SECTION 107 – LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

107.01 Laws to be Observed. The Contractor must observe and comply with all applicable laws, ordinances, regulations, orders, and decrees.

Construction Site Bulletin boards. Post information regarding Federal and State posters, emergency phone numbers, Davis Bacon Wages, Clean Water Act compliance, and Civil Rights/EEO laws and regulations required by the contract at the project site. The postings must be in a conspicuous place and be viewable even during non-working hours. Posters should be placed in a weatherproof case. Replace missing, vandalized, or damaged posters immediately.

A list of bulletin board requirements, including links where current required posters can be viewed and downloaded, can also be obtained on the ITD external website under Business->Click for More Topics->Construction Resources" OR "Inside ITD->Click for More Topics->Construction/Materials.") http://apps.itd.idaho.gov/apps/manuals/ca/Project_Poster_Checklist_Links.pdf

Construction Safety. Occupational Safety and Health Act (OSHA) and Mine Safety and Health Act (MSHA) are federal laws regulating safety practices in most industries and work activities throughout the United States. Because OSHA and MSHA are federal laws, they are made part of ITD Standard Specifications for Highway Construction (SSHC) 107.01.

Contractors must comply with OSHA/MSHA regulations applicable to their contracts and advise subcontractors of all necessary safety requirements. Each residency should have copies of the informational guides on OSHA and MSHA for ready reference.

After contract award and before the preconstruction conference, the Engineer and project inspectors are encouraged to study the plans, specifications, and other contract documents to identify specific safety aspects that should be discussed at the preconstruction conference.

Safety posters that should be placed on the bulletin board at the project site are:

- Job Safety and Health Protection (see the Department's website).
- Emergency Phone Numbers (see the Department's website).

Any questions project personnel have concerning OSHA/MSHA compliance should first be directed to the District EEO/Safety/Training Coordinator, whose duty it is to assist project personnel in this area and provide on-the-job training.

Additional assistance may be requested from the Department.

Preconstruction Conference and Preoperational Meetings. Before starting work at the project site, encourage the Contractor to confer with district traffic and maintenance to handle safety issues. The

safety aspect can be a part of the general preconstruction conference. However, plan sufficient time to cover specific aspects of safety integration, including proposals for handling specific hazards.

A preoperational meeting may allow a more thorough discussion of safety, since this meeting can focus more on the "nuts and bolts" aspects of a particular operation. The suggested topics in the Safety Requirements Checklist are common safety concerns that should be discussed during preconstruction and preoperational meetings. These topics are intended only as reminders, with reference to important safety regulations, but are by no means complete. For more detail, please refer to the appropriate Federal Register references provided in the Safety Requirements Checklist

SAFETY REQUIREMENTS CHECKLIST

Safety Requirements – EARTHWORK AND GRADING OPERATIONS	**Code of Federal Regulations**
SAFETY PLAN – OSHA Posters, Emergency Numbers	29 CFR 1926.20-24
PERSONAL PROTECTION - Hard Hats, Hearing, Eyes and Face	29 CFR 1926.100-.107
FUEL STORAGE TANKS - Diked, Placarded, Fire Extinguishers, No Smoking Signs	29 CFR 1926.150-.155
TRAFFIC CONTROL PLAN – Certified Flagpersons and All Traffic Control Devices per MUTCD and NCHRP-350	29 CFR 1926.200-.203
HOUSEKEEPING – Storage and Disposal of Scrap and Debris	29 CFR 1926.25
OXYGEN AND ACETYLENE TANKS - Upright and Properly Secured and Stored	29 CFR 1926.350
CRANE – Inspection Records, Proximity to Power Lines, Capacity Chart, Boom Angle	29 CFR 1926.550
EQUIPMENT UNATTENDED - Parked Overnight Away From Travelway, Attached Equipment Lowered	29 CFR 1926.600
EQUIPMENT SAFETY DEVICES – Seat belts, Rollover Protection, Back-Up Alarms, Bed Stops on All Dump Trucks	29 CFR 1926.601-.602
EXCAVATION – Repose Angle, Shoring Banks Over 5' High	29 CFR 1926.650-.653
TRUCKS- Haul Legal Weight and Avoid Spillage	Idaho Code 49-1001 and-49-613, respectively
Safety Requirements – CRUSHER AND AGGREGATE TREATMENT PLANTS	**Code of Federal Regulations**
SAFETY PLAN – OSHA Posters, Emergency Numbers, MSHA Placards	29 CFR 1926.20-24
PERSONAL PROTECTION - Hard Hats, Hearing, Eyes and Face	29 CFR 1926.100-.107
FUEL STORAGE TANKS - Diked, Placarded, Fire Extinguishers, No Smoking Signs	29 CFR 1926.150-.155
TRAFFIC CONTROL PLAN – Certified Flaggers and All Traffic Control Devices per MUTCD and NCHRP-350	29 CFR 1926.200-.203
PLANT – Start-Up Alarm Signal	29 CFR 1926.555
HOUSEKEEPING – Storage and Disposal of Scrap and Debris	29 CFR 1926.25

