# DIVISION 100 – GENERAL PROVISIONS

## SECTION 101 – DEFINITIONS AND TERMS

[101, line 48]

 COE Corps of Engineers(US Army)

 *CSGP Construction Stormwater General Permit*

 CWI Certified Welding Inspector

[101, line 94]

 NCHRP National Cooperative Highway Research Program

 *NDT Non-destructive testing*

 NEMA National Electrical Manufacturers Association

[101, line 210]

 The contract may include, but is not limited to, the Proposal*, Contract Information* ~~b~~*B*ook, Schedule of Pay Items, contract form, bid bond, performance bond, specifications, special provisions, information to bidders, instructions to bidders, general and detailed plans, notice to proceed, and any change orders and agreements that are required to complete the construction of the work in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.

[101, line 256]

###  101.22 Equipment

 ~~All machinery and equipment together with the necessary supplies for upkeep and maintenance, and all tools and apparatus necessary for the proper construction and acceptable completion of the work.~~*All machinery, equipment, tools, apparatus, and necessary supplies for the proper construction, upkeep, maintenance, and acceptable completion of the work.*

[101, line 277]

###  101.26 Frequency Manual

 A document issued by the Department ~~which is~~ titled Manual for Frequency of Sampling and Testing and Basis for Use of Materials. The number of samples and tests, the basis for approval, the basis for use, and similar requirements for furnished materials are specified in the document.

[101, line 313]

###  101.29 Itemized Proposal

 The Schedule of Pay Items shown in the Proposal ~~book~~.

[101, line 373]

###  ~~101.42 Proposal~~*Blank*

 ~~The Schedule of Pay Items shown in the Proposal book.~~

###  101.43 Proposal ~~Book~~

[101, line 390]

 Reasonably close conformance also means, for materials manufactured according to the English system of measures, that the materials are about the same size as nearly equivalent metric-sized materials. For materials manufactured according to the metric system of measures, reasonably close conformance means the materials are about the same size as nearly equivalent English-sized materials. Nearly equivalent sized materials will be accepted unless the nearly equivalent material is outside specified working tolerances in *accordance with* the contract documents.

[101, line 419]

###  101.50 Roadbed

 The graded portion of a ~~highway~~*road* within top and side slopes, prepared as a foundation for the pavement structure and shoulders.

[101, line 428]

###  101.52 Roadside Development

 That work necessary to the complete ~~highway~~*road* which provides for the preservation of landscape materials and features; the rehabilitation and protection against erosion of all areas disturbed by construction through seeding, sodding, mulching, and the placing of other ground covers; and such suitable planting and other improvements as may increase the effectiveness and enhance the appearance of the ~~highway~~*road*.

###  101.53 Roadway

 The portion of a ~~highway~~*road* within limits of construction.

###  101.54 Schedule of Pay Items

 A part of the Proposal ~~book~~ which shows pay items, quantities, and pay units for the contract. The bidder shall complete the document by filling in the unit prices and the bid amounts.

[101, line 474]

###  101.63 Substantial Completion

 The date, as determined by the Department, when the construction of a project is sufficiently completed in accordance with the plans and specifications, as modified by any approved change orders, so that it can be used for its intended purpose. In order for a project to be used for its intended purpose, all lanes shall be, or have the ability to be, opened to traffic without further need for them to be restricted for any purpose except for the placement or maintenance of stormwater control or the maintenance or removal of temporary stormwater control. ~~As~~*At* a minimum, ~~all of the following criteria shall be met:~~ ~~A~~*a*ll lanes of the road or bridge shall be completed through ~~its~~*the* final roadway surface, including shoulders, with all the sidewalks, curbs, drainage features, markings, permanent safety appurtenances, lighting, traffic signals, and signing as shown in the contract documents.

## SECTION 102 – BIDDING REQUIREMENTS AND CONDITIONS

[102, line 12]

###  102.02 Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements

 This requirement will apply only to a federal aid contract. The bidder certifies to the best of its knowledge and belief, that it has complied with the requirements of FHWA-1273 Part XI, included in the ~~Contract Information book~~*CIB*.

## SECTION 103 – AWARD AND EXECUTION OF CONTRACT

[103, line 190]

 DBE joint ventures type A do not require DBE joint venture certification. DBE joint venture*s* type B do require DBE joint venture certification. A request for DBE joint ventures type B certification shall be submitted no later than 9:00 a.m. local time the last business day before the letting and shall be approved prior to bidding in order to receive credit toward the DBE goal. The DBE shall be certified with the Department prior to requesting DBE joint venture certification. The work for the DBE shall be identified, performed, managed, and supervised by its forces.

[103, line 289]

 If a DBE goal has been established for the contract, the Contractor shall take good faith efforts to achieve the established goal prior to the bid opening. The Affirmative Action Certification shall be completed and submitted with the Proposal ~~Book~~ to indicate both race/gender conscious and race/gender neutral proposed DBE utilization.

