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Eric Holcomb, Governor
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CONSTRUCTION MEMORANDUM
17-17

TO: District Deputy Commissioners
District Construction Directors
District Technical Services Directors
District Area Engineers
District Project Management Director
Project Management Director
District Traffic Engineers
District Testing Engineers
District LPA Coordinators
Project Engineers/Supervisors
Field Engineers
Office of Material Management

FROM: John Leckie, 
Director Division of Construction Management and District Support

SUBJECT: Use of the Law Enforcement Officer for Work Zone Safety

In an effort to enhance safety in work zones, a Recurring Special Provision 801-R-672 has been developed for incorporation into designated contracts. This special provision will allow contractors to hire local Law Enforcement Officers (LEOs) who will be paid under a contract pay item.

Due to their training and experience on the interstates, it is recognized that State Police Officers provide the Department's best option with respect to patrolling interstate work zones. These Law Enforcement Officers may be used alone or in conjunction with Indiana State Police Officers who may already be assigned to patrol a specific contract.

The primary purpose of a LEO is to serve as a presence in order to gain motorists' attention and reduce speeds. Under no circumstance shall the LEO be directed to perform an activity that contradicts standard safety protocol, INDOT policies, or would endanger their safety or the safety of the motoring public. These and other potential duties are outlined in the provision.

Although the Contractor is responsible for hiring the LEO, it is important for the LEO, the Contractor, and PE/S, to meet each day prior to the start of the work shift to discuss how the LEO will be used and where they will be stationed. INDOT will exercise final authority as to whether or not a specific activity performed by a LEO is necessary and compensable under the provision. The following are examples of LEO activities that are considered necessary and compensable:

- queue protection;
- serving as a presence behind any operation being performed adjacent to live traffic, even if the work is taking place only on the shoulder or utilizing a buffer zone;
- issuing citations for violations within the work zone;
- responding to an emergency within the work zone;
- responding to an incident or emergency near the work zone that might affect traffic flow or safety.

Below are examples of LEO activities that are not considered necessary or compensable:

- serving as a presence while officer's vehicle is stationed in work zone behind a temporary barrier wall;
- serving as presence while vehicle is stationed on a road or ramp that has already been closed with barricades;
- providing flagging assistance.

On occasion, the presence of a LEO might have either no effect, or a detrimental effect on the motoring public. In instances such as these, INDOT and the Contractor should discuss an alternate use of the LEO, requesting the LEO turn off emergency lights, or ending the LEO's shift early.

There is an online NHI training course the Contractor and LEO are required to complete prior to utilizing a LEO on a contract. In addition, the special provision notes an INDOT publication that is required to be reviewed by the Contractor and LEO. This publication more specifically describes guidelines and uses for the LEO, and is meant to be reviewed in a group setting with appropriate Contractor personnel, the LEO, and INDOT project personnel present. Anytime a new LEO is assigned to the contract, the material should be reviewed again with the entire group prior to the start of the LEO's shift.

The LEO will be compensated thru the contract by the hour at a pre-set standard pay rate. An accurate start and stop time must be agreed to each day the LEO is present. Instances in which the LEO is directed by their agency to respond to a situation that is not related to the contract, the time involved in responding to that situation will not be measured for payment. For that reason, it is imperative the PE/S keep in contact with the Contractor as well as the LEO.

In order to ensure appropriate application of this special provision, use of LEOs will be allowed only on contracts approved by the Office of Construction Management.

The following pay item number should be used:

801-12324 Law Enforcement Officer

For contracts that originally did not include the use of a LEO, the district may request to add a LEO. This request must be made through the Office of Construction Management. If the contract has already been let, the LEO item will need to be added via change order.

The pre-set hourly rate shall be paid regardless of the pay rate agreed to between the Contractor and the LEO. If added via change order, Contractor administrative costs will not be added to the hourly rate.

Questions should be directed to the Office of Construction Management.

JHL/REG