

**107 LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC**

**107-1 LAWS TO BE OBSERVED**

It is the responsibility of the Contractor to be aware of and observe and comply with all laws, ordinances, regulations, orders, and decrees of all governing authorities for the location and the type of work being performed. These include federal and state agencies, municipal and county authorities, tribes, and other entities with jurisdiction or authority related to the work.

The contractor is required to indemnify (protect against suits and regulatory actions and/or compensate) ALDOT for harm or loss related to the contractor’s actions or inaction related to compliance with such laws, regulations, and ordinances.

**107-2 PERMITS, LICENSES AND TAXES.**

In addition to observing all laws as described above, the contractor is responsible for securing all permits, clearances, and authorizations and providing all required notices not specifically called out in contract documents to be secured or noticed by ALDOT or others.

The contractor is also responsible for paying all required fees and taxes associated with the work that may be required.

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### 107-3 PATENTED DEVICES, MATERIALS, AND PROCESSES.

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### 107-4 RESTORATION OF SURFACES OPENED BY PERMIT.

ALDOT is solely authorized to grant permission or permit entities to encroach or perform work on ALDOT rights of way. When ALDOT grants a permit to others for work within the project limits, the contractor may be ordered to repair or restore the permitted work area as Extra Work (see [104-03](#)).

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### 107-5 FEDERAL AID PARTICIPATION.

When the United States Government participates in the cost of the work, federal oversight and other requirements may be placed on the contractor that differ from projects that are funded by others. All requirements should be clearly spelled out in the contract documents, regardless of the source of project funding.

Equal employment opportunity, non-discrimination, and additional training requirements are typically addressed in special provisions for federally funded projects. Project tasks associated with these requirements are addressed more fully in [100 SG-2](#).

The Federal Highway Administration (FHWA) provides primary oversight of transportation projects funded with federal money. ALDOT may serve an oversight role when county or municipal projects are funded with federal money.

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### 107-6 SANITARY, HEALTH, AND SAFETY PROVISIONS.

It is the responsibility of the contractor to comply with all Federal, State, and local laws, rules and regulations concerning construction safety and health standards. Section VIII of Form FHWA-1273 contained in the contract also refers to the contractor's responsibility for the safety of employees on the job and of the public during the performance of the contract.

During the course of the project, inspectors from the Occupational Safety and Health Administration (OSHA) may make inspections of the Contractor's operation to determine any violations of OSHA standards. OSHA guidelines are published in the Federal Register on Occupational Safety and Health Standards.

Below are safety topics and guidance for ALDOT employees as they perform their duties. ALDOT safety officers assigned to each Area Office may provide additional safety resources.

**Safety Training and Awareness.** Participate in safety training sessions and briefings to understand hazards, safety protocols, emergency procedures, and equipment operations.

### **Traffic Control and Work Zone Safety.**

- ▼ Follow designated traffic control measures and work zone safety protocols to maintain a safe environment for themselves and motorists.
- ▼ Be aware of traffic patterns, speed limits, lane closures, and signage within the work zone.

### **Equipment Safety.**

- ▼ Hot mix temperature shall not be checked while the truck is under the hopper.
- ▼ Do not ride or climb on the contractor's equipment unless your inspection duties make it absolutely necessary.
- ▼ Stay clear of moving equipment, particularly backing trucks and other equipment.
- ▼ All equipment with rear vision permanently obstructed will have a back-up alarm.

### **General Safety Practices.**

- ▼ Watch for tripping hazards, especially around unfinished structures.
- ▼ Appropriate safety personnel protective equipment shall be worn as required (ALDOT GFO 1-5).
- ▼ Safety practices included in project specifications shall be adhered to.
- ▼ Safety practices of the contractor shall be observed.

### **Communication and Coordination.**

- ▼ Communicate effectively with coworkers, supervisors, and other stakeholders regarding safety concerns, hazards, and work progress.
- ▼ Coordinate tasks and activities with other workers to minimize risks and avoid incidents.

### **Emergency Response and Reporting.**

- ▼ Know emergency procedures and evacuation routes in case of incidents, injuries, or emergencies.
- ▼ Report any safety hazards, incidents, or near misses to supervisors or safety personnel promptly.
- ▼ If duties cannot be performed in a safe manner because of an unsafe condition, advise your supervisor and do not expose yourself to injury.