[103, line 401]

####  (f) Affirmative Action Certification

 The Affirmative Action Certification, included in the Proposal ~~book~~, shall be completed when the Proposal ~~book~~ is submitted to the Department. The certification shall list all DBE firms the Contractor plans to utilize, either race/gender consciously or race/gender neutrally. Blank certifications shall cause the bid to be rejected. If a portion of a pay item is to be performed by a DBE, an explanation shall be included stating exactly what the DBE is performing or supplying. Failure to do so may affect the award of the contract. The Contractor shall ensure that DBE firms listed on the Affirmative Action Certification are certified DBE firms as listed in the Department’s DBE directory at the time of letting. ~~In addition to the listing of DBE firms that will be used race/gender consciously to meet the goal, the Contractor shall also provide a total for the amount of work that it anticipates will be performed by other DBE firms used race/gender neutrally on the contract beyond the goal requirements~~*In addition to the firms that will be used for race/gender conscious to meet the DBE goal, the Contractor shall also provide a dollar total for the amount of work that they anticipate will be performed by other DBE firms being used as race/gender neutral on the contract beyond the goal requirements.*

[103, line 438]

####  (h) Leases and Rentals

 Hauling leases made with DBEs shall be submitted to the Department for approval before beginning work. Leases for hauling, when used, shall be submitted when borrow, subbase, compacted aggregate, HMA mix, cement concrete mix, or a combination of the above is to be hauled by a DBE. The lease shall show the dollar amount of anticipated work before the work ~~is started~~*begins*. The actual dollar amount shall be reported to the Department after the work has been completed.

[103, line 480]

 If a subcontract agreement between the Contractor and a majority subcontractor requires that the majority subcontractor sublease a portion of its hauling to a DBE, the Contractor may receive credit toward the contract goal. The Contractor shall notify the Department when sublease agreements exist, the name of the DBE, the dollar amount of anticipated hauling before the work ~~is started~~*begins*, and the actual dollar amount after the work is completed. The subcontractor shall certify actual utilization of the DBE at the end of the work and provide such certification to the Contractor for submission to the Department.

####  (i) Records and Reports

 The Contractor shall keep such records as necessary to determine compliance with its DBE utilization obligations and compliance with the Guidelines for Determining of Good Faith Efforts. The *Contractor’s* records ~~kept by the Contractor~~ shall indicate the minimum requirements as follows:

[103, line 518]

 The Contractor and all subcontractors not including material suppliers, holding subcontracts of $10,000.00 or more, shall comply with the following minimum specific requirement activities of equal employment opportunity. The equal employment opportunity requirements of Executive Order 11246, included in the ~~Contract Information book~~*CIB*, will be applicable to material suppliers as well as contractors and subcontractors. The Contractor shall include these requirements in each subcontract of $10,000.00 or more with such modification of language as ~~is~~ necessary to make them binding on the subcontractor.

###  103.0~~2.1~~*3* Record Keeping

 All firms performing work on Department contracts, bidding on Department contracts, or offering quotes for subcontract or trucking services shall register with the Department, annually, by submitting the following information to the Department’s Prequalification Engineer:

 (a) firm’s name*,*

 (b) firm’s address*,*

 (c) firm’s status as a DBE or non-DBE*,*

 (d) the age of the firm ~~and~~*,*

 (e) the annual gross receipts of the firm*, and*

 (f) ~~in~~*identify* which of the following markets ~~has~~ the firm *has* participated~~?~~*:*

[103, line 546]

 **103.0~~34~~ Blank** [to stay “Blank”. Used in RSP [100-C-151D EXECUTIVE ORDER 11246](https://www.in.gov/dot/div/contracts/standards/rsp/sep21/100/100-C-151D%20190901.pdf) ]

[103, line 561]

 The Contractor may purchase insurance for the full limits required by 103.04(b), or 103.04(c)*,* or by a combination of primary policies for lesser limits and remaining limits provided by a Commercial Umbrella Liability policy.

[103, line 590]

####  (b) Commercial General Liability

 Required liability insurance coverage shall provide coverage for operations of the Contractor and operations of subcontractors. ~~Coverages shall include premises operations; independent contractors; products; completed operations; broad form property damage; hazards of explosion, collapse, and underground damage; and contractual liability.~~ The general aggregate limit shall be endorsed so as to provide coverage for each contract as follows:

 1. General Aggregate Limit $2,000,000

 2. Products-Completed Operations Aggregate Limit $2,000,000

 3. Each Occurrence Limit $1,000,000.

 *Coverages shall include premises operations, independent contractors, products, completed operations, broad form property damage, hazards of explosion, collapse, and underground damage; and contractual liability.*

[103, line 634]

 1. Wherever used in this policy, the term “named insured” shall include the Indiana Department of Transportation, its officers, and employees. If ~~so~~ specified in the contract, the term “named insured” shall also include a local governmental agency, its officers, and employees.

[103, line 730]

####  (c) Wage Stipulations

 No person employed on a federally funded contract shall be paid less than required by the rate of wages set forth for labor classifications listed in the General Decision as required by the Davis Bacon Act and related Acts. No person employed on a state funded contract shall be paid at a rate of less than $~~11.25~~*15.00* per hour, as required by IC 8-23-9-22 or the rate of wages set forth for labor classifications listed in the General Decision, whichever is greater.

[103, line 766]

 It is a condition of the contract, and shall be made a condition of each subcontract entered into pursuant to the contract, that the Contractor and all subcontractors shall not require a laborer or mechanic employed in performance of the contract work to work in surroundings or in working conditions which are unsanitary, hazardous, or dangerous to ~~his or her~~*their* health or safety, as determined under construction safety and health standards 29 CFR 1926, as amended at the time the work is performed.

## SECTION 104 – SCOPE OF WORK

[104, line 26]

 It is further provided that all work including the furnishing of materials, equipment, tools, labor, and incidentals required to carry out the terms of the contract shall be done by the Contractor, its employees, or subcontractors unless specifically set out otherwise in the Proposal ~~book~~. The words “by the Contractor” will not necessarily be used to so indicate. All work shall be carried out in a thorough, careful, effective, and satisfactory manner without specifically using these words to describe the action.

