



Alaska

**Department of
Transportation
and
Public Facilities**

Lump Sum Project Guidelines

Lump Sum Project Guidelines

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1. General

1.1. Definition

A lump sum project is a fixed-price contract that requires a bidder to submit a price for completing an entire project as opposed to bidding on individual pay items. It may also require the bidder to develop quantities from the contract package. This method is typically used for simple projects such as resurfacing, bike paths, box culvert extensions, and minor bridge widening.

1.2. Purpose

This contracting technique is designed to reduce contract administration effort related to quantity measurement and verification, allowing field personnel to spend more time on inspection of the work.

1.3. Limitations

The only changes allowed to a fixed price are for extras or change orders. Any additional work not covered in the contract must be covered by change documents, which must indicate how estimated quantities were calculated. Any costs associated with changed or unforeseen conditions as well as added or deleted work are negotiated using standard practices.

2. Project Selection

The decision to use lump sum contracting should be made by the design group chief in consultation with the construction project manager, and the decision should be identified during the scope development process rather than during the design process.

For partially complete plans and completed “plans on the shelf” that were originally developed as conventional bid-item-type projects, conversion to the lump sum technique may require significant rework and is generally not recommended.

Lump sum contracting should be used on fixed projects. “Fixed” refers to the work activity, not the project cost. Fixed projects are:

- Projects with well-defined scope, quantities, and limits of work, and a low probability of change
- Projects with low risk of unforeseen conditions (for example, projects that do not involve such things as significant underground utilities, earthwork variations, underground drainage pipes, or permafrost under pavement in urban areas)
- Projects with low possibility for change (for example, limited possibilities for added driveways, median modifications due to developments)
- Projects with limited opportunity for contractors to provide less than the required quantities, such as asphalt thickness, steepened slopes, and culvert lengths

Examples of projects that may be good lump sum contracting candidates

- Bridge painting
- Bridge projects (with limited earthwork or pile driving)
- Fencing
- Guardrail
- Intersection improvements (with known utilities)
- Landscaping
- Lighting
- Mill/resurface (without complex overbuild requirements)
- Minor road widening (with limited earthwork)

- Sidewalks
- Signing
- Signalization
- Simple transportation enhancement projects
- Traffic markings

Examples of projects that may not be good candidates for lump sum contracting

- Urban construction/reconstruction
- Major bridge rehabilitation/repair projects where there are many unknown quantities
- Projects where quantities of work, such as excavation, cannot be estimated with sufficient confidence to permit a lump sum offer without a substantial contingency
- Projects where estimated quantities of work required may change significantly during construction
- Projects on which offerors would have to expend unusual effort to develop adequate estimates
- Overlays where pre-level quantities may vary significantly

3. Design

You should detail plans, either by detailed drawings or plan notes, to clearly describe the work to be performed by the contractor. Following are some of the desired elements in a set of lump sum plans:

- Typical sections
- Plan sheets to accurately depict existing conditions and detail all work to be performed by the contractor. (i.e., show all limits of milling and resurfacing, pipe installations, limits of sod when different from typical section, all concrete work, guardrail removal/installation, etc.)
- Summary boxes to define work
- Details of work not covered by typical section or standard drawings

- A list of items of work corresponding to descriptions of the standard specifications and work described by special provisions
- Quantities, if applicable. The designer, in consultation with the construction project manager, decides whether to show quantities in the contract documents.
- An indication in the Bid Schedule and the Invitation for Bids (IFB) that it is a lump sum contract

4. Specifications

The specifications must connect the work described in the plans with the construction and material requirements of the standard specifications and special provisions. Means to accomplish this include:

- Using the work items on the plans included in a new Section 801, shown in Appendix C
- Using the new Section 801-2.1. General and 801-3.1. Materials and Construction, referencing corresponding sections of the standard specifications, as appropriate, for the listed items of work. See Example Lump Sum Bid Item in Appendix C.
- Using the Lump Sum Contract Division 100 General Provisions in Appendix D
- Referencing the standard specification book edition on the cover of bidding documents, when the standard specifications are used according to 1 and 2 above. If the standard specifications are modified and included in the contract, it is not necessary to reference the book edition.

5. Bidding

Consider the effort required for the contractor to compute quantities when establishing the advertising period.

6. Construction Contract Administration

1. Progress payments are to be submitted by the contractor and verified by the project engineer. Make the payments based on methodology established under Section 109-1.6.

2. Construction inspection personnel should not be required to document quantities except for items subject to contingent sum or material contract requirements (i.e. stockpiled material). The Department does the measurements and computations for price adjustments. As-builts will not show quantities.
3. Measurement and completion of final quantity are not required. Focus on inspection and achieving a quality final product. For example, the project engineer will not be concerned with how many square yards of sod it takes or the linear feet of pipe. The project engineer will ensure that the sod, striping, embankment, pipe, etc., meet the lines and grades of the plans and specifications (this will require some measuring).

7. Materials Sampling and Testing

The material testing frequency relies on the items of work identified in the plans and specifications to generate materials testing requirements based on the FHWA-approved Materials Sampling and Testing Frequency. Derive the material testing requirements from the Schedule of Values, if the quantities are not provided. When quantities are provided, derive the material testing requirements from them. Materials not included in the Materials Sampling and Test Accept frequency in accordance with the contract specifications and/or other pertinent contract documents.

8. Appendix A: Form 25D-101 Schedule of Values for Contract Payments

| State of Alaska | | Schedule of Values for Contractor Payments | | | Project Number _____ | |
|---|---------------------|---|-----------------|--------------------|-----------------------|------|
| Department of Transportation and Public Facilities | | | | | Contract Number _____ | |
| | | | | | Location _____ | |
| | | | | | Sheet _____ of _____ | |
| Name and address of Contractor: | | | | | | |
| Contractor Description: | | | | | | |
| Item No. | Description of Item | Quantity | Unit of Measure | Cost per Unit | Total Cost of Item | |
| | | | | | | |
| | | | | | Totals | |
| Submitted by: _____ | | | | Approved by: _____ | | |
| Contractor | | Date | | Project Engineer | | Date |

Form 25D-101

9. Appendix B: Form 25D-102 Periodic Estimate for Partial Payment

| State of Alaska Department of Transportation and Public Facilities | | PERIODIC ESTIMATE FOR PARTIAL PAYMENT | | | | | | |
|---|---------------------|--|---------------|--------------------|---------------------|------------|--------------------------|---------|
| Name and Location of Project _____ | | | | | Project No. _____ | | | |
| Name of Contractor _____ | | | Address _____ | | Contract No. _____ | | | |
| Periodic Estimate No. _____ for Period _____, 19__ | | | | | through _____, 19__ | | | |
| 1. COST OF WORK COMPLETED TO DATE UNDER ORIGINAL CONTRACT ONLY Entries must be limited to work and costs under the original contract only. (Work and cost data under change orders is to be shown on Sheet 2.) Columns (6) and (7): Show all work completed to date under original contract. Column (8): Enter the difference between entries in columns (5) and (7). Column (9): Show percent ratio of column (7) to column (5). | | | | | | | | |
| Item No. | Description of Item | Contract | | | Complete to Date | | Cost of Uncompleted Work | % Comp. |
| | | Quantity | Cost per Unit | Total Cost of Item | Quantity | Total Cost | | |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) |
| | | | | | | | | |

Form 25D-102

10. Appendix C: Example Lump Sum Bid Item

The following is an example of how a Lump Sum item is tied to the Standard Specifications. Use additional special provisions to further modify any of the sections listed below. Add the following section:

SECTION 801 INTERSECTION RECONSTRUCTION

801-1.01 DESCRIPTION. Construct a functionally complete project, in accordance with the Contract. Provide all resources that may reasonably be inferred from the Contract to produce the intended result, without any adjustment in the Bid Amount or Contract Time. Bid Amount and Contract Time may only be modified by Change Order or Supplemental Agreement.

Work items descriptions, materials, and construction requirements will conform to the applicable Highway Specification sections. Assume sole responsibility for means, methods, techniques, sequences or procedures for the Work.

801-2.01 GENERAL. Submit a Schedule of Values as required under Subsection 108-1.03. Include quantities and prices of pay items aggregating the Contract Price. Obtain the Engineer's approval of the Schedule of Values before beginning contract work.

801-3.01 MATERIALS AND CONSTRUCTION. Meet the requirements of the following sections of the referenced Standard Specifications (except the Method of Measurement and Basis of Payment subsections) and the Plans and Special Provisions:

| | |
|---|-------------|
| Clearing and Grubbing | Section 201 |
| Removal of Structures and Obstructions | Section 202 |
| Excavation and Embankment | Section 203 |
| Aggregate Base Course | Section 301 |
| Subbase, Grading B | Section 304 |
| Asphalt Concrete Pavement, Type II, Class B | Section 401 |
| Culverts and Storm Drains | Section 603 |
| Standard Signs | Section 615 |
| Seeding | Section 618 |
| Topsoil | Section 620 |
| Erosion and Pollution Control | Section 641 |
| Construction Surveying | Section 642 |
| Traffic Maintenance | Section 643 |
| Highway Lighting System Complete System | Section 660 |
| Traffic Markings | Section 670 |

801-4.01 METHOD OF MEASUREMENT. The work will not be measured for payment under this pay item, or any related pay item in the sections listed above.

801-5.01 BASIS OF PAYMENT. Paid at the contract lump sum price. Partial payments will be calculated by the amount of work completed based on the approved Schedule of Values and Applications for Payment.

11. Appendix D: Lump Sum Contract Division 100 General Provisions

Delete Division 100 in its entirety and substitute the following:

DIVISION 100 --- GENERAL PROVISIONS (Lump Sum Contract)

SECTION 101 **DEFINITIONS AND TERMS**

101-1.01 GENERAL. In these Specifications, apply the following terms and definitions. Accept ordinary, technical, or trade meanings for terms not defined, within the context they are used.

Titles and headings of sections, subsections and subparts herein are intended for convenience of reference and will not govern their interpretation.

Working titles with masculine gender, and the pronouns and adjectives “he”, “his” and “him”, may be utilized in the Contract documents for the sake of brevity, and are intended to refer to persons of either sex.

Cited publications refer to the most recent issue, including interim publications, in effect on the date of the Invitation for Bids, unless specified by year or date.

These Specifications are written to you, the Bidder or Contractor. All actions required, unless otherwise noted, are to be performed by you or your agent.

These specifications use imperative mood, active voice grammar, wherever possible, to communicate your responsibilities in a direct and concise manner.

The omission of words or phrases such as “a”, “an”, “the”, “the Contractor shall”, “unless otherwise specified”, or “unless otherwise directed” is intentional.

In order to avoid cumbersome and confusing repetition of expressions in these Specifications, whenever anything is, or is to be, done, if, as, or, when, or where “acceptable, accepted, approval, approved, authorized, determined, designated, directed, disapproved, ordered, permitted, rejected, required, satisfactory, specified, submit, sufficient, suitable, suspended, unacceptable, unsatisfactory, or unsuitable”, interpret the expression as if it were followed by the words “by the Engineer” or “to the Engineer”.

101-1.02 ACRONYMS. Interpret acronyms used in the Contract, as follows:

AAC Alaska Administrative Code
AASHTO American Association of State Highway and Transportation Officials
ACI American Concrete Institute
AITC American Institute of Timber Construction
ANSI American National Standards Institute
AS Alaska Statute
ASDS Alaska Sign Design Specifications
ASME American Society of Mechanical Engineers
ASTM American Society for Testing & Materials
ATM Alaska Test Manual
ATSSA American Traffic Safety Services Association
AWPA American Wood Preservers Association
AWG American Wire Gage

AWS American Welding Society
AWWA American Water Works Association
CRSI Concrete Reinforcing Steel Institute
DOT&PF Alaska Department of Transportation and Public Facilities
EI Edison Electrical Institute
EIA Electronic Industries Association
FHWA Federal Highway Administration
FOP Field Operating Procedure (see *Alaska Test Manual*)
FSS Federal Specifications and Standards, General Services Administration
IMSA International Municipal Signal Association
ICEA Insulated Cable Engineers Association
ITE Institute of Transportation Engineers
MUTCD Manual on Uniform Traffic Control Devices
NEC National Electrical Code
NESC National Electrical Safety Code
NEMA National Electrical Manufacturers Association
SAE Society of Automotive Engineers
SSPC Steel Structures Painting Council
UL Underwriters Laboratory
WAQTC Western Alliance for Quality in Transportation Construction (see *Alaska Test Manual*)

101-1.03 DEFINITIONS.

ADDENDA. Clarifications, corrections, or changes to the Plans, Specifications or other Contract documents issued graphically or in writing by the Department after the advertisement but prior to bid opening.

ADVERTISEMENT. The public announcement, as required by law, inviting bids for specified work or materials.

