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- The following standard specification contract pay items are disapproved:

698.01 Asphalt Price Adjustment	Fixed Price Lump Sum
698.02 Fuel Price Adjustment	Fixed Price Lump Sum
698.03 Steel Price Adjustment	Dollars Cents
- The following standard specification contract pay items are approved:

698.04 Asphalt Price Adjustment	Dollars Cents
698.05 Fuel Price Adjustment	Dollars Cents
698.06 Steel Price Adjustment	Dollars Cents

TRANSMITTED MATERIALS:

This EI transmits a standard specification shelf note for Section 698 Price Adjustments.

BACKGROUND:

The Producer Price Index (PPI) for shredded carbon scrap steel (WPU 10121193) that was used in contract pay item 698.03 has fluctuated dramatically. The PPI performance results in unequal industry relief, where some contractors receive reimbursement for material price increases, as expected, and others receive nothing. The revised specification attached to this EI uses a different PPI, *Semifinished Steel Mill Products* (WPU 101702), which does not have dramatic fluctuations, which better reflects price changes in the steel market, and which provides more consistent relief to the industry. The existing specification also had an associated special note that lists applicable items, which led to substantial complaints regarding unequal treatment of different portions of the industry.

The pay units for the asphalt and fuel price adjustments were changed to Dollars Cents to improve the payment process during construction using the CEES program. Fixed Price Lump Sum items cannot be increased, requiring the addition of a different item number during construction under which to make payments. Lump sums must be paid using a percentage of the total, to a maximum of 4 digit accuracy, which makes the process of making payments of a fixed dollar amount difficult and complicated.

CONTACT: Direct questions regarding this issuance to Brian DeWald via e-mail at BDeWald@dot.state.ny.us or Jodi Riano via e-mail at JRiano@dot.state.ny.us or at the Construction Division at (518) 457-6472.

PRICE ADJUSTMENTS

Make the following changes to Volume 2 of 3 of the Standard Specifications of January 2, 2002 (as amended by ED 04-002). Delete Section 698 in its entirety and Replace it with the following:

SECTION 698 PRICE ADJUSTMENTS

698-1 DESCRIPTION. This section will provide for additional compensation to the Contractor for increases, or repayment by the Contractor for decreases, in the price of asphalt, fuel, or steel/iron products.

No adjustment will be provided for any new or additional work paid for by force account. Additional quantities of existing contract pay items at original bid prices will be considered eligible work. Additional work added by agreed price will be considered eligible work. Work performed by the Contractor at its own expense will not be eligible for price adjustment.

698-1.01 Asphalt Price Adjustment. This item will enable the Department to make price adjustments to account for changes in asphalt prices. Price adjustments will be made for eligible work listed in the proposal.

698-1.02 Fuel Price Adjustment. This item will enable the Department to make price adjustments to account for changes in fuel prices. Price adjustments will be made for eligible work listed in the proposal.

698-1.03 Steel/Iron Price Adjustment. This item will enable the Department to make price adjustments to account for changes in steel/iron product prices for materials which will be permanently incorporated into the work.

698-2 MATERIALS. None specified.

698-3 CONSTRUCTION DETAILS.

698-3.01 Asphalt Price Adjustment. The asphalt price adjustment will be based solely on the price changes for asphalt as determined by the formulas below. No consideration will be given to the situation where an individual supplier's price exceeds the monthly average posted price, nor will any adjustment be made if the monthly average posted price is within \$10.00 of the Performance Graded Binder (PGB) index price.

A. Quantity. The quantity of asphalt (metric tons) considered for adjustment will be determined by multiplying the quantity of eligible work completed by the conversion factors which are listed in the proposal note entitled *Asphalt Price Adjustment*.

B. Prices. The PGB index price and the monthly average posted price are defined as follows:

1. Asphalt Index Price. A fixed price per metric ton of PGB used solely as a basis from which to compute asphalt price adjustments. The PGB index price will be the monthly average posted price for the month of the bid letting, as listed in the Engineering Bulletin entitled *Fuel, Asphalt and Steel Price Adjustments*. The PGB index price for additional work at the original contract bid price will be the monthly average posted price for the month of the bid letting. The PGB index price for additional work at agreed price will be the monthly average posted price for the month the agreed price was submitted to the Engineer.

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2. *Monthly Average Posted Price.* The average FOB terminal price for unmodified PG 64-22 binder, without anti stripping agent, will be determined by the Department, based on prices of approved primary sources of PGB. Prices will be posted in a monthly Engineering Bulletin entitled *Fuel, Asphalt and Steel Price Adjustments*.

C. Adjustment. Asphalt price adjustment will be based on the following formulas:

1. *When price increases:*

$$\text{Price Adjustment} = (\text{Quantity of Asphalt}) \times (\text{Average Posted Price} - \text{PGB Index Price} - \$10.00)$$

2. *When price decreases:*

$$\text{Price Adjustment} = (\text{Quantity of Asphalt}) \times (\text{Average Posted Price} - \text{PGB Index Price} + \$10.00)$$

698-3.02 Fuel Price Adjustment. The fuel price adjustment will be based solely on the price changes for fuel as determined by the formulas below. No consideration will be given to the situation where an individual supplier's price exceeds the monthly average posted price, nor shall any adjustment be made if the monthly average posted price is within \$0.03 of the fuel index price.

