

S T A T E

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T E N N E S S E E

(Rev. 9-7-21)

(Rev. 12-15-21)

(Rev. 12-19-22)

(Rev. 6-1-23)

(Rev. 8-21-23)

(Rev. 12-27-23)

(Rev. 5-30-24)

(Rev. 12-26-24)

(Rev. 1-8-25)

January 1, 2021

Supplemental Specifications – 100SS

of the

Standard Specifications for Road and Bridge Construction

January 1, 2021

Subsection 101.03, (pg. 5), 8-21-23; **Terms**; Revise:

Change Directive. A written document issued by the Department that provides the Contractor with additional compensation, time, or both as determined to be fair and reasonable by the Department and that does not require the consent or signature of the Contractor or Surety. The Change Directive becomes a part of the Contract when properly executed and approved by the Department.

Subsection 101.03, (pg. 7), 12-26-24; **Definition and Terms**; Revise Holidays definition:

Holidays. Holidays recognized by the State of Tennessee occur as follows:

New Year's Day..... January 1
Martin Luther King Jr. Day Third Monday in January
Presidents' Day Third Monday in February
Good Friday Friday before Easter
Memorial Day Last Monday in May
Juneteenth June 19
Independence Day..... July 4
Labor Day First Monday in September
Columbus Day Second Monday in October
Veterans Day..... November 11
Thanksgiving Day..... Fourth Thursday in November
Christmas Day..... December 25

All days appointed by the Governor of this State, or by the President of the United States, as days of fasting or thanksgiving.

Plan notes precluding restrictions to traffic on holiday weekends, unless specifically noted otherwise, do not apply to weekends associated with Martin Luther King Jr. Day, Presidents' Day, Juneteenth, Columbus Day, and Veterans Day

Subsection 102.09, (pg. 17), 12-19-22; Rejection of Proposals; Revise No. 10:

10. The apparent low bidder fails to complete and submit the Department form "Certification Regarding Subcontractor Bid Quotes" (Bidders List) electronically before the close of business (4:30 PM Central Time) within five (5) calendar days after the date on which bids are required to be submitted.

Subsection 102.09, (pg. 17), 12-26-24; Rejection of Proposals; Revise No. 10:

10. ~~The apparent low~~A bidder fails to comply with the "Instructions to Bidders" regarding the "Mandatory Submittal Of Subcontractor Bid Quotes (Bidders List)".~~complete and submit the Department form "Certification Regarding Subcontractor Bid Quotes" (Bidders List) electronically before the close of business (4:30 PM Central Time) within five (5) calendar days after the date on which bids are required to be submitted.~~

Subsection 104.03.B & C, (pg. 23-24), 9-7-21; Contract Change Notification; B & C; Revise subsections:

B. Written Acknowledgement by Engineer

The Engineer will provide written acknowledgement of the Contractor's written notice within ten (10) calendar days.

C. Written Response by Engineer

The Engineer will provide a written response within the specified number of calendar days based on the requested contract change:

1. For requested changes to the contract time in excess of one hundred eighty (180) days or requested changes that alter the original contract amount by more than \$200,000, the Engineer will respond within thirty (30) days of receiving the Contractor's written notice.
2. For requested changes to the contract time in excess of ninety (90) days but less than or equal to one hundred eighty (180) days, or requested changes that alter the original contract amount by more than \$100,000 but less than or equal to \$200,000, or by more than ten percent (10%) of the original contract, whichever is less, the Engineer will respond within twenty-one (21) days of receiving the Contractor's written notice.

3. For all other requested changes to the contract, the Engineer will respond within fourteen (14) calendar days of receiving the Contractor's written notice.

The written response to the Contractor's written notice will include one of the following:

1. Confirmation that a change is necessary in accordance with **104.02**, and direction on how the Work will proceed.
2. A denial of the request for a change, which will include references to the Contract as to why the condition does not represent a change.
3. A request for additional information stating the specific information needed and the date by which it must be received. The Engineer will respond to the additional information provided within fourteen (14) calendar days.

When a change is necessary, the Engineer will make appropriate adjustments to the Contract price and time, if warranted, in accordance with **108.07**, **109.04**, **109.05.A**, and **109.06**. If the Contractor disagrees with the Engineer's decision or does not agree with the Contract adjustments, the Contractor may pursue the issue as a claim in accordance with **105.16**.