AWARD. The acceptance, by the Department, of the successful bid. The award is effective upon execution of the Contract by the Contracting Officer.

BASE COURSE. One or more layers of specified material placed on a subbase or subgrade to support a surface course.

BID. The bidder's offer, on the prescribed forms, to perform the specified work at the price quoted.

BID BOND. A type of bid guaranty.

BIDDER. An individual, firm, corporation or any acceptable combination thereof, or joint venture submitting a bid for the advertised work.

BID GUARANTY. The security furnished with a bid to guarantee that the bidder will enter into a contract if the Department accepts his bid.

BRIDGE. A structure, including supports, erected over a depression or an obstruction, such as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads and having a length measured along the roadway center of more than 20 feet between undercopings of abutments or spring lines of arches or extreme ends of openings of multiple boxes. The length of a bridge structure is the over-all length measured along the line of survey stationing between backs of abutment backwalls or between ends of the bridge floor.

CALENDAR DAY. Every day shown on the calendar, beginning and ending at midnight.

CHANGE ORDER. A written order by the Department to the Contractor making changes to the Contract, within its general scope, and establishing the basis of payment and time adjustment, if any, for the work affected.

COMPLETION DATE. The date on which all Contract work is specified to be completed.

CONTINGENT SUM. A Contract item reserved by the Department for specified contingencies. Perform Contingent Sum work only upon written order (Directive) of the Engineer. Basis of payment will be as specified in the Contract or the Directive.

CONTRACT. The written agreement between the Department and the Contractor setting forth the obligations of the parties for the performance of the work.

The Contract documents include the Specifications, Plans, Bid Schedule, Contract Forms, Contract Bonds, Addenda, and any Change Orders, Interim Work Authorizations, Directives or Supplemental Agreements that are required to complete the construction of the work in an acceptable manner, all of which constitute one instrument.

CONTRACTING OFFICER. The person authorized by the Commissioner to enter into and administer the Contract on behalf of the Department. He has authority to make findings, determinations and decisions with respect to the Contract and, when necessary, to modify or terminate the Contract.

The Contracting Officer is identified on the Invitation for Bids.

CONTRACT ITEM. A specifically described item of Contract work.

CONTRACT PRICE. The total amount payable to the Contractor by the Department under the terms of the Contract.

CONTRACTOR. The individual, partnership, firm, corporation, or any acceptable combination thereof, contracting with the Department for performance of prescribed work.

CONTRACT TIME. The time allowed under the Contract, including authorized time extensions, for the completion of all work by the Contractor and specified either in calendar days or by completion date.

CONTROLLING ITEM. Any feature of the work considered at the time by the Engineer as essential to the orderly completion of the work and which, if delayed, will delay the time of completion of the Contract (such as an item of work on the critical path of a network schedule.)

CULVERT. Any structure not classified as a bridge, which provides an opening under the embankment.

DAYS. Calendar days.

DEPARTMENT. The Alaska Department of Transportation and Public Facilities.

DIRECTIVE. A written communication to the Contractor from the Engineer enforcing or interpreting a Contract requirement or ordering commencement or suspension of an item of work already established in the Contract.

ENGINEER. The authorized representative of the Contracting Officer who is responsible for administration of the Contract.

EQUIPMENT. All machinery tools, apparatus, and supplies necessary to preserve, maintain, construct, and complete the work.

EQUITABLE ADJUSTMENT. Adjustment in the Contract Price and/or time which is fair to both parties and preserves the relative cost and pricing principles of the original contract.

EXTRA WORK. An item of work not provided for in the Contract as awarded but found essential by the Engineer for the satisfactory completion of the Contract within its intended scope.

HIGHWAY, STREET, OR ROAD. A general term denoting a public way used by vehicles and pedestrians, including the entire area within the right-of-way.

HOLIDAYS. In the State of Alaska, legal holidays occur on:

1. New Year's Day - January 1
2. Martin Luther King, Jr. Day - Third Monday in January
3. Presidents' Day - Third Monday in February
4. Seward's Day - Last Monday in March
5. Memorial Day - Last Monday in May
6. Independence Day - July 4
7. Labor Day - First Monday in September
8. Alaska Day - October 18
9. Veteran's Day - November 11
10. Thanksgiving Day - Fourth Thursday in November
11. Christmas Day - December 25
12. Every Sunday
13. Every day designated by public proclamation by the President of the United States or the Governor of the State as a legal holiday.

If a holiday listed above falls on a Saturday, Saturday and the preceding Friday are both legal holidays for officers and employees of the state. If the holiday falls on a Sunday, except (12) above, Sunday and the following Monday are both legal holidays (See Title 44, Article 1, Alaska Statutes).

INSPECTOR. The Engineer's authorized representative assigned to make detailed inspections of Contract performance.

INTERIM WORK AUTHORIZATION. A written order by the Engineer initiating changes to the Contract, within its general scope, until a subsequent Change Order is executed.

INVITATION FOR BIDS. The advertisement for bids for all work or materials on which bids are required.

MATERIALS CERTIFICATION LIST (MCL). A list of materials for which certifications must be submitted to the Engineer. The MCL will also designate electrical products requiring listing by an approved independent electrical testing laboratory. The MCL is included in the Contract Documents as an appendix.

MATERIALS. Substances specified for use in the construction of the project.

MEDIAN. The portion of a divided highway separating the traveled ways.

NOTICE OF INTENT TO AWARD. The written notice by the Department announcing the apparent successful bidder and establishing the Department's intent to award the Contract when all required conditions are met.

NOTICE TO PROCEED. Written notice to the Contractor to begin Contract work.

ORIGINAL GROUND (OG). The ground surface prior to the start of work.

PAVEMENT STRUCTURE. Composite of subbase, base course, and surface course placed on a subgrade to support and distribute the traffic load to the roadbed.

PAY ITEM. An item of work listed in the approved Schedule of Values.

PAYMENT BOND. The security furnished by the Contractor and his surety to guarantee payment of the debts covered by the bond.

PERFORMANCE BOND. The security furnished by the Contractor and his surety to guarantee performance and completion of the work under the Contract.

PLANS. Contract drawings, profiles, typical cross sections, Standard Drawings, working drawings and supplemental drawings, or reproductions thereof, showing the location, character, dimensions, and details of the work to be done.

PRECONSTRUCTION CONFERENCE. A meeting between the Contractor and the Engineer to discuss the project before the Contractor begins work.

PROFILE GRADE. Trace of a vertical plane intersecting the top surface of the layer shown on the typical section, usually along the longitudinal centerline of the roadbed. Profile grade means either elevation or gradient of such trace according to the context.

PROJECT. The specific section of the highway or other property on which construction is to be performed under the Contract.

RESOURCES. Labor, equipment, materials, supplies, tools, transportation, and supervision necessary to perform the work.

RESPONSIBLE BIDDER. Bidder that the Department determines has the skill, ability, financial resources, and integrity to perform the project.

RESPONSIVE BID. A bid that the Department determines conforms to all material requirements of the Contract documents.

RIGHT-OF-WAY. Land, property, or interest acquired for or devoted to a project.

ROADBED. Graded portion of a highway within top and side slopes, prepared as a foundation for the pavement structure and shoulders.

ROADSIDE. A general term denoting the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside.

ROADSIDE DEVELOPMENT. Items necessary to complete the highway which provides for the preservation of landscape materials and features; the rehabilitation and protection against erosion of all areas disturbed by construction through seeding, sodding, mulching and the placing of other ground covers; such suitable planting and other improvements to increase the effectiveness and enhance the appearance of the highway.

ROADWAY. Portion of a highway within the limits of construction.

SCHEDULE OF VALUES. A comprehensive list of Pay Items, submitted by the Contractor and used by the Engineer as the basis for progress payments. A dollar amount shall be listed for each work task, with the total of all dollar amounts equaling the contract bid price.

SHOULDER. Portion of the roadway adjacent to the traveled way for accommodation of stopped vehicles for emergency use, and for lateral support of base and surface courses.

SIDEWALK. Portion of the project constructed for the use of pedestrians.

SPECIAL PROVISION. Addition or revision to the Standard Specifications applicable to an individual project.

SPECIALTY ITEM. Contract item which requires equipment and crafts not ordinarily performed by a prime contractor for the type of project awarded.

SPECIFICATIONS. General term applied to all Contract terms, conditions, directions, provisions, and requirements.

STANDARD DRAWING. Drawing approved by the Department for repetitive use, showing details to be used where appropriate.

STANDARD MODIFICATION. Addition or revision to a Standard Specification, which amends or supersedes the Standard Specification.

STANDARD SPECIFICATIONS. A book of specifications approved by the Department for general application and repetitive use.

STATE. The State of Alaska acting through its authorized representative.

STATION.

1. A distance of 100 feet measured horizontally, usually along centerline.
2. A precise location along a survey line.

STRUCTURE. Bridge, culvert, catch basin, drop inlet, retaining wall, cribbing, manhole, endwall, building, sewer, service pipe, underdrain, foundation drain, or other similar feature that may be encountered in the work.

SUBCONTRACTOR. Individual or legal entity to which the Contractor sublets part of the Contract.

SUBBASE. Layer of specified material between the subgrade and base course.

SUBGRADE. The top surface of the embankment or excavation on which the pavement structure is constructed.

SUBSTRUCTURE. All portions of a bridge below the bearings of simple and continuous spans, skewbacks of arches and tops of footings of rigid frames, including backwalls, wingwalls and wing protection railings.

SUPERINTENDENT. The Contractor's authorized representative in responsible charge of the work.

SUPERSTRUCTURE. The entire structure above the substructure.

SUPPLEMENTAL AGREEMENT. Negotiated written agreement between the Department and the Contractor authorizing performance of work beyond the general scope of, but in conjunction with, the original Contract.

SURETY. Corporation, partnership or individual, other than the Contractor, executing a bond furnished by the Contractor.

SURFACE COURSE. Top homogenous layer of the Pavement Structure. It is designed to withstand the wear of traffic and the disintegrating effects of climate. Sometimes called the wearing course.

TRAFFIC CONTROL PLAN (TCP). One or more project-specific plans detailing the routing of vehicular and/or pedestrian traffic through or around a construction area including the location of all traffic control devices.

TRAVELED WAY. Portion of the roadway designed for vehicle use, excluding shoulders and auxiliary lanes.

UTILITY. Line, facility or system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or other similar commodity, including a publicly owned fire or police signal system, street lighting system, or railroad which directly or indirectly serves the public. Also means a utility company, inclusive of any subsidiary.

WORK. The act, and the result, of furnishing all resources for the project and performing all duties and obligations required by the Contract.

WORKING DAYS. Calendar days, except Saturdays, Sundays, and State Holidays.

WORKING DRAWINGS. Stress sheets, shop drawings, erection plans, falsework plans, framework plans, cofferdam plans, bending diagrams for reinforcing steel, wiring diagrams and schematics, or any other supplementary plans or similar data which the Contractor is required to submit to the Engineer for approval.

SECTION 102

BIDDING REQUIREMENTS AND CONDITIONS

102-1.01 QUALIFICATION OF BIDDERS. When requested, submit a completed Contractor's Questionnaire (Form 25D-8) stating previous experience in performing comparable work, business and technical organization, financial resources, and equipment available to be used in performing the work.

On wholly State funded projects, submit evidence of Contractor Registration, under AS 08.18, and valid Alaska Business License with bid.

On Federal-Aid projects, submit evidence of Alaska Business License and Contractor Registration prior to award.

102-1.02 CONTENTS OF BID PACKAGE. Upon request, the Department will furnish prospective bidders with a bid package, at the price stated in the Invitation for Bids.

The bid package includes the following:

1. Location and description of the project.
2. Time in which the work must be completed.
3. Amount of the bid guaranty.
4. Date, time, and place for the bid opening.
5. Plans and specifications.
6. Bid forms.

Standard Specifications and other documents designated in the bid package will be considered a part of the bid whether attached or not.

102-1.03 INTERPRETATION OF QUANTITIES. Determine the quantities of work to be done and materials to be furnished under the Contract. Base your bid price on your estimated quantities. The Department assumes no responsibility for any incidental information in the bid package that may be construed as a quantity of work or materials. Accept the Contract Price as full compensation for providing all quantities of work and materials necessary to complete the project as specified.

102-1.04 EXAMINATION OF PLANS, SPECIFICATIONS, SPECIAL PROVISIONS AND SITE OF WORK. Examine the work site and all Contract documents before preparing your bid. Submitting a bid means you have examined the site, are aware of the conditions to be encountered, and understand the Contract requirements.

Material Reports, Soils Investigation Reports, and other records are made available for information purposes only. This information was obtained and is intended for Department design and estimating purposes. They are provided so that bidders may have access to the same information available to the Department. This information is not a substitute for personal investigation, interpretation, or judgment of the bidder. The Department accepts no responsibility for any interpretation or conclusion drawn from the records by the bidder.

