

performed; rate of progress of the work; interpretation of the plans and specifications; acceptable fulfillment of the Contract by the Contractor; disputes and mutual rights between contractors; and compensation.

The Engineer has the authority to suspend the work wholly or in part if the Contractor fails to correct conditions that are unsafe for workers or the general public or carry out the provisions of the Contract. The Engineer may also suspend work for such periods as he may deem necessary because of unsuitable weather in accordance with the requirements of Section 108.10, conditions considered unsuitable for prosecution of the work, or any other condition or reason deemed to be in the public interest.

105.02—Plans and Working Drawings.

Plans consisting of general drawings and showing such details as are necessary to give a comprehensive understanding of the work specified will be furnished by the Department. Except as otherwise shown on the plans, dimensions shown on the plans are measured in the respective horizontal or vertical planes. Dimensions that are affected by gradients or vertical curvatures shall be adjusted as necessary to accommodate actual field conditions and shall be specifically denoted on the working drawings.

The Contractor shall furnish working drawings as may be required. Working drawings shall not incorporate any changes from the requirements of the Contract unless the changes are specifically denoted, together with justification, and are approved in writing by the Engineer. Working drawings and submittals shall be identified by the complete state project and job designation numbers. Items or component materials shall be identified by the specific contract item number and specification reference in the Contract.

The Contractor may authorize the fabricator in writing to act for him in matters relating to working drawings. Such authorization shall have the force and effect of any other representative of the Contractor's organization.

Working drawings for steel structures, including metal handrails, shall consist of shop detail, erection, and other working drawings showing details, dimensions, sizes of units, and other information necessary for the fabrication and erection of metal work.

Working drawings for falsework supporting a bridge superstructure shall be certified by a Professional Engineer, holding a valid license to practice engineering in the Commonwealth of Virginia.

Working drawings for concrete structures and prestressed concrete members shall provide such details as required for the successful prosecution of the work and which are not included in the plans furnished by the Department. Drawings shall include plans for items such as prestressing strand details and elongation calcula-

tions, falsework, bracing, centering, form work, masonry, layout diagrams and bending diagrams for reinforcing steel when necessary or when requested.

The Contractor shall submit to the Department for review three sets of required working drawings. Working drawings shall be submitted in sufficient time to allow discussion and correction prior to the beginning of the work they reference. Work shall not be performed or materials ordered prior to review of the working drawings. One set of working drawings marked with any suggested modifications or comments will be returned to the Contractor. The other sets will be retained by the Department.

Reviewed working drawings will be returned to the Contractor within 30 days from the date of receipt by the Department. If a railroad, municipality, or other entity as specified in the Contract or on the plans is required to review the working drawings, the reviewed working drawings will be returned within 45 days from the date of receipt by the Department. If the working drawings are not returned by the time specified, no additional compensation will be allowed except that an extension of time in accordance with the requirements of Section 108.09 will be considered. Upon completion of the work, the original tracings, if required, shall be supplied to the Department.

Prior to fabrication or construction, the Contractor shall submit for review one original and six copies of each working drawing and design calculation and a Professional Engineer's certification of such design for lighting, signal and pedestal poles, overhead and bridge mounted sign structures, breakaway support systems, anchor bolts, framing units, panels, and foundations. All sheets of these submittals shall include the Professional Engineer's stamp or seal. Certification for foundations will be required only when the designs are furnished by the Contractor. The design shall be in accordance with *AASHTO'S Standard Specifications for Structural Supports for Highway Signs, Luminaries, and Traffic Signals*. The certification shall be made by a Professional Engineer holding a valid license to practice engineering in Virginia.

When specified, and prior to manufacture of reinforced concrete pipe, the Contractor shall furnish to the Department a certification of the acceptability of the design of such pipe, as determined from a review which shall be made for the Contractor by a Professional Engineer holding a valid license in the Commonwealth of Virginia. Such certification shall cover all design data, supporting calculations and materials. Pipe designs previously certified or approved by the Department will not require recertification.

The Department's review of the Contractor's working drawings will relate to conformance to the requirements of the Contract. The review shall not be considered as authorization for any deviation from the requirements of the Contract unless the deviation, including explicit supporting justification, is specifically described. The review will not relieve the Contractor from responsibility for errors in the working drawings. If working drawings detailing a change(s) initiated by the Contractor require more than two resubmissions or revisions, the cost of additional reviews by the Department or its designated representative(s) will be assessed to the Contractor.