Subsection 104.03.C, (pg. 24,25), 8-21-23; **Written Response by Engineer**; Add 3rd Paragraph and Revise 4th Paragraph:

The Contractor will, upon request, have an opportunity to discuss the Contract change by informal meeting with the Department's Regional representatives associated with the change prior to the issuance of the Engineer's written response. If such a meeting is held, the Contractor shall use the opportunity to present relevant information and respond to any information provided by the Engineer or other Department officials with knowledge of the Work.

When a change is necessary, the Engineer will make appropriate adjustments to the Contract price and time, if warranted, in accordance with **108.07**, **109.04**, **109.05.A**, and **109.06**. If the Contractor disagrees with the Engineer's decision or does not agree with the Contract adjustments, the Contractor may pursue the issue as a Request for Equitable Adjustment in accordance with **105.16**. At this time, the Department may issue a Change Directive even if the Contractor does not pursue a Request for Equitable Adjustment.

Subsection 104.04, (pg. 25-26), 12-27-23; **Maintenance of Traffic**; Revise 2nd and 5th Paragraph:

The Department will pay for materials used at the direction of the Engineer to construct and maintain approaches, crossings, intersections, and other features at contract unit prices unless the Contractor is responsible for the damage. Open cuts of roadways and streets shall be safely maintained for traffic during the Work. This includes, but is not limited to, placing and compacting a bituminous mix in the open cuts or placing metal plates over the open cuts, where allowed, before returning traffic to the roadway. Tie-ins for sideroads shall be safely maintained for traffic by paving to the binder course, striping, and placing temporary or permanent signs as needed, at minimum, unless otherwise directed by the Engineer. Maintenance of traffic control features, mowing, and pothole patching (cold mix) are incidental to the work and the responsibility of the Contractor.

Do not close lanes or restrict traffic on the following days without the Engineer's written consent:

- Easter: After 6:00 pm on the Thursday preceding Good Friday through Easter Sunday until the following Monday at 6 am.
- Memorial Day: After 12:00 noon on the preceding Friday through Memorial Day until the following Tuesday at 6 am.
- Independence Day:
 - a. Monday: After 12:00 noon on the preceding Friday through Independence Day until the following Tuesday at 6 am.
 - b. Tuesday: After 12:00 noon on the preceding Friday through Independence Day until the following Wednesday at 6 am.
 - c. Wednesday: After 12:00 noon on the preceding Tuesday through Independence Day until the following Thursday at 6 am.
 - d. Thursday: After 12:00 noon on the preceding Wednesday through Independence Day until the following Monday at 6 am.
 - e. Friday: After 12:00 noon on the preceding Thursday through Independence Day until the following Monday at 6 am.
 - f. Saturday: After 12:00 noon on the preceding Thursday through Independence Day until the following Monday at 6 am.
 - g. Sunday: After 12:00 noon on the preceding Friday through Independence Day until the following Tuesday at 6 am.
- Labor Day: After 12:00 noon on the preceding Friday through Labor Day until the following Tuesday at 6 am.
- Thanksgiving: After 12:00 noon on Wednesday before Thanksgiving through Sunday following Thanksgiving until the following Monday at 6 am.
- Christmas/New Year's Day: December 24 through January 1 and any preceding and/or following days that fall on a weekend.

Subsection 105.16, (pg. 49-55), 8-21-23; **Claims for Adjustment and Disputes**; Revise Subsection:

105.16 Request for Equitable Adjustment (REA) and Disputes

This subsection details the optional REA process for receiving, reviewing, and deciding on REAs submitted to the Department. If such REAs cannot be successfully negotiated or resolved within this process, the Contractor has the right to submit a formal claim through the Tennessee Claims Commission as acknowledged in this subsection.

All events or conditions that have a potential or anticipated effect on the Project's progress or schedule and that may result in a REA by the Contractor shall be documented contemporaneously with the event or

discovery of the pertinent condition(s), or immediately thereafter. REAs that are submitted without proper documentation will not be reviewed by the Department.

