

Approved:

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Department of Transportation

## **CONTRACTOR NON-RESPONSIBILITY FOR MAINTENANCE CONTRACTS**

### **PURPOSE:**

To provide guidance for complying with Florida Administrative Code Rule 14-22.0141, Contractor Non-Responsibility.

### **AUTHORITY:**

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

### **REFERENCES:**

Section 337.16 F.S.

Rules 14-22.0011, 14-22.012, and 14.22.0141 F.A.C.

Rule 28-106 F.A.C.

Contractor Field Performance Rating on Maintenance Contracts, Topic No. 850-070-002

Performance Based Contracting, Topic No. 375-000-005

### **STATEMENT OF POLICY:**

It is the policy of the Florida Department of Transportation (Department) to establish a process to declare a Contractor non-responsible.

### **SCOPE:**

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

## **GENERAL:**

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 Department contracts for the duration of the suspension. The Department will review the performance of each Contractor on all maintenance contracts and either prepare a Contractor Field Performance Report (CFPR) for non-asset maintenance contracts or an Asset Maintenance Contractor Performance Evaluation Report (AMPER) for asset maintenance contracts.

### **1. DECLARATION OF CONTRACTOR 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) 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 a non-responsibility condition exists, the Operations Program Engineer or Maintenance Engineer shall review and document the circumstances and notify the District Maintenance Engineer (DME). Documentation of the circumstances include but are not limited to letters, emails, meeting minutes, and records of phone conversations. Notification shall include documentation detailing that a non-responsibility condition exists.

#### **2.2 DISTRICT LEVEL RESPONSIBILITIES**

The DME shall review the documentation and determine if a non-responsibility condition 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 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 **Rule 28-106.111, F.A.C.** The Department's action shall become final unless a timely petition for a hearing is filed in accordance with **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