

WRITING GUIDELINES FOR SPECIAL PROVISIONS

1.0 INTRODUCTION

This CDED section provides guidance to assist users in writing and developing consistent, uniform, quality Special Provisions for use in MTO construction contracts.

Applicable content from CPS News Item 10-05, *Operational Constraints and Notice to Contractors in Contract Packages*; and CDED E2Ap3, Appendix 3, *Standard Statements for Amendments to OPS Specifications* has been incorporated into these guidelines.

CPS News Item 11-18, *The Ontario Provincial Standards Style, Format, and How to Guide - Section 2*, is referenced throughout these guidelines; for brevity it shall be referred to as the *OPS Style Guide* throughout the remainder of this CDED section.

As Ontario Provincial Standard specifications serve as the main body of contract documents used in Ministry contracts, these guidelines have been prepared in conjunction with the *OPS Style Guide* to produce a comprehensive body of contract documentation that is consistent in style, format and appearance. Some differences (i.e., font style) have been purposely selected to indicate an obvious difference in document ownership.

2.0 PRINCIPLES OF WRITING SPECIAL PROVISIONS

SPs are typically written to cover requirements in a contract that are not covered by standard specifications. When writing SPs, they should be written to provide the Contractor with the Owner's requirements such as how payment will be made, what materials are to be used and any special directions particular to the work.

SPs must therefore be complete and concise, contain all pertinent information necessary for construction or production, and adhere to the principles listed below as well as those listed in the *OPS Style Guide*.

2.1 Modifying Other Special Provisions

Special provisions cannot amend other SPs. An amendment to an SP by another SP may lead to confusion as all special provisions carry equal weight according to the order of precedence of Contract Documents.

2.2 Relationship to a Standard Specification

Whenever possible, SPs should relate to (i.e. amend) a standard specification. It is important for SP developers to read all related specifications and the MTO General Conditions of Contract (GCs) to ensure that information contained in the specification and GCs is not restated in the SP.

2.3 Referencing

- a) Rather than copying information from other published sources, a reference should be made to the source where the applicable information can be found.
- b) OPSSs may be referenced in SPs to avoid repeating information already contained in a standard specification. SP developers should ensure that the referencing of an OPS specification is complete, accurate, and suits the purpose for which the reference is intended.
- c) References to OPSS sections, subsections, and clauses should be made to the title and not to the number of the section/subsection/clause being referenced. This is to avoid any conflicts should the number be changed as part of a future OPSS update.
- d) Unlike standard tender items, non-standard tender items are not directly linked to OPS specifications in CPS. Therefore, when an OPSS is used as the primary document for a non-standard tender item, an amendment to the OPSS Scope statement must be included stating the specification also covers the requirements for the item. Amendments to other sections of the OPSS can then also be included.
- e) SPs should not contain references to other SPs or standard drawings (i.e., OPSDs, MTODs and SSDs) as this sort of referencing can lead to errors and misinformation if an SSP/drawing is cancelled or a new SSP/drawing is developed.
- f) Reference should not be made within an SP to any OPSS appendices as the Ministry does not use them. If information from an OPS appendix is needed, the information should be copied from the appendix to an SP as an amendment to the standard specification.

2.4 Notice to Contractor and Operational Constraint SPs

Example Notice to Contractor and Operational Constraint SPs are provided in CDED E-252 and E-254.

An appropriate title and subtitle must be included as outlined in Section 3.4 and when applicable, a description of the category of work (e.g., Environmental,

Electrical) must be added in parenthesis to the title of all Operational Constraints. It is not necessary to repeat the subtitle in the body of the special provision. The complete title of all SPs shall be entered in the title field when the documents are inserted into CPS.

All Notice to Contractor and Operational Constraint SPs must be prepared as individual, topic specific documents. They must not be combined into documents covering multiple topics as doing so, complicates the creation of subsequent addenda in CPS and affects the table of contents in the Tender Document, making it more difficult to locate important information in the contract package.

Failure to adhere to these requirements may result in a contract package being returned to the designer for correction before the Contract Tendering Section will proceed with advertising the project.