A. Notice of Intent to File a REA

If the Contractor has followed the process under **104.03** to request additional compensation, time, or both under **104.02 or 108.07** and the Contractor disagrees with the Engineer's decision or the Contract adjustments made by the Department, the Contractor may provide notice of intent to file a REA. The Contractor shall provide such notice in writing within thirty (30) calendar days of receiving the Engineer's decision as provided in **104.03**.

After submitting the notice of intent to file a REA, if the subject work is not yet complete, the Contractor shall maintain adequate records related to the REA, including records of the disputed labor, equipment and materials, and schedule updates per **108.03** showing compensable delays to the completion date. If applicable, update and disclose this information to the Department monthly. The Department may audit REA records at any time. Unless the Engineer suspends in writing the affected work, the Contractor shall continue to perform the disputed work. If such notice to file a REA is not given, or if the Engineer is not given sufficient opportunity for keeping strict account of the Contractor's actual Work, then the Contractor waives any claim for additional compensation under the REA process. Such notice by the Contractor and the Engineer's accounting of the cost shall not, in any way, prove or substantiate the validity of the REA. Nothing in this Subsection shall be construed as establishing any REA contrary to the terms of **104.02 or 108.07**.

B. Submission of REA

Within sixty (60) calendar days after submitting the notice of intent to file a REA, or within sixty (60) calendar days after completion of the disputed Work, whichever is later, or within such time agreed upon by the parties in writing, the Contractor shall submit a complete REA package. The REA package shall include all documents supporting the REA and provide sufficient detail to enable the Department to ascertain the basis and amount of the REA. If requested by the Contractor, the Department may extend the sixty (60) calendar day period in writing. As a minimum, the following information shall be submitted with each REA:

1. A REA certification containing the language shown in Figure 105.16-1; this figure can be found on the Department's Construction Division website.
2. A detailed factual statement of the REA for additional compensation, time, or both, providing all necessary dates, locations, and items of work affected by the REA, including:
 - a) Each aspect of the Project affected by matters related to the REA.
 - b) The specific Project locations where Project work has been so affected;
 - c) The number of people working on the affected aspects of the Project at the pertinent time(s);
 - d) The types and number of pieces of equipment working on the affected aspects of the Project at the pertinent time(s); and

- e) If applicable, any other request for relief that the Contractor intends to file or has reason to believe that it may file against the Department that would be impacted by the matters related to the REA.
- 3. The specific provisions of the Contract that support the REA and a statement of the reasons why such provisions support the REA;
- 4. If an extension of contract time is sought, a schedule analysis as required by **108.07**;
- 5. If additional compensation is sought, the amount and specifics of the compensation in accordance with the following:
 - a) Compensable Items: Must be compensable under **109.04**,
 - b) Compensable Delay related costs: Must be compensable under **109.06**; and
 - c) Non-Recoverable Costs: Per **109.07**, non-recoverable costs shall not be considered in a REA.
- 6. Any worksheets used to prepare the REA, which indicate the cost components of each item of the REA, including but not limited to the pertinent costs of labor, benefits and insurance, materials, equipment, and compensable subcontractor costs, as well as all documents which establish the relevant time periods, individuals involved, and the Project hours and the rates for the individuals.

The Contractor and its subcontractors and suppliers involved with the REA shall cooperate with any inquiries or requests by the Department for clarification and data supporting the submitted documentation.

C. REA Informal Meeting

Within thirty (30) calendar days of receiving the Contractor's REA submittal, the Department will contact the Contractor in writing to schedule a meeting to afford the Contractor an opportunity to discuss the disputed matters informally with the Department. If the Contractor elects to participate in a meeting, the Contractor shall use this opportunity to present relevant information and respond to any information provided by the Engineer or other Department officials with knowledge of the Work. Proceedings in any REA meeting are compromise negotiations and are not admissible in litigation in accordance with Tennessee Rule of Evidence 408.

D. Department Decision

When the Contractor properly files a REA and allows for reasonable and timely access to the Contractor's relevant books and records, the Department will review the REA and render a written decision to the Contractor to either affirm or deny the REA package, in whole or in part, within sixty (60) calendar days after receipt of the REA package or after the informal meeting. If more time is needed for review, the Department will notify the Contractor in writing of the additional time required.

