



November 28, 2017

ACNM  
6135 Edith NE  
Albuquerque, NM 87107

Attention: Mike Beck

Subject: Work Added to Existing Subcontract

Dear Contractor:

At the last ACNM /NMDOT joint meeting held on October 24<sup>th</sup>, the following items were discussed and NMDOT committed to provide written clarifications. The clarifications are as follows:

- First, there have been questions asked regarding the need for a new subcontract when a prime contractor gives additional work to a subcontractor with an existing subcontract. Section 108.1 states that "the Contractor shall perform with its own organization at least 40% of the Work based on the Total Bid Amount." So, we need to ensure prime contractors are not subcontracting out more than 60% of the Total Bid Amount. If a prime contractor is planning on subcontracting out original contract Work that they had originally planned to self-perform to a subcontractor with an existing subcontract, then we need a new Form A-1086 Permission to Subcontract that specifies the amount of the work that they are now subcontracting out. A copy of the amended contract will need to be attached to the new Form A-1086. This will ensure that we can verify that the prime contractor is not subcontracting out more than 60% of the original contract Work and that the subcontractor is licensed to perform the additional work.

The new Form A-1086 with the amended contract will be considered a new subcontract. Therefore, the numbering on the Form A-1086 will remain sequential. For example, if the existing subcontract with Z-Construction is subcontract #5 and 3 other subcontracts have already been approved and now the prime contractor wants to add original contract work to Z-Construction's subcontract, the new Form A-1086 will be numbered subcontract #9 since the previous 3 subcontracts would have been numbered 6, 7, and 8.

Please note that if a prime contractor gives extra Work to subcontractor with an existing subcontract and it is not original contract Work, then we do not need a new Form A-1086.

**Susana Martinez**  
Governor

**Tom Church**  
Cabinet Secretary

**Commissioners**

**Ronald Schmeits**  
Chairman  
District 4

**Dr. Kenneth White**  
Secretary  
District 1

**David Sepich**  
Commissioner  
District 2

**Keith Mortensen**  
Commissioner  
District 3

**Butch Mathews**  
Commissioner  
District 5

**Billy Moore**  
Commissioner  
District 6

This same information was discussed at the Statewide PM meeting held on November 1<sup>st</sup>. A copy of this letter will also be distributed to all of the NMDOT Project Managers, Office Managers, Audit Staff and Assistant District Engineers of Construction.

- Secondly, I have attached a draft copy of the Contractor's Certification of Prompt Payment that we plan on implementing with the January letting. This has been created to ensure FHWA's requirement for prompt payment to suppliers. Please note that the draft includes subcontractors. This may change depending on the new Division 100s.
- Finally, I have also attached information in regards to 20-ft CWB that includes deflection data as requested.

If you have any questions or comments, please feel free to contact me at 505-467-9887.

Sincerely,



Sally Reeves  
Acting State Construction Engineer