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April 27, 2018 Letting

Notice to Bidders, Specifications and Proposal



**Illinois Department
of Transportation**

Springfield, Illinois 62764

**Contract No. 66J18
GRUNDY-LIVINGSTON Counties
Section 2018-1 WEED SPRAY
Various Routes
District 3 Construction Funds**

Prepared by

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Checked by

(Printed by authority of the State of Illinois)



1. TIME AND PLACE OF OPENING BIDS. Electronic bids are to be submitted to the electronic bidding system (iCX-Integrated Contractors Exchange). All bids must be submitted to the iCX system prior to 10:00 a.m. April 27, 2018 prevailing time at which time the bids will be publicly opened from the iCX SecureVault.

2. DESCRIPTION OF WORK. The proposed improvement is identified and advertised for bids in the Invitation for Bids as:

**Contract No. 66J18
GRUNDY-LIVINGSTON Counties
Section 2018-1 WEED SPRAY
Various Routes
District 3 Construction Funds**

2 applications of spary mixtures, spring and summer of 2018, along various routes in Grundy and Livingston /counties.

3. INSTRUCTIONS TO BIDDERS. (a) This Notice, the invitation for bids, proposal and letter of award shall, together with all other documents in accordance with Article 101.09 of the Standard Specifications for Road and Bridge Construction, become part of the contract. Bidders are cautioned to read and examine carefully all documents, to make all required inspections, and to inquire or seek explanation of the same prior to submission of a bid.

(b) State law, and, if the work is to be paid wholly or in part with Federal-aid funds, Federal law requires the bidder to make various certifications as a part of the proposal and contract. By execution and submission of the proposal, the bidder makes the certification contained therein. A false or fraudulent certification shall, in addition to all other remedies provided by law, be a breach of contract and may result in termination of the contract.

4. AWARD CRITERIA AND REJECTION OF BIDS. This contract will be awarded to the lowest responsive and responsible bidder considering conformity with the terms and conditions established by the Department in the rules, Invitation for Bids and contract documents. The issuance of plans and proposal forms for bidding based upon a prequalification rating shall not be the sole determinant of responsibility. The Department reserves the right to determine responsibility at the time of award, to reject any or all proposals, to readvertise the proposed improvement, and to waive technicalities.

By Order of the
Illinois Department of Transportation

Randall S. Blankenhorn,
Secretary

INDEX
FOR
SUPPLEMENTAL SPECIFICATIONS
AND RECURRING SPECIAL PROVISIONS

Adopted January 1, 2018

This index contains a listing of SUPPLEMENTAL SPECIFICATIONS and frequently used RECURRING SPECIAL PROVISIONS.

ERRATA Standard Specifications for Road and Bridge Construction (Adopted 4-1-16) (Revised 1-1-18)

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STATE OF ILLINOIS

SPECIAL PROVISIONS

The following Special Provisions supplement the "Standard Specifications for Road and Bridge Construction," adopted April 1, 2016, the latest edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways," and the "Manual of Test Procedures for Materials" in effect on the date of invitation for bids, and the Supplemental Specifications and Recurring Special Provisions indicated on the Check Sheet included herein which apply to and govern the construction of Various Routes, Section 2018-1 Weed Spray, Grundy and Livingston Counties, Contract No. 66J18, and in case of conflict with any part or parts of said Specifications, the said Special Provisions shall take precedence and shall govern.

LOCATION OF PROJECT

This work is located along I-80, I-55, and IL 113 in Grundy County and along I-55, IL 47, and IL 23 in Livingston County. This includes the entire area of I-80 and I-55 that is in Grundy County and I-55 from north of Exit 233 (Reed Road) at the Will/Grundy County line to the Livingston/McClean County line.

The work area includes medians, highway rights-of-way up to the access control fence, interchanges, and other locations of *Phragmites australis* (Common reed) infestations as directed by the Engineer.

DESCRIPTION OF PROJECT

This work consists of applying two applications of a selective herbicide mixture to control patches of *Phragmites* in Grundy and Livingston Counties. The first application would be in the late spring of 2018 and the second application would occur during the late summer of 2018, both in the same general areas.

This project consists of applying weed control spray mixtures to patches of *Phragmites* in interchange infields and all slopes, including the medians, within the limits of IDOT right-of-way. Most locations will have been mowed and must be sprayed before the *Phragmites* is 30" tall. If the *Phragmites* has grown over 30" tall, the spray application must be applied with hand-held spray equipment in order for each plant to get fully covered with the herbicide. Off-road locations are considered areas that are beyond the edge of the shoulder, including interchange infields. Many of these areas are soft and are hard to reach with normal off-road equipment.

The work included in this section consists primarily of: 1) Set-up of traffic control at the various locations; 2) Spraying herbicide weed control upon all slopes, ditches, and interchange infields at various locations as shown in the plans or as directed by the Engineer; 3) Removal of traffic control; 4) All other items necessary to complete the work.

This project is located primarily on I-80 and I-55 within Grundy and Livingston Counties and shall be in accordance with the applicable portions of Section 107 of the Standard Specifications and the Special Provisions.

Detailed plans have not been prepared, so in order to ensure that all plan quantities are utilized, schedules with locations of *Phragmites* infestations have been included in the plans. The Engineer shall approve spraying of each location and verify completion. Areas are estimated and it is known that not all areas will be accessible at the time of application due to wet conditions. Off-road equipment is a requirement of this contract.

Due to the varying widths of the right-of-way of the roadways included herein, it is imperative that the bidder makes an onsite inspection of the roadways prior to submitting a bid.

START DATE

The first spray application shall commence after May 15, 2018. The second spray application shall commence after August 25, 2018.

PROSECUTION OF WORK

This contract is to be completed as directed by the Engineer. The Engineer must be present during all work. Any work completed without the Engineer present will not be measured for payment.

Spraying will not be allowed when temperatures exceed 85°F or are under 45°F, when wind velocities exceed ten (10) miles per hour, when foliage is wet or rain is eminent, when visibility is poor, or during legal holiday periods unless prior approval is received from the Engineer. There shall be no spraying during periods of rainfall and spraying shall be halted, in accordance with the herbicide manufacturer's instructions, prior to periods of rainfall. The first application shall be applied between May 15, 2018 to June 1, 2018. The second application shall be applied between August 25, 2018 to September 15, 2018.

QUANTITIES

The quantities specified in this contract are estimated. Payment will be made only for the actual quantities completed.

The Contractor is hereby informed and shall understand that payment will be made only for actual quantities utilized and accepted as satisfactory.

Payment for work will be made in accordance with the items listed in the Summary of Quantities in the plans.

COMPLETION DATE

Spray application associated with this project shall be completed by September 15, 2018 plus an additional five working days for any jobsite restoration and removing of any traffic control devices.

GROUND RESTORATION

Due to the wet nature of the infields, the contractor shall verify the site conditions before scheduling work and is responsible for repair and restoration of all ruts and damage.

The Engineer and Contractor shall inspect each infield area before the work starts to verify existing conditions and then again after construction is completed. These areas will be restored to their original condition. Any damage caused by equipment will be restored to the satisfaction of the Engineer.

Restoration of the work area will not be paid for separately, but shall be included in the cost of AQUATIC WEED SPRAY pay items. No additional compensation will be allowed.

WEED SPRAY APPLICATION AND REQUIREMENTS

The work shall consist of weed control spraying at various locations as directed by the Engineer, with hand spraying restrictions of 100 feet from abutments near waterways. Spraying shall be in accordance with the applicable portions of Section 107 of the Standards Specifications and this special provision.