OXYGEN AND ACETYLENE TANKS - Upright and Properly Secured and Stored	29 CFR 1926.350
LADDERS - Adequate and Properly Secured	29 CFR 1926.450-.452
CONVEYORS - Belt and Drive Guards in Place	29 CFR 1926.555
EXCAVATION – Safe Repose Angle in Pit	29 CFR 1926.651
TRUCKS- Haul Legal Weight and Avoid Spillage	Idaho Code
ELECTRICAL SERVICE - Ground Fault Circuit Interrupter (GFCI)	29 CFR 1926.404
POWER CORDS AND CONNECTIONS - Proper and Well Located	29 CFR 1926.400-.432
TRUCKS AND LOADERS – Back-Up Alarms, Bed Stops and Other Equipment Safety Devices	29 CFR 1926.600-.606
Review Drilling and Blasting Safety if Quarry Operations are Involved	
Safety Requirements – DRILLING AND BLASTING	**Code of Federal Regulations**
SAFETY PLAN – OSHA Posters, Emergency Numbers, MSHA Placards	29 CFR 1926.20-24
PERSONAL PROTECTION - Hard Hats, Hearing, Eyes and Face	29 CFR 1926.100-.107
FUEL STORAGE TANKS - Diked, Placarded, Fire Extinguishers, No Smoking Signs	29 CFR 1926.150-.155
AIR LINE CONNECTIONS - Securely Fastened and Equipped With Safety Chains	29 CFR 1926.302
WARNING SIGNS - Posted Properly Marking Work Area	29 CFR 1926.900
EXPLOSIVE STORAGE – Magazine Requirements	29 CFR 1926.904
CHARGE INITIATION – Safety Fuse, Detonating Cord, Misfires	29 CFR 1926.905-.911
BLASTING SIGNALS – Signal Sequence, Signs, Flaggers	29 CFR 1926.909
BLASTER QUALIFICATION – Training, Experience, Knowledge	29 CFR 1926.901
EXCAVATION - Angle of Repose	29 CFR 1926.651
TRANSPORTING EXPLOSIVES – Vehicle Placards	29 CFR 1926.902

SECURITY - Authorized Personnel, Inventories, Blast Mats, Warning Signals	29 CFR 1926.900
MSHA TRAINING - Quarry and Pit Operations—Requires Contractor to Conduct and Document Hazards Recognition Training	
Safety Requirements – CHIP SEAL COATING AND PAVING	**Code of Federal Regulations**
SAFETY PLAN – OSHA Posters, Emergency Numbers	29 CFR 1926.20-24
HOUSEKEEPING – Storage and Disposal of Scrap and Debris	29 CFR 1926.25
PERSONAL PROTECTION - Hard Hats, Hearing, Eyes, Face, Respirators	29 CFR 1926.100-.107
FUEL STORAGE TANKS - Fire Extinguishers, 20 ABC on Distributors, No Smoking Signs	29 CFR 1926.150-.155
TRAFFIC CONTROL PLAN – Certified Flagpersons and All Traffic Control Devices per MUTCD and NCHRP-350	29 CFR 1926.200-.203
TRUCKS AND LOADERS – Back-Up Alarms, Truck Bed Stops	29 CFR 1926.600-.601
Safety Requirements – STRUCTURES (BRIDGES, OVERPASSES, ETC.)	**Code of Federal Regulations**
SAFETY PLAN – OSHA Posters, Emergency Numbers	29 CFR 1926.20-24
HOUSEKEEPING – Storage and Disposal of Scrap and Debris	29 CFR 1926.25
PERSONAL PROTECTION - Hard Hats, Hearing, Eyes and Face Protection, Safety Nets, Lifelines	29 CFR 1926.100-.107
FUEL STORAGE TANKS – Diked, Placarded, Fire Extinguishers, No Smoking Signs	29 CFR 1926.150-.155
TRAFFIC CONTROL PLAN – Certified Flagpersons and All Traffic Control Devices per MUTCD and NCHRP-350	29 CFR 1926.200-.203
MATERIALS HANDLING AND STORAGE – Stable Platforms, Stacking Heights	29 CFR 1926.250
POWER TOOL CONDITION – Guards, Grounding	29 CFR 1926.300-.305
OXYGEN AND ACETYLENE TANKS – Upright, Properly Secured and Stored	29 CFR 1926.350
GFCI – On Electrical Service to Tools	20 CFR 1926.404
POWER CORDS AND CONNECTIONS – Proper and Well Located	29 CFR 1926.404

LADDERS AND SCAFFOLDS – Length, Side Rail Support, Toe Boards, Safe Access	29 CFR 1926.450-452
RAILING ON STAIRWAY OVER 4 RISERS – Smooth Top Rail, Toe Boards	29 CFR 1926.500
CRANE – Capacity Chart, Inspection Record Available, Proximity to Power Lines, Boom Angle Indicator	29 CFR 1926.550
EQUIPMENT – Unattended, Reverse Alarms, Parking Overnight	29 CFR 1926.600-606
EXCAVATION – Walkways Left Clear, Repose Angle, Shoring Requirements, Banks Over 5' (1.5 m) High	29 CFR 1926.650-653
FORMS, SHORING, SAFETY BELTS – Working Over Protruding Steel, Stripped Forms and Shoring Removed from Work Area	29 CFR 1926.700-703

Monitoring Construction Operations for Safety

Staffing and Preparation

The Engineer, with the aid of other project personnel, should continually monitor phases of work to note and take action on observed and reported safety provision violations. To the extent practicable, copies of current safety standards and regulations should be readily available at the project site.

On-Site Monitoring

The degree of hazard on a project site depends upon the nature of the work environment and the way in which the work is performed. To minimize the likelihood of accidents, practice constant vigilance. Project personnel, in connection with their everyday duties, must give constant attention to safety.

