Division Let Contract Guidance

NC Department of Transportation

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General

Purpose of Guidelines

These guidelines have been written to provide a procedural framework for the preparation of contract proposals, advertisement for bids, and project letting and award for Division Let projects that will be administered in HiCAMS. They should be viewed as "best practices" and not so rigid as to inhibit the autonomy of individual Highway Divisions on issues not dictated by law or policy. However, consistency between Divisions is encouraged and these guidelines are designed to help meet that goal.

Applicability

In accordance with GS 136-28.1(b), transportation infrastructure construction, maintenance and repair projects for which the value of the work to be performed is $2,500,000 or less are eligible to be let at the Division level. Additionally, GS 136-28.10 allows State funded construction, maintenance and repair projects for which the value of the work to be performed is $500,000 or less to be let as Small Business Enterprise (SBE) projects.

Contract Development Resources

NCDOT Standard Specification for Roads and Structures (current edition)
NCDOT Roadway Standard Drawings (current edition)
NCDOT Specifications Website
Division Operations and Maintenance Provisions
Proprietary Products Laws & Proprietary Products Guidelines
NCDOT Roadway Design Resources Website
Network Drive: Automated Proposal Line Up Sheet
Division Letting Administration User Guide

Pre-Bid Process

Construction Authorization/Funding

Depending on the size and scope, projects can be funded from a variety of sources such as Statewide Project Funds, Resurfacing Funds, Secondary Road Construction Funds, Spot Safety Funds or STIP Funds. Prior to advertising for bids, confirm that the Construction WBS Element(s) has been authorized/released for charges. This can be accomplished by verifying that the WBS Element System Status is REL on the Basic Data tab using SAP transactions CJ13 or CJ20N. **For projects funded in whole or in part with Federal funds, advertising prior to authorization by FHWA will jeopardize Federal participation.**

Project Setup in SPECS Workorder Application and Trns*port PES/LAS

The Contract number (DX#####) is assigned in the SPECS Workorder application using the TIP Number (if applicable) and WBS Element. If the contract contains multiple WBS Elements, use the lowest numbered WBS Element in assigning the contract number. (Numbers are considered lower than letters and should be evaluated from left to right. For example, the following WBS Elements are in the correct order: 1C.02131, 1CR.10211.10, 1CR.10211.11, 1CR.20211.09, 1CR.20211.12, 36333.3.FD9.) After a contract number is assigned, the project can be set up in Trns*port PES/LAS.

Detailed instructions for project setup and processing in the SPECS Workorder application and Trns*port PES/LAS can be found in the Division Letting Administration User Guide

Complete Plans, Specifications and Estimate (PS&E)

Project plans are developed to graphically represent the work to be performed as accurately as possible. The level of plan detail needed can vary significantly from project to project. Care must be taken to provide enough detail to allow the bidders to accurately prepare their bids and to discourage claims during construction. It is a good practice to consult with Division Construction personnel during plan development for input regarding constructability, particularly if the designer is relatively unfamiliar with the type of work to be performed.

Once plans are complete, identify pay items necessary to perform the required work and calculate quantities. The Master Pay Item List should be used to determine the correct pay items to be included on the Itemized Proposal Sheets (Bid Sheet). The NCDOT Resurfacing Estimate Program and the Stand Alone PES Worksheet (SAPW) are tools that can be used to generate the listing of pay items in a format that can easily be imported into Trns*port PES. The NCDOT Resurfacing Estimate Program can be downloaded here and the Stand Alone PES Worksheet (SAPW) can be downloaded here. (You will likely have to request assistance from your Division Computer Consultant to install these.)

Having established pay items, the proposal is generated to include a description of work, details of construction, method of measurement and basis of payment for all pay items. The purpose of the proposal is to clearly convey the Department's expectation of bidders. Doing so should produce the lowest possible bids and reduce the opportunity for claims during construction. Uniformity of proposals across the state, to the extent possible, will make it easier for bidders to understand the Department's expectations and should help to keep bids as low as the current market will allow.

Standard pay items reference a corresponding section of the *Standard Specifications.* For those pay items, allow the *Standard Specifications* to speak for themselves and avoid duplication of language taken from the *Standard Specifications* in the proposal. The Automated Proposal Line Up Sheet (APLUS) has been developed by the Contract Standards and Development Unit as a tool for proposal developers. The use of APLUS facilitates proposal development by listing all available provisions in a convenient check-off format and by pulling from central provision repository, thereby insuring that the most up to date version of each provision is used in the proposal. APLUS can be downloaded from the following location: \\Dot\dfsroot01\CCCommon\Provisions\01a_Automated Proposal Line Up Sheet. To gain access to APLUS and obtain information regarding its use, contact the Specifications Engineer in the Contract Standards and Development Unit at (919) 707-6916.

For pay items that are not covered in the *Standard Specifications*, a Special Provision describing the work to be performed and how it will be measured and paid must be included in the proposal. See the NCDOT Provision Writers' Guide for assistance in writing Special Provisions. A number of Special Provisions have been written by various Highway Divisions and are posted in the Division Provisions folder of the NCDOT Network Drive at: \\Dot\dfsroot01\CCCommon\Provisions\04_Division Provisions . These are also available on the Division Operations and Maintenance Provisions site.

When pay items are added by Special Provision or a Special Provision is included that modifies a section of the *Standard Specifications*, the corresponding pay items must reference SP, not a section of the *Standard Specifications*.

Proposal Components

- Proposal Cover (generated in APLUS)
- Standard Proposal language (B 01C)
- Table of Contents
- Instructions to Bidders
- Project Special Provisions (includes Roadway, Utility, Traffic Control, etc.)
- Standard Special Provisions
- Permits
- MBE/WBE/DBE Listing Form (not included on SBE projects)
- Execution of Bid Forms
- Addendum Acknowledgement Form
- Award Limits on Multiple Projects (if necessary)
- Itemized Proposal Summary Sheet (Bid Sheet) – generated in Trns*port

Engineer's Estimate (CONFIDENTIAL)

Once pay items have been identified and consideration given regarding how work will be performed, generate an Engineer's Estimate for comparison with bids. The Engineer's Estimate is a confidential document that must be carefully protected until a project is awarded. Most Engineer's Estimates are developed within the respective Highway Division. However, the NCDOT Estimating Section of the Contract Standards and Development Unit is an excellent resource and can provide assistance upon request.

Small Business Enterprise Program

Projects for which the value of the work is $500,000 or less may be candidates to be let under the Department's Small Business Enterprise (SBE) Program. Historically the SBE program has been limited to projects that were 100% state funded. By memo dated August 23, 2012, (included in the appendix) the Chief Engineer advised the Divisions that Federal funds can be used to administer SBE projects. However, further guidance from FHWA on several keys issues is needed prior to the wholesale implementation of the SBE program using Federal funding.

Other factors to consider when deciding whether or not a project is a good candidate for the SBE program include the types of work involved and the relative number of certified SBE firms located within the Highway Division and surrounding Divisions who are capable of performing the work. Information regarding the availability of SBE contractors can be found in the NCDOT Directory of Transportation Firms.

When a project is advertised as an SBE project, no MBE/WBE/DBE goals are included. Payment/ performance bonds and contractor licensing may be waived as well.

Pre-Bid Conference

For most projects, a pre-bid conference will not be necessary. However, some projects may be unique and warrant conducting a pre-bid conference. The purpose of the conference is to discuss the work to be performed and provide bidders the opportunity to ask questions. To insure all bidders have the same information on which to base their bid, it is recommended that the pre-bid conference be a mandatory requirement of bidding. For projects with a mandatory pre-bid conference, include Special Provision SPI 1-14 and for projects with a non-mandatory pre-bid conference, include Special Provision SPI 1-13. Notification of the pre-bid conference should also be included in the solicitation letter for the project. Minutes of the pre-bid conference should be taken and distributed to all attendees.

MBE/WBE/DBE Goals

All projects, except SBE projects, must contain MBE/WBE or DBE goals. MBE and WBE goals are required on projects that are completely State funded. DBE goals are required if any Federal funding is included on the project. Goals should be set based on the types of work involved and the relative number of certified MBE/WBE/DBE contractors within a reasonable proximity to the project who have the ability to perform the required work. The DBE Interest report should be generated in Trns*port to aid in identifying potential MBE/WBE/DBE contractors. If relatively few MBE/WBE/DBE contractors are located within a reasonable proximity, goals can be set to 0%. Each Division is encouraged to have a Goal Setting Committee composed of at least three people. Goal setting guidance is included in the appendix. If help is needed setting goals, contact the State Contractor Utilization Engineer in the Office of Equal Opportunity and Workforce Services.

Payment and Performance Bonds

By authority of GS 44A-26, payment and performance bonds are required on contracts let by the Department of Transportation for which the contract amount exceeds $500,000. Beyond statutory requirements, Department policy, as defined by memo dated October 18, 2012 from the Chief Engineer, is to require bonds on all bridge replacement and major bridge rehabilitation projects for which the contract amount exceeds $300,000. These should be viewed as minimum requirements. Based on the scope of work and the perceived risk for the Department, bonds may be required on any project, regardless of contract amount. Payment and performance bonds may be waived on SBE projects. Payment and performance bonds shall meet the requirements of Section 103-7 of the *Standard Specifications.* Click here for NCDOT Payment and Performance Bond forms.

Bid Bond/Bid Deposit

It is recommended that a bid bond or bid deposit be required on any project for which payment and performance bonds are required. If, for a given project, the amount bid is allowed to determine whether payment and performance bonds will be required, the requirement for a bid bond or bid deposit will be determined by the amount of the Engineer's Estimate. If required, the bid bond or bid deposit shall comply with Section 102-10 of the *Standard Specifications.* Click here for NCDOT Bid Bond forms. Bid bonds and bid deposits must be retained until the low bidder provides payment and performance bonds. At that time, bid bonds should be destroyed and bid deposits should be returned. This applies to all bidders, including the low bidder.

Davis-Bacon Wage Rates on Federally Funded Projects

Provisions Z-86 through Z-98 contain the Federal minimum wage rates by classification for Highway Construction projects. Choose the applicable provision(s) based on the county(ies) covered by a particular project. Roadways functionally classified as local roads or rural minor collectors (generally Federal-aid Secondary routes) and BRZ bridge projects are excluded from this requirement. If the scope of work is not consistent with Highway Construction (some exceptions are given within the provision), contact the NCDOT Construction Unit for assistance.

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Advertisement & Solicitation

When project plans, proposal and estimate are complete and project data has been entered in Trns*port PES/LAS, the project is ready for advertisement.

Identifying Potential Bidders

Potential bidders can be identified using the NCDOT Directory of Transportation Firms Firms. To be eligible to bid on Division Let, non-SBE projects, bidders must be prequalified as a Bidder or PO Prime Contractor. Only certified SBE firms are eligible to bid on projects advertised as SBE projects. Although some certified SBE firms are prequalified, prequalification is not required to bid on an SBE project.

Contractor Licensing

All bidders on non-SBE projects must comply with Chapter 87 of the NC General Statutes which regulates the practice of General Contracting in North Carolina. At the time of bidding, bidders must be licensed by the North Carolina Licensing Board for General Contractors when bidding on a project that contains no Federal funding for which the bid is $30,000 or more (except for certain specialty work as determined by the Licensing Board and in accordance with GS 136-28.14). For projects that contain Federal funding, bidders must be licensed by the Licensing Board within 60 calendar days following bid opening. Additional requirements as set forth by Article 2 and Article 4 of Chapter 87 of the NC General Statutes apply to projects that include HVAC, plumbing and electrical work.

Advertisement

The Bidding & Letting section of the Connect NCDOT website is the central repository for project letting information. Bidders are encouraged to visit this site frequently for updated information, including newly advertised projects, addendums and bid results. As a minimum, all bid documents should be posted on the appropriate section of this site reserved for each Highway Division. Additionally, bidders identified using the Directory of Transportation Firms may be notified via email. In this case, be sure to notify all identified bidders. Newspaper advertisement is not required for Division Let Projects. (Note: Individuals posting documents to the Connect NCDOT site will need to request access to the site as a Content Contributor.)

Federally funded projects must be advertised for a minimum of 3 weeks prior to bid opening date in accordance with Federal legislation. While State law only requires a 2 week advertisement period, State funded projects with non-zero MBE/WBE goals should also be advertised for 3 weeks to allow bidders the time necessary to solicit MBE/WBE subcontractor participation. State funded projects with zero MBE/WBE goals must be advertised a minimum of 2 weeks.

Documents/items to post on the Connect NCDOT website:

- Invitation to Bid
- Proposal (with permits)
- Plans (if applicable)
- Subsurface Information (for information only, if available)
- EBS file (project specific, if allowing bids to be submitted on CD)
- DBE_NC file (one DBE_NC file per letting, if allowing bids to be submitted on CD)
- Addendums (as necessary during advertisement period)
- Pre-Bid Conference Minutes (if applicable)

Designated Point of Contact

Designate one person as the point of contact during advertisement period. All questions should be directed to this person for consistency in the dissemination of information. This person is not expected to know all the answers, but is responsible to discuss issues with appropriate individuals within the Department to determine answers or develop solutions. If clarification is provided to one bidder that could affect bidding, this person is responsible to promptly provide the same information to all bidders. If warranted, this may include the issuance of an addendum.

Plan Holders List

For Division let projects, there is currently no mechanism built into the Connect NCDOT system to capture plan holder information. However, the requesting party may be provided a list of the bidders that have been directly solicited or that have indicated they are planning to bid on a project. Some Divisions require bidders to respond by email notifying the Division of their intention to bid. The subsequent plan holders list is posted on the Connect NCDOT site with other project documents. There is currently no policy providing guidance on this issue and it will be left up to each Division to determine if it is beneficial for them to track plan holders and the best method to use.

Addendums

There are times when an error in the bid documents is discovered during the advertisement period or when new information is presented that all bidders need to know. The mechanism to incorporate changes into the bid documents during the advertisement period is an addendum. When required, an addendum should be issued as far in advance of the bid opening as possible to allow bidders time to prepare bids accordingly. FHWA recommends issuance of an addendum a minimum of 10 days in advance of bid opening. Addendums should be sent to known bidders in a manner by which receipt can be verified (certified mail/return receipt, email with read confirmation, etc.) Since all bidders may not be known, addendums should also be posted at the same location as other information for the project on the Connect NCDOT website. Bidders must also acknowledge receipt of addendums on the form provided in the proposal. If bids are accepted on CD and if an addendum changes bid items on the Proposal Items Sheet(s), an EBS addendum file must be provided to bidders and applied by them prior to entering their bid.

Letting, Award and Execution

Letting, award and execution must be accomplished in accordance with Section 103 of the *Standard Specifications.* Become familiar with Section 103 as it addresses many aspects of the award & execution process.

Division Letting Dates

Each Division has been assigned designated letting dates. (see Division Letting Map in appendix) Divisions may have special lettings on other days if necessary, but this should be the exception not the rule. Establish a letting time and location and do not deviate unless absolutely necessary.

Bid Opening Guidelines

- Designate one person to be responsible for receipt of all bids.
- Check US mail, courier mail, etc. just prior to bid opening to see if any last minute bids have been received.
- After receipt, bids must remain in the possession of an NCDOT employee, in a secure location and unopened until the designated bid opening date and time.
- Begin the bid opening promptly at the scheduled time and do not accept additional bids once the letting has begun – NO EXCEPTIONS. Bids arriving late must be returned, UNOPENED.
- Have another NCDOT employee present as a witness.
- Have everyone present sign the Bid Opening Roster documenting attendance.
- Bids must be submitted along with the complete proposal. If plans, permits, subsurface information, etc. have been provided as separate documents, these do not have to be returned with the bid.
- Open and announce each bidder's name and total bid amount.
- If required, each bid shall be accompanied by the required bid bond or bid deposit.
- Record all bids on the Bid Summary Sheet as bids are opened. Post Bid Summary and/or Item C Sheet on the Connect NCDOT site.
- Do not allow outside parties or competing bidders to review or make copies of any bid forms. In accordance with GS 136-28.5(c), "bids and documents submitted in response to an advertisement or request for proposal under this Chapter shall not be public record until the Department issues a decision to award or not to award the contract."
- Under GS 136, only one responsive bid is required to award a contract.

Documentation Required with Bids

For traditional paper bids, the following must be completed and returned along with the entire proposal document:

- Proposal Item Sheet(s)
- Execution of Bid (correct form reflecting bidder's business organization)
- MBE/WBE/DBE Listing (No entry required for projects with zero goals. For projects with non-zero goals, form must be completed even if the only entry is ZERO or NONE.)
- Bid bond or bid deposit (if required)
- Addendum Acknowledgement form (if applicable)

For bids submitted electronically (on CD), the following documents must be completed and returned along with the entire proposal document:

- Computer generated Proposal Items Sheet(s), which must be signed by the bidder. This is the official bid. If there is a discrepancy between the CD and this document, the signed document governs. The MBE/WBE/DBE listing (as part of the computer generated itemized proposal sheet) shall be used in lieu of the MBE/WBE/DBE listing form included in the proposal. (For bids submitted on CD, MBE/WBE/DBE Listing and Proposal Item Sheet provided in the proposal should be left blank.)
- Execution of Bid (correct form reflecting bidder's business organization)
- Bid bond or bid deposit (if required)
- Addendum Acknowledgement form (if applicable)

Bid Review and Verification

Bid Review Checklists and Forms are included in the appendix to aid in the systematic review of bids for consistency. Procedure for resolving tie bids is included in the appendix.

The following links are provided to aid in the bid review process:
NCDOT Directory of Transportation Firms - Verify Prequalification & Certifications
NC Licensing Board for General Contractors – Verify Contractor Licensing
NCDOA Division of Purchase and Contract - Listing of State Debarred Vendors
System for Award Management - Data Access - Search for Federally Debarred Vendors
NC Department of Insurance - License Status Query – Verify Status of Insurance and Surety Providers
NC Secretary of State - Corporations - Search Page – Verify Status of Corporations, LLC's & LLP's

MBE/WBE/DBE Compliance

Verify that the subcontractors shown on the MBE/WBE/DBE Listing form are certified at the time bids are opened. If not, they cannot count toward meeting advertised goals. Subcontractors must be prequalified prior to beginning work on the project, but do not have to be prequalified at the time of bidding to count toward meeting advertised goals.

If the low bidder does not meet advertised MBE/WBE/DBE goals, they must submit documentation of a Good Faith Effort. Documentation of a Good Faith Effort must thoroughly address Items (A) through (I) under the heading "Consideration of a Good Faith Effort for Projects with MBE/WBE/DBE Goals More Than Zero" in the MBE/WBE or DBE Provision included in the proposal.

Bid Processing

Complete entry of bids into Trns*port LAS system. (see Letting Administration User Guide) Once data entry is complete, Bid Tabulation can be generated.

Bid Review and Goal Compliance Committees

Each Division should have a Bid Review Committee and a Goal Compliance Committee, members of which shall be determined by the Division Engineer. The same individuals may comprise both committees. The function of the Bid Review Committee is to review the bid tabulation in comparison

with the Engineer's Estimate to determine whether the contract should be awarded. In accordance with Department policy, the winning bid should not be more than 15% below the Engineer's Estimate or more than 10% above the Engineer's Estimate. If either of these occurs, the Bid Review Committee should thoroughly review all bids, the Engineer's Estimate and any documentation provided by the estimator to determine whether the project should be awarded. The Bid Review Committee may reject all bids and re-advertise if warranted.

The Bid Review Form should be completed prior to presentation to the Bid Review Committee. On projects where MBE/WBE/DBE goals are met, Letters of Intent should be received from low bidder prior to presentation to the Bid Review Committee. In the event the bidder exceeds the advertised goals on the MBE/WBE/DBE Listing, they are only required to submit Letters of Intent for subcontractors whom they wish to count toward meeting the advertised goals. Letters of Intent may contain more participation than originally submitted on the MBE/WBE/DBE Listing for a particular subcontractor, but may not contain less.

When MBE/WBE/DBE goals are not met, the low bidder must submit Letters of Intent for participation shown on the MBE/WBE/DBE Listing (if any) and documentation of a Good Faith Effort toward meeting goals. Bidders are not allowed to submit additional participation post-bid in an attempt to meet advertised goals and avoid submission of Good Faith Effort documentation. The Goal Compliance Committee must determine whether or not to approve the Good Faith Effort before the Bid Review Committee can consider the project for award. If the Good Faith Effort is not approved, the bidder has two days to appeal the Division's denial to the Director of Technical Services. This can be sent via hard copy or emailed to DBE@ncdot.gov. The Division should not make a decision regarding award of the contract until a decision has been reached on the appeal.