A. Quantity. The quantity of fuel (liters) considered for adjustment will be determined by multiplying the quantity of eligible work completed by the fuel usage factor which are listed on the proposal note entitled *Fuel Price Adjustment*.

B. Prices. The Fuel Index Price and the monthly average posted price are defined as follows:

1. *Fuel Index Price.* A fixed price per liter of fuel used solely as a basis from which to compute fuel price adjustments. The fuel index price will be the monthly average posted price for the month of the bid letting, as listed in the Engineering Bulletin entitled *Fuel, Asphalt and Steel Price Adjustments*. The fuel index price for additional work at the original contract bid price will be the monthly average posted price for the month of the bid letting. The fuel index price for additional work at agreed price will be the monthly average posted price for the month the agreed price was submitted to the Engineer.

2. *Monthly Average Posted Price.* An average FOB refinery or terminal price per liter determined by the Department based on prices for No. 2 fuel oil and unleaded gasoline in the cities of New York, Philadelphia, Detroit, and Boston. Prices will be posted in a monthly Engineering Bulletin entitled *Fuel, Asphalt and Steel Price Adjustments*.

C. Adjustment. Fuel price adjustment will be based on the following formulas:

1. *When price increases:*

$$\text{Price Adjustment} = (\text{Quantity of Fuel}) \times (\text{Average Posted Price} - \text{Fuel Index Price} - \$0.03)$$

2. *When price decreases:*

$$\text{Price Adjustment} = (\text{Quantity of Fuel}) \times (\text{Average Posted Price} - \text{Fuel Index Price} + \$0.03)$$

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698-3.03 Steel/Iron Price Adjustment. If the percentage change does not exceed 5%, no adjustments will be made for materials invoiced that month. For lump sum or each items, such as overhead sign structures, that are assembled from numerous components, the percentage change will be determined for the assembled contract pay item using the month that the largest value of materials were invoiced. To allow for multiple adjustments of various quantities at different times, for unit price items such as guiderail that are assembled from numerous components, the percentage change will be determined for a given quantity of the contract pay item using the month that the largest value of component materials for that quantity of the contract pay item were invoiced.

The weight of the steel and/or iron shall be determined from manufacturer's/supplier's data or shipping weights, and exclude minor appurtenances individually weighing less than 2 kg (i.e., nuts, bolts, washers, etc.). Eligible precast or prestressed concrete items shall have total reinforcing steel weight listed on the approved shop drawings. The following sources shall be used, in declining order of precedence, to determine the weight of steel/iron: approved shop drawings, contract documents, Department Standard Sheets, industry standards (i.e., AISC Manual of Steel Construction, AWWA Standards, etc.) and manufacturer's data. Materials will be considered invoiced when invoiced from a Manufacturer or Material Supplier to the Contractor, to a Subcontractor or to a Fabricator.

A. Quantity. The quantity of steel and/or iron considered for adjustment for each core (3-digit) contract pay item number (e.g., 564 – *Structural Steel*) will be measured to the nearest 0.1 Metric Tons.

1. *Percent Change Greater Than 5%.* If the percentage change calculated by the Engineer is greater than 5%, Price Adjustments will be made for materials invoiced that month. The Contractor shall provide the Engineer a detailed list of the weight of eligible materials, including: the contract pay item, the weight of steel/iron, the month(s) of invoice, the source used to determine the weight, and if requested by the Engineer, copies of invoices to verify the month of invoice.

2. *Percent Change -5% to +5%.* If the percentage change calculated by the Engineer is 5% or less, no adjustments will be made for materials invoiced that month. The Contractor shall provide the Engineer with a list of the materials invoiced that month, including the contract pay item, the quantity invoiced, and if requested by the Engineer, copies of invoices to verify the month of invoice. The list shall be provided not later than the 15th of the following month.

3. *Percent Change -5% and Lower.* If the percentage change calculated by the Engineer is -5% or lower, a Price Rebate will be charged to the Contractor for materials invoiced that month. The Contractor shall provide the Engineer a detailed list of the weight of eligible materials, including: the contract pay item, the weight of steel/iron, the month(s) of invoice, the source used to determine the weight, and if requested by the Engineer, copies of invoices to verify the month of invoice. If the Contractor fails to provide the information required to determine the Price Rebate within 60 calendar days after the end of the month, the percentage change will be applied to the entire unit price, until such time as the Contractor provides the required information.

B. Prices. The Benchmark Steel Index and the Monthly Index are defined as follows:

1. *Producer Price Index (PPI).* Producer Price Index (PPI) values are published by the US Department of Labor (USDOL), Bureau of Labor Statistics (BLS). Recent PPI values are posted on the Construction Division website at www.dot.state.ny.us. A complete listing of PPI values can be found on the BLS website at <http://data.bls.gov/PDO/outside.jsp?survey=wp>.

