
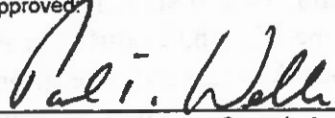


To: MODIFIED BY EB 01-060 EFFECTIVE 11/1/01 SUPERSEDED <i>BY EI 02-012 EFFECTIVE 6/18/02</i>		<i>New York State</i> <i>Department of</i> <i>Transportation</i> ENGINEERING INSTRUCTION	EI 01-022
Title: CONTRACTOR REPORT OF CONTRACT PAYMENTS AAP-21c			
Distribution: <input type="checkbox"/> Manufacturers (18) <input type="checkbox"/> Surveyors (33) <input checked="" type="checkbox"/> Main Office (30) <input checked="" type="checkbox"/> Consultants (34) <input checked="" type="checkbox"/> Local Govt. (31) <input checked="" type="checkbox"/> Contractors (39) <input checked="" type="checkbox"/> Regions/Agencies (32) <input type="checkbox"/> ()	Approved:  Paul T. Wells, Assistant Commissioner & Chief Engineer		9/20/2001 Date

ADMINISTRATIVE INFORMATION: This Engineering Instruction (EI) is effective for all Department contracts immediately. This EI supersedes EI 92-024 - Prime Contractor Report of Payments to DBEs'.

PURPOSE. To replace the AAP-21b (1/92), issued by EI 92-024, to expand the applicability of the form to all subcontractors/vendors on a project who are required to have an AAPHC-89 on file with the Department, and to define the frequency of submission of this form as monthly. **It does not expand the applicability of the AAPHC-89.** The current version of this form shall be referred to as the AAP-21c.

This EI also transmits guidance to the Engineer (EIC) to assist in the proper review of form AAP-21c. Furthermore, the intent of form HC-258, **Affidavit of Payment to Subcontractors**, is incorporated into the AAP-21c and the form is no longer required. Form AAP-48, **DBE Subcontractor Payment Report**, is also no longer needed, but may be used as a worksheet to aid the Regional Compliance Specialist in pursuing non-payment issues.

TRANSMITTED MATERIALS. AAP-21c form and instructions.

ACTIONS FOR DOT FIELD PERSONNEL. The Engineer (EIC) shall receive from the Contractor an AAP-21c for each subcontractor/vendor due payment on the project and appearing on an AAPHC-89. On those contracts containing the Champ Management System, the form shall be generated from the software.

The AAP-21c is a cumulative to-date report of the total payments due a subcontractor/vendor, total retainage or other withholdings, and the total payments made to the subcontractor/vendor. The AAP-21c is to be submitted by the fifteenth day of the month, or when requested by the Department. The dollar values on this report should be accurate through the last day of the previous month. The Contractor's portion of the Certification section on the Final AAP-21c must be completed and notarized. It should be submitted as soon as possible after the subcontractor/vendor has completed/supplied all of the work/services/products for which it was utilized but not later than 60 days after the subcontractor/vendor has completed its commitment.

The EIC shall receive from the Contractor an AAP-21c for each subcontractor/vendor due payment on the project, signed by an authorized representative of the Contractor's firm. The EIC will review the form submitted by the Contractor for its completeness, forward a copy to the Regional Compliance Specialist (RCS), and file it in the project records. In the event that a Contractor fails to supply the EIC with an AAP-21c, or if the AAP-21c is not properly completed, the EIC will request assistance from the RCS. The RCS will determine if further action is necessary. The EIC shall verify that an AAP-21c has been received for all subcontractor/vendors with approved AAPHC-89's on file.

The EIC shall also receive a countersigned AAP-21c from each subcontractor/vendor after the subcontractor/vendor has reviewed the form for accuracy. Upon receipt of the countersigned form from the subcontractor/vendor the EIC shall replace the corresponding form previously submitted by the Contractor in the project records. The EIC shall periodically review the project records to determine if the AAP-21c form on file contains both contractor and subcontractor/vendor signatures. In the event the subcontractor/vendor signature is not present, the EIC shall notify the Regional Construction Engineer, who will determine what additional steps should be taken to verify the information on the form. An unsatisfactory investigation may result in non-payment of future billing estimates until such time as corrective action is taken. The subcontractor/vendor's portion of the Certification section on the Final AAP-21c must be completed and notarized.

This form is required as part of the contract documentation and shall be submitted with the Final Agreement and Estimate Package. Final payment packages will not be processed unless a properly executed Final AAP-21c is included for each subcontractor/vendor on the project. This procedure should be utilized immediately for new projects and for all work remaining on projects previously awarded.

BACKGROUND. In order to comply with the new Federal DBE Regulations (49 CFR 26.29 & 26.37) the Department is collecting payment information for all subcontractor/vendors utilized by the Contractor on construction contracts. Prime Contractor Report of Payment to DBE's, Form AAP-21b collected this information for DBE firms only. The new form, titled **AAP -21c Contractor Report of Contract Payments** collects this information for all subcontractors/vendors.