3.0 SPECIAL PROVISION FORMATTING

Example SPs conforming to these formatting guidelines are provided in CDED sections E-252 to E-266.

3.1 Electronic Formatting

All SPs are to be prepared using Microsoft Word 2003 and saved in .xml format for insertion in CPS. SPs that are prepared using any other word processing software will not be accepted.

Further guidance for the electronic formatting of SPs including page and style setup, tips for minimizing document cleanup, and a formatting quick reference guide are provided in CDED E-220, *Electronic Formatting Guidelines for Special Provisions*.

3.2 General Formatting Guidelines

- a) Where practical, all SPs should follow the Ontario Provincial Standard 10-section format for construction specifications and the 9-section format for material specifications.

“General” special provisions (i.e., those in the 199 series of SSPs) do not typically use these divisions as they seldom deal with information that can be categorized into the same sections as construction or material specifications, however they should be structured in such a manner, whenever possible.

- b) In cases where a new requirement is of a less complicated nature, a one paragraph format may be employed combining Measurement for Payment and Basis of Payment along with reference to the work required as detailed elsewhere in the Contract Documents (ex. contract drawings).

- c) Measurement for Payment and Basis of Payment clauses are required in all NSSPs that control a contract item not governed by a standard specification.
- d) To minimize formatting efforts when revising an existing SSP, the developer should export a copy of the "Active" SSP from CPS and use it as the basis for making the revisions.

3.3 Headers and Footers

Headers are not to be used in SSPs or NSSPs.

All SSPs shall have a footer in the format shown below.

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Regional and Head Office NSSPs shall have a footer in the format shown below.

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Local NSSPs do not require a footer, however they may be used for administrative purposes to record the version date and CPS NSSP code.

3.4 Title Blocks

All SPs shall have a title block consisting of the following:

- a) A main title or list of items and a subtitle (when applicable) in uppercase bold underlined font, except for "- Item No." and subtitles which are in bold title case only. For example:
 - i. **TENDER ITEM(S) - Item No.**
 - ii. **AMENDMENT TO MTO GENERAL CONDITIONS OF CONTRACT, MONTH YEAR**
 - iii. **AMENDMENT TO OPSS NNN, MONTH YEAR**
 - iv. **OPERATIONAL CONSTRAINT (ENVIRONMENTAL) - Subtitle**
 - v. **NOTICE TO CONTRACTOR - Subtitle**
- b) The above information is followed by a single blank line.
- c) A 2-line table is then inserted with an upper and a lower border only. text in regular title case font. The first line in the table is blank. "Special Provision" (plus number/code and issue date when applicable) is entered on the second line in title case font as per the following examples:

Local NSSPs contain the words "Special Provision" only, as shown below.

Special Provision

Head Office NSSPs contain the words "Special Provision No." followed by the NSSP code, as shown below.

Special Provision No. XXXXNNNN

SSPs contain "Special Provision No." followed by the SSP number plus the applicable issue date, as shown below.

Special Provision No. NNNXNN

Issue Date

Additional words such as "Modified", "Draft", or "Non-standard" are not to be added to the above and only SSPs contain an issue date. When applicable, issue dates may be included in NSSP footers as specified in section 3.3.

- d) A single blank line is inserted between the above table and the first line of the body of the SP.
- e) An optional subtitle in bold title case font, pertaining to the content of the SP, may be inserted immediately following the blank line.

3.5 Main Body

This section provides guidelines for formatting the main body of a Special Provision. The main body of an SP contains sections, subsections, clauses, paragraphs, a warrant, and when applicable, notes to designer.

3.5.1 Section, Subsection & Clause Numbering

In most cases, sections, subsections and clauses are defined by a number and a title. Sections may contain an unlimited number of subsections, but subsections are limited to three levels of clauses. Special provisions should mirror the applicable OPS section format when being written.

Numbering Format:

- a) When an SP amends an OPSS, the numbering format illustrated in the example below shall be used, and the applicable OPSS number as represented by NNN, shall be inserted.

