniform density of permanent vegetation coverage for turf areas.
- The PEMS will document actual site conditions by taking photographs as detailed in Appendix C.

**Step 2:**

- The PEMS will notify the ERC of their desire to request the NOT with the following:
  - Email the request to the ERC, and copying the appropriate persons involved with the contract (DCD, AE, INDOT Project Manager (PM), and District Stormwater Specialist).
  - Attach the documentation, listed in Step 1 above and site photographs as described in Appendix C.
- If documentation confirms that the site meets the requirements for NOT, the ERC will prepare and submit the NOT form on IDEM's ePortal at the following URL:
  - <https://stormwater.idem.in.gov/ncore/external/home>
  - After NOT is deemed sufficient by IDEM, the ERC will notify the PEMS and all appropriate persons involved with the contract (DCD, AE, INDOT PM, and District Stormwater Specialist) of the IDEM NOT sufficiency.
- If documentation fails to confirm that the site meets the requirements for NOT, the ERC may schedule a field review with District Construction and the Contractor to discuss work that needs to be completed or considered. When any necessary work is completed, the Third-Party NOT process will start back at Step 1.

**Step 3:**

- The PEMS will attach a copy of the NOT sufficiency statement from IDEM into the SiteManager correspondence log.

**NOTES:**

At the end of the allowable time for a contract, District Construction will decide on how to proceed if documentation fails to confirm that the site meets the requirements for NOT. Normally, the Department will keep the contract open until the requirements of NOT are met. Site inspection reports and maintenance must continue until the requirements for NOT are met.

The documentation of an ERC's NOT determination may be used for process reviews performed by the Department on those contracts as a means of quality assurance for the process.

### **Photographic Documentation Instructions**

The site conditions will be documented as follows:

- At least one (1) panoramic photograph and four (4) perpendicular spot photographs should be taken, from chest height, at locations showing the most representative turf areas. These photos shall be taken in a digital format. They should provide characteristic information of the area.

Additional panoramic and perpendicular photographs should be taken in areas of interest for stormwater protection such as at bridges, pipe inlets and outlets, and areas of steep or long slopes.

- Panoramic photographs of turf areas must be in focus and show as much of the vegetated areas as possible.
- Perpendicular spot photographs should be taken in a standing position with the camera at chest height directly above areas of the least vegetated turf. Showing the tips of your boots in the photo is acceptable.

The photographs for both the panoramic and perpendicular spot locations should be taken at a time of day that best minimizes shadows. This time normally occurs between 11:00 am and 4:00 pm. When taking panoramic photographs, ensure the general focus of the photo is on the turf areas offset from the road. Do not center the road in the picture as indicated in Image 1 of this appendix. Pick a time of day when a good representation of the area can be seen as indicated in Image 2.

ES, or the ERC, will base their decision on the information obtainable from the photographs taken. They will review the overall look of the turf, its health and coverage, and the general slope conditions in the area. The photographs at the end of this appendix show variations in the percentage of vegetative density. An area density showing less growth but occurring on a flat area, with low potential for erosion, may be sufficient for NOT. However, if the same density is located on a steep slope with higher erosion potential it may be determined that the density is not acceptable.

Yellow color of vegetation may be viewed as being unhealthy and may require soil enrichment as indicated in Image 3.



**Appendix C**  
**Construction Memorandum 23-07**



***Image 1** Example of both poor placement of the roadway within the picture and poor lighting conditions.*



***Image 2** Example showing a good representation of the area.*



***Image 3** Yellow vegetation may be viewed as unhealthy and may require soil enrichment.*

A series of pictures are shown below to provide examples of vegetation coverage percentages.



*Image 4* Vegetation Coverage: 40-50%.



*Image 5* Vegetation Coverage: 50-60%.



*Image 6* Vegetation Coverage: 60-70%.



*Image 7* Vegetation Coverage: 70-80%.