

## QUALITY CONFORMANCE REQUIREMENTS

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Special Provision No. 199S66

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### **1.0 SCOPE**

This Special Provision describes the process for the assessment of conformance to the quality requirements, access to records and facilities, and the administrative actions for non-conformance. This Special Provision does not cover conformance to occupational health and safety legislation and regulations, traffic control requirements, excess loading of vehicles, Commercial Vehicle Operator's Registration (CVOR) requirements, environmental management plans, or traffic management plans.

### **2.0 REFERENCES**

Ontario Ministry of Transportation Publications

MTO Forms:

PH-CC-701	Request to Proceed
PH-CC-821	Manufacturer's Certificate of Conformance
PH-CC-822	Certificate of Conformance
PH-CC-859	Non-Conformance Report (NCR)
PH-CC-862	Status of Non-Conformance
PH-CC-890	Certificate of Contract Completion

### **3.0 DEFINITIONS**

For the purpose of this Special Provision, the following definitions apply:

**Acceptance Test Results** means the test results that are used for the final assessment of conformance with the Material requirements specified in the Contract Documents. Depending on the specification for the Material, the final assessment of conformance is based on one of the following: quality assurance, referee test results or quality control.

**Corrective Action** means the proposed activities carried out to correct or mitigate the impact of the non-conformance after it has occurred.

**Deficient Material** means Material that has an attribute, property or characteristic that does not meet the requirements of the Contract Documents. This includes, but is not limited to, any Material for which acceptance test results indicate less than full payment under a Contract Document containing provisions for payment adjustments.

**Deficient Workmanship** means work that does not meet the requirements of the Contract Documents due to the Contractor's construction activities including, but not limited to, incorrect elevations, dimensions, alignment, appearance and/or crossfall of individual components, products and finished construction.

**Non-Conformance** means an occurrence of work not meeting the requirements of the Contract Documents, or an occurrence of deficient Material or deficient workmanship.

**Preventative Measures** means the activities taken to identify and eliminate the root cause of a non-conformance to prevent the occurrence from happening in the future.

**Quality Control (QC)** means a system, documentation, certificates, system of records, or series of activities carried out by the Contractor to ensure that the final product and Material supplied to the Owner meets the requirements of the Contract Documents.

#### **4.0 QUALITY REQUIREMENTS**

##### **4.1 General**

Quality requirements shall be according to Table 1.

The Contractor is responsible for all QC activities and shall provide the staff and resources necessary to implement QC processes that result in conformance to the quality requirements. The Contractor shall ensure that its workers are provided the necessary resources and training to implement QC activities and processes that result in conformance to the quality requirements.

The Contractor is responsible for identifying and immediately communicating to the Contract Administrator all occurrences of work not meeting the requirements of the Contract Documents.

All occurrences of work identified as not meeting the quality requirements specified in Table 1 shall be immediately communicated to the Contract Administrator in writing.

##### **4.2 Assessment of Conformance**

During construction, and within 30 Days after the date of Certificate of Contract Completion, the conformance to the quality requirements related to the following activities will be assessed by the Contract Administrator:

- a) The production, supply and placement of all Material used in the Work;
- b) The removal, rehabilitation, modification, or construction of temporary or permanent elements of the Work;  
and
- c) Sampling, testing, and QC records associated with a) and b) above.

The Contract Administrator's assessment of conformance may consist of random or milestone inspections, continuous inspection, sampling and testing for audit or acceptance purposes, audits of the QC documentation as specified in the Contract Documents or any combination of the preceding actions, at the discretion of the Contract Administrator. In addition, the Owner may perform audits to assess conformance.

##### **4.3 Non-Conformance Process**

###### **4.3.1 Identification of Non-Conformances by the Contractor**

The Contractor shall identify and immediately notify the Contract Administrator in writing of all non-conformances prior to the Contract Administrator bringing it to the Contractor's attention.

The Contractor shall use Part A of MTO form PH-CC-859, Non-Conformance Report (NCR), to identify and document non-conformances, within 24 hours after the non-conformance occurrence is identified on site.

When Part A of the NCR is deemed to be incomplete by the Contract Administrator, the Contractor shall revise and resubmit Part A of the NCR to the Contract Administrator within 1 Business Day, unless otherwise mutually agreed in writing. If the revised Part A is still incomplete, the Contract Administrator will complete and add information to Part A as necessary.

###### **4.3.2 Non-Conformances Not Identified by the Contractor**

When the occurrence of a non-conformance is not identified by the Contractor within 24 hours, as specified in subsection 4.3.1, the Contract Administrator will initiate and complete Part A of the NCR.

