

SM012 State Highway Control Manual

Part 13 - Consolidated Procurement Sections

Index

Procurement Policy and Contracts	Page 2
Cost Sharing Contract	Pages 3 to 25
Road Construction and Maintenance Standards	Page 26
Bridge Construction and Maintenance Standards	Page 27
Materials and Equipment Requirements	Page 28
Motorway Service Centres	Page 29

Procurement Policy and Contracts

Policy	With the exception of events listed in the Exemptions section below, no payments shall be made by NZTA for State highway physical works or professional services unless the payment relates to an approved project the price of which has been determined by an agreed Procurement Procedure (PP).
Rationale	The Land Transport Management Act s95 requires contestability to achieve the efficient application of the (State highway) Account.
Procedures	<p>The above Act requires the NZTA to approve a procurement procedure for each project or class of project.</p> <p>Details of the procedures to be followed for State highways are contained in the current NZTA issues of the following:</p> <ul style="list-style-type: none">• Procurement Manual, NZTA: and• Contract Procedures Manual, NZTA.
Exemptions	<p>The following types of physical works and professional services are exempt from the PP requirements:</p> <ol style="list-style-type: none">1. Payment for works or services not partly or wholly funded by the NZTA.2. Payment that is necessary in the urgent interests of public safety.3. Payment that is necessary for the immediate or temporary repair of damage caused by a sudden and unexpected event.4. Payment for an approved project of administration.5. Cost payable by the NZTA as a consequence of a lawfully authorised agency controlling a structure on a State highway.6. Payment for any other activities exempted by subsequent changes in legislation.
Payment to Local Authorities for unique services	<p>The LTMA s95 prohibits any payment direct to TLA.</p> <p>Where a TLA is the only provider of a unique service that service must be included as an approved output or capital project, the price of which has been determined by a competitively priced contract.</p> <p>Payment can then be made to the contract provider who will reimburse the TLA.</p> <p>An example of this is the maintenance of drainage pumping facilities by a TLA where the State highway bears part of the cost.</p> <p>A formal agreement should be executed. The Cost Sharing Agreement gives the wording of the agreement.</p>
Tendering of services and purchasing procedures	The administrative procedures to be followed and form of contracts to be used for the tendering of all works and services shall be specified in <i>Contract Procedures Manual</i> , NZTA.

Cost Sharing Contract

DRAFT

1 December 2008

Parties

NEW ZEALAND TRANSPORT AGENCY

("NZTA")

and

[LOCAL AUTHORITY]

(the Principal)

COST SHARING CONTRACT



COST SHARING CONTRACT

TABLE OF CONTENTS

PARTIES 1

1	INTERPRETATION.....	1
1.1	Application	1
1.2	Definitions	1
1.3	General	3
1.4	Law, currency and language	3
1.5	Computation of time	3
2	THE CONTRACT	3
2.1	Type of contract	3
2.2	Evidence of contract	3
2.3	Use of documents	4
3	CONTRACTOR'S OBLIGATIONS	4
3.1	General responsibilities	4
3.2	Contractor's representative	4
3.3	Possession of the Site	4
3.4	Separate contractors	5
3.5	Care of the works	5
3.6	Protection of persons and property	6
3.7	Setting out	6
3.8	Materials, labour and Plant	7
3.9	Programme	7
3.10	Compliance with laws	8
4	VARIATIONS	8
4.1	Variations permitted	8
5	PAYMENTS	9

5.1	Contractor's claims	9
5.2	Final invoice	9
5.3	Interest	10
5.4	Cost fluctuations	10
5.5	Prime Cost Sums	10
5.6	Contingency sums	11
6	DISPUTES	11
6.1	General	11
6.2	Conciliation and arbitration	11
6.3	Suspension during dispute	13
6.4	Award of interest	13
7	FRUSTRATION AND DEFAULT	13
7.1	Frustration	13
8	SERVICE OF NOTICES	14
8.1	General	14
	FIRST SCHEDULE	15
	SECOND SCHEDULE	17
	THIRD SCHEDULE - SCHEDULE OF PRICES	18
	COST FLUCTUATION ADJUSTMENT BY INDEXATION	19
	A1	19
	A2	19
	A3	19
	A4	20
	A5	20
	A6	20
	A7	20
	A8	20

PARTIES

- (1) NEW ZEALAND TRANSPORT AGENCY (*NZTA*)
- (2) [LOCAL AUTHORITY] (*the Principal*)

1 INTERPRETATION**1.1 Application**

This Section shall apply to the Contract Documents unless inconsistent with the context.

