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| REVIEW OF NEW SPECIFICATION OR SPECIFICATION CHANGE | | | | 108-51 |
| **Specification Section No.:** 108 | | | **Item:** Subletting of Contract | |
| **Originating Office:** Civil Rights Program | | | **By:** Williams | |
| **Date Sent For Review:** 12.05.16 | | | **Date Comments Due: 12.21.16** | |
| Submit response to: STANDARDS AND SPECIFICATIONS UNIT, DIVISION OF PROJECT SUPPORT 4TH FLOOR, CDOT HEADQUARTERS | | | | |
| **Vote**  **/N** | **Concurrent Reviews – Others Commenting** | | The attached Draft Specification is submitted for your review and comments. If not returned by Date Comments Due, the draft specification will be considered to be approved unless the Standards and Specifications Unit of the Project Development Branch [(303) 757-9474, (303) 757-9402] is advised otherwise.  **REMARKS:**  If these proposed changes are approved, our unit will issue them in a revised version of this standard special provision. | |
|  | **Spec Committee Members:** | **✓** |
|  | Co-Chairman: Lacey |  |
|  | Region 1: Quirk |  |
|  | Region 1: Stratton |  |
|  | Region 2: Phillips |  |
|  | Region 3: Jean |  |
|  | Region 4: Boespflug |  |
|  | Region 5: Valentinelli |  |
|  | Project Development: Vacant |  |
|  | Specifications: Brinck |  |
|  | Bridge: Hasan |  |
|  | Contracts & Market Analysis: Eddy |  |
|  | Materials: Schiebel |  |
|  | Traffic Engineering: Matthews |  | REVIEWER COMMENTS:  ( ) Approved ( ) Disapproved ( ) Modified  If disapproved or modified, give reason why and show any modifications on the attached draft copy:    \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_  Name/Signature Date | |
|  | Maintenance: Weldon |  |
|  | FHWA: Feery |  |
|  | Attorney General: Milan |  |
|  |  |  |
|  | **Others:** |  |
|  | Colorado Contractors Assoc.: Moody |  |
|  |  |  |
|  | **Technical Committees:** |  |
|  | PDAC |  |
|  | Drainage Advisory Committee (DAC) |  |
|  | Water Quality Advisory Committee (WQAC) |  |

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| **COLORADO DEPARTMENT OF TRANSPORTATION** **SUBMITTAL OF NEW SPECIFICATION OR SPECIFICATION CHANGE** | | | Log No. (Assigned by Standards and Specifications Unit)  108-51 | |
| TO: Standards and Specifications Unit, Project Development, Suite 290 | | FROM:  Civil Rights and Business Resource Center  (Region, Branch or Technical Committee) | | |
| SPECIFICATION SECTION NO.  108.01 | ITEM  Subletting of Contract | | | Priority  Routine Fast |
| Reason for this new or changed specification:  The CRBRC is proposing modifications to the subletting specification to allow for online submissions of sublet requests via the B2GNow System. This system will allow CDOT to cummulatively calculate subcontract requests without manual calculation and improve CDOT efficiency in approving requests. At this time, the system is only set up for CDOT and not local agency projects.  The 205 form will me modified to only require signatures between the prime and sub and will not require the manual cummulative calculation made in the past. A new form will be created for local agency requests as those will still need an approval signature and manual calculations.  CDOT is requesting a copy of all subcontracts after finding a number of contractors not to have executed subcontracts with DBEs and other firms.  Finally, changes have been made to be consistent with the requirements of FHWA Form 1273, including calculations for leasing employees, and the spec has been reorganized. | | | | |
| New or Revised Specification:  See attached. | | | | |
| Note: See Procedural Directive 513.1 for a description of appropriate specification development procedures. | | | | |

**CDOT Form 1215 10/01**

**108.01 Subletting of Contract.** The Contractor shall perform with its own organization Contract work amounting to 30 percent or more of the original total cost of bid items. The cost of “specialty items” shall be deducted from the original total cost of bid items before computing the amount of work required to be performed by the Contractor’s own organization. Any items designated in the contract as “specialty items” may be performed by subcontract.

The Contractor shall not sublet, sell, transfer, assign, or dispose of the Contract or Contracts, or any portion thereof without the approval of CDOT. The subcontract work shall not begin until the Contractor has received CDOT’s approval. Approval will be given only after CDOT has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the Contract. Subcontracts or transfer of Contract shall not release the Contractor of liability under the Contract and bonds.

The Contractor shall request and receive CDOT’s approval via the B2G Now System. The Contractor shall include a copy of the executed subcontract or purchase order and Form 205.

The term “perform work with its own organization” refers to workers employed or leased by the Contractor, and equipment owned or rented by the Contractor, with or without operators. The term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the Contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements.

Leased employees by the Contractor may only be included in this term if the arrangement meets all of the following conditions:

1. the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
2. the prime contractor remains responsible for the quality of the work of the leased employees;
3. the prime contractor retains all power to accept or exclude individual employees from work on the project; and
4. the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

For leased employees, the contractor shall still submit a sublet request for subletting the work to the leased employees and attest to meeting the criteria above.

Additionally, for the purpose of calculating the value of subcontracted work, materials and manufactured products directly procured by the Contractor are included in the work performed with its own organization. However, when a firm both (1) sells material to a prime contractor and (2) performs the work of incorporating the materials into the project, these two phases shall be considered in combination and as constituting a single subcontract and count against the contractor’s self-performance requirement. The calculation of the percentage of subcontracted work shall be based on subcontract unit prices.

REVISION OF SECTION 108

SUBLETTING OF CONTRACT

Section 108 of the Standard Specifications is hereby revised for this project as follows:

Delete subsection 108.01 and replace with the following:

**108.01 Subletting of Contract.** The Contractor shall perform with its own organization Contract work amounting to 30 percent or more of the original total cost of bid items. The cost of “specialty items” shall be deducted from the original total cost of bid items before computing the amount of work required to be performed by the Contractor’s own organization. Any items designated in the contract as “specialty items” may be performed by subcontract.

The Contractor shall not sublet, sell, transfer, assign, or dispose of the Contract or Contracts, or any portion thereof without the approval of CDOT. The subcontract work shall not begin until the Contractor has received CDOT’s approval. Approval will be given only after CDOT has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the Contract. Subcontracts or transfer of Contract shall not release the Contractor of liability under the Contract and bonds.

The Contractor shall request and receive CDOT’s approval via the B2G Now System. The Contractor shall include a copy of the executed subcontract or purchase order and Form 205.

The term “perform work with its own organization” refers to workers employed or leased by the Contractor, and equipment owned or rented by the Contractor, with or without operators. The term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the Contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements.

Leased employees by the Contractor may only be included in this term if the arrangement meets all of the following conditions:

1. the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
2. the prime contractor remains responsible for the quality of the work of the leased employees;
3. the prime contractor retains all power to accept or exclude individual employees from work on the project; and
4. the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

For leased employees, the contractor shall still submit a sublet request for subletting the work to the leased employees and attest to meeting the criteria above.

Additionally, for the purpose of calculating the value of subcontracted work, materials and manufactured products directly procured by the Contractor are included in the work performed with its own organization. However, when a firm both (1) sells material to a prime contractor and (2) performs the work of incorporating the materials into the project, these two phases shall be considered in combination and as constituting a single subcontract and count against the contractor’s self-performance requirement. The calculation of the percentage of subcontracted work shall be based on subcontract unit prices.