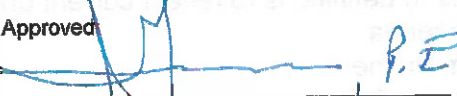


To: SUPERSEDED BY EB 15-031 EFFECTIVE 9/28/15		New York State Department of Transportation ENGINEERING INSTRUCTION	EI 14-021
Title: REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 – PHASE 7			
Distribution: ☒ Manufacturers (18) ☒ Local Govt. (31) ☒ Agencies (32) ☒ Surveyors (33) ☒ Consultants (34) ☒ Contractors (39) ☐ ()		Approved:  James F. Tynan, P.E. Deputy Chief Engineer (Construction) Date <u>10-21-14</u>	

ADMINISTRATIVE INFORMATION:

- This Engineering Instruction (EI) is effective with projects submitted for the letting of 01/08/15.
- This EI supersedes EI 74-050, EI 90-042, EI 04-033, EI 05-035, EI 06-013, EI 07-022, EI 08-017, EI 08-024, EI 08-029, EI 09-021, EI 09-029, EI 09-030, EI 10-006, EI 10-017, EI 11-015, EI 12-007 and EI 12-019.
- This EI modifies EI 11-010.
- These revisions will be incorporated into a future update of the Standard Specifications.

PURPOSE: This EI issues revisions to Standard Specifications Section 100.

TECHNICAL INFORMATION:

This revision consolidates all existing changes to Section 100. Attached is a commentary detailing the revisions.

IMPLEMENTATION:

Main Office Design Quality Assurance Bureau will insert the revisions to the Standard Specifications transmitted with this EI into contract proposals beginning with projects submitted for the letting of 01/08/15.

TRANSMITTED MATERIALS:

This EI transmits standard specification revisions entitled *Revisions to Standard Specifications Section 100 – Phase 7*. Only a US Customary version is attached to this EI. A metric version will be attached to any remaining construction contracts using metric units.

BACKGROUND:

This EI is the result of continuous efforts by the Office of Construction to improve construction contracts, contract administration, and reduce contract disputes and claims. This EI consolidates all current revisions to Section 100 into a single revision. A commentary outlining the changes is attached to this EI.

CONTACT:

Direct questions regarding this issuance to Brian DeWald of the Office of Construction at (518) 457-6472 or via e-mail at Brian.DeWald@dot.ny.gov.

**REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 - PHASE 7
COMMENTARY**

§101-01 *Abbreviations*

Some abbreviations that do not appear in the Standard Specifications were deleted.
Some abbreviations that appear in the Standard Specifications were added.

§101-02 *Definitions*

Minor changes to definitions to reflect current practices:

Addenda

Amendment

Contract Documents

Contract Limits

Field Change Order changed to Field Change Payment

Final Agreement

Major Item – Starts at \$20,000 reduced from 2% of bid amount to 1.5%, max \$1.0M

Order-on-Contract – The term "Change Order" is now used in the contract

Owner/Operator

Payment Limit/Payment Line

Prestressed Concrete Construction Manual /Steel Construction Manual

Service – Split into 2 definitions, Professional Service and Work Service

Standard Sheets

Work Day definition changed to reflect State work days.

Terms Added:

Advertisement

Change Order – added because the term is used in Site Manager

Contract Payments

Contemporaneous Period Analysis Method

Contractor Work Day added.