1.2 Definitions

Contract Agreement means the written agreement for the fulfilment of the contract signed by the Principal and NZTA.

Contract Documents means the Contract Agreement in the First Schedule and the documents referred to in and forming part of the Contract Agreement.

Contract Price means the sum named in the Contract Documents for the completion of the Contract Works subject to such adjustments as are provided for in the Contract Documents.

Contract Works means the works including Temporary Works to be executed in accordance with the contract.

Cost includes expense or loss and overhead cost whether on or off the Site.

Daywork means work to which 8.4 applies.

Days when used to express a period of time means Working Days.

Drawings means the drawings included in the Contract Documents together with any modification of such drawings.

Due Date for Completion has the meaning assigned to it in the First Schedule.

Materials means any raw or manufactured material, goods or things (other than Plant) required for use in the Contract Works.

Month means a calendar month.

Plant means all appliances, temporary buildings and equipment of whatsoever nature required for the construction, completion or maintenance of the Contract Works but not intended to be incorporated in the Contract Works.

Prime Cost Sum has the meaning assigned to it in 5.6.

Principal means [] and includes its successors.

Schedule means the third schedule included in the Contract Documents which shows the prices payable for sections or items of the Contract Works and the proportion of such prices payable by the Principal and may also include quantities, rates, Prime Cost Sums and contingency sums.

Site means the land and other places on or over or under which the Contract Works are to be carried out together with any other places made available to NZTA by the Principal conditionally or unconditionally for the purposes of the Contract.

Special Conditions means the First Schedule and such other documents as are included in the Contract Documents which add to or delete from or modify these General Conditions.

Specifications means documents included in the Contract Documents containing descriptions of Materials and workmanship and other details of the Contract Works together with any additions to or modifications of such documents approved in writing by NZTA and the Principal for the purpose of the Contract.

Subcontractor means any person who contracts with NZTA to carry out or supply part of the Contract Works on behalf of NZTA and includes a nominated subcontractor under 3.4.

Temporary Works means works of any kind, not being part of the Contract Works to be taken over by the Principal, but which are required for the execution of the Contract Works.

Variation means a variation to the Contract Works pursuant to clause 4 and any other matter which is stated to be a Variation by the General Conditions or by the Special Conditions.

Week means a period of seven consecutive calendar days.

Working Day means a calendar day other than any Saturday, Sunday, public holiday or any day falling within the period from 24 December to 5 January both inclusive.

1.3 General

- 1.3.1 Where the context so requires, words importing the singular shall include the plural and *vice versa*, and words importing the masculine shall include the feminine and the neuter.
- 1.3.2 Cross-references to other clauses or clause sub-divisions within these General Conditions quote the number only.
- 1.3.3 The headings to clauses are for convenience only and shall not affect their interpretation.

1.4 Law, currency and language

- 1.4.1 The contract shall be governed by and construed with reference to the law for the time being in force in New Zealand.
- 1.4.2 All prices and payments made under the contract shall be in New Zealand currency and payable in New Zealand.
- 1.4.3 All communications between the Principal and NZTA shall be in the English language.

1.5 Computation of time

- 1.5.1 Where any period of time from a given day, act or event is prescribed or allowed for any purpose, the time shall, unless a contrary intention appears, be reckoned as exclusive of that day or the day of that act or event.

2 THE CONTRACT**2.1 Type of contract**

- 2.1.1 The contract shall be a cost share contract in the proportions set out in the Schedule of Prices.

2.2 Evidence of contract

- 2.2.1 Unless and until the Contract Agreement is executed by the parties, the offer and its acceptance between NZTA and the Principal shall, together with the other documents intended to form part of the contract, constitute the contract between them.

2.3 Use of documents

- 2.3.1 NZTA shall maintain on Site at least one copy of the Drawings and Specifications marked to show where superseded or modified together with at least one copy of all amended Drawings, supplementary Drawings, information or directions as may be issued by the Engineer from time to time during the Contract.
- 2.3.2 The Contract Documents shall be taken as mutually explanatory and if there are ambiguities or omissions these shall not invalidate the contract.