The cost of working drawings furnished by the Contractor shall be included in the cost of appropriate contract items.

105.03—Conformity with Plans and Specifications.

Values for materials to be used in the work shall be in close conformity with the specified values or range of values specified in the Contract. Less than complete conformity may be tolerated if obtaining exact or complete conformity would not be feasible and if authorized by the Engineer.

Permissible tolerances for the elevation of earthwork and thickness of the several courses of select material, subbases, and bases are specified in these specifications. If permissive tolerances are exceeded or if consistent deviations from the plans or abrupt changes in grade occur, even though within the tolerances, the affected areas shall be reconstructed to conform to the specified tolerance and provide a smooth riding surface. When it is not feasible to reconstruct the areas, payment will be made in accordance with the requirements of the applicable specification for each material placed.

When the plans require the finished surface to tie into any structural item whose elevation is fixed, the elevation of the finished surface shall coincide with the elevation of the structural item.

105.04—Furnishing and Erecting Precast Structures.

Precast units will be allowed by the Department for the construction of standard drainage units and minor structures. The use of precast box culverts, precast arch, and special design precast structures will be considered provided the design for the structures is submitted to the Department for approval prior to performance of the work.

Approval by the Department for the use of precast units is permissive only. The Contractor shall ensure that the precast unit, as installed at each specific location, will possess the specified structural, functional, aesthetic, and serviceability characteristics of the cast-in-place design. If field conditions make the precast unit unsuitable, the Contractor may modify the unit in a manner that will not be detrimental to the structural design, as approved by the Engineer, or shall replace the unit with the originally designed cast-in-place unit at his own expense.

Submittal of designs for precast items included in the standard drawings will not be required provided fabrication is in accordance with the standard details. Submittal of designs for precast box culverts on the Department's approval list will not be required provided the Contractor submits a certification that it will be fabricated in accordance with the preapproved design drawings.

Requests for approval of a precast design shall include detailed plans and supporting computations that have been reviewed and approved by a registered Professional

Engineer having at least 5 years experience in structural design of the type of precast structures or components proposed. Concrete shall have a design strength at 28 days of at least 4,000 pounds per square inch and an air content of 6 ± 2 percent. The design of the concrete mixture and the method of casting, curing, handling, and erecting shall be subject to review by the Engineer. Precast units may be shipped after reaching 85 percent of the design compressive strength as determined by control cylinders tested in accordance with the requirements of Section 404. Units shall retain their structural integrity during shipment and shall be subject to inspection at the job site. Approval to use precast units shall not be construed as waiving the size and weight hauling limitations of Section 105.14.

105.05—Coordination of Plans, Standard Drawings, Specifications, Supplemental Specifications, Special Provisions, and Special Provision Copied Notes.

The plans, standard drawings, these specifications, supplemental specifications, special provisions, special provision copied notes, and supplementary documents are parts of the Contract. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In case of a discrepancy, the following will apply:

- (a) Calculated dimensions, unless obviously incorrect, will govern over scaled dimensions.
- (b) Supplemental specifications will govern over these specifications.
- (c) Plans will govern over these specifications, supplemental specifications, and the standard drawings.
- (d) Special provisions will govern over these specifications, supplemental specifications, and plans.
- (e) Special provision copied notes will govern over these specifications, supplemental specifications, plans, and special provisions. The pay items and pay units listed in the proposal have the same status as special provision copied notes.

The Contractor shall not take advantage of any apparent error or omission in the plans or specifications. If the Contractor discovers an error or omission, he shall immediately notify the Engineer. The Engineer will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Contract.

105.06—Cooperation of Contractor.

The Contractor will be supplied with at least two sets of the contract assemblies. Two copies of the Department's *Road and Bridge Specifications* and two copies of the Department's *Road and Bridge Standards* will be furnished on request without charge.

Plans will be furnished to the Contractor without charge as follows:

Original Contract Amount in Dollars		Number of Plan Sets	
From	To	Full Size	Half Size
0	1,999,999	4	6
2,000,000	4,999,999	6	8
5,000,000	9,999,999	8	10
10,000,000+		10	10

Plan revisions issued while the project is under construction will be furnished to the Contractor in the same kind and number. The Contractor shall keep one complete set of plans, standard drawings, contract assemblies, and specifications available on the project at all times except for maintenance projects, certain sign projects, and other projects having no field office or on which the Contractor has no office.