[104, line 44]

 (a) the work to be performed*,*

 (b) the time required for the work,

 (c) the amount of compensation due the Contractor.

 Changed conditions ~~that will be~~ considered as reason*s* for a contract adjustment are differing site conditions, suspensions of work ordered by the Engineer, and significant changes in the character of the work. A request by the Contractor for a contract adjustment shall be based on one or more of the changed conditions described herein.

[104, line 79]

####  (b) Suspensions of Work Ordered by the Engineer

 If the performance of all or any portion of the work is suspended or delayed by the Engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Contractor believes that additional compensation, and/or contract time is due as a result of such suspension or delay, the Contractor shall submit *a written request* to the Engineer ~~in writing a request~~ for adjustment within seven calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

[104, line 100]

 ~~No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract~~*No contract adjustment will be allowed under this clause for performance that would have been delayed by any other cause, or when an adjustment is provided or excluded under other terms or conditions of the contract.*

####  (c) Significant Changes in the Character of Work

 ~~The Engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project~~*The Engineer reserves the right to provide written notification, at any time, of changes in quantities and other alterations in the work necessary to satisfactorily complete the work.* Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the Contractor agrees to perform the work as altered.

[104, line 168]

 If the impact of a changed condition will not be known for some length of time, the following procedure shall be followed ~~in order~~ to expedite a contract adjustment until the impact of the change can be determined.

[104, line 197]

 If the Contractor accepts the Engineer’s remedy for a changed condition, the contract adjustment will be considered to be full and complete compensation for the changed condition and no further contract adjustment will be made for the circumstances ~~that gave rise to~~*of* the Contractor’s request.

[104, line 226]

 If the claimed inefficiency is ~~that work was~~*for work* performed out of scheduled sequence due to the changed condition, the current accepted schedule will be analyzed to determine if the work was performed out of sequence.

[104, line 280]

 The portion of the roadway being used by public traffic shall be kept in ~~such~~*a* condition ~~that such~~*which allows* traffic ~~will~~*to* be adequately accommodated. Drums in accordance with 801.09 shall be placed at 200 ft intervals where drop-offs of greater than 3 in. are adjacent to the shoulder until the aggregate or earth wedge is placed. Temporary approaches to businesses, parking lots, residences, garages, farms, and crossings and intersections with trails, roads, and streets shall be provided in a safe condition.

[104, line 307]

####  (a) Special Detours

 When the Schedule of Pay Items contains a*n* ~~pay~~ item for maintenance of detours or removing existing structures and maintaining traffic, the payment ~~for such payoff~~*of the* item shall cover all cost*s* of constructing and maintaining such ~~detour or~~ detours, including the construction of temporary bridges and accessory features and the removal of the same in accordance with 713.08.

[104, line 423]

 1. The Department will provide in the Proposal ~~book~~ all known information of all such materials known or suspected to exist within or adjacent to the project limits.

 2. The Contractor shall act only under the written direction of the Department regarding the removal, testing, transportation, or disposal of all such materials. Such written instructions may be provided in the Proposal ~~book~~ or in accordance with 104.03.

[104, line 544]

###  104.07 Rights in and Use of Materials Found in the Project Site

 Except for hazardous wastes, hazardous substances, hazardous materials, and asbestos which are subject to 104.06, and lead and zinc bridge painting debris which is subject to 619, all materials designated to be removed from the project and not used in the work shall become the property of the Contractor, unless otherwise set out in the Proposal ~~book~~. The value of these materials shall be taken into account when the bid is being prepared.

[104, line 557]

 On all contracts involving construction within the corporate limits of cities and towns in which items such as drainage structure castings, or other items having a salvage value, are to be removed, the removed items shall remain the property of the governmental bodies involved as specified in the Proposal ~~book~~ or as shown on the plans. Otherwise, these items shall be disposed of in accordance with these Standard Specifications. The cost of such disposal shall be included in the contract unit prices of the various pay items of the contract, unless otherwise provided.

[104, line 580]

 Unless otherwise provided, all falsework, piling, concrete or timber mudsills, or similar material placed during construction and not required in the completed work, shall be removed entirely or cut off at least 2 ft below the finished ground. Within a low water channel*,* they may be removed or cut off even with the stream bed.

## SECTION 105 – CONTROL OF WORK

[105, line 17]

###  105.02 Plans and Working Drawings

 Road plans will show*,* in detail*,* structures of up to and including 20 ft spans, lines, grades, typical cross sections of the improvement, and general cross sections. They may also show general features of bridges. Bridge plans will show general plans and details of bridges.

[105, line 60]

 Fabrication or construction shall not start on an item of work before working drawings are approved. Authorized alterations will be endorsed on approved plans or shown on supplementary sheets. All work ~~done~~*performed* or material ordered prior to the approval of such plans and drawings shall be at the risk of the Contractor. Department approval of working drawings will not release the Contractor from the responsibility for errors, adequacy or safety of falsework, cofferdams, or other temporary work or risk in connection with the work. Prior to final acceptance, the Contractor shall provide a copy of all approved working drawings, including all approved modifications.