3 CONTRACTOR'S OBLIGATIONS**3.1 General responsibilities**

- 3.1.1 NZTA shall complete, hand over to the Principal and maintain the Contract Works and arrange to provide all services, labour, Materials, Plant, Temporary works, transport and everything whether of a temporary or permanent nature required so far as the necessity for the same is specified in or to be inferred from the Contract Documents.

3.2 Contractor's representative

- 3.2.1 NZTA shall arrange to provide all necessary supervision during the contract. It shall have on the Site at all working times a competent representative. All work shall be carried out under the supervision of NZTA's representative.

3.3 Possession of the Site

- 3.3.1 Where necessary, the Principal shall give NZTA possession of the Site on the date as is provided in the First Schedule.
- 3.3.2 Should the Principal not give possession of the Site or any portion of the Site, in accordance with the First Schedule, for any reason other than default of NZTA in carrying out his obligations under the contract, NZTA may suspend the commencement of work on the Site or on that portion of the Site by notice in writing.
- 3.3.3 The Principal shall obtain authority for NZTA to have the reasonable right of entry upon and do any act upon any adjoining property as may be necessary for the commencement or prosecution of the Contract Works. Such access may be limited by the Special Conditions. Any Costs involved in obtaining such right shall be borne by the Principal. NZTA shall respect the rights of the adjoining property owners and shall make good at its own expense with the least possible delay any damage arising out of its operations. NZTA shall procure for itself at its own Cost the use of or inappropriate rights in respect of any other property which it may choose to use for carrying out the Contract Works.

3.4 Separate contractors

3.4.1 NZTA may arrange for work on the Site to be carried out under separate contract by parties other than NZTA and concurrently with the carrying out of the Contract Works. Such parties shall be engaged directly by NZTA and are referred to as "subcontractors".

3.5 Care of the works

3.5.1 NZTA shall be responsible for the care of the Contract Works and all Plant from the time it obtains possession of the Site until the time of completion.

3.5.2 NZTA shall be responsible for the care of all Materials which are in its care or possession awaiting incorporation in the Contract Works.

3.5.3 NZTA shall be responsible for and shall indemnify the Principal against loss or damage to the Contract Works occurring after completion arising out of the execution of NZTA's outstanding obligations under the contract.

3.5.4 Except where loss or damage has the effect of terminating the contract by frustration, should any loss or damage occur to the Contract Works or Materials while NZTA is responsible for their care, NZTA shall repair the loss or damage to the extent needed for completion, handing over and maintenance of the Contract Works. Such repair of damage shall be carried out without additional payment by the Principal unless caused by an excepted risk defined in 3.5.5, in which event the repair (to the extent its necessity arises from an excepted risk) shall be a Variation.

3.5.5 The excepted risks are:

- (a) riot (insofar as it is uninsurable), civil commotion or disorder (unless solely restricted to employees of NZTA or his Subcontractors and arising from NZTA's conduct of the Contract Works), war, invasion, act of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection of military or usurped power;
- (b) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive, or other hazardous properties of any nuclear explosive, nuclear assembly or nuclear component thereof;
- (c) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;

- (d) the use, occupation or taking over of any portion of the Contract Works including but not limited to any portion in respect of which a certificate of Practical Completion has been issued;
- (e) the design of the Contract Works other than by NZTA or by a person acting on his behalf;
- (f) any such operation of the forces of nature as an experienced contractor could not foresee or reasonably make provision for or insure against;
- (g) any risks specifically excepted in the Special Conditions;
- (h) any act or omission of the Principal or of any other person for whose acts or omissions the Principal is as between himself and NZTA responsible.

3.6 Protection of persons and property

- 3.6.1 So far as the Site and the Contract Works are under NZTA's control, NZTA shall take all reasonable steps to keep them in an orderly state and in such a condition as to avoid danger to persons and property.
- 3.6.2 NZTA shall provide, erect, maintain and when no longer required, remove all barricades, fencing, temporary roadways and footpaths, signs and lighting necessary for the effective protection of property, for traffic and for the safety of others.
- 3.6.3 NZTA shall indemnify the Principal against any liability or Cost resulting from extraordinary or excessive traffic on any highway, road or bridge arising from the execution of the Contract Works.
- 3.6.4 NZTA shall take all reasonable steps to avoid nuisance and prevent damage to property.

3.7 Setting out

- 3.7.1 NZTA shall be responsible for the setting out of the Contract Works in accordance with the Contract Documents.
- 3.7.2 NZTA shall preserve and maintain in their true position all survey marks other than marks which are required to be covered or removed by the Contract Works. Should any survey mark be disturbed or obliterated NZTA shall arrange its replacement at his own Cost.