Application

Weeds shall be sprayed in two separate applications. The first spray application shall begin on or about May 15, 2018. The second spray application shall begin on or about August 25, 2018. Within 48 hours of the application of herbicides, the Contractor shall complete and return to the Engineer, IDOT Operations form "OPER 2720", Pesticide Application Daily Spray Record (Rev. 07/06/17).

Material

The Contractor must have all chemicals delivered from the supplier in the original packaging to the Illinois Department of Transportation's Morris Storage Yard located at 1821 Division St., Morris, IL 60450 along with the certification of analysis five (5) working days prior to the start of the contract. Call Steve Niemann, Field Engineer @ 815-942-0351, Monday-Friday (7:00am – 3:30pm) to schedule chemical drop-off.

Phragmites shall be sprayed in two separate applications as described below:

The first spray mixture application (Rodeo or equal, Arsenal or equal, and a non-ionic aquatic surfactant) shall consist of the following and will target colonies of *Phragmites*:

Glyphosate N-(phosphono-methyl) glycine, isopropylamine salt (Rodeo or equal) shall be applied at a rate of one (1) quart per acre.

Isopropylamine salt of imazapyr: (2[4,5-dihydro-4-methylm-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-3-pyridine\carboxylic acid) (Arsenal or equal) shall be applied at a rate of four (4) pints per acre.

Lecithin, methyl esters of fatty acids and alcohol ethoxylate (Liberate or equal) approved by the Engineer shall be added to the mix at a rate of one (1) quart per 100 gallons of potable water.

This mixture shall be applied in not less than thirty (30) gallons of water per acre and uniformly applied at such a rate that each acre will receive one (1) quart of Rodeo or equal (liquid measure), four (4) pints of Arsenal or equal (liquid measure), and non-ionic surfactant. This mixture shall be continuously agitated during spraying operations.

The Contractor shall submit a certification of analysis to the Engineer stating that one compound is a proprietary product of Rodeo or equal and contains not less than 53.8 percent Glyphosate IPA salt, another is a proprietary product of Arsenal or equal and contains not less than 27.8 percent of IPA of imazapyr, and the other is 100 percent Lecithin, methyl esters of fatty acids, and alcohol ethoxylate.

The second spray mixture application (Rodeo or equal, Arsenal or equal, and a non-ionic aquatic surfactant) shall consist of the following and will also target colonies of *Phragmites*:

Glyphosate N-(phosphono-methyl) glycine, isopropylamine salt (Rodeo or equal) shall be applied at a rate of two (2) quarts per acre.

Isopropylamine salt of imazapyr: (2[4,5-dihydro-4-methylm-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-3-pyridine\carboxylic acid) (Arsenal or equal) shall be applied at a rate of two (2) pints per acre.

Lecithin, methyl esters of fatty acids, and alcohol ethoxylate (Liberate or equal) approved by the Engineer shall be added to the mix at a rate of one (1) quart per 100 gallons of potable water.

This mixture shall be applied in not less than thirty (30) gallons of water per acre and uniformly applied at such a rate that each acre will receive two (2) quarts of Rodeo or equal (liquid measure), two (2) pints of Arsenal or equal (liquid measure), and non-ionic surfactant. This mixture shall be continuously agitated during spraying operations.

The Contractor shall submit a certification of analysis to the Engineer stating that one compound is a proprietary product of Rodeo or equal and contains not less than 53.8 percent Glyphosate IPA salt, another is a proprietary product of Arsenal or equal and contains not less than 27.8 percent of IPA of imazapyr, and the other is 100 percent Lecithin, methyl esters of fatty acids, and alcohol ethoxylate.

All materials which are to be mixed for spray application shall be delivered direct from the supplier to the IDOT facility in the original, unopened containers supplied by the manufacturer and the Engineer shall verify materials on site prior to mixing.

Potable water shall be used on the contract. No water will be allowed to be pumped from nearby creeks, ponds, or other bodies of water. The Contractor shall provide a list of source locations where the potable water will be obtained. The Contractor shall provide the list to the engineer at the pre-construction conference.

The certification of analyses shall be submitted to the Engineer five (5) business days prior to the start of the work.

The Contractor shall download the Material Safety Data Sheets for each herbicide, become familiar with the safety hazards, follow the handling & safety instructions, and provide this information to their field personnel.

Storage of materials shall be prohibited within the following environmentally sensitive areas:

- Areas identified in the March 2018 IDOT Grundy County and Livingston County Herbicide Restriction Maps generated by the Bureau of Design and Environment.
- Wetlands identified in the National Wetlands Inventory (NWI) website and shown on the map provided by IDOT.
- Areas determined by the engineer.

Experience

The Contractor shall observe and comply with all sections of the Illinois Pesticide Act, including licensing. The Contractor shall have had previous experience with the use of weed control chemicals. The Contractor shall have had at least one season's experience in the use of these chemicals in spraying highway rights-of-way or at least three seasons experience in their use in farm or custom spraying. Proof of this experience shall be submitted to the Resident Engineer at or prior to the Pre-Construction Meeting.

Prior to starting work, the Contractor shall furnish Illinois Pesticide ID Cards (signed and dated) to the Engineer as visual proof that all personnel on the job are licensed Applicators or Operators by the Illinois Department of Agriculture, Bureau of Environmental Programs under the provisions of the Illinois Pesticide Act. The Illinois Department of Agriculture Aquatics license will be required of the person on site supervising the Operators on using pesticides in standing or running water. The Engineer shall record in the project records books the name and license number of each person. If the personnel on the job do not have the proper license, the job will be postponed until personnel who carry the proper license are on the job, with no extra working days awarded to the Contractor.

Equipment

Off-road equipment must be used if the *Phragmites* is over 30" in height. It shall be equipped with an approved hand-spray wand and at least 300 feet of high-pressure spray hoses to reach areas inaccessible by four-wheel drive off-road vehicles. The spray wand shall be able to reach a minimum 25-foot stream pattern, adjusted with attached hand trigger. The smaller unit shall be designed so that it can operate at a constant speed of five miles per hour or less, if necessary, in order to make the application upon the entire right-of-way.

Off-road vehicles shall be equipped with off-road/high flotation tires that allow the vehicle to travel in soft turf conditions. If the off-road vehicles are not equipped with flotation type tires, the job will be postponed until the equipment can travel the turf areas without rutting and getting stuck with no extra working days rewarded to the Contractor.

If the *Phragmites* is less than 30" in height at the time of application, the Contractor may use a truck-mounted tank, pump, spray bar, and hand-held spray gun with 300 feet of high-pressure hose, together with other necessary accessories for off-road spraying. Except as otherwise hereinafter specified, the material nurse tank shall have a capacity of not less than 500 gallons of mixed material and all field tanks shall have an accurate external calibration device in 10-gallon increments. The pump shall have a volume and pressure capacity range sufficient to deliver the mixture at a pressure to provide the required coverage and to keep the spray pattern full and steady without pulsation or excessive pressure as to cause fogging.

Unless sources of potable water are readily available along the section of right-of-way being sprayed, a water supply truck with ample capacity to maintain continuous operations shall be supplied by Contractor.

The tank on all spray equipment shall be equipped with tight-fitting lids which will prevent the contents from splashing or spilling out. Water shall be potable and come from an approved source. Water shall not be obtained from any ponds, creeks, or streams.

