

## **BMP C161: Payment of Erosion Control Work**

### ***Purpose***

As with any construction operation, the contractor should be paid for erosion control work. Payment for erosion control must be addressed during project development and design. Method of payment should be identified in the SWPPP.

### ***Conditions of Use***

Erosion control work should never be “incidental” to the contract as it is extremely difficult for the contractor to bid the work. Work that is incidental to the contract is work where no separate measurement or payment is made. The cost for incidental work is included in payments made for applicable bid items in the Schedule of Unit Prices. For example, any erosion control work associated with an item called “Clearing and Grubbing” is bid and paid for as part of that item, not separately.

Several effective means for payment of erosion control work are described below. These include:

- Temporary Erosion and Sediment Control (TESC) Lump Sum.
- TESC-Force Account.
- Unit Prices.
- Lump Sum.

### **TESC Lump Sum**

One good method for achieving effective erosion and sediment control is to set up a Progress Payment system whereby the contract spells out exactly what is expected and allows for monthly payments over the life of the contract.

For example, an Item called “TESC Lump Sum” is listed in the Bid Schedule of Unit Prices. An amount, such as \$10,000, is written in both the Unit Price and Amount columns. This requires all bidders to bid \$10,000 for the item. If \$10,000 is not shown in the Amount column, each contractor bids the amount. Often this is under-bid, which can cause compliance difficulties later. In this example, the contractor is required to revise the project CSWPPP by developing a Contractor’s Erosion and Sediment Control Plan (CESCP) that is specific to their operations.

Next, the following language is included in the TESC specification Payment section:

Based upon lump sum Bid Item “TESC Lump Sum”, payments will be made as follows:

- A. Upon receipt of the Contractor’s CESCP, 25 percent.
- B. After Notice To Proceed and before Substantial Completion, 50 percent will be pro rated and paid monthly for compliance with the

CESCP. Non-compliance will result in withholding of payment for the month of non-compliance.

C. At Final Payment, 25 percent for a clean site.

Payment for “TESC Lump Sum” will be full compensation for furnishing all labor, equipment, materials and tools to implement the CESCP, install, inspect, maintain, and remove temporary erosion and sediment controls as detailed in the drawings and specified herein, with the exception of those items measured and paid for separately.

### ***TESC Force Account***

One good method for ensuring that contingency money is available to address unforeseen erosion and sediment control problems is to set up an item called “TESC-Force Account”. For example, an amount such as \$15,000 is written in both the Unit Price and Amount columns for the item. This requires all bidders to bid \$15,000 for the item.

The Force Account is used only at the discretion of the contracting agency or developer. If there are no unforeseen erosion problems, the money is not used. If there are unforeseen erosion problems, the contracting agency would direct the work to be done and pay an agreed upon amount for the work (such as predetermined rates under a Time and Materials setting).

Contract language for this item could look like this:

Measurement and Payment for “TESC-Force Account” will be on a Force Account basis in accordance with \_\_\_\_\_ (include appropriate section of the Contract Specifications). The amount entered in the Schedule of Unit Prices is an estimate.

### ***Unit Prices***

When the material or work can be quantified, it can be paid by Unit Prices. For example, the project designer knows that 2 acres will need to be hydroseeded and sets up an Item of Work for Hydroseed, with a Bid Quantity of 2, and a Unit for Acre. The bidder writes in the unit Prices and Amount.

Unit Price items can be used in conjunction with TESC-Force Account and TESC-Lump Sum.

### ***Lump Sum***

In contracts where all the work in a project is paid as a Lump Sum, erosion control is usually not paid as a separate item. In order to ensure that appropriate amounts are bid into the contract, the contracting agency can request a Schedule of Values and require that all erosion control costs be identified.