Submit any questions about bidding procedures or Contract requirements in sufficient time to get a reply before submitting your bid. No oral statements are binding.

102-1.05 PREPARATION OF BID. Submit your bid on the forms furnished by the Department, or acceptable replicas. Make all entries legible in ink or type.

Enter a price or prices required on the Bid Schedule, in figures. Enter the total amount of the basic bid and, when specified, any alternates.

When a bid item contains a choice to be made by the bidder, indicate your choice according to the Specifications for that item; no further choice is permitted.

The bid must be signed in ink, by the same person(s) authorized to sign the Contract. If a partnership or a joint venture, each principal member must sign. The person or persons signing the bid must also initial any changes made to entries on the bid forms.

For multiple-project bid openings you may limit the total dollar amount or number of projects to be accepted by completing the following statement and adding it to the Bid Form for at least one of the projects being bid. The Department will then determine which of your low bids, up to the total indicated, it will accept.

"We wish to disqualify all of our successful bids at this bid opening which exceed the total of \$ _____ or _____ contracts and hereby authorize the Department to determine which bids to disqualify, based on this limit."

102-1.06 NONRESPONSIVE BIDS.

1. A bid **will** be rejected as nonresponsive if:
 - a. Not properly signed.
 - b. Unauthorized additions, conditional or alternative bids, or other irregularities make the bid incomplete, indefinite, or ambiguous.
 - c. Bidder reserves the right to accept or reject any award, or to enter into a contract pursuant to an award, except for an award limitation under in Subsection 102-1.05.
 - d. Bidder fails to furnish an acceptable bid guaranty with the bid.

2. A bid **may** be rejected as nonresponsive if:
 - a. Not typed or completed in ink.
 - b. Receipt of each addendum is not acknowledged by assigned number and date of issue.
 - c. Submitted on unauthorized forms or is altered or a part is detached.
 - d. A bid price is missing, unless alternate pay items are authorized.
 - e. Bid fails to meet any other material requirement.

102-1.07 BID GUARANTY. Furnish a bid guaranty with your bid, in the amount specified on the Invitation for Bids. Make the guaranty unconditionally payable to the State of Alaska. Provide the guaranty in the form of an acceptable Bid Bond (Form 25D-14), certified check, cashier's check, or money order.

The surety of a Bid Bond may be any corporation or partnership authorized to do business in Alaska as an insurer under AS 21.09. Include a legible Power of Attorney with each Bid Bond.

An individual surety will not be accepted as a bid guaranty.

102-1.08 DELIVERY OF BIDS. Submit your bid in the envelope furnished by the Department, or one of the same size and markings. Fill out the envelope to clearly indicate its contents and the designated address, as shown on the Invitation for Bids.

Do not include in the envelope any bids for other work.

Electronic or fax bids will not be considered, unless specifically called for.

102-1.09 WITHDRAWAL OR REVISION OF BIDS. You may withdraw or revise your bid by mail or by fax, provided that your request is received by the designated office before the time set for opening of bids.

Revisions must only show the modification to the original bid. Do not reveal the amount of the total original or revised bid.

102-1.10 ADDENDA REQUIREMENTS. The Department will issue addenda if clarifications or changes to the Contract documents or bid opening date are needed. The Department may send addenda by any reasonable method such as mail, telegram, courier, or fax. Unless picked up in person or included with the bid documents, addenda will be addressed to the individual or company to whom bidding documents were issued and sent to the

address or fax number on the planholder's list. You are responsible for insuring that you have received all addenda affecting the Invitation for Bids. No claim or protest will be allowed based on the allegation that all addenda were not received. Acknowledge all addenda received, either on the Bid Form or by fax prior to the scheduled time of bid opening. If you receive no addenda, enter "None" on the Bid Form.

102-1.11 RECEIPT AND OPENING OF BIDS. Bids, revisions, and withdrawals must be received by the Department prior to the scheduled time of bid opening in order to be considered.

Bids will be opened and read publicly at the time and place indicated in the Invitation for Bids.

102-1.12 RESPONSIBILITY OF BIDDERS. The Department may disqualify a bidder as nonresponsible for any of the following reasons:

1. Evidence of bid rigging or collusion.
2. Fraud or dishonesty in the performance of previous contracts.
3. More than one bid for the same work from an individual, firm, or corporation under the same or different name.
4. Unsatisfactory performance on previous or current contracts.
5. Failure to pay, or satisfactorily settle, all bills due for labor and material on previous contracts.
6. Uncompleted work which, in the judgment of the Department, might hinder or prevent the bidder's prompt completion of additional work, if awarded.
7. Failure to reimburse the State for monies owed on any previous contracts.
8. Default under previous contracts.
9. Failure to comply with any qualification requirements of the Department.

Nothing contained in this Section deprives the Department of its discretion in determining the lowest responsible bidder.

SECTION 103

AWARD AND EXECUTION OF CONTRACT

103-1.01 CONSIDERATION OF BIDS. Following the bid opening, bids will be compared on the basis of the basic bid or basic bid plus alternates, as indicated on the bid schedule. The results of such comparisons will be made available to the public as soon as practicable.

Until the award of the Contract, the Department can reject any or all bids, waive minor informalities, or advertise for new bids, when in the best interests of the State.

A bidder may request withdrawal of a bid prior to award by

1. submitting a notarized affidavit declaring a clerical or mathematical error in bid preparation,
2. submitting original work sheets used in bid preparation, and
3. describing specific error(s) in detail, including the net effect on the bid.

Bid withdrawal will not be allowed for judgmental errors.

103-1.02 SUBCONTRACTOR LIST. Submit a completed Subcontractor List, Form 25D-5, within 5 working days following your receipt of written notification by the Department that you are the low bidder.

If you fail to submit a completed Subcontractor List form, your bid will be declared nonresponsive and Department will then consider the next lowest bidder for the award of the Contract.

If you fail to list a subcontractor or list more than one subcontractor for the same portion of work and the value of that work is in excess of one-half of one percent of the total bid, you agree to perform that portion of work without a subcontractor and represent that you are qualified to perform that work.

If you list as a subcontractor another contractor who, in turn, sublets the majority of the work required under the Contract, you are in violation of this Subsection.

If you violate this Subsection, the Contracting Officer may

1. cancel the Contract without any damages accruing to the Department; or
2. after notice and a hearing, assess a penalty on the bidder in an amount not exceeding 10% of the value of the subcontract at issue.

You may, without penalty, replace a listed subcontractor who

1. fails to comply with licensing and registration requirements of AS 08.18;
2. files for bankruptcy or becomes insolvent;
3. fails to execute a subcontract with you for performance of the work for which the subcontractor was listed, and you acted in good faith;
4. fails to obtain acceptable bonding;
5. fails to obtain acceptable insurance;
6. fails to perform subcontract work for which the subcontractor was listed;
7. must be replaced to meet your required State and/or Federal affirmative action requirements;
8. refuses to agree or abide with your labor agreement; or
9. is determined by the Department not to be a responsible subcontractor.

You may replace a listed subcontractor for reasons other than those described above, only if it is determined to be in the best interest of the State. Submit your request to the Contracting Officer, in advance, in writing, specifically detailing the basis for the request, and include appropriate supporting documentation.

103-1.03 AWARD OF CONTRACT. The Department will award the Contract to the lowest responsible and responsive bidder, unless rejecting all bids.

The Department will notify the successful bidder in writing of its intent to award the Contract and request that certain required documents, including the Contract Form, bonds, and insurance be submitted within the time specified.

The award will be made within 40 days after bid opening, unless it is delayed due to bid irregularities, late submittal of required documents, or extended by mutual consent.

103-1.04 RETURN OF BID GUARANTY. The Department will return Bid guaranties, other than bid bonds,

1. to all except the two lowest responsive and responsible bidders, as soon as practicable after the opening of bids, and
2. to the two lowest bidders immediately after Contract award.

103-1.05 PERFORMANCE AND PAYMENT BONDS. When required, furnish Performance and Payment Bonds on forms provided by the Department for the sums specified. The surety on each bond may be any corporation or partnership authorized to do business in the State as an insurer under AS 21.09 or two responsible individual sureties approved by the Contracting Officer.

If individual sureties are used, 2 individual sureties must each provide the Department with security equal to the specified amount of each bond. The net worth and the total value of the security assets, located in Alaska, of each individual surety may not be less than the penal amount of the bond. In addition, each individual surety must execute an affidavit of individual surety on a form provided by the Department upon request. Each individual surety affidavit contains a Certificate of Sufficiency which must be signed by an official of an institution having full knowledge of assets and responsibilities of the surety. Any costs incurred by you or the individual surety are subsidiary. Security may be one, or a combination, of:

1. Escrow Account, with a Federally-insured financial institution, in the name of the Department. Acceptable securities include, but are not limited to, cash, treasury notes, bearer instruments having a specific value, or money market certificates.
2. First Deed of Trust, with the Department named as beneficiary, against the unencumbered value of real property or an agreement by a second party, including deeds of trust, mortgage, lien or judgment interests to subrogate their interests to the Department in the real property offered by the individual surety. A title insurance policy, with the Department as a named beneficiary, and a current (within 3 months) professional appraisal or assessed valuation will be required to ascertain the true value of the property offered as collateral. If buildings or other valued improvements are involved then fire and casualty insurance with the Department as a named insured and in limits and coverages acceptable to the Contracting Officer are required. The appraiser must acknowledge in writing that the appraisal is prepared for the benefit of the Department and the Department has the right to rely on its contents. This deed must be recorded in the recording office where the property is located.

Keep all bonds and security assets, as applicable, in effect for 12 months after the date of final payment and until all obligations and liens under this Contract are satisfied.

The Contracting Officer may, at his option, notify the bonding company or surety of any potential default or liability.

Substitute, within 5 working days, another bond and surety, both acceptable to the Department, if the surety

1. becomes insolvent or is declared bankrupt,
2. loses its right to do business in any state affecting the work,
3. ceases to meet Contract requirements,
4. fails to furnish reports of financial condition upon request, or
5. otherwise becomes unacceptable to the Department.

When approved by the Contracting Officer, you may replace

1. an individual surety with a corporate surety, or
2. posted collateral with substitute collateral.

103-1.06 INSURANCE REQUIREMENTS. Provide evidence of insurance for Contractor and subcontractor operations under the Contract covering both of the following:

1. Personal injury and property damage suffered by the State or a third party.
2. Personal injury to your employees and those of subcontractors.

Provide insurance policies that comply with and are issued by insurers licensed under AS 21 and have an acceptable financial rating.

Maintain the following minimum coverages and limits in force at all times during the performance of work under the Contract.

1. Workers' Compensation as required by AS 23.30.045, for all Contractor employees engaged in Contract work. Be responsible for Workers' Compensation Insurance for any subcontractor engaged in Contract work. Coverage must include:
 - a. Waiver of Subrogation against the State and Employer's Liability Protection at \$500,000 each accident/\$500,000 each disease.
 - b. "Other States" Endorsement, if you use out-of-State direct labor.
 - c. United States Longshore and Harbor Workers' Act Endorsement, whenever the work involves activity for which liability may be asserted under that act.
 - d. Maritime Employer's Liability (Jones Act) endorsement with a minimum limit of \$1,000,000, if appropriate.
2. Commercial General Liability: on an occurrence basis covering all operations with combined single limits not less than:
 - a. \$1,000,000 Each Occurrence
 - b. \$1,000,000 Personal Injury
 - c. \$2,000,000 General Aggregate, Project
 - d. \$2,000,000 Products-Completed Operations Aggregate
3. Automobile Liability: covering all vehicles used in Contract work, with combined single limits not less than \$1,000,000 each accident.

Name the State of Alaska as additional insured. This insurance must be considered primary and non-contributory to any other insurance carried by the State through self-insurance or otherwise.

In any contract or agreement with subcontractors performing work, require that all indemnities and waivers of subrogation, and any stipulation to be named as an additional insured, also be extended to waive rights of subrogation against the State of Alaska and to add the State of Alaska as additional named indemnitee and as additional insured.

Providing insurance does not limit your indemnity responsibility under Subsection 107-1.13.

Furnish evidence of insurance to the Department prior to award of the Contract. Such evidence, must be either a certificate of insurance or the policy declaration page and must

1. denote the type, amount, and class of operations covered,
2. show policy effective (and retroactive) dates and expiration dates,
3. include all required endorsements,

4. be executed by the carrier's representative, and
5. must contain the following statement:

"This is to certify that the policies described herein comply with all aspects of the insurance requirements of (Project Name and Number). The insurance carrier agrees to notify the Engineer, in writing, at least 30 days before cancellation of any coverage or reduction in any limits of liability. "

The Department's acceptance of deficient evidence does not constitute a waiver of Contract requirements.

