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TO: Director, Preliminary Plan Review Bureau	PREL. <input type="checkbox"/> FINAL <input type="checkbox"/>	 ENGINEERING INSTRUCTION NEW YORK STATE DEPARTMENT OF TRANSPORTATION
	PHOTOGRAM. LANDSCAPE <input type="checkbox"/>	
RECEIVED FACILITIES DESIGN SUBDIVISION MAY 22 1973 NICHOLAS D. GRAHAM Plan Review Bureau		SUBJECT: DOCUMENTATION OF CONTRACTOR DELAYS IN PROCESSING OF FINAL AGREEMENT Subject Code: 7.30
CIRC. <input type="checkbox"/> FILE <input type="checkbox"/> DISCARD <input type="checkbox"/>		
Distribution: <input checked="" type="checkbox"/> Main Office <input checked="" type="checkbox"/> Regions <input type="checkbox"/> Special		Code: <u>EI-73-32</u> Date: <u>5/8/73</u> Supersedes:
APPROVED:  Deputy Chief Engineer (Construction)		

Where final payments are not made to contractors within 90 days of final acceptance of a contract, the State is liable for interest on unpaid balances for the period of time between the expiration of the 90 days and the date paid. The period during which interest is accrued, however, may be reduced by the amount of delays attributable to the contractor in the processing of the final agreement.

We are advised by the Office of Legal Affairs that, in several instances, the Department did not have adequate documentation to support our claims of unreasonable delays by the contractors.

Accordingly, please instruct your staff to maintain a documented history of the preparation and processing of the final agreement for each project from the date the project is accepted. A summary of all delays attributable to the contractor should be submitted with each final agreement and should include the following types of information:

1. Complete log of phone calls, personal visits to the Regional Office, and correspondence by contractor personnel related to the review or dispute of final quantities and the related delays to processing.
2. Delays in the submission by the contractor of affidavits, certifications, and similar materials required before final payment. All requests to the contractor for the submission of such materials should be in writing and the dates of their receipt documented. In the event the contractor does not respond in due time, a follow-up letter should be sent.
3. All requests for meetings to review computations or disputes should be confirmed in writing and copies retained in the Region in the event of claims. The summary should refer to such letters and meetings, and also should include references to disputed work letters emanating from such discussions.
4. The summary should contain reference to any letter received from the contractor waiving interest payments in order for him to carefully review final quantities or submit a disputed work letter for decision by the Commissioner.