Safety Inspections. Contractor employee safety and project site safety are the direct responsibility of the Contractor and its subcontractors. Safety violations involving the Contractor's and subcontractor's workers, suppliers, and delivery personnel, when on Department projects or associated production facilities, must be handled in accordance with sections 107.01 and 107.16 of the ITD Standard Specifications and Form FHWA-1273, part VIII for federal-aid construction contracts.

FHWA or Department representatives may make safety inspections of the Contractor's operation from time to time. In addition, compliance officers of the federal and state safety enforcement agencies may make inspections. FHWA and Department personnel will cooperate fully with other agency officials in conducting construction project inspections.

General Safety and Health Provisions. The Contractor must initiate and maintain an accident prevention program. The program must provide for frequent and regular inspections of the project sites, materials, and equipment that are made by competent persons designated by the Contractor.

The use of any machinery, tools, materials, or equipment that cannot meet the safety standards applicable to these items is prohibited. Unsafe items must be identified as unsafe by tagging, locking the controls, or removing them from the place of operations.

Only those employees that are qualified, experienced, or trained under proper supervision are permitted to operate equipment and machinery.

Violations. Safety regulation violations may be minor or major in nature. Exercise judgment in interpreting the safety standards and determining the degree of hazard. Most deficiencies are minor and notifying the Contractor orally may be all that is necessary to remedy the violation. Oral or written notices to the Contractor should specify the safety regulation that is being violated. **Project personnel should not instruct a Contractor on how to correct a deficiency.**

Minor violations can be orally reported to the person in charge, the Engineer, the project inspector, or all three. Violations that are adequately and quickly resolved, and do not involve injuries or near misses, do not require written reports. Write a report for frequent violations or inadequate corrective action.

Report unsafe conditions or acts that jeopardize employee or public safety to the construction supervisor and/or project inspector on the ITD-2713 Safety Inspection Report. Give copies to the Contractor and distribute to others as appropriate. Photographs, including photos of the violation, should be taken whenever practical. A copy of any written notice of violation should be sent to the District EEO/Safety/Training Coordinator.

In the event that a condition of imminent danger exists, the Department representative will:

- Issue an immediate oral directive to cease work and correct the deficiency.
- If the deficiency is not fully and promptly corrected, the Engineer will issue a written order stopping all or part of the work as necessary until the hazard is eliminated (per SSHC 108.05). If all or part of the work is suspended, an ITD-2242 Status of Work form must be completed stating the reason for suspension in the appropriate space.

If the deficiency is not corrected immediately or repeated violations occur, take a photograph of the violation, provide written notice to the Contractor, and report the violation to your immediate supervisor, the District EEO/Safety/Training Coordinator, and the appropriate regulatory agency. The OSHA has purview over most industrial work and the MSHA has purview on mining (e.g., borrow source) operations.

Safety violations that require a written notice and involve construction contractor workers, suppliers, and delivery personnel when on Department projects or associated production facilities will be kept on file with other project records. The District EEO/Safety/Training Coordinator will also maintain a file of all safety violations and their corrective action(s), along with all associated documentation that can be inspected as part of any project or safety review.

The Engineer is responsible for ensuring that corrective action on reported violations occurs in a timely and appropriate manner.

Variations from Safety and Health Standards. In case of substantial engineering or other practical difficulties, the Contractor or subcontractor may request a variance from any of the published safety and health standards. Such requests must be fully justified in writing and submitted to the U.S. Department of Labor. The procedure for OSHA is set forth in Title 29, Code of Federal Regulations, Part 1926. The procedure for MSHA is set forth in Title 30, Code of Federal Regulations, Part 44. If the variance will provide safety measures that are as safe as those provided in the published standard, approval may be granted.

Accidents Involving Department Employees. Additional information on Department employee safety issues and accidents is contained in the Employee Safety/Risk Management Manual. Coordinate all accident reporting with the District EEO/Safety/Training Coordinator.

107.02 - Permits and Licenses.

Tax Assessments by Counties – Equipment. Although each Contractor who performs work for the State must pay taxes, license fees, and assessments promptly when due, questions often arise concerning

assessments on equipment. Tax assessments are not the only tax responsibility, but one area of considerable interest to the Contractor. The following is for information only:

The Department and its personnel are not required to initiate any action on equipment assessments. The Contractor should be referred to each county assessor where work is being performed. Idaho Code, 63-1405 provides the basis for the county assessor's actions. The Contracting Services Section notifies the counties that a Contractor will be working in their jurisdiction at the time the contract is awarded.