Failure to maintain the specified insurance may be deemed as unacceptable work and remedied under Subsection 105-1.11.

103-1.07 EXECUTION AND APPROVAL OF CONTRACT. Execute and return the Contract Form and all other required documents to the Department within 15 days after receipt. A contract is considered awarded only after it has been fully executed by all parties.

103-1.08 FAILURE TO EXECUTE CONTRACT. If you fail to appropriately execute and return the Contract Form and other documents within 15 days, as required above, the Department may cancel the intent to award and keep the bid guaranty. The Department may then award the Contract to the next lowest responsive and responsible bidder, or readvertise the work.

103-1.09 ORAL STATEMENTS. The written terms of the Contract are binding and will not be changed by any oral statement.

SECTION 104
SCOPE OF WORK

104-1.01 INTENT OF CONTRACT. The intent of the Contract is for you to construct and complete every detail of the described work. Furnish all resources required to complete the Contract work in the time specified.

104-1.02 CHANGES.

1. Within Contract Scope. The Engineer can make written changes to the Contract during its course, within its general scope, and without notice to sureties. Such changes will be made by Change Order and will not invalidate the Contract or release the surety.

If the changed work does not materially differ in character or cost from specified Contract work, perform the work at the original Contract Price.

If an ordered change requires work which is materially different in character or cost from that specified in the Contract, a new Contract item (or items) will be established at agreed prices. If prices cannot be agreed upon, the Engineer may

- a. issue a unilateral Change Order requiring you to proceed with the work, either with payment and/or Contract time allowance provided on the basis of the Engineer's estimate of reasonable value, or with equitable adjustment to be determined later, or
 - b. order the work to be done on a time and materials basis under Subsection 109-1.05. Keep complete daily records of the cost of such work.
2. Outside Contract Scope. Changes determined to be outside the general scope of the Contract will be made only by Supplemental Agreement. Obtain additional bonding and/or insurance when required.
 3. Cost and Pricing Data. Before a Change Order or Supplemental Agreement covering changed or extra work will be approved, you must submit detailed cost or pricing data regarding the changed or extra work. Itemize all costs including labor, materials, and equipment required for the work. Certify that the data submitted is, to your best knowledge and belief, accurate, complete and current as of a mutually agreed date and will continue to be accurate and complete during the performance of the changed or extra work. Explain any price deviation from the schedule of values for similar work.

104-1.03 DIFFERING SITE CONDITIONS. If either party discovers

- subsurface or latent physical conditions at the site, differing materially from those shown in the Contract documents, and which could not have been discovered by a careful examination of the site, or
- unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract,

immediately notify the other party, in writing, of the specific differing site conditions.

Unless otherwise directed, leave the site undisturbed and suspend work in that area until the Engineer investigates the conditions.

If the Engineer finds that such conditions differ materially and increase or decrease the cost of, or the time required for, performance of the Contract, he will prepare a Change Order, for an equitable adjustment to the Contract. Cooperate with the Engineer to reach a prompt and fair settlement.

If you are unable to reach an agreement concerning the alleged differing site condition, you may file a claim under Subsection 105-1.17.

Keep an accurate and detailed record of the actual cost of the affected work. Allow the Engineer access to the keeping and checking of such records. Failure to keep such a record or to give the notice required above will bar any recovery under the differing site condition.

104-1.04 RIGHTS IN AND USE OF MATERIALS FOUND ON THE WORK. Obtain approval before using materials found in the excavation. Replace all excavated material so used with other acceptable material, at no additional cost to the Department, when needed for embankment or backfill. Pay any royalties required.

Obtain written permission before excavating or removing material from within the right-of-way that is outside the grading limits.

The State retains possession of surplus processed materials from State-furnished sources, including any waste material produced as a by-product, without obligation to pay for processing costs. When directed, leave such materials in stockpile; level such stockpile(s); or remove such materials and restore the premises to a satisfactory condition at no additional cost to the Department.

You may temporarily use material from a structure which is designated to be removed, in erecting a new structure. Do not cut or otherwise damage such material without approval.

104-1.05 CLEANUP. Remove all rubbish, temporary structures, and excess materials and equipment from the project site, materials sources, and all work areas before the final inspection.

SECTION 105

CONTROL OF WORK

105-1.01 AUTHORITY OF THE ENGINEER. The Engineer has immediate charge of the engineering details of the project and is responsible for Contract administration. The Engineer can reject defective material and suspend work being performed improperly. The Engineer can accept completed work and authorize contract payments.

The Engineer will decide all questions about the quality and acceptability of materials furnished, work performed, work progress, Contract interpretation; and acceptable fulfillment of the Contract.

The Engineer can suspend the work, wholly or in part, if you:

- fail to correct conditions unsafe for the workers or the general public,
- fail to carry out Contract provisions, or
- fail to comply with orders of the Engineer.

Work can also be suspended due to weather or other conditions considered unsuitable for the prosecution of the work or for reasons deemed to be in the public interest.

The Engineer will give you immediate written notice when he determines that conditions adversely affect the safety or convenience of the traveling public. The notice will state the defects, corrective actions required, and time required to complete such actions. If you fail to take the corrective action within the specified time, the Engineer may suspend the work until it is corrected and/or employ others to correct the condition and deduct the cost from your Contract payment.

The Engineer may, at reasonable times, inspect any part of the work, including private or commercial plants, shops, offices, or other places of business related to Contract performance.

The Engineer may audit any books and records related to Contract performance, including cost or pricing data submitted under Subsection 104-1.02.

Maintain all books and records relating to Contract performance for 3 years after final payment of the Contract and each subcontract.

105-1.02 PLANS AND WORKING DRAWINGS. The Department will provide you at least 2 full size sets of conformed Plans and Contract assemblies including Special Provisions. If cross-sections are available, one set will be provided upon request. Keep a complete set of these documents available on the project site at all times.

Supplement structure plans with working drawings that detail required work not included in the Contract plans. Do not perform work or order materials until working drawings for such work, or changes thereto, are approved.

Show the project name and number in the title block for all drawings. Include the State bridge number, when applicable. Use full size white paper with dark blue or black lines on all working and detail drawings.

Submit for approval not less than 3 sets of any required preliminary detail or shop working drawings. Submit them in time to allow for review and correction prior to beginning the work they cover. The Engineer will return one set of these drawings either approved or marked with corrections to be made, and will retain the other sets. Approval of working drawings does not change the Contract requirements.

You are responsible for agreement of dimensions and details and for conformity with the Plans and Specifications. Indicate clearly on the working drawings any intended deviations from the Plans and Specifications and itemize and explain each deviation in your transmittal letter.

Once you receive approval of the working drawings, furnish to the Engineer

1. enough additional copies to provide 8 approved sets of prints,
2. one set of reproducible transparencies (polyester film), and
3. if requested, an electronic file in AutoCAD drawing interchange format (.DXF).

105-1.03 CONFORMITY WITH PLANS AND SPECIFICATIONS. Perform work and furnish materials which conform to the Plans and Specifications, within specified tolerances. When tolerances are not specified, the Engineer will determine the limits allowed in each case.

All work or material not conforming to the Plans and Specifications is considered unacceptable unless the Engineer finds that reasonably acceptable work has been produced. In this event, the Engineer may allow non-conforming work or material to remain in place, but at a reduced price. The Engineer will document the basis of acceptance and payment by Change Order, unless the item contains a specified price adjustment method.

The failure of the Department to strictly enforce the Contract in one or more instances does not waive its right to do so.

105-1.04 COORDINATION OF PLANS, SPECIFICATIONS AND SPECIAL PROVISIONS. These Standard Specifications, the Plans, Special Provisions, and supplementary documents are essential parts of the Contract. They are intended to complement each other and describe and provide for a complete work. A requirement occurring in one is as binding as if occurring in all.

In case of conflict, calculated dimensions will govern over scaled dimensions. Should other conflicts appear between any of the following documents, a listed document takes precedence over all those listed below it.

1. Special Provisions
2. Plans
3. Standard Modifications
4. Standard Specifications
5. Standard Drawings

Notify the Engineer immediately of any apparent errors or omissions in the Contract documents. The Engineer will make any corrections or interpretations necessary to fulfill the Contract intent.

105-1.05 COOPERATION BY CONTRACTOR. Give the work the constant attention necessary for its progress and cooperate fully with the Engineer, his staff, and other contractors.

Employ a competent superintendent, experienced in the type of work being performed, and capable of reading and thoroughly understanding the Plans and Specifications. Ensure that the superintendent is available at all times to receive and execute Directives and other instructions from the Engineer. Give the superintendent full authority to supply the resources required. Furnish such superintendence regardless of the amount of work sublet.

105-1.06 COOPERATION WITH UTILITIES. The Contract will show the utilities known to be within the work zone and will indicate whether they are to remain in service, be abandoned in place, be adjusted by the utility owner, be adjusted by others, or be adjusted by you. The Department will notify all utility companies to ensure that all necessary adjustments are made as soon as practicable.

Utility locations and elevations shown on the Plans are approximate only. Additional utilities may also exist that are not shown on the Plans. Before starting construction, request all utility owners to locate their utilities. Carefully uncover the located utilities where they intersect the work. If conflicts occur or utilities are discovered that are not shown on the Plans that require adjusting, the Engineer will make Contract adjustments under Subsection 104-1.02.

105-1.07 COOPERATION BETWEEN CONTRACTORS. The Department may, at any time, contract for and perform other work on or near the project.

Cooperate with other contractors working within the same project limits. Conduct work without interrupting or inhibiting the work of other contractors.

Each contractor accepts all liability, financial or otherwise, in connection with his contract. Each contractor protects and saves harmless the Department from any damages or claims caused by inconvenience, delay, or loss from the presence and work of other contractors working within the same project limits.

Coordinate and sequence the work with other contractors. Arrange, place, and dispose of materials without interfering with the operations of other contractors on the same project.

105-1.08 SURVEY CONTROL. The Department will provide you with sufficient horizontal and vertical control data to establish the planned lines, grades, shapes, and structures.

105-1.09 DUTIES OF THE INSPECTOR. The Department's inspectors are authorized to examine all work done and materials furnished. The inspector can reject work or materials until any issues can be referred to and decided by the Engineer. The inspector may not alter or waive Contract requirements, issue instructions contrary to the Contract, or act as your foreman.

105-1.10 INSPECTION OF WORK. All work is subject to inspection. Allow safe access to all parts of the work and provide information and assistance to the Engineer to ensure a complete and detailed inspection.

Work done or materials used without inspection by an authorized Department representative may be ordered removed and replaced at your expense, unless the Department failed to inspect after being given reasonable written notice that the work was to be performed.

Remove and uncover portions of finished work when directed. Once inspected, restore the work to Contract requirements. If the uncovered work is found acceptable, the cost to uncover and restore the work will be paid for as extra work. If the work is found unacceptable, it will be at your expense.

Representatives of Contract funding agencies have the right to inspect the work. This right does not make that entity a party to the Contract and does not interfere with the rights of parties to the Contract.

Neither observations or inspections by the Department nor tests or approvals by others will relieve you from Contract obligations.

105-1.11 REMOVAL OF UNACCEPTABLE AND UNAUTHORIZED WORK. Correct or remove and replace work or material that is deemed unacceptable, at no additional cost to the Department.

Work done contrary to instructions, work done beyond the limits shown in the Contract, or any extra work done without authority, will be considered as unauthorized. Unauthorized work will not be paid for and may be ordered removed at no additional cost to the Department.

If you fail to promptly correct, remove, or replace unacceptable or unauthorized work, as ordered, the Engineer may employ others to remedy the work and deduct the cost from your Contract payment.

105-1.12 LOAD RESTRICTIONS. Comply with all vehicle legal size and weight regulations of 17 AAC 25 and the "*Administrative Permit Manual*."

Obtain permits from the DOT&PF Division of Measurement Standards & Commercial Vehicle Enforcement before moving oversized or overweight equipment on a State highway.

The Engineer may waive the permit requirement for oversized and overweight vehicle movements within the project limits when such movements are adequately controlled under an approved Traffic Control Plan, under Subsection 643-1.03.

105-1.13 MAINTENANCE DURING CONSTRUCTION. Maintain the project from the date physical construction begins until project completion. Maintain also areas outside the project that are affected by the work, such as haul

routes, detour routes, structures, material sites, and equipment storage sites, during periods of their use. Maintain these areas continually and effectively, on a daily basis, with adequate resources to keep them in satisfactory condition at all times.

You may be relieved of this maintenance responsibility for specified portions of the project:

- during a seasonal suspension of work (Subsection 643-3.07),
- following partial acceptance (Subsection 105-1.14), or
- following substantial completion (Subsection 108-1.07).

The Department is responsible for routine snow removal and ice control only on those portions of the project which are open for public use.

Maintain previously constructed work until covered by a subsequent course, layer, or structure.