NNN.07	TITLE OF SECTION
NNN.07.01	Title of Subsection
NNN.07.01.01	Title of 1st Level Clause
NNN.07.01.01.01	Title of 2nd Level Clause
NNN.07.01.01.01.01	Title of 3rd Level Clause
NNN.07.01.01.01.02	Title of 3rd Level Clause

- b) When an SP does not amend an OPSS, but contains 4 or more titled sections, subsections or clauses, the numbering format illustrated in the example below shall be used. The titles of all Sections shall be included and "- Not Used" shall be noted beside any that are not required.

7.0	TITLE OF SECTION
7.01	Title of Subsection
7.01.01	Title of 1st Level Clause
7.01.01.01	Title of 2nd Level Clause
7.01.01.01.01	Title of 3rd Level Clause
7.01.01.01.02	Title of 3rd Level Clause

The above numbering format is not required for NSSPs that contain fewer than 4 titled sections, subsections or clauses.

3.5.2 General

- a) Section, subsection and clause numbering are not to contain custom numeric auto bullets. All numbers, letters and roman numerals are to be typed in manually when needed. Unnumbered, generic bullets may be used to introduce a line or item in a list.
- b) Section, subsection and clause numbering are in bold font, located at the left margin, and the associated titles are located 1.5" from the left margin. Section titles are in uppercase bold font, and subsection and clause titles are in title case bold font.
- e) For consistency, the standard wording for amending, replacing, and deleting statements are further outlined below in section 5.0.

- f) Lower case letters with a single closing parenthesis (i.e., a)) are to be used for major partitions within a clause or a subsection that does not contain clauses.

The major partition letter is positioned flush with the left margin while the text is indented to 0.25". Major partitions normally do not have a title. If a major partition has a title, it is in title case but not in bold.

- g) Lower case Roman numerals with a period after the numeral (i.e., i.) are to be used for subdividing major partitions. The Roman numeral is indented to 0.25" from the margin while its text is indented to 0.50".
- h) Avoid the use of bold font in all SPs except where specified in this document.
- i) Avoid the use of "lines" drawn to separate sections, tables etc. The use of Enter is preferred.
- j) If a section, subsection or clause heading falls at the bottom of a page with the accompanying text located on the next page, do not adjust by inserting page or section breaks, or by using the Enter key to insert hard returns. Instead use the "Keep with Next" feature found in the Paragraph, Line and Page Breaks menu.
- k) All tables, attachments etc. that form part of the SP must be inserted above the "Notes to Designer" (if applicable) and the "Warrant".

4.0 SPECIAL PROVISION STYLE

4.1 General

- a) Words that are defined in the MTO General Conditions of Contract are capitalized within SPs if the meaning of the word in the SP is exactly the same as the meaning in the General Conditions.
- b) Direct reference to the MTO General Conditions of Contract are not to be made in SPs. References to the GCs are not required as it is understood that the requirements set out in the GCs apply to the contract as part of the contract documents.
- c) Direct reference to OPS General Specifications (i.e., 100 series OPSSs) are not to be made in SPs, as all implemented general specifications are included in the Contract Documents by default.

When a reference to an OPS general specification is necessary, the phrase "as specified in the Contract Documents" is shown in the appropriate place in the body of the OPSS (e.g., Management of excess material shall be as specified in the Contract Documents).

4.2 OPS Style Preferences

For consistency, the following OPS style preferences as specified in the *OPS Style Guide* should be followed when writing SPs:

Section 2.6.3	Use of Symbols
Section 2.6.4	Spelling
Section 2.6.5	Grammar, English Usage, and Punctuation
Section 2.6.6	OPS Preferences
Section 2.6.8.3	Explanation of the OPS Specification Sections
Attachment 2-A	Standard Words and Phrases
Attachment 2-B	Standard Format, Wording and Phrases
Attachment 2-C	Discussion on Some of the Words and Phrases Used in OPS Specifications
Attachment 2-D	Discussion on Some of the Words and Phrases Not To Be Used in OPS Specifications

Where a conflict exists, the direction provided in this document shall govern.