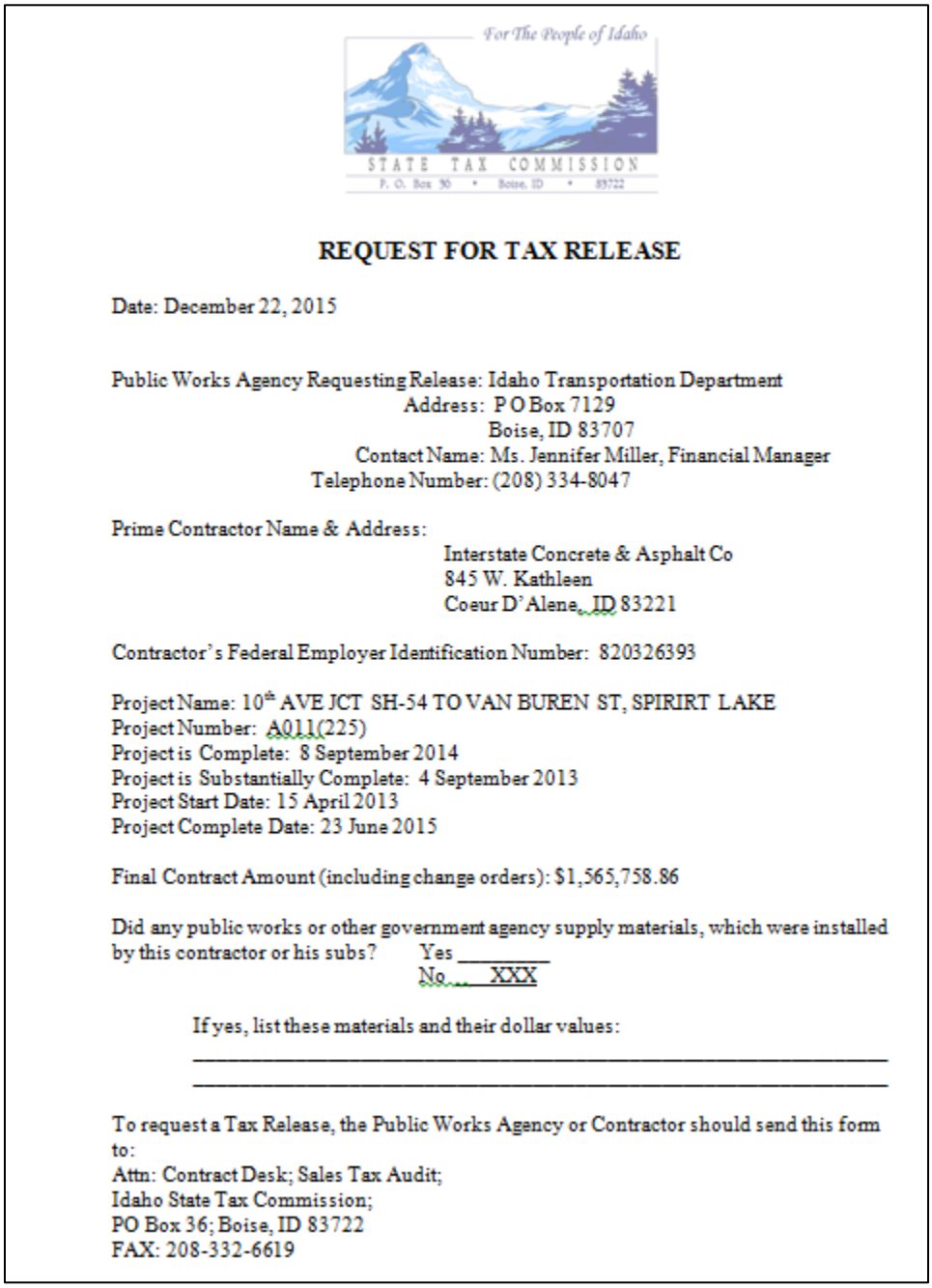
The Contractor is obligated to pay taxes on the assessed evaluation of the equipment domiciled in each county of the State, whether it is working or not. The Contractor is required to contact the county assessor of each county where the equipment is domiciled and address the tax liability. The Department will verify tax notification by receipt of a completed WH-5 (Public Works Contract Report) at the preconstruction conference.

Each assessor uses forms that the Contractor is asked to complete. The forms call for a listing of the Contractor's equipment by serial number, its cost and age, and time in county or counties of Idaho. Standard tables are used by the county assessor to arrive at equitable assessment values and costs.

The Department's position is to advise the Contractor of the tax obligation and to indicate the liability for taxes, license fees, and assessments. The Department is obligated to withhold taxes due from Contractor's payment while working on projects.

Upon issuance of the District Engineer's acceptance letter, the District notifies county and state taxing units and advises the taxing unit that they have 15 days to inform Financial Services of any tax obligations that are due. Final payment cannot be made until authorized by the taxing units if there are any tax obligations. No further action is required by the District.

See examples in Figures 107.02.1 and 107.02.2. **Note that the County Assessor notification distribution (Figure 107.02.2) has changed per the most recent reorganization. Copies should no longer be distributed to the DMC Construction/Materials Section, and the copies sent to the Financial Services Section should be sent to: (1) FS/General Ledge and (2) FS/Projects Accounting.**



For The People of Idaho

STATE TAX COMMISSION

P. O. Box 36 • Boise, ID • 83722

REQUEST FOR TAX RELEASE

Date: December 22, 2015

Public Works Agency Requesting Release: Idaho Transportation Department
Address: P O Box 7129
Boise, ID 83707
Contact Name: Ms. Jennifer Miller, Financial Manager
Telephone Number: (208) 334-8047

Prime Contractor Name & Address:
Interstate Concrete & Asphalt Co
845 W. Kathleen
Coeur D'Alene, ID 83221

Contractor's Federal Employer Identification Number: 820326393

Project Name: 10th AVE JCT SH-54 TO VAN BUREN ST, SPIRIRT LAKE
Project Number: A011(225)
Project is Complete: 8 September 2014
Project is Substantially Complete: 4 September 2013
Project Start Date: 15 April 2013
Project Complete Date: 23 June 2015

Final Contract Amount (including change orders): $1,565,758.86

Did any public works or other government agency supply materials, which were installed by this contractor or his subs? Yes _____
No XXX

If yes, list these materials and their dollar values:
_____
_____

To request a Tax Release, the Public Works Agency or Contractor should send this form to:
Attn: Contract Desk; Sales Tax Audit;
Idaho State Tax Commission;
PO Box 36; Boise, ID 83722
FAX: 208-332-6619

Figure 107.02.1 Request For Tax Release

March 13, 2014

Idaho County Assessor
320 W Main
Grangeville, ID 83530

RE: Project Number: A008(810)
Name: SH-162, Four Corners to MP 13.1
Contract No.: 7613
Lead Key No.: 08810

This is to notify you that work on Contract No. 7613; Knife River, 5450 W. Gowen Road Boise, Idaho 83709 was accepted by this department on March 17, 2013.

