

SECTION 6 SPECIAL PROVISIONS**6.1 PURPOSE**

This Section provides guidance for preparing the project special provisions. Preparation and QC/QA of the contract Special Provisions is the responsibility of the District.

6.2 BACKGROUND

The Standard Specifications, SSPs, and RSSs are the result of participation, extensive development, and concurrence from the Department's experts and applicable stakeholders. External stakeholders include industry, FHWA, and other agencies. Standard Specifications and SSPs are sponsored by owners who are responsible for the technical content.

See the Specification Style Guide and the Guide for Standard Specifications, SSPs, and Standard Plans for responsibilities, processes, and rules for the development of the standards.

Statewide specification uniformity makes bids more competitive and projects easier to administer. To expedite project delivery and minimize variation between projects, use the current SSPs published on the DES-OE Website. SSP editing must comply with instructions within the SSP.

6.3 RESPONSIBILITIES

Regardless of the construction involved, all projects are district projects. Districts have overall responsibility for the special provisions. Districts must ensure structure specifications do not conflict with other specifications. The details of responsibilities for the special provisions are as follows:

6.3.1 DISTRICT PROJECT ENGINEER

- Coordinates special provision work with the DOE from project development through award.
- Ensures SSPs are used and edited under the instructions in the SSPs.
- Ensures NSSPs included in the special provisions are necessary, developed, and reviewed/approved by the appropriate owners before submitting to the DOE.

6.3.2 DISTRICT AND STRUCTURES SPECIFICATION ENGINEER

- District SE or PE signs, seals and dates the special provisions for district work.
- SOE SE signs, seals and dates the special provisions for structure work.
- Multiple specification engineers may be involved for work such as highway, traffic, pavement, structures, landscape, buildings, mechanical, water, waste water, electrical and architects.
- Assembles, edits, and uses QC for special provisions.
- Assists with NSSP development and verifies owner review/approval.
- Verifies consistency between the plans, Bid Item List, and special provisions.

6.3.3 DISTRICT OFFICE ENGINEER

- Provides QA to verify that the applicable SSPs are selected and correctly edited.
- Ensures NSSPs are necessary and consistent with the Specification Style Guide.
- Formats NSSPs.
- Coordinates Construction Contract Submittal.

6.3.4 DISTRICT OFFICE ENGINEER SITE COORDINATOR

- Acts as the liaison with DES-OE for computer issues.
- Ensures that DOE computers are equipped with the tools and configuration necessary to submit Construction Contract Submittal.
- Acts as the point of contact in the district for specification-related computer problems.
- Takes responsibility for other computer-related functions (e.g., annual equipment inventory).

6.3.5 DIVISION CHIEF OF PROGRAM OR FUNCTION

- Designates specification owners.
- Provides resources to support the specification owners.

6.3.6 SECTION COORDINATOR

- For section coordinator responsibilities go to the Guide for Standard Specifications, SSPs, and Standard Plans.

6.3.7 SPECIFICATION OWNER

- For specification owner responsibilities go to the Guide for Standard Specifications, SSPs, and Standard Plans.

6.3.8 DIVISION OF ENGINEERING SERVICE-OFFICE ENGINEER, DEPUTY DIVISION CHIEF

- For DES-OE, Deputy Division Chief Responsibilities go to the Guide for Standard Specifications, SSPs, and Standard Plans.

6.3.9 DES-OE, OFFICE CHIEF OF OCCS

- For OCCS Office Chief responsibilities go to the Guide for Standard Specifications, SSPs, and Standard Plans. The Guide to Standard Specifications, SSPs, and Standard Plans can be found at: http://oe.dot.ca.gov/construction_contract_standards/specifications/guides/S3_guide_01-03-08.pdf

6.4 SPECIAL PROVISIONS

6.4.1 GENERAL

Sections of the special provisions match the sections of the Standard Specifications.

6.4.2 SECTIONS 1 THROUGH 9

SSPs for Sections 1 through 9 revise the general provisions of the Standard Specifications. Sections 1 through 9 apply to all contracts unless specified as applicable under certain conditions. If a bid item is not used for work required by Sections 1 through 9, payment is included in the contract bid items per Section 9-1.03, "Payment Scope", of the Standard Specifications. SSPs for Sections 1 through 9 include specifications for:

- Requirements and instructions to bidders
- Requirements for award and execution
- Control of the work and materials
- Relations with other entities
- Public and worker safety
- Start of job site activities
- Items for partial payment
- Payment, including measurement for payment

Cost-Plus-Time Bidding

To determine if a project is required to have cost plus time bidding (formerly A+B bidding), use the guidelines published by the Division of Construction.