Critical Path/Critical Path Method

Office

Partial Payments

Professional Service

Roadside

Samples

Shop Drawings

Superintendent

Work Service

§102-01 *Location of Regional Offices*

Tioga County moved from Region 6 to Region 9

Columbia County remains in Region 8

§102-02 *Examining the Contract Documents and the Work Site*

Bid documents are now available on-line at no cost to bidders

Notice to bidders about permissible contacts under NYS Public Lobbying Law

Questions about bidding should be submitted through the Department website

§102-03 *Cooperation Between Contractors - Unchanged*

§102-04 *Proposal Content*

Added Dollars-Cents and Percentage Bid Items, edits others for consistency

REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 - PHASE 7 COMMENTARY

- §102-05 *Proposal Submission*
Incorporates changes issued via EI 10-017, with edits to reflect electronic bidding
- §102-06 *Bid Deposit*
Bid deposit checks are to be made payable to the Department, not to the State
- §102-07 *Modification or Withdrawal of Proposal*
Incorporates changes issued via EI 10-017
- §102-08 *Sample Standard Clauses for All New York State Contracts*
Incorporates changes issued via EI 12-007 and latest Appendix A from Atty General
- §102-09 Vacant, combined with §102-08
- §102-10 *Labor and Employment*
Edits reflect changes to Federal regulations and State Labor Law.
Employee leasing and other similar arrangements are not permitted.
Full SSNs are not to be shown on payrolls, but home addresses are required.
E Public Notices are moved to §107-04
F Federal requirements are moved to the beginning of the subsection
- §102-11 *Equal Employment Opportunity Requirements*
Incorporates changes issued via EI 12-019
- §102-12 *D/M/WBE Utilization*
Incorporates changes issued via EI 12-019
- §102-13 *State And Local Sales Tax Exemption - Unchanged*
- §102-14 *Form of Contract and Bid Bond*
Incorporates changes issued via EI 12-007
- §102-15 *Sample Form Of Bid Bond - Unchanged*
- §102-16 *Sample Contract Pay Item Format - Unchanged*
- §102-17 *Sample Form Of Itemized Proposal/Jurat*
Incorporates changes issued via EI 06-013
Adds requirements from Federal Non-Fraudulent Claims Act & NYS False Claims Act
Added acknowledgment for Joint Venture (JV)
Added acknowledgment for Vendor Responsibility requirement
- §103-01 *Contract Award*
Incorporates changes issued via EI 10-017
Added language from SFL that bidder may withdraw bid after 45 days.
Corporations are required to be registered with NYS Dept of State
Joints Venture partners are both responsible for performance.
Option for an alternate bid based on foreign steel removed.
Structural Painting requirements moved to §105-03B
- §103-03 *Contract Bonds*
Surety changed to Sufficient Sureties
Bonds are required until Final Agreement is signed by the Contractor

**REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 - PHASE 7
COMMENTARY**

- §103-04 *Canceling Award* - Unchanged
§103-05 *Partnering* - Unchanged
- §103-06 *Sample Form of Contract Agreement*
Added Articles 15, 16 & 17 from the current Agreement to the Sample
Added acknowledgment for Joint Venture (JV)
- §104-01 *Required Work.*
The Contractor must start within 14 days of contract award by OSC.
Awards are posted on Open Book New York at www.openbooknewyork.com
Adds requirement for Contractor to attend Preconstruction Meeting
- §104-02 *Changes, Contingencies, Extra Work and Deductions.*
Notice period is now measured as 15 calendar days
Minor Wording Changes
- §104-03 *Differing Site Conditions.*
Notice period is now measured as 15 calendar days
Minor Wording Changes
- §104-04 *Significant Changes in the Character of Work.*
Notice period is now measured in calendar days
Significant change in Minor Item required increase changed from \$1,000 to \$5,000
- §104-05 *Suspensions of Work Directed by the Engineer*
Corrected specification to be consistent with the requirements of the CFR
- §104-06 *Notice And Recordkeeping*
Modified language to be more specific for various circumstances
Notice period is now measured in calendar days
- §104-07 *Site Housekeeping* - Unchanged
§104-08 *Maintaining Traffic* - Unchanged
- §104-09 *Contractor's Retention of Records*
Period starts at final agreement approval by OSC instead of final payment.
- §104-10 *Value Engineering Change Proposal (VECP)*
Minor Wording Changes
- §105-01 *Engineer's Authority*
Communications to the Department must go through, or be copied to the EIC.
- §105-02 *Character Of Workers* - Unchanged
- §105-03 *Methods and Equipment*
Incorporates changes issued via EI 09-029
B. *Structural Painting* language moved from §103-01.

REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 - PHASE 7 COMMENTARY

- §105-04 *Interpretation of Contract Documents*
Combined with §105-05 into §105-04 *Contract Documents*
- §105-05 *Vendor Responsibility*
New requirements that vendors must be responsible for duration of contract
- §105-06 *Cooperation With Utilities And Other Contractors* - Unchanged
- §105-07 *Termination*
Clarifies that the Department may terminate a contract for cause or for convenience.
- §105-08 *Removal Of Unacceptable And Unauthorized Work* - Unchanged
- §105-09 *Work Affecting Railroads*
A Added paragraph on Railroad Workplace Safety based on CFR, others resequenced.
- §105-10 *Survey and Stakeout*
Incorporates changes issued via EI 09-030
- §105-11 *Inspection* - Unchanged
- §105-12 *Load Restrictions* - Unchanged
- §105-13 *Work Zone Traffic Control For Mobile Operations*
Changed title to Work Zone Traffic Control for consistency.
- §105-14 *Disputed Work And Dispute Resolution*
C Reference now points to new §109-05E *Acceleration Compensation*
F Dispute must be based on sound engineering/accounting principles and the contract.
Added language from the Federal False Claims Act
G Auditors must be furnished with copies of documents
- §105 15 *Furnishing Right Of Way*
Inserts requirements from §107-13 issued via EI 11-010
- §105-16 *Proposal Content* - Unchanged
- §105-17 *Contract Records* - Unchanged
- §105-18 *Manufacturer Warranties And Guarantees* - Unchanged
- §105-19 *Contractor Warranties* - Unchanged
- §105-20 *Opening Highway to Traffic Prior to Acceptance*
Minor wording changes
- §105-21 *Civil Rights Monitoring and Reporting*
Incorporates changes issued via EI 12-019
Final payments to subs/D/M/WBES must be recorded in EBO
- §106-01 *Sources of Supply*
Added materials to the list of sections that require shop fabrication, inspection and associated DCES notification.
- §106-02 *Quality Requirements* - Unchanged

**REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 - PHASE 7
COMMENTARY**

- §106-03 *Plant Inspected Materials* - Unchanged
- §106-04 *Material Certification and Approved List*
Approved List is that current on the date material is incorporated into the work.
- §106-05 *Recycled Materials*
Minor revisions in accordance with Executive Order No 4.
- §106-06 *Storage And Handling Of Materials* - Unchanged
- §106-07 *Basis For Measurement* - Unchanged
- §106-08 *Rejected Materials* - Unchanged
- §106-09 *Equivalents* - Unchanged
- §106-10 *Quality Assurance*
Changed title to Quality Assurance. Added explanation of the QA Program in accordance with FA requirements in 23 CFR 637.
- §106-11 *Buy America*
Reflects FHWA waiver process and changes issued via FHWA guidance memo. Assembly is not included in the Federal legislation, and was removed. Added requirements from State Finance Law §146
- §107-01 *Laws, Rules, Regulations and Permits*
D. *Archaeological Salvage*. Incorporates changes issued via EI 09-029.
- §107-02 *Patented Devices, Materials And Processes* - Unchanged
- §107-03 *Federal Aid Participation* - Unchanged
- §107-04 *Public Notices*
Deleted section on Sanitary Code – Outdated
Moved 102-10E requirements for Labor related notices, expanded to include requirements for safety, environmental and other required notices.
- §107-05 *Safety and Health Requirements*
A Incorporates changes issued via EI 07-022
B. Incorporates changes issued via EI 08-024. Edits clarify that the prime contractor is responsible for all of the firms they hire or contract with.
H Added reference to NYS Labor Law
L. Incorporates changes issued via EI 04-033.
N Incorporates changes issued via EI 11-015
P. Added references to the new OSHA Standard for crane safety.
Clarifies that a lift plan may be a part of Erection Plan, Demolition Plan, etc.
Written lift plan requirements are better linked to requirements from SCM/PCCM.
Type B written lift plan may be prepared by a competent person.
Tall cranes, etc near airport facilities must be marked in accordance with FAA
U Incorporates changes issued via EI 08-017
- §107-06 *Insurance*
Incorporates changes issued via EI 09-021 and EI 10-006
- §107-07 *Protection Of Underground Facilities* - Unchanged
- §107-08 *Protection and Restoration Of Property And Landscape* - Unchanged

REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 - PHASE 7 COMMENTARY

- §107-09 *Damage*
Incorporates changes issued via EI 09-021
- §107-10 *Managing Surplus Material And Waste* - Unchanged
- §107-11 *Air Quality Protection* - Unchanged
- §107-12 *Water Quality Protection* - Unchanged
- §107-13 *Release To Perform Contract Work On Private Land* - Deleted
Changes issued via EI 11-010 moved to §105-15
- §108-01 *Progress Schedule*
Divided into contracts without CPM Type 2 and with CPM Type 2 requirements.
The Contractor must submit a Baseline Schedule at the Preconstruction Meeting.
The Engineer will acknowledge receipt of submittals within 7 days.
Contractor must update and maintain schedule or waive right to dispute or claim.
Contractor must maintain a record of delays and submit to the Engineer monthly.
Engineer will maintain a record of delays for the purpose of agreeing to responsibility for delays and limiting disagreements and disputes.
- §108-02 *Completion Date*
Contractor proposed early completion schedule will change the contract completion date, and may be done via VECP only.
- §108-03 *Failure To Complete Work On Time* - Unchanged
- §108-04 *Delay Provisions*
- §108-05 *Subletting or Assigning the Contract*
Revised definitions of Services (Work and Professional)
- A.2. Adds Civil Rights Monitoring and Reporting to required subcontract provisions.
- B Establishes different requirements for approval of Trucking firms.
- D Title VI and DBE Program Assurance language, which must be passed to subs.
- §108-06 *Commencement of Actions On State Public Works Contracts* - Unchanged
- §108-07 *Seasonal Shut-Down* - Unchanged
- §109-01 *Measuring Quantities*
Clarifies how the Engineer will make measurements. Slopes steeper than 1 on 4 will be made using slope distance. Slopes at 1 on 4 are 3% longer, 1 on 5 are 2% longer.
- §109-02 *Compensation for Altered Quantities*
- B. Increases threshold for Minor Item price change to 200% and \$5,000 increase.
Standard Labor Markup rate is paid on wages only, not fringes.
Edited to better coordinate with Force Account model.
- §109-03 *Scope Of Payment* - Unchanged
- §109-04 *Partial Payments* - Unchanged

**REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 - PHASE 7
COMMENTARY**

- §109-05 *Extra Work and Time Related Compensation*
- A. If price agreement is not reached prior to beginning work, the Contractor must keep daily Force Account records.
- A.4. Use of Standard Labor Markup rate is now mandatory.
Standard Fringe Markup on Fringes when paid to the employee in cash.
- B.1.a. *Labor*
The wage rate for a worker may be up to 150% of the prevailing wage
Adds language concerning lack of Prevailing Wages for foremen.
Professional/Technical personnel are reimbursable when agreed to by the Department in writing prior to the work.
Use of Standard Labor Markup rate is now mandatory.
Standard Fringe Markup on Fringes when paid to the employee in cash.
Updates to Workers' Compensation Insurance to reflect State Law.
Other Workers' Compensation type insurances are reimbursable when required.
- B.1.b. *Materials*
Transportation may be reimbursed as either a material cost, or as Contractor/Subcontractor Labor and Equipment
- B.1.c. *Equipment*
Eliminates rented equipment. All equipment will be paid using Blue Book rates.
Ownership costs will be paid for hours worked, no reduction for subsequent shifts.
Mobilization/Demobilization for equipment needed solely for FA is reimbursable.
Required backup equipment is eligible for reimbursement.
Owner/Operator equipment is reimbursed as a service.
- B.1.d. *Insurance*
Required insurances are reimbursable.
- B.1.e. *Overhead*
Revised definition of what is included in overhead.
Eliminated exclusion of Premium portion of OT
Add 10% Overhead on Equipment
- B.1.f. *Profit*
Eliminated exclusion of Premium portion of OT
Add 10% Profit on Equipment
- B.2. *Subcontractor Costs*
Contractor will be reimbursed an additional 5% for administration
Contractor will be reimbursed for Contractor insurances for subcontractor work
- B.3. *Service Charges*
Service charges include Trucking firms and Owner/Operator trucking
- C. *Force Account Reports*
Clarifications to Force Account review and approval process
- E. *Acceleration Compensation*
Clarifies FA procedure for acceleration
- §109-06 *Contract Payments*
Certified Payrolls, material certifications and previous payment data is required before payment can be processed.
All payments are now made electronically by the Office of the State Comptroller.

REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 - PHASE 7 COMMENTARY

- §109-07 *Prompt Payments by the Contractor*
Incorporates changes issued via EI 08-029
In accordance with NYS SFL, interest payments are also due to subs/materialmen
Added CFR prompt payment language in addition to NYS SFL requirement
- §109-08 *Eliminated Materials - Unchanged*
- §109-09 *Final Acceptance and Final Agreement*
- A. *Final Additions and Deductions* - are now done via Cleanup Change Order
 - B. *Partial Acceptances*
Can be issued for completed sites for contracts where locations were not defined at bid.
 - C. *Contract Final Acceptance*
Some items that were previously required for the Final Agreement are now required at Contract Final Acceptance.
Requirement for Form FHWA 47 was eliminated by FHWA and is removed.
 - E. *Final Agreement*
If the Contractor fails to respond within 90 days, the Department will complete the Final Agreement based upon the best available information.
 - F. *Initiation of Claim*
Under Site Manager, there is no final payment. The start of the time limit to initiate a claim is the Contractor's signature on the Final Agreement.

Superseded Issuances:

EI 74-050	Separate Contracts for Long Term Projects
EI 90-042	AOBE
EI 04-033	§107-05L. Silica
EI 05-035	§109-05 Labor Markup
EI 06-013	§102-17 Lobbying
EI 07-022	§107-05A. High Visibility Apparel
EI 08-017	§107-05U. Phones and Entertainment Devices
EI 08-024	§107-05B. OSHA 10 Training
EI 08-029	§109-07 Prompt Payment
EI 09-021	§107-06 Insurance and §107-09 Damage
EI 09-029	§105-03 Methods and Equipment and §107-01D. Archeological Salvage
EI 09-030	§105-10 Survey and Stakeout
EI 10-006	§107-06 Insurance
EI 10-017	§102-05/§102-07/§103-01 Electronic Plans
EI 11-015	§107-05N. Drilling and Blasting
EI 12-007	§102-08/§102-09 Appendix A
EI 12-019	§102-11/§102-12/§105-21 Civil Rights

REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 - PHASE 7

Make the following changes to the Standard Specifications of May 1, 2008:

Page 1 through 3, **Delete** Table of Contents for Section 100 and **Replace** it with the following:

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REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 - PHASE 7

Page 15 through 141, **Delete** Section 100 in its entirety and **Replace** it with the following:

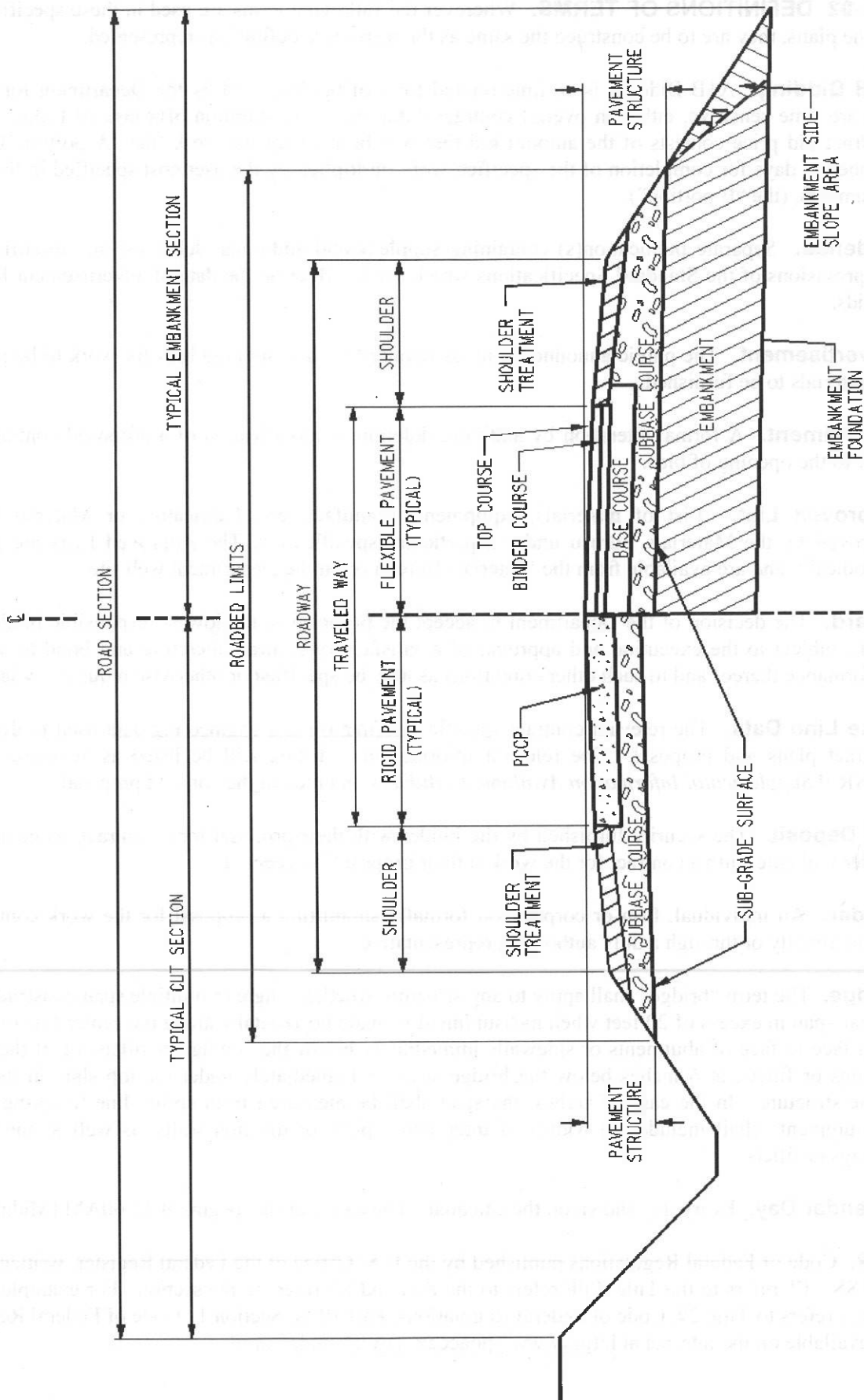
SECTION 101 - ABBREVIATIONS AND DEFINITIONS OF TERMS

Wherever in these specifications or in other contract documents the following terms or pronouns in place of them are used, the intent and meaning shall be interpreted as follows:

101-01 ABBREVIATIONS OF TERMS. Wherever the following abbreviations are used in these specifications or on the plans, they are to be construed the same as the respective expressions represented. Some of these abbreviations may be acronyms and some may appear with periods.

