
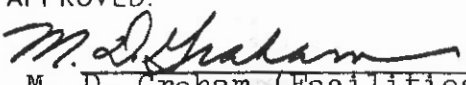



TO: SUPERSEDED BY EI 74-079 EFFECTIVE 8/23/1974	 ENGINEERING INSTRUCTION NEW YORK STATE DEPARTMENT OF TRANSPORTATION
Distribution: <input checked="" type="checkbox"/> Main Office <input checked="" type="checkbox"/> Regions <input type="checkbox"/> Special	Code: <u>EI 73-89</u>
APPROVED:   M. D. Graham (Facilities) J. Sternbach (Construction)	Date: <u>12/26/73</u> Supersedes:
SUBJECT: FLATTENING CUT SLOPES AND OTHER MEANS OF OBTAINING BORROW Subject Code: 7.26	

Ecological, aesthetic, and economic considerations often make it desirable to allow a contractor to flatten cut slopes beyond the design slopes or borrow within the contract limits and utilize such material on the project or for the construction of other projects. To ensure uniformity in administering this matter throughout the State, the following Design and Construction Procedures are to be implemented immediately. PLEASE NOTE THAT THE FOLLOWING PROCEDURES ARE NOT APPLICABLE IN SITUATIONS WHERE THE STATE DETERMINES THAT DESIGN MODIFICATIONS OF PROJECT CONTOURS ARE NECESSARY. SUCH CORRECTIONS ARE ORDERED BY THE STATE WITH PAYMENT PROVIDED UNDER THE APPROPRIATE CONTRACT ITEMS.

I - Design

Where it is feasible to obtain material on the project suitable for use on or off the project, the designer should designate specific locations where the State will allow the Contractor to excavate material beyond the design cut slopes and the extent of excavation permissible.

Appropriate notes should indicate that no payment for such additional excavation will be made under the unclassified excavation item (except as borrow under a single, common excavation and embankment item) that no royalty will be required for the material and that all additional expense related to the extra excavation operation (such as larger seeding area) shall be borne by the Contractor. Payment for the material will be made under the item for which it is being used. (See Included Specification)

II - Construction

When a Contractor requests to excavate beyond the design slope, at locations other than those specified as optional, to obtain material for use as a contract item on the project, the Contractor shall be required to pay a royalty for the material as part of the necessary order on contract. The royalty shall be appropriate for the item for which it is

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to be utilized. For example, a royalty for material meeting the requirements of subbase material would be greater than a royalty for common borrow. In addition, an analysis of the difference in haul cost between the proposed borrow source and the nearest alternative acceptable source shall be submitted and considered in the royalty.

All special requirements to be fulfilled by the Contractor, at his expense, shall be clearly stated in the agreement. The foregoing requirement of a royalty shall apply only to locations not designated in the Contract Documents.

III -Note

The above procedure provides proper reimbursement to the State as owner of the material, and ensures that competitive bid conditions are maintained to the fullest extent possible.

The following is to be inserted in Project Proposals per the above Guidelines:

SPECIAL NOTE - Obtaining Embankment Material by Flattening Cut Slopes

Within the following station limits, the Contractor at his option may flatten the cut slopes to obtain construction material for this project or for other locations subject to the Engineer's approval.

Station to Station	Slopes shall be no steeper than the design slope or flatter than
.....	1 vert. on.....horiz.

A royalty or rebate will not be required from the Contractor by the State for material obtained from these areas. Payment will be made for such additional excavation beyond the design slope only when the extra project material qualifies and is utilized as borrow in accordance with the provisions of a single, common excavation and embankment item. However, the material will be paid for under the item for which it is used. Any additional costs caused by flattening of the slopes, such as increased quantities of seeding, mulching, fencing, slope drains, or other items, shall be borne by the Contractor.

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The Regional Director may approve the use of such material for work, which is not part of the Contract, so long as proper provisions are made to prevent unsafe conditions, damage, and nuisances to property, wildlife areas, and haul routes within and without the contract limits. Such approval may be granted only after review of a written proposal by the Contractor showing the final deposition of the material, the haul route, hauling hours, and provisions necessary to comply with the above. Should unanticipated conditions arise resulting in any unsatisfactory conditions as described above, the Engineer shall immediately rescind the approval pending satisfactory correction.

In areas of the project not designated in this Special Note where the Contractor requests that he be allowed to flatten slopes to obtain material for use on the project, the Contractor will be required to reimburse the State with a royalty fee commensurate with the value of the material obtained and an analysis of the difference in haul costs from other acceptable sources.

MDG:JS:RNS:LG