Award and Execution

Following award of the contract by the Division Bid Review Committee, the Award Letter & Goal Confirmation Letter should be issued to the Contractor. Committed Subcontractors listed on the Goal Confirmation Letter should be the ones for which a Letter of Intent was received. Award Letter and Goal Confirmation Letter may be distributed by email or US mail.

Post-award, the successful bidder must provide payment and performance bonds (if required) and a current certificate of insurance prior to execution of the contract. Verify that bonds have been properly executed, including all signatures, seals, etc.; that the surety company is licensed to conduct business in North Carolina; that the correct form has been used based on the contractor's business organization; and that the Power of Attorney is attached.

Execute in Trns*port (see Letting Administration User Guide), distribute executed contracts and upload a copy of the executed contract and plans to the Construction Projects Team Site.

Note: NCDOT printing services is an available resource to have copies made & distributed. mailto:dot.printingservices@ncdot.gov

Transfer to HiCAMS

Transmit True Copy and other required documents via email:

- To: HiCAMS Specialist (Marie Novello)
  - Plans, Proposal & Addenda
  - True Copy Document
  - Execution Letter

- To: SVC_DOT.CM
  - True Copy Document

- To: Office of Equal Opportunity & Workforce Services (Trent Rawley)
  - Award Letter
  - Contract Cover
  - MBE/WBE/DBE Listing
  - Letters of Intent
  - Goal Confirmation Letter

- To: Communications Officer (Communications Office assigned to Division)
  - Award Letter

- To: Schedule Management Office (Division Contact)
  - Award Letter

- To: Structures Management Unit (Eddie Smith & Paul Lambert) (Structure projects only)
  - Award Letter

APPENDIX

NC General Statutes Related to Contracting

§ 87-1. "General contractor" defined; exceptions.

(a) For the purpose of this Article any person or firm or corporation who for a fixed price, commission, fee, or wage, undertakes to bid upon or to construct or who undertakes to superintend or manage, on his own behalf or for any person, firm, or corporation that is not licensed as a general contractor pursuant to this Article, the construction of any building, highway, public utilities, grading or any improvement or structure where the cost of the undertaking is thirty thousand dollars ($30,000) or more, or undertakes to erect a North Carolina labeled manufactured modular building meeting the North Carolina State Building Code, shall be deemed to be a "general contractor" engaged in the business of general contracting in the State of North Carolina.

(b) This section shall not apply to the following:

(1) Persons, firms, or corporations furnishing or erecting industrial equipment, power plan equipment, radial brick chimneys, and monuments.

(2) Any person, firm, or corporation who constructs or alters a building on land owned by that person, firm, or corporation provided (i) the building is intended solely for occupancy by that person and his family, firm, or corporation after completion; and (ii) the person, firm, or corporation complies with G.S. 87-14. If the building is not occupied solely by the person and his family, firm, or corporation for at least 12 months following completion, it shall be presumed that the person, firm, or corporation did not intend the building solely for occupancy by that person and his family, firm, or corporation.

(3) Any person engaged in the business of farming who constructs or alters a building on land owned by that person and used in the business of farming, when the building is intended for use by that person after completion. (1925, c. 318, s. 1; 1931, c. 62, s. 1; 1937, c. 429, s. 1; 1949, c. 936; 1953, c. 810; 1971, c. 246, s. 1; 1975, c. 279, s. 1; 1981, c. 783, s. 1; 1989, c. 109, s. 1; c. 653, s. 1; 1991 (Reg. Sess., 1992), c. 840, s. 1; 2011-376, s. 1.)

§ 87-1.2. Exception for specified Department of Transportation contractors.

The letting of contracts for the types of projects specified in G.S. 136-28.14 shall not be subject to the licensing requirement of this Article. (2006-261, s. 2.)

§ 136-28.1. Letting of contracts to bidders after advertisement; exceptions.

(a) All contracts over two million five hundred thousand dollars ($2,500,000) that the Department of Transportation may let for construction, maintenance, operations, or repair necessary to carry out the provisions of this Chapter shall be let to a responsible bidder after public advertising under rules and regulations to be made and published by the Department of Transportation. The right to reject any and all bids shall be reserved to the Board of Transportation. Contracts for construction or repair for federal aid

projects entered into pursuant to this section shall not contain the standardized contract clauses prescribed by 23 U.S.C. § 112(e) and 23 C.F.R. § 635.109 for differing site conditions, suspensions of work ordered by the engineer or significant changes in the character of the work. For those federal aid projects, the Department of Transportation shall use only the contract provisions for differing site conditions, suspensions of work ordered by the engineer, or significant changes in the character of the work developed by the North Carolina Department of Transportation and approved by the Board of Transportation.

(b) For contracts let to carry out the provisions of this Chapter in which the amount of work to be let to contract for transportation infrastructure construction or repair is two million five hundred thousand dollars ($2,500,000) or less, and for transportation infrastructure maintenance, excluding resurfacing, that is two million five hundred thousand dollars ($2,500,000) per year or less, at least three informal bids shall be solicited. The term "informal bids" is defined as bids in writing, received pursuant to a written request, without public advertising. All such contracts shall be awarded to the lowest responsible bidder. The Secretary of Transportation shall keep a record of all bids submitted, which record shall be subject to public inspection at any time after the bids are opened.

(c) The construction, maintenance, and repair of ferryboats and all other marine floating equipment and the construction and repair of all types of docks by the Department of Transportation shall be deemed highway construction, maintenance, or repair for the purpose of G.S. 136-28.1 and Chapter 44A and Chapter 143C of the General Statutes, the State Budget Act. In cases of a written determination by the Secretary of Transportation that the requirement for compatibility does not make public advertising feasible for the repair of ferryboats, the public advertising as well as the soliciting of informal bids may be waived.

(d) The construction, maintenance, and repair of the highway rest area buildings and facilities, weight stations and the Department of Transportation's participation in the construction of welcome center buildings shall be deemed highway construction, maintenance, or repair for the purpose of G.S. 136-28.1 and 136-28.3 and Chapter 143C of the General Statutes, the State Budget Act.

(e) The Department of Transportation may enter into contracts for construction, maintenance, or repair without complying with the bidding requirements of this section upon a determination of the Secretary of Transportation or the Secretary's designee that an emergency exists and that it is not feasible or not in the public interest for the Department of Transportation to comply with the bidding requirements.

(f) Notwithstanding any other provision of law, the Department of Transportation may solicit proposals under rules and regulations adopted by the Department of Transportation for all contracts for professional engineering services and other kinds of professional or specialized services necessary in connection with the planning, design, maintenance, repair, and construction of transportation infrastructure. In order to promote engineering and design quality and ensure maximum competition by professional firms of all sizes, the Department may establish fiscal guidelines and limitations necessary to promote cost-efficiencies in overhead, salary, and expense

reimbursement rates. The right to reject any and all proposals is reserved to the Board of Transportation.

(g) The Department of Transportation may enter into contracts for research and development with educational institutions and nonprofit organizations without soliciting bids or proposals.

(h) The Department of Transportation may enter into contracts for applied research and experimental work without soliciting bids or proposals; provided, however, that if the research or work is for the purpose of testing equipment, materials, or supplies, the provisions of Article 3 of Chapter 143 of the General Statutes shall apply. However, the Department of Transportation shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Department of Transportation under this subsection a standard clause which provides that the State Auditor and internal auditors of the Department of Transportation may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Department of Transportation shall not award a cost plus percentage of cost agreement or contract for any purpose. The Department of Transportation is encouraged to solicit proposals when contracts are entered into with private firms when it is in the public interest to do so.

(i) The Department of Transportation may negotiate and enter into contracts with public utility companies for the lease, purchase, installation, and maintenance of generators for electricity for its ferry repair facilities.

(j) Repealed by Session Laws 2002-151, s. 1, effective October 9, 2002.

(k) The Department of Transportation may accept bids under this section by electronic means and may issue rules governing the acceptance of these bids. For purposes of this subsection "electronic means" is defined as means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(l) The Department of Transportation may enter into contracts for public-private participation in providing litter removal from State right-of-way. Selection of firms to perform this work shall be made using a best value procurement process and shall be without regard to other provisions of law regarding the Adopt-A-Highway Program administered by the Department. Acknowledgement of sponsors may be indicated by appropriate signs that shall be owned by the Department of Transportation. The size, style, specifications, and content of the signs shall be determined in the sole discretion of the Department of Transportation. The Department of Transportation may issue guidelines, rules, and policies necessary to administer this subsection.

(m) The Department of Transportation may enter into contracts for public-private participation at State-owned rest areas. Selection of firms shall be made using a best value procurement process. Recognition of sponsors in the program may be indicated by appropriate acknowledgment for any services provided. The size, style, specifications, and content of the acknowledgment shall be determined in the sole discretion of the Department. Revenues generated pursuant to a contract initiated

under this subsection shall be shared with Department of Transportation at a predetermined percentage or rate, and shall be earmarked by the Department to maintain the State owned rest areas from which the revenues are generated. The Department of Transportation may issue guidelines, rules, and policies necessary to administer this subsection. (1971, c. 972, s. 1; 1973, c. 507, ss. 5, 16; c. 1194, ss. 4, 5; 1977, c. 464, ss. 7.1, 16; 1979, c. 174; 1981, c. 200, ss. 1, 2; c. 859, s. 68; 1985, c. 122, s. 2; 1985 (Reg. Sess., 1986), c. 955, s. 46; c. 1018, s. 2; 1987, c. 400; 1989, c. 78; c. 749, ss. 2, 3; 1995, c. 167, s. 1; 1997-196, s. 1; 1999-25, ss. 2, 3; 2001-424, ss. 27.9(a), 27.9(b); 2002-151, s. 1; 2006-68, s. 1; 2006-203, s. 75; 2007-439, ss. 3, 4; 2009-266, s. 1; 2009-475, s. 12; 2010-194, s. 19; 2011-145, s. 28.3; 2011-326, s. 15(t); 2013-340, s. 2.1.)

§ 136-28.4. (Expires August 31, 2014) State policy concerning participation by disadvantaged minority-owned and women-owned businesses in transportation contracts.

(a) It is the policy of this State, based on a compelling governmental interest, to encourage and promote participation by disadvantaged minority-owned and women-owned businesses in contracts let by the Department pursuant to this Chapter for the planning, design, preconstruction, construction, alteration, or maintenance of State transportation infrastructure and in the procurement of materials for these projects. All State agencies, institutions, and political subdivisions shall cooperate with the Department of Transportation and among themselves in all efforts to conduct outreach and to encourage and promote the use of disadvantaged minority-owned and women-owned businesses in these contracts.

(b) At least every five years, the Department shall conduct a study on the availability and utilization of disadvantaged minority-owned and women-owned business enterprises and examine relevant evidence of the effects of race-based or gender-based discrimination upon the utilization of such business enterprises in contracts for planning, design, preconstruction, construction, alteration, or maintenance of State transportation infrastructure and in the procurement of materials for these projects. Should the study show a strong basis in evidence of ongoing effects of past or present discrimination that prevents or limits disadvantaged minority-owned and women-owned businesses from participating in the above contracts at a level which would have existed absent such discrimination, such evidence shall constitute a basis for the State's continued compelling governmental interest in remedying such race and gender discrimination in transportation contracting. Under such circumstances, the Department shall, in conformity with State and federal law, adopt by rule and contract provisions a specific program to remedy such discrimination. This specific program shall, to the extent reasonably practicable, address each barrier identified in such study that adversely affects contract participation by disadvantaged minority-owned and women-owned businesses.

(b1) Based upon the findings of the Department's 2009 study entitled "Measuring Business Opportunity: A Disparity Study of NCDOT's State and Federal Programs" hereinafter referred to as "Study", the program design shall, to the extent reasonably practicable, incorporate narrowly tailored remedies identified in the Study, and the Department

shall implement a comprehensive antidiscrimination enforcement policy. As appropriate, the program design shall be modified by rules adopted by the Department that are consistent with findings made in the Study and in subsequent studies conducted in accordance with subsection (b) of this section. As part of this program, the Department shall review its budget and establish aspirational goals every three years, not mandatory goals, in percentages, for the overall participation in contracts by disadvantaged minority-owned and women-owned businesses. These aspirational goals for disadvantaged minority-owned and women-owned businesses shall be established consistent with federal methodology, and they shall not be applied rigidly on specific contracts or projects. Instead, the Department shall establish contract-specific goals or project-specific goals for the participation of such firms in a manner consistent with availability of disadvantaged minority-owned and women-owned businesses, as appropriately defined by its most recent Study, for each disadvantaged minority-owned and women-owned business category that has demonstrated significant disparity in contract utilization. Nothing in this section shall authorize the use of quotas. Any program implemented as a result of the Study conducted in accordance with this section shall be narrowly tailored to eliminate the effects of historical and continuing discrimination and its impacts on such disadvantaged minority-owned and women-owned businesses without any undue burden on other contractors. The Department shall give equal opportunity for contracts it lets without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition, as defined in G.S. 168A-3, to all contractors and businesses otherwise qualified.

(c) The following definitions apply in this section:

(1) "Contract" includes, but is not limited to, contracts let under the procedures set forth in G.S. 136-28.1(a) and (b).

(1a) "Disadvantaged Business" has the same meaning as "disadvantaged business enterprise" in 49 C.F.R. § 26.5 Subpart A or any subsequently promulgated replacement regulation.

(2) "Minority" includes only those racial or ethnicity classifications identified by a study conducted in accordance with this section that have been subjected to discrimination in the relevant marketplace and that have been adversely affected in their ability to obtain contracts with the Department.

(3) "Women" means nonminority persons born of the female sex.

(d) The Department shall report annually to the Joint Legislative Transportation Oversight Committee on the utilization of disadvantaged minority-owned businesses and women-owned businesses and any program adopted to promote contracting opportunities for those businesses. Following each study of availability and utilization, the Department shall report to the Joint Legislative Transportation Oversight Committee on the results of the study for the purpose of determining whether the provisions of this section should continue in force and effect.

(e) This section expires August 31, 2014. (1983, c. 692, s. 3; 1989, c. 692, s. 1.5; 1989 (Reg. Sess., 1990), c. 1066, s. 143(a); 2006-261, s. 4; 2009-266, s. 3; 2010-165, s. 9; 2013-340, s. 2.2.)

§ 136-28.10. Highway Fund and Highway Trust Fund Small Project Bidding.

(a) Notwithstanding the provisions of G.S. 136-28.4(b), for Highway Fund or Highway Trust Fund construction and repair projects of five hundred thousand dollars ($500,000) or less, and maintenance projects of five hundred thousand dollars ($500,000) or less per year, the Board of Transportation may, after soliciting at least three informal bids in writing from Small Business Enterprises, award contracts to the lowest responsible bidder. The Department of Transportation may identify projects likely to attract increased participation by Small Business Enterprises, and restrict the solicitation and award to those bidders. The Board of Transportation may delegate full authority to award contracts, adopt necessary rules, and administer the provisions of this section to the Secretary of Transportation.

(b) The letting of contracts under this section is not subject to any of the provisions of G.S. 136-28.1 relating to the letting of contracts. The Department may waive the bonding requirements of Chapter 44A of the General Statutes and the licensing requirements of Chapter 87 for contracts awarded under this section.

(c) The Secretary of Transportation shall report quarterly to the Joint Legislative Transportation Oversight Committee on the implementation of this section. (1993, c. 561, s. 65; 1999-25, s. 1; 2009-266, s. 2.)

§ 136-28.14. Project contractor licensing requirements.

The letting of contracts under this Chapter for the following types of projects shall not be subject to the licensing requirements of Article 1 of Chapter 87 of the General Statutes:

(1) Routine maintenance and minor repair of pavements, bridges, roadside vegetation and plantings, drainage systems, concrete sidewalks, curbs, gutters, and rest areas.

(2) Installation and maintenance of pavement markings and markers, ground mounted signs, guardrail, fencing, and roadside vegetation and plantings. (2006-261, s. 1.)

§ 44A-26. Bonds required.

(a) When the total amount of construction contracts awarded for any one project exceeds three hundred thousand dollars ($300,000), a performance and payment bond as set forth in (1) and (2) is required by the contracting body from any contractor or construction manager at risk with a contract more than fifty thousand dollars ($50,000); provided that, for State departments, State agencies, and The University of North Carolina and its constituent institutions, a performance and payment bond is required in accordance with this subsection if the total amount of construction contracts awarded for any one project exceeds five hundred thousand dollars ($500,000). In the discretion of the contracting body, a performance and payment bond may be required on any construction contract as follows:

(1) A performance bond in the amount of one hundred percent (100%) of the construction contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the

contract. Such bond shall be solely for the protection of the contracting body that is constructing the project.

(2) A payment bond in the amount of one hundred percent (100%) of the construction contract amount, conditioned upon the prompt payment for all labor or materials for which a contractor or subcontractor is liable. The payment bond shall be solely for the protection of the persons furnishing materials or performing labor for which a contractor, subcontractor, or construction manager at risk is liable.

(b) The performance bond and the payment bond shall be executed by one or more surety companies legally authorized to do business in the State of North Carolina and shall become effective upon the awarding of the construction contract. (1973, c. 1194, s. 1; 1983, c. 818; 1987 (Reg. Sess., 1988), c. 1108, s. 10; 1995, c. 367, s. 3; 2001-496, s. 7; 2010-148, s. 1.)

NC Administrative Code Related to Contracting

SECTION .0800 - PREQUALIFICATION: ADVERTISING AND BIDDING REGULATIONS

19A NCAC 02D .0801 PREQUALIFYING TO BID: REQUALIFICATION

(a) In order to ensure that contracts let pursuant to G.S. 136-28.1(a) are awarded to responsible bidders, prospective bidders and contractors shall comply with the rules set forth in this Section except as otherwise provided by law. For highway construction, maintenance and repair contracts other than those specified in G.S. 136-28.1(a), specific project prequalification requirements to satisfy Paragraph (c) of this Rule shall be specified in the bid documents for specific project contracts.

(b) In order to be eligible to contract with the Department pursuant to G.S. 136-28.1(a), all prospective bidders and subcontractors shall be prequalified with the Department to ensure that they are responsible bidders and reputable contractors capable of effectively and efficiently performing the work awarded to them.

(c) The requirements of prequalification are as follows:

(1) Applicants shall demonstrate the necessary experience, knowledge, and expertise to safely perform and timely complete highway construction projects in which they bid or subcontract;

(2) Applicants shall demonstrate that they have sufficient financial resources, including available equipment and qualified personnel, to adequately perform and timely complete highway construction projects in which they bid or subcontract;

(3) Applicants shall demonstrate that they have the necessary knowledge and expertise to comply with all state and federal environmental laws relating to highway construction, maintenance and repair contracts; and

(4) Applicants shall certify they are independent and not affiliated with other bidders of the same project.

(d) Bidders shall comply with all applicable laws regulating the practice of general contracting as contained in G.S. 87.

(e) Prospective bidders and subcontractors shall update their prequalification status annually and shall requalify every three years.

(f) A prequalified bidder or subcontractor must maintain compliance with the rules in this section at all times in order to be eligible to contract with the Department pursuant to G.S. 136.28.1(a). If at any time a bidder or subcontractor fails to comply with these rules, the Department shall disqualify the bidder or subcontractor from any further bidding until he is able to demonstrate compliance with these requirements by requalifying.

History Note: *Authority G.S. 136-18(1); 136-28.1; 136-44.1; 136-45; 143B-350(f);*
Eff. April 3, 1981;
Amended Eff. February 1, 2008; October 1, 1995; December 1, 1994; December 29, 1993; November 1, 1991.

19A NCAC 02D .0803 ADVERTISEMENT AND INVITATIONS FOR BIDS

(a) All projects shall be advertised in daily newspapers throughout the state prior to the bid opening.

(b) On the date of advertisement, an invitation to bid shall be made available to interested parties on the Department's web site.

(c) The invitation to bid shall indicate the contract identification number and description of the projects to be let, a general summary of the items and approximate quantities of work to be performed, and the time and place for the public opening and reading of the bids received. Information concerning the cost and the availability of bid documents shall also be provided in the invitation to bid.

(d) Prospective bidders who desire to bid on projects identified in the invitation to bid shall purchase the project specific bid documents from the Department containing information necessary to submit the bid. Other interested parties may also purchase project specific bid documents from the Department. Documents may be purchased at cost from the Department.

History Note: *Authority G.S. 136-28.1; 143-129;*
Eff. April 3, 1981;
Amended Eff. February 1, 2008; December 1, 1993; November 1, 1991.

19A NCAC 02D .0806 INTERPRETATION OF QUANTITIES IN PROPOSAL FORM

(a) The quantities appearing in the proposal are approximate only and shall be used for the comparison of bids. Payment to the contractor shall be made only for the actual quantities of the various items that are completed and accepted in accordance with the terms of the contract.

