

109-C-211 COST REDUCTION INCENTIVE

(Adopted 07-19-07)

The Standard Specifications are revised as follows:

SECTION 109, DELETE LINES 330 THROUGH 499.

SECTION 109, AFTER LINE 500, INSERT AS FOLLOWS:

109.04 Cost Reduction Incentive, CRI

The Contractor may submit a written proposal for modifying the Contract Documents for the purpose of reducing construction costs or contract time. The proposal shall produce a savings without impairing essential functions, characteristics, and timing of the project including, but not limited to, safety, service life, economy of operations, the traveling public, ease of maintenance, desired appearance, design standards and construction schedules.

(a) CRI Initial Requirements

The Contractor shall initially submit five copies of a brief proposal to the Department to illustrate the concept or idea. At a minimum, the Contractor shall submit the following.

- 1. A statement that the proposal is submitted as a conceptual CRI.*
- 2. A brief proposal with graphics, if appropriate, to illustrate and describe the concept.*
- 3. A brief description of the existing work and the proposed changes for performing the work including a discussion of the comparative advantages and disadvantages for each and how the proposal meets the original intent of the design.*
- 4. An approximate cost estimate for performing the work under the existing contract and under the proposed change.*
- 5. An approximate cost estimate of design and engineering fees associated with the proposed change.*
- 6. A description of any effects the proposed change would have on Department costs other than those in the contract such as future construction, design, right-of-way, utilities, maintenance, and operations costs.*
- 7. The amount of time that will be needed to develop a formal CRI proposal.*
- 8. A statement of the date by which the Department must execute an agreement adopting the proposal to obtain the maximum cost reduction during the remainder of the contract time, the date the work*

must begin in order to not delay the contract, and the reasoning for this time schedule.

9. *An approximate estimate of the effect the proposal will have on the time for completion of the contract, including development of the formal proposal, review by the Department and implementation.*
10. *The name of the redesign professional engineer, if any.*
11. *Reference to the applicable INDOT Design Manual provisions.*
12. *A statement regarding impacted permit requirements.*
13. *Identify any material not in current contract that the contractor proposes to use and corresponding applicable specifications.*

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 INDOT 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, INDOT will notify the Contractor in writing as to whether a complete CRI may be developed.

(b) CRI Formal Proposal Requirements

If a concept is accepted by the Department, a formal proposal shall be submitted with a statement identifying the proposal as a CRI and shall contain, at a minimum, information as follows:

1. *A description of the difference between the planned work and the proposed change with a comparison of effects on safety, service life, economy of operations, the traveling public, ease of maintenance, desired appearance, design standards, and construction schedules.*
2. *Proposed changes in the contract documents. Documents showing design changes shall be signed and bear the seal of a licensed professional engineer. Design changes shall be supported by design computations as necessary for a thorough and expeditious evaluation.*
3. *The pay items, unit prices, and quantities affected by the change.*

4. *Complete, detailed cost estimates for performance of the work both as planned and as proposed.*
5. *The calendar date required for approval of the proposal in order to produce the savings indicated.*
6. *Locations and situations, including test results, in which similar measures have been successfully used.*
7. *A statement regarding the effect the proposal will have on the contract completion time.*
8. *A signed contract between the Contractor and the Contractor's redesign engineer, who prepared and sealed the plans for the CRI proposal, shall be submitted to the Department. The contract shall provide for the following:*
 - a. *The Contractor's redesign engineer shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications and other services furnished by the redesign engineer under this contract. The redesign engineer shall correct or revise any errors or omissions in its designs, drawings, specifications, and other services. The Contractor's redesign engineer shall indemnify, defend, and hold harmless the State and its agents, officials, and employees, from all claims and suits including court costs, attorney's fees, and other expenses caused by any acts, errors, or omissions of the Contractor's redesign engineer, its agents, or employees, in connection with the CRI proposal.*
 - b. *Neither the Department's review, approval, nor acceptance of the plans for the CRI shall be construed to operate as a waiver of rights under the contract or cause of action arising out of the contract. The Contractor's redesign engineer shall be and shall remain liable to the Department for all damages caused by the Contractor's redesign engineer.*
 - c. *The rights and remedies of the Department provided in the contract are in addition to all other rights and remedies provided by law.*
 - d. *No terms between the Contractor and the redesign engineer shall adversely affect the Department's liability protection.*
9. *Contractor's engineering costs to develop the proposal shall be submitted with full documentation.*

Additional information shall be provided as required to properly evaluate the proposed change. Failure to do so may result in rejection of the cost reduction incentive proposal.

