1-32 USE OF TRADE NAMES IN PLANS AND SPECIFICATIONS

The use of trade names in Caltrans' projects is limited by Section 3400 of the Public Contract Code, FHWA Program Manual and Caltrans' policies as detailed in the Plans, Specifications and Estimates (PS&E) Guide issued by the Office of Office Engineer. The portion of this guide pertaining to the policy for using trade names is attached.

Within the Office of Structure Design, operating procedures shall be as described below.

For *Highway Projects* (bridges, tunnels, etc.), when the decision is made to use a material or item which can only be identified by the use of trade or brand name, the Design Engineer must prepare a memorandum to the Specifications Engineer fully justifying the need to do so and listing all known acceptable products. The Specifications Engineer will then obtain the necessary approvals from the Chief, Division of Structures and the FHWA, when required.

In addition to the circumstances listed in the Attachment, approvals can be obtained to use trade names in engineering work:

1. When modifying or enlarging an existing facility, if it is necessary for maintenance or safety reasons to exactly duplicate portions of the existing work.

2. When the design can only tolerate the use of a certain material, piece of equipment or method of construction which is of such a complicated nature and so rarely used that it is impractical to fully describe its desired performance characteristics. This will most likely occur in a limited number of cases involving mechanical and electrical control apparatus.

If a product is required for which there is only one known manufacturer, i.e., "sole source", the Structures' Specifications Section should be immediately notified because special firm price quotes must be obtained from the

Memo converted to metric.
Supersedes Memo to Designers 1-32 dated April 1989

manufacturer for inclusion in the contract special provisions. This notification shall be in the form of a written statement justifying the use of the specific trade name.

For *Building Projects*, follow the guidelines set forth in that portion of Section 4-4.01 of the PS&E Guide which includes the "Policy and Approval for Trade Names (Building Type Projects)."

Richard D. Land	Shannon H. Post	Michael A. Barbour
Bridge Design Branch A	Bridge Design Branch B	Bridge Design Branch C

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Attachment

POLICY FOR USING TRADE NAMES (FROM PS&E GUIDE)

Highway Projects

The policy as quoted from the PS&E guide is as follows:

> "Do not use trade names unless it is entirely impractical to furnish functional specifications for a product or material. Do not use specifications that would limit the bidding, directly or indirectly, to any one specific material or product.
>
> Trade names may be used if:
>
> 1. There is no other known material or product of equal or better quality that will perform the same function.
> 2. Other agencies request a product or material by trade name to preserve uniformity with existing installations.
> 3. Color reference is needed for multicolored tile.
> 4. The trade name material or product is being used on an experimental basis with a clearly written plan for follow-up and evaluation.
> 5. It is in the best interest of the public to use a trade name.
>
> Where the use of trade names is absolutely necessary, include, in the special provisions, the trade names of all known materials, or products manufactured in California that will meet the requirements of the work, and follow the listing of trade names with the words 'or equal.'
>
> Where the use of only one trade name can be justified, the name must also be followed with the words 'or equal' as noted above. The District (or Structures) must furnish a quotation from the manufacturer or supplier of such product or material, signed by a responsible official, giving the name and address of the firm which will sell the product or material, the price, the place of delivery, and agreement to sell to any contractor. The District must also specify the time span for which the price has been quoted and whether the price includes sales tax. This information will be included in the Special Provisions."

The words "or equal" need not be included in the specification if the particular material, product, thing, or service is designated by specific brand or trade name in order that a field test or experiment be conducted to determine the product's suitability for future use. When a sole source material is to be used for such experimental research projects, approval must be obtained authorizing the elimination of the "or equal" phrase in order to guarantee the placement of the specific trade name product.