

## SECTION 106 - CONTROL OF MATERIAL

Make the following amendments to said Section:

(I) Amend **106.03 Sampling, Tests, Cited Specifications** by revising the last paragraph to read as follows:

"(1) AASHTO Standard Specifications for Highway Materials and Methods of Sampling and Testing, (Parts I and II), 19th Edition.

(2) ASTM Standards, Volumes 00.01 to 15.09, 1998 Edition."

(II) Amend **106.04 Plant Inspection** by revising the first paragraph to read as follows:

**"106.04 Manufacturing Plant Inspection.** When the location of manufacturing plants allows, the Engineer may inspect the plants periodically for compliance with specified manufacturing methods. The Engineer may get samples of materials for laboratory testing for compliance with material quality requirements. This may be the basis for acceptance of manufacturing lots as to quality."

(III) Amend **106.10 Certificate of Compliance** by revising the first sentence of the second paragraph to read as follows:

"A certificate of compliance shall accompany each lot of materials or assemblies delivered to the work site with substantiating test data of the lot clearly identified."

(IV) Add the following subsections:

**"106.13 Ordering of Certain Materials.** The intent of this contract is to complete work within the specified time. Therefore, the Contractor shall submit to the Department, within 7 days following award of contract, written evidence that the Contractor ordered the necessary materials specified for this project.

The Department will purchase said materials at cost which includes the cost of the materials based on invoices, the cost of transporting the materials to the location designated by the Engineer, and State excise taxes if the contract is rescinded by the Department after the Contractor orders the materials specified above. The Contractor shall not include profits.

**106.14 Assignment Of Antitrust Claims For Overcharges For Goods and**

**Materials Purchased.** Vendor and purchaser recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, vendor hereby assigns to purchaser any and all claims for such overcharges as to goods and materials purchased in connection with this order or contract, except as to overcharges which result from antitrust violations commencing after the price is established under this order or contract and which are not passed on to the purchaser under an escalation clause.

Contractor and owner recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the owner.

Therefore, Contractor hereby assigns to owner any and all claims for such overcharges as to goods and materials purchased in connection with this order or contract, except as to overcharges which result from antitrust violations commencing after the price is established under this order or contract and any contract change order. In addition, Contractor warrants and represents that each of its first tier suppliers and subcontractors shall assign any and all such claims to owner, subject to the aforementioned exception."

**106.15 Submittal Data.** The contract contains the description of various items which the Contractor must submit to the Engineer for review and acceptance. The Contractor shall provide 6 copies of the required submissions. The Engineer will complete the review of the material within 30 days from the date of submission. The Engineer will advise the Contractor, in writing, as to the acceptability of the material submitted. The Engineer may determine that the item is acceptable, in which case no further action is required by the Contractor; or, the item may be partially or totally rejected, in which case the Contractor shall be required to modify the submittal as required by the Engineer and resubmit the item within 15 days. At this time, the review and acceptance cycle described above shall begin again.

Failure to furnish the required submissions by the time specified will result in the payments that may become due to the Contractor being suspended until the Engineer receives the submission.

The purpose of the submittal data is to show specifically and in detail how the Contractor intends to satisfy the contract requirements. The Contractor shall cross off and initial the statements on preprinted literature which conflict with the contract requirements.

Each submittal shall contain sufficient information and details to permit the Engineer to evaluate the situation. The Engineer will not review submittals that are not sufficient to permit proper evaluation.

Following the review of the submittal data, the Engineer will mark the submittal items 'Accepted', 'Corrections Noted', or 'Rejected'. The Engineer will

also mark each item that the Contract must resubmit. The Contractor may proceed with the items marked 'Accepted'. The Contractor shall not proceed with items marked 'Rejected' or 'Corrections Noted' or with items for which resubmission is required, but shall proceed immediately to correct said items and resubmit them for review.

In no case shall installation commence before acceptance of material data by the Engineer. The Contractor shall be liable for materials purchased or work done before such acceptance."

**END OF SECTION**