

THIS MEMO IS EXPIRED

June 28, 2000

MEMORANDUM NO.: 21-00

TO: DISTRICT CONSTRUCTION ENGINEERS

FROM: Greg A. Xanders, State Construction Engineer

COPIES: District Final Estimates Engineers, David Chason, David Sumner, Charles Goodman

SUBJECT: NOTICE OF INTENT TO SUSPEND PREQUALIFICATION LETTERS AND OVERPAYMENT CHECKS

The 2000 Final Estimates Review and Administration Manual reflects that an overpayment check is to be considered part of the acceptance letter from the Contractor. Without the overpayment check, the acceptance letter is to be considered incomplete.

To clarify this issue, this can only apply to projects let in July, 2000. On any contract let before that date, the overpayment check cannot be considered part of the acceptance letter.

On these contracts, do not list the reimbursement of the overpayment as a contract required document on the Notice of Intent to Suspend letters. Do not send out any Notice to Intent to Suspend letters that list the reimbursement of the overpayment only.

Revised Notice of intent to Suspend and Suspension letters to reflect that the reimbursement for overpayment is part of the acceptance letter and not a separate issue are attached. Please use this latest version of the letter from this point forward. Revisions to the Final Estimates Review and Administration Manual will follow.

If you have any questions regarding this issue, please contact Susan Blazo at (850) 414-4167) or Suncom 994-4167.

GX/bc

Contractor's Name
Contractor's Address
City, State, Zip

CERTIFIED MAIL
Return Receipt Requested

Date

Gentlemen:

NOTICE OF MISSING OR INCOMPLETE CONTRACT DOCUMENTS (60 DAYS)

Financial Project ID: _____

Federal Aid Project Number: _____

Contract Number: _____; _____ County _____

On (date), the Department's District Final Estimates Office, for the contract indicated above, submitted to your company an offer of final payment on the contract indicated above including Final Estimate documents with attachments, requesting that your company accept the balance shown through the submittal of a Regular Acceptance Letter, or accept the balance shown by submitting a Qualified Acceptance Letter and including all information regarding any dispute or pending claim. Qualified acceptance of the balance shown by the Department shall not bar or have any effect as to those payments in dispute or subject to a pending claim between your company and the Department.

Sixty days have elapsed since the Department's offer of final payment was made to your company on this contract and the required contract document or documents indicated below have not yet been furnished to the Department by your company in a satisfactorily completed condition. The(se) document(s) must be completed and furnished within the ninety (90) day period required in Article 9-9 of the 1996 and 1999 Florida Standard Specifications for Road and Bridge Construction.

(DFEE - list only incomplete or missing documents, delete others shown below as required)

Form 21-A (Bond Release)
Summary of Materials Affidavit
Wage Rate Affidavit
FHWA-47

Acceptance Letter **with Reimbursement of Overpayment***
Freight Bills
Mill Analysis
DBE Payment Certifications

****Use only with contracts let after July 2000. For contracts let before July 2000, use only acceptance letter.***

NOTE: Your failure to submit the document(s) indicated above, as required by Article 9-9 of the 1996 and 1999 Florida Standard Specifications, may result in the suspension of your company's Certificate of Qualification to bid on Department construction contracts or act as a material supplier, subcontractor or consultant on any Department contract pursuant to sections 120.57 and 337.16 of the Florida Statutes and rule 14-22.012 of the Florida Administrative Code. If you cannot furnish these required contract documents or you have questions on this letter, telephone (DFEE's Name), the Department's District Final Estimates Engineer for the contract indicated above at *(area code & phone number)*.

Sincerely,

District Final Estimates Engineer

xc: District Construction Engineer

Date

Return Receipt Requested
CERTIFIED MAIL NO.

