



INDIANA DEPARTMENT OF TRANSPORTATION

Driving Indiana's Economic Growth

Memorandum

March 30, 2007

CONSTRUCTION MEMORANDUM

07-07

TO: District Deputy Commissioners
District Highway Operation Directors
District Construction Engineers
District Testing Engineers
District Area Engineers
Project Engineers/Supervisors

FROM: Mark A. Miller, Director *MM*
Division of Construction Management

SUBJECT: Required Documentation for Claims

In the last several years it seems that INDOT has been receiving more and more claims from contractors for additional monies because of delays to their controlling operations. These delays can be everything from utility delays, right-of-way acquirement delays, changed site conditions delays, existing soil problems, etc. When the contractor submits a claim it is understood that he/she must follow specification 105.16 which informs him/her that notification shall be made in writing of the intention to make a claim for additional compensation before the work is begun.

After a project Engineer/Supervisor (PE/S) receives this written notification, it is important that the problem which the contractor claims is delaying his controlling operation of work must be documented for payment of the claim to be justified. As an agency, INDOT has not been doing a very good job of documenting the delay as the work has been going on but the contractor on the other hand has been keeping very good track of what additional costs they feel the delay is causing. The Federal Highway Administration (FHWA), who has 80% to 90% of the funding in most of our projects, has been concerned that we need to have a better process of acquiring documentation from our field personnel. There currently is an on going sub-committee of the 100 Section of the Standards Specifications working on a new process/specifications for administering claims.

Knowing the above, discussions have taken place between our State Construction Engineer and our Claims Administrator Attorney. They have decided that until our specifications are revised, there needs to be some method that can help create a better documentation trail on a project when a notice of claim is handed to the PE/S by the contractor.

Attached are two documents (one a form letter from the PE/S to the contractor and the other a Weekly Claim Submittal Form). The PE/S needs to make copies of these forms and have them readily available when a contractor submits their notice of intent to file a claim. When the written notice is received from the contractor, the PE/S will now need to complete the blanks in the form letter and hand both attached documents to the contractor. Then every Monday or whenever it is determined best by both parties is a good time to discuss the weekly claim form, the Project Superintendent or other assigned person should submit the completed weekly claim form to the PE/S and they should review it together and discuss any concerns or information that either feels is not accurate and correct. The form has an area where the PE/S can state if they agree or not with the information presented. If they do not agree, there is room for a brief explanation of why they do not agree with what has been submitted. The PE/S should then file away the weekly submittal forms and they shall be submitted to the District Office once the claim is received from the contractor.

Therefore, please start using the attached forms, when applicable or when the forms are available electronically by contacting the Construction Management Division in Central Office. It is felt this additional documentation will greatly help in resolving a claim and be a good resource for the required documentation that FHWA is asking us to have.

MAM:dak

Attachments (2)

*** WEEKLY CLAIM SUBMITTAL FORM**

(This form is to **ONLY** to be submitted if Specification 105.16 is invoked.)

Contract # : _____ Date Submitted : _____

Claim for week of : _____ Estimated Cost of Claim : _____

Controlling Operation Affected : _____

Brief Description of Delay or Problem That Caused This Claim : _____

Breakdown of Costs Associated With Claim (Time, Materials, Manpower, Equipment, etc.) :

Submitted By : _____ Contractor : _____
Name & Title Prime or Sub

Date Discussed with Project Engineer/Supervisor (PE/PS) : _____

Does PE/PS Agree With This Weekly Claim Submittal ? _____ (Yes or No)

If No explain why : _____

* Note: This claim form **must** be submitted every week to PE/PS to document an on going claim on a project. It then **must** be included in the final claim packet submitted to INDOT for any claims associated with the above contract. The controlling operation stated above must match the controlling operation shown on the IC-124 form filled out by the PE/PS.



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Mitchell E. Daniels, Jr., Governor
Karl B. Browning, Commissioner

Date: _____

Contractor Name: _____

Contractor Address: _____

Re: INDOT Contract _____

Dear _____:

I write to acknowledge receipt of your Notice of Claim. In order to properly track and investigate the potential claim, I am providing a weekly worksheet to be prepared by your project personnel on a weekly basis for the duration of the claim. Your claim package will be reviewed when complete; however, the following information will be necessary to fully evaluate the claim:

1. A detailed factual statement of the claim, including all necessary dates, locations, and items of work affected.
2. Identification of the provisions of the contract which support the claim and a statement of the reasons why such provisions support the claim, or alternatively, the provisions of the contract which have been breached and the alleged actions constituting the breach.
3. Identification of any documents or the substance of any oral representations supporting the claim.
4. Details of amount of additional compensation sought, including:
 - a. documented additional job site labor expenses.
 - b. documented additional cost of supplies or materials.
 - c. a list of additional equipment costs claimed, including each piece of equipment and the rental rate for each.
 - d. any other direct or indirect costs claimed and all documentation in support.
5. A detailed composition of the specific dates and exact number of calendar days sought for a time extension (if applicable), the basis for the entitlement to time for each day, all documentation of delay, and a breakout of the number of days for each identified event or circumstance.

The receipt of the requested information will allow the claim to be fully evaluated. You will be informed in writing of the determination. Thank you.

Sincerely,

Project Engineer/Supervisor

cc: Area Engineer

Attachment: Weekly Claim Submittal Form

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