

Form Letter to Notify Contractor that 5-12 Claim is Not Certified and is Defective

Dear _____:

The Department has received a copy of your claim for additional compensation (and time), dated _____ 201__, concerning Department Contract No. _____. Pursuant to Standard Specification Section 5-12.2.1 (5-12.2.2), the Department is informing you that your claim does not comply with Standard Specification Section 5-12.9 in that your claim is not certified under oath. You can easily correct this deficiency by resigning the certification, having that signature notarized, and sending the Department an original of that notarized certification attached to a copy of your claim with no changes to the claim except the amount of the claim may be decreased and claims may be withdrawn. The certification must be made by an officer or director of the Contractor with authority to bind the Contractor. If the claim is a pass-through claim (i.e., a claim from a subcontractor) an officer or director of the prime contractor is required to sign the certification.

The terms of the Contract provide that your failure to submit a signed and notarized claim to the Department within ten (10) calendar days from receipt of this notice shall constitute a waiver of the claim. Any such waiver will be brought to the attention of the DRB (State DRB) (Regional DRB) (State Arbitration Board), and the Department will request that your claim not be considered by the Board due to your waiver of the claim.

In addition, your claim does not comply with the following requirements of Standard Specification Section 5-12:

- a. Contrary to Standard Specification Section 5-12-3, you have (amended the bases of entitlement stated for any or all issues claimed) (increased the amount of compensation) (increased the amount of time) sought in the claim.
- b. Contrary to Standard Specification Section 5-12.10, you have included a request for compensation for one or more of the non-recoverable items identified in that Section, including, but not limited to: (lost profits; consequential damages; acceleration costs and expenses; attorney fees; claim preparation expenses) _____.
- c. Contrary to the requirements of Standard Specification Section 5-12.3, you have not included the following information in you claim: _____

The Department requests that your claim be corrected: (a) to eliminate the improper amendment of the bases of entitlement (the improper increase in the amount of compensation claimed) (the improper increase in the amount of time claimed), and (b) by decreasing the amount of the claim by deleting the non-recoverable items; and (c) by providing the information required under Section 5-12-3.

Thank you for your prompt attention to these issues.

Sincerely,