[105, line 1207]

 Work shall be arranged and the materials being used shall be placed and disposed of ~~so as~~ to not interfere with the operations of the other contractors within the limits of the same project. Work shall be joined with ~~that of the others~~*work performed by others in the proper sequence and* in an acceptable manner. ~~It shall be performed in proper sequence to that of the others.~~

[105, line 237]

 The Department will be responsible for the accuracy of control lines and grades established by the Engineer. If there is an error in the establishment of the original construction or survey stakes set, and discovered after the work has been fully or partially completed in compliance with the erroneous stakes, payment for ~~such~~ additional work as may be required ~~because of such~~*due to the* error*,* will be made at the contract unit price for the class of work involved.

[105, line 303]

 The re-establishment of the centerline control points shown on the plans, right-of-way points used for fence or markers, and section corners shall be performed by a land surveyor who is registered in the State or by people under the direct supervision of ~~said~~*the* land surveyor, per the requirements of IAC Title 865 of the State Board of Registration for Professional Surveyors Statutes and Rules.

[105, line 349]

 Where sumping is shown on the plans, the Contractor shall obtain the existing flowline elevation. This information will be used to verify that the planned sump depth matches existing conditions. Prior to culvert or bridge working drawing design*,* the Engineer will determine adjustments in footing or invert elevation necessary to provide the appropriate sump depth.

[105, line 419]

 (a) keep the Engineer informed as to the progress of the work and the manner in which it is being done~~;~~*,*

 (b) report whenever it appears that the materials furnished and the work performed fail to fulfill the requirements of the specifications and contract~~;~~*,*and

 (c) call to the attention of the Contractor, as the work progresses, all known deviations from, or infringement upon, the plans and specifications with respect to materials and workmanship.

[105, line 430]

 Technicians and inspectors will be authorized to inspect all work done and materials furnished and to exercise such additional authority as may be delegated to them in writing. Such inspection may extend to all ~~of~~ the work ~~done~~*performed* and material furnished. They shall have authority to reject defective materials and to suspend any work that is being improperly ~~done~~*performed*, subject to the final decision of the Engineer.

[105, line 440]

 Technicians and inspectors will not be authorized to revoke, alter, enlarge, relax, or release any requirements of the specifications; not ~~to~~ approve or accept any portion of the work; not ~~to~~ issue instructions contrary to the plans and specifications.

[105, line 487]

 No work shall be ~~done~~*performed* unless lines and grades have been given or approved. Work ~~done~~*performed* contrary to instructions, ~~work done~~ beyond the lines shown on the plans or as given, except as herein specified, or any extra work ~~done~~*performed* without authority will be considered as unauthorized and will not be paid for under the provisions of the contract. Work so ~~done~~*performed* may be ordered removed or replaced with no additional payment.

[105, line 516]

###  105.13 Maintenance During Construction

 The work shall be maintained during construction and until the contract is accepted. This maintenance shall constitute continuous and effective work prosecuted day by day with adequate equipment and forces to ~~the end that~~*keep* the roadway, structures, barricades, and construction signs ~~are kept~~ in satisfactory condition at all times.

 Once construction operations have begun within the project limits, and through traffic is required to be maintained, the Contractor shall repair areas as directed which require special maintenance. If the repair work is determined to be required during construction and is due to the Contractor’s operations, the cost of such work shall be included in the cost of other pay items. If the areas of the roadway which require repair are due to use by the traveling public or the elements of nature, and are not the fault of the Contractor, the Contractor will be paid to repair those areas of the roadway. ~~Such~~*This* work will be paid for under the appropriate pay items or in accordance with 104.03.

 If the contract includes work for the placing of a course upon a *previous* course or subgrade which the Contractor has constructed ~~previously~~, ~~such~~*the* previous course or subgrade shall be maintained during all construction operations. The cost of maintaining this work shall be included in the cost of other pay items.

###  105.14 Failure to Maintain Roadway, Structures, Barricades, and Construction Signs

 If the Contractor*,* at any time*,* fails to comply with the requirements of 105.13 and 107.12, ~~it~~*the* *Contractor* will immediately be notified of such non-compliance. If satisfactory maintenance is not furnished or unsatisfactory maintenance is not remedied within 24 h after receipt of such notice, the Engineer may order suspension of work and proceed to maintain the project, and all progress estimates will be withheld until the Contractor complies. The entire cost of this maintenance will be deducted from the money due or to become due on the contract. No additional contract time will be considered.

[105, line 565]

 1. a usable portion of the contract one mile or more in length is completed~~;~~*,*

 2. a portion of the contract designated ~~therein~~ as a project is completed~~;~~*,* or

[105, line 590]

 If the work is not acceptable at the time of such inspection, the Contractor will be advised in writing as to the particular defects to be remedied before final acceptance. If, within a period of 10 days after such notice, steps have not been taken to complete the work speedily as outlined, the Department, acting through the Commissioner, may, without further notice and without ~~in any way i~~mpairing the contract *in any way*, make ~~such~~ other arrangements as ~~may be~~ necessary to have the work completed in a satisfactory manner. The cost of so completing the work may be deducted from money due or which may become due the Contractor on the contract.

[105, line 650]

 The claim shall contain sufficient detail to enable the Engineer to determine the basis and amount of the claim. At a minimum, the following information shall be included in a claim in a format that can readily be analyzed by the Engineer. The format shall include, but not be limited to, document length page numbering, a table of contents*,* and cross references as applicable throughout the claim documentation.