(b) When quantities are shown for items to be bid on a lump sum basis, these quantities are furnished for the convenience of bidders, and the Department shall not be responsible for, nor guarantee as correct, any quantity given.

History Note: Authority G.S. 136-18(1); 136-28.1;
Eff. April 3, 1981;
Amended Eff. February 1, 2008.

19A NCAC 02D .0807 EXAMINATION OF PLANS: SPECS: CONTRACT: AND SITE OF WORK

A bidder shall examine the site of the work contemplated, the plans and specifications, and the proposal therefor. A bidder or contractor shall make such independent investigation and examination as he deems necessary to satisfy himself as to conditions to be encountered in the performance of the work and with respect to possible local material sources, the quality and quantity of material available from such property, and the type and extent of processing that may be required in order to produce material conforming to the requirements of the contract. Upon submission of the bid, the Department shall deem that the bidder has completed the requirements set out in the bid documents as to the conditions to be encountered, the character, quality, and scope of work to be performed, the quantities of materials to be furnished and as to the conditions and requirements of the proposal and plans under which his bid is offered.

History Note: Authority G.S. 136-18(1); 136-28.1;
Eff. April 3, 1981;
Temporary Amendment Eff. March 15, 1982, for a period of 47 days to expire on May 1, 1982;
Amended Eff. February 1, 2008; October 1, 1993; March 1, 1984; May 1, 1982.

19A NCAC 02D .0810 DELIVERY OF BIDS

(a) All bidders shall submit bids in accordance with the bid documents to the Department.

(b) Any bid not delivered within the time or manner specified in the bid documents shall not be accepted and shall be returned to the bidder unopened or, in the case of electronic bids, not read publicly.

History Note: Authority G.S. 136-18(1); 136-28.1;
Eff. April 3, 1981;
Temporary Amendment Eff. March 15, 1982, for a period of 47 days to expire on May 1, 1982;
Amended Eff. February 1, 2008; November 1, 1991; July 1, 1982; May 1, 1982.

19A NCAC 02D .0812 RECEIPT AND OPENING OF BIDS

(a) The Department shall open and read bids publicly at the time and place indicated in the invitation to bid. Bidders, their authorized agents, and other interested parties may be present.

(b) Bid evaluation, including bid rejection, waiver of irregularities, or award shall be conducted in accordance with the terms of the bid documents.

(c) Bid revisions by the Department or bid withdrawal by the bidder shall be made in accordance with the terms of the bid documents.

History Note: Authority G.S. 136-18(1); 136-28.1;
Eff. April 3, 1981;
Amended Eff. February 1, 2008; July 1, 1982.

19A NCAC 02D .0818 NON-COLLUSION AFFIDAVIT AND CERTIFICATIONS

(a) Every bidder and subcontractor shall furnish to the Department non-collusion affidavits certifying that the bidder has not entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with his bid on the project. The affidavit shall also indicate that the bidder intends to do the work with its own employees or subcontractors and is not bidding for the benefit of another contractor.

(b) The prospective bidder and subcontractors shall also furnish executed debarment certification forms to the Department. In the event the prospective bidder or subcontractor cannot certify that he is not disbarred, the prospective bidder or subcontractor shall provide a written explanation, which the Department shall review and evaluate to determine if the bidder or subcontractor is still prequalified for bidding, contracting or subcontracting on Department projects.

History Note: *Authority G.S. 136-18(1); 136-28.1; 143-54;*
Eff. April 3, 1981;
Recodified from 19A NCAC 2D .0816;
Amended Eff. February 1, 2008; October 1, 1993; November 1, 1991; October 1, 1991; July 1, 1982.

19A NCAC 02D .0820 CANCELLATION OF AWARD

The Board of Transportation may rescind the award of any contract at any time before the receipt of the properly executed contract bonds from the successful bidder.

History Note: *Authority G.S. 136-18(1); 136-28.1; 143B-350(f);*
Eff. April 3, 1981;
Recodified from 19A NCAC 2D .0818;
Amended Eff. October 1, 1993; November 1, 1991.

19A NCAC 02D .0825 CONFIDENTIALITY OF COST ESTIMATES

All cost estimates prepared by the Department for the purpose of comparing bids shall be confidential and not disclosed until after the opening of bids.

History Note: *Authority G.S. 133-33;*
Eff. September 1, 1981;
Amended Eff. May 1, 1983;
Recodified from 19A NCAC 2D .0823;
Amended Eff. February 1, 2008; February 1, 1995; October 1, 1993; October 1, 1991.

19A NCAC 02D .0830 DEFINITIONS

This Section establishes the Department's rules for letting of contracts pursuant to G.S. 136-28.1(a). For purposes of this Section, the following definitions shall apply:

(1) "Bid" means the offer of a bidder on the proposal furnished by the Department to perform work and furnish labor and materials at the prices quoted.

(2) "Bidder" means an individual, partnership, firm, corporation, or joint venture formally submitting a bid for the work contemplated.

(3) "Bid documents" means the package of materials, in paper or electronic form, containing all project specific contract information including the plans and proposals furnished by the Department.

(4) "Contract" means the executed agreement between the Department of Transportation and the successful bidder, covering the performance of the work and the compensation for work.

(5) "Department" means the North Carolina Department of Transportation.

(6) "Debarment certification form" means a certification form provided by the Department for execution by the prospective bidder or subcontractor certifying that he is not, nor has been, debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from certain transactions and has not been charged, indicted or convicted of debarment related activities and shall otherwise assume debarment certification responsibilities as part of any contract with the Department.

(7) "Invitation to bid" means the notification that bids will be received for the construction of specific projects.

History Note: *Authority G.S. 136-28.1;*
Eff. October 1, 1993;
Amended Eff. February 1, 2008.

POLICY MEMOS

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PATRICK L. MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

June 9, 2014

As part of the prequalification process, the Department categorizes contractors by different contract type and lists this information in our Directory of Transportation Firms. For the last several years, one of these categories for prequalification is Purchase Order Prime Contractors. These are contractors who wish to bid on Division-Let projects. Unfortunately, we have been unable to separate this category for PO Prime in our Directory due to software constraints. Therefore, firms that were prequalified as either Central-Let Bidder or as a Subcontractor have been allowed to bid on Division-Let projects. Several months ago, our IT Unit was able to update both SAP and the Directory to allow the PO Prime category to be displayed. All firms that have been approved as a PO Prime contractor will now be visible on the Directory.

The prequalification process for Purchase Order contractors is stricter than the process for a Subcontractor designation. Therefore it is important that contractors in these categories be considered separately. Effective **July 1, 2014**, Division let contracts should only be awarded to firms listed in the Directory as either Bidder or PO Prime Contractor. After this date, firms that are only prequalified in the category of Subcontractor cannot bid on projects as the prime contractor.

Several steps will be taken to assist with this transition. The Contractual Services Management Section will work with IT and the Communications Office to place language on the appropriate website tab to alert contractors of this change and prequalification requirements. Please ensure the language in contract proposals is updated with regards to what prequalification is needed to bid on the project. Also, as you have opportunities, please encourage firms to be proactive with their applications for prequalification approval to avoid conflicts with their ability to bid on projects. We do not want firms to miss contract opportunities because they wait until the last minute.

Thank you for your assistance with the implementation of these new prequalification requirements for awarding Division let contracts to firms. Should you have specific questions regarding this matter, please contact Terry Canales, Contractual Services Engineer at 919-707-4805.

Sincerely,

Mike Holder, PE
Chief Engineer

MAILING ADDRESS:
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CHIEF ENGINEER'S OFFICE
1536 MAIL SERVICE CENTER
RALEIGH NC 27699-1536

TELEPHONE: 919-707-2500
FAX: 919-733-9428

WEBSITE: WWW.NCDOT.GOV

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE
GOVERNOR

EUGENE A. CONTI, JR.
SECRETARY

December 2, 2011

MEMORANDUM TO: Jon Nance, PE
Division Engineers

FROM: Terry Gibson, PE

SUBJECT: Division Let Dates

Modifying the Division let dates to a set schedule was discussed at the Operations Staff meeting. Your staff, in coordination with the Central Contract Office, have provided feedback on the letting schedules, and the let days have been set as: Divisions 1, 6, 10 & 13: 1st Wednesday and 3rd Wednesday; Divisions 2, 5 & 9: 2nd Wednesday and 4th Wednesday; Divisions 3, 7 & 11: 1st Thursday and 3rd Thursday; and Divisions 4, 8, 12 & 14: 2nd Tuesday and 4th Tuesday. Central Contract Office Lettings will continue to be on the 3rd Tuesday and Structures Management will continue to use the 4th Thursday.

This is an attempt to minimize overlap in neighboring divisions, provide consistency for the contracting industry, and coordinate efforts with central lettings as well. As we discussed, the agreed upon dates will not preclude you from having special lettings for exceptional projects that arise.

These let dates will be effective beginning in January 2012.

Attachment

cc: Randy Garris, PE
Greg Perfetti, PE

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATOR
1536 MAIL SERVICE CENTER
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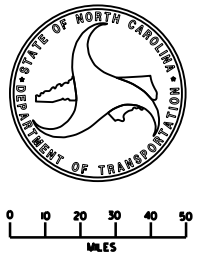
LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

N.C. Dept of Transportation
Division Map



0 10 20 30 40 50
MILES

VIRGINIA
TENNESSEE
GEORGIA
SOUTH CAROLINA
ATLANTIC OCEAN

1 2 3 4 5 6 7 8 9 10 11 12 13 14

ASHE ALLEGHANY SURRY STOKES ROCKINGHAM CASWELL PERSON GRANVILLE VANCE WARREN NORTHAMPTON GATES HERTFORD CHOWAN PERQUIMANS PASQUOTANK CAMDEN CURRITUCK BERTIE MARTIN WASHINGTON TYRRELL DARE HYDE BEAUFORT PITT GREENE LENOIR CRAVEN JONES PAMLICO CARTERET ONSLOW NEW HANOVER BRUNSWICK PENDER DUPLIN SAMPSON BLADEN COLUMBUS ROBESON CUMBERLAND HARNETT JOHNSTON WAYNE WILSON NASH EDGECOMBE HALIFAX FRANKLIN VANCE WAKE DURHAM GUILFORD ALAMANCE ORANGE CHATHAM RANDOLPH LEE MOORE HOKE SCOTLAND RICHMOND MONTGOMERY STANLY ANSON UNION CABARRUS MECKLENBURG IREDELL ROWAN DAVIDSON DAVIE FORSYTH YADKIN WILKES WATAUGA AVERY MITCHELL YANCEY CALDWELL ALEXANDER CATAWBA LINCOLN GASTON CLEVELAND RUTHERFORD POLK BURKE MCDOWELL MADISON BUNCOMBE HENDERSON TRANSYLVANIA HAYWOOD JACKSON SWAIN GRAHAM CHEROKEE CLAY MACON

PROPOSED DIVISION LET DATES

- 1st WED and 3rd WED
- 2nd WED and 4th WED
- 1st THURS and 3rd THURS
- 2nd TUES and 4th TUES

TPMU
Revised 04.06.2011
division.dgn

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE
GOVERNOR

EUGENE A. CONTI, JR.
SECRETARY

October 18, 2012

MEMORANDUM TO: Division Engineers

FROM: Terry R. Gibson, PE
Chief Engineer

SUBJECT: Bonding Requirements for Division Let Projects

Current legislation allows the Department to waive payment and performance bonding requirements for any project that has a bid value of $500,000 or less. Previously, the bid value for this waiver was set at $500,000 for SBE contracts and $300,000 for all other types of projects.

Although the Department is given the authority to waive bonding requirements, caution should be exercised on certain higher risk projects in which it would be difficult for the Department to self perform the work in the event of a default or for projects that involve multiple material suppliers or subcontractors who may be reluctant to provide services to an unbonded project. The attached document provides specific guidance to follow in determining when to waive payment and performance bonding requirements for Division let projects. This information is intended to serve as a supplement to the procedures currently shown in the purchase order contract manual until that manual is updated.

Please share this information with your Division Project Managers and other staff responsible for assembling contracts and begin to follow this guidance with all project advertisements immediately.

Attachment

Cc: R. E. Greene, Jr., PE
R. A. Hancock, PE
R. A. Garris, PE
J. P. Brandenburg, PE

MAILING ADDRESS:
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LOCATION:
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1 SOUTH WILMINGTON STREET
RALEIGH NC

Attachment to October 18, 2012 Memo from Chief Engineer Gibson

Payment and Performance Bonds – Division Let Projects

Current laws regarding bonding requirements for NCDOT projects

GS 136-28.10
Allows NCDOT to waive bonding requirements for SBE contracts up to $500,000.

GS 44A-26
Requires all construction contracts over $500,000 to have payment and performance bonds. Allows State Agencies to waive bonding requirements for projects up to $500,000, at the discretion of the contracting body.

Guidelines for Division let projects regarding GS 44A-26

- Use $300,000 as the limit for waiving bonds for all bridge replacement and major bridge rehabilitation projects (such as latex overlays).
- Use $500,000 as the limit for other projects unless there are specific issues where the Division feels it is appropriate to use $300,000.

Reasons for stricter bonding requirements for bridge projects:

- Typically these projects have more suppliers and subcontractors. The material cost represents a large portion of the project and the payment bond will provide an avenue for suppliers and subcontractors to request payment if the prime contractor is not responsive.
- These projects often require off site detours that can be inconvenient and costly to the traveling public. Having a 3rd party partner to help complete the project if needed is appropriate in this case.
- The Department does not have the ability to easily take over and complete these projects. In addition, requiring a bond provides screening to help ensure use of financially capable contractors on these more complex type projects.
- Due to the current economic climate, we have been experiencing more prompt pay issues and defaults.

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

August 16, 2013

TO: Mr. R. A. Garris, P.E.
State Contract Officer

FROM: R. A. Hancock, P.E. R.A. Hancock/PRJ
State Construction Engineer

SUBJECT: Approved Liquidated Damages Chart

Enclosed for your use are the Revised Liquidated Damages Rates that have been Approved for use by FHWA.

If you have questions please contact Phillip Johnson at (919) 707-2400.

Attachments

RAH/PRJ

cc Mr. R. E. Greene, Jr. P.E.

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
CONSTRUCTION UNIT
1543 MAIL SERVICE CENTER
RALEIGH NC 27699-1543

TELEPHONE: 919-707-2400
FAX: 919-733-8441

WEBSITE: WWW.NCDOT.ORG

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

Revised Liquidated Damages Rates

8/16/2013

Type	Liquidated Damages
0 - $500K	$500.00
$500K - 1M	$600.00
$1M - $2M	$750.00
$2M - $5M	$1,000.00
$5M - $10M	$1,500.00
$10M - $30M	$2,000.00
$30M - $50M	$3,000.00
$50 - $100M	$4,000.00
> $100M	$5,000.00

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE
GOVERNOR

EUGENE A. CONTI, JR.
SECRETARY

August 27, 2012

MEMORANDUM TO: Division Engineers

FROM: Terry R. Gibson, PE
Chief Engineer

SUBJECT: Good Faith Effort Review and Appeals Procedures for Purchase Order Contracts

The reorganization of the Division of Highways has prompted the need for many changes in the Department, and in an effort to have the Purchase Order Contract process mirror the central project process, the good faith effort review has changed. All good faith effort appeals are to be sent to Victor Barbour who will chair the appeals committee.

The Divisions will continue to have the initial hearing with the Division Goal Compliance Committee to review the contractor's documentation criteria for each project. Division Engineers do not necessarily have to be on the committee; however, the letter to the contractor should be issued from the Division Engineer, and it should include the appeals procedure. Division staff responsible for Purchase Order Contracts should thoroughly understand goal setting and compliance procedures. It is critical that the contractor's plan for compliance includes being able to meet the goal, and the contractor must document their plan and cost requirements if not selecting a MB/WB subcontractor.

When a contractor does not meet the goal(s) established by the Department for a Purchase Order Contract and does not prove a good faith effort was made, the contractor may appeal the decision of the Division Goal Compliance Committee. The contractor should initiate his appeal in writing to the Administrator of the Technical Services Division within two working days of the Division's notification of non-good faith. The Division will be informed of the appeal. The contractor will be responsible for furnishing three copies of the contract, denial letter, and backup documentation of their good faith effort to the Technical Services office. This can either be sent via hard copy or electronically to DBE@ncdot.gov. The appeal will be reviewed by the appeals committee which will be comprised of the offices of the Chief Engineer, the Administrator of Technical Services, and the Deputy Secretary of Administration and Business Development.

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
CHIEF ENGINEER'S OFFICE
1536 MAIL SERVICE CENTER
RALEIGH NC 27699-1536

TELEPHONE: 919-707-2500
FAX: 919-733-9428

WEBSITE: WWW.NCDOT.GOV

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

Notification of the award of contract should not be made by the Division until a decision has been reached on the appeal.

Beth McKay in the Attorney General's office is the contact for questions regarding Good Faith Effort.

Per the November 15, 2011 Special Provisions for state and federal good faith, there are ten criteria that the Division Goal Compliance Committee will use to determine if the contractor performed a good faith effort. There are also two additional areas that may be taken into consideration if the committee needs to go further in their review: whether the bidder's documentation reflects a clear and realistic plan for achieving the MBE and WBE goals, and the bidder's past performance in meeting the MBE and WBE goals.

The committee will be asking the contractor to illustrate their plan for accomplishing the goals set in the contract, and the strategy used to meet the goals and satisfy the good faith criteria. The reasoning in the decision making process to use their own forces or non-minority subcontractors to fulfill the contract terms will be re-examined.

The Appeals Committee will make a final determination, and the final decision will be sent to the contractor in writing.

cc: Jim Trogdon, P.E., Chief Operating Officer
Jon Nance, P.E., Deputy Chief Engineer

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE
GOVERNOR

EUGENE A. CONTI, JR.
SECRETARY

August 23, 2012

MEMORANDUM TO: Division Engineers and Division Program Managers

FROM: T. R. Gibson, P.E.
Chief Engineer

SUBJECT: Small Business Enterprise (SBE) Program

The United States Department of Transportation team consisting of the Federal Highway Administration, the Federal Transit Administration and the Federal Aviation Administration, as well as the FHWA North Carolina Division Office, have found NCDOT's SBE plan fulfills the intent of the DBE Program regulations under 49 CFR Part 26 and acceptable to use for Federal projects.

In the past, only projects that were 100% state funded were allowed to participate in the program. Effective as of the date of this letter, NCDOT can now use federal funds to administer SBE projects. There are no added constraints placed on the use of federal funds with the addition of the SBE program. We continue to emphasize the importance of entering project information into SAP for reporting purposes. This will allow us to report on our successes with this new portion of the program.

Please continue to look for contracting opportunities for SBE firms as part of our Division projects. It is our hope that many of the SBE contractors will become future sub and prime contractors. This process begins with their involvement in the SBE program. Also remember that the SBE program is not only a highway program, but was also approved in 2009 to be used for all modes of transportation.

With this expansion of the SBE program, I am requesting that each division formulate plans among your staff to increase your current SBE outreach and participation. We will monitor our efforts and report out on our success as we move forward with this program. If you have any questions on the SBE program or would like assistance with potential expansion ideas, please contact Ms. Terry Canales, PE at 919-707-4805 or tcanales@ncdot.gov.

MAILING ADDRESS:
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1536 MAIL SERVICE CENTER
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TELEPHONE: 919-707-2500
FAX: 919-733-9428

WEBSITE: WWW.NCDOT.GOV

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

September 5, 2013

MEMORANDUM

TO: Division Engineers

FROM: T. R. Gibson, PE
Chief Engineer

SUBJECT: ADA Curb Ramps For Resurfacing And Other Division Design Projects

The United States Department of Justice (USDOJ) and the Federal Highway Administration (FHWA) recently published the attached Briefing Memo regarding curb ramp additions or retrofits that are required for resurfacing type projects. Based on this joint ruling from USDOJ and FHWA, the following types of work require installation of new curb ramps and/or retrofit of existing, nonstandard curb ramps where applicable:

- Traditional resurfacing with plant mix asphalt (including mill and fill)
- Thin lift overlays to include OGAFC, Ultra-thin, SA-1, S4.75A, and Microsurfacing
- Hot in-place recycling
- Cape Seals (but not chip seals, slurry seals, or fog seals)

The addition of curb ramps is required when the curb section is connected to a pedestrian walkway with a prepared surface for pedestrian use. Existing curb ramps constructed in accordance with the 1991 standard or later are not required to be retrofitted as a part of these projects. New or retrofit curb ramp construction should follow details of standards 848.05 and 848.06 in the 2012 Roadway Standard Drawings. If site conditions make these standards difficult to follow refer to the link below for alternate curb ramp designs. This link also includes 1991-2011 curb ramp designs for use as a reference to determine the need for retrofits.

https://connect.ncdot.gov/resources/Specifications/Pages/2012-Roadway-Drawings.aspx

These requirements apply to all resurfacing type projects, rehabilitation, reconstruction, new construction, and Division Design projects. In addition, encroachments, driveway permits, and locally administered projects should adhere to these requirements. This memo is considered an update to previous guidance provided in 1995 and 2003 memos from Chief Engineer Don Goins.

