



**ATTENTION: TP&D, DESIGN, CONSTRUCTION, MAINTENANCE AND
TRAFFIC OPERATIONS ENGINEERS**

SPECIAL PROVISION AND/OR SPECIFICATION CHANGE MEMORANDUM 06-18

MEMO

Date: April 23, 2018

To: District Engineers

From: Gina E. Gallegos, P.E.
Construction Division Director

DocuSigned by:

Gina Gallegos

Director

Subject: Statewide Special Provision 006-013 (14), "Control of Materials"

The above-referenced special provision has been approved statewide use beginning with the August 2018 letting.

This special provision voids and replaces Article 6.10., "Hazardous Materials," requiring the Contractor to remove hazardous materials on the project and should only be used for specialty contracts to remove or abate asbestos and in place of special provision 006-012. This special provision will also work for lead abatement or removal contracts. Do not include this special provision in general construction and maintenance contracts.

For please reference Mr. Hale's April 9, 2018 memorandum titled "Mitigation of Hazardous Materials" for additional information and guidance (attached).

Please disseminate this information to your Transportation Planning & Development, Design, Construction, Laboratory, Maintenance, and Traffic Operations Engineers.

CC: TxDOT Specification Committee
Federal Highway Administration
The Associated General Contractors of Texas

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MEMO

April 9, 2018

To: District Engineers

From: William A. Hale, P.E.
Chief Engineer

Subject: Mitigation of Hazardous Materials

This memorandum voids and replaces Amadeo Saenz' January 26, 2007, "Hazardous Materials Contracting" and May 4, 2005, "Assistance with Contaminated Material Issues" memoranda.

In most instances, it is the Department's goal to remove the hazardous materials within the right of way prior to letting a project. Also, there are occasions when contractors discover hazardous materials during the course of the project. Typically, these materials contain asbestos or are contaminated with hydrocarbons from leaking underground storage tanks.

The following outlines three methods for mitigating hazardous materials identified prior to letting or during the life of a project:

1. Hazardous Materials Identified Prior to Letting a Project.

Mitigation for contamination identified before beginning work on a project should be performed by a specialty contractor prior to beginning work on a project. The Environmental Division (ENV) retains specialty contractors to perform this work and they can usually respond in a very timely manner.

2. Hazardous Materials Identified Prior to Letting a Project where the project work activities are so intrinsic with the mitigation or abatement operations that the work cannot be separated.

When other situations arise where the environmental contamination is so intrinsic with the construction work that the work cannot be separated, this work can be set up in the plans to be performed by the prime or a specialty sub-contractor. However, this method requires that the District Engineer acquire the approval of the Director of District Operations prior to including it in the plans.

When paint is determined to contain hazardous materials and Item 446 "Cleaning and Painting Steel," will be used for the cleaning and painting of a structure, this work should be performed in a separate project that is primarily for the painting operation. In the situations where it is not practical to separate work specific to this item, the District Engineer will acquire approval from the Director of District Operations prior to including this work in a project that is not primarily for painting steel.

The Director of District Operations will only consider including mitigation or abatement operations in the contract bid documents when at least one of the following conditions are met:

- Project work activities are so intrinsic with the mitigation or abatement operations that the work cannot be separated. (e.g. There are asbestos containing bearing pads in the structure that are attached and removal will require demolition or lifting of the structure, or contaminated groundwater will be encountered during the installation of a storm sewer.)

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- The mitigation or abatement operations will require additional lane/road closures that could be reduced if the prime contractor performed the work in conjunction with their other structure work. This criterion applies to high traffic volume locations where the impact to traffic is severe.
- Having two separate contractors perform work creates excessive risk to the department. (e.g. Coordination and timing would put the department at excessive risk for claims or additional risk would be generated for the public. It might also be the case that there are too many mobilizations needed, adding unnecessary cost for a separate contractor.)

3. Hazardous Materials Discovered During a Project.

When hazardous materials are discovered during the life of a project it can be handled in two ways:

- handled by a specialty contractor acquired through ENV; or
- handled by the prime contractor if they are willing and able (The term “able” means the prime contractor has the expertise, licenses, and insurance to perform the remediation. This method will require coordination with the Construction Division (CST) for verification of qualifications and filing of insurance certificates.).

Environmental Consulting and Remediation Contracts

1. Environmental Consultants

- ENV maintains environmental consulting contracts to assist with assessing hazardous materials and developing management plans to deal with hazardous materials before and, if necessary, during construction. Districts may use ENV's consultants to make a determination on the presence of hazardous materials, determine the extent of contamination, and prepare a remediation action plan. Funding for the ENV consultant contract work is through ENV's budget. Districts have the option of acquiring and funding their own environmental services contracts to perform these tasks.
- Additional information regarding TxDOT procedures for handling hazardous materials during advanced planning, right-of-way acquisition, design, and construction is located in ENV's Hazardous Materials in Project Development Guidance Document found in the Hazardous Materials Toolkit at <http://ftp.dot.state.tx.us/pub/txdot-info/env/toolkit/510-01-ds.pdf>.