3.7.3 If at any time prior to completion of the contract works any error shall appear in the position, levels or dimensions of any part of the Contract Works set out by NZTA, NZTA shall rectify the error. The Cost of rectification shall be borne by NZTA except and to the extent that any error arises out of incorrect information supplied by the Principal, and which was not known by NZTA to be incorrect at the time of tender.

3.8 Materials, labour and Plant

3.8.1 NZTA shall, except where otherwise specified in the Contract Documents, supply at its own Cost everything necessary for the completion of the Contract Works and the performance of its obligations under the contract including minor items not expressly mentioned in the Contract Documents and of a type not normally detailed but necessary for completion and performance of the Contract Works.

3.8.2 All materials and workmanship shall conform to the provisions of the Contract Documents, with work being carried out in a tradesperson-like manner. Unless otherwise specified, all Materials used other than in Temporary Works shall be new.

3.9 Programme

3.9.1 NZTA shall prepare a construction programme and submit it to the Principal within the nominated time. The programme shall show the proposed order of work and the dates for commencement and completion of the various stages of the Contract Works.

3.9.2 The supply of Materials, services and work to be supplied by the Principal shall be phased to comply with NZTA's programme or as otherwise reasonably requested by NZTA.

3.9.3 If it becomes evident to NZTA that completion of the Contract Works is likely to be delayed, it shall notify the Principal as soon as practicable.

3.9.4 From time to time, the Principal may require NZTA to amend its programme to take account of the actual progress of the Contract Works.

3.9.5 Work requiring inspection by the Principal other than emergency work shall be carried out on Working Days and within normal working hours unless NZTA has given reasonable prior notice to the Principal.

3.10 Compliance with laws

3.10.1 In carrying out the contract the Principal and NZTA shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Contract Works.

- 3.10.2 Unless the Contract Documents require otherwise, the Principal shall obtain all licences and approvals of public authorities which may be required for the use of the Contract Works when constructed. NZTA shall give all notices and obtain all other necessary permits and approvals as may be required for the construction of the Contract Works and shall pay all proper charges for such permits and approvals. The Principal shall arrange for NZTA to be supplied with copies of any necessary documents and other information in order to comply with this clause.
- 3.10.3 If the issue of any permit or approval is delayed without fault of NZTA and NZTA thereby suffers delay in the completion of the Contract Works or incurs additional Cost, the effect of the delay in the issue of the permit or approval shall be a Variation.
- 3.10.4 From time to time at the request of the Principal and in any case before the completion of the Contract Works NZTA shall deliver to the Principal all documents necessary to prove the issue of notices, permits and approvals for which NZTA is responsible under this clause.

4 VARIATIONS

4.1 Variations permitted

- 4.1.1 The Principal and NZTA may agree to any Variations to the Contract Works.
- 4.1.2 The Principal and the Contract may agree to direct or change the order in which the work is to be carried out. Any such agreement shall be a Variation.
- 4.1.3 NZTA shall carry out and comply with any Variation agreed to under this clause.
- 4.1.4 The value of Variations shall be added to or deducted from the Contract Price.

5 PAYMENTS

5.1 Contractor's claims

- 5.1.1 NZTA shall submit to the Principal invoices for payment under the contract. Unless otherwise provided in the Contract Documents such invoices shall be submitted in respect of work carried out during periods of not less than one Month.
- 5.1.2 NZTA's invoices shall show:
- (a) the estimated extent and value of the Contract Works, excluding Variations, which have been carried out

-
- (b) the estimated extent and value of all work done or other Cost which is claimed in respect of Variations
 - (c) the estimated extent and value of Materials delivered to the Site which are intended to be incorporated in the Contract Works but have not yet been so incorporated
 - (d) any advances for Temporary Works or Plant or for Materials not yet on Site for which payment is provided in the Contract Documents
 - (e) the estimated value of Cost fluctuations
 - (f) the proportion of each of the above items to be met by the Principal in accordance with the Schedule of Prices.

5.1.3 Within 8 Working Days after the receipt of NZTA's invoice the Principal shall pay to NZTA the sum invoiced less any deductions which are required by the terms of the contract or by law.