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
OFFICE OF THE CHIEF ENGINEER
1536 MAIL SERVICE CENTER
RALEIGH NC 27699-1636

TELEPHONE: 919-707-2500
FAX: 919-733-9426

WEBSITE: WWW.NCDOT.GOV

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

Effective immediately, take all necessary steps to include curb ramp details on all appropriate projects in accordance with this Federal policy. Please review this information with your staff to ensure compliance. Direct any questions you may have about this issue to the Construction Unit at (919) 707-2400.

Attachment

cc: R. E. Greene, Jr., PE
R. A. Hancock, PE
R. A. Garris, PE
J. K. Lacy, PE
D. M. Barbour, PE
J. V. Barbour, PE
Jennifer Brandenburg, PE
John Sullivan, III, PE

BRIEFING MEMO

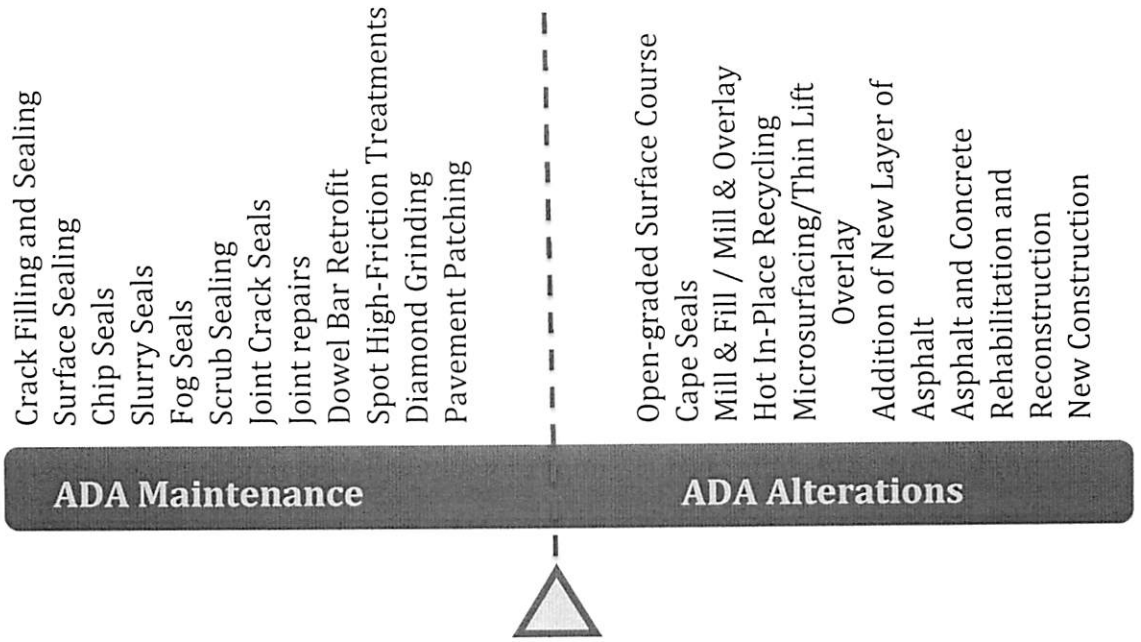
SUBJECT: Department of Justice/Department of Transportation Joint Technical Assistance on Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing

ISSUE: Throughout the nation, there are different interpretations and inconsistencies in enforcement of when curb ramps are required.

BACKGROUND: The Americans with Disabilities Act of 1990 (ADA) is a civil rights statute prohibiting discrimination against persons with disabilities in all aspects of life, including transportation, based on regulations promulgated by the United States Department of Justice (DOJ). DOJ's regulations require accessible planning, design, and construction to integrate people with disabilities into mainstream society. Further, these laws require that public entities responsible for operating and maintaining the public rights-of-way do not discriminate in their programs and activities against persons with disabilities. FHWA's ADA program implements the DOJ regulations through delegated authority to ensure that pedestrians with disabilities have the opportunity to use the transportation system's pedestrian facilities in an accessible and safe manner.

FHWA and DOJ met in March 2012 and March 2013 to clarify guidance on the ADA's requirements for constructing curb ramps on resurfacing projects. Projects deemed to be alterations must include curb ramps within the scope of the project.

SUMMARY OF GUIDANCE CLARIFICATION: This clarification provides a single Federal policy that identifies specific asphalt and concrete-pavement repair treatments that are considered to be alterations—requiring installation of curb ramps within the scope of the project—and those that are considered to be maintenance, which do not require curb ramps at the time of the improvement.



This approach clearly identifies the types of structural treatments that both DOJ and FHWA agree require curb ramps (when there is a pedestrian walkway with a prepared surface for pedestrian use and a curb, elevation, or other barrier between the street and the walkway) and furthers the goal of the ADA to provide increased accessibility to the public right-of-way for persons with disabilities. This single Federal policy will provide for increased consistency and improved enforcement.

MOVING FORWARD:

Divisions are expected to initiate discussions with their Partnering Agency / State to:

1) Disseminate this clarification with regard to when curb ramps are required
    a. States are expected to inform/assist local agencies
2) Establish a plan to implement this single Federal policy as soon as practical
    a. FHWA Headquarters is not providing a set deadline for all projects to comply with this policy.
    b. Projects that are ready for Construction Advertisement or are under contract may proceed.
    c. The Division should evaluate the projects in the state pavement preservation/resurfacing program and agree on projects to comply with this policy.
    d. The Division should work with its Partnering Agencies / States to evaluate and modify, if necessary, their existing resurfacing ADA policies to comply with this policy.

POINTS OF CONTACT:

Brooke Struve, RC Safety & Design Team, CTSRC-LAK, 720-963-3270, Brooke.Struve@dot.gov
Candace Groudine, Director-External Civil Rights, HCR, 202-366-4634, Candace.Groudine@dot.gov
Robert Mooney, Pre-Construction Team Leader, HIPA, 202-366-2221, Robert.Mooney@dot.gov

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PATRICK L. MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

MEMORANDUM TO: Division Engineers

FROM: G. R. Perfetti, P.E.
State Structures Management Engineer

DATE: March 6, 2013

SUBJECT: STRUCTURE INVENTORY OF DIVISION LET, DIVISION CONSTRUCTED AND MUNICIPAL PROJECTS

In an effort to promptly inventory new or replacement structures and have them inspected prior to being put into service, the following procedures are being extended to Division Let projects, Municipal projects and structures constructed by Division forces.

Award of Contract

For Division Let projects, provide a copy of the "Notification of Award" letter to the Structures Management Unit's (SMU's) Structure Inventory & Appraisal (SI&A) Officer, Eddie Smith, and the Working Drawing Review Project Engineer, Paul Lambert. This will serve as a notice to SI&A that an inventory record will need to be updated and assist the Working Drawing group in handling any upcoming contractor submittals.

Notice for Completion of Structure

When the anticipated date for completion of structure (e.g., bridges, culverts, pipes or sign structures) and opening to traffic is known, the "Notice for Completion of Structure Work" form (see attachment) should be submitted to SMU's SI&A Officer, and Bridge Inspection Superintendent, Tim Earp. This assists in allowing inspection crews the opportunity, when applicable, to schedule and perform the initial inspection of the structure before opening to traffic and the inventory recording to be completed.

Transmittal of As-Built Plans at Final Acceptance

When the Division Engineer sends the "Final Acceptance Letter" to the Contractor, provide a copy of the letter and a set of as-built plans to SMU's SI&A Officer. This information will be scanned into BridgeDocs for the purpose of maintaining proper documentation of structures currently in service.

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
STRUCTURES MANAGEMENT UNIT
1581 MAIL SERVICE CENTER
RALEIGH NC 27699-1581

TELEPHONE: 919-707-6400
FAX: 919-250-4082

WEBSITE: WWW.NCDOT.ORG

LOCATION:
CENTURY CENTER COMPLEX
BUILDING A
1000 BIRCH RIDGE DRIVE
RALEIGH NC 27610

STATE OF NORTH CAROLINA

DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

July 10, 2006

MEMORANDUM TO: Steve Varnedoe, P.E., Chief Engineer - Operations
Debbie Barbour, P.E., Director of Preconstruction
Steve DeWitt, P.E., Director of Construction

FROM: Len A. Sanderson, P.E.
State Highway Administrator

SUBJECT: Contractor Licensing Requirements for Traffic Signal, ITS and/or Related Contracts

In our ongoing efforts to clarify contractors licensing requirements for our many construction activities, issues have arisen related to traffic signal and ITS work. In investigating this issue further with the North Carolina Licensing Board for General Contractors (NCLBGC) and the North Carolina State Board of Examiners of Electrical Contractors (NCSBEEC), it has been determined that a General Contractor's License is not required for contracts comprised of traffic signals, traffic signal systems, and/or ITS devices. Due to the nature of the work in these contracts, contract language should include the requirement for the bidder to hold an appropriate Electrical Contractor's License.

These contracts can include conduit installation, foundations, metal pole support structures, dynamic message signs, closed circuit television cameras, roadway weather information systems, detection and speed systems, communications networks, and weigh-in-motion scales. Footings, support structures for signals, and similar items are considered incidental to the work in these contracts and may be installed by a Licensed Electrical Contractor.

This clarification of the licensing requirement should be placed into effect immediately. Licensed Electrical Contractors with the appropriate classification may bid these types of projects currently in advertisement with the requirement for a General Contractor's License.

As there have been many issues recently related to contractor-licensing requirements, it appears a summary policy clarifying these issues is in order. This is being prepared with input from all appropriate groups and will be issued upon completion. In order to ensure that there is consistency in our working with the NCLBGC and the NCSBEEC, and consistency in our application of the licensing requirements, I would like all questions related to this topic to be channeled to one area. I am asking Greg Keel, State Contractor Qualifications Engineer, with the Contractual Services Unit to be the lead for these issues. Please refer any questions and/or concerns directly to him. His telephone number is 919-733-7174.

LAS/alh

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATOR
1536 MAIL SERVICE CENTER
RALEIGH NC 27699-1536

TELEPHONE: 919-733-7384
FAX: 919-733-9428

WEBSITE: WWW.NCOT.ORG

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

cc: Willie Riddick, Deputy Secretary of Administration and Business Development
Roberto Canales, P.E., Deputy Secretary of Transit
Bill Rosser, P.E., Director of Field Operations
Lacy Love, P.E., Director of Asset Management
Jim Snakenberg, P.E., Director of General Services
Victor Barbour, P.E., State Project Services Engineer
Kevin Lacy, P.E., State Traffic Engineer
Ellis Powell, Jr., P.E., State Construction Engineer
Greg Keel, P.E., State Contractor Qualifications Engineer
Shannon Lasater, P.E., Assistant State Highway Administrator
Division Engineers
Mark Selph, Secretary-Treasurer
North Carolina Licensing Board for General Contractors
Robbie Brooks, Executive Director - North Carolina State
Board of Examiners of Electrical Contractors
Berry Jenkins, Jr., P.E., Carolinas AGC

REFERENCE MATERIALS

Proposed Intelligent WBS for Transportation Investment Strategy Formula Bill - HB 817 Strategic Transportation Investments (STI) Funding

Sample Listing of WBS numbers	Description
STATE FUNDS	
37490.3.S1	Statewide- State Funds
37490.3.R1	Regional - State Funds
37490.3.D1	Division - State Funds
FEDERAL FUNDS	
37490.3.F1	100 % Federal Funds
MIX FUNDS	
37490.3.FS1	Statewide- Federal / State Match Funds
37490.3.FR1	Regional – Federal / State Match Funds
37490.3.FD1	Division – Federal / State Match Funds
SPECIAL: GARVEE BONDS FUNDS	
45158.3.GVS1	Statewide- GARVEE / State Match Funds
45158.3.GVR1	Regional – GARVEE / State Match Funds
45158.3.GVD1	Division – GARVEE / State Match Funds
SPECIAL: TURNPIKE FUNDS	
45158.3.TAS1	Statewide- NCTA / State Match Funds
45158.3.TAR1	Regional – NCTA / State Match Funds
45158.3.TAD1	Division – NCTA / State Match Funds
STATE FUNDS FOR UTILITY	
44092.2.SU1	Statewide- State Funds for Utilities
44092.2.RU1	Regional - State Funds for Utilities
44092.2.DU1	Division - State Funds for Utilities
FEDERAL FUNDS FOR UTILITY	
37490.2.FSU1	Statewide- Federal / State Match Funds for Utilities
37490.2.FRU1	Regional – Federal / State Match Funds for Utilities
37490.2.FDU1	Division – Federal / State Match Funds for Utilities

STI Keywords:

S: Statewide: Statewide Strategic Mobility Projects (40%)

R: Regional: Regional Strategic Mobility Projects (30%)

D: Division: Division Strategic Mobility Projects (30%)

Details

37490.1.S1

xxxxx.1.S1

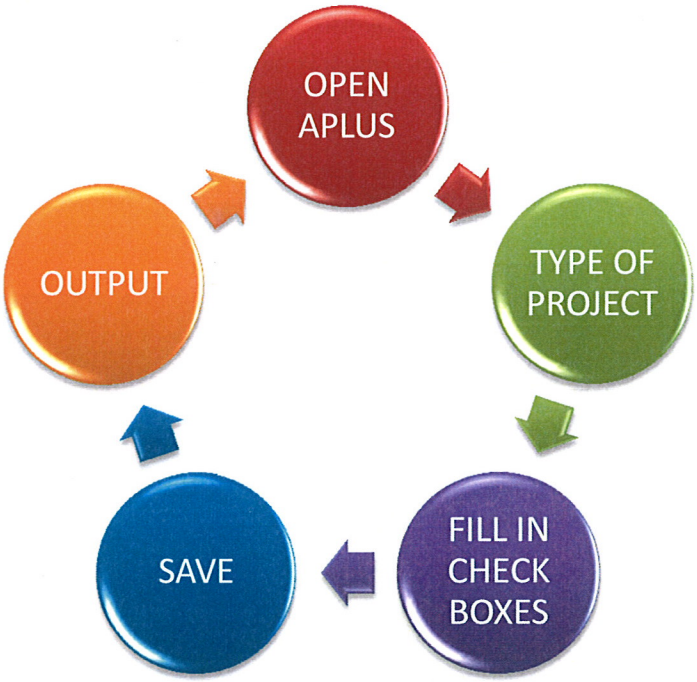
SAP Project Definition Number

Phase
.1. (PE)
.2. (ROW/Utility)
.3. (Construction)
.4. (Mitigation)

STI Code
S: Statewide
R: Regional
D: Division

Authorization Number

APLUS
Automated Proposal Line Up Sheet



OPEN APLUS:

Copy the APLUS file from
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01a°°Automated°Proposal°Line°Up°Sheet\
APLUS.xlsm
to your Desktop.

Open APLUS.xlsm file from your Desktop and enable Macros.

TYPE OF PROJECT:

Search for project data?
Raleigh let or Division let?
General Construction or Resurfacing?
Small Business?
Federal funded?
Permits?

FILL-IN CHECKBOXES:

√ Included
? Not Included
X Not included

Asphalt and Fuel prices maintained by Contract Standards and Development Unit.

Add your own Provisions.

SAVE:

Use the SAVE button.
Print a .pdf of your line up sheet!

OUTPUT:

Raleigh let, send the .pdf of the line up sheet
Writing a proposal, CREATE PROPOSAL.

Any questions? Email specs@ncdot.gov or call 919-707-6916.

5/16/14

CONTRACT TIME COMMITTEE
GUIDELINES FOR DETERMINING CONTRACT TIME

To calculate the contract time to be recommended to the Contract Time Committee, the number of work days must be determined. In estimating production rates and the number of work days required to do a certain phase of work, consideration is given to the following.

Weather conditions for that area of the state
Size of project in terms of quantities
Number of projects in the area
Availability of materials where material delivery time is the controlling operation
Special construction features or sequences
Degree of urgency of the proposed improvement as determined by the collective evaluation of management and those involved in planning, design, and construction
Staging and handling of traffic
"Time of year" restrictions for work that may be included in permits received from various agencies or included in Specification limits for temperature/seasonal limitations for paving, markings (paint, thermoplastic, polyurea, etc.)
Heavy congested areas or seasonal traffic areas

Taking the above factors into consideration, a production rate is selected for each of the controlling operations. Using the production rate ranges below as a guide, production rates and overlapping operations are selected which reflect the consideration of the eight factors listed above. The total number of working days, thus computed, can be converted into a completion date by applying the following guides:

Allow 16 work days per calendar month for projects that are primarily of a type that the controlling operation would be delayed by wet weather or soil conditions. Allow 17 or 18 work days per calendar month for projects that are largely unaffected by wet weather or soil conditions or projects with an urgency for completion.

Additional contract time will be allowed delays caused by winter weather conditions. One, two, or three months additional contract time will be allowed for each winter period beginning December 15 for projects East of a line from Henderson to Charlotte. West of that line, three months additional contract time will be allowed for each winter period beginning December 15. Additional contract time allowed for winter working conditions may be reduced for projects or operations largely unaffected by winter weather conditions.

The maximum contract time for projects with "A+B" provision is determined on a nonaccelerated basis allowing the bidder to determine the most cost effective contract time.

Contract time for incentive payment is based upon higher production rates and will allow more than 16 days per calendar month.

Specification Limits to be Observed When Calculating Contract Time Periods

Statutes	Statutory legal load limits must be observed.
Clearing and Grubbing	No more than 17 acres of exposed, erodible surface area may be accumulated.
Grading	A. Truck hauled borrow is to be used when specified in special provisions. B. Unclassified Excavation must be exhausted prior to borrow being utilized.
Structures	A. Concrete cannot be placed when air temperature is below 35°F unless special measures are taken. B. Painting cannot be performed below 50°F.
Pavement	A. Cement stabilized base or soil cement base cannot be produced when air temperature is below 40° or between November 1 and the following March 15, and shall be covered by pavement by December 1. B. Prime coat cannot be placed when air temperature is below 40°F for plant mix and 50°F for AST. C. Tack coat cannot be placed when air temperature is below 35°F. D. Asphalt Pavement Limitations:

ACBC & ACIC	35°F
ACSC, Types S4.75A, SF9.5A, S9.5B	40°F
ACSC, Types S9.5C, S12.5C	45°F
ACSC, Types S9.5D, S12.5D	50°F
OGAFC	None to be placed between October 31 and April 1
AST	None to be placed between October 15 and March 16 except where overlaid with plant mix
Surface Course Final Layer	None between December 15 and March 16 if greater than 1" or between November 15 and April 1 if less than 1".
Ultrathin	-/50°F None to be placed between October 31 and April 1

E. Portland Cement Pavement cannot be placed on frozen subgrade or base or when air temperature is 35°F and falling but can be placed when temperature is 35°F and rising.

F. Lime treated soil cannot be placed below 45°F or between November 1 and the following March 15 and shall be covered by pavement by December 1.

G. Pavement Markings:

Thermoplastic	50°F East of I-95: December 15 to March 16 East of I-77 to & including I-95: November 30 to April 1 West of & including I-77: November 15 to April 16
Polyurea	40°F
Paint	40°F – 160°F

General Items to be Considered

The high production rates are not used except on very large and lengthy rural projects. Items of work which can be performed concurrently with work which is considered a controlling operation will be considered to overlap, and no working days will be assigned for such overlapping work. With the many and varied types of Contractors bidding on these projects, production anticipated is based on the average size Contractor. If production were based on the least productive Contractor, the time limits would be too lengthy.

When projects are sent to field inspection, one of the questions asked is that is the Division's recommendation on contract time. Taking this recommendation into consideration, each project is analyzed by Proposal and Contract Section personnel, and the Assistant Head of Bridge Design, and where appropriate, by the Roadway Project Engineer. The calculations are shown on the form entitled "Recommended Contract Time."

(1) Nature or Scope of Project and Special Construction Features: Unique construction problems associated with maintaining traffic, long hauls, utilities, rock, and phasing of construction are all factors to be considered when assigning production rates.

(2) Urgency: Where a special traffic hazard is being corrected and the need for speedy improvement warrants the additional cost, the contract time is calculated for the most efficient Contractor.