AASHTO	- American Association of State Highway and Transportation Officials
AISI	- American Iron and Steel Institute
ANSI	- American National Standards Institute, Inc
AREA	- American Railway Engineering and Maintenance-of-Way Association
ASME	- American Society of Mechanical Engineers
ASTM	- American Society for Testing and Materials
AWPA	- American Wood-Preservers Association
AWWA	- American Water Works Association
CADD	- Computer Aided Design and Drafting
CPM	- Critical Path Method
CFR	- Code of Federal Regulations
CRU	- Contract Review Unit
DCEC	- Deputy Chief Engineer for Construction
DCED	- Deputy Chief Engineer for Design
DCES	- Deputy Chief Engineer for Structures Design and Construction
DCETS	- Deputy Chief Engineer for Technical Services
EPA	- U.S. Environmental Protection Agency
FHWA	- Federal Highway Administration
HMA	- Hot Mix Asphalt
MASH	- Manual for Assessing Safety Hardware
MM	- Materials Method
MP	- Materials Procedure
MSDS	- Material Safety Data Sheet
MURK	- Manual for Uniform Record Keeping
MUTCD	- Manual of Uniform Traffic Control Devices
NEC	- National Electric Code
NEMA	- National Electrical Manufacturers Association
NYCRR	- Official Compilation of Codes, Rules and Regulations of the State of New York
NYSDEC	- New York State Department of Conservation
NYSDOL	- New York State Department of Labor
NYSTA	- New York State Thruway Authority and/or the New York State Canal Corporation
OSHA	- Occupational Safety and Health Administration, US Department of Labor
PCCM	- New York State Prestressed Concrete Construction Manual
PCC	- Portland Cement Concrete
PCCP	- Painting Contractor Certification Program
RME	- Regional Materials Engineer
SCM	- New York State Steel Construction Manual
SSPC	- Steel Structures Painting Council
USCG	- United States Coast Guard
UL	- Underwriters' Laboratories
USACE	- U.S. Army Corps of Engineers
USC	- United States Code
VECP	- Value Engineering Change Proposal
WMA	- Warm Mix Asphalt

REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 - PHASE 7



REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 - PHASE 7

101-02 DEFINITIONS OF TERMS. Wherever the following terms are used in these specifications or on the plans, they are to be construed the same as the respective definitions represented.

A+B Bidding. A+B Bidding is an time-related form of bidding used by the Department for contracts that are time sensitive, either in overall contract duration, or the duration of a task or tasks. The total contract bid price consists of the amount bid that will be paid for the work (the "A portion"), plus the number of days for completion of the specified work multiplied by the user cost specified in the contract documents, (the "B portion").

Addenda. Separate publication(s) containing supplemental additions, deletions, and modifications to the provisions of the Standard Specifications which are in effect on the date of advertisement for receipt of bids.

Advertisement. The public announcement, as required by law, inviting bids for work to be performed or materials to be furnished.

Amendment. A formal alteration by addition, deletion or modification of a proposed contract, issued prior to the opening of bids.

Approved List. List of materials, equipment, Manufacturers, Fabricators or Material Suppliers approved by the Materials Bureau under a particular specification. The Approved Lists are published periodically and are available from the Materials Bureau or on the Department web site.

Award. The decision of the Department to accept the proposal of the lowest responsible bidder for the work, subject to the execution and approval of a satisfactory contract therefore and bond to secure the performance thereof and to such other conditions as may be specified or otherwise required by law.

Base Line Data. The relevant contract specific information and engineering data used to develop the contract plans and proposal. The relevant information and data will be listed as available on Form CONR-9 *Supplemental Information Available to Bidders* included in the contract proposal.

Bid Deposit. The security furnished by the bidder with their proposal for a contract, as guarantee the bidder will enter into a contract for the work if their proposal is accepted.

Bidder. An individual, firm or corporation formally submitting a proposal for the work contemplated acting directly or through a duly authorized representative.

Bridge. The term "bridge" shall apply to any structure whether single or multiple span construction with a clear span in excess of 20 feet when measurement is made horizontally along the center line of roadway from face to face of abutments or sidewalls immediately below the copings or fillets; or, if there are no copings or fillets, at 6 inches below the bridge seats or immediately under the top slab, in the case of frame structures. In the case of arches, the span shall be measured from spring line to spring line. All measurements shall include the widths of intervening piers or division walls, as well as the width of copings or fillets.

Calendar Day. Every day shown on the calendar. The calendar day begins at 12:00AM (Midnight).

CFR. Code of Federal Regulations published by the U.S. Office of the Federal Register, written TT CFR PPP.SS. TT refers to the Title, PPP refers to the Part and SS refers to the section. For example: 29 CFR 1926.1 refers to Title 29, Code of Federal Regulations, Part 1926, Section 1. Code of Federal Regulations are available on the internet at <http://www.gpoaccess.gov/cfr/index.html>

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Change Order. Written order issued by the Department covering contingencies, extra work, deductions, increases or decreases and additions, alterations or omissions to the plans or specifications. A Change Order is referred to as an Order on Contract in State Highway Law.

Chief Engineer. The Chief Engineer of the New York State Department of Transportation.

Closed Drainage System. A collection system of enclosed channels for stormwater runoff which carries water to a discharge point. Typically has drainage structures for inlet(s) and may include intermediate drainage structures at junction points.

Commissioner. The Commissioner of the New York State Department of Transportation.

Comptroller. The head of the New York State Office of the State Comptroller.

Contemporaneous Period Analysis Method. A technique for evaluating schedule delays or time savings. The analysis period for the purpose of these provisions shall be the period covered in each regular progress schedule submission, as they coincide with contract payments to the Contractor.

Contract. A binding agreement between the Department and a contractor to complete a specified scope of work. The contract includes, but is not limited to an executed contract agreement, a set of contract documents and contract bonds.

