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Issue Number 71, March 2015

State Aid E-Scene

Recent Federal Debarment Activity

By: Merry Daher, State Aid Project Delivery Engineer

On February 19, 2015, an announcement was issued from the FHWA announcing a suspension and proposed debarment of Cemstone Concrete Products, Inc., aka Cemstone Ready Mix, Inc. (DUNS No. 055462576). This announcement was followed by a flurry of emails, phone calls, legal clarifications and updates, and ultimately led to an announcement on February 27, 2015 of the Termination of Suspension and Proposed Debarment of Cemstone Ready Mix, Inc. which stated, "*Cemstone Products Company, Inc., and any affiliate companies previously suspended by FHWA, are now able to work on federal contracts while being monitored for compliance with federal laws. The previous exclusion of Cemstone Ready-Mix, Inc. has ended.*"

During the time between the announcement, it became apparent

that there is confusion about what projects would be affected by such a suspension/debarment. When a company is debarred, it is not retroactive to projects already awarded, and care must be taken to assure that companies with similar, but different names are not prohibited from bidding. The following guidance can help you determine which list/s applies to your contract.

Federally funded contracts

Federal regulations flow with the federal funding. If a company is on the [Federal Excluded Parties List](#) they are not eligible to receive a federally funded contract. The name of bidders must match exactly as shown in the list to be prohibited.

State funded contracts

The Department of Administration's debarment applies only to contracts to which the state is a

party, regardless of the funding source. Therefore, a company on Administration's debarment list is not eligible to contract with any state agency, but is not barred from contracting with a city or county, or from acting as a subcontractor, or material supplier on a contract with a state agency.

MnDOT's debarment applies to contracts with cities, counties subcontractors and material suppliers. So, a company debarred by MnDOT cannot contract with MnDOT, a city or a county, or act as a subcontractor or material supplier on a MnDOT contract.



Responsible Contractor Specifications and Certification

By: Ron Dahlquist, Federal Plans Specialist

What's new?

As you should know by now, the responsible contractor statute requirements for public **projects** went into effect on January 1, 2015. The statute pertains to **all** public agencies in Minnesota. Certain additional language is now required in your **solicitation documents**.

MnDOT has developed some special provision language and a certification form as the statute requires. For our customers in State Aid, we often must modify the specification language so it is not "*MnDOT specific*" and can then be used by our local agencies. State Aid has modified some of the MnDOT Responsible Contractor specification language so that it's suitable for use by nearly all of our customers because most do not use electronic bidding. Those few local agencies who do use electronic bidding must further modify that language.

What is the "responsible contractor" statue about?

The *responsible contractor* statute requires contractors and their subcontractors who bid on public **projects** in excess of \$50,000 to certify under oath, that they meet the definition of a responsible contractor in order to be awarded a contract as the lowest responsible bidder or best value alternative. Under [Minnesota Statute 16C.285](#), a responsible contractor must be in compliance with various state and federal tax, workers' compensation, and unemployment insurance requirements, and cannot have violated any of a number of the

minimum wage, living wage, or safety laws and rules. Local agency bid **solicitation documents** must include the following information:

- The definition of responsible contractors or reference to the statutory definition.
- A statement that a contractor failing to meet the criteria or to verify compliance is ineligible to be awarded the contract or to perform work on the project.
- A statement that submitting a false certification renders the contractor ineligible to be awarded the contract and can result in the termination of the contract.
- A statement that the contractor shall, upon request of the entity, provide copies of all subcontractor verification forms.

A local agency is not obligated to verify any of the information in the contractor certification, and has no liability if it reasonably relies on the certification statement in awarding the contract, or if it declines to award the contract based on a reasonable determination that the contractor failed to verify compliance.

What is a "project"?

"*Project*" means building, erection, construction, alteration, remodeling, demolition, or repair of buildings, real property, highways, roads, bridges, or other construction work performed pursuant to a construction contract.

What is a "solicitation document?"



"*Solicitation document*" means an invitation to bid, bid specifications, request for proposals, request for qualifications, or other solicitation of contractors for purposes of a construction contract.

Where can I find the required documents?

The required specification language and certification form as developed by MnDOT and modified by State Aid for local agency use can be found in our Electronic Proposal Document Table at **Sequence 0000/1801** and **Sequence 46** at the [Electronic Proposals webpage](#).

Who should I contact if I need assistance?