General Items to be Considered When Calculating Contract Time Periods for Resurfacing Projects:

Time restrictions for Lane Closures
Work Zone Traffic Control General Requirements
Shoulder Reconstruction/Construction (ASB, Shoulder Borrow, Handwork)
Erosion Control (seeding and mulching)
Milling (depth) and Mill + Filling requirements
Sidewalk and Handicap Ramps
Traffic signal & loops
Utility Adjustments
Number of Intersections

Resurfacing and Surfacing

Roadway Operation	Rate Per Working Day
Asphalt Concrete Base Course	300 to 600 tons/day
Asphalt Intermediate Course	500 to 1,000 tons/day
Asphalt Concrete Surface Course	0.6” to 1” – 500 to 800 tons/day 1” – 500 to 1,000 tons/day
Asphalt Base Course for Widening or Leveling	100 to 400 tons/day
Asphalt Surface Treatment (AST)	5,000 to 10,000 SY/day
Manhole and Water Valve Adjustments	8 to 10/day

Grading & Paving Projects
(Grading Less Than 1,000,000 Cubic Yards)

Roadway Operation	Rate Per Working Day
Clearing and Grubbing	1 to 8 acres/day, not to exceed 16 working days (grading will govern after 16 days)
Excavation (Unclassified Ditch, Undercut & Borrow)	2,000 to 6,000 CY/day
Aggregate Base Course	1,000 to 2,500 tons/day
Chemical Stabilized Subgrade and Base	Show overlaps with paving except 12 work days for placement and curing (see Seasonal Limitations), additional time may be required when performed in phases
Asphalt Surface Treatment	5,000 to 10,000 SY/day
Asphalt Pavement	300 to 2,000 tons/day
Concrete Pavement	3,000 to 5,000 SY/day (1,000 to 1,500 SY/day for ramps)
Fine Grading	Show overlaps except 4, additional time may be required due to phases
Pipe	100 to 300 LF/day
Curbs and Curb and Gutter	100 to 500 LF/day
Guardrail	300 to 500 LF/day straight, 50 to 100 LF/day shop curved, additional time allowed for excessive amount of anchors
Fencing	500 to 1,000 LF/day
Seeding and Mulching	1 to 3 acres/day, not to exceed 16 working days (most seeding is performed concurrently with grading)

Major Urban and Rural Projects
(Grading in Excess of 1,000,000 Cubic Yards)

Roadway Operation	Rate Per Working Day
Clearing and Grubbing	1 to 10 acres/day, not to exceed 16 working days (grading will govern after 16 days, may not be valid unless all grading can be done at once and burned)
Excavation (Unclassified Ditch, Undercut & Borrow)	6,000 to 8,000 CY/day (adjust for rock at rate of 500 to 2,000 CY/day, truck excavation and hauling restrictions)
Aggregate Base Course	1,000 to 2,500 tons/day on mainline, 500 to 1,200 tons/day on Y-Lines and ramps, additional time may be required when performed in phases
Chemical Stabilized Subgrade and Base	Show overlaps with paving except 12 work days for placement and curing (see Seasonal Limitations), additional time may be required when performed in phases
Asphalt Surface Treatment	5,000 to 10,000 SY/day
Asphalt Pavement	800 to 2,000 tons/day on mainline, less than 800 on ramps and Y-Lines, additional time may be required when performed in phases
Concrete Pavement	3,000 to 5,000 SY/day (for ramps, use 1,000 to 1,500 SY/day, plus 2 days each for turnout tapers on diamond interchange ramps – 2 days each ramp)
Fine Grading	Show overlaps except 4, additional time may be required due to phases
Pipe	100 to 300 LF/day
Curbs and Curb and Gutter	500 to 1,000 LF/day on ML 200 to 400 LF/day on –Y- Lines
Drainage Structures	20 to 50 each – show overlaps not to exceed 8, more than 50 each – show overlaps not to exceed 16

Major Urban and Rural Projects
(Grading in Excess of 1,000,000 Cubic Yards) continued

Roadway Operation	Rate Per Working Day
Guardrail	500 to 1,500 LF/day straight, 50 to 100 LF/day shop curved, additional time allowed for excessive amount of anchors
Fencing	1,000 to 2,000 LF/day (on most projects, fencing will overlap with grading time)
Seeding and Mulching	1 to 3 acres/day, not to exceed 16 working days (most overlaps with grading)

Small Rural Widening Projects

Roadway Operation	Rate Per Working Day
Clearing and Grubbing	1 acre/day
Excavation (Unclassified, Dr. Ditch, Undercut, Borrow)	200 to 400 CY/day
Aggregate Base Course	300 to 500 tons/day
Chemical Stabilized Subgrade and Base	Show overlaps with paving except 12 work days for placement and curing, additional time may be required when performed in phases (see Seasonal Limitations)
Asphalt Surface Treatment	5,000 to 10,000 SY/day
Asphalt Pavement	200 to 600 tons/day
Fine Grading	Show overlaps except 4, additional time may be required due to phases
Pipe	100 to 200 LF/day
Curbs and Curb and Gutter	100 to 300 LF/day
Guardrail	100 to 500 LF/day
Fencing	300 to 500 LF/day
Seeding and Mulching	1 to 2 acres/day, not to exceed 16 working days

Small Urban Projects – Grading and Paving
(Widening and New Location)

Roadway Operation	Rate Per Working Day
Clearing and Grubbing	1/4 to 1 acre/day
Excavation (Unclassified, Dr. Ditch, Undercut, Borrow)	100 to 500 CY/day
Aggregate Base Course	200 to 500 tons/day
Chemical Stabilized Subgrade and Base	Show overlaps with paving except 12 work days for placement and curing, additional time may be required when performed in phases (see Seasonal Limitations)
Soil Type Base Course	200 to 500 CY/day
Asphalt Surface Treatment	2,000 to 5,000 SY/day
Asphalt Pavement	200 to 500 tons/day
Fine Grading	Show overlaps except 4, additional time may be required due to phases
Pipe	50 to 200 LF/day
Curbs and Curb and Gutter	100 to 300 LF/day
Guardrail	50 to 300 LF/day
Fencing	300 to 500 LF/day
Seeding and Mulching	1 to 2 acres/day

Paving Projects

Roadway Operation	Rate Per Working Day
Fine Grading	500 to 1,000 LF/day, show overlap except 8 for each phase
Aggregate Base Course	1,000 to 2,500 tons/day on mainline, if total quantity is over 40,000 tons, 500 to 1,200 tons/day on Y-lines and ramps
Chemical Stabilized Subgrade and Base	Show overlaps with paving except 12 work days for placement and curing, additional time may be required when performed in phases (see Seasonal Limitations)
Soil Type Base Course	2,000 to 3,000 tons/day
Bituminous Surface Treatment	5,000 to 10,000 SY/day
Asphalt Pavement	800 to 2,000 tons/day on mainline, less than 800 on ramps and Y-Lines
Concrete Pavement	3,000 to 5,000 SY/day (for ramps, use 1,000 to 1,500 SY/day, plus 2 days each for turnout tapers on diamond interchange ramps – 2 days each ramp)
Shoulder Construction	500 to 1,000 CY/day
Curbs and Curb and Gutter	500 to 1,000 LF/day
Guardrail	500 to 1,500 LF/, additional time allowed for excessive amount of anchors
Seeding and Mulching	1 to 3 acres/day, not to exceed 16 working days

NCDOT Working Days Guidelines for Structure Construction

Revised: May 12, 2014

Operation	**Days / Production Rate**
Bridge Construction:	
Temporary Detour Bridge	**48 calendar days** should be allowed for design, submittal, review and approval of temporary bridge plans. Only apply these if the detour is the controlling operation. Do not include this 48 days in the computed time to construct the bridge. **10 days** for construction of the first span, on average. **7 days** for construction of each additional span.
Bridge Demolition/Removal Per Span	**1 day** for timber structures. **2 days** for concrete decking on steel or prestress concrete girders. **4-5 days** for concrete deck girders.
Unclassified Structure Excavation	**500 CY per day**. This is typically a concurrent operation.
Temporary Access Construction and Removal Per Phase - 1000 SF or less	**2 days** for a causeway. **6 days** for a work bridge. May be concurrent with other operations. Consult with BCE for larger access areas.
Drilled Piers ≤ 60" in diameter	**2 days** for setup and preparation for the first pier in each stage. **25' per day** if drilling in soil. **5' per day** if drilling not in soil. **2 piers per day** for steel and concrete placement.
Drilled Piers > 60" in diameter	**2 days** for setup and preparation for the first pier in each stage. **18' per day** if drilling in soil. **3' per day** if drilling not in soil. **2 piers per day** for steel and concrete placement.
Drilled Pier - Slurry Construction	**3 days** for setup and preparation for the first pier in each stage. **Follow drilling rates above**, depending on diameter. **2 days per pier** for slurry management, steel and concrete placement.
Footing Excavation - 2 Column Bent	**1 day** in soil. **5 days** in rock. **10 days** if cofferdam in water.
Piles - End Bent, Interior Bent, or Pile Cluster (6-10 piles)	**3 days** for concrete piles. **2 days** for steel H-piles. **3 days** for steel pipe piles, includes pipe plugs.

	1 day for each PDA. Add **1 day** per bent or per cluster if the piles are steel and over 40'.
Test Piles	**1 day** per bridge for an average job. **2 days** for assessment and design. **8 days** to cast (2), cure (5), and haul (1). May be a concurrent operation.
Sheeting	**640 SF per day**. Includes driving and extracting.
Form/Pour Footings	**2 days** per footing. More time required for large footings or pile footings in water.
Form/Pour Columns	**2 days** per 2 column bent. Add **1 day** if > 25' in height. **4 days** for oval, hammer head columns.
Form/Pour Caps	**4 days** for caps ≤ 40' wide. Includes back wall/wings on end bents. **10 days** for hammer head. **5 days** curing. Applies to last cap only, typically a concurrent operation. **1 day** per bridge, for epoxy coating the tops of caps at expansion joints, if applicable.
Slope Protection	**2 days** for rip-rap on avg. per structure. **4 days** min. for concrete per structure. Allows for **2 days** per end bent for alternate bay construction. May vary widely - dependent on the shape and the proximity/depth in water. Increase for wider bridges.
Placing Girders	**1 day** to first span for prep time. **1 day** per span for precast concrete girders. **2 days** per span for rolled beams. **3 days** per span for steel girders ≤ 6' deep. **4 days** per span for steel girders > 6' deep. This includes time for girder splices and diaphragm installation. Increase time for wide bridges. Consider adding **1 day per span** over traffic, depending on restrictions.
Cored Slabs/Box Beams	**1 day** per span to place. **3 days** per span to post-tension, grout shear keys, dowels, and PT block-outs. Curing of grout typically concurrent with work on an adjacent span or approach slab construction.
Deck Forming per Span (Assumed 85' - 90' typical span)	**5 days** per simple span on precast concrete girders or steel beams. **7 days** for continuous steel girder or precast concrete girders. Add **1 day** for concrete diaphragms.

	Applies to most bridges regardless of width due to overhang work controlling.
Deck Pour, Curing, Stripping	**9 days** for the first pour. Includes time for setting up the screed, dry runs, curing and stripping forms. Add **4 days** for bridges with integral end bents. **7 days** for each additional pour, to allow concrete to reach minimum strength before the next pour.
Concrete Overlays for Cored Slab or Box Beam Spans	**8 days** for 1 to 4 spans. For bridges with more than 4 spans, use **2 days** for each additional span.
Approach Slabs	**8 days** per slab for 25' approach slabs. **7 days** per slab for 12' approach slabs. Includes installation of Reinforced Bridge Approach Fill or Sub-regional Tier Bridge Approach Fill, and curing time. Some of this work is likely concurrent with other operations, or deck curing times.
Expansion Joints	**2 days** per elastomeric concrete joint with foam seals. **3 days** per expansion joint seal. Includes water test. **3 days** per modular expansion joint.
Barrier Rails and Concrete Parapet	**500 LF per day** if slip-formed. **100 LF per day** if formed and poured. **25 LF per day** if classic or other special rail, formed and poured. Includes placing reinforcing steel.
Metal Bar Rails	**1 day** per span for 1 or 2 bar metal rails. **2 days** per span for 3 bar rails.
Sidewalk and Median Island	**3 days** per span for sidewalk. **2 days** per span for median island.
Grooving Deck	**3 spans per day** on a 2 lane bridge.
Erosion Control	**2 days** for installation of EC devices for bridge replacements over stream crossings.
Utility Systems and Closed Drainage Systems	**1 day** per 100 LF of bridge.
Rideability Testing and Corrective Work	**5 days** allowance on avg. Required for bridges over 1500 ft. in length. Occasionally required in Contracts for bridges shorter than 1500 ft. Must be completed prior to joint construction, where it may keep joints from being concurrent with other work.
Railroad Bridge Adjustments	Construction of an Overpass (Over the RR) - **Add 50%** to time associated with bridge demolition and girder erection. **Add 10%** to all other operations that take place within the RR R/W, including but not limited to substructure and bridge deck work.

	Construction of an Underpass (RR over Road) - **Add 50%** for substructure and superstructure, which includes waterproofing and drainage systems.
RR Detour (typical track underpass)	**25 days** (10 days grading, 3 days ballast, 12 days for fine grading ballast, ties, turnouts, and track). **15 days** additional when trestle is required.

Bridge Deck Rehabilitation:

Concrete Milling	**2000 SY per day.**
Hydrodemolition	**400 SY per day.** May be concurrent with milling as work can begin after milling progresses ahead of the operation.
Latex Modified Concrete Overlay	**375 SY per day.**
Class II Patching	**20 SY per day.** May be concurrent with LMC setup or other operations.
Cure patches	**5 days.** May be concurrent with other operations.
Cure overlay	**5 days.**
Very Early Strength LMC	**1 lane of 1 span, per day**. Includes milling, hydro-demolition, VES LMC, cure, and open to traffic.

Other Bridge Rehabilitation:

Shotcrete	**125 CF per 5 days** (500 SF) (Includes removal of unsound concrete, surface prep, placement, shaping, and curing.
Epoxy Injection	**50 LF per day**
Painting Structural Steel	**2 days per span** for avg. length and width of roadway (1 day per 2 beams). Includes cleaning, touch-up, and up to 3 coats. Additional time will be needed for removal of existing paint and time reduced if shop painting is required.

Culverts:

Excavation	**5 days** for a single barrel RCBC up to 70 ft., based on an excavation rate of 200 CY per day. Varies depending on site conditions and the amount of excavation required, presence of rock and need for diversion channel. Time includes placement of foundation conditioning material.

Forming	**2 days** for wing footing and bottom slab for single barrel culvert. **2 days** for walls in a single barrel culvert. **2 days** for top slab in a single barrel culvert. **50% increase** for double barrel culvert. **100% increase** for triple barrel culvert. **150% increase** for quadruple barrel culvert. All based on 70 ft. length. If the culvert is to be constructed in stages, apply times to each stage.
Placing Concrete	**1 day** for each culvert component listed above in each phase. Increase by **1 day** for each additional barrel. If the culvert is to be constructed in stages, apply times to each stage.
Cure, Strip, Backfill	**10** days after final concrete pour on any single or multi-barrel culvert up to 70 ft. Apply to each stage.
Culvert Extensions	**Add 2 days** to the above times to remove the existing wings and install dowels.
Precast Culverts	**1 unit per day** for casting. **5 days** for curing, added to the last unit cast. **1-3 units per day** delivered to the project, may be concurrent with casting and curing. **1 unit every 45 minutes** to set in place.

Walls:

Retained Earth Walls	**800 SF per day** average. Varies according to geometry of the wall and shape of the panels. Generally 400 - 1200 SF per day.
Soil Nail Wall	**10 nails per day**. Includes grouting of nails and shotcrete. **3 days** additional to form and pour 100 LF of cast in place (fascia) wall. **1 day** additional when form liners are required.
Pile Panel Sound Barrier Wall	**10 holes per day** for drilling. Reduce to 5 if rock is expected. **10 holes per day** to set piles and pour concrete. May be concurrent with drilling. **32 panels per day**, set in place.
Reinforced Earth Wall	**200 CY** per day for excavation. **2 days** for the initial section to prepare the bed. **2 days** to pour the pad. **5 days** to cure the pad. **500 SF** per day to place panels. **200 LF** per day for coping.

Guidelines for Applying Concurrent Operations

• Start with bridge removal, unclassified structure excavation and foundations. Sometimes a portion of the existing bridge will be removed to allow foundation work to proceed concurrently with bridge removal.

• If drilled piers are required, they control the project until complete. However, for multiple bent bridges, column and cap work will progress concurrently with the drilled piers.

• For longer structures, girder or cored slab erection may begin as substructure work advances.

• If access is provided outside the bridge, approach fills and end bent construction will also begin. If access is not provided, end bent construction will not be concurrent and will not start until interior bents are constructed and girders or cored slabs are erected.

• For cast-in-place decks:

→ Once the beams are erected, overhang construction and decking will take place concurrently, followed by reinforcing steel layout. The screed assembly and set up will take place concurrently with these operations.

→ A 7 day wet cure is required and is included in deck pour time, but will not keep subsequent approach slab work from progressing.

→ For dual bridges, many times the bridges will be constructed in a manner that decks will be cast concurrently so that waiting time is minimized. However, if grading work is controlling, there may be more advantage to complete one structure to allow access to other areas of the project.

• Approach slabs can begin as soon as an end span has been cast or cored slabs erected. Typically, approach slab work will start during the deck-curing period. If top down construction, approach slabs are not typically started until all cored slabs are erected. If cored slabs have a concrete overlay the approach slab cannot begin until after the overlay has been cast.

• After approach slabs are constructed, the remaining bridge work, such as barrier rail, joints, and grooving, are typically concurrent with roadway operations.

• Waiting periods on end bent embankment fills should be considered when determining workdays.

• In stream moratoriums should be considered when determining working days.

Federal Proprietary Products Law

This regulation became effective for all Federal-aid highway construction projects on February 1, 2006.

Federal Rules: (Title 23 Highways – §635.411)

Code of Federal Regulations]
[Title 23, Volume 1]
[Revised as of April 1, 2008]
From the U.S. Government Printing Office via GPO Access
[CITE: 23CFR635.411]

TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 635_CONSTRUCTION AND MAINTENANCE--Table of Contents

Subpart D General Material Requirements

Sec. 635.411 Material or product selection.

(a) Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the plans and specifications for a project, unless:
   (1) Such patented or proprietary item is purchased or obtained through competitive bidding with equally suitable unpatented items; or
   (2) The State transportation department certifies either that such patented or proprietary item is essential for synchronization with existing highway facilities, or that no equally suitable alternate exists; or
   (3) Such patented or proprietary item is used for research or for a distinctive type of construction on relatively short sections of road for experimental purposes.

(b) When there is available for purchase more than one nonpatented, nonproprietary material, semifinished or finished article or product that will fulfill the requirements for an item of work of a project and these available materials or products are judged to be of satisfactory quality and equally acceptable on the basis of engineering analysis and the anticipated prices for the related item(s) of work are estimated to be approximately the same, the PS&E for the project shall either contain or include by reference the specifications for each such material or product that is considered acceptable for incorporation in the work. If the State transportation department wishes to substitute some other acceptable material or product for the material or product designated by the successful bidder or bid as the lowest alternate, and such substitution results in an increase in costs, there will not be Federal-aid participation in any increase in costs.

(c) A State transportation department may require a specific material or product when there are other acceptable materials and products, when such specific choice is approved by the Division Administrator as being in the public interest. When the Division Administrator's approval is not obtained, the item will be nonparticipating unless bidding procedures are used that establish the unit price of each acceptable alternative. In this case Federal-aid participation will be based on the lowest price so established.

(d) Reference in specifications and on plans to single trade name materials will not be approved on Federal-aid contracts.

(e) In the case of a design-build project, the following requirements apply: Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the Request for Proposals document unless the conditions of paragraph (a) of this section are applicable.

[41 FR 36204, Aug. 27, 1976, as amended at 67 FR 75926, Dec. 10, 2002; 71 FR 66454, Nov. 15, 2006]

State of North Carolina Proprietary Products Law

This regulation became effective for all State Funded construction projects on July 1, 2002.

The purpose of this statute is to mandate and encourage free and open competition on public contracts.