The Contractor will be required to have all equipment in proper working order before starting the job. An inspection of on-road, off-road, and hand-spray units will be done by the Resident Engineer prior to starting any work. If equipment is not working properly, the Contractor will be required to fix the problem prior to starting the contract.

The Contractor will be required to demonstrate the calibration of his equipment up to forty-eight (48) hours prior to the time of spraying operations are to begin.

Storage of equipment shall be prohibited within the following environmentally sensitive areas;

- Areas identified in the March 2018 IDOT Grundy County and Livingston County Herbicide Restriction Maps.
- Wetlands identified on the National Wetlands Inventory (NWI) website and shown on the map provided by IDOT.
- Areas determined by the Engineer.

Restrictions

Extreme caution shall be exercised to prevent damage and manage drift effects to residential plantings, flower or vegetable gardens, farm crops, orchards, honey bee apiaries, or desirable plants adjacent to roadsides.

The Contractor shall exercise caution to prevent the pollution of streams, rivers, lakes, or reservoirs as provided in Article 107.23 of the Standard Specifications. No areas of standing or running water on or adjacent to the right-of-way shall be sprayed with these chemicals. Spillage of spray materials when filling the spray tanks shall be avoided and discharge from the tanks shall not be made into or adjacent to streams or ponds.

The Contractor shall be responsible for all damages or claims as provided in Articles 107.20, 107.26, and 107.31 of the Standard Specifications. The Contractor shall contact a complainant within ten days after receiving a claim for damages either in person or by letter.

The Contractor or his authorized representative shall make personal contact with the complainant within twenty days. The Engineer shall also be notified by the Contractor of all claims for damage received and the contractor shall keep the Engineer informed as to the progress arriving at a settlement for such claims. At the discretion of the Engineer, the Department may contact the Illinois Department of Agriculture for review of complaints.

The weed spray applications shall be made during daylight hours only.

A color copy of the IDOT Grundy County and Livingston County Herbicide Restriction Maps dated March 2018 shall be provided by the Engineer at the preconstruction meeting. A color, 11" x 17" copy of this map shall accompany every spray vehicle during spray operations.

Existing wetlands within the project limits can be found on the National Wetlands Inventory (NWI) website (<http://www.fws.gov/wetlands/Data/Mapper.html>). A color copy of the NWI wetlands locations shall be provided by the Engineer at the preconstruction meeting. A color copy of this map shall accompany every spray vehicle during spray operations.

Locations of registered specialty crops and apiaries can be found on the website <https://driftwatch.org> to help prevent and manage drift effects.

Extreme caution shall be used when spraying herbicide chemicals within environmentally sensitive areas. Spraying in these areas shall be done by hand-held spray nozzle to ensure only the targeted weed species are sprayed under the following conditions;

- Within any restricted location identified in the March 2018 IDOT Grundy County and Livingston County Herbicide Restriction Maps.
- Within wetlands identified on the NWI website and shown on the maps provided by the Engineer.

Extreme caution shall be used to prevent drifting of herbicide chemicals. To minimize drifting around environmentally sensitive areas, spraying shall be prohibited under the following conditions;

- Site is located over waterways - The Contractor shall stop all spray operations when crossing any stream, pond, or body of water within or adjacent to the right- of-way.
- Wind velocities exceed 10 MPH.
- Wet or threatening rainfall conditions and/or until the threat of precipitation has passed and the foliage is dry.
- Ambient air temperature exceeds 85°F or manufacturer's recommendations, whichever is less.
- Within 150 feet of an Illinois Natural Area Inventory (INAI) site or occurrence of an endangered or threatened species.
- In close proximity to desirable plants (i.e. corn, soybeans) prior to emergence or after they have emerged above ground level.

Spraying shall also be prohibited under the following conditions;

- When equipment is not working properly.
- When safety equipment is not working properly (arrow boards, signing, safety lights, shut-off valves, etc.).

The Contractor shall have the right to skip areas which he feels cannot be successfully sprayed without the possibility of seriously damaging vegetation on private property adjoining the highway. The Engineer shall be informed in advance of any such areas the Contractor may propose to skip in order that mutual agreement may be reached regarding the deduction of such areas. The Resident Engineer has the right to deduct any such areas from designated routes and designate other routes within the District as spray routes.

Method of Measurement

The quantities specified in this contract are estimated. Payment will be made only for the actual quantities completed.

The quantity of Glyphosate N-(phosphonomethyl) glycine, isopropylamine salt (Rodeo or Equal) shall be measured by volume, the unit measure being a gallon of liquid concentrate.

The quantity if Isopropylamine salt of imazapyr (Arsenal or equal) shall be measured by volume, the unit of measure being a gallon of liquid concentrate.

The non-ionic surfactant shall not be measured for payment.

Basis of Payment

The quantity of Rodeo or equal in place and accepted will be paid for at the contract unit price per gallon for AQUATIC WEED CONTROL, GLYPHOSATE, which shall be full compensation for furnishing and applying all materials. The non-ionic aquatic surfactant shall be included in the cost of AQUATIC WEED CONTROL, GLYPHOSATE.

The quantity of Arsenal or equal in place and accepted will be paid for at the contract unit price per gallon for AQUATIC WEED CONTROL, IMAZAPYR, which shall be full compensation for furnishing and applying all materials. The non-ionic aquatic surfactant shall be included in the cost of AQUATIC WEED CONTROL, IMAZAPYR.

TRAFFIC CONTROL PLAN

Revised November 14, 2016

Traffic control shall be in accordance with the applicable sections of the Standard Specifications for Road and Bridge Construction, the applicable guidelines contained in the Illinois Manual on Uniform Traffic Control Devices for Streets and Highways, these special provisions, and any special details and Highway Standards herein and in the plans.

Special attention is called to the following sections of the Standard Specifications, the Highway Standards, and the special provisions relating to traffic control:

Standard Specifications:

Section 701 - Work Zone Traffic Control and Protection

Section 1106 - Work Zone Traffic Control Devices

Highway Standards:

701101 701106 701426 701456 701901

In addition, the following also relate to traffic control for this project:

ERRATA – Standard Specifications for Road and Bridge Construction
(Adopted 4-1-16) (Revised 1-1-18)

SPECIAL PROVISIONS

Equipment Illumination

Protection of Traffic: The road shall be kept open to two-way traffic at all times and the Contractor shall conduct the work in such a manner as to ensure the least obstruction of vehicular traffic. At no time shall any equipment stop or park on the pavement open to traffic.

When the Contractor is spraying on two-lane roadways, the Contractor's spray truck shall be equipped with two amber flashing lights visible from the front and back. A 48" diamond sign containing the message, "SLOW MOVING VEHICLE," in black 8" "Series C" letters on an orange reflectorized background shall be mounted on the back of the truck at a height of five feet (5') above the pavement. An arrowboard, Type B and Type C, may be used on two-lane roadways, but shall not be operated in the arrow mode.

When the Contractor is working along the four-lane roadways, Standard 701426 shall apply. The trailing vehicle will be required for interstate spraying operations. A commercially built arrowboard, Type A, Type B, or Type C, and the message, "SLOW MOVING VEHICLE," sign trailing the spray unit may be used in lieu of the sign assembly as shown on Standard 701426, if approved by the Engineer. The Contractor's spray truck, along the interstate, shall be equipped the same as the truck on two-lane spraying operations.

The cost of the traffic control shall be included in the cost of the weed control pay items.