5.2 Final invoice

5.2.1 Not later than two Months after the completion of the Contract Works NZTA shall submit to the Principal a final invoice of all NZTA's claims in relation to the contract. The final invoice shall state the amount or amounts claimed by NZTA in respect of all outstanding invoices and shall show next to each amount what proportion of the amount is due from the Principal. This account shall be endorsed "final invoice" and signed by NZTA.

5.2.2 Submission of the final invoice by NZTA shall be conclusive evidence that NZTA has no outstanding claim against the Principal except as contained therein, and except for any item which has been referred to arbitration under clause 6. The Principal shall not be liable to NZTA for any matter in connection with the contract unless contained within the final invoice but this shall not preclude the later correction of any clerical or accounting error.

5.3 Interest

5.3.1 The Principal shall pay NZTA interest on all monies certified as payable and remaining unpaid after the expiry of the time provided for payment in the invoice or if no time is provided for payment then after 8 working days.

5.3.2 The rate of interest shall be equal to one and a quarter times the average interest rate as certified by a chartered accountant or trading bank manager, which is currently payable or which would be payable by NZTA for overdraft facilities [or 11% per annum accruing daily].

5.3.3 The right to interest shall be additional to any other remedy to which NZTA may be entitled at law.

5.4 Cost fluctuations

5.4.1 If after the date of this Agreement the making of any statute, regulation or bylaw, or the imposition by Government or by a local authority of any royalty, fee or toll increases or decreases the Cost to NZTA of performing the contract, such increase or decrease not being otherwise provided for in the contract, the effect shall be treated as a Variation.

5.4.2 A cost fluctuation adjustment shall be paid in accordance with the provisions of Appendix A unless otherwise provided in the Special Conditions.

5.4.3 Claims for Cost fluctuation adjustments in accordance with this clause may be submitted by NZTA to the Principal each month in writing and a detailed summary of all such claims shall be submitted with the final invoice.

5.5 Prime Cost Sums

5.5.1 Prime Cost Sums may be provided for Materials to be supplied by NZTA or by a Nominated Subcontractor for incorporation into the Contract Works. Such sums shall be expended only on agreement between the Principal and NZTA.

5.5.2 NZTA shall obtain quotations and samples for the Materials covered by the Prime Cost Sums and submit them to the Principal for its approval.

5.5.3 The amount payable to NZTA in respect of a Prime Cost Sum shall be varied by the substitution for the Prime Cost Sum of the following:

- (a) the net purchase price payable by NZTA (without deduction of any cash discount for early payment), together with
- (b) a reasonable allowance for NZTA's expense and profit on the Materials to which the Prime Cost Sum relates.

5.5.4 The proportion of the Prime Cost Sum payable by the Principal to NZTA shall be that proportion provided in the Schedule of Prices or if no proportion is provided then such proportion shall be agreed between the Principal and NZTA in writing.

5.6 Contingency sums

- 5.6.1 Contingency sums may be provided for any work which may be executed by NZTA, but the expenditure on which is unknown at the time of entering into this Agreement. Such sums shall be expended only after written agreement between the Principal and NZTA. The proportion of the Contingency sum payable to NZTA by the Principal shall be that proportion provided in the Schedule of Prices or if no proportion is provided then such proportion shall be agreed between the Principal and NZTA in writing.
- 5.6.2 All work carried out under a contingency sum shall be a Variation.

6 DISPUTES**6.1 General**

- 6.1.1 No decision, valuation or invoice of NZTA shall be questioned or challenged more than three Months after it has been given to the Principal unless notice has been given to NZTA within that time.
- 6.1.2 Every dispute or difference concerning the contract shall be dealt with under the following provisions of this Section.

6.2 Conciliation and arbitration

- 6.2.1 If the Principal and NZTA cannot reach agreement on any matter, then either the Principal or NZTA may by notice require that the matter in dispute be referred to arbitration.
- 6.2.2 A notice requiring arbitration shall be in writing and shall be given by the Principal or NZTA to the other of them within one Month after negotiations between the parties have broken down.
- 6.2.3 The notice requiring arbitration may include a request for conciliation. If such a request is made and is acceded to by the other party then the Principal and NZTA shall endeavour to agree on a conciliator and shall submit the matter in dispute to him to her. The conciliator shall discuss the matter with the parties and endeavour to resolve it by their agreement. All discussions in conciliation shall be without prejudice, and shall not be referred to in any later proceedings. Failing agreement the conciliator may by written decision himself or herself determine the matter. The conciliator's determination shall be binding on both parties unless within ten Working Days either party notifies the other in writing that it rejects the conciliator's determination. The Principal and NZTA shall bear their own costs in the conciliation, and shall each pay half the costs of the conciliator.

