

ORIGINATION FORM

Date: [March 9, 2011](#)

Originator: [David Sadler](#)

Contact Information: david.sadler@dot.state.fl.us 414-5203

Specification Title: [Measurement and Payment](#)

Specification Section, Article, or Subarticle Number: [9-5.6 Certification of Payment to Subcontractors](#)

Why does the existing language need to be changed? [To address need for contractor indemnification of the Department related to contractor payment and performance issues.](#)

Summary of the changes: [Added indemnification language to this section related to contractor payment and performance claims from third parties.](#)

Are these changes applicable to all Department jobs? [Yes.](#) If not, what are the restrictions?

Will these changes result in an increase or decrease in project costs? [No.](#) If yes, what is the estimated change in costs?

With who have you discussed these changes? [State Construction & Legal Offices, Florida Surety Association.](#)

What other offices will be impacted by these changes? [None](#)

Are changes needed to the PPM, Design Standards, SDG, CPAM or other manual? [No](#)

Is a Design Bulletin, Construction Memo, or Estimates Bulletin needed? [No](#)

Contact the State Specifications Office for assistance in completing this form.

Rudy Powell 850-414-42820 rudy.powell@dot.state.fl.us

Frances Thomas 850-414-4101 frances.thomas@dot.state.fl.us

Debbie Toole 850-414-4114 deborah.toole@dot.state.fl.us

Andy Harper 850-414-4127 clifton.harper@dot.state.fl.us



Florida Department of Transportation

**RICK SCOTT
GOVERNOR**

605 Suwannee Street
Tallahassee, FL 32399-0450

**OFFICE OF THE
SECRETARY**

M E M O R A N D U M

DATE: March 29, 2011

TO: Specification Review Distribution List

FROM: Rudy Powell, Jr., P.E., State Specifications Engineer

SUBJECT: Proposed Specification: 0090506 Measurement and Payment – Certification of Payment to Subcontractors.

In accordance with Specification Development Procedures, we are sending you a copy of a proposed specification change.

This change was proposed by David Sadler to require the contractor to indemnify the Department related to contractor payment and performance issues.

Please share this proposal with others within your responsibility. Review comments are due within four weeks and should be sent to Mail Station 75 or to my attention via e-mail at SP965RP or rudy.powell@dot.state.fl.us. Comments received after **April 26, 2011** may not be considered. Your input is encouraged.

RP/cah
Attachment

**MEASUREMENT AND PAYMENT – CERTIFICATION OF PAYMENT TO
SUBCONTRACTORS.**

(REV 3-9-11)

SUBARTICLE 9-5.6 (Page 103) is deleted and the following substituted:

9-5.6 Certification of Payment to Subcontractors: The term “subcontractor,” as used herein, includes persons or firms furnishing materials or equipment incorporated into the work or stockpiled for which the Department has made partial payment and firms working under equipment-rental agreements. The Contractor is required to pay all subcontractors for satisfactory performance of their Contracts before the Department will make a further progress (partial) payment. The Contractor shall also return all retainage withheld to the subcontractors within 30 days after the subcontractor’s work is satisfactorily complete, as determined by the Department. Prior to receipt of any progress (partial) payment, the prime contractor shall certify that all subcontractors having an interest in the Contract were paid for satisfactory performance of their Contracts and that the retainage is returned to subcontractors within 30 days after satisfactory completion of the subcontractor’s work. Provide this certification in the form designated by the Department.

Within 30 days of the Contractor’s receipt of the final progress payment or any other payments thereafter, except the final payment, the Contractor shall pay all subcontractors and suppliers having an interest in the Contract for all work completed and materials furnished. The Department will honor an exception to the above when the Contractor demonstrates good cause for not making any required payment and furnishes written notification of any such good cause to both the Department and the affected subcontractors or suppliers within said 30 day period.

The Contractor shall indemnify and provide defense for the Department when called upon to do so for all claims or suits against the Department, by third parties, pertaining to Contractor payment or performance issues arising out of the Contract. It is expressly understood that the monetary limitation on the extent of the indemnification shall be the approved Contract amount, which amount shall be the original Contract amount as may be increased by subsequent Supplemental Agreements.