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NEW YORK STATE DEPARTMENT OF TRANSPORTATION

SUBJECT: WATCHMEN SERVICE

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APPROVED:

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The purpose of this instruction is to explain the reasons for discontinuing the specifying 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 specifying the exact number and schedule of patrols 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.

Periodic inspections of the site by a responsible project staff member should be conducted at night, the frequency of which depends on the need. For example, during the early stages of shifting traffic, nightly inspections for several successive days would be appropriate. For relatively minor disruptions to traffic, a check once every 2-3 weeks should suffice. Such night inspections should check on the visibility, adequacy and reflectivity of traffic control devices and the general performance of the contractor in maintaining a safe site, and should be documented in the project records. Such documentation should also include follow-up actions taken by the contractor where unsatisfactory conditions are encountered during working or non-working periods.

Since the penalties for failure to comply with the provisions of Maintenance and Protection of Traffic are being substantially increased, it becomes even more important than heretofore to ensure that the penalty provisions are applied uniformly and reasonably throughout the State. A first offense of a minor nature should not be penalized in the same manner as repetitive infractions or a serious violation affecting the safety of the public or project personnel.

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In the first instance of a minor, non-critical infraction of Item 619, the E.I.C. should provide the contractor with an initial oral warning, noting such warning in the diary. No reduction in payment for Basic Maintenance and Protection of Traffic or application of liquidated damages should be made for such single, minor infraction. This category includes an occasional inoperative flasher or missing reflector. However, when there are a number of such infractions indicating a general carelessness or insufficient concern on the part of the contractor, the contractor should be given a written citation of his infractions and an immediate assessment of non-payment for a calendar day for Basic Maintenance and Protection of Traffic per Section 619-5. Similarly, if the single infraction for which the contractor had been given an oral warning is not promptly corrected, the contractor should be given a written citation and assessed a calendar day non-payment.

Liquidated damages, in addition to calendar day non-payment, should be assessed per table 108-1 in the Specification, for any recurrence of infractions for which calendar day non-payments had been previously assessed.

In any instance of substantial violation of Section 619 which may have immediate and significant impact on public safety, the contractor should be orally directed to promptly correct the situation, followed by a written directive citing the violations and the charges being assessed. Though the contractor must immediately correct the situation, he should be assessed non-payment for a calendar day of Basic Maintenance and Protection. Any repetition of such violation requires an additional assessment of liquidated damages. In the event of delay by the contractor in promptly correcting such violations, the E.I.C. should consult the Regional Office regarding the issuance of an immediate written order to stop all related construction operations and should arrange to correct the condition via maintenance forces or other appropriate means. Substantial violations include inadequate signing, delineation or flagging, insufficient or improper barricades or barriers, inadequate detours, and failure to adequately ensure safe conditions at night or other non-working periods.

Repeated serious violations by the contractor should be promptly reported to the Construction Division via the Regional Office with a recommendation as to whether to invoke Article 11 of the contract. Article 8 may be invoked at the Regional level whenever deemed appropriate by the Regional Director.

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 to the Engineer in charge and all police agencies in the area. The Engineer should ensure that the Regional Office is given this phone number for listing with any other Regional personnel who may have a need thereof.

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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. PROJECT SITE PATROL. The Contractor shall provide personnel to patrol the contract area as necessary to ensure 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, liquidated damages will be assessed at the rate shown in Table 108-1 of § 108-03 for each subsequent calendar day or part thereof that a cited deficiency resulting in non-payment, as prescribed herein, is not corrected or is permitted to recur."

Also, on Page 6-61 in the third full paragraph, in the third line thereof, delete the words "Watchmen Service", and the sixth paragraph in its entirety.

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

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