Surety Name
Surety Address
City State Zip

RE: DISQUALIFICATION TO ISSUE BONDS

Financial Project ID: _____
F.A.P. Number: _____
Contract No.: _____ **County:** _____

Gentlemen:

Our records reveal that on (date), your company received a notification letter signed by the State Highway Engineer of the Department of Transportation and sent by Certified Mail, regarding the status of the Department's determination of your failure to submit all required documents in a satisfactorily completed condition within ninety (90) days after the Department's offer of final payment on the above referenced contract.

In that notification letter, you were told of the Department's intent that agency action suspending your Qualification to issues bond on Department contracts would be final unless all required contract documents were received by the Department, or you filed a request for an Administrative Hearing pursuant to Sections 120.57 and 337.16 of the Florida Statutes, within twenty-one (21) days from your company's receipt of that notification letter regarding the Department's intent.

The required contract document(s) listed below has/have not been furnished within twenty-one (21) days of your receipt of the notification letter mentioned above.

(DFEE TO LIST ONLY INCOMPLETE OR MISSING DOCUMENTS. DELETE OTHERS SHOWN BELOW AS REQUIRED)

Form 21-A (Bond Release)	Acceptance Letter <i>with Reimbursement of Overpayment*</i>
Summary of Materials Affidavit	Freight Bills
Wage Rate Affidavit	Mill Analysis
FHWA-47	DBE Payment Certifications

****Use only with contracts let after July 2000. For contracts let before July 2000, use only acceptance letter.***

No request was made by your company for an Administrative Hearing within twenty-one (21) days of your receipt of the notification letter mentioned above.

Therefore, your company's Qualification to issue bonds is hereby suspended by the Secretary of the Florida Department of Transportation on (use the date of the 31st day after surety's receipt of State Highway Engineer's notification). **This suspension will continue until the Department is in receipt of all required contract documents in a satisfactorily completed condition.** During this period of suspension, your company will be prohibited from issuing bonds on any Department construction contracts regardless of the dollar amount of the contract award as set forth in Rule 14-24.001 of the Florida Administrative Code.

Sincerely,
Thomas F. Barry, Jr., P.E.
Secretary

cc: Central Office Contracts Administration Manager

Figure 14-25b

Date

Return Receipt Requested
CERTIFIED MAIL NO.

Contractor Name
Contractor Address
City State Zip

RE: NOTICE OF INTENT TO SUSPEND CERTIFICATION OF QUALIFICATION
Financial Project ID: _____
F.A.P. Number: _____
Contract No.: _____ **County:** _____

Gentlemen:

On (date), the District (#) Final Estimates Office submitted to your company an offer of final payment on the contract indicated above including all Final Estimate Documents with attachments, requesting that your company accept the balance shown through the submittal of a Regular Acceptance letter, or accept the balance shown by submitting a Qualified Acceptance letter and including all information regarding any dispute or pending claim. Qualified acceptance of the balance shown by the Department shall not bar or have any effect as to those payments in dispute or subject to a pending claim between your company and the Department.

The required contract document(s) listed below has/have not been furnished in a satisfactorily completed condition within ninety (90) days of the Department's offer of final payment to you on the contract referenced above. (**DFEE TO LIST ONLY INCOMPLETE OR MISSING DOCUMENT(S). DELETE OTHERS SHOWN BELOW AS REQUIRED**)

Form 21-A (Bond Release)
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DBE Payment Certifications

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Contractor
Date
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In accordance with Article 9-9 of the 1991 Florida Standard Specifications for Road and Bridge Construction and pursuant to Section 337.16, Florida Statutes, and in accordance with this determination, we intend to suspend your Certificate of Qualification and those of your affiliates. This suspension will become conclusive final agency action unless you return the required contract document(s) listed above to the Department's District (#) Final Estimates Engineer for this contract or request an Administrative Hearing within ten (10) days from receipt of this notice. Should your Certificate of Qualification be suspended or revoked, you shall also be disapproved as a subcontractor on any Department project during the period of suspension or revocation.