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2. *Benchmark Steel Index (BI)*. Value of the PPI for *Semifinished Steel Mill Products* (WPS 101702) for the month of contract bid letting. The benchmark steel index for additional work at the original contract bid price will be the value of the PPI for the month of the bid letting. The benchmark steel index for additional work at agreed price will be the value of the PPI for the month the agreed price was submitted to the Engineer.

3. *Monthly Steel Index (MI)*. Value of the PPI for *Semifinished Steel Mill Products* (WPS 101702) for the month the material is invoiced.

4. *Cost Basis (CB)*. Cost Basis defined in dollars per metric ton listed in the monthly Engineering Bulletin *Fuel, Asphalt and Steel Price Adjustments* for the month of bid letting. The cost basis for additional work at the original contract bid price will be the cost basis listed for the month of the bid letting. The cost basis for additional work at agreed price will be the value of the cost basis for the month the agreed price was submitted to the Engineer.

C. Adjustment. Steel/Iron price adjustment will be based on the following formulas:

1. The percent change in any given month will be determined as follows:

$$\text{Percentage Change} = \left(\frac{MI - BI}{BI} \right) \times 100$$

2. When price increases:

$$\text{Price Adjustment} = \left[\left(\frac{MI - BI}{BI} \right) - 0.05 \right] (CB) Qty$$

3. When price decreases:

$$\text{Price Rebate} = \left[\left(\frac{MI - BI}{BI} \right) + 0.05 \right] (CB) Qty$$

698-4 METHOD OF MEASUREMENT. The unit price shown in the itemized proposal will be considered the unit price bid, although actual payment will be calculated based on changes in posted material prices. Should the amount shown be altered, the altered figures will be disregarded and the original price will be used to determine the total contract bid amount.

698-4.01 Asphalt Price Adjustment. Asphalt price adjustments will be measured on a Dollar Cents basis.

698-4.02 Fuel Price Adjustment. Fuel price adjustments will be measured on a Dollar Cents basis.

698-4.03 Steel/Iron Price Adjustment. Steel/Iron price adjustments will be measured on a Dollar Cents basis.

698-5 BASIS OF PAYMENT. Price adjustments will be based on the computations described above. Adjustments, either positive or negative, will be made when the accumulated amount for a price adjustment contract pay item exceeds \$5,000, or at such additional times as the Engineer deems appropriate. Adjustments not meeting this criteria will be made in the final contract payment.

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If price adjustments are based on estimated material quantities for that time, and a revision to the total material quantity is made in a subsequent or final estimate, an appropriate addition or deduction will be made to the price adjustment previously calculated. The addition or deduction will be based on the same adjustment factors used to calculate the price adjustment which is being revised. If the installation dates of the revised material quantity cannot be determined, the addition or deduction will be based on the adjustment factors in effect during the last month in which any portion of the material quantity was installed.

If eligible items are installed after the original contract completion date and during which time an extension of time without the assessment of engineering charges is approved, the monthly average posted price or monthly index value used to compute price adjustments will be the appropriate monthly average posted price or monthly index value.

If eligible items are installed after the scheduled contract completion date and during which time there are assessed engineering charges and/or liquidated damages, the monthly average posted price or monthly index value used to compute price adjustments will not exceed, but may be less than the monthly average posted price or monthly index value in effect on the last contract completion date without assessed engineering charges.

698-5.01 Asphalt Price Adjustment. The adjustment will be based on the monthly average posted price in effect at the time the work is completed. The monthly average posted price will be updated about the twentieth of each month and will apply to eligible work performed during the following month.

698-5.02 Fuel Price Adjustment. The adjustment will be based on the monthly average posted price in effect at the time the work is completed. The monthly average posted price will be updated about the twentieth of each month and will apply to eligible work performed during the following month.

698-5.03 Steel/Iron Price Adjustment. The minimum price adjustment for a contract is \$5,000. The minimum price adjustment for any group of contract pay items sharing the same core (3-digit) contract pay item number (e.g., 564 – *Structural Steel*) is \$1,000. The adjustment will be based on the index in effect at the time of purchase or invoice.

The monthly index is listed as preliminary for 4 months after initial publication. At contract final acceptance, the Engineer will make final revisions to the adjustment based on revised data. If all contract work is complete, preliminary index values as posted by the BLS may be used in place of final values. If a preliminary value is not posted for a given month or months, the preliminary value will be the average of the preceding and following months that are posted. If a final value is not posted for a given month or months, the final value will be determined from the average annual value, if possible, or will be the average of the preceding and following months that are posted.

Payment will be made under:

Item No.	Item	Pay Unit
698.04	Asphalt Price Adjustment	Dollars Cents
698.05	Fuel Price Adjustment	Dollars Cents
698.06	Steel/Iron Price Adjustment	Dollars Cents