[105, line 738]

 If the Contractor disagrees with the project level ruling or if a ruling is not issued within the specified or agreed upon time, a written request for a District Office review may be submitted to the Engineer within 30 days of receipt of the project level ruling or the end of the time for the ruling to be issued. Failure to submit a request for District Office review within the specified time will constitute ~~an~~ acceptance of the project level ruling by the Contractor and a contract adjustment will be made in accordance with the ruling. The contract adjustment will be considered ~~as~~ full and complete compensation for the changed condition and the Contractor shall waive any right to further contest the ruling.

[105, line 758]

 For claims with a total value less than or equal to $150,000, *or* 20% of the original contract amount, ~~and~~*or* 100 days of contract time extension, the Engineer will review the project level ruling and issue a written District Office ruling within 45 days, or other time as mutually agreed, of the Contractor’s request for a District Office claim review. A claim review by the District may affirm, overrule, or modify the project level ruling. The District ruling will specify the portions, if any, of the project ruling that are being overruled or modified and the rationale supporting the portions overruled or modified.

 The Contractor may accept or reject a claim review ruling made by the District Office. If the Contractor accepts the ruling, it will be considered ~~as~~ the final decision by the Department and a contract adjustment will be made in accordance with the ruling.

 If a District ruling is rejected, the Contractor may submit a written request for a final hearing before a District Claim Review Board. The request shall be submitted to the Chief Engineer within 30 days of the Contractor’s receipt of the District ruling. The Chief Engineer will respond in writing to the Contractor and will convene a Board to review the claim. Failure to submit a request for a hearing within the specified time will constitute ~~an~~ acceptance of the District Office ruling by the Contractor and a contract adjustment will be made in accordance with the ruling. The contract adjustment will be considered ~~as~~ full and complete compensation for the changed condition and no further claim shall be made for the circumstances that gave rise to the claim.

 The District Claim Review Board will consist of three Department personnel selected by the Chief Engineer and will include one member from District Construction in the District involved in the claim and two members from the Division of Construction Management. The Chief Engineer will assign one member as the chairperson who will then schedule a hearing with the Contractor at a mutually agreed time and location. The Contractor will be given sufficient time at the hearing to present arguments and exhibits in support of the claim. The Board will issue a written decision within 30 days of the hearing and the decision will be considered as the final decision by the Department and no further appeal will be considered by the Department. A contract adjustment will be made in accordance with the decision of the Board and will be considered ~~as~~ full and complete compensation for the changed condition and no further claim shall be made for the circumstances that gave rise to the claim.

 For claims with a total value greater than $150,000*,* or 20% of the original contract amount*,* or 100 days of contract time extension, the District will forward the claim, along with the project level ruling and a District Office written opinion to Central Office for a ruling. The Contractor shall not modify the basis of the claim or the method for calculating the amount claimed after submittal to Central Office.

[105, line 817]

 If a Central Office ruling is rejected, the Contractor may submit a written request that the matter be discussed before a civil mediator. The request shall be submitted to the Chief Engineer within 30 days of the date of the Central Office ruling. Failure to request mediation within the specified time shall constitute acceptance of the Central Office ruling by the Contractor and a contract adjustment will be made in accordance with the ruling. The contract adjustment will be considered ~~as~~ full and complete compensation for the changed condition and no further claim shall be made for the circumstances that gave rise to the claim.

## SECTION 106 – CONTROL OF MATERIAL

[106, line 10]

####  (a) Approved or Prequalified Materials

 Certain materials and equipment require pre-approval by brand name or source of manufacture. ~~The l~~*L*ists of ~~qualified products,~~ QPL*s*~~,~~ are maintained by the Department as provided in the specifications. The Department will review all QPLs prior to January 1 of even numbered years. Unless otherwise provided, any item listed for three years prior to the review without being supplied to a contract will be removed from the list.

[106.01(b)2. Approved by SC on [the March 17, 2022](https://www.in.gov/dot/div/contracts/standards/sc/2022/mar/SC_Final%20Draft%20Minutes%20220317.pdf#page=91) meeting]

 *d. The system shall compile e-tickets into a single PDF format document by date and material description with the number of tickets per page limited to maintain legibility~~;~~. ~~and~~It shall compile a PDF format e-ticket summary by date and material description with the total quantity delivered. E-tickets and summaries shall include acceptance status input by the Department.*

[106, line 218]

###  106.09 Department Furnished Materials

 The Contractor shall furnish all materials required to complete the work*,* except those specified to be furnished by the Department. Materials furnished by the Department will be delivered or made available at the locations specified. The cost of handling and placing materials after they are delivered to the locations specified shall be included in the contract price for the item in connection with which they are used. The Contractor will be held responsible for all materials delivered. Deductions will be made from any monies due to the Contractor to make good all shortages or deficiencies and for all damage which might occur after delivery or for demurrage charges.

## SECTION 107 – LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

###  107.01 Laws to be Observed

 The Contractor shall keep fully informed of Federal and State laws~~;~~*,* local laws~~;~~*,*ordinances~~; and~~*,* rules, regulations, orders, and decrees of bodies or tribunals having any jurisdiction or authority which in any manner affect those engaged or employed on the work or which in any way affect the conduct of the work. The Contractor shall at all times observe and comply with all such laws, ordinances, rules, regulations, orders, and decrees. The Contractor shall protect, indemnify, and exculpate the State and its representatives, in accordance with 107.17, against civil claim or civil liabilities arising from or based on the violation of such law, ordinance, rule, regulation, order, or decree, whether by itself or its employees, even if such violation is due wholly or in part to violation of said law, ordinance, rule, regulation, order, or decree by the State or its representatives.

