

## **EXPLANATION OF PROVISIONS TO BE INCLUDED IN BID PROPOSAL**

The following explains why and when we use the provisions we do. The order lines up with that of the Federal checklist. The provisions are all in Word format. Dates noted in provisions should not be removed. These are used by the reviewer to ensure the most current version is being used.

### **NCDOT STANDARD NOTES** – Federal and State versions

The list of standard notes must appear in every LGA project. These notes shall not be modified in any way. The notes should be inserted as close to the front of the document as possible preferably as the first page of the General section. The notes do not take the place of any special provision that may be required. They summarize the most important requirements of the project. An explanation of the eleven notes is as follows:

***NCDOT Standard Specifications*** - FHWA requires that projects be constructed using NCDOT Specifications that meet federal requirements and standards. LGAs can make minor modifications to the Standard Specifications only as permitted by the CSDU. For items of work not covered by the Standard Specifications, LGAs should include special provisions to cover the work. The first choice for these provisions should be from the NCDOT website.

***Prequalification Statement*** - FHWA has recognized the value in the NCDOT prequalification process as necessary for getting the best prime contractors and subcontractors to construct projects. For most projects, bidders are required to be prequalified with NCDOT for their specific discipline. Refer to Section 102-2 of the 2018 Standard Specifications. First-time bidders may not be familiar with NCDOT forms and procedures and therefore this requirement is included in the notes.

***Disadvantaged Business Enterprises*** - Although the details of this requirement are included in the special provision, this note highlights its use. See SP1 G63 and SP1 G68 below.

***Contractor Licensing*** – Although NC Statutes state otherwise, on all federally funded contracts, non-licensed contractors are permitted to submit bids, however, they must be licensed prior to performing any work. They will be allowed 60 days, after bid opening, to become licensed by the North Carolina Licensing Board or their bid will be considered non-responsive and will be rejected. Any other conflicting statements should be removed from the bid document.

***Bonds*** - All LGAs shall use NCDOT Bid Bonds, Payment Bonds and Performance Bond forms. The use of any other forms shall not be used and will be unacceptable to the Department. The bonds are in word format to allow the municipality to add its name. No other additions or modifications are permitted.

**Liability Insurance** - Since NCDOT is providing comments in the preparation of the plans and bid proposal, providing specifications and giving concurring in the award of the project, this noted is included to alert bidders of the specification requirements. The \$5,000,000 liability requirement shall not be modified. The provision does not provide protection for LGAs. They are required to include their own insurance requirements as they see necessary.

**Buy America (Domestic Steel & Iron)** - This is a requirement on all projects. The purpose is to comply with federal requirements. Although included in NCDOT Standard Specifications Subarticle 106-1(B), this provision is included in the bid proposal to alert first-time bidders who may not be familiar with NCDOT specifications. There is a similar provision called the "Buy American" provision which should not be included as this applies to federal procurement only.

**Proprietary Items** - The use of any proprietary items, material, equipment, or procedures must comply with the 23 CFR 635.411 and NC GS 133-3. It is the responsibility of the municipality to ensure that the federal and state guidelines are strictly adhered to. When proprietary items are listed, a minimum of three products should be included. In cases where less than three items are listed, the municipality should be prepared to provide the State Contract Officer or FHWA written justification for their use. The use of a single proprietary item requires pre-approval by FHWA. See link to the Federal and State law listed under *LINKS*.

**Retainage** - On federally or state funded projects, LGAs are NOT permitted to retain any dollar amount or percentage from progress or final payment estimates due contractors. Contractors are NOT permitted to retain any amount or percentage from monies due their subcontractors or material suppliers except as permitted by Subarticle 109-4(B) of the Standard Specifications.

**Traffic Control** – Providing safe passage for motor vehicles and pedestrians cannot be stressed enough. LGAs should coordinate with the local NCDOT Division office prior doing the work on a state or federal highway to avoid potential conflicts with other projects.

**Permanent Vegetation Establishment – SP1 G16** (All projects)

On those projects where a significant area of ground disturbance is expected and a permanent stand of vegetation will be required, this provision should be included.

**Railroad Grade Crossing – SP1 G17** (All projects)

This provision should be considered for projects where slow-moving or stopped construction equipment may be operated adjacent to at-grade railroad crossings.

**Disadvantaged Business Enterprises - SP1 G63 (Federal)**

The purpose of this provision is to comply with federal requirements. This provision needs to be filled-in by the LGA in those areas so noted. They include municipality name, time of day, number of days, contact name, and DBE goal. No other additions or deletions to the provision are permitted. The goal will be established by the NCDOT Contractor Utilization Section based on the types of items included in the summary of quantities. When the LGA submits their estimate for goal setting, it's important that it is the final estimate and that all the items of works are included. Final approval of the bid proposal will not be given until the goal is set and included in the final document. Even for projects that have a "zero" goal, this provision must be included. No other minority or women's business information should be included in the bid proposal except as required by NCDOT.

In no instance, would both, the SP1 G68 and this provision, be included in a proposal.

**Minority Business Enterprises and Women Business Enterprises - SP1 G68 (State)**

This is the corresponding provision for State Funded projects. This version should only be used on projects where federal funds are not included. This provision needs to be filled-in by the LGA in those areas so noted. They include municipality name, time of day, number of days, contact name, and the MBE/WBE goals. No other additions or deletions to the provision are permitted. The goals will be established by the NCDOT Contractor Utilization Section based on the types of items included in the summary of quantities. There will be two goals established on these projects by NCDOT, one for MBE and one for WBE. When the LGA submits their estimate for goal setting, it's important that it is the final estimate and that all the items of works are included.