(c) Approval of Formal CRI Proposal

The Engineer will be the sole judge as to whether a formal CRI proposal qualifies for consideration, evaluation, and approval. A proposal which requires excessive time or cost for review, evaluation, or investigation, or which is not consistent with Department design policies, may be rejected. A proposal may also be rejected if not submitted within the time frame specified in the Contractor's conceptual proposal, unless the Engineer approves additional time. Proposed changes in pavement design including materials or pavement type, changes in materials required to be installed by a certified installer, or changes in right-of-way will not be approved. A proposal which uses empirical design (AASHTO LRFD Bridge Design Specifications, Section 9.7.2) of the concrete bridge deck will not be considered or approved. Only proposals which result in the Department's portion of the estimated net savings being \$10,000 or more will be considered. Except as provided in 109.04(d), the Department will not be liable for failure to accept or act upon a proposal submitted in accordance with the requirements herein or for delays to the work attributable to such proposal, unless an extension of time is provided as part of the agreed CRI proposal.

Original contract bid prices shall not be based on the anticipated approval of a CRI proposal. If the proposal is rejected, the contract shall be completed at the original contract prices. If a CRI proposal is not approved on or before the calendar date submitted by the Contractor in the CRI shown on the proposal, such proposal will be deemed rejected. In determining the estimated net savings, the contract prices bid may be disregarded if it is determined that such prices do not represent a fair measure of the value of the work to be performed or deleted.

The CRI proposal will not be approved if equivalent options are already available within the contract, or if the Department is already considering a change order to the contract which includes the proposal revisions.

If the CRI proposal is approved, it will be executed by means of a change order. The change order will show the changes in the plans and specifications necessary to permit the proposal to be put into effect and the net estimated savings will be set forth on the change order.

Upon approval, the Department will have the right to use, duplicate, and disclose in whole or in part, all data necessary for the subsequent adoption of the proposal for future projects.

The provisions of this specification will apply only to a contracts awarded to the lowest bidder in accordance with the Department's competitive bidding requirements.

(d) Payment for Design of Formal Proposal, if Rejected

Except as provided elsewhere herein, if the Department rejects the formal CRI proposal, the Contractor will be reimbursed for 50% of the Contractor's reasonable design costs incurred after the Department's acceptance of the CRI conceptual proposal.

The Contractor will also be reimbursed for 50% of the Contractor's reasonable design costs of an approved CRI proposal if the Department determines that the proposal is no longer feasible because of changes in field conditions or other conditions beyond the control of the Contractor. If written approval was given to proceed with the work, procure materials, begin fabrication, and rejection occurs, the work and fabrication costs will be reimbursed in accordance with 109.05. The Contractor will be compensated for materials ordered which are unique to the project based on the Contractor's cost minus salvage value if the Contractor is unable to return these items to the vendor. All such material may, at the option of the Department, be purchased at its actual cost. There will be no reimbursement for costs incurred prior to the acceptance of the conceptual CRI proposal. The Contractor will not be reimbursed for design costs if a formal CRI proposal is rejected because it was not submitted within the time frame specified in the Contractor's conceptual proposal or additional time approved by the Engineer, if the Contractor fails to submit additional information requested by the Department, or if the design criteria used in the proposal does not comply with the Department's design standards.

(e) Other Conditions

The Contractor shall continue to perform the work in accordance with the contract requirements until a change order incorporating the CRI proposal has been approved. However, no contract work that will be affected by a CRI proposal shall be performed until the CRI proposal has been approved or rejected.