You may request an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes. If you disagree with the facts stated in the foregoing Notice of Intended Department Action (hereinafter Notice), you may request a formal administrative hearing pursuant to Section 120.57(1), Florida Statutes. If you agree with the facts stated in the Notice, you may request an informal administrative hearing pursuant to Section 120.57(2), Florida Statutes. You must send the written request to:

Clerk of Agency Proceedings
Department of Transportation
Hayden Burns Building
605 Suwannee Street, MS-58
Tallahassee, Florida 32399-0450

The written request for an administrative hearing must conform to the requirements of either Rule 28-106.210(2) or Rule 28-106.301(2), Florida Administrative Code, and must be **received** by the Clerk of Agency Proceedings by 5:00 P.M., no later than **10** days after you received the Notice. The written request for an administrative hearing should include a copy of the Notice, and must be legible, on 8 1/2 by 11 inch white paper, and contain:

1. Your name, address, telephone number, and Department identifying number on the Notice, if known, and name, address, and telephone number of your representative, if any;
2. An explanation of how your substantial interest will be affected by the action described in the Notice;
3. A statement of when and how you received the Notice;
4. A statement of all disputed issues of material fact. If there are none, you must so indicate;
5. A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle you to relief; and
6. A demand for relief.

A **formal** hearing will be held if there are disputed issues of material fact. If a **formal** hearing is held, this matter will be referred to the Division of Administrative Hearings, where you may present witnesses and evidence and cross examine other witnesses before an administrative law judge. If there are no disputed issues of material fact, an **informal** hearing will be held, in which case you will have the right to provide the Department with any written documentation or legal arguments which you wish the Department to consider.

Mediation, pursuant to Section 120.573, Florida Statutes, may be available if agreed to by all parties, and on such terms as may be agreed upon by all parties. The right to an administrative hearing is not affected when mediation does not result in a settlement.

If a written request for an administrative hearing is not timely received you will have waived your right to have the intended action reviewed pursuant to Chapter 120, Florida Statutes, and the action set forth in the Notice shall be conclusive and final.

A request for a hearing is filed when it is delivered to and received by the Clerk of Agency Proceedings. If a

Contractor
Date
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hearing is timely requested after the receipt of the notice of intent, the hearing shall be held within 30 days after receipt by the Hearing Officer of the request for the hearing in accordance with Section 337.16 of the Florida Statutes. **If you have questions concerning this matter, please contact (DFEE's NAME), the Department's District (#) Final Estimates Engineer for this contract by telephone (area code & phone number).**

Sincerely,

State Highway Engineer

cc: , District Construction Engineer
, Surety Company
, Central Office Contracts Administration Manager

Date

Return Receipt Requested
CERTIFIED MAIL NO.

Surety Name
Surety Address
City State Zip

RE: NOTICE OF INTENT TO SUSPEND QUALIFICATION TO ISSUE BONDS
Financial Project ID: _____
F.A.P. Number: _____
Contract No.: _____ **County:** _____

Gentlemen:

On (date), the District (#) Final Estimates Office submitted to your company an offer of final payment on the contract indicated above including all Final Estimate Documents with attachments, requesting that your company accept the balance shown through the submittal of a Regular Acceptance letter, or accept the balance shown by submitting a Qualified Acceptance letter and including all information regarding any dispute or pending claim. Qualified acceptance of the balance shown by the Department shall not bar or have any effect as to those payments in dispute or subject to a pending claim between your company and the Department.

The required contract document(s) listed below has/have not been furnished in a satisfactorily completed condition within ninety (90) days of the Department's offer of final payment to you on the contract referenced above. (***DFEE TO LIST ONLY INCOMPLETE OR MISSING DOCUMENT(S). DELETE OTHERS SHOWN BELOW AS REQUIRED***)

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In accordance with Florida Administrative Rule 14.24.001 and Article 9-9 of the 1999 Florida Department of Transportation Standard Specifications for Road and Bridge Construction, the Department intends to suspend your Qualification to issue bonds on Department contracts. This suspension will become final agency action unless you return the required contract document(s) listed above to the Department's District (#) Final Estimates Engineer for this contract within **thirty (30) days** or request an Administrative Hearing within twenty-one (21) days from receipt of this notice.