EQUIPMENT ILLUMINATION

Revised January 26, 1998

Revised January 1, 2007

The Contractor shall equip all machinery and vehicles with a flashing amber dome light, installed so the illumination is visible from all directions.

COMPENSABLE DELAY COSTS (BDE)

Effective: June 2, 2017

Revise Article 107.40(b) of the Standard Specifications to read:

"(b) Compensation. Compensation will not be allowed for delays, inconveniences, or damages sustained by the Contractor from conflicts with facilities not meeting the above definition; or if a conflict with a utility in an unanticipated location does not cause a shutdown of the work or a documentable reduction in the rate of progress exceeding the limits set herein. The provisions of Article 104.03 notwithstanding, compensation for delays caused by a utility in an unanticipated location will be paid according to the provisions of this Article governing minor and major delays or reduced rate of production which are defined as follows.

- (1) Minor Delay. A minor delay occurs when the work in conflict with the utility in an unanticipated location is completely stopped for more than two hours, but not to exceed two weeks.
- (2) Major Delay. A major delay occurs when the work in conflict with the utility in an unanticipated location is completely stopped for more than two weeks.
- (3) Reduced Rate of Production Delay. A reduced rate of production delay occurs when the rate of production on the work in conflict with the utility in an unanticipated location decreases by more than 25 percent and lasts longer than seven calendar days."

Revise Article 107.40(c) of the Standard Specifications to read:

“(c) Payment. Payment for Minor, Major, and Reduced Rate of Production Delays will be made as follows.

(1) Minor Delay. Labor idled which cannot be used on other work will be paid for according to Article 109.04(b)(1) and (2) for the time between start of the delay and the minimum remaining hours in the work shift required by the prevailing practice in the area.

Equipment idled which cannot be used on other work, and which is authorized to standby on the project site by the Engineer, will be paid for according to Article 109.04(b)(4).

(2) Major Delay. Labor will be the same as for a minor delay.

Equipment will be the same as for a minor delay, except Contractor-owned equipment will be limited to two weeks plus the cost of move-out to either the Contractor’s yard or another job and the cost to re-mobilize, whichever is less. Rental equipment may be paid for longer than two weeks provided the Contractor presents adequate support to the Department (including lease agreement) to show retaining equipment on the job is the most economical course to follow and in the public interest.

(3) Reduced Rate of Production Delay. The Contractor will be compensated for the reduced productivity for labor and equipment time in excess of the 25 percent threshold for that portion of the delay in excess of seven calendar days. Determination of compensation will be in accordance with Article 104.02, except labor and material additives will not be permitted.

Payment for escalated material costs, escalated labor costs, extended project overhead, and extended traffic control will be determined according to Article 109.13.”

Revise Article 108.04(b) of the Standard Specifications to read:

“(b) No working day will be charged under the following conditions.

(1) When adverse weather prevents work on the controlling item.

(2) When job conditions due to recent weather prevent work on the controlling item.

(3) When conduct or lack of conduct by the Department or its consultants, representatives, officers, agents, or employees; delay by the Department in making the site available; or delay in furnishing any items required to be furnished to the Contractor by the Department prevents work on the controlling item.

(4) When delays caused by utility or railroad adjustments prevent work on the controlling item.

(5) When strikes, lock-outs, extraordinary delays in transportation, or inability to procure critical materials prevent work on the controlling item, as long as these delays are not due to any fault of the Contractor.

(6) When any condition over which the Contractor has no control prevents work on the controlling item.”

Revise Article 109.09(f) of the Standard Specifications to read:

“(f) **Basis of Payment.** After resolution of a claim in favor of the Contractor, any adjustment in time required for the work will be made according to Section 108. Any adjustment in the costs to be paid will be made for direct labor, direct materials, direct equipment, direct jobsite overhead, direct offsite overhead, and other direct costs allowed by the resolution. Adjustments in costs will not be made for interest charges, loss of anticipated profit, undocumented loss of efficiency, home office overhead and unabsorbed overhead other than as allowed by Article 109.13, lost opportunity, preparation of claim expenses and other consequential indirect costs regardless of method of calculation.

The above Basis of Payment is an essential element of the contract and the claim cost recovery of the Contractor shall be so limited.”

Add the following to Section 109 of the Standard Specifications.

“**109.13 Payment for Contract Delay.** Compensation for escalated material costs, escalated labor costs, extended project overhead, and extended traffic control will be allowed when such costs result from a delay meeting the criteria in the following table.

Contract Type	Cause of Delay	Length of Delay
Working Days	Article 108.04(b)(3) or Article 108.04(b)(4)	No working days have been charged for two consecutive weeks.
Completion Date	Article 108.08(b)(1) or Article 108.08(b)(7)	The Contractor has been granted a minimum two week extension of contract time, according to Article 108.08.

Payment for each of the various costs will be according to the following.

(a) **Escalated Material and/or Labor Costs.** When the delay causes work, which would have otherwise been completed, to be done after material and/or labor costs have increased, such increases will be paid. Payment for escalated material costs will be limited to the increased costs substantiated by documentation furnished by the Contractor. Payment for escalated labor costs will be limited to those items in Article 109.04(b)(1) and (2), except the 35 percent and 10 percent additives will not be permitted.

(b) Extended Project Overhead. For the duration of the delay, payment for extended project overhead will be paid as follows.

(1) Direct Jobsite and Offsite Overhead. Payment for documented direct jobsite overhead and documented direct offsite overhead, including onsite supervisory and administrative personnel, will be allowed according to the following table.

Original Contract Amount	Supervisory and Administrative Personnel
Up to \$5,000,000	One Project Superintendent
Over \$ 5,000,000 - up to \$25,000,000	One Project Manager, One Project Superintendent or Engineer, and One Clerk
Over \$25,000,000 - up to \$50,000,000	One Project Manager, One Project Superintendent, One Engineer, and One Clerk
Over \$50,000,000	One Project Manager, Two Project Superintendents, One Engineer, and One Clerk

(2) Home Office and Unabsorbed Overhead. Payment for home office and unabsorbed overhead will be calculated as 8 percent of the total delay cost.

(c) Extended Traffic Control. Traffic control required for an extended period of time due to the delay will be paid. For working day contracts the payment will be made according to Article 109.04. For completion date contracts, an adjustment will be determined as follows.

Extended Traffic Control occurs between April 1 and November 30:

$$\text{ETCP Adjustment (\$)} = \text{TE} \times (\% / 100 \times \text{CUP} / \text{OCT})$$

Extended Traffic Control occurs between December 1 and March 31:

$$\text{ETCP Adjustment (\$)} = \text{TE} \times 1.5 (\% / 100 \times \text{CUP} / \text{OCT})$$

Where: TE = Duration of approved time extension in calendar days.

% = Percent maintenance for the traffic control, % (see table below).

CUP = Contract unit price for the traffic control pay item in place during the delay.

OCT = Original contract time in calendar days.

Original Contract Amount	Percent Maintenance
Up to \$2,000,000	65%
\$2,000,000 to \$10,000,000	75%
\$10,000,000 to \$20,000,000	85%
Over \$20,000,000	90%

When an ETCP adjustment is paid under this provision, an adjusted unit price as provided for in Article 701.20(a) for increase or decrease in the value of work by more than ten percent will not be paid.

Upon payment for a contract delay under this provision, the Contractor shall assign subrogation rights to the Department for the Department's efforts of recovery from any other party for monies paid by the Department as a result of any claim under this provision. The Contractor shall fully cooperate with the Department in its efforts to recover from another party any money paid to the Contractor for delay damages under this provision."

DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION (BDE)

Effective: September 1, 2000

Revised: April 2, 2018

FEDERAL OBLIGATION. The Department of Transportation, as a recipient of federal financial assistance, is required to take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of contracts. Consequently, the federal regulatory provisions of 49 CFR Part 26 apply to this contract concerning the utilization of disadvantaged business enterprises. For the purposes of this Special Provision, a disadvantaged business enterprise (DBE) means a business certified by the Department in accordance with the requirements of 49 CFR Part 26 and listed in the Illinois Unified Certification Program (IL UCP) DBE Directory.

STATE OBLIGATION. This Special Provision will also be used by the Department to satisfy the requirements of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, 30 ILCS 575. When this Special Provision is used to satisfy state law requirements on 100 percent state-funded contracts, the federal government has no involvement in such contracts (not a federal-aid contract) and no responsibility to oversee the implementation of this Special Provision by the Department on those contracts. DBE participation on 100 percent state-funded contracts will not be credited toward fulfilling the Department's annual overall DBE goal required by the US Department of Transportation to comply with the federal DBE program requirements.

CONTRACTOR ASSURANCE. The Contractor makes the following assurance and agrees to include the assurance in each subcontract that the Contractor signs with a subcontractor.

The Contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of contracts funded in whole or in part with federal or state funds. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (a) Withholding progress payments;
- (b) Assessing sanctions;
- (c) Liquidated damages; and/or
- (d) Disqualifying the Contractor from future bidding as non-responsible.

OVERALL GOAL SET FOR THE DEPARTMENT. As a requirement of compliance with 49 CFR Part 26, the Department has set an overall goal for DBE participation in its federally assisted contracts. That goal applies to all federal-aid funds the Department will expend in its federally assisted contracts for the subject reporting fiscal year. The Department is required to make a good faith effort to achieve the overall goal. The dollar amount paid to all approved DBE companies performing work called for in this contract is eligible to be credited toward fulfillment of the Department's overall goal.

CONTRACT GOAL TO BE ACHIEVED BY THE CONTRACTOR. This contract includes a specific DBE utilization goal established by the Department. The goal has been included because the Department has determined that the work of this contract has subcontracting opportunities that may be suitable for performance by DBE companies. The determination is based on an assessment of the type of work, the location of the work, and the availability of DBE companies to do a part of the work. The assessment indicates that, in the absence of unlawful discrimination, and in an arena of fair and open competition, DBE companies can be expected to perform 0.00% of the work. This percentage is set as the DBE participation goal for this contract. Consequently, in addition to the other award criteria established for this contract, the Department will only award this contract to a bidder who makes a good faith effort to meet this goal of DBE participation in the performance of the work. A bidder makes a good faith effort for award consideration if either of the following is done in accordance with the procedures set for in this Special Provision:

- (a) The bidder documents that enough DBE participation has been obtained to meet the goal or,
- (b) The bidder documents that a good faith effort has been made to meet the goal, even though the effort did not succeed in obtaining enough DBE participation to meet the goal.

DBE LOCATOR REFERENCES. Bidders shall consult the IL UCP DBE Directory as a reference source for DBE-certified companies. In addition, the Department maintains a letting and item specific DBE locator information system whereby DBE companies can register their interest in providing quotes on particular bid items advertised for letting. Information concerning DBE companies willing to quote work for particular contracts may be obtained by contacting the Department's Bureau of Small Business Enterprises at telephone number (217) 785-4611, or by visiting the Department's website at:
<http://www.idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index>.

BIDDING PROCEDURES. Compliance with this Special Provision is required prior to the award of the contract and the failure of the low bidder to comply will render the bid not responsive.

In order to assure the timely award of the contract, the low bidder shall submit:

(a) The bidder shall submit a DBE Utilization Plan on completed Department forms SBE 2025 and 2026.

(1) The final Utilization Plan must be submitted within five calendar days after the date of the letting in accordance with subsection (a)(2) of Bidding Procedures herein.

(2) To meet the five day requirement, the bidder may send the Utilization Plan electronically by scanning and sending to DOT.DBE.UP@illinois.gov or faxing to (217) 785-1524. The subject line must include the bid Item Number and the Letting date. The Utilization Plan should be sent as one .pdf file, rather than multiple files and emails for the same Item Number. It is the responsibility of the bidder to obtain confirmation of email or fax delivery.

Alternatively, the Utilization Plan may be sent by certified mail or delivery service within the five calendar day period. If a question arises concerning the mailing date of a Utilization Plan, the mailing date will be established by the U.S. Postal Service postmark on the certified mail receipt from the U.S. Postal Service or the receipt issued by a delivery service when the Utilization Plan is received by the Department. It is the responsibility of the bidder to ensure the postmark or receipt date is affixed within the five days if the bidder intends to rely upon mailing or delivery to satisfy the submission day requirement. The Utilization Plan is to be submitted to:

Illinois Department of Transportation
Bureau of Small Business Enterprises
Contract Compliance Section
2300 South Dirksen Parkway, Room 319
Springfield, Illinois 62764

The Department will not accept a Utilization Plan if it does not meet the five day submittal requirement and the bid will be declared not responsive. In the event the bid is declared not responsive due to a failure to submit a Utilization Plan or failure to comply with the bidding procedures set forth herein, the Department may elect to cause the forfeiture of the penal sum of the bidder's proposal guaranty, and may deny authorization to bid the project if re-advertised for bids. The Department reserves the right to invite any other bidder to submit a Utilization Plan at any time for award consideration.

(b) The Utilization Plan shall indicate that the bidder either has obtained sufficient DBE participation commitments to meet the contract goal or has not obtained enough DBE participation commitments in spite of a good faith effort to meet the goal. The Utilization Plan shall further provide the name, telephone number, and telefax number of a responsible official of the bidder designated for purposes of notification of Utilization Plan approval or disapproval under the procedures of this Special Provision.

- (c) The Utilization Plan shall include a DBE Participation Commitment Statement, Department form SBE 2025, for each DBE proposed for the performance of work to achieve the contract goal. For bidding purposes, submission of the completed SBE 2025 forms, signed by the DBEs and scanned or faxed to the bidder will be acceptable as long as the original is available and provided upon request. All elements of information indicated on the said form shall be provided, including but not limited to the following:
- (1) The names and addresses of DBE firms that will participate in the contract;
 - (2) A description, including pay item numbers, of the work each DBE will perform;
 - (3) The dollar amount of the participation of each DBE firm participating. The dollar amount of participation for identified work shall specifically state the quantity, unit price, and total subcontract price for the work to be completed by the DBE. If partial pay items are to be performed by the DBE, indicate the portion of each item, a unit price where appropriate and the subcontract price amount;
 - (4) DBE Participation Commitment Statements, form SBE 2025, signed by the bidder and each participating DBE firm documenting the commitment to use the DBE subcontractors whose participation is submitted to meet the contract goal;
 - (5) If the bidder is a joint venture comprised of DBE companies and non-DBE companies, the Utilization Plan must also include a clear identification of the portion of the work to be performed by the DBE partner(s); and,
 - (6) If the contract goal is not met, evidence of good faith efforts; the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor is selected over a DBE for work on the contract.