Incentive/Disincentive Provisions

Incentive/Disincentive provisions require justification and are customized for each project. Work with DES-OE and the Division of Construction as early as possible to develop specifications.

Supplemental Project Information and the Information Handout

The Department is required under contract law principles such as the Spearin and Superior Knowledge Doctrines to disclose to bidders information otherwise unavailable that is vital to contract performance.

Information included in the contract as supplemental project information, including the Information Handout, must be referred to from the special provisions because Section 2-1.06B of the Standard Specifications states that the information is made available as specified in the special provisions. The supplemental project information is made part of the contract by reference to it from the specifications and by the inclusion in the list of contract parts in Section 5-1.02 of the Standard Specifications.

Project-Related Permits, Licenses, Agreements, Certifications (PLACs)

Comply with Chapter 13 of the PDPM. See website: http://www.dot.ca.gov/hq/oppd/pdpm/chap_pdf/chapt13.pdf

Although PLACs are part of the contract:

- The plans and specifications must describe any work that the Contractor must complete. For example, if a PLAC states that a tortoise fence must be constructed, the plans and specifications must describe the tortoise fence.
- If a PLAC states that a requirement must be described in the plans or specifications, the plans or specifications must describe the requirement.
- If a PLAC describes options and the Department has chosen one option, the specifications must specify that option.
- If a PLAC provides requirements but does not designate the responsibilities of each party, the specifications must specify the responsibilities of each party.
- If a PLAC designates responsibilities to the Department, and the Department requires the Contractor to act such that the Department is in compliance with the PLAC, the specifications must specify that the Contractor must perform the act.
- For convenience to the Contractor, the specifications must include any time constraints included in the PLAC.

Working Days

Districts are responsible for the submittal of the total project working days. Structures determine the number of working days for structure work. Districts merge the working days for highway and structure work. Round up working days to the nearest 5 days. Do not add days for work that can be done concurrently with the controlling activity. Do not add days for extra work. If necessary, days for extra work are added by change order.

Review time for contractor submittals (e.g., SWPPP, progress schedule, material lists, working drawings and plans, aggregates, concrete mix designs, asphalt mix designs, and other submittals specified in the special provisions, RSSs, or Standard Specifications)

For work that is not done concurrently with the controlling activity, consider:

- 7 or 14 day waiting period before placement of pavement markers on new hot mix asphalt
- Curing time for concrete

- 30-day minimum for obtaining railroad insurance
- Time specified for performance of utility work
- Landscaping, irrigation, and plant establishment work
- Collection of site specific seed for erosion control work
- Plants that must be propagated from plants on the job site
- Lead time for delivery of steel products, electrical equipment and special materials
- Special days or time constraints for traffic

Liquidated Damages

Liquidated damages (LD) recover additional Department costs due to the Contractor's failure to complete the contract within the specified time and are based on the estimated cost of field construction engineering and field office expenses.

Section 8-1.10, "Liquidated Damages," of the Standard Specifications includes standard LD amounts for projects \$250 million or less. Section 8-1.10 also includes a standard liquidated damages amount for plant establishment work.

For a cost-plus-time bid type project, include the corresponding LDs based on the contract bid items total from the table in Section 8-1.10, Liquidated Damages, of the Standard Specifications and the road user cost (RUC). The LDs amount and RUC are the cost per day in the total basis for bid comparison purposes. See website for PD-14 for the Policy and Guidelines for use of Cost-Plus-Time Bidding: <http://www.dot.ca.gov/hq/projdev/directive/PD-14-Cost-and-Time-Bidding.pdf>

For a unit price or Lump Sum (LS) bid type project, do not include LDs in the special provisions.

Internal Time Limits

Contact DES-OE Office of Construction Contract Standards for assistance.

Guidance

Internal time limits can be used to meet internal milestones without approval.

6.4.3 SECTIONS 10 THROUGH 16

SSPs for Sections 10 through 16 revise general construction specifications of the Standard Specifications. These sections apply to all contracts unless specified otherwise. If a bid item is not used for work required by Sections 10 through 16, full compensation is covered by Section 9-1.03, "Payment Scope", of the Standard Specifications.

