Special Provisions

Current Process, Tips for Writing Unique Special Provisions & Upcoming Changes

Ron Heustis, INDOT
CEPDS
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What is a Special Provision?

- A specification that describes work or contract requirements not adequately covered by the Standard Specifications or other contract documents
What is a Special Provision?

The 2nd most important contract document:

1. Instruction to Bidders & Pay Items
2. Special Provisions
3. Plans (Inc. Std. Drawings & Recurring Plan Details)
4. Supplemental Specifications
5. Standard Specifications
What is a Special Provision?

Serves 2 functions:

- Modifies the existing Standard Specifications

  and/or

- Adds material not addressed in the Standard Specifications
What is a Special Provision?

Can be:

- *Constructive* – Describes an item of work to be done

  or

- *Restrictive* – Sets a limitation on the work
What is a Special Provision?

A *Constructive* Provision

Defines the “Big 5”:

1. Description
2. Materials
3. Construction Requirements
4. Method of Measurement
5. Basis of Payment
What is a Special Provision?

A *Restrictive* Provision

Defines Limits, i.e. -

- Where borrow may be obtained
- Time for a road closure period
- When work may begin or must be finished
- Utility cooperation requirements
- “Green” = “Red” provisions
What is a Special Provision?

- Often serves as an interim specification until the provision is adopted into the next edition of the Standard Specifications

(As determined by the Standards Committee)
What is a Special Provision?

3 types of Special Provisions:

- Standard Recurring Special Provisions
- Contract Specific Recurring Special Provisions
- Unique Special Provisions
What is a Special Provision?

Standard Recurring Special Provisions

- Cannot be modified by the designer
- When selected, INDOT adds the current approved version
- Typically will become a Standard Specification
- If a modification is necessary, a Unique Special Provision must be written
What is a Special Provision?

Contract Specific Recurring Special Provisions

- “Fill-in-the-blank” provisions
- Designer completes pre-defined fields
- Any other necessary changes will require a Unique Special Provision
What is a Special Provision?

Unique Special Provisions

- Covers a specific situation on a specific contract
- Intended for limited use
- *Only* used if the Standard Specifications or Recurring Special Provisions cannot cover the situation
What is the Special Provision Process?

- Research the RSP Menu & BFU to determine which RSPs will be required for the contract.
- Cross check specs with items and items with specs.
- Review the “How to Use” file.
What is the Special Provision Process?

- Complete the Menu by selecting the necessary RSPs.
- Create a Word file of any Contract Specific RSPs with blanks filled in.
- Submit the completed Menu with the Word files for CSRSPs.
What is the Special Provision Process?

<table>
<thead>
<tr>
<th>Place In Contract (X)</th>
<th>Attach Req’d (Y)</th>
<th>RFP Number</th>
<th>Title</th>
<th>Adopted (A) or Revised (R) Date</th>
<th>Letting Effective Date</th>
<th>Basis for Use</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>100-C-147</td>
<td>Payment of Professional Minimum Wage (David Guinn) SN 0506009</td>
<td>02-09-08</td>
<td>04-02-08</td>
<td>Required for all projects in counties other than Lake, LaPorte, Porter and St. Joseph except building construction. Do not use with mowing, herbicide, sweeping, &amp; right bulb replacement.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>100-C-151</td>
<td>FADA 173</td>
<td>03-31-04</td>
<td>06-30-07</td>
<td>Required for all Federal aid contracts.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>100-C-16a</td>
<td>Disadvantaged Business Enterprise Procedural and Good Faith Efforts</td>
<td>04-09-07</td>
<td>02-01-07</td>
<td>Required for all Federal aid contracts with CDE goal.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>100-C-16a</td>
<td>Executive Order 22400</td>
<td>03-09-06</td>
<td>09-01-07</td>
<td>Required for all Federal aid contracts.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>100-C-16a</td>
<td>2006 Standard Specifications</td>
<td>04-18-07</td>
<td>06-01-07</td>
<td>Required for all contracts.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>213-R-443</td>
<td>Preventive Backfill</td>
<td>09-20-07</td>
<td>01-22-08</td>
<td>Pay Item Required for all 211 or 213 items with contracts let on or after April 1, 2006 thru November 30, 2008.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>661-R-145</td>
<td>Removal of Guardrail</td>
<td>04-01-08</td>
<td>06-01-07</td>
<td>To be included in contracts as requested by District Operations for salvage, guardrail to become property of the Department. The designer should contact District Operations for guidance.</td>
</tr>
</tbody>
</table>

**SECTION II - Contract Specific Recurring Special Provisions**

<table>
<thead>
<tr>
<th>Place In Contract (X)</th>
<th>Attach Req’d (Y)</th>
<th>RFP Number</th>
<th>Title</th>
<th>Adopted (A) or Revised (R) Date</th>
<th>Letting Effective Date</th>
<th>Basis for Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
<td>121-C-242</td>
<td>Structure Numbers for Pay Items</td>
<td>09-01-07</td>
<td>09-01-07</td>
<td>Required for more than one bridge file number in contract, and lump sum pay items shown to be required for each such bridge file.</td>
</tr>
<tr>
<td>X</td>
<td></td>
<td>167-C-182</td>
<td>Statements About Existing Conditions of Utilities, Additional Right-of-Way, and Encroachments</td>
<td>02-18-08</td>
<td>05-01-08</td>
<td>Required for all contracts let on or after May 1, 2008.</td>
</tr>
</tbody>
</table>
What is the Special Provision Process?