For specific legal advice you should always consult your agency's attorney.

For general assistance in implementing the responsible contractor specifications and certification form for your project feel free to contact Ron Dahlquist at ron.dahlquist@state.mn.us or 651-366-3823.

Employee News

John McDonald has been appointed as the new DSAE of District 1, effective March 2nd. John is replacing Walter Leu, who retired in December. Most recently he was the Faribault County Engineer for 15 years, prior to that he worked in the consulting industry. John has a Master's degree in Civil Engineering from the U of M and a Bachelor's degree in Civil Engineering from Iowa State. John's contact information can be found on the DSAE webpage.



(John McDonald)



(Cathy Huebsch)

Cathy Huebsch is the new Federal Aid Plans Engineer. She joins SALT from the MnDOT Office of Aeronautics where she was an Airport Region Engineer for the last seven years. Cathy entered the MnDOT Grad Engineer Rotation Program in 1985 after receiving her Civil Engineering degree from the U of M. She left MnDOT in 1987 to follow her husband around the world in his position as an Air Force pilot. She worked for Northrup Gruman at Vance Air

Force Base, and with Meyer, Meyer, LaCroix and Hixson in Alexandria, Louisiana – where she took and passed the PE. Cathy came back to Minnesota in 2005 and reentered service at MnDOT in 2007.

Kim Kildal has accepted a permanent position in Budget at MnDOT and is no longer part of State Aid. She has done wonderful things for State Aid and will be missed. In the interim, Candy Harding and Cindy Degen have been doing joint/split mobility in Kim's position. Candy is in the position until Tuesday, March 10th and Cindy will return to the position from March 11th – June 16th. They will begin the hiring process for a permanent replacement after March 11, 2015.

Fund Exchanges

By: Lynnette Roshell, Federal Aid Agreement & Special Programs Engineer

Although legislation has not passed to implement this program to the maximum extent possible, SALT is still promoting and encouraging fund swaps or exchanges between cities and cities, or counties and counties.

A few districts have embraced the concept and reviewed their program and arranged exchanges within their own district for current and future years. While this has not been a huge reduction in the overall number of federal projects, every bit helps. One less project allows the federal aid staff to skip that one and go on to another one which could be yours.

Exchange candidate projects should be underfunded with federal funds, eligible for state aid funds and willing to process an additional agreement with SALT to document the fund exchange. A couple of exchange projects this year had been awarded Highway Safety Improvement Program funds for safety shoulder work. When the county added mainline mill and overlay work with local dollars they were able to convert the mainline work to federal funds from a different project that may also have been underfunded and save that project all of the federal aid tags and requirements. If you

think you may have a project that is a good candidate talk to your DSAE or Lynnette Roshell.

Exchanges can be across Area Transportation Partnership lines as long as everyone agrees. Currently, most exchanges are 1:1, but District 1 has some that have discount rates that everyone agreed to. SALT wants to encourage this. FHWA is on board. We just need willing participants. Contact Lynnette at lynnette.roshell@state.mn.us or 651-366-3822 or Merry at merry.daher@state.mn.us or 651-366-3821 for questions.

Ramifications of adding Nonfederal Projects to Federally Funded Projects

By: Merry Daher, State Aid Project Delivery Engineer

If you have a federal project and want to bid any nonfederal projects in the same contract for economic or other reasons, let your DSAE know ASAP. One dollar of FHWA funding added to a contract *federalizes* the entire contract and supersedes or adds to the other state or federal funding requirements.

What this means is:

- The State Transportation Improvement Program (aka STIP) project description and contract total amount must reflect all the work/cost in the contract. If your project description and total dollar amount do not match what is listed in the STIP, a formal STIP amendment will be required before the project can be authorized.
- The Program/Project Management System (aka PPMS) funding screen must include all of the project numbers and funding for each state project before the project can be authorized. It is the responsibility of the DSAE to have the PPMS screen updated in the district.
- The National Environmental Policy Act document (Project Memo) must discuss any non-federal projects to be in the contract in conjunction with the federally funded project. If the project has independent utility, the NEPA document need only describe the work and verify that the added work is not influenced by the federally funded project in any way, and the cost estimate must be discussed in the funding section of the document. If the project does not have independent utility to the federally funded project, the added project's impacts must be discussed in the PM as if it were funded with federal funds.
- All plans to be included in the contract need to be submitted along with the same accompanying documents submitted with the federally funded project listed in the [DCP 02 form](#) (Word). A Disadvantaged Business Enterprise goal will be set for the contract and the provisions furnished by SALT will apply to the entire contract.