[107, line 60]

 (b) If the total bid amount shown in the Schedule of Pay Items is in excess of $25,000.00, the Contractor shall further agree that the contract is expressly subject to the terms, conditions, and representations contained in the Drug-Free Workplace certification executed by the Contractor in conjunction with the contract, and which is included in the Proposal ~~book.~~

[107, line 76]

 ~~Indiana Code~~*IC* 4-13-18-5 requires all bidders to submit an employee drug testing plan which complies with the requirements of the cited Code. The Contractor is directed to implement the employee drug testing plan as submitted. Material breaches of this requirement may constitute an independent basis to invoke 108.10.

[107, line 132]

###  107.06 Equal Employment Opportunity Trainees

 Equal Employment Opportunity trainees will be required if the Equal Employment Opportunity Trainees hours are shown in the Proposal ~~book~~. The number of trainees required will be one trainee for each 1,000 h shown.

 When the project is funded in total or in part by the United States Government and no Equal Employment Opportunity hours are shown in the Proposal ~~book,~~ the Contractor shall participate in the Department’s Equal Employment Opportunity Trainee Program. Requirements for participation in the program are available on the Department’s website or from the Department’s Equal Opportunity Division. Failure by the Contractor to comply with this requirement may result in reduction or loss of prequalification to bid for future work.

[107, line 305]

 The grading of all approaches and frontage roads shall be completed and the drainage structures shall be placed concurrently with the roadway excavation and embankment construction*,* except as directed or specified. It is the general intent to construct frontage roads, public roads, and private drive approaches, including at least the grading, structures, and base course, as soon as possible to minimize inconvenience to the abutting property owners when their access to existing outlets is being cut off by the construction.

[107, line 492]

###  107.14 Protection and Restoration of Property and Landscape

 Private property shall not be entered for any purpose in connection with the work, without first obtaining proper permission. The Contractor shall be responsible for the preservation of all public and private property. All land monuments and property marks shall carefully be protected from disturbance or damage until the Engineer has witnessed or otherwise referenced their location and approved their removal. All areas on the right-of-way that are used for storage of any kind shall be restored to their original condition, or to that set out in the Proposal ~~book,~~ when no longer required for that purpose.

[107, line 533]

###  107.15 Erosion Control Plan and Proof of Publication

 The Department will prepare the necessary information to initiate the submittal requirement of ~~327 IAC 15-5~~*the CSGP*. The Contractor shall supply all remaining requirements of ~~327 IAC 15-5~~*the CSGP* in accordance with 108.04.

 The Department will prepare a preliminary Erosion Control Plan as required by ~~327 IAC 15-5~~*the CSGP* and will submit it to the appropriate Soil and Water Conservation District.

[107, line 545]

###  107.16 Forest Protection

 In carrying out work within or adjacent to State or National Forests and other wooded areas, the Contractor shall comply with all regulations ~~or~~*of* the State Fire Marshal, Natural Resources Commission, Forestry Department, or other authority having jurisdiction, governing the protection of forests and the carrying out of work within forests. The Contractor shall observe all sanitary laws and regulations with respect to the performance of work in forest areas. The Contractor shall keep the areas in an orderly condition, dispose of all refuse, and obtain permits for the construction and maintenance of all construction camps, stores, warehouses, residences, latrines, cesspools, septic tanks, and other structures in accordance with the requirements of the forest supervisor.

[107, line 610]

 When it is desirable to open a structure or portion of a highway to traffic, such opening shall be delayed until traffic will cause no injury to completed portions of the work. When opening to traffic is required or allowed, the Contractor shall make provisions for the safety of the public as specified or directed. Opening to traffic will not relieve the Contractor of ~~its~~ liability and responsibility ~~during the period the work is so opened~~ prior to final acceptance.

[107, line 622]

 On those portions of an incomplete contract that have been ordered opened to traffic or are constructed under traffic and the contract time has not yet expired, the Department will assume the responsibility for repairs of damages resulting directly from traffic, provided ~~that~~ such damage is not the direct or indirect result of the operations of the Contractor and provided the Contractor is unable to collect damages from the responsible party or parties.

[107, line 714]

 Prior to any work which penetrates any existing soil or pavement surface, the Contractor shall notify both the Indiana Underground Plant Protection Service, IUPPS, in accordance with IC 8-1-26 requirements*,* and the Engineer in accordance with 105.08 prior to commencing construction operations in an area that may affect underground utilities.

## SECTION 108 – PROSECUTION AND PROGRESS

[108, line 21]

 The minimum wage for labor as stated in the Proposal ~~book~~ shall apply to all labor performed on all work sublet, assigned, or otherwise disposed of in any way.

###  108.04 Prosecution of the Work

[previously approved by the SC]

 *2. Activities specific to the project to be performed by the Department, other units of government, regulatory agencies, utilities, and any other parties necessary to complete the work as described in the contract.*

 *The Department and the Contractor shall meet at least twice each month to compare actual progress to the currently accepted schedule. The Contractor shall supply sufficient information for the Department to plan inspection services until the next scheduled meeting. A look-ahead schedule may be provided consistent with the project schedule to convey this level of detail.*

[108, line 241]

 All equipment which is proposed to be used on the work shall be of sufficient size and in such mechanical condition as to meet requirements of the work and to produce a satisfactory quality of work. Equipment which was originally developed to be used in performing work in International System measurements may be used in performing work in English System measurements. Where possible, such equipment shall be adjusted to the English System measurements. Where equipment cannot be adjusted, it shall then be made compatible, as required, to satisfactorily be used for performing work in English System measurements in accordance with 101.46, 105.03, 109.01(a), and 109.01(i). Equipment used on the project shall ~~be such that no injury~~*not cause damage* to the roadway, adjacent property, or other highways ~~will result~~ from its use.