The Department will assemble and maintain the REA record consisting of the REA and all other information considered by the Department in reaching a decision. Once the Department assembles the REA record, the submission and consideration of additional information or data, other than for clarification and support of previously submitted documentation, will not be permitted. The Department will provide a copy of the REA record and the written decision to the Contractor describing the information considered by the Department in reaching a decision and the basis for that decision.

If as a result of the REA documentation or REA Informal Meeting, the Department and the Contractor reach an agreement to resolve the REA, the Department will prepare a Change Order setting forth the terms of any additional compensation or time, or both, as agreed, and the Change Order will be processed for approval in accordance with the Department's standard procedures.

If the Department agrees that the Contractor is due additional compensation, time, or both, but the Department and the Contractor cannot agree on the amount, the Department may issue a Change Directive providing for additional compensation, time, or both, as the Department determines to be fair and reasonable. The Contractor may continue to pursue a claim as acknowledged in this Subsection.

If the Department denies the REA, the Contractor may either accept the Department's decision as final or submit to the Department a written notice of intent to file a claim with the Tennessee Claims Commission to the Department. The Contractor may file a claim with the Tennessee Claims Commission in accordance with TCA § 9-8-307.

Subsection 106.06.A.1, (pg. 61), 12-15-21; Field Laboratory, Type A; Revise No. 1:

1. Scales of appropriate capacity and design to weigh the required samples. Scales are to be sensitive to within 0.1% of the sample to be weighed. Provide standard weights for scale calibration. Scale calibration shall be completed annually, by an independent source.

Subsection 107.13, (pg. 75), 1-9-23; Legal Responsibilities of the Contractor; Add New 3rd Paragraph:

The Contractor certifies that it is not currently engaged in, and covenants that it will not, for the duration of the Contract, engage in a boycott of Israel, as that term is defined in Tenn. Code Ann. § 12-4-119. This certification does not apply to a Contract with a value of less than two hundred fifty thousand dollars (\$250,000) or if the Contractor has fewer than ten (10) employees.

Subsection 107.20, (pg. 78), 12-19-22; Certified Payrolls; Revise Subsection:

As specified by Minimum Wage Scales for Federal-Aid and State Funded Construction contract provisions, submit and certify payrolls for each week in which any contract work is performed. All payrolls shall be submitted electronically through the website using AASHTOWare Project Civil Rights & Labor (CRL) software.

Register for payroll access and develop a method of import prior to the Preconstruction Conference. Ensure each subcontractor, including all Disadvantaged Business Enterprises (DBE), certified Small Business Enterprises (SBE), and DBE or SBE haulers, has registered in CRL for payroll access and developed their method of import prior to commencing Work.

Assume all responsibility for ensuring all payrolls and all subcontractor payrolls are submitted and certified electronically in CRL for each week in which any contract work is performed. If all payrolls are not received in this timeframe, the progress payment shall be withheld until all necessary payrolls have been received.

Once Work begins for the Contractor or subcontractor, if in any week the Contractor or subcontractor does not perform Work, check the box “No Work Until Further Notice” in CRL.

Subsection 108.01, (pg. 79, 80), 12-15-21; **Subletting of Contract**; Revise Item list:

- Item 105-01 – Construction Stakes, Lines and Grades
- Item 202-01 – Removal of Asbestos
- Item 203-40 – Rock Anchors, Anchor Blocks, Tie Back Anchors
- Item 209 – Project EPSC
- Item 411-12 - Scoring
- Item 411-33 – Stamped Asphalt
- Item 501-03 – Concrete Shoulder Rumble Strip
- Item 503-01 – Grinding Concrete Pavement
- Item 602-03 – Steel Structures
- Item 602-04 – Steel Structures
- Item 602-10.81 – Heat Straightening
- Item 603-02 – Repainting Steel Structures
- Item 603-05 – Containment and Disposal of Waste
- Item 604-04.01 – Applied Texture Finish (New Structures),
- Item 604-04.02 – Applied Texture Finish (Existing Structures)
- Item 604-04.10 – Graffiti Protection
- Item 604-04.20&.21 – Painting or Staining Concrete Surfaces
- Item 604-04.62 – Clean and Texture Finish Median Barrier
- Item 604-05.31 – Bridge Deck Grooving (Mechanical)
- Item 604.07 – Retaining Wall
- Item 604-42.01 – Underwater Divers
- Item 606-26.05 – Core Drilling for Piles (Abandoned)
- Item 617 – Bridge Deck Sealant
- Item 619 – Polymer Modified Concrete Overlay
- Item 624 – Retaining Wall
- Item 625-01.08,10,11 – Inclinometer, Camera Drilled Shaft Inspections
- Item 705 – Guardrail
- Item 706 – Guardrail Adjusted, Removed and Reset
- Item 707 – Fences
- Item 712 – Temporary Traffic Control
- Item 713 – Highway Signing
- Item 714 – Roadway and Structure Lighting
- Item 716 – Pavement Markings
- Item 721 – Landscape and Irrigation
- Item 724 – Landscape Lighting
- Item 725 – ITS items
- Item 730 – Traffic Signals
- Item 740 – Geosynthetics
- Item 79* – Utilities
- Item 801 – Seeding
- Item 802 – Landscape Plantings
- Item 803 – Sodding
- Item 805 – Erosion Control
- Item 806 – Project Mowing