GOOD FAITH EFFORT PROCEDURES. The contract will not be awarded until the Utilization Plan submitted by the apparent successful bidder is approved. All information submitted by the bidder must be complete, accurate and adequately document that enough DBE participation has been obtained or document that good faith efforts of the bidder, in the event enough DBE participation has not been obtained, before the Department will commit to the performance of the contract by the bidder. The Utilization Plan will be approved by the Department if the Utilization Plan documents sufficient commercially useful DBE work to meet the contract goal or the bidder submits sufficient documentation of a good faith effort to meet the contract goal pursuant to 49 CFR Part 26, Appendix A. The Utilization Plan will not be approved by the Department if the Utilization Plan does not document sufficient DBE participation to meet the contract goal unless the apparent successful bidder documented in the Utilization Plan that it made a good faith effort to meet the goal. This means that the bidder must show that all necessary and reasonable steps were taken to achieve the contract goal. Necessary and reasonable steps are those which, by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not successful. The Department will consider the quality, quantity, and intensity of the kinds of efforts that the bidder has made. Mere *pro forma* efforts, in other words, efforts done as a matter of form, are not good faith efforts; rather, the bidder is expected to have taken genuine efforts that would be reasonably expected of a bidder actively and aggressively trying to obtain DBE participation sufficient to meet the contract goal.

- (a) The following is a list of types of action that the Department will consider as part of the evaluation of the bidder's good faith efforts to obtain participation. These listed factors are not intended to be a mandatory checklist and are not intended to be exhaustive. Other factors or efforts brought to the attention of the Department may be relevant in appropriate cases, and will be considered by the Department.
- (1) Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBE companies that have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBE companies to respond to the solicitation. The bidder must determine with certainty if the DBE companies are interested by taking appropriate steps to follow up initial solicitations.
 - (2) Selecting portions of the work to be performed by DBE companies in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime Contractor might otherwise prefer to perform these work items with its own forces.
 - (3) Providing interested DBE companies with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 - (4) a. Negotiating in good faith with interested DBE companies. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBE companies that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBE companies to perform the work.
 - b. A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBE companies is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also the ability or desire of a bidder to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Bidders are not, however, required to accept higher quotes from DBE companies if the price difference is excessive or unreasonable. In accordance with subsection (c)(6) of the above Bidding Procedures, the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

- (5) Not rejecting DBE companies as being unqualified without sound reasons based on a thorough investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
 - (6) Making efforts to assist interested DBE companies in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
 - (7) Making efforts to assist interested DBE companies in obtaining necessary equipment, supplies, materials, or related assistance or services.
 - (8) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBE companies.
- (b) If the Department determines that the apparent successful bidder has made a good faith effort to secure the work commitment of DBE companies to meet the contract goal, the Department will award the contract provided that it is otherwise eligible for award. If the Department determines that the bidder has failed to meet the requirements of this Special Provision or that a good faith effort has not been made, the Department will notify the responsible company official designated in the Utilization Plan that the bid is not responsive. The notification shall include a statement of reasons for the determination. If the Utilization Plan is not approved because it is deficient as a technical matter, unless waived by the Department, the bidder will be notified and will be allowed no more than a five calendar day period in order to cure the deficiency.
- (c) The bidder may request administrative reconsideration of a determination adverse to the bidder within the five working days after the receipt of the notification date of the determination by delivering the request to the Department of Transportation, Bureau of Small Business Enterprises, Contract Compliance Section, 2300 South Dirksen Parkway, Room 319, Springfield, Illinois 62764 (Telefax: (217) 785-1524). Deposit of the request in the United States mail on or before the fifth business day shall not be deemed delivery. The determination shall become final if a request is not made and delivered. A request may provide additional written documentation or argument concerning the issues raised in the determination statement of reasons, provided the documentation and arguments address efforts made prior to submitting the bid. The request will be forwarded to the Department's Reconsideration Officer. The Reconsideration Officer will extend an opportunity to the bidder to meet in person in order to consider all issues of documentation and whether the bidder made a good faith effort to meet the goal. After the review by the Reconsideration Officer, the bidder will be sent a written decision within ten working days after receipt of the request for reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. A final decision by the Reconsideration Officer that a good faith effort was made shall approve the Utilization Plan submitted by the bidder and shall clear the contract for award. A final decision that a good faith effort was not made shall render the bid not responsive.

CALCULATING DBE PARTICIPATION. The Utilization Plan values represent work anticipated to be performed and paid for upon satisfactory completion. The Department is only able to count toward the achievement of the overall goal and the contract goal the value of payments made for the work actually performed by DBE companies. In addition, a DBE must perform a commercially useful function on the contract to be counted. A commercially useful function is generally performed when the DBE is responsible for the work and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. The Department and Contractor are governed by the provisions of 49 CFR Part 26.55(c) on questions of commercially useful functions as it affects the work. Specific counting guidelines are provided in 49 CFR Part 26.55, the provisions of which govern over the summary contained herein.

- (a) DBE as the Contractor: 100 percent goal credit for that portion of the work performed by the DBE's own forces, including the cost of materials and supplies. Work that a DBE subcontracts to a non-DBE does not count toward the DBE goals.
- (b) DBE as a joint venture Contractor: 100 percent goal credit for that portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work performed by the DBE's own forces.
- (c) DBE as a subcontractor: 100 percent goal credit for the work of the subcontract performed by the DBE's own forces, including the cost of materials and supplies, excluding the purchase of materials and supplies or the lease of equipment by the DBE subcontractor from the prime Contractor or its affiliates. Work that a DBE subcontractor in turn subcontracts to a non-DBE does not count toward the DBE goal.
- (d) DBE as a trucker: 100 percent goal credit for trucking participation provided the DBE is responsible for the management and supervision of the entire trucking operation for which it is responsible. At least one truck owned, operated, licensed, and insured by the DBE must be used on the contract. Credit will be given for the following:
 - (1) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
 - (2) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission is receives as a result of the lease arrangement.

(e) DBE as a material supplier:

- (1) 60 percent goal credit for the cost of the materials or supplies purchased from a DBE regular dealer.
- (2) 100 percent goal credit for the cost of materials of supplies obtained from a DBE manufacturer.
- (3) 100 percent credit for the value of reasonable fees and commissions for the procurement of materials and supplies if not a DBE regular dealer or DBE manufacturer.

CONTRACT COMPLIANCE. Compliance with this Special Provision is an essential part of the contract. The Department is prohibited by federal regulations from crediting the participation of a DBE included in the Utilization Plan toward either the contract goal or the Department's overall goal until the amount to be applied toward the goals has been paid to the DBE. The following administrative procedures and remedies govern the compliance by the Contractor with the contractual obligations established by the Utilization Plan. After approval of the Utilization Plan and award of the contract, the Utilization Plan and individual DBE Participation Statements become part of the contract. If the Contractor did not succeed in obtaining enough DBE participation to achieve the advertised contract goal, and the Utilization Plan was approved and contract awarded based upon a determination of good faith, the total dollar value of DBE work calculated in the approved Utilization Plan as a percentage of the awarded contract value shall become the amended contract goal. All work indicated for performance by an approved DBE shall be performed, managed, and supervised by the DBE executing the DBE Participation Commitment Statement.

