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Director,
- Preliminary Plan Review Bureau

ENGINEERING INSTRUCTION

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

SUBJECT: WATCHMEN SERVICE

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PRELIMINARY PLAN REVIEW
BUREAU

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Deputy Chief Engineers (Facilities Design and Construction Divisions) **MODIFIES EI 80-004**

The purpose of this instruction is to explain the reasons for discontinuing the use of watchmen service as a pay item and the resulting responsibilities.

Last year the Department paid about \$3 million for this item. Theoretically the objective was to reduce accident potential by early detection and correction of any hazardous condition that might occur during non-working hours. However, based on a recent survey of all Regions it appears that the benefits of this item are not worth the cost.

We have concluded that it is unnecessary and unwarranted to include a pay item for watchmen service in our contracts. The work required to protect the public is already a contractual responsibility under the basic item for maintenance and protection of traffic. Also, patrolling highways is a normal police function and they are well trained to detect and respond to safety problems. Furthermore, the contractor is required to provide insurance to protect the State against liability for damages to the public due to his operations.

The removal of watchmen service from the Specifications as a specific pay item does not constitute any reduction in the Department's concern for public safety. This change is intended to allow the contractor more flexibility to safeguard the public from temporary construction hazards in the manner which is appropriate and cost effective for the actual job site conditions which prevail.

While project personnel should ensure adequate measures are taken for public safety, they should not assume any of the contractor's responsibility and, thereby, his liability. Therefore, construction personnel should not specify or request the contractor to adopt any particular method or means to comply with the provisions of Item 619; rather, compliance should be requested by reference to noted deficiencies and the desired end result.

For the first instance of minor and non-critical violations of 619, the E.I.C. should provide the Contractor with an initial oral warning, noting such warning in the diary. No reduction in payment or application of liquidated damages should be made for such first violation of a specific nature. If a second violation of the same type occurs on the project, the warning should be in writing and payment deducted for one day of maintenance and protection of traffic per Section 619-5. If repeated violations continue to occur, such situation should be documented via letter to the contractor, payment deductions should be made per Section 619-5, and liquidated damages applied per Table 108-1.

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For major and critical violations which may have immediate and significant impact on public safety, the contractor should be promptly notified in writing of the violations and the penalties to be assessed; payment deductions shall be made per Section 619-5, and liquidated damages assessed per Table 108-1. Repeated major and critical violations by the contractor should be immediately reported to the Construction Division via the Regional Office with a recommendation as to whether to invoke Article 8 or 11 of the contract.

The qualified project person designated to supervise the maintenance and protection of traffic operation, (See E.I. 80-4) should monitor project conditions at the start and end of each work day, and make nighttime inspections when appropriate. In-depth inspections should be made at least once a week, especially prior to weekends or major holidays. During winter shutdown, or other long periods of inactivity, the designated person or the E.I.C. should make periodic checks of the sites open to public traffic to ensure that the contractor is adequately fulfilling his responsibilities.

Therefore, beginning with the letting of January 7, 1982 watchmen service will no longer be included as a pay item in any contract. The specifications will be modified in accordance with the attached note. Contractors will be required to provide a telephone number where they can be reached at any time in case of emergency. This number should be given to the Engineer in charge, the Regional Construction Supervisor, the Regional Maintenance Supervisor, the Regional Duty Officer and all police agencies in the area.

RHE:JS:SH
Attachment

WATCHMEN SERVICE

Make the following changes to the Standard Specifications of January 2, 1981:

On Page 1-37 under § 107-05 SAFETY AND HEALTH REQUIREMENTS add:

F. Emergency Contact Person. The Contractor shall designate someone to be available to respond to emergency calls. The name of the person and the telephone number at which he/she can be reached at any time shall be given to the Engineer, and all police agencies in the area. Such person shall have full authority and capability to mobilize forces promptly as required to respond to an emergency and protect the public.

On Page 6-52 under § 619-1.02 BASIC MAINTENANCE AND PROTECTION OF TRAFFIC add:

"M. WATCHMEN. The Contractor shall provide watchmen to patrol the contract area as necessary to insure that conditions on the site are adequate for public safety and convenience at all times."

On Page 6-52 delete § 619-1.05 Watchmen Service.

On Page 6-58 delete § 619-3.05 Watchmen Service.

On Page 6-60 delete § 619-4.07 Watchmen Service.

On Page 6-61 under § 619-5 General, delete the words "Watchmen Service" in the first sentence on that page, also, delete the second full paragraph, including the indented portion, thereof beginning with the words "In addition" and ending with the words "\$100" (indented) and replace that paragraph with the following:

In addition, for each calendar day or part thereof, of unsatisfactory work violations the required provisions of any of the subsections entitled, Basic Maintenance and Protection of Traffic, liquidated damages will be assessed at the rate shown in Table 108-1 of § 108-03 FAILURE TO COMPLETE WORK ON TIME.

Also, in Page 6-61 in the third full paragraph, in the third line thereof, delete the words "Watchmen Service."

On Page 6-62, delete § 619-5.07 Watchmen Service.

On Page 6-64, delete the pay item 619.12 Watchmen Service.