

III-20.01 General

Special Provisions are additions and revisions to the Standard and Supplemental Specifications covering special conditions on an individual project.

***Special Provisions that contain an engineering related work product must be PE stamped by a ND registered professional engineer on the first page.**

Commonly used Special Provisions are listed on the PPG website under “Special Provisions.”
<http://www.ugpti.org/dotsc/prepguide/specprov/>

III-20.02 Usage of Special Provisions

Special provisions address work items or project requirements that either vary significantly from, or are not addressed by, the Standard Specifications or Supplemental Specifications. As a rule of thumb, a plan note should be used if the work item can be described in a short concise manner. A special provision should be used if the description of the work item is lengthy, complex, or requires research and approval from other divisions, districts, and/or agencies.

The designer should determine which special provisions are applicable and necessary for the project. A “List of Special Provision” identifying the provision numbers and descriptions should be placed on the Basis of Estimate Sheets in the plans. If the Basis of Estimate sheet does not exist, then place the List of Special Provisions on the Table of Contents sheet.

The special provisions are not placed in the plans; rather they are inserted into the Bidders Proposal by the Planning and Programming Division.

III-20.03 Procedures for Special Provisions

If the special provision is new, the designer will contact the Environmental & Transportation Services (ETS) for assistance in developing and researching the provision. ETS will assist the designer in the coordination, any necessary research, and with the preparation of a draft special provision. ETS will prepare the final draft of the special provision, coordinate FHWA approval, and assign a special provision number. *Each time a completed special provision is used, a new number must be assigned.*

The designer will request special provisions from ETS in writing no later than one month prior to the PS&E meeting. TERO Special Provision from ETS a minimum of two months prior to the PS&E meeting, see section III-20.04 for further guidance. Intelligent Transportation Systems (ITS) provisions need to contact Maintenance Division 4 months prior to PS&E meeting. Written requests for special provision need to include the following: bid opening date, plans complete

date, project number, PCN, and project location. The designer will also address any conditions required in the special provision to complete the project as designed.

If the special provision is controversial, ETS will work with FHWA, NDDOT Specifications Committee, designer, appropriate divisions, and districts to resolve any differences.

When special provisions are new or controversial, requests should be submitted to ETS as early as possible during the project development to allow time for research, review, resolution, and approval by NDDOT and FHWA.

Special Provisions must be completed by ETS and submitted to the Planning and Programming Division by the plan completion date.

ETS will make distribution of the special provision to Contractors, FHWA, Districts, and Divisions.

III-20.04 Tribal Employment Rights Ordinance (TERO)

If the project is on, or partially on an Indian Reservation the designer should request a TERO Special Provision. On all North Dakota highway projects, including federal aid, state aid, and maintenance contracts, a Tribal Employment Rights Tax will be applied to the portions of the highway projects that are within the boundaries of the Indian Reservation. Additionally, hiring preference requirements apply to the entire project and all tied projects.

1. If TERO provisions apply, the designer will request in writing, a TERO Special Provision from ETS a minimum of two months prior to the PS&E meeting. Written requests for TERO provisions need to include the following: bid opening date, plans complete date, project number, PCN, project location, project length, length on reservation, and total estimated project cost. To provide sufficient lead time, the request should be coordinated from the time of project identification and concept report, and on an on-going basis as the preliminary roadway design becomes available, including projects with potential ties.
2. If TERO provisions apply, the designer should request in writing, approval from the Office of Project Development or the District Engineer prior to tying the project to other local projects.

The Indian Reservations and the ties to Districts, Counties, and Highways are summarized as follows:

INDIAN RESERVATION KEYS

Districts, Counties, & Highways

Spirit Lake Nation:

Districts: Devils Lake (3)

Counties: Benson, Eddy, Nelson

Highways: US 281, ND 15, ND 20, ND 57

Fort Berthold:

Districts: Minot (4), Dickinson (5), Williston (7)

Counties: Dunn, McKenzie, McLean, Mercer, Mountrail, Ward

Highways: ND 8, ND 22, ND 23, ND 37, ND 73, ND 1804

Standing Rock:

Districts: Bismarck (1)

Counties: Sioux

Highways: ND 6, ND 24, ND 31, ND 49, ND 1806

Turtle Mountain:

Districts: Devils Lake (3)

Counties: Rolette

Highways: US 281 & ND 5, ND 30