



January, 2006

(revised)

**SUPPLEMENTAL OREGON STANDARD  
SPECIFICATIONS FOR CONSTRUCTION**

**JANUARY, 2006**  
(revised)

These Supplemental Oregon Standard Specifications for Construction (Supplemental Specifications) are made a part of all projects and replace in its entirety Part 00100, "General Requirements", of the "2002 Oregon Standard Specifications for Construction". These Supplemental Specifications shall be used in conjunction with Parts 00200 and beyond of the "2002 Oregon Standard Specifications for Construction".

## Section 00165 - Quality of Materials

00165.00	General	65
00165.01	Rejected Materials	65
00165.02	Materials Conformance and Quality Compliance Documents	65
00165.03	Testing by Agency	65
00165.04	Costs of Testing	65
00165.10	Materials Acceptance Guides	65
00165.20	Materials Specifications and Test Method References	66
00165.30	Field-Tested Materials	66
00165.35	Nonfield-Tested Materials	67
00165.40	Statistical Analysis	68
00165.50	Statistical Acceptance Sampling and Testing	75
00165.70	Use of Materials without Acceptable Materials Conformance Documents	76
00165.75	Storage and Handling of Materials	76
00165.80	Measurement	77
00165.90	Incidental Basis	77
00165.91	Fabrication Inspection Expense	77

## Section 00170 - Legal Relations and Responsibilities

00170.00	General	79
00170.01	Other Agencies Affecting Agency Contracts	79
00170.02	Permits, Licenses, and Taxes	81
00170.03	Furnishing Right-of-Way and Permits	81
00170.04	Patents, Copyrights, and Trademarks	81
00170.05	Assignment of Antitrust Rights	81
00170.10	Required Payments by Contractors	82
00170.32	Protection of Navigable Waters	83
00170.60	Safety, Health, and Sanitation Provisions	83
00170.61	Industrial Accident Protection	84
00170.62	Labor Nondiscrimination	84
00170.63	Payment for Medical Care	84
00170.65	Minimum Wage and Overtime Rates for Public Works Projects	84
00170.67	Contractor Fee	89
00170.70	Insurance	89
00170.71	Independent Contractor Status	92
00170.72	Indemnity/Hold Harmless	92
00170.74	Employee Drug Testing Program	93
00170.78	Conflict of Interest	93
00170.79	Third Party Beneficiary	93
00170.80	Responsibility for Damage to Work	94
00170.82	Responsibility for Damage to Property and Facilities	95
00170.85	Responsibility for Defective Work	96
00170.89	Protection of Utility, Fire-control, and Railroad Property and Services; Repair; Roadway Restoration	96
00170.92	Fencing, Protecting Stock, and Safeguarding Excavations	97
00170.93	Trespass	97
00170.94	Use of Explosives	97

**00170.67 Contractor Fee** - When indicated by Special Provision, Contractors awarded public works Contracts subject to State of Oregon prevailing wage law of \$25,000 or more must pay a fee to the Oregon Bureau of Labor and Industries for each Contract. The fee is 0.1 of 1% of the Contract Price. The fee can be no more than \$5,000 and no less than \$100 per Contract, regardless of the Contract size. The fee shall be paid on or before the first progress payment or 60 days from the date Work first began on the Contract, whichever comes first. Final adjustments to the fee must be made within 30 days of the final progress payment after completion of the Contract. A form for submitting information to the Bureau of Labor and Industries titled "Public Work Contract Fee Information Form" is included in the "Prevailing Wage Rates for Public Works Contracts in Oregon" that is bound with the Special Provisions.

**00170.70 Insurance:**

**(a) Insurance Coverages** - The Contractor shall obtain, at its expense, and keep in effect during the term of the Contract, the insurance coverages listed below. The Contractor may however, contractually obligate an appropriate subcontractor to obtain, at the subcontractor's expense or at the Contractor's expense, and keep in effect during the term of the Contract, pollution liability coverage, asbestos liability, lead liability, or automobile liability with pollution coverages, or such other types of insurance coverage that, before execution of the Contract, the Agency approves as types of insurance coverage that may be obtained by appropriate subcontractors. If both the Contractor and an appropriate subcontractor will perform pollution related Work or other Work that would be covered by the other above-described types of insurance permitted to be obtained by an appropriate subcontractor, the insurance coverages listed below that correspond to such Work shall be obtained, at the Contractor's or subcontractor's expense, and shall cover the liability of the Contractor and the subcontractor, either under the same or separate insurance policies.

