

SECTION 6 SPECIAL PROVISIONS

6.1 PURPOSE

This Section 6 provides guidance for preparing the project special provisions.

6.2 BACKGROUND

The *Standard Specifications*, SSPs, and RSSs are the result of participation, extensive development, and concurrence from the Department's experts and applicable stakeholders. External stakeholders include industry, FHWA, and other agencies. *Standard Specifications* and SSPs are sponsored by owners who are responsible for the technical content.

See the *Specification Style Guide* and the *Guide to Standard Specifications, SSPs, and Standard Plans* for responsibilities, processes, and rules for the development of the standards.

Statewide specification uniformity makes bids more competitive and projects easier to administer. To expedite project delivery and minimize variation between projects, use current the SSPs that are published on the DES-OE Web site. SSP editing must comply with instructions within the SSP.

6.3 RESPONSIBILITIES

Regardless of the construction involved, all projects are district projects. Districts have overall responsibility for the special provisions. Districts must ensure structure specifications do not conflict with other specifications. See Section 5 for responsibilities pertaining to PS&E. The details of responsibilities for the special provisions are as follows:

6.3.1 DISTRICT PROJECT ENGINEER

- Coordinates special provision work with the DOE from project development through award
- Ensures SSPs are used and edited under the instructions in the SSPs
- Ensures NSSPs included in the special provisions is necessary, developed, included, and approved by the appropriate owners before submitting the PS&E to DES-OE

6.3.2 DISTRICT AND STRUCTURES SPECIFICATION ENGINEER

- District SE or PE signs for district work.
- SOE SE signs for structure work.
- Multiple specification engineers may be involved for work such as highway, traffic, structures, landscape, buildings, mechanical, water, waste water, and electrical.
- Assembles, edits, and uses QC for special provisions.
- Assists with NSSP development and submits a copy of owner approval.
- Verifies consistency between the plans, Bid Item List, and special provisions.
- Signs the special provisions.

6.3.3 DISTRICT OFFICE ENGINEER

- Provides QA to verify that the applicable SSPs are selected and correctly edited.
- Ensures NSSPs are necessary and consistent with the *Specification Style Guide*.
- Formatting NSSPs.
- Coordinates PS&E submittal.

6.3.4 DISTRICT OFFICE ENGINEER SITE COORDINATOR

- Acts as the liaison with DES-OE for computer issues.
- Ensures that DOE computers are equipped with the tools and configuration necessary to submit PS&E.
- Acts as the point of contact in the district for specification-related computer problems.
- Takes responsibility for other computer-related functions (e.g., annual equipment inventory).

6.3.5 DIVISION CHIEF OF PROGRAM OR FUNCTION

- Designates specification owners.
- Provides resources to support the specification owners.

6.3.6 SECTION COORDINATOR

- For section coordinator responsibilities go to the *Guide to Standard Specifications, SSPs, and Standard Plans*.

6.3.7 SPECIFICATION OWNER

- For specification owner responsibilities go to the *Guide to Standard Specifications, SSPs, and Standard Plans*.

6.3.8 DIVISION ENGINEERING SERVICE-OFFICE ENGINEER, DEPUTY DIVISION CHIEF

- For DES-OE, deputy division chief responsibilities go to the *Guide to Standard Specifications, SSPs, and Standard Plans*.

6.3.9 DES-OE, OFFICE OF PS&E AREA SENIOR

- Performs independent assurance on special provisions
- Assists in determining the appropriate owner for an NSSP

6.3.10 DES-OE, OFFICE CHIEF OF OCCS

- For OCCS office chief responsibilities go to the *Guide to Standard Specifications, SSPs, and Standard Plans*.

6.4 SPECIAL PROVISIONS**6.4.1 GENERAL**

Sections of the special provisions match the sections of the *Standard Specifications*.

