

MASSDOT HIGHWAY DIVISION DESIGN INTERNAL STANDARD OPERATING PROCEDURES			S.O.P. No. 251
SECTION: 200 PROJECT SUBMITTALS			SUBJECT: Use of Proprietary Items
EFFECTIVE: 7/18/18	ISSUED:	SUPERSEDES S.O.P. No. 250 EFFECTIVE:	AUTHORIZED:
<p>PURPOSE:</p> <p>Provide guidance for documenting the decision to use a proprietary product.</p> <p>GENERAL:</p> <p>In limited instances the public interest may be to specify a certain manufacturer’s product to be incorporated into a Highway Division Construction Contract.</p> <p>Title 23 Code of Federal Regulations, M.G.L.c. 30, Section 39M, Proprietary Specifications Summary from MassDOT’s General Counsel’s Office, and a document prepared by the Office of the Inspector General titled “Proprietary Specifications on Public Construction Projects” (refer to the SOP 251 Attachments A, B, respectively) contain pertinent language for use of proprietary items, and required documentations (to support the need) and approval.</p> <p>PROCEDURE:</p> <p>Per the Project Development & Design Guide, the 75% Design submittal will have to include a detailed item by item estimate and draft special provisions. Thus by this phase of the design, sufficient information should have been developed to identify any and all proposed proprietary items. MassDOT’s 75% design review comments should make the designer aware of their obligation to name a minimum of three manufacturers, and detail the functions to be performed or the results to be achieved. This would allow the use of other manufacturers’ product, meeting the functionality requirements of the item. If this cannot be achieved, then the designer must provide explanations regarding the need for the specific product. In certain instances a letter from the municipality, justifying the use of the proposed proprietary item may be required.</p> <p>Documentations regarding the use of a proprietary item must be included in the 100% design submittal. The Project Manager is responsible for drafting a letter, for the Chief Engineer’s signature, requesting FHWA’s approval for use of the proprietary item (see SOP 251 Attachment E - FHWA Approval Letter for Use of Proprietary Items). If the project is a FHWA Project of Divisional Interest (PODI), then formal approval from FHWA is required. For non-PODI projects, the documentation is sent to FHWA for their records only (see SOP 251 Attachment F – Proprietary Items Memo to Chief).</p>			