105-1.14 PARTIAL ACCEPTANCE. If you complete a usable unit or portion of the project, the occupancy of which will benefit the Department, you may request a final inspection of that unit. If the Engineer finds upon inspection that the unit has been satisfactorily completed in compliance with the Contract, he may accept it as complete, and you will be relieved of further responsibility for that unit. Such partial acceptance and beneficial occupancy by the Department does not void or alter any provision of the Contract, and will only be made at the discretion of the Department.

105-1.15 PROJECT COMPLETION. Notify the Engineer upon completion of all construction provided for under the Contract. The Engineer will then schedule and conduct the project final inspection.

Promptly complete or correct any work determined unsatisfactory by the inspection and request a re-inspection.

When all physical work and cleanup provided for under the Contract is found to be complete, except for work specified under Subsection 621-3.04, Period of Establishment, the Engineer will issue a letter of project completion. Project completion relieves you from further maintenance responsibilities, except under Subsection 621-3.04, and stops Contract time but does not relieve you of any other Contract obligations.

105-1.16 FINAL ACCEPTANCE. The Department will issue the letter of Final Acceptance to you after all of the following:

1. Project completion
2. Receipt of all certificates, as-builts, warranties, and other required documents
3. Certification of payment of payroll and revenue taxes
4. Department's receipt of your Contractor's Release, with no exceptions
5. Final payment under the Contract

Final Acceptance will release you from further Contract obligations, except those

1. specified under Subsection 107-1.18,
2. required under law or regulation, or
3. required under warranty, guaranty, or bond.

105-1.17 CLAIMS FOR ADJUSTMENT AND DISPUTES. Notify the Engineer as soon as you become aware of any act or occurrence which may form the basis of a claim for additional compensation or an extension of Contract time or of any dispute regarding a question of fact or interpretation of the Contract. The Engineer has no obligation to investigate any fact or occurrence that might form the basis of a claim or to provide any additional compensation or extension of Contract time unless you have notified him in a timely manner of all facts you believe form the basis for the claim.

If the matter is not resolved by agreement within 7 days, submit any Intent to Claim, in writing, within the next 14 days.

If you believe additional compensation or time is warranted, immediately begin keeping complete, accurate, and specific daily records concerning every detail of the potential claim including actual costs incurred. Give the Engineer access to any such records and furnish the Engineer copies, if requested. Equipment costs must be based on your internal rates for ownership, depreciation, and operating expenses and not on published rental rates.

Submit any Claim to the Contracting Officer, in writing, within 90 days of the act or occurrence forming the basis of the claim. The Contracting Officer will acknowledge receipt of the Claim in writing.

You waive any right to claim if the Engineer was not notified properly or afforded the opportunity to inspect conditions or monitor actual costs.

The Claim must include all of the following:

1. The act, event, or condition the claim is based on.
2. The Contract provisions which apply to the claim and provide relief.
3. The item or items of Contract work affected and how they are affected.
4. The specific relief requested, including Contract time if applicable, and the basis upon which it was calculated.
5. A statement certifying that the claim is made in good faith, that the supporting cost and pricing data are accurate and complete to the best of your knowledge and belief, and that the amount requested accurately reflects the Contract adjustment which you believe is due.

The Claim, in order to be valid, must not only show that you suffered damages or delay but that it was caused by the act, event, or condition complained of and that the Contract provides entitlement to relief for such act, event, or condition.

The Department can make written request to you at any time for additional information relative to the Claim. Provide the Department such additional information within 30 days of receipt of such a request. Failure to furnish such information may be regarded as a waiver of the Claim.

You will be furnished the Contracting Officer's Decision within 90 days, unless additional information is requested by the Contracting Officer. The Contracting Officer's Decision is final and conclusive unless, within 14 days of receipt of the decision, you deliver a Notice of Appeal to the Appeals Officer. Procedures for appeals are covered under AS 36.30.625 and AS 36.30.63.

SECTION 106

CONTROL OF MATERIAL

106-1.01 SOURCE OF SUPPLY AND QUALITY REQUIREMENTS. Furnish all materials required to complete the work, except those specified as Department-furnished. Furnish only materials that are new and meet Contract requirements.

Notify the Engineer of proposed sources of materials at least 30 days before shipment.

Submit to the Engineer and to the DOT&PF State Materials Engineer a complete list of materials to be purchased from outside suppliers sufficiently in advance of fabrication and/or shipment to permit inspection of such materials.

The Department may employ agents to inspect any materials originating outside Alaska. Materials may be conditionally approved at the supply source. Approval of any material or product given prior to installation is subject to field inspection.

106-1.02 LOCAL MATERIAL SOURCES.

1. General. Furnish all required materials from sources of your choice. Produce a sufficient quantity of materials to complete the project. Sort, blend, stockpile, and rehandle material as needed to produce the specified product. Determine the type of equipment and methods to be used. The cost to explore and develop material sources is subsidiary. Perform quality control during materials processing.
2. Inspection and Acceptance. Obtain acceptable material samples from locations designated within the source. The Department will test samples to determine the quality of the source. The Department can reject materials, at any time, that do not meet the specifications.
3. State Owned Sources. The Department will furnish you copies of any existing drill logs, test results, or other data, upon request. You are responsible to verify any assumptions based on this data and should further explore areas not logged or tested. The Department accepts no responsibility for conclusions drawn from the data provided nor for any consequences arising from failure to further explore areas not logged or tested.

Prior to starting excavation, submit to the Engineer for approval a detailed mining plan that includes:

- plan and cross-sectional views of the site,
- applicable boundaries or property lines,
- areas and depths to be developed, and
- locations of access roads, stripping, sorting, and waste piles, crushing and plant sites, stockpile sites, drainage features, and erosion and pollution control features.

Remove, from State sources, only material required for use on the project.

After completing work in a State source, finish and grade work areas to a neat, acceptable condition. Grade to prevent standing water and erosion. Draining of material sources dewatered by pumping or used as bail sites is not required.

- a. Designated Sources. You are permitted to take materials from Contract designated sources and to use designated sources for plant sites, stockpiles, and haul roads. The Contract will define acquisition rights and stipulations for each site.

Expect variations in material quality within the deposits.

Procure material only from acceptable portions of the deposit.

Designated sources might not contain enough material of the quality required for the project. You must determine if additional sources are needed prior to bid, and prepare your bid accordingly.

If you choose to furnish material from a designated source, and it is subsequently found that the quality, quantity, or suitability of material producible from this source is not as represented by the materials report and a change of source is necessary for that reason, an equitable adjustment will be made.

If you choose for economic or other reasons to change sources, no additional payment will be made.

- b. Available Sources. The Department may list in the Contract documents other material sources that are available for use on the project. The Department makes no representation of the quality, quantity, or suitability of material available from these sources.
 - c. Other Sources Under State Control. If you desire to use material from a State source that is not listed in the Contract documents, submit a request to the Engineer. The Department may, at its option, acquire or make the source available only if there is a demonstrated benefit to the State. Such sources will then be added to the Contract by Change Order. The Department makes no representation as to the quality, quantity, or suitability of material from these sources.
4. Contractor Furnished Sources. Acquire the necessary rights to take materials from Contractor furnished sources and pay all related costs to obtain, develop, and use the sources including increased length of haul. Provide the Engineer with documentation showing you have the necessary rights prior to beginning activities in these sources.

106-1.03 TESTING AND ACCEPTANCE. Materials are subject to inspection and testing. Use untested materials at your own risk. Remove and replace unacceptable material according to Subsection 105-1.11. When the Contract specifies Quality Control and/or Acceptance testing frequencies, provide timely measurements of material production and application rates to the Engineer, to allow proper sampling and testing.

1. **QUALITY CONTROL.** Control the quality of construction and materials used in the work. Quality control is process control, and includes all activities that ensure that a product meets Contract specifications. Perform as follows:
 - a. Submit a Quality Control Plan no less than 5 working days prior to the preconstruction conference. Include, for each material being produced, the methods to be used for sampling and testing, the proposed testing frequency, personnel qualifications, and equipment descriptions. Include the use of control charts, chart update frequency, chart posting location, and criteria for corrective action.
 - b. Sample materials during manufacturing or processing and perform quality control tests, as needed, to ensure materials produced conform to the Contract Specifications. Document quality control tests and make them available to the Engineer.
2. **ACCEPTANCE TESTING.** The Department has the exclusive right and responsibility for determining the acceptability of the construction and all incorporated materials.

The Department will sample materials and perform acceptance tests. Copies of tests will be furnished to you upon request.

Do not rely on the Department's acceptance testing for your quality control. The Engineer will not retest materials failing acceptance tests, unless you are following an approved Quality Control Plan.

106-1.04 PLANT INSPECTION. The Department may periodically inspect manufacturing methods and materials at the source of production. This may be the basis for approval of manufactured lots as to the quality of materials or the manufacturing process.

Meet the following conditions when plant inspection is undertaken:

1. Advise the Department of the production and/or fabrication schedule at least 48 hours prior to beginning work on any item requiring inspection.
2. Give the inspector or inspection agency full and safe access to all parts of the plant used to manufacture or produce materials.
3. Cooperate fully and assist the inspector during the inspection.

The Department can retest and reject materials conditionally approved at the source, prior to Final Acceptance.

106-1.05 CERTIFICATE OF COMPLIANCE. The Engineer may authorize the use of certain materials or products on the basis of a manufacturer's certificate of compliance. The certificate must state that the material or assembly fully complies with Contract requirements, include the project name and number, and be signed by the manufacturer. The certificate must accompany each lot of such materials or products delivered to the work and clearly identify the lot.

The Engineer may authorize the use of materials or products listed in the DOT&PF Approved Products List as meeting specific Contract requirements.

The Engineer may test and reject materials or products used on the basis of certificates of compliance or the Approved Products List, at any time, whether in place or not.

Submit any requests for substitution of a specified product to the Engineer. Include a manufacturer's statement which certifies:

1. conformance to the specified performance, testing, quality or dimensional requirements and,
2. suitability for the use intended in the Contract work.

The Engineer will determine the acceptability of a proposed substitute for use in the work. If approved, a Change Order will be executed.

When a Materials Certification List (MCL) is included in the Contract Documents, submit all listed material certifications to the Engineer, as required.

106-1.06 STORAGE OF MATERIALS. Store and handle materials to preserve their quality and fitness for the work. Store materials so they can be readily inspected.

Use only approved portions of the project site for storage of materials and equipment or plant operations. Provide any additional space needed for such purposes without extra compensation. Restore storage and plant sites to their original condition.

Obtain owner or lessee's written permission before storing material on private property. Furnish copies of the permission to the Engineer, if requested.

106-1.07 DEPARTMENT-FURNISHED MATERIAL. Department-furnished material will be delivered or made available to you at the locations specified in the Special Provisions. You are responsible for such material after delivery. Make good or reimburse the Department for any shortages or deficiencies, from any cause, and for any damage which may occur after such delivery. Pay any demurrage charges resulting from your failure to accept material delivered as scheduled.

SECTION 107

LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

107-1.01 LAWS TO BE OBSERVED. Observe and comply with all Federal, State, and local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having jurisdiction or authority.

Protect and indemnify the State and its representatives against any claim or liability originating from violating any of the above by any of the following or their agents or employees:

- Contractor
- subcontractor at any tier
- supplier or service provider

107-1.02 PERMITS, LICENSES, AND TAXES. Acquire all permits and licenses; pay all charges, fees, and taxes; and give all notices necessary to perform the work. Retain qualified professionals to collect data or perform studies necessary to support the acquisition of any required permits.

Abide by the terms, conditions, and stipulations contained in permits for work under the Contract, whether obtained by you or the Department.

Immediately notify the Engineer, if an activity cannot be performed as specified in a permit. Do not conduct such work until required permit modifications and/or additional permits are obtained. You are responsible for modifying contractor-acquired permits and acquiring any additional permits necessary to perform work which does not comply with existing permits. The Department will modify Department-acquired permits, if necessary.

Prior to using an area not previously permitted for such use by the Contract, contact all governmental agencies having permit authority and all property owners or lessees with an interest in the property. Provide the following to the Engineer:

1. Copies of all necessary permits, clearances, or permissions to use the site for its intended purpose(s).
2. A written statement that all necessary permits or clearances have been obtained.
3. A complete list of agencies and persons contacted to inquire about needed permits, the date contacted, and result of coordination.
4. A plan that identifies how the site will be finally stabilized and protected.

The Engineer may reject a proposed site if you fail to provide any of the above information and/or to demonstrate that a proposed site can be finally stabilized to eliminate future adverse impacts to natural resources.

107-1.03 PATENTED DEVICES, MATERIALS AND PROCESSES. Provide proof of legal agreement with the patentee or owner, if necessary, for use of any design, device, material, process, trademark, or copyright.