- (a) NO AMENDMENT. No amendment to the Utilization Plan may be made without prior written approval from the Department's Bureau of Small Business Enterprises. All requests for amendment to the Utilization Plan shall be submitted to the Department of Transportation, Bureau of Small Business Enterprises, Contract Compliance Section, 2300 South Dirksen Parkway, Room 319, Springfield, Illinois 62764. Telephone number (217) 785-4611. Telefax number (217) 785-1524.
- (b) CHANGES TO WORK. Any deviation from the DBE condition-of-award or contract plans, specifications, or special provisions must be approved, in writing, by the Department as provided elsewhere in the Contract. The Contractor shall notify affected DBEs in writing of any changes in the scope of work which result in a reduction in the dollar amount condition-of-award to the contract. Where the revision includes work committed to a new DBE subcontractor, not previously involved in the project, then a Request for Approval of Subcontractor, Department form BC 260A or AER 260A, must be signed and submitted. If the commitment of work is in the form of additional tasks assigned to an existing subcontract, then a new Request for Approval of Subcontractor shall not be required. However, the Contractor must document efforts to assure that the existing DBE subcontractor is capable of performing the additional work and has agreed in writing to the change.

- (c) SUBCONTRACT. The Contractor must provide DBE subcontracts to IDOT upon request. Subcontractors shall ensure that all lower tier subcontracts or agreements with DBEs to supply labor or materials be performed in accordance with this Special Provision.
- (d) ALTERNATIVE WORK METHODS. In addition to the above requirements for reductions in the condition of award, additional requirements apply to the two cases of Contractor-initiated work substitution proposals. Where the contract allows alternate work methods which serve to delete or create underruns in condition of award DBE work, and the Contractor selects that alternate method or, where the Contractor proposes a substitute work method or material that serves to diminish or delete work committed to a DBE and replace it with other work, then the Contractor must demonstrate one of the following:
- (1) That the replacement work will be performed by the same DBE (as long as the DBE is certified in the respective item of work) in a modification of the condition of award; or
 - (2) That the DBE is aware that its work will be deleted or will experience underruns and has agreed in writing to the change. If this occurs, the Contractor shall substitute other work of equivalent value to a certified DBE or provide documentation of good faith efforts to do so; or
 - (3) That the DBE is not capable of performing the replacement work or has declined to perform the work at a reasonable competitive price. If this occurs, the Contractor shall substitute other work of equivalent value to a certified DBE or provide documentation of good faith efforts to do so.
- (e) TERMINATION AND REPLACEMENT PROCEDURES. The Contractor shall not terminate or replace a DBE listed on the approved Utilization Plan, or perform with other forces work designated for a listed DBE except as provided in this Special Provision. The Contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the Contractor obtains the Department's written consent as provided in subsection (a) of this part. Unless Department consent is provided for termination of a DBE subcontractor, the Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the DBE in the Utilization Plan.

As stated above, the Contractor shall not terminate or replace a DBE subcontractor listed in the approved Utilization Plan without prior written consent. This includes, but is not limited to, instances in which the Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. Written consent will be granted only if the Bureau of Small Business Enterprises agrees, for reasons stated in its concurrence document, that the Contractor has good cause to terminate or replace the DBE firm. Before transmitting to the Bureau of Small Business Enterprises any request to terminate and/or substitute a DBE subcontractor, the Contractor shall give notice in writing to the DBE subcontractor, with a copy to the Bureau, of its intent to request to terminate and/or substitute, and the reason for the request. The Contractor shall give the DBE five days to respond to the Contractor's notice. The DBE so notified shall advise the Bureau and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Bureau should not approve the Contractor's action. If required in a particular case as a matter of public necessity, the Bureau may provide a response period shorter than five days.

For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the prime Contractor's reasonable, nondiscriminatory bond requirements;
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1200 or applicable state law.
- (6) You have determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the projects and provides to you written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE subcontractor is unable to complete its work on the contract;
- (10) Other documented good cause that compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime Contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime Contractor can self-perform the work for which the DBE contractor was engaged or so that the prime Contractor can substitute another DBE or non-DBE contractor after contract award.

When a DBE is terminated, or fails to complete its work on the Contract for any reason the Contractor shall make a good faith effort to find another DBE to substitute for the original DBE to perform at least the same amount of work under the contract as the terminated DBE to the extent needed to meet the established Contract goal. The good faith efforts shall be documented by the Contractor. If the Department requests documentation under this provision, the Contractor shall submit the documentation within seven days, which may be extended for an additional seven days if necessary at the request of the Contractor. The Department shall provide a written determination to the Contractor stating whether or not good faith efforts have been demonstrated.

- (f) **FINAL PAYMENT.** After the performance of the final item of work or delivery of material by a DBE and final payment therefore to the DBE by the Contractor, but not later than thirty calendar days after payment has been made by the Department to the Contractor for such work or material, the Contractor shall submit a DBE Payment Agreement on Department form SBE 2115 to the Resident Engineer. If full and final payment has not been made to the DBE, the DBE Payment Agreement shall indicate whether a disagreement as to the payment required exists between the Contractor and the DBE or if the Contractor believes that the work has not been satisfactorily completed. If the Contractor does not have the full amount of work indicated in the Utilization Plan performed by the DBE companies indicated in the Utilization Plan and after good faith efforts are reviewed, the Department may deduct from contract payments to the Contractor the amount of the goal not achieved as liquidated and ascertained damages. The Contractor may request an administrative reconsideration of any amount deducted as damages pursuant to subsection (h) of this part.
- (g) **ENFORCEMENT.** The Department reserves the right to withhold payment to the Contractor to enforce the provisions of this Special Provision. Final payment shall not be made on the contract until such time as the Contractor submits sufficient documentation demonstrating achievement of the goal in accordance with this Special Provision or after liquidated damages have been determined and collected.
- (h) **RECONSIDERATION.** Notwithstanding any other provision of the contract, including but not limited to Article 109.09 of the Standard Specifications, the Contractor may request administrative reconsideration of a decision to deduct the amount of the goal not achieved as liquidated damages. A request to reconsider shall be delivered to the Contract Compliance Section and shall be handled and considered in the same manner as set forth in paragraph (c) of "Good Faith Effort Procedures" of this Special Provision, except a final decision that a good faith effort was not made during contract performance to achieve the goal agreed to in the Utilization Plan shall be the final administrative decision of the Department. The result of the reconsideration process is not administratively appealable to the U.S. Department of Transportation.

EQUIPMENT PARKING AND STORAGE (BDE)

Effective: November 1, 2017

Replace the first paragraph of Article 701.11 of the Standard Specifications with the following.

"701.11 Equipment Parking and Storage. During working hours, all vehicles and/or nonoperating equipment which are parked, two hours or less, shall be parked at least 8 ft (2.5 m) from the open traffic lane. For other periods of time during working and for all nonworking hours, all vehicles, materials, and equipment shall be parked or stored as follows.

- (a) When the project has adequate right-of-way, vehicles, materials, and equipment shall be located a minimum of 30 ft (9 m) from the pavement.
- (b) When adequate right-of-way does not exist, vehicles, materials, and equipment shall be located a minimum of 15 ft (4.5 m) from the edge of any pavement open to traffic.

(c) Behind temporary concrete barrier, vehicles, materials, and equipment shall be located a minimum of 24 in. (600 mm) behind free standing barrier or a minimum of 6 in. (150 mm) behind barrier that is either pinned or restrained according to Article 704.04. The 24 in. or 6 in. measurement shall be from the base of the non-traffic side of the barrier.

(d) Behind other man-made or natural barriers meeting the approval of the Engineer.”

LIGHTS ON BARRICADES (BDE)

Effective: January 1, 2018

Revise Article 701.16 of the Standard Specifications to read:

“**701.16 Lights.** Lights shall be used on devices as required in the plans, the traffic control plan, and the following table.