4.3 Exceptions to OPS Style Preferences

Explanations of the technical information and formatting requirements within the sections of both the construction and material specifications are provided in section 2.6.8.3 of the *OPS Style Guide* are to be followed when writing SPs, **subject to the following exceptions and/or additional requirements.**

4.3.1 Table of Contents

Table of Contents are not required for NSSPs; SPs that amend, or delete and replace existing OPSSs; or for item specific SSPs not associated with an existing OPSS (i.e., an “X99” SSP) that are 3 pages or less in length.

A limited table of contents is placed at the front of each item specific SSP that is not associated with an existing OPSS (i.e., an “X99” SSP) and exceeds 3 pages in length. OPS Table of Content formatting is to be followed in these instances.

4.3.2 Section 1, Scope

The two subsections: *Specification Significance and Use* and *Appendices Significance and Use* are not applicable to special provisions and are not required.

4.3.3 Section 2, References

When referencing OPS specifications in SPs, distinction between the 3 types of OPSSs (MUNI, PROV, and COMM) is not required.

a) Format

The year of issue or version number for each document is shown in this section except for OPS specifications. Version dates are not shown because the dates of referenced OPS specifications are shown in Section G of the "Schedule of Provisions, Contract Plans, Standard Drawings, Specifications and General Conditions" in the Contract Documents.

Canadian Standards Association has a new name. The new name; "CSA Standards" is to be used in the reference section. There is no space in CSA designations (e.g., W59-03 and CSA W59).

b) Referencing OPS Specifications within another OPS Specification

When construction requirements in an OPS construction specification are being referenced in a special provision, the reference to the construction specification is always made in Section 7, Construction. This reference invokes the entire referenced OPS construction specification unless otherwise stated (i.e. only a specific part of the specification applies).

c) MTO's Designated Source for Materials (DSM)

When a reference to products found in the Ministry's DSM list is necessary, the DSM is to be referenced in Section 2, References under Ontario Ministry of Transportation Publications, and in the body of the SP. Reference is to be made to the product as shown in the DSM list title and not to the DSM list number.

4.3.4 Section 3, Definitions

Words defined in the Definitions sections of an SP are not to be capitalized in the body of the document. Only words defined in the MTO General Conditions of Contract are to be capitalized in the body of an SP.

4.3.5 Section 5, Materials

A minor amendment to a material specification may be made through the Material section of a construction specification in an SP by using the following phrase "*... shall be according to OPSS NNN amended as follows.*"

4.3.6 Section 9, Measurement for Payment or Owner Purchase of Material

a) Measurement for Payment in Construction Specifications

In OPS specifications this section is divided into only two subsections: *Actual Measurement* (field measurement) and *Plan Quantity Measurement* (quantity

shown in the contract). When writing a special provision, only the applicable subsection needs to be included.

The standard plan quantity measurement statement is *Measurement of (insert item) shall be by Plan Quantity by (insert unit of measure as appropriate)*. This statement is always in the plural form (i.e., units and clauses). There is no need to refer to plan quantity adjustment since it is covered by the MTO General Conditions of Contract.

4.3.7 Section 10, Basis of Payment

Clarify whether payment “shall be” or “shall include” full compensation. If the work detailed in the special provision is a small segment of a major operation, use “shall include full compensation” for the small segment, for example: payment for adjusting one catch basin frame and grate as part of the Hot Mix Paving work. If the work detailed in the special provision is the only work under the subject tender item, then payment for that item “shall be full compensation” for the work.

Basis of payment statements indicating any work that is to be paid as “Extra Work” should be avoided as this practice places the onus on the Contract Administrator to negotiate during construction.

Basis of Payment clauses (and Measurement for Payment when applicable) are to appear in all documents (NSSPs and SSPs that act a specification in their entirety) that control a contract item not governed by a standard specification.

4.3.8 Forms

All new forms that are developed within MTO for use with an SSP are to be submitted to the Contract Management Office for numbering and posting on the RAQS website. Forms are to be referenced in SPs but should not be included in SPs except under special circumstances. All forms are to be referenced by a PH-CC-### number. Forms may be used in NSSPs under special circumstances upon approval of the Contract Management Office, Construction Contracts section.