[108, line 263]

 When the contract specifies that the construction be performed by the use of certain methods and equipment, such methods and equipment shall be used unless others are authorized. If the use of a method or type of equipment other than those specified in the contract is desired, authority to do so may be requested. The request shall be in writing and shall include a full description of the methods and equipment proposed to be used and an explanation of the reasons for desiring to make the change. If approval is given, it will be on the condition that the Contractor ~~will~~*shall* be fully responsible for producing construction work in accordance with contract requirements. If, after trial use of the substituted methods or equipment, it is determined that the work produced does not meet contract requirements, the use of the substitute methods or equipment shall be discontinued and the remaining construction shall be completed with the specified methods and equipment. The deficient work shall be removed and replaced with work of specified quality or other corrective action shall be taken as directed. No change will be made in basis of payment for the construction items involved or in contract time as a result of authorizing a change in methods or equipment under these provisions.

[108, line 284]

 If the contract time is on a work day basis, as defined in 101.77, a weekly statement showing the number of days charged to the contract to date and for the preceding week, the number of days specified for completion of the contract, and the days remaining and the controlling operation will be furnished. The Contractor will be allowed one week from the date ~~it receives~~*of receiving* the statement in which to file a written protest setting forth in what respect ~~said~~*the* weekly statement is incorrect. Otherwise, the statement will be deemed to have been accepted by the Contractor as correct. For the purpose of computation, work days will be considered as beginning on the fifteenth calendar day after the date of the notice to proceed. All calendar days elapsing between the effective dates of orders to suspend work and to resume work for suspensions which are not the fault of the Contractor will be excluded.

 If the contract time is on a calendar day basis, it shall consist of the number of calendar days stated in the contract including all Sundays, holidays, and non-work days counting from the date of the notice to proceed. All calendar days elapsing between the effective dates of any orders to suspend work and to resume work for suspensions not the fault of the Contractor will be excluded. A weekly statement showing the controlling operation will be furnished. The Contractor will be allowed one week from the date ~~it receives~~*of receiving* the statement in which to file a written protest setting forth in what respect said weekly statement is incorrect. Otherwise, the statement will be deemed to have been accepted by the Contractor as correct.

 If the contract time is a fixed calendar date, it shall be the date on which all work on the contract shall be completed. For such contracts, an extended date of completion will be considered for delay in the issuance of the notice to proceed if the notice to proceed is not issued within 30 days of the letting, except if the delay is due to the failure of the Contractor to furnish requested forms or information. Unless otherwise determined, an extension to the contract completion date and intermediate completion date will be allowed for each calendar day from 30 days after the date of the letting to and including the date of the notice to proceed. A weekly statement showing the controlling operation will be furnished. The Contractor will be allowed one week from the date ~~it receives~~ *of receiving* the statement in which to file a written protest setting forth in what respect said weekly statement is incorrect. Otherwise, the statement will be deemed to have been accepted by the Contractor as correct.

[108, line 463]

 (c) When parcels become available for demolition, the Engineer will notify the Contractor of the availability of such parcels. The Contractor shall commence work within five calendar days from the date of receipt of such notification. Inspection and testing for asbestos presence~~,~~ or filing a notification of demolition with the IDEM will be considered as part of the work.

[108, line 475]

 (e) Once work has commenced~~,~~ in accordance with (c) and (d) above, the work shall progress continuously and shall be completed within 60 calendar days. If such work is not completed within 60 calendar days, $100.00 will be assessed as liquidated damages, not as a penalty, but as damages sustained for each calendar day after 60 on which work is not completed.

[108, line 496]

 2. Delays due to floods, lightning strikes, tornadoes, earthquakes*,* or other cataclysmic phenomena of nature.

[108, line 504]

 5. Extraordinary delays in material deliveries the Contractor or its suppliers cannot foresee or avoid resulting from freight embargoes, government acts*,* or wide-area material shortages. Delays due to the Contractor’s, subcontractor’s or supplier’s insolvency or mismanagement are not excusable.

[108, line 583]

 Allowing the Contractor to continue and finish the work or a part of it after the time fixed for its completion, or after the date to which the time for completion may have been extended, will in no way ~~operate~~*to be considered* as a waiver on the part of the Department of any of its rights under the contract.

[108, line 603]

 (a) fails to begin work under the contract within the time specified~~;~~*,*

 (b) fails to perform the work with sufficient workmen and equipment or with sufficient materials to ensure the prompt completion of said work~~;~~*,*

 (c) performs the work unsuitably, neglects or refuses to remove materials or performs anew such work as may be rejected as unacceptable and unsuitable~~;~~*,*

 (d) discontinues the prosecution of the work~~;~~*,*

 (e) fails to resume work which has been discontinued within a reasonable time after notice to do so~~;~~*,*

 (f) becomes insolvent or is declared bankrupt, or commits an act of bankruptcy or insolvency~~;~~*,*

 (g) allows final judgment to stand against it unsatisfied for a period of 10 days~~;~~*,*

 (h) makes an assignment for the benefit of creditors~~;~~*,*

 (i) for other causes whatsoever, fails to carry on the work in an acceptable manner~~;~~*,* or

 (j) fails to implement the employee drug testing plan as submitted with the bid~~;~~*,* or fails to provide information regarding the implementation of the employee drug testing plan when requested by the Department~~;~~*,* or provides false information regarding implementation of the employee drug testing plan.