#### **4.3.3 Addressing Non-Conformances**

Non-conformances shall be addressed by the Contractor as follows:

- a) Submit Part B of the NCR to the Contract Administrator identifying a proposal for corrective actions and/or payment reduction, preventative measures, including any amendments to the Contract Documents within 1 Business Day, unless otherwise mutually agreed in writing, of:
  - i. The Contractor submitting Part A of the NCR to the Contract Administrator as specified in subsection 4.3.1 Identification of Non-Conformances by the Contractor; or
  - ii. The Contractor receiving Part A of the NCR from the Contract Administrator as specified in subsection 4.3.2 Non-Conformances Not Identified by the Contractor.
- b) Carry out one or a combination of, a corrective action and/or payment reduction according to the proposal approved by the Contract Administrator. The Contractor shall not proceed with any subsequent activity that would prevent or impede the implementation of the approved proposal.
- c) Implement preventative measures, according to the proposal approved by the Contract Administrator, prior to continuing with the associated activity. The Contractor shall implement the preventative measures for the duration of the Contract.

#### **4.3.4 Certificate of Conformance, Manufacturer's Certificate of Conformance and Request to Proceed**

The Contractor shall identify and address all non-conformances prior to issuing a Certificate of Conformance, Manufacturer's Certificate of Conformance, Request to Proceed, or any other certification when such submissions are required by the Contract Documents.

If the components of the work do not conform with the Contract Documents, the Contractor shall propose a corrective action which may include an amendment to the Contract Documents. Amendments to the Contract Documents shall deliver the functionality of the original Contract Documents. Any aspect of a corrective action that involves or may involve doing work or an act that is within the practice of professional engineering shall be prepared, signed, and sealed by an Engineer.

Proposed amendments to the Contract Documents shall be approved by the Owner prior to issuing a Certificate of Conformance, Manufacturer's Certificate of Conformance, or Request to Proceed.

Any amendments to the Contract Documents accepted by the Owner, and within the scope of the Certificate of Conformance, Manufacturer Certificate of Conformance, and/or Request to Proceed shall be appended to the related certification.

#### **4.4 Deviations**

##### **4.4.1 Notification of the Status of the Non-Conformance**

Within 3 Business Days of receiving Part B of the NCR, the Contract Administrator will complete MTO form PH-CC-862, Status of Non-Conformance, which provides a written notice to the Contractor that, the non-conformance is one of the following:

- a) A deviation, including the reason for the deviation;
- b) Not a deviation;

- c) Under review with the Owner; or
- d) NCR returned to the Contractor.

When the status of the non-conformance is identified as "Under review with the Owner", the status shall be updated in writing to a), b) or d) when the review is complete.

When the status is identified as "NCR returned to the Contractor", the NCR shall be revised and resubmitted to the Contract Administrator within 1 Business Day for review.

The Owner shall not be responsible for any additional delays or costs caused by the Contract Administrator's review of the Contractor's proposal to address the non-conformance.

#### **4.4.2 Assessment of Deviations**

A deviation will be assessed for:

- a) Any non-conformance to the quality requirements of Category 1 through 5 in Table 1 that are not addressed according to subsection 4.3 Non-Conformance Process;
- b) Any non-conformance to the quality requirements of Category 6 specified in Table 1;
- c) The third and each subsequent non-conformance that is identified and documented by the Contract Administrator;
- d) The third and each subsequent occurrence of the same or similar non-conformance regardless of conformance with this Special Provision;
- e) Incorporating deficient Material into the Work without prior approval of the corrective action by the Contract Administrator; or
- f) Omitting and/or disregarding Material placement and/or construction requirement(s), without the approval of the Owner, reducing the quality level and/or making the quality level unacceptable, indeterminate, or unexpectedly acceptable.

Within 3 Business Days after a deviation has been assessed, the Contractor shall comply with the requirements of the Contract Documents that were the subject of the deviation.

The deviation will not be waived regardless of the Contractor's subsequent conformance, corrective action, payment reduction or preventative measure.

#### **4.4.3 Classification of a Deviation**

A written notification on MTO form PH-CC-862, Status of Non-Conformance will be provided by the Contract Administrator to the Contractor, of the classification of a deviation ("minor" or "major"), after a non-conformance is determined to be a deviation.

The classification of the deviation, or a change in the classification resulting from a review by the Owner, will be provided to the Contractor by the Contract Administrator.

The classification of all deviations will be determined no later than 30 Days after the date of Certificate of Contract Completion.

A deviation will automatically be assessed as a minor unless it meets the criteria of a major. A deviation will be assessed as a major deviation:

- a) If it negatively impacts, or increases the Owner's risk of negatively impacting, one or more of the following:
  - i. The short or long-term performance of the product;
  - ii. The Owner's ability to assess the quality of the Material or workmanship as a result of, but not limited to, inadequate documentation, and/or completeness of the records or reports; or
  - iii. The Owner's ability to administer the acceptance of Material as specified in the Contract Documents as a result of, but not limited to, missing or deficient quality assurance or referee samples.
- b) For the third occurrence and each subsequent occurrence of the same or similar minor deviation.
- c) For not implementing corrective actions and/or preventative measures prior to continuing with the associated activity or proceeding with any subsequent activity that would prevent or impede implementation of corrective actions and/or preventative measures.
- d) For submitting a Certificate of Conformance, Manufacturer's Certificate of Conformance, Request to Proceed, or any other certification when the work does not conform with the requirements of the Contract Documents.
- e) For proceeding with work prior to submission of a Certificate of Conformance, Manufacturer's Certificate of Conformance, Request to Proceed, other certification, or prior to receiving a Notice to Proceed when required by the Contract Documents.