SSPs for Sections 10 through 16 include specifications for:

- Quality assurance
- Sustainable materials
- Temporary traffic control
- Water pollution control
- Environmental stewardship
- Existing facilities
- Temporary facilities

6.4.4 SECTIONS 17 THROUGH 88

SSPs for Sections 17 through 88 revise construction specifications of the Standard Specifications for specific bid items. SSPs for Sections 17 through 88 include:

- Grading
- Bases and pavements
- Structures
- Drainage
- Miscellaneous construction
- Traffic control facilities

6.4.5 SECTIONS 89 THROUGH 98

SSPs for Sections 89 through 98 revise materials specifications of the Standard Specifications. SSPs for Sections 89 through 98 include:

- Concrete

- Geosynthetic materials
- Asphalts and asphaltic emulsions
- Paints
- Epoxies

6.5 SPECIAL PROVISIONS FOR MINOR B CONTRACTS

For Minor B contracts, districts compile and submit the special provisions to the Division of Procurement and Contracts. If the project includes structures work, SOE submits their portion of the special provisions to the district.

6.6 ASSEMBLY OF SPECIAL PROVISIONS

Obtain the tools including macros for special provision assembly from the DOE site coordinator.

The first 2 digits of the item code set forth the specification sections that apply to the contract. Due to section reorganization, the use of one-time bid item codes and the creation of several new sections, cases where the first 2 digits of the item code does not match the specification section exist. In these cases, use SSP 1-1.01.

Use the first 2 numbers of the bid item along with the SSP index to assist in selection of SSPs that apply to a project.

Use the Special Provision (SP) template to create a document and insert the necessary SSPs. The SP template contains all the main section headings. Insert the SSPs under the appropriate heading in numerical order. Use the current template and SSPs published by OCCS.

Ensure that each bid item is covered by the Standard Specifications or the special provisions. Your review of the Standard Specifications, which includes the revised standard specifications, is critical. If a work component is not covered by the Standard Specifications, add the appropriate SSP. If an appropriate SSP does not exist, create an NSSP.

Use the 2010/2015 special provision template to create NSSPs for 2010/2015 projects. These templates are available at the DES-OE Website.

6.7 SPECIAL PROVISIONS FOR BUILDING CONSTRUCTION PROJECTS

Building construction projects are construction or remodeling work which includes roadside rest areas, maintenance stations, vehicle inspection facilities, equipment buildings, toll plazas, etc.

Do not use a bid item for mobilization if the LS price of the building work is greater than 50 percent of the total bid items. Mobilization is included in the LS price for the building work.

6.8 EDITING AN SSP

Use the guidance in Appendix G.

Follow the instructions included in an SSP. If you must add or delete language not covered by the SSP instructions, follow the procedure for an NSSP.

For provisions that require a contact, provide the contact's title, address and phone number. Do not use proper names except in provisions for railroad specifications.

6.9 NSSP

An NSSP is:

- A specification that is not published by OCCS.
- An SSP with added or deleted language not covered by the SSP instructions.

Use of NSSPs should be limited and must be justified. Districts are responsible for documenting justification and obtaining specification owner approval for each NSSP unless the owner has delegated NSSP authority to the district.

For NSSPs the Engineer in charge of a project maintains the span of control by consulting with the SSP owner who is responsible for reviewing/approving the proposed NSSP and making recommendations.

For each project, the use of an NSSP requires review and/or approval by the owners and concurrence either by district or HQ Construction.

For an NSSP and associated project details, the written approval by the owner and concurrence by construction is a statement that the technical content of the NSSP is adequate.