6.4.2 SECTIONS 1 THROUGH 9

SSPs for Sections 1 through 9 revise the general provisions of the *Standard Specifications*. Sections 1 through 9 apply to all contracts unless specified as applicable under certain conditions. If a bid item is not used for work required by Sections 1 through 9, payment is included in the contract bid items per Section 9-1.03, Payment Scope, of the *Standard Specifications*. SSPs for Sections 1 through 9 include specifications for:

- Requirements and instructions to bidders
- Requirements for award and execution
- Control of the work and materials
- Relations with other entities
- Public and worker safety
- Start of job site activities
- Items for partial payment
- Payment, including measurement for payment

Cost Plus Time Bidding

To determine if a project qualifies for cost plus time bidding (formerly A+B bidding), use the guidelines published by the Division of Construction.

Incentive/Disincentive Provisions

Incentive/Disincentive provisions require justification and are customized for each project. Work with DES-OE and the Division of Construction as early as possible to develop specifications.

Supplemental Project Information and the Information Handout

The Department is required under contract law principles such as the Spearin and Superior Knowledge Doctrines to disclose to bidders information otherwise unavailable that is vital to contract performance.

Information included in the contract as supplemental project information, including the Information Handout, must be referred to from the special provisions because Section 2-1.06B of the *Standard Specifications* states that the information is made available as specified in the special provisions. The supplemental project information is made part of the contract by reference to it from the specifications and by the inclusion of it in the list of contract parts in Section 5-1.02 of the *Standard Specifications*.

Project-Related Permits, Licenses, Agreements, Certifications (PLACs)

Comply with Section 13 of the PDPM.

Although PLACs are part of the contract:

- The plans and specifications must describe any work that the Contractor must complete. For example, if a PLAC states that a tortoise fence must be constructed, the plans and specifications must describe the tortoise fence.
- If a PLAC states that a requirement must be described in the plans or specifications, the plans or specifications must describe the requirement.
- If a PLAC describes options and the Department has chosen one option, the specifications must specify that option.
- If a PLAC provides requirements but does not designate the responsibilities of each party, the specifications must specify the responsibilities of each party.
- If a PLAC designates responsibilities to the Department, and the Department requires the Contractor to act such that the Department is in compliance with the PLAC, the specifications must specify that the Contractor must perform the act.
- For convenience to the Contractor, the specifications must include any time constraints included in the PLAC.

Working Days

Districts are responsible for the submittal of the total project working days. Structures determines the number of working days for structure work. Districts merge the working days for highway and structure work. Round working days up to the nearest 5 days. Do not add days for work that can be done concurrently with the controlling activity. Do not add days for extra work. If necessary, days for extra work are added by change order.

For work that is not done concurrently with the controlling activity consider:

- 7 or 14 day waiting period before placement of pavement markers on new hot mix asphalt
- Curing time for concrete
- 30-day minimum for obtaining railroad insurance
- Time specified for performance of utility work
- Landscaping, irrigation, and plant establishment
- Collection of site specific seed for erosion control work
- Plants that must be propagated from plants on the job site
- Review time for contractor submittals (e.g., SWPPP, progress schedule, material lists, working drawings and plans, aggregates, concrete mix designs, asphalt mix designs, and other submittals specified in the special provisions, RSSs, or *Standard Specifications*)
- Lead time for delivery of steel products and special materials
- Special days or time constraints for traffic

Liquidated Damages

LD recover additional Department costs due to the Contractor's failure to complete the contract within the specified time and are based on the estimated cost of field construction engineering and field office expenses.

Section 8-1.10, *Liquidated Damages*, of the *Standard Specifications* includes standard LD amounts for projects \$250 million or less. Section 8-1.10 also includes a standard liquidated damages amount for plant establishment work.

For a cost plus time bid type project, include the corresponding LDs based on the project bid items total from the table in Section 8-1.10, Liquidated Damages, of the *Standard Specifications* and the road user cost (RUC). The LDs amount and RUC are the cost per day in the total basis for bid comparison purposes.

For a unit price or LS bid type project, do not include LDs in the special provisions.

Internal Time Limits

Except in special cases, do not use internal time limits. Contact DES-OE for assistance.

6.4.3 SECTIONS 10 THROUGH 15

SSPs for Sections 10 through 15 revise general construction specifications of the *Standard Specifications*. These sections apply to all contracts unless specified otherwise. If a bid item is not used for work required by Sections 10 through 15, full compensation is covered by Section 9-1.03, Payment Scope, of the *Standard Specifications*.

