



# INDIANA DEPARTMENT OF TRANSPORTATION

*Driving Indiana's Economic Growth*

## Design Memorandum No. 20-16

September 10, 2020

**TO:** All Design, Operations, and District Personnel, and Consultants

**FROM:** /s/ Elizabeth P. Mouser  
Elizabeth P. Mouser  
Highway Design Director  
Engineering Department

**SUBJECT:** Proprietary Materials

**REVISES:** *Indiana Design Manual* Section 17-1.05(01) and 17-1.05(02), Editable Documents in Proprietary Material Category

**EFFECTIVE:** As noted

### Proprietary Materials

Design Memo 19-11 described changes to the federal requirements for use of proprietary material. The referenced IDM section and Editable Document have been revised to reflect these changes. Revisions are summarized below, and the revised text is included for reference at the end of this Design Memo.

- Removed references to the Code of Federal Regulations
- Removed references to FHWA approval
- Consolidated the Proprietary Material Request Transmittal Memo Editable Document and all other Editable Documents in the Proprietary Materials Category into a single document, named Proprietary Material Request
- Updated approval process to reflect approval by the Traffic Engineering Division Office of Traffic Administration for traffic items.

INDOT will continue to require approval for proprietary material use. All requests during design should continue to be coordinated through the Highway Design Division Office of Design Review. Approval will be at the discretion of the Highway Design, Bridge Design, or Traffic Engineer Division, as appropriate.

New Proprietary material requests should use the new Editable Document. Previously submitted proprietary material requests need not be resubmitted.

### **Editable Documents**

New Editable Document 17-01-01, Proprietary Material Request combined all the information from the following deleted Editable Documents:

17-1A Proprietary Material Transmittal Memo

17-1C Request for Proprietary Material Use, No Suitable Equal Exists

17-1D Request for Proprietary Material Use, Essential for Synchronization

17-1E Request for Proprietary Material Use, Public-Interest Finding

17-1F Request for Proprietary Material Use, Programmatic Certification, No Suitable Equal Exists

A link is provided here: <https://www.in.gov/dot/div/contracts/design/dmforms/>.

Question related to proprietary materials during the design phase should be directed the Highway Design Review Office, Shariq Husain, [shusain@indot.in.gov](mailto:shusain@indot.in.gov).

### **IDM Revisions**

#### **17-1.05 Proprietary Material [Rev. Aug. 2011, Apr. 2016]**

A proprietary material is defined through specifications that are so specific that only one product will satisfy the requirements, or that the name of the product is actually specified. To ensure competitive bidding, the designer should restrict the use of proprietary materials on a project. However, if a situation occurs where the use of a proprietary material will enhance safety, control costs, or will otherwise improve the project design, the use of a proprietary material may be justifiable.

#### **17-1.05(01) Justification [Rev. Sep. 2020]**

The designer must identify the basis for the proprietary material request and submit the justification for approval prior to including the product in the contract documents. This should occur at Stage 2, but not later than Stage 3.

The request should be prepared using the Proprietary Material Request Editable Document, available on the Department's Editable Documents webpage under Proprietary Materials. A link is provided here: <https://www.in.gov/dot/div/contracts/design/dmforms/>.

The basis for a proprietary material request must be one of the following.

1. Certification for No Suitable Existing Equal Material. If no suitable equal material exists, a Certification should be prepared.
2. Certification for Product Essential for Synchronization. A proprietary material may be justified where it is essential for synchronization with an existing highway facility, for which there is no equally suitable alternative.
3. Experimental/Research. A proprietary material may be justified for research purposes or for a distinctive type of roadway. A justification for an experimental or research item should include a work plan which details the evaluation to be conducted. For INDOT projects, the use of experimental features should be coordinated with the Research and Development Division.
4. Public-Interest Finding. The designer should prepare a Public-Interest Finding (PIF) for the use of a material if suitable alternatives exist but are not the most cost-effective or in the public's best interest. This should include a description of the circumstance being addressed by using the proprietary material, alternative solutions that were considered, and the reasoning why the proprietary material was chosen.
5. Programmatic Approval. A PIF is required for a product approved on a program-wide basis if there are other suitable alternatives. A Programmatic Certification is required if no suitable alternatives exist. The justification should include a work plan which details the evaluation to be conducted. A PIF or Programmatic Certification should include the length of time that the approval will be in effect. A programmatic approval should be periodically reviewed to assess changes in the market conditions that can make them obsolete.

The current Programmatic Proprietary Material Approvals list available on the Highway Design Division webpage, at <http://www.in.gov/indot/2684.htm>.

#### **17-1.05(02) Approval Process [Rev. Sep. 2020]**

Each request should use the Proprietary Material Request Editable Document found on the Editable Documents webpage. The request should be submitted through ERMS. This should occur at Stage 2, but not later than Stage 3. All proprietary material requests are coordinated through Highway Design Division Office of Design Review. Final approval is at the discretion of the Highway Design, Bridge Design, or Traffic Engineering Division, as appropriate. If the project is under construction and a proprietary material is added to the contract, the Certification or PIF should be prepared and approved prior to completion of the change order.