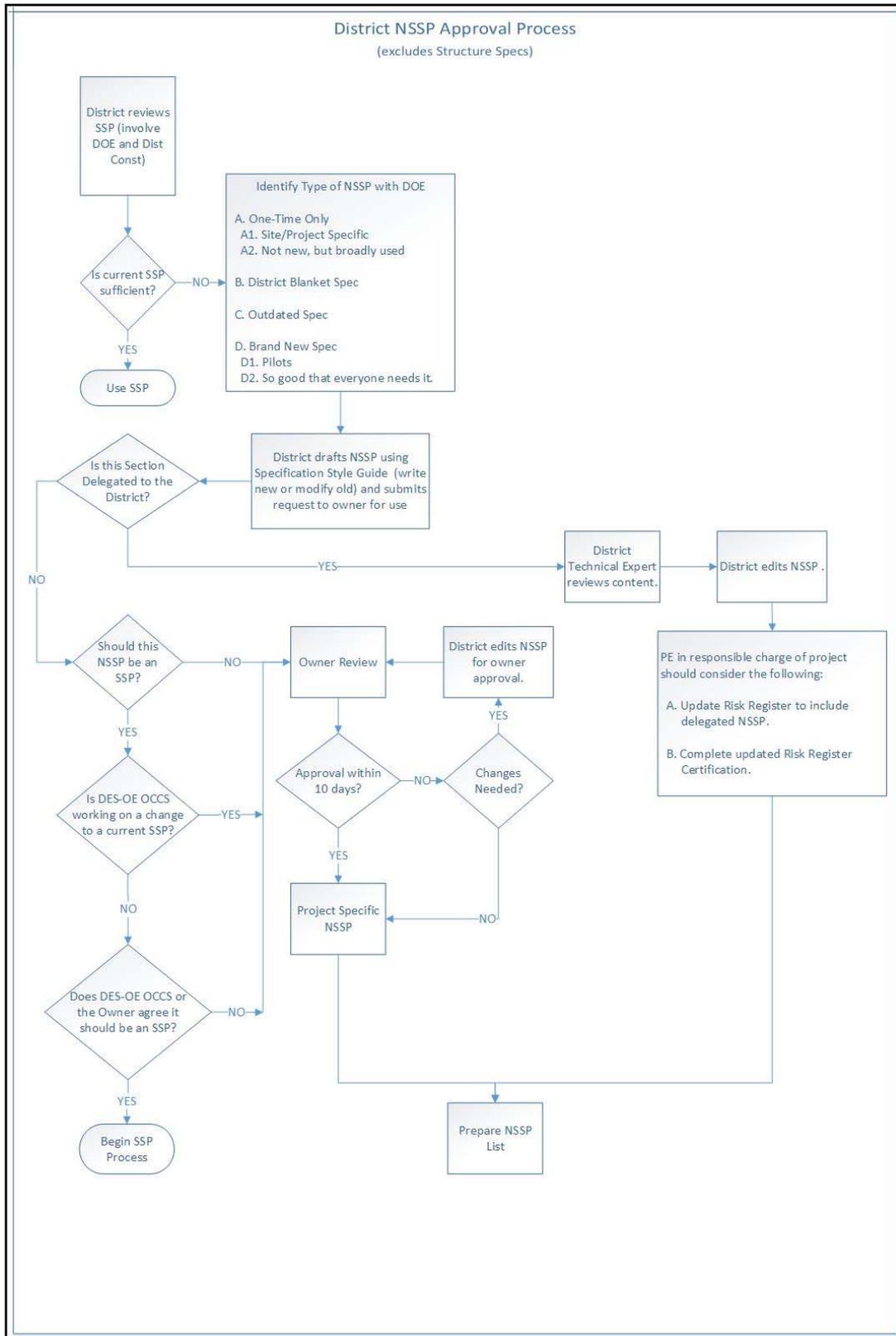
For a delegated NSSP and associated project details, the districts are accountable for the technical content of the NSSP and for consulting with the specification owner before district's approval of the NSSP. The districts should consider including the NSSP in the Risk Register.

6.9.1 DISTRICT NSSP PROCESS

To create an NSSP comply with the following:

- For All NSSPs:
 - Before developing an NSSP, confirm with the DOE that it is necessary.
 - The draft NSSP must conform to the Specification Style Guide. Request assistance and review by the DOE. If an NSSP is generated by editing beyond the instructions of a SSP, use the edit notation for SSPs shown in Appendix G. For an all-new specification, use the SSP template and place "ALL NEW," the date, and the author's initials in the header.
 - Include the NSSP in the special provisions submitted to DES-OE. Check the field in the Construction Contract Submittal Memorandum noting that NSSPs are included in the project. The DOE incorporates NSSPs in the special provisions and submits a copy of each justification along with a copy of each NSSP.
 - Prepare the list of NSSPs for the project. Each NSSP must list when it received owner and construction concurrence or if it is a delegated NSSP.
- For all NSSPs from non-delegated Specification Sections:
 - Begin the NSSP development and review process early. Plan a strategy with the DOE for developing the NSSP with input from specification owners and stakeholders (e.g., Legal, Construction, and FHWA). To assist specification owners, stakeholders, and reviewers, provide a concise explanation of the purpose and need for the NSSP. Attach relevant plan sheets.
 - Request a review from the specification owners and District Construction. Check with the reviewers after the first week to see whether they have questions.
 - After obtaining approval from the owners and District Construction concurrence, e-mail copies of the NSSPs, and the justification summary to HQ Construction Engineering for IQA.
- For all NSSPs from delegated Specification Sections:
 - If the project has delegated NSSPs the Risk Register and Certification should be updated to note this.