SSPs for Sections 10 through 15 include specifications for:

- Quality control and assurance
- Sustainable materials
- Temporary traffic control
- Water pollution control
- Environmental stewardship
- Existing facilities

6.4.4 SECTIONS 16 THROUGH 86

SSPs for Sections 16 through 86 revise construction specifications of the *Standard Specifications* for specific bid items. SSPs for Sections 16 through 86 include:

- Grading
- Bases and surfaces
- Structures
- Drainage

- Miscellaneous construction
- Traffic control facilities

6.4.5 SECTIONS 87 THROUGH 98

SSPs for Sections 87 through 98 revise materials specifications of the *Standard Specifications*. SSPs for Sections 87 through 98 include:

- Concrete
- Geosynthetic materials
- Asphalts and asphaltic emulsions
- Paints
- Epoxies

6.4.6 SECTION 99

Section 99 is for building construction. Section 99 is reserved in the *Standard Specifications* and is comprised solely of SSPs. SSPs for Section 99 are provided by TAEMWW to SOE. For more information regarding building work go to Section 6.7.

6.5 SPECIAL PROVISIONS FOR MINOR B CONTRACTS

For Minor B contracts, districts compile and submit the special provisions to the Division of Procurement and Contracts. If the project includes structures work, SOE submits their portion of the special provisions to the district.

6.6 ASSEMBLY OF SPECIAL PROVISIONS

Obtain the tools including macros for special provision assembly from the DOE site coordinator.

The first 2 digits of the item code set forth the specification sections that apply to the contract. Due to section reorganization, the use of one-time bid item codes and the creation of several new sections, cases where the first 2 digits of the item code does not match the specification section exist. In these cases, use SSP 1-1.01.

Use the first 2 numbers of the bid item along with the SSP index to assist in selection of SSPs that apply to a project.

Use the SP template to create a document and insert the necessary SSPs. The SP template contains all the main section headings. Insert the SSPs under the appropriate heading in numerical order. Use the current template and SSPs published by OCCS.

Ensure that each bid item is covered by the *Standard Specifications* or the special provisions. Your review of the *Standard Specifications*, which includes the revised standard specifications (maybe add RSS to amendments), is critical. If a work component is not covered by the *Standard Specifications*, add the appropriate SSP. If an appropriate SSP does not exist, create an NSSP.

Use the 2010 special provision template for creating NSSPs. The template is available at the DES-OE Web site.

6.7 SPECIAL PROVISIONS FOR BUILDING CONSTRUCTION PROJECTS

Building construction projects are construction or remodeling work that includes roadside rest areas, maintenance stations, vehicle inspection facilities, equipment buildings, toll plazas, etc.

If the LS price of the building work is greater than 50 percent of the total bid items:

- Do not use a bid item for mobilization. Mobilization is included in the LS price for the building work.
- Use SSP 9-1.11 to delete specifications for Time-Related Overhead

6.8 EDITING AN SSP

Use the guidance in Appendix G.

Follow the instructions included in an SSP. If you must add or delete language not covered by the SSP instructions, follow the procedure for an NSSP.

For specifications that require a contact, only provide contact's title, address and phone number. Do not use proper names except in specifications for railroad specifications.

6.9 NSSP

An NSSP is:

- A specification that is not published by OCCS
- An SSP with added or deleted language not covered by the SSP instructions

NSSP approval is required for all projects in our right of way.

Use of NSSPs should be limited and must be justified. Districts are responsible for documenting justification and obtaining specification owner approval for each NSSP.

Do not use NSSPs on a routine or blanket-approval basis. For each project, use of an NSSP requires approval by the owners and either district or HQ Construction.

For an NSSP and associated project details, written approval by the owner and construction is a statement that the technical content of the NSSP is adequate.