2. Environmental Remediation Contracts

- ENV also maintains service contracts with a number of remediation contractors. The remediation contractors have qualified staff and the necessary equipment to remove, transport and dispose of the contaminated materials before work begins on the project.

The attachment to this memo provides detailed examples of how the ENV consulting and remediation contracts may help in resolving contamination cases. Please contact Rodney Concienne at the number below to request use ENV consultant or remediation contracts.

The points of contact for planning and remediation before work begins are the Environmental (ENV) and Design (DES) Divisions. The points of contact for planning and remediation during the course of the project are ENV, CST and Maintenance Division (MNT). Please direct any questions to Rodney Concienne, ENV at (512) 416-3012, Gina Gallegos, P.E., CST at (512) 416-2559, James Stevenson, P.E., MNT at (512) 416-3056, and Maria Burke, P.E., DES at (512) 416- 2703.

Attachments

CC: C. Michael Lee, P.E., Director of Engineering and Safety Operations
 Randy C. Hopmann, P.E., Director of District Operations
 Gina E. Gallegos, P.E., Director, Construction Division
 Gregg A. Freeby, P.E., Director, Bridge Division
 Camille Thomason, P.E., Director, Design Division
 Carlos Swonke, P.E., Director, Environmental Affairs Division
 Dan L. Stacks, P.E., Director, Maintenance Division



Hazmat Contract Assistance

Typical Project Scenarios

Scenario 1 -Contamination Discovered Before Beginning Work on a Project

Investigations to discover environmental impacts, especially contamination, should begin early in project development. An ENV hazmat work authorization may be used to provide an initial site assessment to determine the potential for contamination impacts on a project. If the initial site assessment shows contamination is present, additional work authorizations may be used to confirm the lateral and vertical extent of contamination.

Scenario 1a - Contamination Identified and Removed Before the Beginning Work on a Project

A common case is a former retail gas station operation. An ENV hazmat consultant performs an initial site assessment that suggests contamination is present. Further investigations confirm the presence of a hydrocarbon plume. District environmental and design staff use a further work authorization to obtain the detailed information needed to assess required mitigation, including:

- (a) nature and concentration levels of the contamination;
- (b) health and environmental risk levels of the contaminants; and
- (c) extent of the contamination.

Based on this work, the site is judged to have the potential to significantly impact the planned project. ENV assists the district staff in reviewing feasible solutions. As appropriate, work authorizations may be written to:

- (a) install monitoring wells, and collect/analyze groundwater on a scheduled basis to monitor natural attenuation of the contaminated plume;
- (b) design a remediation system for pumping and treating contaminated groundwater, and obtain the required discharge permit for the treated water; and
- (c) excavate contaminated soils, transporting contaminated soils to an approved landfill site, and backfilling with clean soil.

Scenario 1b - Contamination Identified before but Remediated During the Course of the Project

In a similar, but more demanding case, a gas station contamination plume extends far under existing highway pavement. The decision is made to complete the required mitigation as part of the primary contract for the work, and Administration approval is granted to do so.

Work authorizations under the ENV hazmat contracts can be used to assist your staff in this effort. The work tasks include:

- (a) determining the full lateral/vertical extent of contamination;
- (b) completing a risk analysis for potential exposure of workers for the contamination levels present;
- (c) preparing special specifications for the PS&E;
- (d) preparing a scoping document, containing the estimated volumes of contaminated soils and groundwater needing to be removed;
- (e) preparing soil and groundwater management plans for addressing contamination during the course of the project (in conjunction with project activities);
- (f) performing engineering oversight during the execution of the soil/groundwater management plans;
- (g) completing the necessary coordination/correspondence with regulatory agencies to obtain permits and regulatory clean closure;

The information and products developed under these work authorizations may then be used to develop the special provisions/specifications to be placed into the PS&E for contractors to bid the entire package. The construction, maintenance or specialty contractor, having been pre-qualified to perform remediation services, would then be awarded the work.

Scenario 2 - Contamination Unexpectedly Discovered During Course of the Project

There are occasions when unknown contamination is discovered after work on a project has started. When this occurs, ENV's evergreen hazmat engineering services contracts may be used in performing the same tasks identified in Scenario 1. In fact, these contracts are written to ensure the hazmat consultants are ready and able to respond rapidly.

As a matter of policy, the department will allow the contractor to perform the mitigation if they are willing and able. The term "able" means that the contractor is qualified and carries special pollution liability insurance. Use of the contractor will require that the district request from CST a review of the contractors qualifications and that the proper insurance is filed with the CST. Upon approval, a supplemental agreement will be executed amending the contract to complete the remediation work. Should the prime contractor elect not to perform the additional remediation service, then the district needs to contact ENV.