- The NSSP process is also described in the following flow chart.



6.9.2 DISTRICT SPECIAL PROVISIONS

District special provisions are NSSPs that have been developed for use on a district-wide basis and are limited to situations where the standards do not adequately address a district's needs. To request new district special provisions, use the NSSP process.

6.9.3 LOCAL AGENCY SPECIFICATIONS

Avoid the use of local agency specifications. If the use of the technical content from a local agency specification is necessary, process the specification as an NSSP.

6.9.4 LOCAL INFRASTRUCTURE SPECIFICATIONS

Section 77 in the Standard Specifications is reserved for local infrastructure specifications. Examples of local infrastructure include city water and power, utility lines, and telecommunication cable. Submit these specifications as NSSPs for review by both DES-OE and HQ Construction. Obtain concurrence from DES-OE for format. Obtain concurrence from HQ Construction for contract administration. Staff in HQ and DES do not have technical expertise to sign and seal local infrastructure specifications. These NSSPs must be sealed and signed by the engineer from either the District, consulting firm, municipality, agency, utility, or company involved. The engineer must be registered in the State as a civil engineer or other applicable engineering classification.

6.10 PROPRIETARY PRODUCTS

Proprietary products include brand and trade name products and products so narrowly specified that only a single provider can meet the specification. When possible, avoid the use of proprietary products. Typically, the use of proprietary products requires project-specific details and an NSSP unless a SSP exists for that product. Proprietary products requirement apply to:

- Temporary and permanent work
- NSSPs tailored to proprietary products
- Products required by local entities

Pub Contract Code § 3400 and 23 CFR 635.411 govern the use of proprietary products.

Deputy Directive 45, New Product Evaluation requires District Directors to ensure that only those products evaluated and approved following Caltrans' policy and procedures are implemented and used in their respective districts.

- For use of proprietary products, the specification must include:
 - The term “or equal” unless not required by law
 - Company name, address, and phone number (unless readily available)
 - If applicable, the distributor name, address, and phone number
- The quoted price and its expiration date when only one manufacturer is specified. A price quote is not required if the product is available from multiple suppliers.

For use of proprietary products, the Job File must include:

- Approval for highway items by the District Director, Chief Deputy District Director, or District Deputy Director of Design.
- Approval for structure items by the DES Chief.
- Approved PIF for federal participation or a copy of the blanket PIF when one or two manufacturers are listed. For all Caltrans projects, irrespective of the funding sources, include an approved PIF. The PIF must document the needs and justification for the use of a proprietary product. Use the PIF database to create the PIF.
- Construction concurrence and a copy of the NSSP.
- Price quote documentation when one manufacturer is specified. If there are multiple suppliers for the proprietary product, the price quote is not required. Documentation must be signed by a responsible company official and includes:
 - Company name, address and phone number
 - Product price
 - Price expiration date of the price
 - Whether the price includes tax
 - Delivery location
 - Agreement to sell to any contractor

If a proprietary product is to be used experimentally and the project has federal funds, Districts submit the PIF to the Department's Federal Resources Office, Division of Budgets, for processing. PIFs will be forwarded for FHWA approval to the Chief, State Project Development Procedures and Quality Branch. Along with the PIF, include a work plan that indicates specific functional managers and units

assigned responsibility to objectively follow-up, evaluate, and document the effectiveness of the product. Further details on the work plan and approval procedure are found in the Construction Manual. For additional information see the Cost Effectiveness/Public Interest Finding Guidelines found at http://oe.dot.ca.gov/plans_specifications_and_estimate/guides_and_manuals/PIF_Guidelines_Oct_2013a.pdf

6.11 RAILROAD INVOLVEMENT

Preparation of railroad agreements takes considerable time. As soon as possible, the project engineer must contact District Right of Way for confirmation of involvement of a railroad.