Subsection 108.01, (pg. 79, 80), 12-19-22; **Subletting of Contract**; Add to & Revise Item list:

- Item 108-03 – CPM Project Schedule

Item 203-11 – Scaling and Trimming
Item 203-40 – Anchors
Item 406 – High Friction Surface Treatment
Item 617 – Bridge Deck Sealant and Thin Epoxy Overlay

Subsection 108.03.A, B, & C, (pg. 81,82,85,87,88), 9-7-21; **Contract Change Notification; A & B**; Revise Heading,
C.1.c; Add new No.vi, **C.3**; Revise last paragraph, **C.4**; Revise last paragraph & add sentence:

A. Project Durations Less Than 9 Months

B. Project Durations 9 Months to 24 Months

C.1.c Narrative report in PDF file format fit to 8.5x11 inch paper and including:...

- vi. The quantity and estimated daily production rate for controlling activities;
- vii. Description of the calendars including identification of workdays per week, holidays, number of shifts per day, and number of hours per shift;
- viii. Description of how the schedule accommodates adverse weather days for each month; and
- ix. Description of execution plan, including number and type of crews, a list of subcontractors' crews, and expected equipment, but not limited to large equipment transport and delivery, transportation permits for oversized/overweight loads, and availability.

3. Baseline CPM Schedule.

The Engineer and Contractor will review the draft baseline CPM schedule at a meeting specific for the review of the schedule. The Engineer will accept the draft baseline CPM schedule, provide review comments, or request additional information. Make appropriate adjustments or provide additional information within 14 calendar days. The Engineer's acceptance is based solely on whether the baseline schedule meets the requirements of **108.03**. Review comments made by the Engineer on the initial schedule will not relieve the Contractor from compliance with the Contract. The Contractor is responsible for scheduling, sequencing, and prosecuting the Work to comply with the Contract requirements.

4. Schedule Updates.

Submit the updated schedule electronically to the Engineer in accordance with the requirements of this subsection. The Engineer reserves the right to reject any schedule updates because of changes in relationships between activities on the critical path, inadequate or inaccurate narrative updates, or other deficiencies in the schedule updates as required in this subsection.

The Department will measure and pay for CPM Project Schedule in accordance with **108.11** and **108.12** respectively.

Subsection 108.03.C, (pg. 84, 87-88), 6-1-23; **Prosecution of Construction, Project Durations Greater Than 24 Months or When Required By Contract**; Revise 1st Paragraph, **C.4**; Revise 1st and Relocate last Paragraph:

Develop a Critical Path Method (CPM) project execution schedule and subsequent updates as required or as specifically requested by the Engineer. Generate the CPM schedule using Primavera Project Management (P6) scheduling software. The Department will measure and pay for CPM Project Schedule in accordance with **108.11** and **108.12** respectively.

C.4. Schedule Updates. Update the CPM schedule on a quarterly (3 months) basis to show current progress. Include the following with each update:

~~The Department will measure and pay for CPM Project Schedule in accordance with **108.11** and **108.12** respectively.~~

Subsection 108.03.C, (pg. 87-88), **12-26-24**; **Prosecution of Construction, Project Durations Greater than 24 Months or When Required by Contract**; Add as last Paragraph, **C4**. Revise 1st Paragraph:

Review and acceptance by the Engineer will not constitute a waiver of any Contract requirements and will in no way assign responsibilities of the work plan, scheduling assumptions, and validity of the work plan or schedule to the Department. Failure to include in the Progress Schedule any element of work required for timely completion of the Contract shall not excuse the Contractor from his contractual obligations.

