

APPENDIX G
DOT&PF Standard Specifications for Highway Construction
Section 107 Legal Relations and Responsibility to Public
Revised September 2004

107-1.01 Laws to be Observed
107-1.02 Permits, Licenses, and Taxes
107-1.07 Archaeological or Historical Discoveries

Alaska Department of Transportation and Public Facilities Standard Specifications for highway construction contracts are prepared and adopted under the authority of Alaska Statute 19.10.160.

107-1.01 LAWS TO BE OBSERVED. The Contractor shall keep fully informed of, observe, and comply with all federal, state, and local laws, ordinances, and regulations, and all orders and decrees of bodies or tribunals having any jurisdiction or authority, that in any manner affect those engaged or employed on the work or which in any way affect the conduct of the work.

The Contractor and the Surety shall defend, indemnify, and hold harmless the state and its representatives against any claim or liability related to violations of any laws, regulations or decrees by the Contractor, the Contractor's agents, the Contractor's employees, a subcontractor at any tier, or a supplier or service provider.

The Contractor has the affirmative duty to keep informed of and comply with all laws. The Contractor is not entitled to and shall not rely on any Department employee's interpretation, whether oral or written, of any law, ordinance, or regulation.

107-1.02 PERMITS, LICENSES, AND TAXES. The terms, conditions, and stipulations in permits obtained either by the Department or by the Contractor are made a part of this Contract.

The Department will:

1. Secure permits and licenses that the Department determines are required for the construction of the proposed project, and the use of mandatory sources, designated sources and designated waste disposal areas for the proposed project; and
2. Modify Department-acquired permits during the performance of the contract, if deemed necessary by the Engineer.

The Contractor shall:

1. Acquire any permits and licenses required to complete the project that are not acquired by the Department;
2. Provide qualified professionals to collect data or perform studies necessary to acquire permits for the use of sites not previously permitted;
3. Give all notices required for the prosecution of the work;
4. Abide by all permits and licenses whether acquired by the Department or by the Contractor;

5. Notify the Engineer promptly if any activity cannot be performed as specified in the permits, and cease conducting the activity until permit modifications or any required additional permits are obtained;
6. Obtain modifications to permits acquired by the Contractor;
7. Pay all charges, fees and taxes; and
8. Provide proof of payment of all taxes before the Department makes final payment.

In addition, before using an area not previously permitted for use by the Contract, the Contractor shall:

1. Contact all government agencies having possible or apparent permit authority over that area;
2. Obtain all required permits and licenses from those agencies;
3. Obtain permission from any property owners or lessees with an interest in the property; and
4. Provide all of the following to the Engineer:
 - a. All permits or clearances necessary to use the site for its intended purpose(s);
 - b. A written statement that all permits or clearances necessary have been obtained;
 - c. Written evidence that the Contractor has contacted all of the relevant agencies and that no additional permits are required on the part of the Contractor, including at a minimum the name of the agency and staff person contacted, the date contacted, and result of coordination; and
 - d. A plan that identifies how the site will be finally stabilized and protected.

107-1.07 ARCHAEOLOGICAL OR HISTORICAL DISCOVERIES. When the Contractor's operation encounters prehistoric artifacts, burials, remains of dwelling sites, paleontological remains, shell heaps, land or sea mammal bones, tusks, or other items of historical significance, the Contractor shall:

1. Immediately cease operations at the site of the find;
2. Immediately notify the Engineer of the find; and
3. Not disturb or remove the finds or perform further operations at the site of the finds until directed by the Engineer.

The Engineer will issue an appropriate Change Order if the Engineer orders suspension of the Contractor's operations or orders the Contractor to perform extra work in order to protect an archaeological or historical find.