The Contractor shall give the work the constant attention necessary to facilitate progress and shall cooperate with the Engineer, Inspector, and other contractors in every way possible. If any portion of a project is located within the limits of a municipality, military installation, or other federally owned property, the Contractor shall cooperate with the appropriate officials and agents in the prosecution of the work to the same extent as with the Department.

The Contractor shall have on the project at all times a competent superintendent capable of reading and understanding the plans and specifications and experienced in the type of work being performed who shall receive instructions from the Engineer or his authorized representatives. The superintendent shall have full authority to execute the orders and directions of the Engineer without delay and supply promptly such materials, equipment, tools, labor, and incidentals as may be required.

105.07—Cooperation With Regard to Utilities.

The adjustment of utilities consists of the relocation, removal, replacement, rearrangement, reconstruction, improvement, disconnection, connection, shifting, or altering of an existing utility facility in any manner.

Existing utilities at the design stage of the project will be indicated on the plans. Preliminary arrangements for adjusting these utilities will be made by the Department prior to project construction. Existing private and public utilities that require adjustment will be adjusted by the utility owner or shall be adjusted by the Contractor as a contract item. The new location of such utilities will not normally be shown on the plans. Some utilities may remain or be adjusted within the construction limits simultaneously with project construction operations.

The Contractor shall coordinate project construction with planned utility adjustments and take all necessary precautions to prevent disturbance of the utility facil-

ities. The Contractor shall report to the Engineer any failure on the part of the utility owner to cooperate or proceed with the planned utility adjustments.

The Contractor shall perform contract utility work in a manner that will cause the least inconvenience to the utility owner and those being served by the utility owner.

Existing, adjusted, or new utility facilities that are to remain within the right of way shall be properly protected by the Contractor to prevent disturbance or damage resulting from construction operations. If an existing utility that requires adjustment is encountered by the Contractor, he shall not interfere with the utility but shall take the proper precautions to protect the facility and shall promptly notify the Engineer of the need for adjustment.

Prior to preparing a bid, the bidder shall contact known utility owners to determine the nature, extent, and location of existing, adjusted, or new utility facilities. Any additional cost resulting therefrom shall be reflected in the bid price for other items in the Contract.

If the Contractor desires the temporary or permanent adjustment of utilities for his own benefit, he shall conduct all negotiations with the utility owners and pay all costs in connection with the adjustment.

Except as otherwise specified herein, the Department will not be responsible for any claims for additional compensation from the Contractor resulting from delays, inconvenience, or damage sustained by him attributable to interference by utility appurtenances, or the operation of moving the same, other than a consideration of an extension of time.

If it is determined that interference by utility appurtenances caused a delay of such magnitude or otherwise altered project operations so as to increase significantly the Contractor's cost of performing the work, the Engineer may consider additional compensation limited to the actual costs incurred by the Contractor. The determination of the severity of the interference, its impact on the Contractor's costs, and the amount, if any, of compensation shall be at the sole discretion of the Engineer. Prior to the Engineer's review, the Contractor shall present sufficient documentation to substantiate fully the request for additional compensation. Nothing herein shall be construed as requiring acceptance of the Contractor's presentation or payment of additional compensation.

105.08—Cooperation among Contractors.

The Department may at any time contract or approve concurrent contracts for performance of other work on, near, or within the same geographical area of the work specified in an existing contract. Contractors shall not impede or limit access to such work by others.

When separate contracts are awarded within the limits of one project, contractors shall not hinder the work being performed by other contractors. Contractors work-

ing on the same project shall cooperate with each other. In case of dispute, the Engineer shall be the referee, and his decision shall be binding on all parties.

When contracts are awarded to separate contractors for concurrent construction in a common area, the contractors, in conference with the Engineer, shall establish a written joint schedule of operations based on the limitations of the individual contracts and the joining of the work of one contract with the others. The schedule shall set forth the approximate dates and sequences for the several items of work to be performed and shall ensure completion within the contract time limit. The schedule shall be submitted to the Engineer for review and approval no later than 30 days after the award date of the later contract and prior to the first monthly progress estimate. The schedule shall be agreeable to, signed by, and binding on each Contractor. The Engineer may allow modifications of the schedule when benefit to the contractors and the Department will result.