Circumstance	Lights Required
Daylight operations	None
First two warning signs on each approach to the work involving a nighttime lane closure and “ROUGH GROOVED SURFACE” (W8-I107) signs	Flashing mono-directional lights
Devices delineating isolated obstacles, excavations, or hazards at night (Does not apply to patching)	Flashing bi-directional lights
Devices delineating obstacles, excavations, or hazards exceeding 100 ft (30 m) in length at night (Does not apply to widening)	Steady burn bi-directional lights
Channelizing devices for nighttime lane closures on two-lane roads	None
Channelizing devices for nighttime lane closures on multi-lane roads	None
Channelizing devices for nighttime lane closures on multi-lane roads separating opposing directions of traffic	None
Channelizing devices for nighttime along lane shifts on multilane roads	Steady burn mono-directional lights
Channelizing devices for night time along lane shifts on two lane roads	Steady burn bi-directional lights
Devices in nighttime lane closure tapers on Standards 701316 and 701321	Steady burn bi-directional lights
Devices in nighttime lane closure tapers	Steady burn mono-directional lights
Devices delineating a widening trench	None
Devices delineating patches at night on roadways with an ADT less than 25,000	None
Devices delineating patches at night on roadways with an ADT of 25,000 or more	None

Batteries for the lights shall be replaced on a group basis at such times as may be specified by the Engineer.”

Delete the fourth sentence of the first paragraph of Article 701.17(c)(2) of the Standard Specifications.

Revise the first paragraph of Article 603.07 of the Standard Specifications to read:

“**603.07 Protection Under Traffic.** After the casting has been adjusted and Class SI concrete has been placed, the work shall be protected by a barricade for at least 72 hours.”

PAYMENTS TO SUBCONTRACTORS (BDE)

Effective: November 2, 2017

Add the following to the end of the fourth paragraph of Article 109.11 of the Standard Specifications:

“If reasonable cause is asserted, written notice shall be provided to the applicable subcontractor and/or material supplier and the Engineer within five days of the Contractor receiving payment. The written notice shall identify the contract number, the subcontract or material purchase agreement, a detailed reason for refusal, the value of payment being withheld, and the specific remedial actions required of the subcontractor and/or material supplier so that payment can be made.”

PROGRESS PAYMENTS (BDE)

Effective: November 2, 2013

Revise Article 109.07(a) of the Standard Specifications to read:

“(a) Progress Payments. At least once each month, the Engineer will make a written estimate of the quantity of work performed in accordance with the contract, and the value thereof at the contract unit prices. The amount of the estimate approved as due for payment will be vouchered by the Department and presented to the State Comptroller for payment. No amount less than \$1000.00 will be approved for payment other than the final payment.

Progress payments may be reduced by liens filed pursuant to Section 23(c) of the Mechanics' Lien Act, 770 ILCS 60/23(c).

If a Contractor or subcontractor has defaulted on a loan issued under the Department's Disadvantaged Business Revolving Loan Program (20 ILCS 2705/2705-610), progress payments may be reduced pursuant to the terms of that loan agreement. In such cases, the amount of the estimate related to the work performed by the Contractor or subcontractor, in default of the loan agreement, will be offset, in whole or in part, and vouchered by the Department to the Working Capital Revolving Fund or designated escrow account. Payment for the work shall be considered as issued and received by the Contractor or subcontractor on the date of the offset voucher. Further, the amount of the offset voucher shall be a credit against the Department's obligation to pay the Contractor, the Contractor's obligation to pay the subcontractor, and the Contractor's or subcontractor's total loan indebtedness to the Department. The offset shall continue until such time as the entire loan indebtedness is satisfied. The Department will notify the Contractor and Fund Control Agent in a timely manner of such offset. The Contractor or subcontractor shall not be entitled to additional payment in consideration of the offset.

The failure to perform any requirement, obligation, or term of the contract by the Contractor shall be reason for withholding any progress payments until the Department determines that compliance has been achieved.”

SUBCONTRACTOR AND DBE PAYMENT REPORTING (BDE)

Effective: April 2, 2018

Add the following to Section 109 of the Standard Specifications.

“109.14 Subcontractor and Disadvantaged Business Enterprise Payment Reporting.
The Contractor shall report all payments made to the following parties:

- (a) first tier subcontractors;
- (b) lower tier subcontractors affecting disadvantaged business enterprise (DBE) goal credit;
- (c) material suppliers or trucking firms that are part of the Contractor’s submitted DBE utilization plan.

The report shall be made through the Department’s on-line subcontractor payment reporting system within 21 days of making the payment.”

SUBCONTRACTOR MOBILIZATION PAYMENTS (BDE)

Effective: November 2, 2017

Replace the second paragraph of Article 109.12 of the Standard Specifications with the following:

“This mobilization payment shall be made at least 14 days prior to the subcontractor starting work. The amount paid shall be at the following percentage of the amount of the subcontract reported on form BC 260A submitted for the approval of the subcontractor’s work.

Value of Subcontract Reported on Form BC 260A	Mobilization Percentage
Less than \$10,000	25%
\$10,000 to less than \$20,000	20%
\$20,000 to less than \$40,000	18%
\$40,000 to less than \$60,000	16%
\$60,000 to less than \$80,000	14%
\$80,000 to less than \$100,000	12%
\$100,000 to less than \$250,000	10%
\$250,000 to less than \$500,000	9%
\$500,000 to \$750,000	8%
Over \$750,000	7%”

WEEKLY DBE TRUCKING REPORTS (BDE)

Effective: June 2, 2012

Revised: April 2, 2015

The Contractor shall submit a weekly report of Disadvantaged Business Enterprise (DBE) trucks hired by the Contractor or subcontractors (i.e. not owned by the Contractor or subcontractors) that are used for DBE goal credit.

The report shall be submitted to the Engineer on Department form "SBE 723" within ten business days following the reporting period. The reporting period shall be Monday through Sunday for each week reportable trucking activities occur.

Any costs associated with providing weekly DBE trucking reports shall be considered as included in the contract unit prices bid for the various items of work involved and no additional compensation will be allowed.

REVISIONS TO THE ILLINOIS PREVAILING WAGE RATES

The Prevailing rates of wages are included in the Contract proposals which are subject to Check Sheet #5 of the Supplemental Specifications and Recurring Special Provisions. The rates have been ascertained and certified by the Illinois Department of Labor for the locality in which the work is to be performed and for each craft or type of work or mechanic needed to execute the work of the Contract. As required by Prevailing Wage Act (820 ILCS 130/0.01, et seq.) and Check Sheet #5 of the Contract, not less than the rates of wages ascertained by the Illinois Department of Labor and as revised during the performance of a Contract shall be paid to all laborers, workers and mechanics performing work under the Contract. Post the scale of wages in a prominent and easily accessible place at the site of work.

If the Illinois Department of Labor revises the prevailing rates of wages to be paid as listed in the specification of rates, the contractor shall post the revised rates of wages and shall pay not less than the revised rates of wages. Current wage rate information shall be obtained by visiting the Illinois Department of Labor web site at <http://www.state.il.us/agency/idol/> or by calling 312-793-2814. It is the responsibility of the contractor to review the rates applicable to the work of the contract at regular intervals in order to insure the timely payment of current rates. Provision of this information to the contractor by means of the Illinois Department of Labor web site satisfies the notification of revisions by the Department to the contractor pursuant to the Act, and the contractor agrees that no additional notice is required. The contractor shall notify each of its subcontractors of the revised rates of wages.