General Statutes – 133-3

§ 133-3. Specifications to carry competitive items; substitution of materials.
All architects, engineers, designers, or draftsmen, when providing design services, or writing specifications, directly or indirectly, for materials to be used in any city, county or State work, shall specify in their plans the required performance and design characteristics of such materials. However, when it is impossible or impractical to specify the required performance and design characteristics for such materials, then the architect, engineer, designer or draftsman may use a brand name specification so long as they cite three or more examples of items of equal design or equivalent design, which would establish an acceptable range for items of equal or equivalent design. The specifications shall state clearly that the cited examples are used only to denote the quality standard of NC General Statutes - Chapter 133 4 product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be acceptable. Where it is impossible to specify performance and design characteristics for such materials and impossible to cite three or more items due to the fact that there are not that many items of similar or equivalent design in competition, then as many items as are available shall be cited. On all city, county or State works, the maximum interchangeability and compatibility of cited items shall be required. The brand of product used on a city, county or State work shall not limit competitive bidding on future works. Specifications may list one or more preferred brands as an alternate to the base bid in limited circumstances. Specifications containing a preferred brand alternate under this section

must identify the performance standards that support the preference. Performance standards for the preference must be approved in advance by the owner in an open meeting. Any alternate approved by the owner shall be approved only where (i) the preferred alternate will provide cost savings, maintain or improve the functioning of any process or system affected by the preferred item or items, or both, and (ii) a justification identifying these criteria is made available in writing to the public. Substitution of materials, items, or equipment of equal or equivalent design shall be submitted to the architect or engineer for approval or disapproval; such approval or disapproval shall be made by the architect or engineer prior to the opening of bids. The purpose of this statute is to mandate and encourage free and open competition on public contracts.
(1933, c. 66, s. 3; 1951, c. 1104, s. 5; 1993, c. 334, s. 7.1; 2002-107, s. 5; 2002-159, s. 64(c).)

PROCEDURES FOR USING PROPRIETARY ITEMS ON
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION PROJECTS GOVERNED BY
CFR Title 23 Highways – §635.411 OR NC GENERAL STATUTES – §133-3

March 15, 2013

North Carolina Department of Transportation (NCDOT) and the Federal Highway Administration (FHWA) encourage competition in project lettings. To further assure that the Department, Municipalities and Counties using *federal or state funds*, comply with the appropriate regulations, this information and process is being brought to your attention**. This applies to *any* entity advertising projects through NCDOT, using Federal or State Funds governed by CFR Title 23 Highways – §635.411 or NC General Statutes – §133-3.** The purpose of these statutes is to mandate and encourage free and open competition on public contracts.

Engineers have an inherent duty to use generic products instead of simply specifying proprietary products. If proprietary items are used, one of the following procedures will be required. Using the procedure shown herein is time consuming, limits competition and does not guarantee that the proprietary product will be approved for use on a project funded by the FHWA or by NCDOT or a combination of funds from these sources.

The links below are valuable sources of information on proprietary items using federal funds; the information *has not been repeated* in this document.

http://www.fhwa.dot.gov/construction/cqit/propriet.cfm

http://www.fhwa.dot.gov/programadmin/contracts/011106qa.cfm

http://www.fhwa.dot.gov/programadmin/contracts/011106.cfm

There are only four ways that a proprietary item can be incorporated into a project with the aforementioned *federal or state funding*. The four conditions and procedures represented in this document must be used to *request approval* for use of a proprietary item.

1. **LIST AT LEAST 3 PROPRIETARY ITEMS AND "OR APPROVED EQUAL"**

Make an effort to find or write a generic Specification that will not eliminate all but one product. In other words, do not make the generic Specification so specific that it will allow only one product. If generic Specifications are not available or are too complicated to write, list at least 3 like proprietary items and the term "*or approved equal*." Approved equal means that a product not listed may be used if it has the same properties and it meets the Engineer's approval. Depending on the product, the Engineer may request input from the design unit most familiar with the product and from the Materials and Tests Unit before giving approval. (Example: Sign Sheeting would be reviewed by the Signing Unit and Materials and Tests Unit.) Approval obtained for use is for the one project only.

Example language: *Use Item A, Item B, Item C or an approved equal*. Show the same information for each product, such as the website and telephone number. To avoid favoritism, list items in alphabetical order.

Caution: Approval of a specific proprietary item on one project is not a blanket approval that can be used any time or any location without further approval. These steps must be taken for *each proprietary item, in each project, each time used*.

2. **ESSENTIAL FOR SYNCHRONIZATION** with existing highway facilities or "no equally suitable alternate"

Make an effort to find interchangeable, compatible generic products to work with the existing product. If there are none available, the requester must prove there is *no equally suitable alternate*. Justification should consist of function, aesthetics, logistics or a combination, through engineering judgment, economic considerations, product availability and compatibility as to why no other product would work. *Each proprietary item must be addressed separately.*

a. **Outside NCDOT**: The entity requesting the item must have the City Engineer or their Consultant (whoever seals the plans) develop the justification and sign and submit the letter of request at least 3-6 months prior to project letting. The letter with the justification must be submitted to the appropriate NCDOT Division Engineer or Director, requesting the use of this product. The NCDOT approving authority will send written approval or denial within 30 days of receipt of the request. This documentation will be added to the permanent project files.

b. **Within NCDOT**: The entity within NCDOT must use generic products if possible. If it is not possible, the NCDOT unit must supply justification as to why generic products cannot be used. At least 3-6 months prior to project letting, a letter with the justification must be signed by the Unit Head, Division Engineer or Director and kept with the permanent project files. These records must be readily available in case of a request or an audit.

Example: Adding traffic signal equipment to an existing traffic signal system requiring specific (proprietary) product compatibility.

Caution: If the product is contested by a vendor, or the project is reviewed by FHWA-NC or audited by an outside auditor and finds there is another product available that could be used in lieu of the requested product, and the justification is not sufficient, the certifying entity runs the risk of losing federal funds for that part of the project.

3. RESEARCH, TEST OR EXPERIMENTAL project (This option is not available outside of NCDOT)

If a NCDOT manager, supervisor or designer feels strongly enough that a proprietary item has more favorable characteristics than any other product available for their project, that entity may develop a *proposal* and *workplan* with experimental testing, control sections, and justification, for application to Dr. Moy Biswas, PE in the NCDOT Research and Development Unit (Telephone: 919.508.1865 or email Biswas@ncdot.gov). There is an example application which could serve as a guide for developing a proposal and workplan in the appendix of this document. The package must be submitted at least 12–18 months prior to letting. This is not a process to be entered into frivolously as a great deal of time, effort and costs are expended by the NCDOT Research and Development Unit when developing a research, test or experimental project. After review of the submitted proposal and workplan, Dr. Biswas will send his written decision to the applicant to approve or deny the proprietary product as a test project. Approval or denial will be made solely by the Office of Research and Development. Submit copy of approval letter from Research and Development Unit with the project submission for letting.

Review this information before submitting a request for a federally funded experimental project. http://www.fhwa.dot.gov/programadmin/contracts/expermnt.cfm

4. PUBLIC INTEREST FINDING

If a NCDOT manager, supervisor or designer, City or Municipality feels there is no other product that would work as well as a proprietary item that entity must justify that this item is the most acceptable choice of product by developing a Public Interest Finding (PIF). Include why this product is the only product that would serve the need. It must contain sufficient data to prove that it is superior to all other products. It should include engineering judgment and economic considerations, product availability and compatibility, logistical concerns and considerations unique to the product. It could include credible research from other states, if applicable. It cannot be based on opinion.

a. Outside NCDOT: After preparing the Public Interest Finding, submit to the appropriate design unit, and the Materials and Tests Unit within NCDOT for their review and input. After input has been received, reviewed and incorporated into the PIF, send the package with a letter signed by the City Manager, City Engineer or

Consultant that sealed the plans, to the Division Engineer at least 12-24 months prior to the anticipated letting of the project. The Division Engineer will return the approval or denial in writing to the requestor within 90 days of receipt of the request. The requestor must provide a copy of the approval letter upon request to any entity providing any funding for the project. A copy of the PIF and all backup data must be kept as part of the permanent project files.

b. Within NCDOT: Initially, the applicant must contact Dr. Moy Biswas, PE in the NCDOT Research and Development Unit (919.508.1865) to determine if this product has been used previously in any area of the State as a research/test/experimental product. If it is verified in writing by Dr. Biswas that it has not been used in an NCDOT project, proceed with the following:

After preparing the Public Interest Finding, submit to the appropriate design unit, and the Materials and Tests Unit within NCDOT for their review and input. After input has been received, reviewed and incorporated into the PIF, send the package with a letter signed by the Division Engineer or Unit Head that sealed the plans, to the State Highway Administrator at least 12-24 months prior to the anticipated letting of the project. The State Highway Administrator will return the approval or denial in writing to the requestor within 90 days. The requestor must send the approval letter to the State Contract Officer, Mr. R. A. Garris, PE, when the project is submitted for letting. A copy of the PIF and all backup data will become part of the permanent project files.

Caution: The approval for use of a proprietary item based on a public interest finding is incredibly rare. (Only one product has been approved in the past 10 years for a NCDOT project.)

5. PRODUCT EVALUATION PROGRAM

The Product Evaluation Program (PEP) is a valuable service offered by NCDOT to assist vendors when submitting their unique products for consideration for use on NCDOT projects. The NCDOT designer may work with the PEP Engineer to have a specific product evaluated and *possibly* used in a test site on their project. When the evaluating and testing period is complete, and *if* the proprietary item is approved for use, the same conditions apply for its use as any other proprietary item. For more information on Product Evaluation Program, contact Ms. Leigh Wing, PE, Product Evaluation Program Engineer at 919.508.1860 or lmwing@ncdot.gov. If the product is used through the PEP, submit a copy of the PEP transmittal letter to State Contract Officer, Mr. R. A. Garris, PE, when the plans and Special Provisions are submitted for bid letting.

APPENDIX

A. FHWA/NCDOT STEWARDSHIP AND OVERSIGHT AGREEMENT

Under the current FHWA/NCDOT Stewardship and Oversight Agreement, the approval authority for those projects where oversight is delegated rests with the NCDOT. The Unit Head, Division Engineer, Director or the highest ranking official over the unit, branch, department, or division will be responsible for those approvals in lieu of the FHWA. Any such decision is subject to review by the FHWA-NC office, NCDOT Administration or by federal or state auditors.

B. NCDOT STATE FUNDED PROJECT ACCOUNTABILITY

The approval authority will be the Unit Head, Division Engineer, Director or the highest ranking official over the unit, branch, department, or division, and will be responsible for the approvals. Any such decision is subject to review by the NCDOT administration or by state auditors.

C. FEDERAL PROPRIETARY PRODUCTS LAW

This regulation became effective for all Federal-aid highway construction projects on February 1, 2006.

Federal Rules: (Title 23 Highways – §635.411)

Code of Federal Regulations]
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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 635 - CONSTRUCTION AND MAINTENANCE--Table of Contents

Subpart D General Material Requirements

Sec. 635.411 Material or product selection.

(a) Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the plans and specifications for a project, unless:
   (1) Such patented or proprietary item is purchased or obtained through competitive bidding with equally suitable unpatented items; or

(2) The State transportation department certifies either that such patented or proprietary item is essential for synchronization with existing highway facilities, or that no equally suitable alternate exists; or

(3) Such patented or proprietary item is used for research or for a distinctive type of construction on relatively short sections of road for experimental purposes.

(b) When there is available for purchase more than one nonpatented, nonproprietary material, semifinished or finished article or product that will fulfill the requirements for an item of work of a project and these available materials or products are judged to be of satisfactory quality and equally acceptable on the basis of engineering analysis and the anticipated prices for the related item(s) of work are estimated to be approximately the same, the PS&E for the project shall either contain or include by reference the specifications for each such material or product that is considered acceptable for incorporation in the work. If the State transportation department wishes to substitute some other acceptable material or product for the material or product designated by the successful bidder or bid as the lowest alternate, and such substitution results in an increase in costs, there will not be Federal-aid participation in any increase in costs.

(c) A State transportation department may require a specific material or product when there are other acceptable materials and products, when such specific choice is approved by the Division Administrator as being in the public interest. When the Division Administrator's approval is not obtained, the item will be nonparticipating unless bidding procedures are used that establish the unit price of each acceptable alternative. In this case Federal-aid participation will be based on the lowest price so established.

(d) Reference in specifications and on plans to single trade name materials will not be approved on Federal-aid contracts.

(e) In the case of a design-build project, the following requirements apply: Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the Request for Proposals document unless the conditions of paragraph (a) of this section are applicable.

[41 FR 36204, Aug. 27, 1976, as amended at 67 FR 75926, Dec. 10, 2002; 71 FR 66454, Nov. 15, 2006]

D. STATE OF NORTH CAROLINA PROPRIETARY PRODUCTS LAW

This regulation became effective for all State Funded construction projects on July 1, 2002.

General Statutes – §133-3

§ 133-3. Specifications to carry competitive items; substitution of materials.
All architects, engineers, designers, or draftsmen, when providing design services, or writing specifications, directly or indirectly, for materials to be used in any city, county or State work, shall specify in their plans the required performance and design characteristics of such materials. However, when it is impossible or impractical to specify the required performance and design characteristics for such materials, then the architect, engineer, designer or draftsman may use a brand name specification so long as they cite three or more examples of items of equal design or equivalent design, which would establish an acceptable range for items of equal or equivalent design. The specifications shall state clearly that the cited examples are used only to denote the quality standard of NC General Statutes - Chapter 133-4 product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be acceptable. Where it is impossible to specify performance and design characteristics for such materials and impossible to cite three or more items due to the fact that there are not that many items of similar or equivalent design in competition, then as many items as are available shall be cited. On all city, county or State works, the maximum interchangeability and compatibility of cited items shall be required. The brand of product used on a city, county or State work shall not limit competitive bidding on future works. Specifications may list one or more preferred brands as an alternate to the base bid in limited circumstances. Specifications containing a preferred brand alternate under this section must identify the performance standards that support the preference. Performance standards for the preference must be approved in advance by the owner in an open meeting. Any alternate approved by the owner shall be approved only where (i) the preferred alternate will provide cost savings, maintain or improve the functioning of any process or system affected by the preferred item or items, or both, and (ii) a justification identifying these criteria is made available in writing to the public. Substitution of materials, items, or equipment of equal or equivalent design shall be submitted to the architect or engineer for approval or disapproval; such approval or disapproval shall be made by the architect or engineer prior to the opening of bids. The purpose of this statute is to mandate and encourage free and open competition on public contracts.
(1933, c. 66, s. 3; 1951, c. 1104, s. 5; 1993, c. 334, s. 7.1; 2002-107, s. 5; 2002-159, s. 64(c).)

North Carolina Department of Transportation

E. Proprietary Items on Federally Funded and State Funded Projects Overview

Type	Time Required	Approval Level	Documentation Required	Special Instructions	Caution
Generic	None	None	Standard Specifications, Project Special Provisions	May require certifications as specified in Article 106-3 of the *Standard Specifications*	None, most preferred method
Proprietary Items	1 hour to 1 week	State Contract Office Randy Garris, PE, Contract Officer	Copy of data on at least 3 similar proprietary items or products	Write as *Item A, Item B, Item C or Approved Equal*	Approval is project-specific and site-specific. If an approved equal is submitted in lieu of listed items, the Engineer will determine if the submission is an *approved equal*.
Essential for Synchronization or No Equally Suitable Alternate	3-6 months prior to letting	Division Engineer	Letter of Justification signed by Designer or City Engineer (whoever seals the plans) *AND* the Division Engineer	A copy of the justification letter will become part of the permanent project file.	If contested by a vendor, or audited and another product could be used, the entity runs the risk of losing funding for that product.
Research/Test/ Experimental Project (NCDOT only)	12-18 months prior to letting	FHWA-NCDOT Authority granted to NCDOT under Stewardship and Oversight Agreement Dr. Biswas, PE, Assistant Branch Manager	Proposal and workplan, submitted to the Office of Research and Development, with signed verification from the Designer or Consultant that sealed the plans *AND* the Division Engineer.	A copy of the Proposal and Workplan, w/documentation will become part of the permanent project file.	Will not be approved if there is an on-going NCDOT research project or there has been an NCDOT research project on this product. Proposal and workplan must be fully justified with engineering judgment, statistics and credible research from other states or entities; approval or denial of research project is made solely by the Office of Research and Development.

PROPRIETARY ITEMS ON FEDERALLY FUNDED AND STATE FUNDED PROJECTS
OVERVIEW (continued)

Type	Time Required	Approval Level	Documentation Required	Special Instructions	Caution
Public Interest	12-24 months prior to letting	FHWA-NCDOT Authority granted to NCDOT under Stewardship and Oversight Agreement Terry Gibson, PE, State Highway Administrator	Public Interest Finding, including justification, verification letter from NCDOT Research and Development, comments from affected unit and Materials and Tests Unit, signed verification from the City Engineer or Consultant that sealed the plans *AND* the Division Engineer, Unit Head or Director.	A copy of the PIF package will become part of the permanent project file.	This is an incredibly rare approval; if denied, and used anyway, federal and state funding will be lost for that portion of the project
Product Evaluation Program	Varies	NCDOT Technical Working Group Leigh Wing, PE, PEP Engineer	Product is evaluated and decision is made by a Technical Working Group.	Product is submitted by the vendor or manufacturer	If product is approved for use, it may be added to an approved list or qualified list. Products on an approved or qualified list must be shown as 3 items and approved equal.

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

F. CALL FOR NEW RESEARCH IDEA

Your Name: **DATE:**

Branch / Unit:

TITLE of your Research Idea:

Background:

What is the Specific Problem or Issue?

List Research Objectives and Tasks:

What Would be the Product[s] of the Research?
*(Note: Progress reports and the Final report are **NOT** considered a "product," but "deliverables.")*

How Will You or Others Use the Product[s]?

How Will the Product Benefit the Department?
(e.g., increase operational efficiency, decrease costs, enhance safety, etc. Indicate short term and/or long term benefit)

Other Comments:

Approval (Division official or Unit Head)

Print Name	Signature	Title

Please FAX, Mail, or email to: Dr. Moy Biswas, Office of Research

104 Fayetteville Street, Rm. 268
1549 Mail Service Center
Raleigh, NC 27699-1549

FAX: (919) 715-0137
Phone: (919) 508-1865
email: biswas@ncdot.gov

CONTACTS USED IN THIS DOCUMENT

Moy Biswas, PE, PhD, Research and Development Unit 919.508.1865
Randy Garris, PE, Contract Standards and Development Unit 919.707.6900
Bradley Hibbs, PE, FHWA – NC 919.747.7006
Chris Peoples, PE, Materials and Tests Unit 919.329.4000
Leigh Wing, PE, Product Evaluation Program 919.508.1860

Recommended Exclusions from GC Licensing Requirements

NCDOT recommends excluding contracting activities defined as "Highway Road and Bridge Maintenance Activities" for NCDOT. These are defined as the following activities:

Road Maintenance

- Pavement Patching (Asphalt & Concrete)
- Miscellaneous Concrete Work (Traffic Islands, Curb & Gutter, Barrier Rail, Minor Drainage Structures, Etc.)
- Pipe Installation (Driveways)
- Specialized Pipe Liners
- Sweeping
- Debris Removal
- Fencing
- Incidental Stone Hauling & Placement
- Guard Rail Installation & Repair
- Mowing- Routine & A-Boom
- Tree Cutting
- Roadway Lighting Installation & Maintenance (Electrical License Required)
- Resurfacing (Short Overlays / Widening)

Bridge Maintenance

- Bridge Painting & Minor Repair (Beam Straightening)
- Expansion Joints Installation And Maintenance
- Drawbridge Maintenance And Repair
- Drawbridge Operation

General Roadside Maintenance

- Seeding & Mulching, General Erosion Controlled Measures
- Plant Bed Maintenance
- Plant Installation
- Rest Area Maintenance – Inside Rest Area & Grounds

Traffic

- Signs (Logo & Freeway Signs)
- Paint Markings
- Pavement Markers
- Traffic Signals (Signal Head, Poles, Signed Hardware, Electrical License Requires)

Intelligent Transportation Systems (ITS) (electrical work would still require the appropriate license)

- Message Boards
- Detector Equipment
- Cameras
- Speed Equipment, Fog Detection Equipment, Etc.

Weigh Station Maintenance

- Scales, Etc.

Tie Bid Resolution Procedure

Resolving Tie Bids

- Review both for irregularities that would either make one or both not awardable or mathematical errors that require correction of the Total Amount Bid.

- If bids are still tied after a thorough review of each, a coin toss shall be used to resolve the tie and select a winning bid.

Coin Toss Procedure

- Notify tied bidders a minimum of 48 hours in advance of the coin toss advising them of the location, date and time that the coin toss will be perform. Encourage both bidders to have a representative present for the coin toss.

- A minimum of three NCDOT employees must be present to perform the coin toss, one to toss the coin and two witnesses.

- A standard US Quarter Dollar shall be used to perform the coin toss.

- If present, allow both bidders to examine the coin prior to performing the toss.

- Prior to tossing the coin, assign heads to one bidder and tails to the other and document the assignment in writing.

