
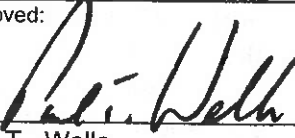


To: <p style="text-align: center;">SUPERSEDED BY EFFECTIVE 9/9/04 EI 04-010</p>		New York State Department of Transportation ENGINEERING INSTRUCTION	EI 02-012
Title: CONTRACTOR REPORT OF CONTRACT PAYMENTS, FORM AAP-21c			
Distribution: <input type="checkbox"/> Manufacturers (18) <input type="checkbox"/> Surveyors (33) <input checked="" type="checkbox"/> Main Office (30) <input checked="" type="checkbox"/> Consultants (34) <input 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 <div style="text-align: right;">6/18/02 Date</div>		

ADMINISTRATIVE INFORMATION:

- This EI is effective immediately for all contracts let on or after 11/01/01.
- This EI supersedes EI 01-022, and EB 01-060.

PURPOSE: To issue a revised form AAP-21c (6/02) and Instructions.

IMPACTS:

Conformance with the specifications and guidance enclosed will assist in ensuring compliance with the Federal regulations and NYS Finance Law. Additional reporting compared to the previous Form AAP-21b will be required from the Contractors, but signature from the Subcontractor/Vendor and notarizations are not required on the monthly submittals. The Contractor shall submit Form AAP-21c, for all Subcontractors/Vendors with an AAPHC-89 on file for the contract (no longer just DBE's) monthly, when requested as a part of annual compliance reviews, or when requested otherwise by the Department. Compliance reviews are typically conducted on 2 contracts per region annually. Additional requests may be made by the Department to support investigations based on reports or complaints. There are no direct cost impacts created by this issuance.

IMPLEMENTATION:

The Contractor shall submit Form AAP-21c to the Engineer by the 15th of each month, with an information copy supplied to the Subcontractor/Vendor. The dollar values on the report should be accurate through the last day of the previous month.

The Subcontractor/Vendor portion of the certification and the notarizations are not required on the monthly submittals. The final Form 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.

If the CHAMP® software specification is not included in the contract, the Contractor shall complete and submit the attached hard copy form. If the CHAMP® software specification is included in the contract, the AAP-21c report shall be generated from the CHAMP® software and submitted electronically to the Regional Compliance Specialist with the monthly CHAMP® updates, and a signed hard copy of the CHAMP® generated report submitted to the Engineer. The AAP-21c report is not yet available with the CHAMP® software. The format of the revised AAP-21c (6/02) has been submitted to the software vendor, and a patch to the CHAMP® software is expected to be released in a few months.

BACKGROUND:

The purpose of Form AAP-21c is compliance with Federal DBE regulations regarding prompt payment and NYS Finance Law, as well as the consolidation of Forms AAP-21b, AAP-48 and HC-258. Form AAP-21c is a cumulative to-date report of the payments due a Subcontractor/Vendor; retainage or other withholdings by the Contractor; and payments made to the Subcontractor/Vendor. This revision was undertaken in response to continuing feedback and partnering dialog with the Associated General Contractors and the contracting community.

The Federal DBE Regulation (49 CFR 26.29 and 26.37) require timely payments to DBE Subcontractors, suppliers and services. It also requires data collection to determine accomplishments and future DBE goals. The State Finance Law requires the Contractor to make timely payments to Subcontractors and materialmen. The Standard Specifications (§102-22 & §109-12) were modified by El 01-018, *Revisions to Section 100, Phase 3* to reflect these requirements. The Department is collecting payment information for all Subcontractor/Vendors on construction contracts. The previous Form AAP-21b, collected this information for DBE firms only. The new Form AAP-21c, *Contractor Report of Contract Payments* collects this information for all Subcontractors/Vendors.

Improved data gathering will assist the Department in obtaining data for required Federal reports, enable the Department to conduct its QA reviews and assist in establishing appropriate goals for DBE and M/WBE Utilization.

CONTACT:

Direct questions regarding this issuance pertaining to D/M/WBE data collection to Naim Orayfig of the OEODC at (518) 457-1129 or via e-mail at NOrayfig@gw.dot.state.ny.us. Direct questions regarding this issuance pertaining to prompt payment to John Grady of the Construction Division at (518) 457-6472 or via e-mail at JGrady@gw.dot.state.ny.us.

State Department of Transportation Contractor Report of Contract Payments

<p style="text-align: center;">Final Report</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p style="text-align: center;">Contract Number</p>	<p style="text-align: center;">County</p>	<p style="text-align: center;">Report Date</p>
<p>Contractor Name and Address</p>		<p>Subcontractor/vendor Name and Address</p> <p><input type="checkbox"/> Check if Firm is CERTIFIED D/M/WBE</p>	
<p>Contractor Federal Identification Number</p>		<p>Subcontractor/Vendor Federal Identification Number</p>	
<p>Total Payments Due to Date:</p> <p>- Retainage or Other Withholding to Date:</p> <hr style="width: 80%; margin: 0 auto;"/> <p>Total Payments to Date:</p>			
<p>Comments:</p>			
<p>Certification</p>			
<p>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.</p>			
<p>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 and a copy of this form has been sent to the Subcontractor/Vendor.</p>		<p style="text-align: center;">FINAL PAYMENT CERTIFICATION</p> <p>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.</p>	
<p>Signed: _____</p> <p>Title: _____ (For Contractor)</p>		<p>Signed: _____</p> <p>Title: _____ (For Subcontractor/Vendor)</p>	
<p>Notarization for Final AAP-21c</p>			
<p>Sworn to me this _____</p> <p style="text-align: center;">day of _____</p> <p style="text-align: center;">_____ Notary Public</p>		<p>Sworn to me this _____</p> <p style="text-align: center;">day of _____</p> <p style="text-align: center;">_____ Notary Public</p>	
<p><small>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.</small></p> <p><small>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.</small></p>			
<p><small>Note to Subcontractor: If the Contractor has not paid your firm for work completed and accepted by the Department in accordance with the terms specified on this form, please contact the Engineer for the contract.</small></p>			

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: An authorized representatives of the Contractor must sign and date.

Signatures on Final Report: An authorized representative 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, 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 contract for which there is an AAPHC 89 on file with the Department.

The Contractor shall submit the AAP-21c, signed by an authorized representative of the firm, to the Engineer and a copy to each Subcontractor/Vendor due payment on the Contract.

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 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)