Any modification of the schedule shall be in writing, mutually agreed to and signed by the contractors, and shall be binding on the contractors in the same manner as the original agreement.

If the contractors fail to agree on a joint schedule of operations, they shall submit their individual schedules to the Engineer, who will prepare a schedule that will be binding on each Contractor.

The joint schedule and any modification thereof shall become a part of each contract involved. The failure of any Contractor to abide by the terms of the joint schedule shall be justification for declaring the Contractor in default of his Contract.

Each Contractor shall assume all liability, financial or otherwise, in connection with his Contract and shall protect and save harmless the State from any and all damages and claims that may arise because of any inconvenience, delay, or loss he experiences as a result of the presence and operations of other contractors working in or near the work covered by his Contract. He shall also assume all responsibility for any of his work not completed because of the presence or operation of other contractors.

Except for an extension of the contract time limit, the Department will not be responsible for any inconvenience, delay, or loss experienced by a Contractor as a result of his failure to gain access to the work at the time contemplated. When the failure to gain access is not due to any fault or negligence of the Contractor, an extension of the contract time limit will be allowed on the basis of the amount of time delayed.

The Department will not assume any responsibility for acts, failures, or omissions of one contractor that delay the work of another except as provided herein.

105.09—Holidays.

Except as is necessary to maintain traffic, work shall not be performed on Sundays or the following holidays without the permission of the Engineer: January 1, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.

If any of these holidays occurs on a Sunday, the following Monday shall be considered the holiday.

105.10—Construction Stakes, Lines, and Grades.

This work shall consist of providing all surveying and stakeout for the successful prosecution of work as indicated on the plans and as directed by the Engineer. Stakeout work shall be in accordance with the Department's Survey Manual.

The following surveying work shall be performed by or under the direct control and personal supervision of a surveyor who is licensed in Virginia as a Land Surveyor and is experienced in highway construction stakeout: Right of way and boundaries affecting property ownership, horizontal and vertical control for bridges, horizontal and vertical control for box culverts and culverts having spans or openings larger than 48 inches, horizontal and vertical control for culverts with design grades, horizontal and vertical control for additional centerlines or baselines for roadways, ramps, loops and connections.

All other surveying work may be performed by or under the direct supervision and control of the Contractor who is experienced in highway construction stakeout.

The Contractor shall preserve Department furnished centerline or baseline control, references and location benchmarks. The Contractor shall provide all additional centerline stakes, such as additional lines, connections, ramps and loops, slope stakes, right-of-way markers, fine grade stakes, construction benchmarks and reference stakes as well as the locating of all drainage, roadway and bridge structures. All alignment established by the Contractor shall be referenced with a copy of the references furnished to the Engineer.

The Contractor shall provide the Engineer with a record copy of survey drawings, field notes and computations prior to the use of said stakeout information for construction. Survey record drawings shall be prepared and certified in accordance with the requirements of the sample figure drawings as shown in the Survey Manual. Electronic data files may be submitted along with paper sketches and drawings, subject to the prior approval of the Engineer. All electronic copies submitted shall be in a format fully compatible with the Department's existing computer hardware and software. It shall be the responsibility of the Contractor to check all surveying work for correctness. Consideration will not be given for any delays to the project that are a result of inaccurate stakeout or time lost to correct elements of the defective survey work. Contractor shall bear all cost to correct all deficiencies resulting from defective survey work. Should a discrepancy arise during construction, the Contractor shall immediately provide oral and written notice to the Department, accurately describing and documenting the discrepancy. The Department will respond to the Contractor's notice and provide direction on how the work is to proceed.

Digital Terrain Model (DTM) and construction cross-sections: Original location Digital Terrain Model (DTM) or cross-sections will serve as a basis of payment for

earthwork unless the DTM or sections differ from existing conditions. In such case, the Contractor shall be responsible for taking construction DTM or cross-sections to include only the areas that show changes from the original location DTM or sections. Contractor shall submit DTM to the Engineer for verification. All borrow pit DTM or cross-sections, both original and final, will be secured by the Engineer.