Typically the railroad is involved when work is in or over the railroad right of way. This should be considered even for minor work such as attaching guard railing to the abutment of an underpass, jacking a pipe beneath the railroad roadbed, or entering railroad property for access to the work or to construct a fence.

If there is a railroad shown on the Title Sheet of the project plans, contact District Right of Way.

District Right of Way provides the information to complete the railroad provisions before construction contract submittal.

Include an electronic copy of railroad provisions with the construction contract submittal to DES-OE. Railroad provisions will be added to the contract as supplemental project information. List railroad provisions in SSP 2-1.06B.

6.12 ALTERNATIVE MATERIALS AND CONSTRUCTION METHODS

Department policy is to allow optional materials and construction methods whenever feasible. In some cases it may also be necessary to include alternative bidding when the payment of the item involved is changed because of the alternative, e.g., steel bridge versus concrete bridge or different types of seal coats. Some SSPs include alternatives and therefore are not to be revised to eliminate predetermined options.

6.13 MATERIALS ELIGIBLE FOR PARTIAL PAYMENTS

If materials meet the criteria for progress payment, list the description in SSP 9-1.16C from the following table. Similar bid items may be grouped to reach the threshold values described in the SSP.

Materials Eligible for Progress Payments

Eligible Materials
Backflow Preventer Assembly Enclosures
Backflow Preventers
Barriers (except concrete barriers)
Camera Assemblies
Column Casings
Control and Neutral Conductors
Corrugated Steel Pipe Conduit
Crash Cushions
Crib Wall Members
Culvert Pipe
Drainage Pumping Equipment
Earth Retaining System
Edge Drain Pipe
Fences and Gates
Fiber Optic Cable
Fiber Optic Conduit
Field Units and Base Station
Filter Fabric
Ground Anchors
Horizontal Drain Pipe
Innerduct
Irrigation Booster Pumps

Eligible Materials
Irrigation Controller Enclosure Cabinets
Irrigation Controllers
Irrigation Pump and Equipment
Isolation Casings
Lighting Fixtures
Luminaires
Metal Sign Structures (including contractor furnished sign panels and changeable message sign structure)
Miscellaneous Bridge Metal
Miscellaneous Drainage Facilities
Miscellaneous Iron and Steel
Miscellaneous Metal
Overside Drains and Appurtenances
Pavement Dowels
Pavement Markers
Pavement Reinforcing Fabric
Piling (except CIDH Piling)
Pipe (Irrigation Systems)
Plastic Lumber
Precast Concrete Members
Prefabricated items that typically take more than 60 days to fabricate and ship to the job site.
Prestressing steel for cast-in-place members, sealed packages only, and prestressing ducts and anchorages (for structures that have an estimated value exceeding \$500,000.)

Eligible Materials
PTFE and PTFE Spherical Bearings
Pumping Plant Electrical Equipment
Pumping Plant Equipment
Pumping Plant Metal Work
Railings
Reinforcement
Rock Slope Protection Fabric
Sewer Pipes and Appurtenances
Signal and Lighting Standards
Signal Cabinets
Signal Heads and Mounting Brackets
Soil Nail Assemblies
Sound Wall (Masonry Block, Precast Concrete, Panels)
Splice Vaults
Sprinklers
Structural Plate Installations
Structural Steel
Timber
Type B Joint Seals and Joint Seal Assemblies
Underdrain Pipe
Valves
Welded Steel Pipe
Welded Steel Pipe Conduit

6.14 CLIMATE AREAS

The Websites for the highway environmental areas and the structure freeze thaw areas are:

Climate Areas

Memo to Designers 8-2, "Protection Against Deicing Chemicals and Freeze-Thaw Environment":

<http://www.dot.ca.gov/hq/esc/techpubs/manual/bridgemanuals/bridge-memo-to-designer/page/Section%208/8-2.pdf>

Attachment A, "California State Highway Environmental Areas":

<http://www.dot.ca.gov/hq/esc/techpubs/manual/bridgemanuals/bridge-memo-to-designer/page/Section%208/8-2.A.pdf>

Attachment B, "California State Highway Listing by Environmental Area and Post Mile":

<http://www.dot.ca.gov/hq/esc/techpubs/manual/bridgemanuals/bridge-memo-to-designer/page/Section%208/8-2.B.pdf>