#### **4.4.4 Contractor's Right to Challenge a Deviation**

Within 3 Business Days of being notified of the classification of a deviation, the Contractor may challenge the assessment of the deviation. To challenge a deviation, the Contractor shall submit in writing to the Contract Administrator, an outline of the reasons the assessment of the deviation is being challenged and all relevant documentation in support of the Contractor's position. The Owner will review the submission and issue a final decision on the assessment of the deviation.

### **5.0 ACCESS TO RECORDS AND FACILITIES**

The Owner and/or Contract Administrator shall be given access to obtain samples for testing and perform survey work, as necessary in order to monitor the Contractor's adherence to the requirements of the Contract Documents.

Within 24 hours of the CA and/or Owner submitting a written request to obtain access to records and facilities, the Contractor shall give the Owner and/or the Contract Administrator full access:

- a) At any time to documents related to the Contract work including all original and copies of inspection records;
- b) Test results;
- c) Readings;
- d) Measurements;
- c) Shop drawings; and
- d) To testing and production facilities, as necessary to enable the Ministry to monitor and/or audit the Contractor's adherence to the requirements of the Contract Documents.

The 24 hours written notice will not apply to access to test results and testing or production facilities when the Ministry or Contract Administrator expects the testing or production facilities to be active for the Contract at the time of the visit.

For purposes of this section, test results include all original supporting readings, measurements, laboratory worksheets and calculations. When original records are not stored at the Contractor's field office, the Contractor shall make available copies of original inspection records, test results and other quality control documents for viewing at the Contractor's field office for the Contract within 1 Business Day of receiving a written request from the Contract Administrator or Owner.

In addition, unless otherwise specified, the Contractor shall provide copies of original inspection records, test results, readings, measurements or any other quality control documents to the Contract Administrator or the Owner within 1 Business Day of receiving a written request from either party.

## **6.0 ADMINISTRATIVE ACTION**

If the Contractor does not comply with the requirements of the Contract Documents that were subject of a NCR, the Owner may take other action it deems necessary.

**TABLE 1  
QUALITY REQUIREMENTS**

<b>Category</b>	<b>Requirements</b>
1.0 Contractor's Personnel / Firms	a) Personnel and firms shall meet the qualifications (for example: certificates, licences) specified in the Contract Documents; and b) Qualifications shall be maintained for the duration of their participation in the Work.
2.0 Sampling, Testing and Submission of Results	The following shall be performed as specified in the Contract Documents: a) Material sampling, preparation, handling, delivery, and storage; and b) Quality control sampling, testing and submission of results where quality control requirements are specified in the Contract Documents.
3.0 Material and Mix Designs	Material shall be according to the Contract Documents.  Each of the following shall comply with, and be supplied, as specified in the Contract Documents: a) Material from approved/designated sources. b) The complete mix design submission, including all supporting documentation. c) Material from sources identified in the accepted mix design submission; and d) Submission of certification for all materials that require certification.  Each of the following shall be performed as specified in the Contract Documents: a) Material sampling, testing and/or inspection prior to incorporation into the work, and checking that Material meets the accepted mix designs, b) Material handling and/or storage; and c) Addition and/or mixing of materials identified in the accepted mix design. d) Material sampling, testing and/or inspection after the Material has been incorporated into the work.  Deficient Material shall not be incorporated into the work.
4.0 Material Placement and Construction	Each of the following shall be as specified in the Contract Documents: a) Submission of Material-related documentation. b) Submission of drawings plans and procedures. c) Condition of substrate, formwork, or other locations against which Material is to be placed. d) Environmental conditions for Material placement, including but not limited to temperature and weather constraints and placement restrictions, e) Tools and equipment. f) Construction requirements for Material placement and/or removal and/or repairs; and g) Provision of protection of Material and components of the work and/or maintenance of environmental conditions after Material placement (for example; curing of concrete, cold weather protection).
5.0 Workmanship	The Contractor shall address all other non-conformances related to deficient workmanship.

Category	Requirements
6.0 Certifications, Request to Proceed, Notice to Proceed and Submission of Drawings / Documents	<p>The Contractor shall ensure that:</p> <ul style="list-style-type: none"> <li>a) All specified inspections have been carried out prior to certification and issuing of Request to Proceed when specified in the Contract Documents.</li> <li>b) A written Notice to Proceed is received prior to proceeding to the next operation of the work when specified in the Contract Documents.</li> <li>c) All certifications and Request to Proceed are correct, completed accurately, submitted on time as specified in the Contract Documents and submitted prior to proceeding with the next phase of the work where specified; and</li> <li>d) All drawings and other documents sealed and signed by an Engineer or signed by an Ontario Land Surveyor are submitted on time as specified in the Contract Documents.</li> </ul>

WARRANT: All Contracts.