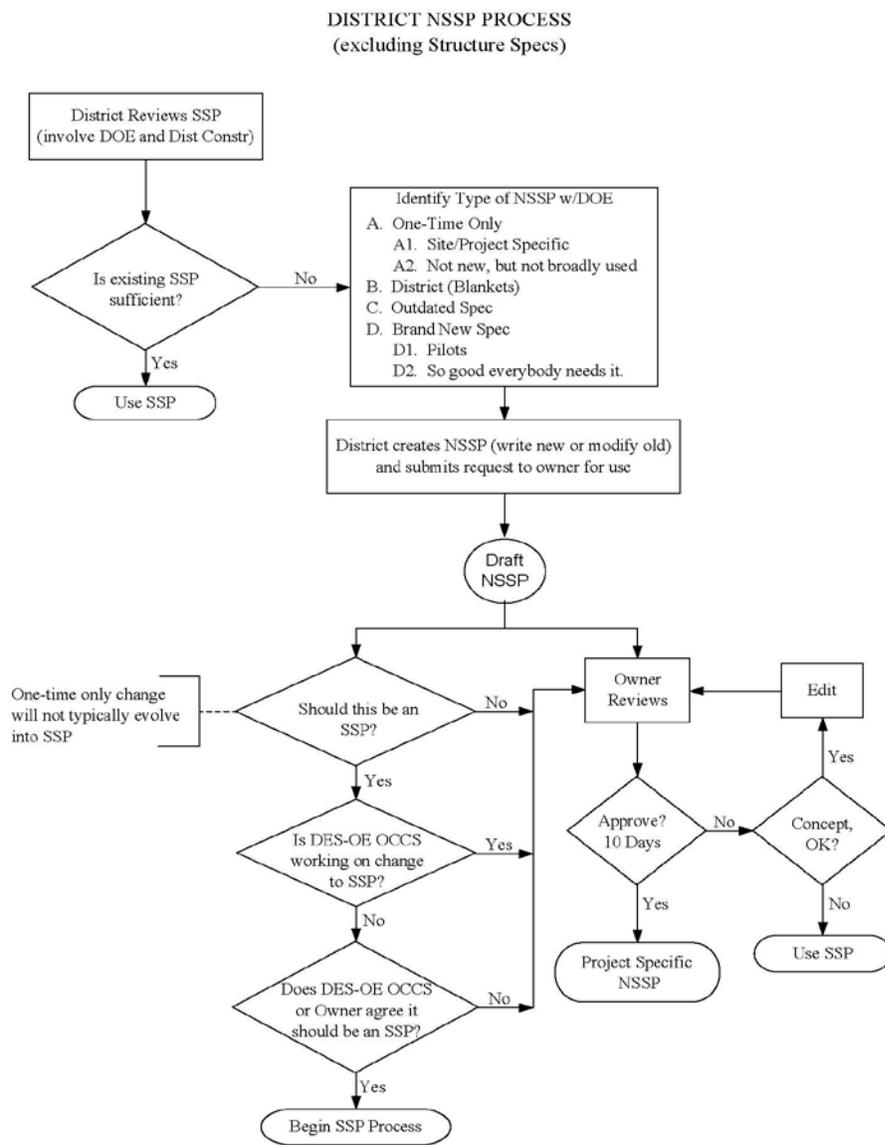
Standard clauses including those for payment, disposal of materials, certificate of compliance and delays are in the *Specification Style Guide 2010*.

6.9.1 DISTRICT NSSP PROCESS

To create an NSSP follow these steps:

- Before developing an NSSP, confirm with the DOE that it is necessary.
- Begin the NSSP development and approval process early. Plan a strategy with the DOE for developing the NSSP with input from specification owners and stakeholders (e.g., Legal, Construction, FHWA). To assist specification owners, stakeholders, and reviewers, provide a concise explanation of the purpose and need for the NSSP. Attach relevant plan sheets.
- The draft NSSP must conform to the *Specification Style Guide*. Request assistance and review by the DOE. If an NSSP is generated by editing beyond the instructions of a SSP, use the edit notation for SSPs shown in Appendix G. For an all-new specification, use the SSP template and place "ALL NEW," the date, and the author's initials in the header.
- Request a review and approval from the specification owners and District Construction. Allow at least 2 weeks for a review. Check with the reviewers after the first week to see if they have questions.
- After obtaining approval from the owners and District Construction, e-mail copies of the approvals, the NSSP, and the justification summary to HQ Construction Engineering for IA. If the specification owner is HQ Construction, it is not necessary to also obtain approval from District Construction, and it is not necessary to resubmit a copy for IA.
- Do not make additional content changes to the NSSP after approval.