Indemnify and save harmless the State and any affected third party or political subdivision from claims of infringement that result from use of any patented or copyrighted item.

Indemnify the State for costs, expenses, and damages obligated for payment resulting from infringement during the conduct of the work or after its completion.

107-1.04 RESTORATION OF SURFACE OPENED BY PERMIT. The Department has sole discretion for granting permits for utility work within the right-of-way. Allow parties bearing such permits to work and make excavations in the project. Consider any resulting delays to be noncompensable.

When ordered by the Engineer, make all necessary repairs due to such excavations. Such work will be paid for as provided in these Specifications or as extra work and will be subject to the same conditions as original work performed.

107-1.05 FEDERAL AID PROVISIONS. Federal requirements of a Federally-assisted Contract supercede conflicting laws, rules, or regulations.

Allow appropriate Federal officials access to inspect the work. The Federal government is not a party to the Contract and will not interfere with the rights of Contract parties.

107-1.06 SANITARY, HEALTH, AND SAFETY PROVISIONS. Provide employee accommodations meeting the requirements of State and local Boards of Health, or other bodies or tribunals having jurisdiction. Maintain such accommodations in a neat and sanitary condition.

Comply with Federal, State, and local laws, rules, and regulations concerning construction safety and health standards. Do not expose the public to, or require any workers to work under, conditions that are unsanitary, hazardous, or dangerous to health or safety.

U.S. Mine Safety and Health Administration rules apply when the project includes pit or quarry operations. Follow the requirements of 30 CFR 46.11. Provide Site-Specific Hazard Awareness Training for all the Engineer's personnel (non-miners) prior to beginning any materials source operations. Offer the training at each surface mine that you use to supply processed aggregates.

107-1.07 ARCHAEOLOGICAL OR HISTORICAL DISCOVERIES. Cease operations immediately and notify the Engineer when you encounter prehistoric artifacts, burials, remains of dwelling sites, paleontological remains, such as shell heaps, land or sea mammal bones or tusks, or items of historical significance.

Protect artifacts or specimens from removal, damage, and disturbance.

If the Engineer orders a further suspension of operations or orders extra work, it will be covered by an appropriate Change Order.

107-1.08 RAILWAY-HIGHWAY PROVISIONS. Conduct all operations on or near railways according to the Contract and any permits issued by the Railroad. Obtain permits from the Railroad if additional temporary crossings are needed.

107-1.09 CONSTRUCTION OVER OR ADJACENT TO NAVIGABLE WATERS. Ensure that navigable waters are not obstructed to navigation and that existing navigable depths are not impaired, except as allowed by permit issued by the U.S. Coast Guard and/or the U.S. Army Corps of Engineers.

107-1.10 USE OF EXPLOSIVES. Ensure that the use of explosives does not endanger life, property, or new work. Assume liability for all property damage, injury, or death resulting from using explosives.

Give property owners, the traveling public, and public utility companies in the vicinity adequate notice before using explosives.

107-1.11 PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE. Protect from disturbance all land monuments and property marks. Obtain Engineer approval of witnessing or referencing their location before moving them.

Preserve public and private property during the work. Assume liability for any damage to property resulting from defective work or materials, or any act, omission, neglect, or misconduct in executing the Contract. Restore damaged property to a condition similar or equal to that existing before the damage, at no additional cost to the Department.

Minimize disturbance to natural resources. Do not place fill or operate equipment on designated wetlands or in or on the banks of designated fish streams.

Do not excavate, or use for fill, any material at any site suspected of or found to contain hazardous materials or petroleum fuels, without the Engineer's written approval. Report immediately to the Engineer any known or suspected hazardous material discovered, exposed, or released into the air, ground, or water during construction

of the project. Report any containment, cleanup, or restoration activities anticipated or performed as a result of such release or discovery. Hazardous materials include, but are not limited to petroleum products, oils, solvents, paints, and chemicals that are toxic, corrosive, explosive, or flammable.

Remove all debris, trash, and other solid waste from the project site as soon as possible and according to the Alaska Department of Environmental Conservation's Solid Waste Program.

107-1.12 FOREST PROTECTION. Comply with all regulations governing protection of forests and working within forests. Keep the work areas in an orderly condition; obtain all required permits; dispose promptly of all refuse. Prevent and assist with the suppression of forest fires. Cooperate with responsible forestry officials.

107-1.13 RESPONSIBILITY FOR DAMAGE CLAIMS. Indemnify, save harmless, and defend the Department, its agents and its employees from all claims and actions from injury or damage to persons or property resulting from your performance of this Contract, unless the sole proximate cause of the injury or damage is the Department's negligence.

The parties executing this Contract specifically agree that it is not intended to create anyone as a third party beneficiary or to authorize anyone not a party to the Contract to maintain an action for personal injuries or property damage under Contract provisions.

107-1.14 OPENING SECTIONS OF THE PROJECT TO TRAFFIC. The Engineer may direct the opening of sections of the work to traffic prior to completion of the entire project. Such action does not constitute acceptance of the work, except under Subsection 105-1.14, or waive any Contract provisions.

The Engineer will give written notice establishing a time period for completing any features of the opened section of work that are behind schedule.

Maintain the work and perform all necessary repairs or renewals on sections thus opened to traffic, without additional compensation.

Conduct the remainder of the work with minimum interference to traffic.

107-1.15 CONTRACTOR'S RESPONSIBILITY FOR WORK. Take charge and custody of each portion of the work until Partial Acceptance or Project Completion. This includes periods of suspended work. Protect the work against loss or damage from all causes whether arising from the execution or nonexecution of the work.

Rebuild, repair, restore, and make good all losses or damages to any portion of the work, including that caused by vandalism, theft, accommodation of public traffic, and weather. The Department will only be responsible for loss or damage due to unforeseeable causes beyond the control of and without your fault or negligence such as Acts of God, the public enemy, and governmental authorities.

107-1.16 CONTRACTOR'S RESPONSIBILITY FOR UTILITY PROPERTY AND SERVICES. Prevent damage to utilities within or adjacent to the project. Make all necessary arrangements with the owners of such utilities for their protection before commencing work.

Cooperate with owners of utility lines or other facilities in their removal and rearrangement operations in order to facilitate these operations, avoid duplication of work, and prevent unnecessary interruption of services.

Ensure that all work undertaken near energized high voltage overhead electrical lines or conductors conforms to AS 18.60.670, AS 18.60.675, and AS 18.60.680.

In the event of accidental interruption of utility service, promptly notify the utility owner and the Engineer. Cooperate with them until service is restored.

Do not begin work around fire hydrants until the local fire authority approves provisions for continued service.

When utilities are damaged by you, the utility owner may choose to repair the damage or have you repair the damage.

Be responsible for the cost to repair the damage when:

1. the utility is shown on the Plans or other Contract documents,
2. the utility has been field located by the owner or operator,
3. you failed to make a proper or timely field locate request,
4. the utility is visually apparent in the field, or
5. you could otherwise reasonably have been aware of such utility.

You will be paid for repairing the damage, as Extra Work under Subsection 109-1.05, when:

1. the field locate by the owner or operator of a buried utility, is found to be in error by more than 2.5 feet horizontally, or
2. the utility was not shown in the Contract or located by the utility owner and you could not reasonably have been expected to be aware of such utility.

107-1.17 FURNISHING RIGHT-OF-WAY. The Department will secure rights-of-way before construction begins. The Contract will indicate any exceptions.

107-1.18 NO WAIVER OF LEGAL RIGHTS. Acceptance of or payment for work done or materials furnished does not preclude the Department from correcting any measurement, estimate or certificate made, if it is later found that the work or materials do not in fact conform to the Contract.

The Department may recover from you or your surety, or both, any damages sustained or overpayments made due to the failure to comply with the terms of the Contract.

Neither the acceptance by the Department, nor any payment made for any part of the work, nor any time extension, nor any possession taken by the Department, waives any portion of the Contract or any power herein reserved, or any right to damages.

A waiver by the Department of any breach of the Contract is not a waiver of any other or subsequent breach.

107-1.19 GRATUITY AND CONFLICT OF INTEREST. Do not extend any loan, gratuity, or gift to any employee or agent of the Department. Do not rent or purchase any equipment or materials from any employee or agent of the Department. Before final payment, furnish the Department a signed affidavit certifying compliance with the above provision.

SECTION 108

PROSECUTION AND PROGRESS

108-1.01 SUBLETTING OF CONTRACT. Obtain the Engineer's written approval before subletting, selling, transferring, assigning, or otherwise disposing of any portion of the Contract.

Perform, with your own organization, work amounting to at least 40% of the original Contract Price, less Specialty Items approved by the Engineer.

Be responsible for fulfillment of the Contract and for liability under the bonds regardless of subcontract approvals or terms.

The Engineer will consider the following as subcontracting, unless performed by you:

1. Roadside Production. Roadside production of crushed stone, gravel, and other materials with portable or semiportable crushing, screening, or washing plants set up or reopened in the vicinity of the project to supply materials for the project.
2. Hauling. Hauling of materials from roadside production sources or from railroad or commercial truck delivery points, to batching plants, mixing plants, or directly to their place of use in the project, and all hauling of materials from batching plants and mixing plants to their place of use in the project.

The Engineer will not consider the following as subcontracting:

1. Commercial Plants. The purchase of sand, gravel, crushed stone, crushed slag, batched concrete aggregates, ready-mixed concrete, and any other materials produced at and furnished from established and recognized commercial plants, together with the delivery of such materials to the site of work by means of vehicles owned and operated by such plants or by recognized commercial hauling companies.
2. Hauling. If batching plants or mixing plants are set up at rail or commercial truck delivery points and material in part supplied to such plants by rail or commercial truck transportation companies, the remaining materials required at such batching or mixing plants may be hauled to such plants without such hauling being considered as subcontracting.
3. Owner-Operators. The hauling of materials for the project by bona fide truck owner-operators who are listed as such on the certified payroll.

Collect and maintain at the project site current and valid copies of the following to prove that each trucker listed is a bona fide owner-operator:

- a. Alaska Driver's License with appropriate CDL class and endorsements.
- b. Business license for trucking with supporting documents that list the driver as the business owner or corporate officer.
- c. Documents showing the driver's ownership interest in the truck, to include:
 - (1) truck registration, and
 - (2) copy of lease (if truck is not registered in driver's name or in the name of the driver's company).

Maintain legible copies of such records for a period of at least 3 years after final acceptance of the project.

Additionally, to be classified as a valid owner-operator a truck driver must also qualify as an independent contractor under the following Alaska Department of Labor criteria:

- a. owner-operator's right to control the manner in which the work is to be performed;

- b. owner-operator's opportunity for profit or loss depending upon their managerial skill;
- c. owner-operator's investment in equipment or materials required for their task, or the employment of helpers;
- d. whether the service rendered requires a special skill;
- e. degree of permanence of the working relationship; and
- f. whether the service rendered is an integral part of the owner-operator's business.

The status of owner-operators is subject to evaluation throughout the project period. If the criteria for an independent contractor is not met, submit amended payrolls listing the driver as an employee subject to all labor provisions of the Contract.

Issue each owner-operator an approved placard which identifies both the truck driver and the vehicle. Ensure placards are prominently displayed on the vehicle and are visible to scale operators and inspectors.

Furnish the Engineer with 3 copies of all subcontracts for approval. Subcontracts must be signed by both parties, dated, and include prices of the subcontracted work.

Ensure that the required prompt payment provisions of AS 36.90.210 are included in all subcontracts.

108-1.02 NOTICE TO PROCEED. The Department will issue a Notice to Proceed authorizing commencement of work and indicating when Contract time will begin. Do not begin construction operations before the effective date of the Notice to Proceed. Commencement of work prior to the effective date of the Notice to Proceed constitutes a waiver of this notice and begins Contract time. Give the Engineer at least 48 hours notice before starting work at the project site.

108-1.03 PROSECUTION AND PROGRESS. Prior to commencing work, meet with the Engineer for a preconstruction conference. Submit the following at least 5 working days before the preconstruction conference:

1. A progress schedule, in a format acceptable to the Engineer, showing the order in which you propose to carry out the work and the contemplated dates on which you and your subcontractors will start and finish each of the salient features of the work, including any scheduled periods of shutdown. Indicate any anticipated periods of multiple-shift work.
2. A Schedule of Values, on approved forms. Break down all Contract work into measurable Pay Items, in sufficient detail to serve as a basis of progress payments. Include any stockpiled materials for which interim payment is proposed. Indicate a quantity and unit cost for each Pay Item. Include appropriate overhead and profit in each unit cost. Show the total cost for each item and the total cost for all items. The total cost of all items must equal the total Contract Price.
3. A list showing anticipated dates for procurement of materials and equipment, ordering of articles of special manufacture, furnishing of plans, drawings, and other data required under Subsection 105-1.02, and for other events such as inspection of structural steel fabrication.
4. A list showing all proposed subcontractors and material suppliers.
5. A Construction Phasing plan, as required under Subsection 643-1.05.
6. A Storm Water Pollution Prevention Plan and a Hazardous Material Control Plan, as required under Section 641.
7. A letter designating your project Superintendent, defining that person's responsibility and authority, and providing a specimen signature.
8. A letter designating your EEO Officer and DBE Officer and those persons' responsibilities and authority.
9. A Quality Control Plan, as required under Subsection 106-1.03.