6.2.4 If:

- (a) conciliation has not been requested, or if requested has not been agreed upon within ten Working Days of the request; or
- (b) the parties have agreed upon conciliation but have been unable within ten Working Days of such agreement to agree upon a conciliator; or
- (c) no agreement has been reached in conciliation and no determination has been issued by the conciliator within two Months of the request for conciliation, or within such further time as the parties may agree; or
- (d) either party has within the prescribed time rejected the conciliator's determination

then the matter in dispute shall be referred to arbitration.

6.2.5 The dispute shall be referred to a sole arbitrator if the Principal and NZTA agree upon one, and if not then to two arbitrators, one appointed by each party, and their umpire. References in this Section to "the arbitrator" shall include two arbitrators and their umpire.

6.2.6 The arbitrator shall have full power to open up, review and revise any decision, opinion, instruction, direction, or valuation.

6.2.7 Where the matter has been referred to conciliation the conciliator shall not be called by either party as a witness, and no reference shall be made to the determination, if any, issued by the conciliator in respect of the matter in dispute.

6.2.8 The award in the arbitration shall be final and binding on the parties.

6.3 Suspension during dispute

6.3.1 No dispute proceeding shall entitle NZTA to suspend the execution of the Contract Works, except with the agreement the Principal in writing.

6.3.2 No payment due or payable shall be withheld on account of disputes proceedings other than payment of so much of the item as is in dispute.

6.4 Award of interest

6.4.1 The arbitrator may award interest upon any amount due and payable under his or her award from the Principal to NZTA or vice versa at such rate and for such period as he or she considers just, down to the date of the award.

7 FRUSTRATION AND DEFAULT**7.1 Frustration**

7.1.1 In the event that either the Principal or NZTA considers that the contract has become impossible of performance or has been otherwise frustrated, it may notify the other that it considers the contract to be terminated. If the other party agrees, or in the event of disagreement if it is so determined under clause 6 by conciliation or arbitration, then 7.1.2 shall apply.

7.1.2 The Principal shall pay NZTA:

- (a) the agreed proportion of the value of the work carried out at the date of termination less the amounts previously paid;
- (b) the agreed proportion of the Cost of Materials ordered for the Contract Works which have been delivered to NZTA or of which NZTA is legally obliged to accept delivery, and which NZTA delivers to the Principal. These Materials shall become the property of the Principal upon delivery to it;
- (c) the agreed proportion of cost fluctuation adjustments due and payable up to the date of termination;
- (d) fair compensation to NZTA for any Cost which is included in the First Schedule to the extent that the termination of the contract causes an under-recovery of that Cost;
- (e) the agreed proportion of any Cost reasonably incurred by NZTA in the expectation of completing the Contract Works in so far as such Cost is not covered by other payments under this clause;
- (f) the Cost of any works necessitated by the removal of Contractor's plant and the carrying out of the Engineer's instructions for the making safe of the Contract Works;
- (g) any other Costs resulting from the termination as are reasonable to compensate NZTA for disruption and are not otherwise provided in the Contract Documents.

8 SERVICE OF NOTICES**8.1 General**

- 8.1.1 The Principal or Contractor may require that any notice, instruction or other communication under the contract be given in writing.
- 8.1.2 Any document which is to be served upon the Principal or NZTA under the contract shall be sufficiently served if it is handed to an employee or to its appointed representative, or delivered to its address as stated in the Contract Documents or as subsequently advised in writing.
- 8.1.3 Proof that a document has been sent by prepaid post in a correctly addressed envelope shall be *prima facie* evidence of delivery in the ordinary course of post.