4.4 Warrants

Warrants are used by designers to select SSPs applicable to the contract. Warrants are required for all SSPs and are to be inserted at the end of the SSP in the format illustrated in the examples found in CDED E-252 to E-266. In order to provide consistent spacing between SSP’s in the contract documents, the following spacing guidelines must be followed:

- a) “WARRANT:” is to be located 4 lines below the last line of the SP (i.e., hit ↵ Enter 5 times from the end of the last line of text).
- b) At the end of the last line in the “WARRANT” hit ↵ Enter 1 time.

Warrants are automatically removed from SSPs (but not NSSPs) by CPS when the contract package is generated. The designer shall ensure that Warrant information is not contained in the advertised contract package.

Warrants are for internal MTO use only and are therefore removed from the PDF versions of all SSPs that are published on the MTO Technical Publications website.

4.5 Designer Fill-ins / Notes to Designer

When information is required to be added to a “fill-in” SSP, it is to be identified in the body of the SSP by one or more asterisks (*) followed by the words “Designer Fill-in - See Notes to Designer”. Notes to Designer are to be used only to provide information to designers to assist them with the completion of the fill-in portion of the SSP. It is not appropriate to include design related information in the Notes to Designer. All design related information is to be contained in the corresponding CDED Detail Estimating section.

When required, “NOTES TO DESIGNER:” are always in plural and are to be inserted immediately above the “WARRANT” according to the Warrant spacing guidelines above.

Like the Warrant information, Notes to Designer are automatically removed from SSPs (but not NSSPs) by CPS when the contract packaged is generated. The designer shall ensure that Notes to Designer information is not contained in the advertised contract package.

5.0 STANDARD STATEMENTS FOR AMENDMENTS TO OPSSs

The following provides examples of standard statements that are to be used when amending OPS specifications:

- 1) The following statement is to be inserted immediately after the title block of all item specific SPs as it provides the introduction for the amendment.

Amendment to OPSS NNN, Issue Date

- 2) In cases when the SP is to delete and replace an OPS specification in its entirety, the following should be added immediately below the above statement:

OPSS NNN, Construction Specification for (Title), is deleted in its entirety and replaced with the following:

- 3) The examples in the table below are provided to illustrate the most common types of amendments to OPS specifications. The examples are not exhaustive, and the writer should discuss the need for alternative wording with the Design and Contract Standards office.

Unless specified elsewhere the location of the corresponding statement is to be found immediately under the title of the section, subsection or clause that is being amended.

Type of Amendment	Corresponding Statement
1. A section is being added to the specification.	The following statement (separated by a blank line) is to be inserted immediately above the section being added. OPSS NNN is amended by the addition of the following section:
2. An entire section, subsection, or clause is being deleted and not replaced.	(Section, Subsection, or Clause with its number) of OPSS NNN is deleted in its entirety.
3. An entire section, subsection, or clause is being deleted and replaced.	(Section, Subsection, or Clause with its number) of OPSS NNN is deleted in its entirety and replaced with the following:
4. A portion of a section, subsection or clause is being deleted and is not being replaced.	(Section, Subsection or Clause with its number) of OPSS NNN is amended by the deletion of the following:
5. A subsection is being added to an existing section; a clause is being added to an existing section or subsection;	The following statement (separated by a blank line) is to be inserted immediately above the subsection or clause being added. (Section, Subsection, or Clause with its number) of OPSS NNN is amended by the addition of the following (Subsection, Clause or paragraph(s)):
6. Information in the form of a paragraph(s)/ sentence is being added to an existing section, subsection or clause.	(Section, Subsection, or Clause with its number) of OPSS NNN is amended by the addition of the following paragraph(s) /sentence:
7. A paragraph/sentence is being deleted and replaced.	(Section, Subsection, or Clause with its number) of OPSS NNN is amended by deleting the (first, second, last, second last etc.) paragraph/sentence in its entirety and replacing it with the following
8. Information such as a table or figure is being added and there is no section, subsection, or clause to reference as being amended.	_____ (Table or Figure) is added:

Note: It is important that the amendment is clear on what is being modified. There should be no ambiguity. For example: if there may be confusion as to what is considered a paragraph (e.g., the second paragraph is amended), then the amendment description should be rewritten.