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Department of Transportation

CONTRACTOR NON-RESPONSIBILITY ON MAINTENANCE CONTRACTS

PURPOSE

To provide guidance for complying with *Rule 14-22.0141*, Florida Administrative Code (F.A.C.).

AUTHORITY:

Sections 20.23(3)(a) and 334.048(3), Florida Statutes (F.S.)

REFERENCES:

Sections 337.14 (2)(c) and 337.16 F.S.
Sections 120.54(5)(b) 4 and 120.60 F.S.
Rules 14-22.0011, 14-22.012, and 14.22.0141 F.A.C.
Rule 28-106 F.A.C.

SCOPE

This procedure is intended to be used by all Department personnel involved in the administration of maintenance contracts.

1. DECLARATION OF CONTRACTOR NON-RESPONSIBILITY

The Department considers upholding the integrity of the contracting process and contractor performance on maintenance contracts to be critical. Contractors undermining the integrity of the contracting process, demonstrating an inability or unwillingness to comply with contract requirements in a timely and proficient manner, or demonstrating deficient performance on a contract may be declared non-responsible. If a contractor is declared non-responsible, the contractor shall be suspended from bidding, subcontracting, or acting as a material supplier on any Department contracts for a specified period of time.

1.1 FACTORS FOR DECLARATION OF NON-RESPONSIBILITY

A contractor may be declared non-responsible if it is determined by the Department that any one of the conditions in **Section 337.16(2) (c) F.S.** or **Rule 14-22.012(1) F.A.C.** exist, including but not limited to instances of poor or unsatisfactory performance, deficient management resulting in project delay or poor quality workmanship as evidenced by a score less than 70 on the Contractor Field Performance Report or the Asset Maintenance Contract Performance Evaluation Report (AMPER).

2. DETERMINATION

2.1 OPERATION LEVEL RESPONSIBILITIES

If any of the conditions enumerated in **Rule 14-22.012, Section 1 (a) through (m) F.A.C.**, or Section 1 of this procedure occur, the Operations Program Engineer or Maintenance Engineer shall review the circumstances and notify the District Maintenance Engineer (DME). Notification should include documentation showing that a non-responsibility condition exists.

2.2 DISTRICT LEVEL RESPONSIBILITIES

The DME shall review the documentation and determine if a condition identified in Rule 14-22.012(1), F.A.C. exists and whether the circumstances merit a recommendation to declare the contractor non-responsible. The DME shall provide details of the circumstances to the Director, Office of Maintenance (OOM) along with a recommendation regarding whether or not to declare the contractor non-responsible.

2.3 CENTRAL OFFICE LEVEL RESPONSIBILITIES

The OOM Director shall review the circumstances and documentation provided by the DME, and make a recommendation of non-responsibility to the Chief Engineer if the circumstances warrant action.

If the contractor is pre-qualified, in accordance with **Section 337.14, F.S.**, the OOM Director shall notify and discuss the circumstances and documentation with the Director, Office of Construction before making a joint recommendation of non-responsibility to the Chief Engineer.

The suspension period for non-responsibility shall be determined in accordance with **Rule 14-22.012(5), F.A.C.** Notices of Intent to declare Non-Responsible for all Department Maintenance Contracts shall be prepared by the OOM to ensure uniform and consistent criteria for those actions, and shall be signed by the Chief Engineer. Non-Responsibility notices shall be sent using a method that provides confirmation of receipt.

Any Notice of Intended Department action to declare a contractor(s) Non-Responsible shall be provided to the contractor in accordance with **Section 120.60, F.S.** The Department's action

shall become final unless a timely petition for a hearing is filed in accordance with **Section 120.54(5)(b)4, F.S.** and **Rules 28-106.104, 28-106.201, and 28-106.301, F.A.C.**

3. TRAINING

None required.

4. FORMS

Form No. 375-020-43, Contractor Field Performance Report