FIRST SCHEDULE
SPECIAL CONDITIONS OF CONTRACT

Contract for: _____

1. The Principal is: _____
of (street address: _____
2. NZTA shall be given possession of the Site on:

3. NZTA shall complete the Contract Works by _____.
4. The amount of the insurance to be effected in respect of the Contract Works shall be not less than the total of the Contract Price and the following:
 - (a) for the Cost of demolition, disposal and preparation for replacement work, the sum of \$ _____ (or _____% of the Contract Price)
 - (b) for professional fees including the cost of clerks of works and inspectors, the sum of \$ _____ (or _____% of the Contract Price)
 - (c) for the value of items incorporated, or to be incorporated, in the Contract works, the cost of which is not included in the Contract Price, the sum of \$ _____
 - (d) for increased construction Costs during the construction period _____% of the Contract Price
 - (e) for increased construction Costs due to delay during the reinstatement period _____% of the Contract Price.
5. (a) NZTA shall insure as provided in _____
6. Cost fluctuation adjustments
 - (a) shall be paid in accordance with Appendix A
 - (b) shall be paid in accordance with _____
 - (c) shall not be paid

(delete as appropriate)

7. Prime Cost Sums included in the contract are:

(a) _____ \$ _____

(b) _____ \$ _____

(c) _____ \$ _____

(d) _____ \$ _____

8. The contingency sum to be included in the contract is: _____
\$ _____

9. For the purpose of service of notices, the postal address of

(a) the Principal is _____

**SECOND SCHEDULE
CONTRACT AGREEMENT**

FOR _____

THIS AGREEMENT is made on _____ 19____

BETWEEN NEW ZEALAND TRANSPORT AGENCY (NZTA)

AND _____

of _____ (*the Principal*)

IT IS AGREED as follows:

- 1. NZTA shall construct, complete, deliver and maintain the works and things described in the Contract Documents.
- 2. THE Principal shall pay NZTA the proportion of each cost as set out in the attached Schedule of Prices.
- 3. EACH party shall carry out and fulfil all other obligations imposed on that party by the Contract Documents.
- 4. THE Contract Documents are this Contract Agreement and the following which form part of this agreement:
 - (a) the General Conditions of Contract, NZS 3910:1987
 - (b) the Special Conditions of Contract
 - (c) the Specification
 - (d) the Drawings
 - (e) the Third Schedule "Schedule of Prices" (*delete if applicable*)
 - (f) *identify any additional documents to be included (for example agreed correspondence)*

THIRD SCHEDULE — SCHEDULE OF PRICES

Item	Value	Principals Proportion
1.		
2.		
3.		
4.		

WITNESS to the signature
of NZTA:

NZTA

WITNESS to the signature:
of the Principal:

Principal

APPENDIX A

COST FLUCTUATION ADJUSTMENT BY INDEXATION

A1

The provisions of this Appendix shall apply unless otherwise specifically provided in the Special Conditions.

A2

The amounts payable by the principal to the Contractor under the contract shall be adjusted up or down by amounts calculated in accordance with the following formula:

$$C = V \left[\frac{0.4(L - L')}{L'} + \frac{0.6(M - M')}{M'} \right]$$

- Where C = Cost fluctuation adjustment for the quarter under consideration,
- V = Valuation of work certified for payment as having been completed during the quarter under consideration subject to A3, but without deduction of retentions and excluding the Cost fluctuation adjustment,
- L = Prevailing Weekly Wage Rates Index; — "part 1 Analysis: Private Sector: Industry 15 — Construction" published by the Department of Statistics applying for the quarter under consideration,
- L' = Index as defined under L but applying for the quarter during which tenders close,
- M = "Producers Price Index — Construction Inputs" published by the Department of Statistics applying for the quarter under consideration,
- M' = Index as defined under M but applying for the quarter during which tenders close.

A3

For the purpose of calculating the Cost fluctuation adjustment, any Daywork, Prime Cost Sums, Variations and other payment items which are based on actual Cost or current prices and any advances shall be excluded from the Engineer's valuation.

A4

No other Cost fluctuation adjustment will be made by reason of any inaccuracy in the proportions of labour and Material Costs assumed in the above formula.

A5

The Contractor shall not be entitled to claim or have deducted any Cost fluctuation adjustment for any further changes in indices which occur after the Due Date for Completion of the contract.

A6

The indices to be used in the calculation of fluctuation shall be those first published by the Department of Statistics for the appropriate quarter.

A7

Where indices for the quarter have not yet been published, interim payments will be made on the basis of the indices for the most recent quarter for which indices are available.

A8

If at any time either of the indices referred to in A2 are no longer published by the Department of Statistics, or if the basis of either index is materially changed, the adjustment shall thereafter be calculated by using such other index, or in such other manner, as will fairly reflect the changes as previously measured by that index.

Road Construction and Maintenance Standards

Introduction

The NZTA has approved national standard documents specifications with notes to cover a range of construction and maintenance activities on State highways.