Culverts: The Contractor shall stake box culverts and culverts having spans or openings larger than 48 inches and culverts with design grades. Stakeout work and record drawings shall be in accordance with the requirements of Sample Figure 1 as shown in the Survey Manual. Certified record drawings, field notes, and computations shall be submitted to the Engineer.

Bridge construction: The Contractor shall stake all bridges. Stakeout work and record drawings shall be in accordance with the requirements of Sample Figures 2 and 3 as shown in the Survey Manual. Certified record drawings, field notes, and computations shall be submitted to the Engineer.

Grading and paving construction: Fine grade or other grade stakes required for the construction of the project shall be set as the work progresses. Fine grade stakes shall be set on all projects on which the plans show a definite grade line. Fine grade hubs shall be set on at least one side with distances and grades referenced to the finished centerline grade. On curves, fine grade hubs may be set on both sides with offsets and grades referenced to the edge of pavement.

On secondary projects, fine grade stakes will be required only on those projects having curb and gutter.

On projects where grading and paving is performed under the same contract, only one set of fine grade stakes will be required. Fine grade stakes may be used for fine grade and paving grade.

Locating and setting right-of-way monuments: The Contractor shall set hub and tack points for RM-1 right-of-way monuments in accordance with the Road and Bridge Standards. The Contractor shall furnish RM-2 right-of-way monuments and locator posts. The Department will furnish the required caps for installation by the Contractor. Surveying work and drawings shall be in accordance with the requirements of Sample Figure 4 as shown in the Survey Manual. Certified record drawings, field notes, and computations shall be submitted to the Engineer.

Upon completion of the project, the Contractor shall provide the Engineer with all original surveying drawings, field notes, layouts, computations, sketches and drawings in the format approved by the Engineer. All electronic copies submitted shall be in a format fully compatible with the Department's existing computer hardware and software.

Measurement and payment: Construction surveying will be paid for at the contract lump sum price, which price shall be full compensation for performing the work prescribed herein, and for all materials, labor, tools, equipment and incidentals necessary to complete the work.

Payment for construction surveying will be made upon written request by the Contractor. Such request shall be submitted to the Engineer no earlier than five days, and no later than two days prior to the progress estimate date. Payment may be made in increments selected by the Contractor. However, payments will not exceed 60 percent of the contract unit price bid until the Contractor has provided the Engineer with surveying field notes, layouts, computations, sketches and drawings in the format approved by the Engineer.

Locating and setting RM-1 and RM-2 right-of-way monuments will be measured and paid for in accordance with the requirements of Section 503. No payment will be made until the Engineer has received certified documents from the Contractor.

Payment will be made under:

Pay Item	Pay Unit
Construction surveying	Lump sum

105.11—Authority and Duties of Inspector.

Inspectors employed by the Department are authorized to inspect all work performed and materials furnished. Inspection may extend to all or any part of the work and to the preparation, fabrication, and manufacture of the materials to be used. The Inspector is not authorized to alter or waive the provisions of these specifications or make changes in the plans.

The Inspector is not authorized to make final acceptance of the project, approve any operation or item, or act as foreman for the Contractor. However, the Inspector will have the authority to reject defective work and material and suspend work that is being improperly performed, subject to the concurrence of the Engineer. Such inspection shall not relieve the Contractor of any obligation to furnish acceptable materials or provide completed construction that is in accordance with the plans and specifications.

The Inspector will exercise only such additional authority as may be delegated by the Engineer. The Engineer will advise the Contractor in writing of delegations of authority that will affect his operations.

105.12—Inspection of Work.

Inspection will be performed at critical stages. However, all stages, materials, and details of the work are subject to inspection. The Engineer shall be allowed access to all parts of the work and shall be furnished such information and assistance by the Contractor as are required to make a complete and detailed inspection. The Engineer and his appointed representatives shall have ready access to machines and plant equipment used in processing or placing materials.

Prior to the beginning of operations, the Engineer will meet with the Contractor to establish an understanding of the critical stages of work that shall be performed in the presence of the Inspector. In order for the Department to schedule inspection of the work, the Contractor shall keep the Engineer informed of planned operations in accordance with the requirements of Section 103.06(e).