Work commenced on this project on June 04, 2012 and was completed on November 9, 2012.

If there are any tax obligations due, State or County, please notify this department within fifteen (15) days from the date of this letter. All notifications should be addressed to:

Ms. Jennifer Miller
Financial Manager
Idaho Transportation Department
P.O. Box 7129
Boise, Idaho 83707

Sincerely,

ORIGINAL SIGNED BY:

DAVID B. KUISTI, P.E.
District Engineer

WF:cty/Z:\ADMIN\OM\WRDFILES\ADM\8810_107.02 Tax Letter.docx

bcc: State Tax Commission – contract desk w/enc.
FS/ Denae Walters w/enc.
FS/ Chelsea Avery w/enc.
DMC w/enc.
DRI2

Figure 107.02.2 Project Acceptance Notification

107.06 Traffic Control Devices. The Engineer, on projects where public traffic is involved, will designate one qualified individual, who will normally be on the project every day, as the Traffic Control Representative (TCR) to be responsible for traffic control and traffic control devices. The Contractor's certified project site traffic control supervisor is expected to work with the TCR to ensure traffic control devices are reviewed on a daily basis. This review will ensure that they meet the requirements of the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by the State, and that changes in operations are reflected by appropriate changes in signing and other traffic control devices.

The TCR should be trained and have the adopted MUTCD available for reference.

107.09 Forest Protection. Department personnel must be aware of and meet commitments to the Forest Service on any projects that fall within National Forest boundaries.

The Chief Engineer of the Department signed a Memorandum of Understanding with the Forest Service in December of 1982 and amended it in May 1985. Part of this memorandum concerned construction activities within National Forest land as follows:

Construction. The State will:

- Invite the Forest Supervisor, or a representative, to attend the preconstruction conference with the successful bidder.
- Control construction under State contracts to assure work is in accordance with approved plans and agreements.
- Have the District Engineer contact the Forest Supervisor for agreement before starting any work under changed conditions that develop, before or during construction, which alter the land-use aspect of approved plans.
- Request the Forest Supervisor, or a representative, to participate in final project inspections.

The Forest Service will:

- Consult only with the District Engineer, or an on-the-job Department representative, on matters pertaining to project construction.
- Issue permits directly to the Contractor for burning, campsite locations, and water sources after agreement with the designated State representative. Copies of all permits issued will be furnished to the State.
- Participate in final project inspections and make recommendations to the State on matters related to Forest Service responsibilities for land and resource management.

107.10 Responsibility for Injury Damage

Public Liability and Property Damage

No work will proceed until the contract is signed, the required Public Liability and Property Damage insurance is in force, and the Department approves the certificate or other proof of insurance. (See Figure 107.10.1 for insurance procedures.)

Supplemental insurance (e.g., railroad insurance, XCU insurance) must be in force, with acceptable proof on file, before starting related work and remain in effect through the duration of the applicable portions of the project. The Engineer must verify that the Contractor has submitted a copy of the insurance certificate before allowing the project to start.

Thirty (30) days before policy expiration, the District should notify the Contractor to obtain an extension. If the Contractor does not submit an extension, the work must be suspended upon insurance expiration.

In the event a motorist or property owner claims damage alleged to be caused by the Contractor or the Contractor's action, Department personnel should, on request, advise the damaged party how to file a claim against the Contractor's insurance. The claimant should be given the name and address of the Contractor and the insurer. The claimant may also be advised that the alleged damage suffered should be fully described, as well as all pertinent facts known to the claimant that had a bearing on the damage (e.g., location, time, roadway conditions, equipment involved, personnel names, traffic control). Generally, the more complete the information provided by the claimant, the better chance the claimant has for recovery if the Contractor is, in fact, liable. (See Documenting Motor Vehicle Accident Information below for motor vehicle accidents. See SSHC 107.10 concerning claims against the State.)

Railroad Protective Liability Insurance. The Contractor is required to have a railroad protective liability policy when performing work on highway projects involving a railroad. Each railroad requirement is different and is spelled out in the contract special provisions. (See Figure 107.10.1)

