



Bob Riley
Governor

**ALABAMA
DEPARTMENT OF TRANSPORTATION**

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Joe McInnes
Transportation Director

November 23, 2004

Construction Information Memorandum No. 2-2004

TO: All Division Engineers

ATTN: Division Construction Engineers and Division County Transportation Engineers

FROM: Terry McDuffie
Construction Engineer

RE: Payments to Subcontractors

Special Provision No. 02-0125(4) revises the requirements for payments to subcontractors under Article 109.08 of the Standard Specifications. This special provision, effective with the July 30, 2004 letting, states that prime contractors shall not withhold retainage from payments due to subcontractors or lower tier subcontractors unless interest is paid on the withheld amount in accordance with the requirements given in State law (Alabama Code 41-16-3(d)).

In addition, the special provision states the prime contractors shall make payments to all subcontractors for the portion of the work satisfactorily completed by the contractors within 7 calendar days of the contractor's receipt of a partial payment from ALDOT. It also requires that an authorized company representative sign a notarized certification of payment stating that all subcontractors active on the project for a particular estimate period were paid within the 7 calendar days after their receipt of a partial payment. Furthermore, it goes on to explain the consequences for failure to comply with this requirement and the possible punitive actions if an ALDOT audit revealed findings that were contradictory to the contractor's certifications. All of the requirements listed in this paragraph became effective in September of 2003 under Special Provision No. 02-0125(2).

In an effort to check/audit the contractor's compliance with this contract requirement, the Department will require the Project Engineer make a detailed review of the payment records. This review will be similar to that for Contractor Labor Reports as required by Article 1:2:I of the Construction Manual. This review shall include the contractor's monthly estimate, a breakdown of the subcontractor's pay items and monthly quantities, a copy of the cancelled check, and a copy of the notarized certification statement.

This type of review will be required for every six months of project life. The actual time of the review shall be determined at random by the Project Engineer during the six month interval, and

additional reviews may be directed, if necessary. He/she will furnish a copy of all of payment compliance reviews to the Division Office. The Division shall forward any non-compliance findings to this office for review and further handling.

Please advise should you have any questions concerning this memorandum.

TM/WJP/wjp

Attachments

pc: Mr. D.W. Vaughn
Mr. G. M. Harper
Mr. Frank Courson
Mr. Lamar McDavid
Ms. Alvena Williams
Mr. Alton Treadway
Mr. Clay McBrien
Mr. Joe Wilkerson, FHWA
Alabama Roadbuilders Association
Alabama Asphalt Paving Association
Alabama Bridge Construction Association
File