Contract Agreement. The agreement covering the performance of the work and furnishing of labor and materials in the construction of the work in conformance with the requirements of the contract documents. A sample of the standard agreement is shown in §103-06 *Sample Form of Contract Agreement*.

Contract Bond. The approved form of security, executed by the Contractor and its Surety or Sureties, guaranteeing complete execution of the contract and all supplemental agreements pertaining thereto and the payment of all legal debts pertaining to the construction of the contract.

Contract Documents. The contract documents shall include the advertisement for proposals; the contract proposal, including Special Notes and Special Specifications contained therein; the Contractor's proposal; the Disadvantaged/Minority/Women's Business Enterprise (D/M/WBE) participation goals; the equal employment opportunity (EEO) participation goals; the contract agreement; the Base Line Data; Standard Specifications, including all addenda thereto identified in the contract proposal; the Standard Sheets; the plans; any amendments to the contract proposal or the contract plans issued prior to the date of receipt of proposals; and all provisions required by law to be inserted in the contract whether actually inserted or not.

Whenever separate publications other than Standard Sheets are referenced in the Contract Documents it shall mean those, as amended, which are current on the date of advertisement for bids.

Contract Limits. The limits shown in the contract documents, in which all work occurs, including advanced signing and detours covered under an individual contract. The Contractor shall be responsible for the highway within the contract limits. For contracts with multiple sites, this may be defined as a single larger limit if the sites are in close proximity, or as multiple sets of contract limits if the sites are widely separated. On-site contract work cannot be conducted outside the contract limits. If the contract limits are not specified in the contract documents, the contract limits shall be the limits within which all work is performed, including advanced signing and detours included in the contract documents.

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Contract Pay Item. A specifically described unit of work for which a price is provided in the contract.

The basic format of a standard specification contract pay item number is a three digit root number, a decimal point, and then either a two, four, or six digit extension number (XXX.XX, XXX.XXXX, or XXX.XXXXXX). The three digit root number denotes the standard specifications section to which the contract pay item relates (i.e. 564 – Structural Steel).

The format of a special specification contract pay item is the same as the standard specification contract pay item number, but a two digit origin code number (that was previously shown as a prefix) is added as a suffix. The special specifications will be contained in the contract proposal. The origin code number (RR) denotes the NYSDOT Region, Office, or Group that originated the special specification. Regardless of the length of the extension number, the suffix is always in the seventh and eighth decimal place after decimal point. For special specification contract pay item numbers with only a two or four digit extension number, blank spaces, hyphens or lowercase “b”s are used to bridge the space between the end of the extension number and the origin code number (XXX.XX---RR or XXX.XXXX--RR or XXX.XXXXXRR or XXX.XXbbbRR or XXX.XXXXbbRR or XXX.XX RR or XXX.XXXX RR).

Contract Payments. Payments to the Contractor for work satisfactorily performed, in accordance with §109-06 *Contract Payments*.

Contractor. The individual, firm, or corporation undertaking the execution of the work under the terms of the contract and acting directly or through his, her, their, or its agents or employees.

Contractor Work Day. A calendar day scheduled for active prosecution of the work.

Critical Path. In the Progress Schedule the critical activities shall be those activities being on the longest path. In a project network diagram, the series of activities which determines the earliest completion of the project.

Critical Path Method (CPM). A network analysis technique used to predict project duration by analyzing which sequence of activities (which path) has the least amount of scheduling flexibility (the least amount of float). A scheduling technique utilizing activities, durations, and interrelationships/dependencies (logic), such that all activities are interrelated with logic ties from the beginning of the project to the completion of the project. Early dates are calculated by means of a forward pass using a specified start date. Late dates are calculated by means of a backward pass starting from a specified completion date (usually the early finish date calculated by the forward pass).

Culvert. An enclosed channel open at both ends carrying water from a stream or water course through an artificial barrier such as a roadway embankment. The term “culvert” shall apply to any structure whether of single or multiple span construction with an interior width of 20 feet or less when measurement is made horizontally along the center line of roadway from face to face of abutments or sidewalls immediately below the copings or fillets, or, if there are no copings or fillets, at points 6 inches below the bridge seats or immediately under the top slab in the case of frame structures.

In the case of arches, the span shall be measured from spring line to spring line. All measurements shall include the widths of intervening piers or division walls, as well as the widths of copings or fillets.

Day. A calendar day unless otherwise defined or modified.

Department. The New York State Department of Transportation, including staff and managers who have been delegated certain contractual and technical authority by the Commissioner. The Department maintains a web site at www.dot.state.ny.us.

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Departmental Geotechnical Engineer. The Regional Geotechnical Engineer or his/her authorized representative, or a Geotechnical Engineer of the Geotechnical Engineering Bureau acting at the request of the Regional Geotechnical Engineer.