10. A Wastewater Treatment Plan, as required under Subsection 510-3.04.

Provide adequate resources to ensure the completion of the project according to the Plans and Specifications. Prosecute the work as vigorously and as continuously as weather conditions or other interferences may permit. Take into consideration and make due allowances for foreseeable delays and interruptions to the work such as unfavorable weather, frozen ground, equipment breakdowns, shipping delays, quantity overruns, utility work, and permit restrictions.

Upon a substantial change to your work schedule or when directed, submit a revised progress schedule in the form required. Include a written explanation for each revision made in the schedule or methods of operation.

Adjust your forces, equipment and work schedules as necessary to ensure completion of the work within the Contract time.

Notify the Engineer at least 24 hours before resuming suspended operations.

108-1.04 LIMITATION OF OPERATIONS. Do not open up work to the detriment of work already started. Minimize interfering with traffic within the project. Obtain the Engineer's written permission to stop or otherwise impede traffic outside of the project limits.

108-1.05 CHARACTER OF WORKERS, METHODS, AND EQUIPMENT. Ensure workers have the skill and experience to perform assigned work. Remove employees who perform the work in an unskilled manner or who are intemperate or disorderly. Rehire these employees only with the Engineer's written permission. The Engineer may suspend work for failure to remove any employee or to furnish suitable and sufficient personnel necessary to perform the work.

Use equipment of the size and mechanical condition to produce the specified work. Ensure that the equipment does not damage roadways or property.

Request permission in writing to use methods or equipment different than those specified.

Provide the Engineer with a list of all powered equipment which will be used on the project. Show the make, model, year, capacity, horsepower, and related information. Update this list at least weekly.

108-1.06 DETERMINING AND EXTENDING CONTRACT TIME.

1. Contract Time. Contract time will be determined by one of the following specified methods:

a. Calendar Days. Complete all Contract work within the specified number of calendar days.

Contract time begins on the day following your receipt of the Notice to Proceed, unless a starting date is given. Contract time will continue to be counted until and including the date of project completion.

Contract time will not be counted during the period from November 1 through April 30, provided that work on the project is suspended.

b. Completion Date. Complete all Contract work by the specified date.

2. Suspension and Extension of Contract Time. The Engineer may, by written order, suspend work on the project, in whole or in part, for such periods as he determines necessary.

The Engineer may extend Contract time due to delays caused by or suspensions ordered for reasons listed below. Contract time may only be extended due to delays in the completion of controlling items of work for unforeseeable causes beyond your control and without your fault or negligence, including but not restricted to:

- acts of God,
- acts of the public enemy,

- fires,
- floods,
- epidemics,
- quarantine restrictions,
- strikes,
- freight embargoes,
- unusually severe weather, or
- delays of subcontractors due to such causes.

No additional Contract time will be allowed due to delays caused by or suspensions ordered for the reasons listed below.

- Unsafe conditions
- Adverse weather
- Failure to carry out Contract provisions
- Failure to carry out orders given by the Engineer
- Failure to timely obtain materials, equipment, or services

Submit any request for a time extension under Subsection 105-1.17.

The time allowed in the Contract, as awarded, is based on performing the original Contract work. If satisfactory fulfillment of the Contract requires extra or additional work, Contract time may be extended on a basis commensurate with the amount and difficulty of the added work, provided that the added work is for a controlling item.

Suspension of work by the Engineer or delays in the completion of the work is not a basis of claim for damages or extra compensation, unless otherwise provided for in the Contract.

108-1.07 FAILURE TO COMPLETE ON TIME. For each calendar day that the work remains incomplete after the expiration of the Contract time, the Engineer will deduct the full daily charge corresponding to the original Contract Price in the following schedule from progress payments. If no money is due you, the Department can recover said sum from you, your surety or both. The daily charge reimburses the Department for estimated additional Contract administration expenses due to your failure to complete the work within the time specified. These are liquidated damages and not penalties.

TABLE 108-1

**DAILY CHARGE FOR LIQUIDATED DAMAGES
FOR EACH CALENDAR DAY OF DELAY**

| Original Contract Price | | Daily Charge |
|-------------------------|------------------|--------------|
| From More Than | To and Including | |
| \$ 0 | \$ 100,000 | \$ 300 |
| 100,000 | 500,000 | 550 |
| 500,000 | 1,000,000 | 750 |
| 1,000,000 | 2,000,000 | 1,000 |
| 2,000,000 | 5,000,000 | 1,500 |
| 5,000,000 | 10,000,000 | 2,500 |
| 10,000,000 | ----- | 3,000 |

The Engineer may reduce the daily charge at or following the final inspection, to an amount equal to 20% of the amount specified in Table 108-1, if the work is substantially complete and is in a condition for safe and convenient use by the traveling public. All necessary signing, striping, guardrail, and other safety appurtenances must be in place and operating. Full daily charge will be reinstated if remaining work is not diligently pursued.

Permitting you to continue work after the Contract time has elapsed does not waive the Department's Contract rights.

108-1.08 DEFAULT OF CONTRACT. The Contracting Officer may give Notice of Default if you:

1. fail to begin work in the time specified;
2. fail to use sufficient resources to assure prompt completion the work;
3. perform the work unsuitably or neglect or refuse to remove and replace rejected materials or work;
4. stop work;
5. fail to resume stopped work after receiving notice to do so;
6. become insolvent (except that if you declare bankruptcy, termination will be under Title 11 US Code 362 and/or 365. If you declare bankruptcy, you agree that the surety will assume the Contract in a timely manner and complete the Contract by the date specified);
7. are nonresponsive to final third party judgments;
8. make an assignment for the benefit of creditors, without the Engineer's consent;
9. fail to comply with Contract minimum wage payments or civil rights requirements, or
10. are party to fraud.

The Contracting Officer will notify you and your surety in writing of any conditions determined to be in default.

Failure to correct the delay, neglect, or default within 10 days after the Engineer's written notice authorizes the Department to prosecute the work. The Department may appropriate or use any or all materials and equipment at the project site and enter into an agreement for completing the Contract.

The Engineer may, by written notice, transfer the employment of the work from you to the surety. The surety must submit its plan for completion of the work, including any contracts or agreements with third parties for such completion, to the Department for approval prior to beginning work. The surety must follow the Contract requirements for approval of subcontracts, except that the limitation on percent of work subcontracted will not apply.

On receipt of such notice, the surety must take possession of all materials, tools, and appliances at the work site, employ an appropriate work force, and complete the Contract work, as specified. The Department will make subsequent Contract payments directly to the Surety for work performed under the terms of the Contract. You

forfeit any right to claim for the same work or any part thereof. You are not entitled to receive any further balance of the amount to be paid under the Contract.

You and your surety are jointly and severally liable for any damage to the Department resulting from your delay, neglect, or default, whether or not the Department terminates your right to prosecute the work. Damages may include any increased costs incurred by the Department in completing the work. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this contract.

If, after notice of termination of your right to proceed under this clause, it is determined that you were not in default, or that the delay was excusable, the rights and obligations of the parties will be determined under Subsection 108-1.09, Termination for Public Convenience.

108-1.09 TERMINATION FOR PUBLIC CONVENIENCE.

1. Notice. The Contracting Officer may terminate the Contract in whole or in part due to:
 - a. Executive Orders of the President of the United States or the Governor of the State of Alaska with respect to the prosecution of war or the interest of national defense, or any disaster declaration.
 - b. Restraining orders or injunctions by a court of competent jurisdiction affecting prosecution of the work based on acts or omissions of persons or agencies other than the Contractor.
 - c. Any reason determined by the Contracting Officer to be in the best interest of the Department.

The extent and effective date of the termination will be detailed in a Directive entitled "Notice of Termination." The Notice will also state under which of the above-listed reasons it is issued.

2. Required Actions. Unless otherwise directed by the Contracting Officer, upon receipt of a Notice of Termination immediately:
 - a. Stop work as directed in the Notice.
 - b. Place no further orders or subcontracts for materials, services, or facilities except as approved to complete work not terminated.
 - c. Terminate all orders and subcontracts for the terminated work.
 - d. Accomplish either (1) or (2) below as directed by the Contracting Officer:
 - (1) Assign to the Department all right, title and interest you have in any terminated orders or subcontracts. The Contracting Officer will settle all claims on the terminated orders or subcontracts.
 - (2) Settle any outstanding liabilities and claims arising from termination of orders and subcontracts. Settlements must be limited to costs allowed under this Section.
 - e. Submit to the Contracting Officer a list, certified as to quantity and quality, of all materials acquired or produced for incorporation into the project and that are properly allocable to the terminated portion of the project, exclusive of items disposed of under Subsection 108-1.09.2.f., below.
 - f. Dispose of materials in your possession or control that were acquired or produced but not incorporated into the project as of the termination date as directed by the Contracting Officer under either (1) or (2) below:

- (1) Transfer title and deliver the materials to the Department. The Department will pay for the materials at the actual cost delivered to the project or storage site, including transportation charges, to which cost 15% will be added.
- (2) Sell the materials. Credit will not have to be extended to prospective purchasers.

You may acquire the materials if the Contracting Officer approves the sale price and you meet any other conditions prescribed by the Contracting Officer.

At the sole discretion of the Contracting Officer, the proceeds of any sale, transfer, or disposition of materials may be:

- (1) applied to reduce any payments to be made by the Department under the Contract,
 - (2) credited to the cost of the work, or
 - (3) paid in any other manner as directed.
- g. Deliver to the Department completed or partially completed plans, drawings, information, and other property required to be furnished under the Contract.
- h. Take all necessary actions and comply with all directives to protect contract-related property in which the Department has or may acquire an interest.
- i. Complete work not terminated.

Proceed immediately with performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item or reimbursable cost under this clause.

3. Claim. After termination, promptly submit a termination claim to the Contracting Officer. Submit the claim within 90 days from the effective date of termination, unless extended in writing by the Contracting Officer.
- a. Without duplication of any amount paid for under Subsection 108-1.09.2., the claim may be for the total of:
- (1) costs incurred in performing the terminated work from the date of Contract award to the effective date of the termination subject to the provisions of 108-1.09.3.b. regarding reimbursement of equipment costs and 108-1.09.3.c. regarding unallowable items.
 - (2) payments approved by the Contracting Officer under 108-1.09.2.d.(2) to settle the termination claims of suppliers and subcontractors to the extent not covered under 108-1.09.3.a(1).
 - (3) reasonably incurred costs for:
 - (a) accounting, legal, clerical and other costs reasonably necessary for preparation of the termination claim and settlement negotiations, excluding costs incurred after the date an appeal is filed with the Appeals Officer under 108-1.09.8.
 - (b) settling subcontractor and supplier claims, excluding the amounts of those settlements paid under 108-1.09.3.a.(2).
 - (4) reasonable profit on the costs included in 108-1.09.3.a(1) based on your bid rate for profit or as determined under any other reasonable accounting method. However, if it appears that you would have sustained a loss on the entire Contract had it been completed, the Contracting Officer will allow no profit and will reduce the settlement to reflect the

indicated rate of loss under Subsection 108-1.09.4. The Department will not pay profit on costs included in Subsections 108-1.09.3.a.(2) and 108-1.09.3.a.(3).

- b. Equipment claims will be reimbursed as follows:
 - (1) Contractor-owned equipment usage, based on your ownership and operating costs for each piece of equipment as determined from your accounting records. Do not base equipment claims on published rental rates.
 - (2) Idle time for Contractor-owned equipment, based on your internal ownership and depreciation costs. Idle equipment time is limited to the actual period of time equipment is idle as a direct result of the termination, not to exceed 30 days. Operating expenses will not be included for payment of idle equipment time.
 - (3) Rented equipment, based on reasonable, actual rental costs. Equipment leased under "capital leases" as defined in Financial Accounting Standard No. 13 will be considered Contractor-owned equipment. Equipment leased from an affiliate, division, subsidiary or other organization under common control with you will be considered Contractor-owned equipment, unless the affiliate, division, subsidiary or other organization has an established practice of leasing to unaffiliated lessees.

- c. The following costs are not payable under a termination settlement agreement or Contracting Officer's determination of the termination claim:
 - (1) Loss of anticipated profits or consequential or compensatory damages.
 - (2) Unabsorbed home office overhead (also termed "General & Administrative Expense") related to ongoing business operations.
 - (3) Bidding and project investigative costs.
 - (4) Direct costs of repairing equipment to render it operable for use on the terminated work.