Prior to approval, the Engineer may modify a proposal with the concurrence of the Contractor, to enhance it or make it acceptable. If any modification increases or decreases the net savings resulting from the proposal, the Contractor's 50% share will be determined upon the basis of the proposal as modified.

The Department reserves the right to include in the change order the conditions it deems appropriate for consideration, approval and implementation of the CRI proposal. Acceptance of the change order by the Contractor shall constitute acceptance of such conditions. As a condition for considering a Contractor's CRI proposal, the Department also reserves the right to require the Contractor to share in the Department's costs of investigating the proposal. If this condition is imposed, the Contractor shall indicate acceptance in writing. Such acceptance shall constitute full authority for the Department to deduct amounts for the investigation from moneys due the Contractor under the contract.

The Engineer may reject, in accordance with 105.03 and 105.11, all or any portion of work performed under an approved CRI proposal.

(f) Time Savings Proposals

The Department will consider as a CRI proposal, any proposals that reduce contract time by changing phasing of the work, the traffic control plan, or design elements.

The Department will consider proposals that result in time savings and at the same time may increase the cost of the project. The Department will be the sole judge as to whether the benefits of completing the project or a project phase before the scheduled completion date or milestone, offsets an increase to the cost of the project.

The submittals for time savings will be reviewed using the CRI proposal process. The Contractor shall provide the Department sufficient information to enable the Department to evaluate the cost benefit of the savings.

(g) Adjustments to Contract Time

For approved formal CRI proposals the Department will adjust the applicable contract time as set out in the proposal. Any adjustment will be set forth in the change order for the CRI proposal. Depending on the Contractor's proposal, the adjustment will be an increase or decrease in the appropriate completion date.

(h) Method of Measurement

The work, as revised by the formal CRI proposal, will be measured as complete and in place and in accordance with the change order.

(i) Basis of Payment

The work, as revised by the formal CRI proposal, will be paid for as complete and in place and in accordance with the change order. In addition, 50% of the total net savings of the CRI proposal will be paid for separately as follows:

- 1. An initial amount of 25% of the total estimated savings will be paid to the Contractor upon approval of the change order.*
- 2. Upon completion of all items of work included in the change order, the total net savings will be calculated and the Contractor will be paid the difference between 50% of the total net savings and the initial payment of 25% of the total estimated savings.*
- 3. A cost savings of not less than \$5,000.00 shall be guaranteed to the Department.*

The actual formal CRI proposal net savings will be checked upon completion of the contract and determination of final quantities to determine if any payment adjustment is required.

Except for the time savings component of a formal CRI proposal, the total net savings will be determined by the difference between the cost of the revised work and the cost of the related work required by the original plans and specifications. The cost of the revised work includes the administrative costs incurred by the Department to review the

proposal. These costs will be agreed to in the change order. Only those work items directly affected by the plan change will be considered in making the determination of net cost savings. Subsequent plan changes affecting the modified work items but not related to the CRI proposal will be excluded from such determination. Upon completion of all work included in the CRI proposal, the final total net savings will be determined by comparing the cost of the work based on the original contract quantities with the cost of the actual CRI proposal work performed. In determining the savings, the Department reserves the right to consider other factors in addition to the contract bid prices and proposed unit prices if, in the judgment of the Department, such prices do not represent a fair measure of the value of the work to be deleted from or added to the contract.

The net savings of a CRI proposal to reduce contract time will be determined by multiplying the number of days saved by the daily liquidated damages as set forth in Section 108.08 or as otherwise provided in the contract.

Redesign engineering, in accordance with this section, is defined as 50% of the contractor's reasonable design costs incurred after the Department's acceptance of the CRI proposal. Redesign engineering will be paid when a conceptual CRI has been accepted by INDOT but the final proposal is rejected.

Payment will be made under:

Pay Item

Pay Unit Symbol

Cost Reduction Incentive Proposal No. _____ LS
Redesign Engineering, CRI Proposal No. _____ LS