 If the Contractor or surety does not proceed in accordance therewith within a period of 10 days after such notice~~, then the Department will,~~ *and* upon written notification from the Engineer of the fact of delay, neglect, default, or the failure of the Contractor to comply with such notice, *the Department will* have full power and authority, without violating the contract, to take the prosecution of the work away from the Contractor. The Department may appropriate or use materials and equipment on the ground as may be suitable and acceptable and may enter into an agreement for the completion of said contract according to the terms and provisions thereof. Other methods required for the completion of the contract in an acceptable manner may be used.

[108 line 661]

 (a) executive orders of the President relating to prosecution of war or national defense~~;~~*,*

 (b) national emergency which creates a serious shortage of materials~~;~~*,*

 (c) budgetary concerns of the Department~~;~~*,*

 (d) errors in the plans or Proposal book which make the project unbuildable~~;~~*,*

 (e) orders from duly constituted authorities relating to energy conservation~~;~~*,*

 (f) restraining orders or injunctions obtained by third-party citizen action resulting from national or local environmental protection laws, or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the Contractor~~;~~*,*

 (g) when it is the finding of the Department that the Contractor is unable to complete the contract and the construction covered thereby within a reasonable length of time on account of inability to obtain materials or satisfactory substitutes thereforewhich do not change the general type of construction or labor.

[108 line 699]

###  108.12 Contract Documentation

 The Contractor shall furnish upon request, all documentation relating to its performing as a Contractor or subcontractor on a contract. The requested information may be, but is not limited to ~~the following:~~ payroll records, material invoices, subcontract agreements with pertinent attachments, lease agreements, and Equal Employment Opportunity documentation.

## SECTION 109 – MEASUREMENT AND PAYMENT

[109, line 374]

 The Department will notify the Contractor in writing within five business days after receipt of the proposal that the proposal has been rejected, accepted, or that a meeting needs to be arranged to discuss the proposed conceptual CRI. If the Department fails to respond within five business days, the proposal will be deemed rejected. If a meeting is requested, the Contractor shall arrange a meeting involving any professional engineer that will be used in development of the proposal~~;~~*,* the engineer who designed the original plans or review engineer designated by the Department~~;~~*,* contractor personnel~~;~~*,* and Department personnel as determined by the Engineer. This meeting shall be held within 10 business days of receipt of the written notification, unless the Engineer approves additional time. At least two business days prior to the meeting, the Contractor shall provide a copy of its conceptual CRI to all persons invited to the meeting. Within 10 business days or a mutually agreed upon time after this meeting, the Department will notify the Contractor in writing as to whether a complete CRI may be developed.

[109, line 1008]

###  109.07 Partial Payments

 The contract may contain more than one project. Partial payments may be made once each month as the work progresses or twice each month if it is determined that the amount of work performed is sufficient to warrant such payment. These payments will be based on estimates, prepared by the Engineer, of the value of the work performed and materials complete in place in accordance with the contract. No partial payment will be made or estimates ~~will not be~~ submitted when the total value of the work ~~done~~*performed* since the last estimate amounts to less than $500.

 Except as set out in 105 IAC 11-3-8 of the Rules For Prequalification of Contractors and Bidding, the balance, less all previous payments and less amounts claimed which are required to be held by the Department in accordance with ~~Indiana Code~~*I*C 8-23-9-26 through 8-23-9-39, will be certified for payment.

[109, line 1037]

 Upon receipt of a claim under ~~Indiana Code~~*IC* 8-23-9-26, the Department will retain out of the amount due the Contractor the amount of the claim. The amount to be retained will be withheld from partial payment estimates until the total amount of the claim has been retained.

 In order to retain an amount when required by ~~Indiana Code~~*IC* 8-23-9-26, the Engineer will apply a negative quantity to the contract liens pay item for the actual dollar amount of the claim. Upon resolution of the claim, the Engineer will post a positive quantity to the contract liens pay item equal to the amount originally retained. The final quantity of the contract liens pay item will be zero prior to final payment.

[109, line 1054]

###  109.08 Final Payment

 When the work has been completed in accordance with the terms of the contract, a final estimate will be prepared for the work done and a copy will be furnished to the Contractor. Final payment will not be made to the Contractor until allowed by ~~Indiana Code~~*IC* 8-23-9-26 through *IC* 8-23-9-39.

[109, line 1063]

 Except as otherwise provided herein, final payment will be made within 180 days after acceptance of the project. Acceptance shall be considered as the date the Contractor is relieved of further maintenance as provided in 107.19 and as set out in the final acceptance letter. However, final payment shall not be made on an amount which is in dispute or the subject of a pending claim. However, final payment may be made on that portion of the contract or those amounts which are not in dispute or subject of a pending claim. Such partial payment shall not constitute a bar, admission, ~~or~~ estoppel, or have any other effect as to those payments in dispute or the subject of a pending claim. For the purpose of this section, a dispute exists when the Contractor makes a claim for increase or decrease to any part of the contract or seeks additional compensation for any reason.

[END OF EDITS]