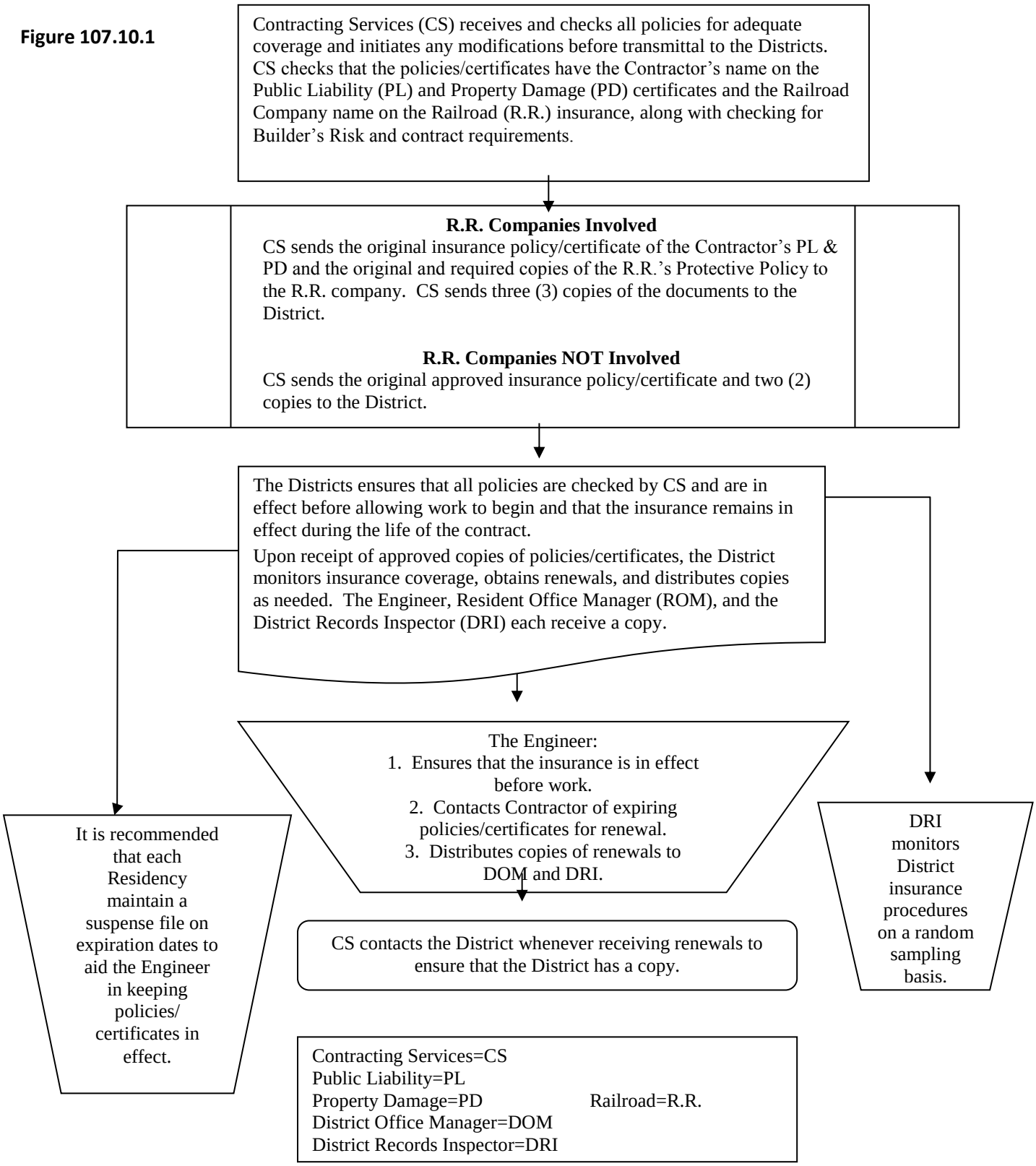
The Contractor must furnish and keep current, for the duration of that project portion on or about railroad property, a railroad policy or policies that covers damages arising out of injury to or destruction of railroad property. The railroad company must approve these policies before the Contractor starts work on that project portion. Modifications may be made while the work is progressing.

A reliable insurer authorized to do business in the state of Idaho will issue each policy.

- Before work begins on or about railroad property, the Contractor will obtain and furnish an acceptable railroad protective liability policy to the Contracting Services (CS) Section. CS will forward the information to the railroad.
- CS will send three certified and railroad-approved copies to the District to be placed in the project file as part of the contract documents.
- A policy extension is handled the same as a new policy.

Handling Insurance Requirements on Projects. The following figure is intended to provide guidelines for processing and monitoring contract-required insurance policies.

Figure 107.10.1



Obtaining Motor Vehicle Accident Information. Before beginning any work on a roadway project, the Engineer should write a letter to the Idaho State Police and local law enforcement agencies requesting timely information on any vehicular accidents that have occurred or may occur in the project area. This information is necessary for the following reasons:

1) Accident information may reveal a problem associated with safety of the roadway or current traffic control that would otherwise go undetected.

2) To assist the FHWA Idaho Division in complying with FHWA Order 5181.1 by providing immediate information on any vehicular accident on construction projects that result in incapacitating injuries or fatalities. The Engineer should provide this accident information to the FHWA as soon as possible following any accident that results in death or injuries severe enough that the victims need assistance to leave the accident scene (Class A injuries). The required accident information for the telephone contact are the number of deaths, number of injuries (Class A), number of vehicles involved, date, time of day, and location.

Police-investigated accidents and minor accidents that are not police investigated should be recorded whenever available as Motor Vehicle Accident Information.

Documenting Motor Vehicle Accident Information. Occasionally, state employees witness or come upon motor vehicle accidents that occur on the state highway system or vehicle accidents sometimes occur within construction or maintenance project limits involving persons other than employees of the state or its contracting agencies.

Motor Vehicle Accident Documentation

Whenever Department employees witness or come upon a motor vehicle accident, a record will be made in their diary of the date, time, highway route, and milepost. The weather condition, general condition of the travel way, and a short narrative description of how the accident happened should be included. Any assistance rendered by the employee to the accident victim (e.g., first aid, calling of police and/or ambulance) should be recorded. Brief sketches may be desirable to help explain the accident and can be made and attached to the diary entry page. A copy of the information will be sent to the District EEO/Safety/Training Coordinator.

