

THIS MEMO IS EXPIRED

June 12, 2000

MEMORANDUM NO. 20-00

**TO: DISTRICT CONSTRUCTION ENGINEERS
DISTRICT FINAL ESTIMATES ENGINEERS**

FROM: Greg Xanders, State Construction Engineer

COPIES: David Chason, David Sumner, Susan Blazo

**SUBJECT: NOTICE OF INTENT TO SUSPEND LETTERS AND
SUSPENSION LETTERS FOR SURETY COMPANIES**

The Notice of Intent to Suspend (90 day letters) and the Suspension letters have been modified for use when the Surety Company has not submitted contract required documents in a timely manner. If you have this condition, please use these letters to the Surety Company in place of the Notice of Intent to Suspend for the contractor.

Note that per Florida Administrative Rule 14-24.001, the Surety Company has 30 days from the issuance of the Notice to return contract required documents before the Suspension becomes affective as opposed to the 10 days allowed the Contractor. The Disqualification to Bond Letter cannot be sent until 30 days after the Surety receives the Notice of Intent to Suspend letter.

If you have any questions, please call Susan Blazo at SC 994-4167. Thank you.

GX/bc
Attachments

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***)

Form 21-A (Bond Release)
Acceptance Letter
Wage Rate Affidavit
FHWA-47
DBE Payment Certifications

Summary of Materials Affidavit
Reimbursement of Overpayment
Freight Bills
Mill Analysis

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:

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 **twenty-one (21)** 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.

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.

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) | Summary of Materials Affidavit |
| Acceptance Letter | Reimbursement of Overpayment |
| Wage Rate Affidavit | Freight Bills |
| FHWA-47 | Mill Analysis |
| DBE Payment Certifications | |

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: STATUS OF SUSPENSION OF YOUR QUALIFICATION TO BOND
Financial Project ID: _____
F.A.P. Number: _____
Contract No.: _____ **County:** _____

Gentlemen:

Our records indicate that on (date), all remaining required contract documents for the above referenced contract were received by the Department. Therefore, the suspension of your company's Qualification to Bond resulting from the above referenced contract, which has prevented your company from bonding Department construction contracts is removed effective on the date of this letter.

Sincerely,

State Highway Engineer

xc: all District Office Contracts Offices
Central Office Contracts Administration Manager
State Construction Office Prequalifications Engineer