- 4. Adjustment for Loss. If you would have sustained a loss on the entire Contract had it been completed, you will be paid not more than the total of:
 - a. The amount due for termination claim costs under Subsection 108-1.09.3.a.(3) as determined under either 108-1.09.6. or 108-1.09.7; plus
 - b. The remainder of the total allowable claim amount due (as determined under either 108-1.09.6 or 108-1.09.7) reduced by multiplying the remainder by the ratio of (1) the total Contract Price to (2) the remainder plus the estimated cost to complete the entire Contract; minus
 - c. all disposal and other credits, all advance and progress payments and all other amounts previously paid under the Contract.

- 5. Deductions. In arriving at the amount due under this Subsection, the Department will deduct:
 - a. All previous payments made before termination;
 - b. Any claim which the Department may have against you;
 - c. The proceeds of the sale or transfer of any materials, supplies, or other items acquired for the terminated work and not otherwise recovered by or credited to the Department;
 - d. All partial payments made under this Section; and

e. Any adjustment for loss determined under Subsection 108-1.09.4.

6. Agreed Settlement. Make every effort to arrive at a claim settlement with the Contracting Officer that is fair to both parties, that reflects the reasonable and allocable incurred costs allowable under Subsection 108-1.09.3, that includes a profit under Subsection 108-1.09.3.a.(4) or, where appropriate, a loss adjustment under Subsection 108-1.09.4, and that takes into account your reasonable business judgment in performing the work.

The total settlement, whether determined under this Subsection 108-1.09.6 or under Subsection 108-1.09.7, exclusive of the costs listed in Subsection 108-1.09.3.a.(3), may not exceed the total Contract Price as reduced by previous payments made and the value of work not terminated, as determined from the approved Schedule of Values.

If an agreement is reached in whole or in part, the Department will amend the contract and will pay the agreed amount.

7. Determined Settlement. If you fail to submit a termination claim within the time allowed, or if an agreement is not reached on the amount due, the Contracting Officer may determine in a Contracting Officer's Decision, the amount due under 108-1.09 on the basis of available information.
8. Right of Appeal. You may appeal a Contracting Officer's Decision on a termination claim to the Department's Appeals Officer under Subsection 105-1.17. You must file the appeal within 14 days after receipt of the Contracting Officer's Decision.
9. Partial Payments In the sole discretion of the Contracting Officer, the Department may make partial payments against costs incurred by you in connection with the terminated portion of the Contract. The sum of these partial payments will not exceed the Contracting Officer's estimate of the total amount that will be due as a result of the termination. The estimate will be based on available information. The Contracting Officer may adjust the estimate as additional information becomes available. If the Contracting Officer orders an audit of your financial or project records, the Contracting Officer may decline to make partial payments until the audit is completed.
10. No Waiver of Rights. The termination of work by the Department does not affect or extinguish any of the rights of the Department against you or your Surety then existing or which may thereafter accrue. Any retention or payment of monies by the Department due under the terms of the Contract will not release you or your Surety from the contractual obligations or warranties made under Subsection 107-1.18 or elsewhere in the Contract.
11. Retaining Records. Unless otherwise provided for in the Contract or by applicable statute, keep all books, records, documents, and other evidence bearing on your cost and expenses under the Contract and relating to the work terminated for a period of 3 years after final settlement under this Contract. Records must be made available to the Department at your office and at all reasonable times.
12. Definitions. In this Subsection 108-1.09, the term "cost" and the term "expense" mean a monetary amount in U.S. Dollars actually incurred by you, actually reflected in your contemporaneously maintained accounting or other financial records and supported by original source documentation.
13. Cost Principles. The Department may use the federal cost principles at 48 CFR §§ 31.201-1 to 31.205-52 (or succeeding cost principles for fixed price contracts) as guidelines in determining allowable costs under this Subsection to the extent they are applicable to highway construction contracts and consistent with the specifications of this Contract. The provisions of this contract control where they are more restrictive than, or inconsistent with, these federal cost principles.

SECTION 109

MEASUREMENT AND PAYMENT

109-1.01 GENERAL. Lump sum work will not be measured for payment, with the exception of any specified price adjustments.

Where price adjustments are specified, accept measurements and computations for such work conforming to the Contract.

109-1.02 MEASUREMENT OF QUANTITIES. Determine the quantities of work completed for each Pay Item during each Contract pay period. Maintain current records of measurements, invoices, estimates, and computations for each pay request and make them available to the Engineer for inspection until Final Acceptance.

109-1.03 SCOPE OF PAYMENT. Accept the Contract Price as full payment for furnishing all resources necessary to complete all work under the Contract in a complete and acceptable manner. Assume liability for risk, loss, damage, or expense resulting from the work, subject to Subsection 107-1.18.

109-1.04 COMPENSATION FOR ALTERED QUANTITIES. Except as provided in Subsection 104-1.02, no allowance will be made for any increased expenses, loss of expected reimbursement or loss of anticipated profits suffered or claimed from alterations in quantities.

109-1.05 COMPENSATION FOR EXTRA WORK. Accept payment for extra work under one of the following methods:

- Original Contract Price
- New unit prices
- New lump sum price
- Time and Materials basis

Time and Materials basis will be computed as follows:

1. Labor. Based on the sum of a through f.
 - a. Total hours worked times the straight time rate of pay. The rates of pay are those indicated on the certified payroll, for all labor and foremen in direct charge of the specific operations. Rates may not exceed those for comparable labor currently employed on the project. Do not include general superintendence.
 - b. Overtime hours worked times the difference between the overtime rate and the straight time rate.
 - c. Fringe benefit rate times the total hours worked. Fringe benefits include Health and Welfare, Pension Fund, etc., when such amounts are required by collective bargaining agreement or other employment contract generally applicable to the classes of labor employed on the project.
 - d. Workers' Compensation Insurance at 8% of a. The actual net rate may be used if it exceeds 10% and if proof of rates are furnished within 30 days of the completion of the extra work.
 - e. Either subsistence and travel allowances, or prorated camp costs. If an employee is due and receives subsistence or camp privileges on his days off, divide that cost by the number of days worked that week and add to his daily subsistence entitlement. If the employee did not work an entire day on time and materials work, prorate the entitlement for the hours worked on time and materials.

- f. Markup at 35% of the sum of a, c, d, and e. Represents additional bond, property damage liability insurance, unemployment insurance contributions, social security and other taxes, administrative overhead costs, and profit.
2. Materials. Based on actual invoiced delivery costs plus 15%. Furnish to the Engineer proof of payment for materials used in the work plus applicable transportation charges. For Contractor-produced materials, certify in writing your actual direct costs and the quantities used.
3. Equipment. Includes machinery and special equipment (other than small tools) necessary for the work and authorized by the Engineer. No additional compensation will be made for overhead, profit, maintenance, service, repairs, fuels, lubricants, or replacement parts.

- a. Hourly Rental Rate. Based on rental rates in the current edition and appropriate volume of the "*Rental Rate Blue Book for Construction Equipment*", published by PRIMEDIA Information, Inc., 1735 Technology Drive, Suite 410, San Jose, CA 95110-1313.

The regular hourly rental rate is the adjusted monthly rate for the basic equipment plus the adjusted monthly rate for applicable attachments, both divided by 176, and multiplied by the area adjustment factor, plus the estimated hourly operating cost. These rates apply for equipment used during your regular shift of 10 hours per day.

The adjusted monthly rate is that resulting from application of the rate adjustment formula, to eliminate replacement cost allowances in machine depreciation and contingency cost allowances.

Only the attachments required for the time and materials work will be included.

- b. Hourly Overtime Rate. Based on ½ of the regular hourly rental rate. The overtime rate will apply to hours the equipment is used in excess of 10 hours per day, either on your normal work or on time and materials, and either on single or multiple shifts.
- c. Hourly Stand-by Rate. Based on ½ of the regular hourly rental rate, for equipment ordered on stand-by during your normal work shift, not to exceed 8 hours per day.
- d. Unlisted Equipment. For equipment not listed in The Blue Book, agree to a rental rate before extra work is begun. If agreement is not reached, the Engineer can establish a rate based on similar equipment in the Blue Book or prevailing commercial rates.
- e. Leased or Rented Equipment. Based on paid invoice price plus 15%.
- f. Transportation of Equipment. Based on the actual cost of moving equipment to and from the work site. You must obtain the equipment from the nearest approved source and use the equipment exclusively for time and materials work. Payment for move-out may not exceed the amount of the move-in.

Basis of payment:

- (1) If by common carrier: paid freight bill or invoice.
- (2) If hauled with your own resources: rental rate for hauling unit plus operator wages.
- (3) If under equipment's own power: ½ of the normal hourly rental rate plus operator's wages.

4. Work by a Subcontractor. For time and materials work performed by an approved subcontractor or owner-operator under items 1 through 3 above, you will receive a 5% markup for administrative costs. No percentage will be paid on work covered under the original Contract. No percentage over the amount covered above will be paid for work done by a lower tier subcontractor.

5. Work by a Specialty Contractor. Based on the approved invoice cost of work or service plus 15%. Obtain Engineer's advance agreement that the specialty work or service needed is beyond your ability or expertise or that of your subcontractors.
6. Records. The Engineer will maintain a daily record of labor, equipment and materials utilized in the work and will present this record to you at the end of each day's work for verification and signature.
7. Compensation. Payment for time and materials work will be made in the progress payment following receipt of the verified daily records and all required supporting information from you. If, at any time, a unit price or lump sum basis of compensation can be agreed to for work being performed under this Subsection, such compensation may be set forth in writing as a Change Order.

109-1.06 PROGRESS PAYMENTS. The Department will make progress payments based on estimates of the value of work performed and materials on hand, when documented on an approved Application for Payment. You may submit Applications for Payment monthly, or bimonthly if the value exceeds \$10,000.

Submit for review:

1. An Application for Payment, on an approved form, based on the approved Schedule of Values, completed, signed, and encompassing the work accomplished and materials on hand (as applicable), current with the date of application.
3. Supporting documentation as required.

Progress payments will be made based on the approved Application for Payment and materials delivered and stored in accordance with Subsection 109-1.07, except that the Engineer may find that satisfactory progress is not being made, he may retain up to 10% of the total amount earned from subsequent progress payments.

109-1.07 PAYMENT FOR MATERIAL ON HAND. The Engineer will make partial payment for materials designated for incorporation into the work that:

- meet Contract requirements,
- are delivered and stockpiled at the project or other approved location,
- are supported by invoices, freight bills, and other required information, and
- are not living or perishable.

Release and discharge the Department from any liability for damages or delays related to the storage or transport of, and to the payment for, material on hand.

Payment for material on hand will not constitute final acceptance.

1. Application for Payment. Make each payment request in writing and:
 - a. list stockpiled items, quantities of each, and stockpile location(s),
 - b. certify that materials meet the applicable Contract specifications,
 - c. for purchased materials, attach copies of invoices, freight bills, and manufacturer's published storage recommendations,
 - d. for Contractor-produced materials, attach production statements showing quantities and dates produced and copies of process quality control test results, and
 - e. include other information requested by the Engineer.
2. Storage Conditions. Protect material from damage or loss while in storage. Physically separate stockpiled materials from other materials at the storage location. Clearly label materials with the project name and number. Store materials per the manufacturer's recommendations.

If storage conditions become unsatisfactory, liens are filed on any materials, or the storage location is changed without approval, the Engineer will deduct any previous payments made for such materials.

3. Method of Payment. The Engineer will include payments for acceptably stockpiled materials in the progress payment following receipt of your request and all required documentation. The Engineer will:
- a. Pay for materials purchased by you at the delivered cost but not to exceed 85% of the value for the item established in the approved Schedule of Values.
 - b. Pay for materials produced by you at up to 50% of the value for the item established in the approved Schedule of Values.
 - c. Deduct partial payment quantities as they are incorporated into the project.

109-1.08 FINAL PAYMENT. The Engineer will prepare the final payment following project completion under Subsection 105-1.15 and receipt of all certificates, guarantees, releases, affidavits, manuals, as-builts, and other items required by the Contract. The final payment reflects the entire sum due under the Contract minus all previous payments, retainage, deductions, and corrections.

Accept the Engineer's final payment amount or file a written claim within 90 days of receipt, with sufficient detail to permit final adjudication.

When you approve the final payment and execute the Contractor's Release form, final payment will be processed.

Preserve any pending claims by listing them as exceptions on the Contractor's Release. Any claims listed that were not timely filed under the terms of the Contract prior to your signing the final payment will be considered null and void. Any claims timely filed but not listed will also be considered null and void.

If you fail or decline to approve the final payment within 90 days and file no claim, the Department will consider the payment approved. Any claims will be considered null and void.