- Flip the coin high into the air, allowing it to fall to the floor and come to rest. The side facing up is the winner. (In the unlikely event the coin comes to rest on its edge, the flip shall be repeated.)

- Document the results of the coin toss in writing and have all parties present sign this document indicating the coin toss was carried out according to written procedures and the results were correctly recorded.

Certificate of Insurance Evaluation

Policy Number:

Date Entered: 4/30/2014

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 4/30/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Risk Managers Inc
288 Third Street
Ayden NC 28513

CONTACT NAME: Shea Davis
PHONE (A/C, No, Ext): (252) 746-7475 FAX (A/C, No): (252) 746-7495
E-MAIL ADDRESS: riskmanagersinc1@centurylink.net

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Erie Insurance Exchange	
INSURER B: First Benefits Insurance Mutual	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Company Name
Address

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC	X		Q271221209	3/12/2014	3/12/2015	EACH OCCURRENCE	$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000
							MED EXP (Any one person)	$5,000
							PERSONAL & ADV INJURY	$1,000,000
							GENERAL AGGREGATE	$2,000,000
							PRODUCTS - COMP/OP AGG	$2,000,000
								$
A	AUTOMOBILE LIABILITY ANY AUTO X ALL OWNED AUTOS X HIRED AUTOS SCHEDULED AUTOS X NON-OWNED AUTOS			Q031240049	3/12/2014	3/12/2015	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $			Q271270255	3/12/2014	3/12/2015	EACH OCCURRENCE	$4,000,000
							AGGREGATE	$4,000,000
								$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N Y If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		WC-6259-2013	3/12/2014	3/12/2015	X WC STATU-TORY LIMITS OTH-ER	
							E.L. EACH ACCIDENT	$1,000,000
							E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
State of North Carolina is listed as additional insured per attached endorsements as respects the general policy.Location:Washington County, Plymouth, NC.Job #: DA00193.

CERTIFICATE HOLDER
NCDOT
113 Airport Drive
Edenton NC 27932

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Lynne W. Conard

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Verify that the insurance providers are licensed to conduct business in North Carolina on the NC Dept. of Insurance website.

To meet the $5M liability insurance requirement, the sum total of the hi-lighted items must be at least $5M.

For this example, the total coverage would be $11M.

Be sure that the State of North Carolina is named as an additional insured on the General Liability policy.

Project Goal Setting Guidance

NCDOT Aspirational Goals

DBE = 14.7%
MBE = 8.0%
WBE = 8.1%

Note: These are Department-wide annual aspirational goals and are not intended to be applied to any particular project. Project-specific goals are set based on the types of work and other considerations including, but not limited to, those listed below.

Available Work Items

After entering line items in Trns*port PES, generate the DBE Interest Report in the Custom Reports Application on the Attachments tab of the proposal you are working on. The DBE Interest Report is a confidential document, for internal use only, that identifies the major items of work that may be available to DBE subcontractors.

Available % for Items of Work

Each major work item identified in the DBE Interest Report has an associated dollar value, which is indicated by its % value as it relates to the total engineer's estimate for the project.

Diversity (Mix) of Work Items

Review the DBE Interest Report to determine the work items for which there is potential for MBE/WBE/DBE participation. Items with relatively high percentages may provide opportunities for MBE/WBE/DBE participation.

Specialty Items of Work

Projects that consist primarily of specialty items (ITS, signals, microsurfacing, hot in-place recycling, etc.) may limit MBE/WBE/DBE participation due to limited availability of MBE/WBE/DBE contractors who perform these items.

Railroad Impacts

Railroad crossings can impact MBE/WBE/DBE participation due to additional liability insurance requirements for work within the railroad right of way. This is especially true on smaller projects.

Project Location

The geographical location of the project must be taken into account. Some areas have a larger pool of available MBE/WBE/DBE contractors than others. A list of available firms can be generated using the NCDOT Directory of Transportation Firms.

Project Construction Requirements

Project Access	Projects that are isolated or not near major highway facilities may not be attractive to MBE/WBE/DBE's from other parts of the state.
Staged Construction	Projects with multiple construction stages may create scheduling difficulties and may not be conducive to heavy MBE/WBE/DBE participation.
Night Work	MBE WBE/DBE subcontractors may not find projects that require night work attractive.
Time Restrictions	Projects with multiple construction time restrictions may create resource scheduling difficulties which could reduce opportunities for MBE/WBE/DBE subcontractors
Road Closures	MBE/WBE/DBE subcontractors may find projects involving road closures very attractive due to the flexibility they afford and safety from traffic.
Under Traffic	Projects that must be built under traffic may not be attractive to some MBE/WBE/DBE subcontractors due to scheduling and safety concerns.
New Location	MBE/WBE/DBE firms may find projects on new location very attractive due to the flexibility they afford and safety from traffic.
Hauling	Consideration should be given to factors such as on-road vs. off-road hauling, the types of materials to be hauled and the percentage of the total amount of work that hauling represents.

Unified Division Let Project - Documents Requirements Checklist

Construction Unit:	**True Copy file plus remaining documents as single or multiple files. Email to mnovello@ncdot.gov**
Fiscal Section:	**Requires ONE (1) electronic file labeled "True Copy DX#####". Email to cm@ncdot.gov**
Equal Opportunity & Workforce Services:	**Email 5 required documents to jtrawley@ncdot.gov**

Document Description	**Construction Unit**	**Fiscal Section**	**EOWS**	**Notes**
Engineer's Estimate				Must be updated to include any **addendums**
Division Set Up document				Must be completely filled out
Proposal	Required			1. Line items must be from the **2012 Specifications Master Pay Item List** **2. Line items must match Master Pay Item Specification, Description, & Unit of Measure** 3. Master Pay Item number must be included on Bid Item Sheet 4. Master Pay Item **descriptions cannot be modified**. The exception is any item that starts with **Generic**. These must **always be updated**. 5. Line Items must be **listed in order** by Master Pay Item Number
Addendums	Required			
Plans	Required			
Award Letter			Required	Contractor must be Prequalified to bid
Execution letter	Required			
Goal Confirmation Letter			Required	Good Faith Effort information is **NOT** required.
Contents of the single file named "True Copy DX#####". Documents must be scanned in this order for Fiscal.				
Contract cover sheet	Required	Required	Required	**For multi WBS contracts, all WBSs must be listed**
Proposal cover sheet	Optional	Required		
Low Bidder's Bid	Required	Required		Contract Item sheets must have the **Total Bid Amount**
Execution of contract pages	Required	Required		Must include non-collusion affidavit and debarment certification (Notarized with seal) and DOT signautre page
Contract Payment Bond	Required	Required		Must be signed
Contract Performance Bond	Required	Required		Must be signed
Power of Attorney	Required	Required		Must be signed
Liability Insurance form	Required	Required		
DBE/MB/WB Information	Required	Required	Required	This is the listing from the proposal
DBE/MB/WB Letters of Intent	Required	Required	Required	

Price Fixing, Bid Rigging, and Market Allocation Schemes: What They Are and What to Look For

An Antitrust Primer

This primer briefly describes the most common antitrust violations and outlines those conditions and events that indicate anticompetitive collusion.

Introduction[1]

American consumers have the right to expect the benefits of free and open competition — the best goods and services at the lowest prices. Public and private organizations often rely on a competitive bidding process to achieve that end. The competitive process only works, however, when competitors set prices honestly and independently. When competitors collude, prices are inflated and the customer is cheated. Price fixing, bid rigging, and other forms of collusion are illegal and are subject to criminal prosecution by the Antitrust Division of the United States Department of Justice.

In recent years, the Antitrust Division has successfully prosecuted regional, national, and international conspiracies affecting construction, agricultural products, manufacturing, service industries, consumer products, and many other sectors of our economy. Many of these prosecutions resulted from information uncovered by members of the general public who reported the information to the Antitrust Division. Working together, we can continue the effort to protect and promote free and open competition in the marketplaces of America.

Federal Antitrust Enforcement

Enacted in 1890, the Sherman Act is among our country's most important and enduring pieces of economic legislation. The Sherman Act prohibits any agreement among competitors to fix prices, rig bids, or engage in other anticompetitive activity. Criminal prosecution of Sherman Act violations is the responsibility of the Antitrust Division of the United States Department of Justice.

Violation of the Sherman Act is a felony punishable by a fine of up to $10 million for corporations, and a fine of up to $350,000 or 3 years imprisonment (or both) for individuals, if the offense was committed before June 22, 2004. If the offense was committed on or after June 22, 2004, the maximum Sherman Act fine is $100 million for corporations and $1 million for individuals, and the maximum Sherman Act jail sentence is 10 years. Under some circumstances, the maximum potential fine may be increased above the Sherman Act maximums to twice the gain or loss involved. In addition, collusion among competitors may constitute violations of the mail or wire fraud statute, the false statements statute, or other federal felony statutes, all of which the Antitrust Division prosecutes.

In addition to receiving a criminal sentence, a corporation or individual convicted of a Sherman Act violation may be ordered to make restitution to the victims for all overcharges. Victims of bid-rigging and price-fixing conspiracies also may seek civil recovery of up to three times the amount of damages suffered.

Forms of Collusion

Most criminal antitrust prosecutions involve price fixing, bid rigging, or market division or allocation schemes. Each of these forms of collusion may be prosecuted criminally if they occurred, at least in part, within the past five years. Proving such a crime does not require us to show that

A corporation or individual convicted of a Sherman Act violation may be ordered to make restitution to the victims for all overcharges. Victims of bid-rigging and price-fixing conspiracies also may seek civil recovery of up to three times the amount of damages suffered.

the conspirators entered into a formal written or express agreement. Price fixing, bid rigging, and other collusive agreements can be established either by direct evidence, such as the testimony of a participant, or by circumstantial evidence, such as suspicious bid patterns, travel and expense reports, telephone records, and business diary entries.

Under the law, price-fixing and bid-rigging schemes are per se violations of the Sherman Act. This means that where such a collusive scheme has been established, it cannot be justified under the law by arguments or evidence that, for example, the agreed-upon prices were reasonable, the agreement was necessary to prevent or eliminate price cutting or ruinous competition, or the conspirators were merely trying to make sure that each got a fair share of the market.

Price Fixing

Price fixing is an agreement among competitors to raise, fix, or otherwise maintain the price at which their goods or services are sold. It is not necessary that the competitors agree to charge exactly the same price, or that every competitor in a given industry join the conspiracy. Price fixing can take many forms, and any agreement that restricts price competition violates the law. Other examples of price-fixing agreements include those to:

- Establish or adhere to price discounts.
- Hold prices firm.
- Eliminate or reduce discounts.
- Adopt a standard formula for computing prices.
- Maintain certain price differentials between different types, sizes, or quantities of products.
- Adhere to a minimum fee or price schedule.
- Fix credit terms.
- Not advertise prices.

In many cases, participants in a price-fixing conspiracy also establish some type of policing mechanism to make sure that everyone adheres to the agreement.

Bid Rigging

Bid rigging is the way that conspiring competetors effectively raise prices where purchasers — often federal, state, or local governments — acquire goods or services by soliciting competing bids.

Essentially, competitors agree in advance who will submit the winning bid on a contract being let through the competitive bidding process. As with price fixing, it is not necessary that all bidders participate in the conspiracy.

Bid rigging also takes many forms, but bid-rigging conspiracies usually fall into one or more of the following categories:

Bid Suppression: In bid suppression schemes, one or more competitors who otherwise would be expected to bid, or who have previously bid, agree to refrain from bidding or withdraw a previously submitted bid so that the designated winning competitor's bid will be accepted.

Complementary Bidding: Complementary bidding (also known as "cover" or "courtesy" bidding) occurs when some competitors agree to submit bids that either are too high to be accepted or contain special terms that will not be acceptable to the buyer. Such bids are not intended to secure the buyer's acceptance, but are merely designed to give the appearance of genuine competitive bidding. Complementary bidding schemes are the most frequently occurring forms of bid rigging, and they defraud purchasers by creating the appearance of competition to conceal secretly inflated prices.

Bid Rotation: In bid rotation schemes, all conspirators submit bids but take turns being the low bidder. The terms of the rotation may vary; for example, competitors may take turns on contracts according to the size of the contract, allocating equal amounts to each conspirator or allocating volumes that correspond to the size of each conspirator company. A strict bid rotation pattern defies the law of chance and suggests collusion is taking place.

Subcontracting: Subcontracting arrangements are often part of a bid-rigging scheme. Competitors who agree not to bid or to submit a losing bid frequently receive subcontracts or supply contracts in exchange from the successful low bidder. In some schemes, a low bidder will agree to withdraw its bid in favor of the next low bidder in exchange for a lucrative subcontract that divides the illegally obtained higher price between them.

Almost all forms of bid-rigging schemes have one thing in common: an agreement among some or all of the bidders which predetermines the winning bidder and limits or eliminates competition among the conspiring vendors.

Market Division

Market division or allocation schemes are agreements in which competitors divide markets among themselves. In such schemes, competing firms allocate specific customers or types of customers, products, or territories among themselves. For example, one competitor will be allowed to sell to, or bid on contracts let by, certain customers or types of customers. In return, he or she will not sell to, or bid on contracts let by, customers allocated to the other competitors. In other schemes, competitors agree to sell only to customers in certain geographic areas and refuse to sell to, or quote intentionally high prices to, customers in geographic areas allocated to conspirator companies.

Detecting Bid Rigging, Price Fixing, And Other Types Of Collusion

Bid rigging, price fixing, and other collusion can be very difficult to detect. Collusive agreements are usually reached in secret, with only the participants having knowledge of the scheme. However, suspicions may be aroused by unusual bidding or pricing patterns or something a vendor says or does.

Bid or Price Patterns

Certain patterns of bidding or pricing conduct seem at odds with a competitive market and suggest the possibility of collusion:

Bids

- The same company always wins a particular procurement. This may be more suspicious if one or more companies continually submit unsuccessful bids.
- The same suppliers submit bids and each company seems to take a turn being the successful bidder.
- Some bids are much higher than published price lists, previous bids by the same firms, or engineering cost estimates.
- Fewer than the normal number of competitors submit bids.
- A company appears to be bidding substantially higher on some bids than on other bids, with no apparent cost differences to account for the disparity.
- Bid prices drop whenever a new or infrequent bidder submits a bid.
- A successful bidder subcontracts work to competitors that submitted unsuccessful bids on the same project.

Collusion is more likely to occur if there are few sellers. The fewer the sellers, the easier it is for them to get together and agree on prices, bids, customers, or territories.

- A company withdraws its successful bid and subsequently is subcontracted work by the new winning contractor.

Prices

- Identical prices may indicate a price-fixing conspiracy, especially when:
  - Prices stay identical for long periods of time.
  - Prices previously were different.
  - Price increases do not appear to be supported by increased costs.
- Discounts are eliminated, especially in a market where discounts historically were given.
- Vendors are charging higher prices to local customers than to distant customers. This may indicate local prices are fixed.

Suspicious Statements or Behavior

While vendors who collude try to keep their arrangements secret, occasional slips or carelessness may be a tip-off to collusion. In addition, certain patterns of conduct or statements by bidders or their employees suggest the possibility of collusion. Be alert for the following situations, each of which has triggered a successful criminal antitrust prosecution:

- The proposals or bid forms submitted by different vendors contain irregularities (such as identical calculations or spelling errors) or similar handwriting, typeface, or stationery. This may indicate that the designated low bidder may have prepared some or all of the losing vendor's bid.
- Bid or price documents contain whiteouts or other physical alterations indicating last-minute price changes.
- A company requests a bid package for itself and a competitor or submits both its and another's bids.
- A company submits a bid when it is incapable of successfully performing the contract (likely a complementary bid).
- A company brings multiple bids to a bid opening and submits its bid only after determining (or trying to determine) who else is bidding.
- A bidder or salesperson makes:
  - Any reference to industry-wide or association price schedules.
  - Any statement indicating advance (non-public) knowledge of competitors' pricing.
  - Statements to the effect that a particular customer or contract "belongs" to a certain vendor.
  - Statements that a bid was a "courtesy," "complementary," "token," or "cover" bid.
  - Any statement indicating that vendors have discussed prices among themselves or have reached an understanding about prices.

A Caution About Indicators of Collusion

While these indicators may arouse suspicion of collusion, they are not proof of collusion. For example, bids that come in well above the estimate may indicate collusion or simply an incorrect estimate. Also, a bidder can lawfully submit an intentionally high bid that it does not think will be successful for its own independent business reasons, such as being too busy to handle the work but wanting to stay on the bidders' list. Only when a company submits an intentionally high bid because of an agreement with a competitor does an antitrust violation exist. Thus, indicators of collusion merely call for further investigation to determine whether collusion exists

Antitrust violations are serious crimes that can cost a company hundreds of millions of dollars in fines and can send an executive to jail for up to ten years.

These conspiracies are by their nature secret and difficult to detect.

The Antitrust Division needs your help in uncovering them and bringing them to our attention.

or whether there is an innocent explanation for the events in question.

Conditions Favorable To Collusion

While collusion can occur in almost any industry, it is more likely to occur in some industries than in others. An indicator of collusion may be more meaningful when industry conditions are already favorable to collusion.

- Collusion is more likely to occur if there are few sellers. The fewer the number of sellers, the easier it is for them to get together and agree on prices, bids, customers, or territories. Collusion may also occur when the number of firms is fairly large, but there is a small group of major sellers and the rest are "fringe" sellers who control only a small fraction of the market.
- The probability of collusion increases if other products cannot easily be substituted for the product in question or if there are restrictive specifications for the product being procured.
- The more standardized a product is, the easier it is for competing firms to reach agreement on a common price structure. It is much harder to agree on other forms of competition, such as design, features, quality, or service.
- Repetitive purchases may increase the chance of collusion, as the vendors may become familiar with other bidders and future contracts provide the opportunity for competitors to share the work.
- Collusion is more likely if the competitors know each other well through social connections, trade associations, legitimate business contacts, or shifting employment from one company to another.
- Bidders who congregate in the same building or town to submit their bids have an easy opportunity for last-minute communications.

What You Can Do

Antitrust violations are serious crimes that can cost a company hundreds of millions of dollars in fines and can send an executive to jail for up to ten years. These conspiracies are by their nature secret and difficult to detect. The Antitrust Division needs your help in uncovering them and bringing them to our attention.

If you think you have a possible violation or just want more information about what we do, contact the Citizen Complaint Center of the Antitrust Division:

E-mail:

antitrust.complaints@usdoj.gov

Phone:

1-888-647-3258 (toll-free in the U.S. and Canada) or 1-202-307-2040

Address:

Citizen Complaint Center
Antitrust Division, U.S. Dept. of Justice
950 Pennsylvania Ave. NW, Suite 3322
Washington, DC 20530

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[1] This Primer provides only internal Department of Justice guidance. It is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. No limitations are hereby placed on otherwise lawful investigative and litigation prerogatives of the Department of Justice.