Final approval of the bid proposal will not be given until the goal is set and included in the final document. Even for projects that have "zero" goals, this provision must be included. No other minority or women's business information should be included in the bid proposal except as required by NCDOT.

In no instance, would both, the SP1 G63 and this provision, be included in a proposal.

**Letter of Intent** – (All projects)

Including the Letter of Intent to Perform as a Subcontractor in the bid proposal is to familiarize bidders with the form especially first-time bidders who may not be familiar with NCDOT processes. Including the letter in the proposal is optional but submission of the form is required. It must be included with the package when the LGA is requests concurrence in the award from NCDOT. This form must be completed and submitted by the low bidder to document their agreement with each of their DBE or MBE/WBE subcontractors and suppliers. A separate form should be submitted for each firm listed in the M-2 form.

**Certification for Federal-Aid contracts - SP1 G85 (Federal)**

The inclusion of this provision is required to comply with FHWA requirements.

**U.S. Department of Transportation - SP1 G100 (Federal)**

The inclusion of this provision is required to comply with FHWA requirements.

**Erosion & Sediment Control Stormwater - SP1 G180 (All projects)**

All construction projects within the state are required to comply with these requirements.

**Monitor Borrow Pit Discharge - SP1 G181 (All projects)**

All construction projects within the state are required to comply with these requirements.

**Availability of Funds - Z-2 (All projects)**

The inclusion of this provision is required to comply with NC General Statute 143C-6-11.

**Seed Quality - Z-3 (All projects)**

The purpose of this provision is to provide a consistent seed type on all NCDOT properties. This provision shall govern seed used for work within the NCDOT right of way. This provision does not take place of the seed mix provision that is used for specific parts of the state.

**Errata - Z-4 (All projects)**

This provision corrects errors or omissions in 2018 Standard Specification book.

**Plant and Pest Quarantine - Z-4a (All projects)**

Protection for the environment - This provision is required for all projects to prevent the spread of plants and insects not friendly with the environment. Infestations may be spread by plants, soils, gravel, hay & straw, and through unclean equipment.

**Minority and Female Employment - Z-7 (All projects)**

These are requirements for Prime Contractor Hiring Goals. This provision refers to the Contractor's total workforce for the entire company. It does not replace SP1 G63 of SP1 G68.

**FHWA 1273 - Z-8 (Federal)**

Including this provision with all Federal-aid construction contracts is required. The LGA is reminded that this provision must also be physically incorporated into all contractor / subcontractor agreements.

**On-The-Job Training - Z-10** (All projects)

This provision is to comply with FHWA and NC requirements. Each year, Contractors enter an agreement with NCDOT to provide a self-imposed training program. This is a federal requirement and is administered by the NCDOT. Including this provision provides Contractors the opportunity to help meet their yearly goals.

**Minimum Wage - Z-5** (State)

This provision applies to all State Funded projects for wage compliance.

**Wage Rates - Z-99 to 104 (Highway & Bridges)** (Federal)

These are Davis-Bacon wage rates for compliance with FHWA and USDOL requirements. Include whichever provision applies to the specific county of work. Visit the Davis-Bacon website of see the statewide summary sheet listed under *LINKS* on the Main LGA Page.

**Wage Rates - Buildings** (Federal) These are Davis-Bacon wage rates for compliance with FHWA and USDOL requirements. These rates are for projects that are related to vertical construction (non-highway). Include the wage rate provision that applies to the specific county. Visit the Davis-Bacon website of see the statewide summary sheet listed under *LINKS* on the Main LGA Page.

**Listing of DBE Subcontractors - M-2** (Federal)

This form is used to summarize DBE firms utilized by the bidder to attain the required goals. Contractors are required to complete this form by listing all the DBE firms that will perform work on the project. The total percent of work by all his DBE firms should meet or exceed the DBE goal stated in the SP1 G63 provision. This form must be completed and returned with the bid.

In no instance, would both the M-2 and M-3 provision be used.

**Listing of MBE/WBW Subcontractors - M-3** (State)

This form is used to summarize DBE firms utilized by the bidder to attain the required goals. This version should only be used on projects where federal funds are not included. The total percent of work by all his MBE/WBE firms should meet or exceed the DBE goal stated in the SP1 G68 provision. This form must be completed and returned with the bid.

In no instance, would both the M-2 and M-3 provision be used.

**Execution of Bid, Non-Collusion, Gift Ban, and Debarment - M-4** (All projects)

The purpose of these forms is for the bidder to execute their bid. All 8 pages of this provision should be included. The bidder is required to fill out the form and include corporate and notary seals as applicable. Seals must be visible for final concurrence by NCDOT. This form must be completed and returned with the bid.

**Fuel Price Adjustments (optional) – SP1 G43** (All projects)

**Asphalt Binder Price Adjustments (optional) – SP6 R25** (All projects)

On larger projects with Asphalt Concrete Pavements, Cement Concrete Pavements or Earthwork items, LGAs may elect to add price adjustments for fuel and asphalt material. Use of this provision will help keep unit prices stable.