Additionally,

- When an accident occurs within construction or maintenance project limits and property damage is minor with no injuries, the accident should be reported on an ITD-1746 Tort Claim Data Form.
- If the accident is of a **serious** nature (considerable property damage, injury, or fatality), then the report shall be made on an ITD-0645 Traffic Accident Field Report form. Sketches, diagrams, and photographs should show the general layout of the accident scene, location, distance of traffic control devices, and any other data relevant to the accident.

- Accidents that occur on a project, but are **not witnessed,** also require that known facts and data be recorded as a diary entry.

The supervisor in charge of the project or highway should review the reports to ensure that the accident is properly documented and made a permanent part of the project records or diary. The appropriate Contractor's personnel will be notified. When an accident occurs on a state-funded project, notify the District Engineer and District EEO/Safety/Training Coordinator.

The District EEO/Safety/Training Coordinator will send copies of the reports, photos, and diagrams of accidents to the Department's Employee Safety/Risk Manager for information and coordination with the appropriate headquarters section.

107.17 - Environmental and Cultural Resource Protection.

Air pollution control, stream and wetland protection, and stormwater runoff management must be performed in accordance with SSHC 107.17.

Guidance on SSHC 107.17 and 107.18 is located in the Environmental Section Stormwater website.

Project Files. The Engineer must maintain a project file labeled Environmental Monitoring. This file should include copies of the following:

- Approved Stormwater Pollution Prevention Plan (SWPPP) with amendments or Erosion and Sediment Control Plan (ESCP) with amendments, including operator and ground-disturbing subcontractor signatures
- ITD-2802 Environmental Monitoring Reports
- 3rd-Party Inspection Reports when applicable
- Correspondence with Resource Agencies on project issues
- Permit modifications
- Other relevant environmental information that is not already published in the contract provisions.

EPA Construction General Permit (CGP). Obtain a CGP for compliance with the federal Clean Water Act (CWA) on projects that meet the minimum National Pollutant Discharge Elimination System (NPDES) criteria. Since all projects are required to comply with the CWA, the Department also requires an Erosion and Sediment Control Plan (ESCP) on projects that are not covered under the NPDES. The NPDES general construction permit applies when a project meets the following two criteria:

- The area of ground disturbance exceeds one acre.
- There is a point discharge to waters of the United States.

A copy of the CGP may be downloaded from http://water.epa.gov/polwaste/npdes/stormwater/EPA-Construction-General-Permit.cfm. The State of Idaho's permit number is IDR100000. When working on Tribal lands in Idaho, the permit number is IDR100001. This permit describes provisions for complying with the NPDES stormwater regulations.

The NPDES requires preparation of a SWPP. The Department initially develops a Draft SWPPP during project development, which is included in the project proposal for bidding purposes. SWPPPs are site-specific plans showing such items as drainage patterns and areas, ground-disturbance areas, and erosion and sediment control measures. Once the contract is awarded, the SWPPP is finalized by the Contractor to reflect the Contractor's planned means, methods, operations, and schedule. **The Department, the Contractor, and all ground-disturbing subcontractors must agree to and sign the SWPPP. The Local Sponsor must also sign the SWPPP on local federal-aid projects.**

The SWPPP must cover all of the areas described in the CGP, including project-specific staging areas, haul roads, materials sources, waste sites, concrete batch plants, and asphalt hot plants. Only commercial sites, as defined by the CGP, are exempt from the project NPDES permit. Erosion and sediment control measures are required as needed on all areas covered under the CGP and SWPPP.

The Contractor and the Department (and any Local Sponsor involved) must complete and submit separate Notices of Intent (NOI) to the EPA to obtain coverage under the CGP. NOIs can only be submitted after the completed SWPPP is approved by the Department**. No ground-disturbing activities are allowed until the NOIs are posted on the EPA web site and 14 calendar days have elapsed after the latest posting.** The Department, the Contractor, and any Local Sponsor are considered co-operators under the CGP.

All erosion and sediment control measures and stabilization identified in the SWPPP must be installed and maintained in effective operating condition throughout the project duration in accordance with the Best Management Practices (BMP) Manual. Additional requirements for stormwater inspection are outlined below.

The Contractor is required to post a notice at a safe, publically accessible location visible from the public road that is nearest to the active part of the construction site. The notice must use a font that is large enough to be easily viewed from a public right-of-way. The notice must include the following information:

- NPDES Permit tracking number
- The location where the SWPPP can be viewed
- Name and telephone number of the Contractor's local contact person.

A current copy of the SWPPP is required to be kept onsite, or at an easily accessible offsite location, so that it can be made available upon request by the EPA and other federal, state, local, or tribal officials, or the operator of a stormwater system receiving discharges from the project site.

Environmental Inspection Procedures. The following procedures are required on Department-administered projects with a NPDES Permit, 404 CWA Permit, 401 Certification, or IDWR Stream Alteration Permit and encouraged on all other projects:

1) A certified ITD environmental (Stormwater) inspector must inspect projects and document inspections on ITD-2802 Environmental Monitoring Reports.

2) Projects with NPDES requirements must be inspected in accordance with the approved SWPPP.

    a) The environmental inspector must inspect stormwater pollution controls on the project site at least once every seven calendar days during the construction period, within 24 hours of the end of a storm event of 0.5 inches or greater, and at least once every 24 hours during an extended rain event.

    b) The entire project must be inspected, including all erosion and sediment control measures, not just those in the active construction area.

3) Within 24 hours of each stormwater inspection, inform the Contractor of any deficiencies found during the inspection.