CONTACT PERSON. Garland F. Sweeney, (518) 457-1134 (OEODC) or by email at gsweeney@gw.dot.state.ny.us.

State Department of Transportation Contractor Report of Contract Payments

Final Report <input type="checkbox"/> Yes <input type="checkbox"/> No	Contract Number	County	Report Date
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Contractor Name and Address	Subcontractor/vendor Name and Address
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Contractor Federal Identification Number	Subcontractor/Vendor Federal Identification Number
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Total Payments Due to Date:
- Retainage or Other Withholding to Date:

Total Payments to Date:

Comments:

Certification

Section 139-f of the State Finance Law requires the Contractor to pay each of its subcontractors and/or materialmen the proceeds from the payment representing the value of work performed and/or materials furnished by the subcontractor and/or materialmen within 15 calendar days of the receipt of any payment from the public owner.

As an officer of the Contractor identified above, and based on my personal knowledge, I certify that payment has been made by the Contractor to the Subcontractor/Vendor in the amount stated herein pursuant to the last AAP HC-89 on file with the Department and that said work/ services/ product was performed/supplied by said Subcontractor/Vendor and that there were no rebates, refunds, or offsets applied to any payments except as noted under "Comments" above.

Signed: _____

Title: _____
(For Contractor)

As an officer of the Subcontractor/Vendor identified above, and based on my personal knowledge, certify that payment has been received in the amount stated herein pursuant to the last AAP HC-89 on file and that said work/ services/ product was performed/supplied and supervised solely by the Subcontractor/Vendor and that there were no rebates, refunds, or offsets applied to any payments except as noted under "Comments" above.

Signed: _____

Title: _____
(For Subcontractor/Vendor)

Notarization for Final AAP-21c

Sworn to me this _____ day of _____ _____ Notary Public	Sworn to me this _____ day of _____ _____ Notary Public
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If this report is verified by an oath administered by a Notary Public in a foreign country other than Canada, it must be accompanied by a certificate authenticating the authority of the Notary who administered the oath.

Any person who makes a false or fraudulent statement in connection with participation of a DBE on any assisted program or otherwise violates applicable State and/or Federal statutes may be referred for prosecution under applicable State and/or Federal law.

AAP21c Form Instructions:

Subcontractor/Vendor: Is defined as any subcontractor, materialmen, supplier or service provider with an AAPHC-89 on file for the project.

Final Report: Check YES or NO, as appropriate, to indicate whether this will be the Final Report submitted for this subcontractor/vendor.

Contract No: Enter New York State contract number. (Example D257126)

County: Enter the name of county or counties this project is located in. (Example: Albany)

Report Date: Enter date (Month/Day/Year) through which payments due and made are reflective of.

Contractor and Subcontractor/Vendor Data: Enter names, and addresses (including zip code), telephone numbers (including area codes) and Federal Identification Numbers for both the Contractor and Subcontractor/Vendor.

Total Payments Due to Date: Enter total of all invoices received to date for the supply of material or work completed or services performed by the subcontractor/vendor.

Retainage or Other Withholding to Date: Enter amount due subcontractor/vendor that has not been paid due to retainage or other withholding.

Total Payments to Date: Value of payments due to date less retainage or other withholding.

Comments: Amounts recorded as retainage or other withholding must be accompanied by a brief description of the circumstances necessitating the withholding along with item numbers involved (if any).

Signatures: Authorized representatives of both the Contractor and Subcontractor/Vendor sign and date.

Notarization: On the Final Report, or when directed by the Department, Contractor and subcontractor/vendor signatures must be notarized.

The AAP-21c is a cumulative to-date report of the total payments due a subcontractor/vendor, total retainage or other withholdings, and the total payments made to the subcontractor/vendor. The AAP-21c is to be submitted by the fifteenth day of the month to the Engineer-in-Charge, or when requested by the Department. The dollar values on this report should be accurate through the last day of the previous month. The Final AAP-21c should be submitted as soon as possible after the subcontractor/vendor has completed/supplied all of the work/services/products for which it was utilized, but not later than 60 days after the subcontractor/vendor has completed its commitment. This form is required as part of the contract documentation and shall be submitted with the Final Agreement and Estimate Package.

An AAP-21c is required for each subcontractor/vendor due payment on the project for which there is an AAPHC 89 on file with the Department.

The Contractor shall submit a copy of the AAP-21c, signed by an authorized representative of the firm, to the Engineer-In-Charge(EIC) and to each subcontractor/vendor due payment on the project.

The Contractor's portion of the Certification section of the Final AAP-21c must be completed and notarized.

The Contractor shall inform the subcontractor/vendor of its responsibility to review the form for accuracy, sign and return the form to the Engineer-in-Charge, and to have the Subcontractor/Vendor's signature on the Final AAP-21c notarized..

This report is a written instrument within the meaning of Section 175.00 of the Penal Law. I am fully aware that it will be filed with the New York State Department of Transportation and become a part of the records thereof and that entering any false information hereon constitutes the crime of Offering a False Instrument for Filing in the first degree, which is a Class E Felony. (Penal Law, Section 175.35)