- Determine if there is a need for any Unique Special Provisions.
- Complete the USP summary sheet.
- Create a Word file of the USPs and submit with the Menu and Summary sheet.
What is the Special Provision Process?

<table>
<thead>
<tr>
<th>Standard Specifications Section</th>
<th>Unique Special Provision Title</th>
<th>Document Filename</th>
</tr>
</thead>
<tbody>
<tr>
<td>203</td>
<td>FWD for Compaction Testing</td>
<td>fwdtest.doc</td>
</tr>
<tr>
<td>604</td>
<td>Special Texture Finish Sidewalk</td>
<td>textsw.doc</td>
</tr>
<tr>
<td>805</td>
<td>Modified Traffic Signal Poles</td>
<td>modsigpoles.doc</td>
</tr>
</tbody>
</table>
How Do I Write a USP?

- Thoroughly review the guidance in Chapter 19 of the Indiana Design Manual
How Do I Write a USP?

General Guidelines

- Define the need for the USP
- Research the topic
- Use correct structure and format
- Method or performance spec?
- Outline and write a draft USP
How Do I Write a USP?

General Guidelines

- Be clear and concise
- Check for completeness
- Cross check with other documents
- Get a peer review
- Submit for INDOT approval
How Do I Write a USP?

Points to Remember

- Use the “Big 5” for constructive specs
- Follow typical structure & format
- Use “Shall” and “Will” correctly
- Check for testing requirements
- Use typical SS terminology
How Do I Write a USP?

*Points to Remember*

- Be clear about what you ask for
- Review by others
- Coordinate with all contract documents
What Changes are Coming?

Revised IDM Chapter 19

- Updated INDOT information
- Clarifies types of Special Provisions
- Defines use of each type SP
- Improved “How To” instructions
What Changes are Coming?

Combined Menu and USP Summary

- Sections I, II and III
  - I - Standard RSPs
  - II - Contract-Specific RSPs
  - III - USPs
- All on 1 spreadsheet
What Changes are Coming?

Long Term Goals

- Improved BFU
- Item codes in the specifications
- Reduction of number of RSPs
- Automated Item / SP cross reference
Questions?

CEPDS
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Contract Awards

Changes in the State Code

Bob Cales, INDOT
CEPDS
November 13, 2008
Estimates are the Primary Determinant of Awardability

- IC 8-23-9-4
- Acceptance of proposals; criteria
  Sec. 4. The department may accept a proposal and award a contract for the construction, improvement, or maintenance of a road if:
  - (1) the bids are not more than five percent (5%) above the estimated cost of the project;
  - (2) the commissioner believes that awarding a contract under this section is in the best interests of the state; and
  - (3) the award would comply with any requirement imposed under section 13 of this chapter.

As added by P.L.18-1990, SEC.218.
Overall 2007 Award Performance

- Out of 496 Proposals Let in CY2007:
  - 72 (15%) were rejected for bids exceeding 105% of the Estimate.
  - 46 (9%) were awarded for bids between 100 and 105% of the Estimate
  - 8 (2%) were rejected for other reasons (conditional bids, irregular bids, or no bids received)
  - On average, the low bid was 93.5% of the Estimate
Senate Bill 175

- Starting on July 1, INDOT can now award any contract if the low bid is:
  - (A) less than one million dollars
  - (B) one of four or more bids received for the contract, or
  - (C) not more than fifteen percent above the Engineer’s Estimate
Where Do We Go From Here?

- In the future, Contract awards can and will be made based on the total effect on the program instead of a hard and fast 5% rule.

- Under the new rules the Estimating Section can spend less time on tuning individual estimates and will spend more time on bid analysis and improving the estimating tools.

- Consequently more emphasis will be placed on the Design Estimates and by extension the Preliminary Estimates.
Recent Bidding Results

- **FY2007**
  - 61% of Contracts were under $1.0 Million
  - 24% of all Contracts bid received 4 or more bids

- **FY2008**
  - 57% of Contracts were under $1.0 Million
  - 41% of all Contracts bid received 4 or more bids

- **FY2009 to date**
  - 62% of Contracts have been under $1.0 Million
  - 46% of all Contracts bid received 4 or more bids
Questions?

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