### **Regulatory Compliance and Responsibility.**

- ▼ Follow all relevant safety regulations, standards, and policies set forth by ALDOT and contractor, whichever is stricter.
- ▼ Take responsibility for your own safety and the safety of your coworkers by adhering to established guidelines and procedures.

### Continuous Improvement.

- ▼ Participate in safety audits, inspections, and feedback sessions to identify areas for improvement and implement corrective actions.
- ▼ Stay informed about new safety practices, technologies, and regulations to continuously enhance safety performance on the job site.

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### 107-7 PUBLIC CONVENIENCE AND SAFETY.

The contractor should perform work in a manner that always considers and accommodates the safety and convenience of the public. With a few exceptions, this accommodation should be provided without additional compensation. Specifically, the contractor is required to limit the area of construction activities to the amount or length that can be managed without undue burden to the general public; the contractor should immediately clean up material spills that may affect the public; dust should be properly managed; and access to business and fire hydrants should be provided at all times (15' of access to fire hydrants must be maintained).

The contractor should provide ample notice to the Project Manager of operations that may negatively impact traffic flow and patterns.

Accommodations related to traffic are further detailed in [SG 700-1 Traffic Control in Work Zones](#).

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### 107-8 RAILWAY-HIGHWAY PROVISIONS.

No work should proceed within or over railroad rights of way unless a fully executed railroad agreement is in place. The agreement may be secured by ALDOT or the contractor. A railroad representative is typically required to be present when railroad rights of way are encroached upon. Form C-24 Daily Report of Railway Inspection/Flagging (should be completed each day railroad representatives are on site. The requirement of onsite railroad representation may be waived only by the affected railroad.

All changes to the work that differ from the provisions of the railroad agreement must be communicated to the railroad. The ALDOT Rail Highway Program Construction Agreement Group of the Design Bureau is available to facilitate communication between contractors and construction staff and the railroad.

The contractor may choose to make arrangements with the railroad for the construction of a temporary rail crossing. Approval of the railroad is required for all temporary crossings. All costs for installation, maintenance, and required watching or flagging are the responsibility of the contractor.

Attention should also be paid to any alterations or unplanned releases of stormwater runoff onto railroad rights of way. In no case should additional runoff be directed toward railroad

rights of way without railroad agreement. Sediment-laden waters should also be prevented from entering railroad rights of way.

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### 107-9 CONSTRUCTION IN WETLANDS AND OVER OR ADJACENT TO WATERS OF THE UNITED STATES.

Waters of the United States are defined broadly and similarly to how Waters are defined by the State of Alabama:

**Waters of the State** - all waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the state, natural or artificial. This does not include waters which are entirely confined and retained completely upon the property of a single individual, partnership, or corporation unless such waters are used in interstate commerce.

State permit coverage is required for many activities that take place in, over, or adjacent to Waters of the State, including wetlands. Activities associated with these waters are regulated by the Alabama Department of Environmental Management (ADEM) as delegated by the United States Environmental Protection Agency (EPA). The United States Army Corps of Engineers (USACOE) and the United States Coast Guard (USCG) also have EPA-delegated authority over some activities related to Waters of the US.

SG 600-1 Construction Stormwater and Environmental Management addresses most environmental requirements related to construction. Adherence to all requirements described in that document will help to ensure compliance with most laws and regulatory permits associated with construction in wetlands and over or adjacent to Waters of the State and Waters of the United States.

For work over traditional navigable waters (those that support transportation and commerce), ALDOT secures permitting from the USCG and USCG (when applicable) for the completed bridge or encroachment. The contractor must secure permitting from these agencies when temporary falsework and construction activities encroach upon or affect marine traffic.

A copy of USACOE permit coverage is included in the project Construction Best Management Practices Plan (CBMPP) for each applicable project.

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### 107-10 BARRICADES AND WARNING SIGNS.

Warning signs must be installed in advance of any area of the project where operations may interfere with traffic. See [SG 700-1](#) Traffic Control in Work Zones for additional information regarding this subtopic.

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### 107-11 USE OF EXPLOSIVES.