FORMS, CHECKLISTS

& LETTERS

North Carolina Department of Transportation

BID OPENING ROSTER

Bid Opening: _____

Time: _____

Contract No(s): _____

NAME	COMPANY	PHONE NUMBER

North Carolina Department of Transportation

CONTRACT BID SUMMARY

Bid Opening: _____ **Time:** _____

Contract No: _____

Description: _____

_____

CONTRACTOR	AMOUNT BID

TOTAL BIDS RECEIVED: _____

Bids opened by: _____ Title: _____

Witness: _____ Title: _____

BR-1 (Rev. 7/2008)

BID REVIEW

Contract No.: _____ County: _____

Description: _____

_____

Bid Opening Date: _____ SBE Contract: Yes _____ No _____

Engineer's Estimate: $ _____ WBS Funds Available: $ _____

	DBE%	MBE%	WBE%
Advertised Contract Goals:			

BID RESULTS

Contractor		Verified Bid Amt.	% Diff.	DBE% Bid	MBE% Bid	WBE% Bid
	$					
	$					
	$					
	$					
	$					
	$					
	$					

ACTION TAKEN

COMMITTEE MEMBER	Accept Low Bid	Reject Low Bid	Reject All Bids	Need Additional Info

Comments:

_____

_____

_____

_____

Bid Review Date _____ Time _____ Location _____

GOOD FAITH EFFORT WORKSHEET

LETTING DATE: _____ **RPN:** _____

COUNTY: _____ **WBS:** _____

GOALS			
	SET	SUBMITTED	DIFFERENCE
DBE:			0.00%
MBE:			0.00%
WBE:			0.00%

CONTRACT #: _____
BID AMOUNT: _____
CONTRACTOR: _____

PARTICIPATION USED			
CATEGORY	**FIRM**	**TYPE OF WORK**	**PERCENT**

GOOD FAITH EFFORT REVIEW		
CRITERIA	**RESULT**	**REMARKS**
a		
b		
c		
d		
e		
f		
g		
h		
i	(1) (2) (3)	(1) (2) (3)

COMMITTEE MEMBER	ACCEPT GOOD FAITH EFFORT	REJECT GOOD FAITH EFFORT

GOOD FAITH EFFORT REVIEW DATE: _____

Bid Review and Award
Task List

Contract No.: _____
TIP No.: _____
Federal Aid No.: _____
WBS Element: _____
County: _____
Description: _____
_____

Bid Opening and Verification

_____ Read publicly and document bids
_____ Announce apparent low bidder
_____ Insure SBE and/or POC limit not exceeded (SBE - $500,000; POC - $1.2M)
_____ Bidders Pre-qualified?
_____ Bidder Licensed?
_____ Bidders on SBE projects certified?
_____ Bidder not on State or Federal list of debarred vendors
_____ Check bids for errors & omissions
    _____ Calculations correct
    _____ Bid properly executed, including corporate seal
    _____ Non-Collusion affidavit signed & notarized
    _____ MBE/WBE/DBE subcontractor listing submitted
        _____ Goals met?
        _____ MBE/WBE/DBE subcontractors certified?
        _____ Good Faith hearing required?
            _____ Have contractor submit Good Faith Effort documentation (required within 6 calendar days)
        _____ Request Letters of Intent (required within 6 calendar days)

_____ Bid within 10% high & 15% low
    _____ If not, are there good reasons? _____
_____ Hold Good Faith/Bid Review Committee meeting
_____ Award Letter
    _____ Request Bonds (if required, must be received within 14 calendar days)
        _____ Bonds issued by a surety company legally authorized to do business in North Carolina?
_____ Goal Confirmation Letter
_____ Request Certificate of Insurance
_____ Contract Execution (after bonds & insurance certificate received.)

Individual Bidder Checklist

Bidder: _____

_____ Prequalified (SBE Certified)
_____ Bidder (and DBE's) not on State or Federal Debarment List
_____ Licensed
_____ No Irregularities in bid
  _____ Calculations correct
  _____ Properly executed (signed, corporate seal, notarized)
  _____ DBE listing completed
    _____ Goals met
    _____ DBE's certified

Bidder: _____

_____ Prequalified (SBE Certified)
_____ Bidder (and DBE's) not on State or Federal Debarment List
_____ Licensed
_____ No Irregularities in bid
  _____ Calculations correct
  _____ Properly executed (signed, corporate seal, notarized)
  _____ DBE listing completed
    _____ Goals met
    _____ DBE's certified

Bidder: _____

_____ Prequalified (SBE Certified)
_____ Bidder (and DBE's) not on State or Federal Debarment List
_____ Licensed
_____ No Irregularities in bid
  _____ Calculations correct
  _____ Properly executed (signed, corporate seal, notarized)
  _____ DBE listing completed
    _____ Goals met
    _____ DBE's certified

Bidder: _____

_____ Prequalified (SBE Certified)
_____ Bidder (and DBE's) not on State or Federal Debarment List
_____ Licensed
_____ No Irregularities in bid
  _____ Calculations correct
  _____ Properly executed (signed, corporate seal, notarized)
  _____ DBE listing completed
    _____ Goals met
    _____ DBE's certified

Bidder: _____

_____ Prequalified (SBE Certified)
_____ Bidder (and DBE's) not on State or Federal Debarment List
_____ Licensed
_____ No Irregularities in bid
  _____ Calculations correct
  _____ Properly executed (signed, corporate seal, notarized)
  _____ DBE listing completed
    _____ Goals met
    _____ DBE's certified

Bidder: _____

_____ Prequalified (SBE Certified)
_____ Bidder (and DBE's) not on State or Federal Debarment List
_____ Licensed
_____ No Irregularities in bid
  _____ Calculations correct
  _____ Properly executed (signed, corporate seal, notarized)
  _____ DBE listing completed
    _____ Goals met
    _____ DBE's certified

Bidder: _____

_____ Prequalified (SBE Certified)
_____ Bidder (and DBE's) not on State or Federal Debarment List
_____ Licensed
_____ No Irregularities in bid
  _____ Calculations correct
  _____ Properly executed (signed, corporate seal, notarized)
  _____ DBE listing completed
    _____ Goals met
    _____ DBE's certified

Bidder: _____

_____ Prequalified (SBE Certified)
_____ Bidder (and DBE's) not on State or Federal Debarment List
_____ Licensed
_____ No Irregularities in bid
  _____ Calculations correct
  _____ Properly executed (signed, corporate seal, notarized)
  _____ DBE listing completed
    _____ Goals met
    _____ DBE's certified

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

Date

NOTIFICATION OF AWARD

Company Name
Address 1
Address 2

Contract No.	DX#####
TIP No.:	X-####
Federal Aid No.:	XXX-####(#)
WBS Element:	#####.#.#
County:	XXXXXXX
Description:	XXXXXXX

Dear Sir:

I am pleased to inform you that **Company Name** has been awarded the contract for the above project based on the bid submitted on **Letting Date** in the amount of $**Bid Amount**.

No performance and payment bonds are required for this contract. Please provide a current certificate of insurance within 14 calendar days from the date you receive your award letter. Certificate of insurance should be returned to me. Please remember that work may not start before the contract has been properly executed.

In addition, your attention is directed to Articles 107-16, 108-1, 108-2 and 108-3 of the *Standard Specifications* relative to prosecution of work, progress schedule and preconstruction conference. Information regarding these items should be addressed prior to beginning work. Please forward remaining information to the Division Construction Engineer, **DCE Name**, as soon as possible so that a preconstruction conference can be held. **DCE Name's** mailing address is **DCE Address** and telephone number is **DCE Phone #**.

113 Airport Drive, Suite 100, Edenton, NC 27932, Phone (252) 482-1850, Fax (252) 482-8722

In accordance with Article 104-2 of the *Standard Specifications*, it will be necessary for you to submit the name of those individuals within your organization who will be authorized to sign supplemental agreements that may be necessary in the performance of the work under this contract. Please furnish this information to Resident/District Engineer, **RE Name**. RE Name mailing address is **RE Address** and telephone number is **RE Phone #**.

If you have any questions, please contact me at DPM Phone #.

Sincerely,

Name
Division Project Manager

cc: Division Engineer
Division Construction Engineer
(Resident/District Engineer)
Division Planning Engineer
Roadway Construction Engineer/Bridge Construction Engineer
Communications Officer
SMO Regional Team Lead

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

Date

NOTIFICATION OF AWARD

Company Name
Address 1
Address 2

Contract No.	DX#####
TIP No.:	X-####
Federal Aid No.:	XXX-####(#)
WBS Element:	#####.#.#
County:	XXXXXXX
Description:	XXXXXXX

Dear Sir:

I am pleased to inform you that **Company Name** has been awarded the contract for the above project based on the bid submitted on **Letting Date** in the amount of $**Bid Amount**.

Please provide two (2) original sets of executed bonds and a current certificate of insurance within 14 calendar days from the date you receive your award letter. Bonds and certificate of insurance should be returned to me. Please remember that work may not start before the contract has been properly executed.

In addition, your attention is directed to Articles 107-16, 108-1, 108-2 and 108-3 of the *Standard Specifications* relative to prosecution of work, progress schedule and preconstruction conference. Information regarding these items should be addressed prior to beginning work Please forward remaining information to the Division Construction Engineer, **DCE Name**, as soon as possible so that a preconstruction conference can be held. **DCE Name's** mailing address is **DCE Address** and telephone number is **DCE Phone #**.

113 Airport Drive, Suite 100, Edenton, NC 27932, Phone (252) 482-1850, Fax (252) 482-8722

In accordance with Article 104-2 of the *Standard Specifications*, it will be necessary for you to submit the name of those individuals within your organization who will be authorized to sign supplemental agreements that may be necessary in the performance of the work under this contract. Please furnish this information to Resident/District Engineer, **RE Name**. RE Name mailing address is **RE Address** and telephone number is **RE Phone #**.

If you have any questions, please contact me at DPM Phone #.

Sincerely,

Name
Division Project Manager

cc: Division Engineer
Division Construction Engineer
(Resident/District Engineer)
Division Planning Engineer
Roadway Construction Engineer/Bridge Construction Engineer
Communications Officer
SMO Regional Team Lead

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

Date

GOAL CONFIRMATION LETTER

Company Name
Address 1
Address 2

Contract No.	DX#####
TIP No.:	X-####
Federal Aid No.:	XXX-####(#)
WBS Element:	#####.#.#
County:	XXXXXXX
Description:	XXXXXXX

Dear Sir:

Company Name has been awarded the contract for the above project based on the bid submitted on **Letting Date** in the amount of $**Bid Amount**. The bid proposal indicates adequate MBE/WBE participation to satisfy the advertised contract goals:

The advertised contract goal for the subject project was set at:

MBE = X.X% WBE = X.X%

Your bid proposal indicates a commitment to the following participation:

MBE = X.X% WBE = X.X%

The MBE Goal Commitment of X.X% and the WBE Goal Commitment of X.X% will be the Contract Goal Requirements.

In accordance with Article 102-16 (J) of the NCDOT *Standard Specifications*, failure to satisfy the Minority and Women Business Enterprise requirements of the project Special Provisions is cause for disqualifying a Contractor from further bidding.

113 Airport Drive, Suite 100, Edenton, NC 27932, Phone (252) 482-1850, Fax (252) 482-8722

Based on your bid proposal, the Department has listed the following approved MBE/ WBE subcontractors and dollar amounts to meet the contract goal requirement. These firms are required to be utilized under the regulations in the Special Provisions, and any changes in the work affecting the MBE/WBE firms or replacement of a MBE/WBE firm will need to follow these provisions.

	Committed MBE/WBE Firms	Committed Amount
1.	Subcontractor #1	$#,###.##
2.	Subcontractor #2	$#,###.##
3.	Subcontractor #3	$#,###.##
4.	Subcontractor #4	$#,###.##
5.	Subcontractor #5	$#,###.##
6.	Subcontractor #6	$#,###.##

If you have any questions, please contact me at DPM Phone #.

Sincerely,

Name
Division Project Manager

cc: Division Engineer
Division Construction Engineer
(Resident/District Engineer)
Roadway Construction Engineer/Bridge Construction Engineer
Director - Office of Civil Rights

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

Date

GOAL CONFIRMATION LETTER/
GOOD FAITH EFFORT DETERMINATION

Company Name
Address 1
Address 2

Contract No.	DX#####
TIP No.:	X-####
Federal Aid No.:	XXX-####(#)
WBS Element:	#####.#.#
County:	XXXXXXX
Description:	XXXXXXX

Dear Sir:

Company Name has been awarded the contract for the above project based on the bid submitted on **Letting Date** in the amount of $**Bid Amount**. The bid proposal indicates adequate MBE/WBE participation to satisfy the advertised contract goals:

The advertised contract goal for the subject project was set at:

MBE = X.X% WBE = X.X%

Your bid proposal indicates a commitment to the following participation:

MBE = X.X% WBE = X.X%

The MBE Goal Commitment of X.X% and the WBE Goal Commitment of X.X% will be the Contract Goal Requirements.

113 Airport Drive, Suite 100, Edenton, NC 27932, Phone (252) 482-1850, Fax (252) 482-8722

Although your firm was found in good faith, the Department does offer the following suggestion(s) for any future Good Faith Effort reports. Please act upon each one and document on your submission for future contracts.

1.

2.

3.

On future Good Faith Effort reports the Department will consider this documentation in its review of your efforts and the determination of good faith findings.

In accordance with Article 102-16(J) of the NCDOT *Standard Specifications*, failure to satisfy the Disadvantage Business Enterprise requirements of the project Special Provisions may be cause to disqualify a Contractor from further bidding.

Based on your bid proposal, the Department has listed the following approved MBE/WBE subcontractors and dollar amounts to meet the Contract Goal Requirement. These firms are required to be utilized under the regulations in the Special Provisions, and any changes in the work affecting the MBE/WBE firms or replacement of an MBEWBE firm will need to follow these provisions.

	Committed MBE/WBE Firms	**Committed Amount**
1.	Subcontractor #1	$#,###.##
2.	Subcontractor #2	$#,###.##
3.	Subcontractor #3	$#,###.##
4.	Subcontractor #4	$#,###.##
5.	Subcontractor #5	$#,###.##
6.	Subcontractor #6	$#,###.##

If you have any questions, please contact me at DPM Phone #.

Sincerely,

Name
Division Project Manager

cc: Division Engineer
Division Construction Engineer
(Resident/District Engineer)
Roadway Construction Engineer/Bridge Construction Engineer
Director - Office of Civil Rights

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

Date

GOAL CONFIRMATION LETTER

Company Name
Address 1
Address 2

Contract No.	DX#####
TIP No.:	X-####
Federal Aid No.:	XXX-####(#)
WBS Element:	#####.#.#
County:	XXXXXXX
Description:	XXXXXXX

Dear Sir:

Company Name has been awarded the contract for the above project based on the bid submitted on **Letting Date** in the amount of $**Bid Amount**. The bid proposal indicates adequate DBE participation to satisfy the advertised contract goals:

The advertised contract goal for the subject project was set at:

DBE = X.X%

Your bid proposal indicates a commitment to the following participation:

DBE = X.X%

The DBE Goal Commitment of X.X% will be the Contract Goal Requirement.

In accordance with Article 102-16(J) of the NCDOT *Standard Specifications*, failure to satisfy the Disadvantaged Business Enterprise requirements of the project Special Provisions is cause for disqualifying a Contractor from further bidding.

113 Airport Drive, Suite 100, Edenton, NC 27932, Phone (252) 482-1850, Fax (252) 482-8722

Based on your bid proposal, the Department has listed the following approved DBE subcontractors and dollar amounts to meet the Contract Goal Requirement. These firms are required to be utilized under the regulations in Special Provision (SP1G68), and any changes in the work affecting the DBE firms or replacement of a DBE firm will need to follow these provisions.

	Committed MBE/WBE Firms	Committed Amount
1.	Subcontractor #1	$#,###.##
2.	Subcontractor #2	$#,###.##
3.	Subcontractor #3	$#,###.##
4.	Subcontractor #4	$#,###.##
5.	Subcontractor #5	$#,###.##
6.	Subcontractor #6	$#,###.##

If you have any questions, please contact me at DPM Phone #.

Sincerely,

Name
Division Project Manager

cc: Division Engineer
Division Construction Engineer
(Resident/District Engineer)
Roadway Construction Engineer/Bridge Construction Engineer
Director - Office of Civil Rights

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

Date

GOAL CONFIRMATION LETTER/
GOOD FAITH EFFORT DETERMINATION

Company Name
Address 1
Address 2

Contract No.	DX#####
TIP No.:	X-####
Federal Aid No.:	XXX-####(#)
WBS Element:	#####.#.#
County:	XXXXXXX
Description:	XXXXXXX

Dear Sir:

Company Name has been awarded the contract for the above project based on the bid submitted on **Letting Date** in the amount of $**Bid Amount**. The bid proposal indicated inadequate DBE participation to satisfy the advertised DBE goals:

The advertised DBE goal for the subject project was set at:

DBE = X.X%

Your bid proposal indicates that your firm attained the following participation:

DBE = X.X%

Your firm did submit satisfactory information demonstrating to the Department that you exerted a good faith effort in attempting to meet the DBE advertised goal.

Therefore, the DBE Goal Commitment of X.X% **will be the Contract Goal Requirement.**

113 Airport Drive, Suite 100, Edenton, NC 27932, Phone (252) 482-1850, Fax (252) 482-8722

Although your firm was found in good faith, the Department does offer the following suggestion(s) for any future Good Faith Effort reports. Please act upon each one and document on your submission for future contracts.

1.

2.

3.

On future Good Faith Effort reports the Department will consider this documentation in its review of your efforts and the determination of good faith findings.

In accordance with Article 102-16(J) of the NCDOT *Standard Specifications*, failure to satisfy the Disadvantage Business Enterprise requirements of the project Special Provisions may be cause to disqualify a Contractor from further bidding.

Based on your bid proposal, the Department has listed the following approved DBE subcontractors and dollar amounts to meet the Contract Goal Requirement. These firms are required to be utilized under the regulations in Special Provision (SP1G61), and any changes in the work affecting the DBE firms or replacement of a DBE firm will need to follow these provisions.

	Committed MBE/WBE Firms	**Committed Amount**
1.	Subcontractor #1	$#,###.##
2.	Subcontractor #2	$#,###.##
3.	Subcontractor #3	$#,###.##
4.	Subcontractor #4	$#,###.##
5.	Subcontractor #5	$#,###.##
6.	Subcontractor #6	$#,###.##

If you have any questions, please contact me at DPM Phone #.

Sincerely,

Name
Division Project Manager

cc: Division Engineer
Division Construction Engineer
(Resident/District Engineer)
Roadway Construction Engineer/Bridge Construction Engineer
Director - Office of Civil Rights

STATE OF NORTH CAROLINA

DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

Date

GOOD FAITH EFFORT DETERMINATION

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Company Name
Address 1
Address 2

Contract No.	DX#####
TIP No.:	X-####
Federal Aid No.:	XXX-####(#)
WBS Element:	#####.#.#
County:	XXXXXXX
Description:	XXXXXXX

Dear Sir:

The Division Goal Compliance Committee has reviewed the information you submitted documenting your effort to solicit DBE firms for the subject project. Based on the information you provided, the determination has been made that a Good Faith effort was **not** made to solicit DBE firms listed in the online NCDOT Directory of Transportation Firms.

The factors used to determine if a bidder has made a Good Faith Effort are attached for your reference. These factors were included in proposal for this project on Pages and and were also provided with our request for Good Faith Effort documentation. Based on these, your Good Faith Effort was denied for the following reasons:

Criteria (X)

-
- .
-

Criteria (X)

-
-
-

Therefore, I regret to inform you that your bid will be rejected.

113 Airport Drive, Suite 100, Edenton, NC 27932, Phone (252) 482-1850, Fax (252) 482-8722

Should you desire to appeal the determination that you did not make a Good Faith Effort at soliciting DBE subcontractors to meet the DBE goal for this project, you may appeal to the Director of Technical Services within two (2) business days of the date you receive this letter. Appeals may be directed to 1516 Mail Service Center, Raleigh, NC 27699-1516.

If you have any questions, please contact me at DPM Phone #.

Sincerely,

Name
Division Project Manager

Attachments

cc: Chief Engineer
Deputy Sec. for Assets and Federal Programs
Director of Technical Services
Division Engineer
Director – Civil Rights Office
Administering Engineer

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

Date

CONTRACT EXECUTION

Company Name
Address 1
Address 2

Contract No.	DX#####
TIP No.:	X-####
Federal Aid No.:	XXX-####(#)
WBS Element:	#####.#.#
County:	XXXXXXX
Description:	XXXXXXX
Letting Date:	Letting Date

Dear Sir:

I am returning to you herewith the duplicate copy of the subject contract which was executed on Date.

Sincerely,

Name
Division Project Manager

cc: Division Engineer
Division Construction Engineer
(Resident/District Engineer)
Roadway Construction Engineer/Bridge Construction Engineer
Bonding Company

113 Airport Drive, Suite 100, Edenton, NC 27932, Phone (252) 482-1850, Fax (252) 482-8722

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

Date

Company Name
Address 1
Address 2

Contract No.	DX#####
TIP No.:	X-####
Federal Aid No.:	XXX-####(#)
WBS Element:	#####.#.#
County:	XXXXXXX
Description:	XXXXXXX
Letting Date:	Letting Date

Dear Sir:

The bid you submitted for the subject project was received on Date at Time. The bid opening for this project was conducted on Date at Time. Therefore, your bid must be returned unopened.

Thank you for submitting a bid on this project. Please feel free to bid on future projects for which you are prequalified.

If you have questions, please let me know.

Sincerely,

Name
Division Project Manager

Attachment (Unopened Bid)

cc: Division Engineer

113 Airport Drive, Suite 100, Edenton, NC 27932, Phone (252) 482-1850, Fax (252) 482-8722

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

Date

NOTIFICATION OF REJECTION

Company Name
Address 1
Address 2

Contract No.	DX#####
TIP No.:	X-####
Federal Aid No.:	XXX-####(#)
WBS Element:	#####.#.#
County:	XXXXXXX
Description:	XXXXXXX
Letting Date:	Letting Date

Dear Sir:

This is to advise that the Division Bid Review Committee has rejected all bids on the subject project.

Sincerely,

Name
Division Project Manager

cc: Division Engineer
Division Construction Engineer
(Resident/District Engineer)
Roadway Construction Engineer/Bridge Construction Engineer

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