C.4. Schedule Updates – Update the CPM schedule on a quarterly (3 month) basis to show current progress. If actual construction falls behind the plan of operations or schedule by more than 3 months, update the schedule on a monthly basis at no additional cost to the Department. Continue to submit monthly updates until project completion or the schedule is no longer behind by 3 months or more. Include the following with each update:...

Subsection 108.03.D, (pg. 88-89), 6-1-23; **Schedule Revisions**; Revise 1st Paragraph and Revise No. 2:

The Engineer will determine the progress of the Contract by either the time versus money straight line method or the schedule updates submitted by the Contractor. If actual construction falls behind the plan of operations or schedule by more than 15% or 60 calendar days, whichever is less, submit for approval a revised schedule that reflects timely completion. The Engineer may request a revision of the schedule at any time if a critical circumstance regarding the scheduling, sequencing, or prosecution has changed with planning or progress of the Work. Circumstances that may lead to such a request include the following:

2. A difference of 60 calendar days between the actual sequence or duration of work and that depicted in the schedule; or

Subsection 108.09, (pg. 95), 12-19-22; **Failure to Complete Work on Time**; Revise Table 108.09-1:

Table 108.09-1: Liquidated Damages for Failure to Complete the Work on Time

Original Contract Amount (\$)			Daily Charge (\$/day)
0	to	500,000	500.00
> 500,000	to	1,000,000	600.00
> 1,000,000	to	2,000,000	800.00
> 2,000,000	to	10,000,000	1,000.00
>10,000,000	to	20,000,000	1,600.00
>20,000,000			2,500.00

Subsection 108.09, (pg. 7), **1-8-25**; **Failure to Complete the Work on Time**; Revise Table 108.09-1:

Table 108.09-1: Liquidated Damages for Failure to Complete the Work on Time

Original Contract Amount (\$)			Daily Charge (\$/day)
0	to	500,000	500.00
> 500,000	to	1,000,000	600.00
> 1,000,000	to	2,000,000	800.00
> 2,000,000	to	10,000,000	1,000.00
>10,000,000	to	20,000,000	1,600.00
>20,000,000			2,250.00

Subsection 108.11, (pg. 99), 9-7-21; **Method of Measurement**; Add subsection 108.11:

108.11 Method of Measurement

The Department will measure construction CPM Project Schedule as a percentage of the lump sum price bid for the completion of the work specified in **108.03.C** and partial payment will be made according to the schedule in Table 108.11-1.

Table 108.11-1: Payment Schedule for CPM Project Schedule

Estimate Number or Percent of Total Contract Amount of Previous Estimate	Total Percent of CPM Project Schedule Lump Sum Bid Item
Estimate # 1	20%
Estimate # 3	40%
20%	50%
40%	60%
60%	70%
80%	80%
95%	100%

Subsection 108.11, (pg. 99), 6-1-23; **Method of Measurement**; Revise Table 108.11-1:

Table 108.11-1: Payment Schedule for CPM Project Schedule

Requirement or Percent of Total Contract Amount of Previous Estimate	Total Percent of CPM Project Schedule Lump Sum Bid Item
Initial Project Schedule	10%
Baseline CPM Schedule	40%
20%	50%
40%	60%
60%	70%
80%	80%
95%	100%

Subsection 108.12, (pg. 99), 9-7-21; **Basis of Payment**; Add subsection 108.12:

108.12 Basis of Payment

The Department will make partial payments for CPM Project Schedule on the basis of a percentage of the lump sum price bid in accordance with the schedule shown in Table 108.11-1.

If the Contractor fails to provide monthly schedule updates or address the Engineer's comments regarding the monthly schedule update, within 10 calendar days following the progress estimate pay period cutoff date, the Engineer will withhold payment for CPM Project Schedule and may withhold up to an additional 5% of the monthly estimate payment, until such time as an acceptable update has been provided.