It is the contractor's responsibility to ensure the safety of life and property regarding the use of explosives. The contractor is also responsible for ensuring that all applicable laws and regulations are followed while handling, storing, and using explosive materials.

Prior to detonation of explosives, the contractor must communicate the plans for blasting with the Project Manager, with affected residents, utilities, and traveling public, with authorities as required by law and regulation, and others that may be affected. Notice of blasting should include provisions and directions for the protection of life and property.

The contractor is encouraged and may be required by the contract to conduct a pre-blast survey of all nearby structures to help assess any claims of damage as the result of blasting.

Where underwater blasting is to be performed, the contractor must notify affected marine traffic and the Alabama Department of Conservation and Natural Resources in addition to others listed above. The contractor may be directed to utilize pre-blast measures to warn boaters and to scare aquatic species away from the blast site. The contractor may also be required or encouraged to utilize other means of minimizing harm to aquatic species. The contractor will be subject to fines for all fish killed or harmed by blasting. Fines will be based on the number and species of fish killed or estimated to have been killed.

All claims of blasting-related damage or harm should be documented by the project manager and directed to the contractor for handling and resolution. The ALDOT Legal Bureau should be made aware of the claim by the Area Construction Engineer.

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#### **107-12 PROTECTION AND RESTORATION OF PROPERTY, LANDSCAPE AND UTILITY FACILITIES.**

The contractor cannot enter onto private property without permission from the owner or lessee. The contractor is responsible for protecting all utilities, monuments, signs, and other elements within or beyond the right of way that are intended to be preserved. The contractor must provide sufficient notice to owners of utilities and structures when the work of the contractor could destabilize those elements of infrastructure. It is the contractor's responsibility to identify such potentially at-risk structures and utilities and to ensure that use and service is not interrupted or is restored as soon as possible after an interruption.

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#### **107-13 WOODLAND PROTECTION, CONSERVATION, ABATEMENT OF WATER POLLUTION AND QUARANTINE REGULATIONS.**

The contractor is responsible for protecting natural resources from harm or injury associated with construction activities. The contractor is required to protect trees and vegetation from unnecessary removal, the land and soils from erosion, waters from pollution, and forests from the spread of disease and wildfires.

If the contractor intends to burn clearing debris, a fire prevention and control plan should be submitted to the project manager prior to the start of clearing operations. Burning of debris is allowed by ALDOT only when permitted by the Alabama Forestry Commission, regardless of the size of the burn area. The contractor may obtain burning permits by calling (800)392-5679. If approved, the contractor must provide the permit number to the project manager for documentation.

When directed by the contract, the contractor may be required to help limit the spread of invasive or harmful species. [600 SG -1](#) Construction Stormwater and Environmental Management addresses most soil and water-related requirements.

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#### **107-14 RESPONSIBILITY FOR DAMAGE CLAIMS.**

All damage claims for injury to people or property resulting from actions or inaction of the contractor or subcontractors and suppliers, or related to workmanship, materials, employment, or violations of laws or contracts are the responsibility of the contractor. The contractor must protect ALDOT and the State against suits and regulatory actions, and/or compensate ALDOT for harm or loss related to damage claims.

#### **REPORTING CRASHES**

The Contractor is required to verbally report all crashes occurring on the project to the Project Manager within one working day or, in the case of a fatality, within eight hours. The Contractor should follow with a written report within ten calendar days. The report should include the names and addresses of the people involved and the names and addresses of any witnesses.

Project personnel should follow the reporting and recordkeeping requirements for work zone crashes described in [700 SG-1](#), Procedure for Traffic Control Through Construction Work Zones.

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#### **107-15 LIABILITY INSURANCE.**

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#### **107-16 OPENING SECTIONS OF PROJECT TO TRAFFIC.**

Close coordination between the contractor and project, District and Area Construction Office personnel is required as portions of projects are opened to traffic. Local emergency responders and others with an interest in roadway routing should be notified when appropriate.

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#### **107-17 CONTRACTOR'S RESPONSIBILITY FOR WORK.**

The contractor is responsible for maintenance, repair, and replacement of completed elements of work. Generally, the contractor should not expect additional compensation for additional

work when the need for added maintenance or repair results from the action or inaction of the contractor. When elements of the work are damaged due to no fault of the contractor, compensation may be provided as Extra Work in accordance with ALDOT Standard Specifications for Highway Construction (SSHC) 104.03.