Current national standard Transport Services (TS) contract documents are:

- State Highway Professional Services Contract Proforma Manual SM030
- Physical Works Construction Proforma Manual SM031
- State Highway Maintenance Contract Proforma Manual SM032
- Network Operating Contract Management Manual SM034.

A schedule of all current specifications can be obtained from the Manager, Procurement Strategy and Methods, Wellington.

Application of Standard Contract Documents

The following guidelines shall apply to the use of standard contract documents:

1. Standard contract documents shall be used for all appropriate contracts unless written dispensation has been received from the Manager, Procurement Strategy and Methods.
 2. The standard contract documents shall be maintained by the Manager, Procurement Strategy and Methods, and all requests for documents and recommendations for change shall be forwarded to that officer. Requests for change can be sent to the manual e-mail addresses.
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Application of Standard Specifications

The following guidelines shall apply to the use of standard specifications:

1. All construction and maintenance on state highways shall be in accordance with NZTA standard specifications where these exist.
 2. Project specifications shall list only those standard specifications relevant to the project.
 3. Specification notes shall not be included in contract documents.
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Road construction

Construction shall be in accordance with the current NZTA "B", "F", "G", "P", "Q" and "T" series specifications.

Road and ancillary services maintenance

Guidance on the required level of service is given in *SM031* and the draft *State Highway Asset Management Plan*.

Specifications detailing the contractual requirements are listed in the *Standards and Guidelines Register for Land Transport* and particularly the NZTA Manual "Code of Practice for Temporary Traffic Management".

Bridge Construction and Maintenance Standards

Introduction

Bridges impose inflexible and durable constraints on State highways. Each bridge is unique. A consequence of this uniqueness is that there are no NZTA standard specifications developed for bridge construction and maintenance.

Bridge construction

Construction of State highway bridges shall comply with the following specifications:

1. Bridge Manual Second Edition June 2003.
 2. Standards New Zealand (SNZ) Specifications.
 3. Manufacturers' specifications where no SNZ specification exists.
 4. Site-specific Engineer's specification.
 5. Waterway Design: Austroads 1996.
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Bridge maintenance

Bridge maintenance shall be in accordance with the following:

1. *S6 Bridge Inspection Policy*, NZTA.
 2. *Bridge Inspection and Maintenance*, NZTA.
 3. *Bridge Overweight Rating and Position Weight Limits Assessment*, NZTA.
-

Materials and Equipment Requirements

General

All materials and equipment used on State highway works must be of good quality and appropriate for their intended use.

A large number of more commonly used materials and equipment have specific NZTA requirements and these must be complied with as a standard for all State highway works. Dispensations can be obtained from the National Manager Programme and Standards, the National Manager, System Design or the Chief Engineer as appropriate so long as the scope and the intent of the standard is achieved.

NZTA materials and equipment specifications

Details of materials covered by specific NZTA requirements are detailed in *Specifications List*, NZTA, under the headings *Materials* and *Equipment*.

Other materials and equipment

Materials or equipment not covered by specific NZTA requirements shall comply with one of the following as appropriate:

1. A SANZ *Standard* or *Specification* where one exists.
 2. A manufacturer's specification where no SANZ standard or specification exists.
 3. A custom-made engineer's specification.
 4. A specification from overseas or from other references referred to in other NZTA Manuals.
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Motorway Service Centres

Background

The National Stopping Places Strategy recognises that NZTA has a responsibility to ensure the provision of convenient facilities and services that cater for the needs and expectations of road users. These facilities can also contribute to safety objectives by providing road users with the opportunity to break their journey, reduce fatigue and service vehicles.

On most State highways, demand for essential services is usually met by private sector interests (through the provision of service stations and other roadside businesses) and NZTA (through the provision of rest areas, viewing points and the like). However, on motorways and expressways, where access is restricted and road users are generally unable to stop, the availability of such services is often limited.

Definition

Motorway Service Centres (MSC) are defined as developments located adjacent to a motorway or expressway, for the sole purpose of providing essential services for the safety, comfort and convenience of motorway and expressway users.

Policy Objective

To encourage the nationally consistent development of MSC, in a manner that improves the contribution of motorways and expressways to an integrated, safe, responsive and sustainable land transport system.

Tendering process

Where MSC are to be developed on NZTA administered land, development rights will be allocated through a competitive tendering process, consistent with NZTA's Policy and Guidelines on MSC.