Surety
Date
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You may request an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes. If you disagree with the facts stated in the foregoing Notice of Intended Department Action (hereinafter Notice), you may request a formal administrative hearing pursuant to Section 120.57(1), Florida Statutes. If you agree with the facts stated in the Notice, you may request an informal administrative hearing pursuant to Section 120.57(2), Florida Statutes. You must send the written request to:

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1. Your name, address, telephone number, and Department identifying number on the Notice, if known, and name, address, and telephone number of your representative, if any;
2. An explanation of how your substantial interest will be affected by the action described in the Notice;
3. A statement of when and how you received the Notice;
4. A statement of all disputed issues of material fact. If there are none, you must so indicate;
5. A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle you to relief; and
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A **formal** hearing will be held if there are disputed issues of material fact. If a **formal** hearing is held, this matter will be referred to the Division of Administrative Hearings, where you may present witnesses and evidence and cross examine other witnesses before an administrative law judge. If there are no disputed issues of material fact, an **informal** hearing will be held, in which case you will have the right to provide the Department with any written documentation or legal arguments which you wish the Department to consider.

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Surety
Date
Page 3

If a written request for an administrative hearing is not timely received you will have waived your right to have the intended action reviewed pursuant to Chapter 120, Florida Statutes, and the action set forth in the Notice shall be conclusive and final.

If you have questions concerning this matter, please contact (DFEE's NAME), the Department's District (#) Final Estimates Engineer for this contract by telephone (area code & phone number).

Sincerely,

State Highway Engineer

cc: , District Construction Engineer
, Central Office Contracts Administration Manager

Date

Return Receipt Requested
CERTIFIED MAIL NO.

Contractor Name
Contractor Address
City State Zip

RE: NOTICE OF SECRETARY'S SUSPENSION OF YOUR CERTIFICATION OF QUALIFICATION
Financial Project ID: _____
F.A.P. Number: _____
Contract No.: _____ **County:** _____

Gentlemen:

Our records reveal that on (date), your company received a notification letter signed by the State Highway Engineer of the Department of Transportation and sent by Certified Mail, regarding the state of the Department's determination of your failure to submit all required documents in a satisfactory completed condition within ninety (90) days after the Department's offer of final payment on the above referenced contract.

In that notification letter, you were told of the Department's intent that agency action suspending your Certification of Qualification to bid on Department contracts would be final unless all required contract documents were received by the Department, or you filed a request for an Administrative Hearing pursuant to Sections 120.57 and 337.16 of the Florida Statutes, within ten (10) days from your company's receipt of that notification letter regarding the Department's intent.

The required contract document(s) listed below has/have not been furnished within ten (10) days of your receipt of the notification letter mentioned above.

(DFEE TO LIST ONLY INCOMPLETE OR MISSING DOCUMENTS. DELETE OTHERS SHOWN BELOW AS REQUIRED)

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****Use only with contracts let after July 2000. For contracts let before July 2000, use only acceptance letter.***

No request was made by your company for an Administrative Hearing within ten (10) days of your receipt of the notification letter mentioned above.

Therefore, your company's Certification of Qualification was suspended by the Secretary of the Florida Department of Transportation on (use the date of the 11th day after contractor's receipt of State Highway Engineer's notification). **This suspension will continue until the Department is in receipt of all required contract documents in a satisfactorily completed condition.** During this period of suspension, your company will be prohibited from bidding on any Department construction contracts regardless of the dollar amount of the bid, and from acting as a material supplier, subcontractor or a consultant on any Department contract or project as set forth in Rule 14-22.012 of the Florida Administrative Code.

Sincerely,
Thomas F. Barry, Jr., P.E.
Secretary

cc: all District Secretaries,
State Highway Engineer
Central Office Contracts Administration Manager
Contractor's Surety Company,
Federal Highway Administration Area Engineer,
State Construction Office Delinquency Coordinator
State Construction Office Prequalifications Engineer