- **Commercial General Liability** - Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to the Agency. This insurance shall include personal and advertising injury liability and products and completed operations coverage. Coverage may be written in combination with Commercial Automobile Liability Insurance with separate limits for Commercial General Liability and Commercial Automobile Liability. Coverage shall be written on an occurrence basis. Combined single limit per occurrence shall not be less than the dollar amount indicated in the Special Provisions. The annual aggregate limit shall not be less than the dollar amount indicated in the Special Provisions. The policy shall be endorsed to state that the annual aggregate limit of liability shall apply separately to the Contract.

If the Contractor's Commercial General Liability Insurance limits are less than the required limits stated above, the Contractor shall obtain Excess or Umbrella Liability Insurance with sufficient limits that when added to the Contractor's Commercial General Liability Insurance limits the total combined limits of Commercial General Liability Insurance and Excess or Umbrella Liability Insurance equal or exceed the above-stated Commercial General Liability Insurance limits required for this Project. The above-stated combined single limit per occurrence and the above-stated annual aggregate limit must each be met. Excess or Umbrella Liability Insurance coverage shall extend to the same perils, terms, and conditions as the underlying Commercial General Liability Insurance coverage.

- **Pollution Liability** - If indicated by Special Provision, Pollution Liability Insurance covering the Contractor's liability, or the liability of an appropriate subcontractor, if the coverage is obtained by the subcontractor, for bodily injury and property damage, and environmental damage resulting from sudden and accidental pollution, gradual pollution, and related clean-up costs incurred by the Contractor, or by the subcontractor if the coverage is obtained by the subcontractor, while performing Work required by the Contract. If the coverage is obtained by the Contractor, the coverage may be written in combination with the Commercial General Liability Insurance with separate limits for Pollution Liability and Commercial General Liability. Combined single limit per occurrence shall not be less than the dollar amount indicated in the Special Provisions. The annual aggregate limit shall not be less than the dollar amount indicated in the Special Provisions. The policy shall be endorsed to state that the annual aggregate limit of liability shall apply separately to the Contract.
  
- **Asbestos Liability** - If indicated by Special Provision, the Contractor, or the subcontractor, if the coverage is obtained by the subcontractor, shall provide an Asbestos Liability endorsement to the pollution liability coverage. If an endorsement cannot be obtained, The Contractor or subcontractor shall provide separate Asbestos Liability Insurance at the same combined single limit per occurrence and annual aggregate limit as the Pollution Liability Insurance with the policy endorsed to state that the annual aggregate limit of liability shall apply separately to the Contract.
  
- **Lead Liability** - If indicated by Special Provision, the Contractor, or the subcontractor, if the coverage is obtained by the subcontractor, shall provide a Lead Liability endorsement to the pollution liability coverage. If an endorsement cannot be obtained, the Contractor or subcontractor shall provide separate Lead Liability Insurance at the same combined single limit per occurrence and annual aggregate limit as the Pollution Liability Insurance with the separate policy endorsed to state that the annual aggregate limit of liability shall apply separately to the Contract.
  
- **Commercial Automobile Liability** - Commercial Automobile Liability Insurance covering all owned, non-owned, and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance with separate limits for Commercial Automobile Liability and Commercial General Liability. Combined single limit per occurrence shall not be less than the dollar amount indicated in the Special Provisions. If this coverage is written in combination with the Commercial General Liability, the policy shall be endorsed to state that the Commercial General Liability annual aggregate limit shall apply separately to the Contract.
  
- **Commercial Automobile Liability with Pollution Coverage** - If indicated by Special Provision, the Contractor, or the subcontractor, if the coverage is obtained by the subcontractor, shall provide Commercial Automobile Liability Insurance with Pollution coverage covering the Contractor's liability, or the liability of an appropriate subcontractor, if the coverage is obtained by the subcontractor, for bodily injury and property damage, and environmental damage arising out of the use of all owned, non-owned, or hired vehicles while performing Work under the Contract. If the coverage is obtained by the Contractor, the coverage may be written in combination with the Commercial General Liability Insurance with separate limits for Commercial

Automobile Liability with Pollution Coverage and Commercial General Liability. Combined single limit per occurrence shall not be less than the dollar amount indicated in the Special Provisions or the amount required by the U.S. Department of Transportation, whichever is greater. If this coverage is written in combination with the Commercial General Liability, the policy shall be endorsed to state that the Commercial General Liability annual aggregate limit shall apply separately to the Contract.

Commercial Automobile Liability with Pollution Coverage is required for this Project because the Project includes pollution related Work. If the Contractor will be performing pollution related Work, this coverage covering the Contractor must be provided. If an appropriate subcontractor, but not the Contractor, will perform the pollution related Work, Commercial Automobile Liability with Pollution Coverage covering the subcontractor, but not the Contractor, must be provided, however, the Contractor shall provide Commercial Automobile Liability insurance coverage covering the Contractor as provided in the Commercial Automobile Liability bullet above. If both the Contractor and an appropriate subcontractor will be performing pollution related Work, Commercial Automobile Liability with Pollution Coverage covering both the Contractor and the subcontractor shall be provided, and the Contractor may provide the coverage covering both the Contractor and the subcontractor, or the Contractor and the subcontractor may provide their own, separate Commercial Automobile Liability with Pollution coverages.