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#### **107-18 FURNISHING RIGHT-OF-WAY.**

ALDOT typically secures all rights-of-way and easements necessary to complete the work prior to the contract award. Occasionally, additional access onto others' property is required to complete the work. A temporary construction easement deed may be used to facilitate permission for access and work from the property owner. The Region Right of Way Manager can assist with these circumstances.

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#### **107-19 PERSONAL LIABILITY OF PUBLIC OFFICIALS.**

Project personnel act as agents and representatives of the State when carrying out their assigned duties as State employees. Personal liability is limited when acting in this capacity. Legal representation for matters associated with actions taken as agents of the State is provided by the State Attorney General's office through the ALDOT Legal Bureau.

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#### **107-20 NO WAIVER OF LEGAL RIGHTS.**

Every attempt should be made by project managers and inspectors to ensure that complete and accurate records are kept of work performed by the contractor. Should an error or omission be discovered that affects payment to the contractor, it should be corrected regardless of the state of completion or acceptance.

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#### **107-21 STORMWATER MANAGEMENT.**

The requirements in SSHC Section 665, Temporary Soil Erosion and Sediment Control apply to all work regardless of whether any of the pay items of Section 665 are included in the contract. A Project Note will be shown on the plans indicating the status of NPDES permit coverage for construction stormwater discharge and the availability of a preliminary ALDOT Construction Best Management Practices Plan (CBMPP) for the project. The contractor's approved Stormwater Management Plan (SWMP) including a weather preparedness and recovery plan is included in the operational component of the CBMPP.

Inspection requirements and additional stormwater management-related information and responsibilities are provided in [SG 600-1](#) Construction Stormwater and Environmental Management.

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#### **107-22 ENVIRONMENTAL PROTECTION AND SPILL PREVENTION.**

The contractor is subject to all applicable laws related to the protection of air and water quality at the project site and at all associated plants and offsite waste and borrow areas.

All solid and liquid construction waste should be managed and disposed of in a proper manner. Construction and worker debris and trash are a common issue on most sites and must be addressed. Concrete truck washout areas should be provided by the contractor and be lined with geotextile and surrounded by berms or barriers to prevent the discharge of wash waters and slurry.

A Spill Prevention Control and Counter Measures (SPCC) Plan should be provided with the contractor's SWMP for all fuel or chemical storage tanks or facilities located on ALDOT right of way. Plan notes should be reviewed to determine if any prohibitions against on-site fuel storage are a part of the contract.

The presence of drums, containers, discolored earth, metal, wood, visible fumes, abnormal odors, excessively hot earth, smoke, or anything else which appears abnormal may be indicators of hazardous and/or toxic wastes and shall be treated with extraordinary caution. If encountered, all operations in the area should cease and the Hazardous Materials Section of the Materials and Tests Bureau should be notified immediately.

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#### **107-23 TEMPORARY CONSTRUCTION ENCROACHMENT INTO STREAMS, WATER BODIES AND WETLANDS.**

Permanent encroachment into waters and wetlands may be required by the contract as a part of the work to construct bridges, culverts, and embankments. Where elements are required by the contract in waters and wetlands, proper permit coverage will be secured by ALDOT.

Permit coverage is typically not secured for temporary encroachment to accommodate the work of the contractor. When temporary stream crossings, temporary water diversions, and temporary work bridges and platforms are desired by the contractor for their work, additional permit coverage may be necessary. The contractor must include plans for temporary encroachments in the SWMP submitted prior to construction. These requests are reviewed by the Area Construction Engineer and the State Environmental Construction Engineer in the Construction Bureau to determine acceptability and the need for additional permit coverage.

When approved, encroachments must be implemented in accordance with the contract and conditions of regulatory permits, clearances, and authorizations.

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#### **107-24 PERMITS FOR PESTICIDE APPLICATION.**

All pesticide application must be performed (or supervised) by a person possessing a Commercial Pesticide Application Permit and a Professional Services Permit (turf and ornamentals category) or a Commercial Applicator Permit and a Custom Applicator Permit

(right-of-way pest control category) issued through the Alabama Department of Agriculture and Industries. Documentation of permitting should be provided to the project manager.