4) The Contractor must sign the ITD-2802 acknowledging the alleged deficiencies. In the event the Contractor refuses to sign, the inspector will note that refusal on the form.

5) The Contractor must correct all deficiencies identified during environmental inspections as soon as possible, and no later than five days after the inspection or before the next rain event, whichever is sooner.

6) Inspection reports must clearly indicate all areas of the project site that were inspected, using both descriptions and station numbers (e.g., "construction entrance at Station 0+00; potential discharge points at Stations, 1+09, and 2+10; ROW and BMPs from Station 0+00 to 3+20").

Inspection reports must clearly indicate the station number associated with each observation (e.g., “silt fences at Station 1+09 holding up well; Sediment pond at Station 1+57 needs to be cleaned out”).

CGP Closeout. After the Contractor has completed **all** ground-disturbing work, including installation of permanent erosion and sediment control measures (e.g., seeding, planting, rock armoring) and any punch list items, the Engineer will authorize the Contractor to submit a Notice of Termination (NOT) to the EPA. **The NOT concludes the Contractor’s permit obligations, therefore it must not be filed until all ground-disturbing work has been completed and accepted**. This is normally accomplished with Final Acceptance of the project.

In most cases, the Contractor’s NOT should indicate that another operator has assumed control of the project site and that final stabilization has not been achieved. **The Department (and Local Public Agency (LPA)s for locally sponsored projects) cannot file their NOT until the project meets the NPDES definition of final stabilization** (i.e., temporary measures are removed or scheduled for removal,

permanent measures are in place, and any vegetated surfaces have achieved a density of at least 70% of native background vegetative cover).

107.22 Public Information Meetings. A number of Department projects, particularly those in urban areas, have a contractual requirement for the Contractor to arrange for periodic public information meetings. The public information meeting is held to keep those impacted by the project informed of upcoming activities that may affect their access and to receive input from the public that could lessen the effect of construction activities. The public information meetings are a form of partnering with the public and have been very effective.

The Public Involvement Coordinator (PIC) has been charged with coordination of all meetings with the public involving the Department. The PIC does not need to actually organize, conduct, or even participate in all meetings, but should be informed of the meetings and assist when requested. The PIC is knowledgeable in effective meeting methods, preparation of news releases,, and can address lead-time and other requirements that are necessary for conducting appropriate public meetings.

The Engineer should notify the PIC of any contracts where public information meetings are required. The PIC should be invited to preconstruction conferences to discuss and assist in planning the meetings or a separate meeting can be arranged involving the PIC, Engineer, and the Contractor. The PIC, Engineer, and Contractor should strive for a unified approach to properly respond to Department management or public inquiries concerning the meetings.

Additional guidelines and references for public hearings/meetings are outlined in Administrative Policies A-20-03, Public Hearings, and A-20-04 Public Hearing Officers. The Office of Communication has additional information about the conduct of public involvement initiatives.

107.23 Filing Tort Claims Against the State Of Idaho. Throughout the term of an active contract, the Contractor's public liability and property damage insurance will protect the State. However, situations may occur in connection with projects during work suspensions, following partial or final acceptance, or where no action or negligence on the part of the Contractor is involved, which may make the State liable for damage incurred by the public. For example, the State may be liable for a seal coat project following the Contractor's period of maintenance responsibility when a loose chip problem is improperly signed and results in broken windshields.

Any problem that may affect the public should be reported immediately to the District Engineer and the Employee Safety/Risk Management Section. Staff must be able to advise the public on filing of tort claims against the State.

The proper procedure for filing a tort claim against the State of Idaho is set forth by Idaho Code 6-905 of the Idaho Tort Claims Act and states that "All claims against the State … shall be presented to and filed with the Secretary of State within 180 days from the date the claim arose or reasonably should have been discovered…." Thus, under the Idaho Tort Claims Act, the only office eligible to receive a claim is the Office of the Secretary of State. However, a claimant does have several other options to make a claim against the State. The following are recommended approaches in handling three (3) of the more common situations:

- A citizen approaches an agency or employee of the State requesting information on filing a claim against the State of Idaho. The recommended procedure is to advise the claimant of the requirement to file a claim with the Secretary of State giving the details of the claim (as outlined in Idaho Code 6-907) and to submit the claim within the 180 days (as required by Idaho Code 6-905). The District EEO/Safety/Training Coordinators have a supply of the ITD-2326, Citizen's Claim Procedure form that can be given to the claimant.
- A claimant personally presents a written notice of claim to a Department employee. The written claim should be refused, and the claimant advised as to the proper procedures for making a claim against the State of Idaho as outlined above.
- A claim, or what could reasonably be interpreted as a claim, is received by mail. The recommended procedure is to immediately return the claim to the claimant along with a copy of the ITD-2326, Citizen's Claim Procedure form or a letter explaining the filing procedure.

Any claim against the State that is received by the Department must be immediately returned. the Department cannot file the claim on behalf of the claimant.

When notified of an alleged incident, an investigation will be conducted and reported on the ITD-0090 Traffic Accident Field Report or the ITD-1746 Tort Claim Data for Risk Management form and sent to the District EEO/Safety/Training Coordinator. The District EEO/Safety/Training Coordinator will keep a copy and forward the original report to the Employee Safety/Risk Management Section.

All incidents of possible tort claims must be reported at the time they occur or external insurance carriers could refuse responsibility for coverage.

Any questions concerning the filing of tort claims should be referred to the Employee Safety/Risk Management Section.