**(b) Tail Coverage** - If any of the required liability insurance coverages of 00170.70(a) are on a "claims made" basis, "tail" coverage will be required at the completion of the Contract for a duration of 24 months, or the maximum time period reasonably available in the marketplace. The Contractor shall furnish certification of "tail" coverage as described, or continuous "claims made" liability coverage for 24 months following Contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of the Contract. If Continuous "claims made" coverage is used, the Contractor shall keep the coverage in effect for a duration of not less than 24 months from the end of the Contract. This will be a condition of Final Acceptance.

**(c) Additional Insured** - The liability insurance coverages of 00170.70(a) shall include the Agency, the Agency's governing body, board, or Commission and its members, and the Agency's officers and employees as Additional Insureds, but only with respect to the Contractor's activities to be performed under the Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The liability coverages of 00170.70(a) that are permitted by the Agency to be obtained by an appropriate subcontractor shall include all of the foregoing as Additional Insureds and shall also include Contractor and its officers and employees as Additional Insureds.

**(d) Workers' Compensation** - All employers, including the Contractor and its Subcontractors, if any, that employ subject workers who are performing Work or providing labor or Materials under the Contract in the State shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. The Contractor shall ensure that each of its Subcontractors complies with these requirements.

The Contractor shall certify in the Contract that the Contractor is registered by the Oregon Workers' Compensation Division either as a carrier-insured employer, a self-insured employer, an exempt employer, or is an independent contractor who will perform the Work without the assistance of others.

The Contractor shall ensure that its insurance carrier files a guaranty contract with the Oregon Workers' Compensation Division before performing any Work.

**(e) Notice of Cancellation or Change** - The Contractor shall not cancel, change materially, or take any action showing intent not to renew the insurance coverage(s) without 30 days' advance written notice from the Contractor or its insurer(s) to the Agency. The Contractor shall be responsible for ensuring that insurance coverage(s) obtained by an appropriate subcontractor, as permitted by the Agency under 00170.70(a), are not cancelled, changed materially, or have any action taken by the subcontractor showing intent not to renew the insurance coverage(s) without 30 days' advance written notice from the Contractor or the insurer(s) to the Agency. Any failure to comply with the reporting provisions of this insurance shall not affect the coverage(s) provided to the Agency, County, City, or other applicable political jurisdiction or to the Agency's governing body, board, or Commission and its members, and the Agency's officers and employees.

**(f) Certificate(s) of Insurance** - As evidence of the insurance coverages required by this Contract, the Contractor shall furnish Certificate(s) of Insurance to the Agency at the time(s) provided in 00130.50(a). As evidence of insurance coverages required by this Contract but permitted by the Agency under 00170.70(a) to be obtained by an appropriate subcontractor, the Contractor shall furnish Certificate(s) of Insurance to the Agency for such coverages together with the Contractor's request under 00180.21 for approval of the subcontract with that subcontractor. The Certificate(s) will specify all of the parties who are Additional Insureds. The Contractor shall obtain, or ensure that the appropriate subcontractors obtain, insurance coverages required under this Contract from insurance companies or entities acceptable to the Agency and authorized to issue insurance in the State. The Contractor, or the appropriate subcontractor, but not the Agency, shall be responsible for paying all deductibles, self-insured retentions and/or self-insurance included under these provisions.

**(g) Builders' Risk** - If indicated by Special Provision, the Contractor shall obtain, at its expense, and keep in effect during the term of the Contract, Builders' Risk insurance on an all risks of direct physical loss basis, including, without limitation, earthquake and flood damage, for an amount equal to at least the value indicated in the Special Provisions. Any deductible shall not exceed \$50,000 for each loss, except that the earthquake and flood deductible shall not exceed 5% of each loss or \$50,000, whichever is greater. The policy shall include the Agency as loss payee.

**00170.71 Independent Contractor Status** - The service or services to be rendered under this Contract are those of an independent contractor. The Contractor is not an officer, employee, or agent of the State as those terms are used in ORS 30.265.

**00170.72 Indemnity/Hold Harmless** - To the fullest extent permitted by law, and except to the extent otherwise void under ORS 30.140, the Contractor shall indemnify, defend (with counsel approved by the Agency) and hold harmless the Agency, Agency's Authorized Representative, Architect/Engineer, Architect/Engineer's consultants, and their respective officers, directors, agents, employees, partners, members, stockholders and affiliated