If the Engineer requests it, the Contractor shall remove or uncover such portions of the finished work as may be directed at any time before final acceptance. If necessary, the Contractor shall restore such portions of the work to comply with the specifications. If the work exposed is acceptable, the uncovering or removing and replacing the covering or making good the parts removed will be paid for as extra work in accordance with the requirements of Section 104.03. If the work is unacceptable, the cost of uncovering or removing and replacing the covering or making good the parts removed shall be borne by the Contractor.

When any unit of government, political subdivision, or public or private corporation is to pay a portion of the cost of the work specified in the Contract, its representatives shall have the right to inspect the work. The exercise of this right shall not be construed as making them a party or parties to the Contract or conferring on them the right to issue instructions or orders to the Contractor.

If materials are used or work is performed without inspection by an authorized representative of the Department, the Contractor may be ordered to remove and replace the work or material at his own expense unless the Department's representative failed to inspect the work or material after having been given reasonable notice in writing that the material was to be used or the work was to be performed.

If an inspection reveals that work has not been properly performed, the Contractor will be so advised and shall immediately inform the Department of his schedule for correcting such work and the time at which a reinspection can be made.

105.13—Removal of Unacceptable and Unauthorized Work.

Work that does not conform to the requirements of the Contract will be considered unacceptable work.

Unacceptable work shall be remedied or removed immediately and replaced in an acceptable manner at the Contractor's expense. The Engineer may accept the work at a reduced price when acceptance is considered to be in the best interest of the public.

No work shall be done until the lines and grades have been established by the Engineer. Work that is done contrary to the instructions of the Engineer, beyond the lines shown on the plans or as designated by the Engineer except as specified herein, or without authority will be considered unauthorized and will not be paid for. Such work may be ordered removed or replaced at the Contractor's expense.

The Contractor shall not perform destructive sampling or testing of the work without written authorization of the Engineer. Unauthorized destructive sampling or testing will cause the work to be considered unacceptable.

In the event the Contractor is granted authorization to perform destructive sampling or testing, the Engineer must approve the method and location of each test prior to beginning such sampling or testing. In addition, destructive sampling and testing shall be performed in the presence of the Engineer.

If the Contractor fails to comply immediately with any order of the Engineer made under the provisions of this section, the Engineer will have the authority to cause unacceptable work to be removed and replaced and unauthorized work to be removed and to deduct the cost from any monies due or to become due the Contractor.

105.14—Size and Weight Limitations.

- (a) **Hauling or Moving Material and Equipment on Public Roads Open to Traffic:** The Contractor shall comply with legal size and weight limitations in the hauling or moving of material and equipment on public roads open to traffic unless the hauling or moving is covered by a hauling permit.
- (b) **Hauling or Moving Material and Equipment on Public Roads Not Open to Traffic:** The Contractor shall comply with legal weight limitations in the hauling or moving of material and equipment on public roads that are not open to traffic unless the hauling or moving is permitted elsewhere herein or is otherwise covered by a hauling permit. The Contractor shall be liable for damage that results from the hauling or moving of material and equipment. The hauling or moving of material and equipment on the pavement structure or across any structure during various stages of construction shall be subject to additional restrictions as specified or directed by the Engineer.
- (c) **Furnishing Items in Component Parts of Sections:** If the size or weight of fabricated or manufactured items together with that of the hauling or moving vehicle exceeds the limitations covered by hauling permit policies and other means of transportation are not available, permission will be given to furnish the items in component parts of sections with adequately designed splices or connections at appropriate points. Permission for such adjustments shall be requested in writing, and approval in writing shall be secured from the Department prior to fabrication or manufacture of the items. The request shall state the reasons for adjustment and shall be accompanied by supporting data, including working drawings where necessary.

105.15—Acceptance.

- (a) **Partial Acceptance:** If at any time during the prosecution of the project the Contractor completes a unit or portion of the project, such as a struc-

ture, an interchange, slopes, pavement, or a section of a roadway, in its entirety, he may ask the Engineer to make final inspection of such work. If the Engineer finds upon inspection that the work conforms to the requirements of the Contract and that acceptance is in the interest of the public, he may accept the work as being completed, and the Contractor will be relieved of further responsibility for the work as specified in Section 107.16. Partial acceptance shall in no way void or alter any terms of the Contract.