Departmental Engineering Geologist. An Engineering Geologist of the Geotechnical Engineering Bureau authorized by the Director of Geotechnical Engineering Bureau to perform the duties required under these specifications.

Drainage Structure. A structure that collects and/or redirects stormwater runoff, including catchbasins, manholes, leaching basins and similar structures, but not structures for sanitary sewers.

Employee. Any person working on the project mentioned in the contract documents, and who is under the direction or control, or receives compensation from the Contractor or Subcontractor.

Engineer OR Engineer-In-Charge. The Engineer representing the Department of Transportation having direct supervision of the execution of the contract under the direction of the Regional Director.

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

Erosion and Sediment Control. Erosion and sediment control is any action taken or item used as part of a contract or as a separate action to minimize the destructive effects of wind and water on surface soil. The use and placement of berms and dams, rolled erosion control products, grasses, sod, mulches, slope drains, sediment basins and drainage systems may be temporary and used throughout construction, or permanent and installed for the anticipated life of the facility.

Extra Work. Work not provided for in the contract as awarded but found essential to the satisfactory completion of the contract within its intended scope.

Fabricator. A Fabricator assembles, constructs or otherwise substantially alters materials or supplies into assemblies, components or finished items for inclusion into the work prior to resale.

Federal-Aid. Joint cooperative construction or reconstruction of State highways and bridges or grade crossing elimination work with monies contributed to the State by the Federal Government under Title 23, United States Code, Highways, and amendments thereto.

Federal-Aid Project. An identification applied to federally aided work for the purpose of the records of the FHWA. Federal-Aid contracts are denoted "F.A. Project" on the proposal cover and on the title page.

Field Change Payment (FCP). A contract contingency that allows for the timely payment of authorized extra work that is necessary to fulfill the intent of the plans and specifications without the preparation of a change order during construction. An FCP change order is processed only to the Regional Construction Engineer level for approval, and payments are made under the contract pay item for the quantity completed at the appropriate unit price.

Final Agreement. Agreement between the New York State Department of Transportation and the Contractor, stating the net increase or decrease of the cost of work completed from the total cost of work originally authorized under the contract. All contract payments will be made prior to the issuance of the Final Agreement.

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Geotechnical Engineering Bureau. The Department's Geotechnical Engineering Bureau has the responsibility for providing all Geotechnical Engineering Services including laboratory testing of earthwork materials.

Highway. The whole strip of land bounded by the right of way lines.

Incentive/Disincentive (I/D). Predetermined adjustment to the total contract amount for each day or portion thereof that the work is completed ahead of or behind a specific milestone, phase or contract completion date.

Inspector. The Department of Transportation representative assigned to inspect methods and materials relating to work both on and off the site of the contract.

Land Surveyor. A Land Surveyor licensed or otherwise authorized to practice surveying under Article 145 and registered or otherwise authorized under Article 130 of the New York State Education Law.

Landscape Development. Landscape development is any development or item used as part of a project or as a separate action through the use, placement and management of land and elements for aesthetic enhancement, such as decorative surfaces and wall faces, benches, waste receptacles, tables, etc., and plant materials consistent with a specific landscape architectural design plan.

Landscaping. Landscaping is the use and placement of plant materials (trees, shrubs, vines and certain ground covers) consistent with a landscape architectural design plan. Planting vegetation for screening and erosion control purposes does not constitute landscaping.

Lane Rental. An amount identified as the value of a lane or lanes to be occupied by the Contractor in performance of the contract. The total amount bid for lane rental is the total value that can be used by the Contractor in performance of the contract. If additional value is used by the Contractor, that amount will be deducted from the payments to be made to the Contractor.

Laying Length of Pipe. Feet (laying length) of pipe shall be measured by multiplying the number of whole units by the nominal length of each unit and adding thereto the length of any fractional units incorporated in the work. The nominal length of a unit or fractional unit shall be the inside measured length from butt end to butt end and exclusive of the bell or groove on the female end.

Major Item. Any contract pay item for which the original unit bid price multiplied by the original item quantity exceeds the following minimum major item value based on total contract bid price.

Total Contract Bid Price	Major Item Value
≤ \$1,333,333	\$20,000
> \$1,333,333 - \$66,500,000	1.5% of the total contract bid price
> \$66,500,000	\$1,000,000

NOTE: The total contract bid price shall not include the value of any Field Change Payment item. For contracts subject to A+B Bidding, the total contract bid price will include only the "A" portion of the bid. For contracts containing Incentive/Disincentive provisions, Lane Rental provisions, or any similar provisions, the total contract bid price will exclude any incentive/disincentive, lane rental, or similar items.

Manual for Uniform Record Keeping on Construction Contracts (MURK). Manual(s) containing uniform contract record keeping forms and procedures to be followed by the Engineer, current on the date of contract award. MURK Part 1A is the Contract Administration Manual (CAM), Part 1B is the Construction Inspection Manual (CIM), Part 1C is the Safety and Health Program Manual, and