- Include the approved NSSP in the special provisions submitted to DES-OE. Check the field in the PS&E Cover Memorandum noting that NSSPs are included in the project. The DOE incorporates NSSPs in the special provisions and submits a copy of the owner's written approval along with a copy of the NSSP version approved. DR will not be provided until DES-OE receives copies of the required owner and construction approvals.
- The NSSP process is also described in the following flow chart.



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6.9.2 DISTRICT SPECIAL PROVISIONS

District special provisions are NSSPs that have been approved for use on a district-wide basis and are limited to situations where the standards do not adequately address a district's needs. To request new district special provisions, use the NSSP process. The DES-OE, Office of PS&E area senior will maintain a copy of the district special provision to ensure consistent use.

6.9.3 LOCAL AGENCY SPECIFICATIONS

Avoid the use of local agency specifications. If use of the technical content from a local agency specification is necessary, process the specification as an NSSP.

6.9.4 LOCAL INFRASTRUCTURE SPECIFICATIONS

Section 77 in the *Standard Specifications* is reserved for local infrastructure specifications. Examples of local infrastructure include city water and power, utility lines, and telecommunication cable. Submit these specifications as NSSPs for review by both DES-OE and HQ Construction. Obtain concurrence from DES-OE for style and format. Obtain concurrence from HQ Construction for contract administration. Staff in HQ and DES do not have technical expertise to sign and seal local infrastructure specifications. These NSSPs must be sealed and signed by the engineer from either the District, consulting firm, municipality, agency, utility, or company involved. The engineer must be registered in the State as a civil engineer or other applicable engineering classification.

6.10 PROPRIETARY PRODUCTS

Proprietary products include brand and trade name products and products so narrowly specified that only a single provider can meet the specification. Typically, use of proprietary products requires project-specific details and an NSSP. Proprietary products requirement apply to specified temporary and permanent work.

Pub Cont Code § 3400 and 23 CFR 635.411 govern the use of proprietary products.

Avoid the use of proprietary products. If justified under the codes, add the term or equal.

Deputy Directive 45, *New Product Evaluation* requires District Directors to ensure that only those products evaluated and approved following Caltrans' policy and procedures are implemented and used in their respective Districts.

For use of proprietary products, the specification must include:

- The term “or equal” unless not required by law
- Company name, address, and phone number (unless readily available)
- If applicable, the distributor name, address, and phone number

6.10.1 FOR THREE OR MORE PROPRIETARY PRODUCTS

No additional information is needed in the specification. No PIF is required.

6.10.2 FOR TWO PROPRIETARY PRODUCTS

No additional information is needed in the specification. For federally funded projects, include in the PS&E Submittal an approved PIF or a copy of the blanket PIF. If does not include federal funds, the project does not include a PIF.

6.10.3 FOR ONE PROPRIETARY PRODUCT

Include in the PS&E Submittal:

- Approval for highway items by the District Director or District Deputy Director of Design
- Approval for structure items by the DES Chief
- Price quote documentation (except for Department–approved crash cushions; see the vendor pricing Web site). Sample documentation is available on the DES-OE Web site. Documentation must include a quotation from the manufacturer or supplier that is signed by a responsible company official and gives:
 - Company name, address, and phone number
 - Price, expiration date of the price, whether the price includes tax, and delivery location
 - Approved PIF for federal participation or a copy of the blanket PIF
 - NSSP that includes the quoted price with expiration date

If a product is to be used experimentally and the project has federal funds, Districts submit the PIF to the Department's Federal Resources Office, Division of Budgets, for processing. PIFs for high profile federal projects will be forwarded for FHWA approval to the Chief, State Project Development Procedures and Quality Branch. Along with the PIF, include a work plan that indicates specific functional managers and units assigned responsibility to objectively follow-up, evaluate, and document the effectiveness of the product. For further details on the work plan and approval procedure are found in the Construction Manual.

6.11 RAILROAD INVOLVEMENT

Preparation of railroad agreements takes considerable time. As soon as possible, the project engineer must contact District Right of Way for confirmation of involvement of a railroad.

Typically the railroad is involved when work is in or over the railroad right of way. This should be considered even for minor work such as attaching guard railing to the abutment of an underpass, jacking a pipe beneath the railroad roadbed, or entering railroad property for access to the work or to construct a fence.