If any damage attributable to causes beyond the control of the Contractor is sustained by the accepted unit or portion of the project, the Engineer may authorize the Contractor to make necessary repairs. In the absence of contract prices covering the items of repair, the work will be paid for in accordance with the requirements of Section 109.05.

- (b) **Final Acceptance:** Upon receipt of a written notice from the Contractor of presumptive completion of the entire project, the Engineer will make an inspection. If all work specified in the Contract has been completed, the inspection will constitute the final inspection and the Engineer will make the final acceptance. The Contractor will be notified of final acceptance in writing within 5 days.

If the inspection discloses that any work, in whole or in part, is incomplete or unacceptable, the Contractor shall immediately correct the deficiency. Upon completion or correction of the work, another inspection will be made that will constitute the final inspection. In such event, the Engineer will make the final acceptance and the Contractor will be notified of final acceptance in writing within 5 days. In any event, the Contractor shall maintain the project until final acceptance except under conditions that may be specifically exempted.

105.16—Submission and Disposition of Claims.

Early or prior knowledge by the Department of an existing or impending claim for damages could alter the plans, scheduling, or other action of the Department or result in mitigation or elimination of the effect of the act objected to by the Contractor. Therefore, a written statement describing the act of omission or commission by the Department or its agents that allegedly caused damage to the Contractor and the nature of the claimed damage shall be submitted to the Engineer at the time of occurrence or beginning of the work upon which the claim and subsequent action are based. If such damage is deemed certain in the opinion of the Contractor to result from his acting on an order from the Engineer, he shall immediately take written exception to the order. Submission of a notice of claim as specified shall be mandatory. Failure to submit such notice shall be a conclusive waiver to such claim for damages by the Contractor. An oral notice or statement will not be sufficient nor will a notice or statement after the event.

At the time of occurrence or prior to beginning the work, the Contractor shall furnish the Engineer an itemized list of materials, equipment, and labor for which additional compensation will be claimed. Only actual cost for materials, labor and equipment will be considered. The Contractor shall afford the Engineer every facility for keeping an actual cost record of the work. The Contractor and the Engineer shall compare records and bring them into agreement at the end of each day. Failure on the part of the Contractor to afford the Engineer proper facilities for keeping a record of actual costs will constitute a waiver of a claim for such extra compensation except to the extent that it is substantiated by the Department's records. The filing of such notice by the Contractor and the keeping of cost records by the Engineer shall in no way establish the validity of a claim.

If the Contractor's claim contains data furnished by the Contractor that cannot be verified by the Department's records, the data shall be subject to a complete audit by the Department or its authorized representative if they are to be used as a basis for claim settlement.

Upon completion of the Contract, the Contractor may, within 60 days from the time the final estimate is paid, submit to the Department a written claim, an original and three legible copies, for the amount he deems he is entitled to under the Contract. For the purpose of this section, the final estimate date shall be that date set forth in a letter from the Construction Engineer to the Contractor at the time the final estimate is submitted to the Fiscal Division for vouchering. The claim shall set forth the facts upon which the claim is based. The Contractor shall include all pertinent data and correspondence that may substantiate the claim. Only actual cost for materials, labor and equipment will be considered. Within 90 days from the receipt of the claim, the Department will make an investigation and notify the Contractor by registered mail of its decision. However, by mutual agreement, the Department and Contractor may extend the 90-day period for another 30 days.

If the Contractor is dissatisfied with the decision, he shall notify the Commissioner in writing within 30 days from receipt of the Department's decision that he desires to appear before him, whether in person or through counsel, and present additional facts and arguments in support of his claim. The Commissioner will schedule and meet with the Contractor within 30 days after receiving the request. However, the Commissioner and Contractor, by mutual agreement, may schedule the meeting to be held after 30 days but before the 60th day from the receipt of the Contractor's written request. Within 45 days from the date of the meeting, the Commissioner will investigate the claim, including the additional facts presented, and notify the Contractor in writing of his decision. However, the Commissioner and Contractor, by mutual agreement, may extend the 45-day period for another 30 days. If the Commissioner deems that all or any portion of a claim is valid, he shall have the authority to negotiate a settlement with the Contractor subject to the provisions of Section 2.1-127 of the *Code of Virginia* 1950 as amended.

Any monies that become payable as the result of claim settlement after payment of the final estimate will not be subject to payment of interest unless such payment is specified as a condition of the claim settlement.