No additional payments will be made for schedule revisions as requested per **108.03.D**.

Such payment is full compensation for meeting all requirements of **108.03.C** and **D**.

Subsection 108.12, (pg. 99), 6-1-23; **Basis of Payment**; Add new 2nd Paragraph and Revise existing 2nd and 3rd Paragraphs:

If the Contractor fails to provide an Initial Project Schedule or a Baseline CPM schedule, or address the Engineer's comments regarding the Initial Project Schedule or Baseline CPM schedule, within 10 calendar days following the progress estimate pay period cutoff date, the Engineer will withhold payment for CPM Project Schedule and may withhold up to an additional 10% of that month's estimate payment, until such time as an acceptable Initial Project Schedule or Baseline CPM schedule has been provided and accepted.

If the Contractor fails to provide quarterly CPM schedule updates, or address the Engineer's comments regarding the quarterly schedule update, within 10 calendar days following the progress estimate pay period cutoff date, the Engineer will withhold payment for CPM Project Schedule and may withhold up to an additional 5% of that month's estimate payment, until such time as an acceptable update has been provided and accepted.

No additional payments will be made for Engineer requested schedule revisions as requested per **108.03.D**.

Subsection 109.02, (pg. 105-106), **5-30-24**; **Scope of Payment**; Revise & Relocate Paragraph 5 to Paragraph 4 and Revise Paragraphs 6 & 7:

Ensure each subcontractor, including all certified Disadvantaged Business Enterprises (DBE), certified Small Business Enterprises (SBE), and DBE or SBE haulers or material suppliers has registered for AASHTOWare Project Civil Rights & Labor (CRL) prior to commencing Work.

The Department requires...

Document within CRL the actual amount paid to all subcontractors, material suppliers, and haulers during the monthly estimate period for which the certification is being made. All subcontractors, DBE or SBE material suppliers, and DBE or SBE haulers shall acknowledge payment entry in AASHTOWare Project Civil Rights & Labor (CRL) within fourteen (14) calendar days from the date of posting. The Department will withhold estimate payments if the required information is not submitted or if subcontractors, at any tier, material suppliers, or haulers are not paid after the thirty (30) calendar daytime period. Any delay or postponement of payment beyond the thirty (30) calendar day timeframe will be subject to terms listed in TCA §12-4-707(b).

The Contractor, subcontractors, at any tier, material suppliers, or haulers shall not withhold any retainage from progress payments made to their subcontractors. The Contractor, subcontractors at any tier, material suppliers, or haulers shall not withhold progress payments due to subcontractors at any tier, material suppliers, or haulers for work or services performed under the Contract to offset any amounts that may be owed with respect to any agreement other than the Contract.

Subsection 109.06, (pg. 116), 8-21-23; Compensable Delay Costs; Revise 2nd Paragraph:

Compensable delay costs will not be paid unless the compensable delay causes completion of the Work to exceed the original or previously adjusted Contract completion date. Compensable delay costs will not be considered for previously negotiated Change Orders or for costs that have already been included in bid items, negotiated prices, or force account payments described in **109.04**; no additional consideration will be given for home office overhead and/or field office overhead. The Department will not pay for delay costs incurred by subcontractors.

Subsection 109.06.D, (pg. 117), 8-21-23; Extended Field Overhead; Revise 3rd Paragraph:

Compute these costs on a calendar day basis using actual costs incurred due to the delay to provide project specific general supervision, field office facilities and supplies, maintenance of field operations, traffic control maintenance, and extended erosion control inspection. If the Contractor and the Department cannot agree on additional field overhead costs, the Department may consider, at its sole discretion, calculating a daily extended field overhead rate as a percentage (in accordance with Table 109.06-1) of the original Contract amount divided by the Contract duration.

Subsection 109.07, (pg. 118,119), 8-21-23; **Non-Recoverable Costs**; Revise No. 5 & 6 and Add No. 7 & 8:

5. Attorney fees, claim preparation expenses, and cost of litigation;
6. Consequential and/or incidental damages, including but not limited to, interest of monies in dispute, loss of bonding capacity, any indirect costs or expenses, interest on investment or any resultant insolvency;
7. Loss of bidding opportunities; and
8. Reduction of bidding capacity.