If there is a railroad shown on the Title Sheet of the project plans, contact District Right of Way.

District Right of Way provides the information to complete the railroad specifications before PS&E submittal.

Include an electronic copy of railroad specifications with the PS&E submittal to DES-OE. Railroad specifications will be added to the contract as supplemental project information. List railroad specifications in SSP 2-1.06B.

6.12 ALTERNATIVE MATERIALS AND CONSTRUCTION METHODS

Department policy is to allow optional materials and construction methods whenever feasible. In some cases it may also be necessary to include alternative bidding when the payment of the item involved is changed because of the alternative, e.g., steel bridge versus concrete bridge or different types of seal coats. Some SSPs include alternatives and therefore are not to be revised to eliminate predetermined options.

6.13 MATERIALS ELIGIBLE FOR PARTIAL PAYMENTS

If materials meet the criteria for progress payment, list the description in SSP 9-1.16C from the following table.

Materials Eligible for Progress Payments

Eligible Materials
Backflow Preventer Assembly Enclosures
Backflow Preventers
Barriers (except concrete barriers)
Camera Assemblies
Column Casings
Control and Neutral Conductors
Corrugated Steel Pipe Conduit
Crash Cushions
Crib Wall Members
Culvert Pipe
Drainage Pumping Equipment
Earth Retaining System
Edge Drain Pipe
Fences and Gates
Fiber Optic Cable
Fiber Optic Conduit
Field Units and Base Station
Filter Fabric
Ground Anchors
Horizontal Drain Pipe
Innerduct
Irrigation Booster Pumps
Irrigation Controller Enclosure Cabinets
Irrigation Controller Enclosure Cabinets

Eligible Materials
Irrigation Controllers
Irrigation Pump and Equipment
Isolation Casings
Lighting Fixtures
Luminaires
Metal Sign Structures (including contractor furnished sign panels and changeable message sign structure)
Miscellaneous Bridge Metal
Miscellaneous Drainage Facilities
Miscellaneous Iron and Steel
Miscellaneous Metal
Overside Drains and Appurtenances
Pavement Dowels
Pavement Markers
Pavement Reinforcing Fabric
Piling (except CIDH Piling)
Pipe (Irrigation Systems)
Plastic Lumber
Precast Concrete Members
Prefabricated items that typically take more than 60 days to fabricate and ship to the job site.
Prestressing steel for cast-in-place members, sealed packages only, and prestressing ducts and anchorages (for structures that have an estimated value exceeding \$500,000.)
PTFE and PTFE Spherical Bearings
Pumping Plant Electrical Equipment
Pumping Plant Equipment

Eligible Materials
Pumping Plant Metal Work
Railings
Reinforcement
Rock Slope Protection Fabric
Sewer Pipes and Appurtenances
Signal and Lighting Standards
Signal Cabinets
Signal Heads and Mounting Brackets
Soil Nail Assemblies
Sound Wall (Masonry Block, Precast Concrete, Panels)
Splice Vaults
Sprinklers
Structural Plate Installations
Structural Steel
Timber
Twisted Pair Cable
Type B Joint Seals and Joint Seal Assemblies
Underdrain Pipe
Valves
Welded Steel Pipe
Welded Steel Pipe Conduit

6.14 CLIMATE AREAS

The Web sites for the highway environmental areas and the structure freeze thaw areas are:

Climate Areas

Memo to Designers 8-2, "*Protection Against Deicing Chemicals and Freeze-Thaw Environment*":

<http://www.dot.ca.gov/hq/esc/techpubs/manual/bridgemanuals/bridge-memo-to-designer/page/Section%208/8-2.pdf>

Attachment A, "*California State Highway Environmental Areas*":

<http://www.dot.ca.gov/hq/esc/techpubs/manual/bridgemanuals/bridge-memo-to-designer/page/Section%208/8-2.A.pdf>

Attachment B, "*California State Highway Listing by Environmental Area and Post Mile*":

<http://www.dot.ca.gov/hq/esc/techpubs/manual/bridgemanuals/bridge-memo-to-designer/page/Section%208/8-2.B.pdf>