On a related note, please provide funding updates to your DSAE on projects in future STIP years so the draft STIP can be updated. The following guidelines are used to determine when formal STIP amendments are required. If the funding originally put in the STIP is not accurate as time passes, a formal amendment may be needed. These take time and could be avoided if costs are updated during the planning years of the project.

Cost of project	Formal amendment needed if the increase is more than:
>\$1 million to \$3 million	50%
>\$3 million to \$10 million	35%
>\$10 million to \$50 million	20%
>50 million to \$100 million	15%
Over \$100 million	10%

Note: no amendment is needed for a project of \$1 million or less if the percentage increase does not result in a total cost of greater than \$1 million.

Updated version of PM Writer is now available

By: Gary Reihl, Project Development Engineer

The updated version of PM Writer is now available at the [Project Delivery webpage](#) under the Environmental heading.

Project Writer was developed to assist local agencies in preparing Project Memoranda as required by FHWA regulations and National Environmental Policy Act. PM Writer walks through a series of questions that require project specific information. This information ensures that the environmental impacts of the project have been considered during the project development process.

The updated version of PM Writer eliminates the screening process that was a part of the original PM Writer tool. We believe the new program will guide a writer through most, if not all of the information needed to write a basic PM and

much of the information required for an Environmental Assessment.

PM Writer will build a Microsoft Word document. After downloading the document final editing may be required before submitting the project memo for approval. We think users will find PM Writer a valuable tool as they go through the environmental documentation process.

Additional information or help is available. When further details are needed, you may click on the question mark icon (?) to get more information. Additional help for content of environmental and project memorandum details can be found on MnDOT's HPDP or by contacting SALT PM Writer help at saltpmwriter.dot@state.mn.us.



Emergency Relief

By: Lynnette Roshell, Federal Aid Agreement & Special Programs Engineer

In the fall of 2011, a brave band of souls got together to review and improve the process for Emergency Relief, FHWA's emergency program. The brave band of souls

agreed to review the process changes after a couple of ER events. Since that time a number of things have occurred. Many of the original brave band of souls have moved on to other positions and three ER events have occurred. A new group of brave souls are working on reviewing the process, explaining and updating the Programmatic Agreement, updating the Detailed Damage Inspection Report and developing better training on the process for potential users.

Major issues identified and being

worked on are: the use and purpose of the DDIR, better explanation of appropriate contracting methods for repairs, definition of emergency, permanent and concurrent permanent repairs and other terminology unique to the ER process. If you were involved in a past ER event and have some suggestions on improvements that are needed please contact Lynnette Roshell at lynnette.roshell@state.mn.us or 651-366-3822.



TZD Continues Driving Minnesota Toward Zero Deaths

By: Susan Youngs, TZD Coordinator

Minnesota's Toward Zero Deaths program entered its second decade in 2014, solidly standing on its cornerstone of the 4-Es as traffic safety partners: engineering, law enforcement, education and emergency medical services. Each of Minnesota's eight TZD regions was staffed with a regional coordinator to coordinate traffic safety efforts. Seven of the eight regions conducted regional workshops and nearly 1,000 traffic safety partners attended the statewide TZD conference in November. (metro TZD region will conduct its first regional workshop in 2015.) Using a data driven approach, multiple TZD initiatives occurred throughout the year to support law enforcement efforts and share traffic safety messages with all roadway users.

Stop the Distraction

Southern Minnesota initiated an enforcement event, "Operation D-Day," where enforcement used non-traditional vehicles to aggressively enforce distracted driving laws along with spotters who will identify texting drivers and then radio violations to waiting squad cars. Any elevated vehicle could be used or considered unmarked: SUVs, fire trucks, buses, etc. The metro TZD region utilized school buses along with other various raised vehicles to assist in locating distracted drivers while in central Minnesota, officers rode in pairs in unmarked squad cars allowing for one officer to safely watch for distracted drivers while the other officer can focus on driving. However the winner of the most creative. However, the winner of the most creative raised vehicle was the Winona County Sheriff's Office

who spotted distracted drivers on horseback.

Reaching our Newest Drivers

One very successful initiative to educate teen drivers was AT&T's It Can Wait challenge. TZD regional coordinators worked with the Minnesota Safety Council to bring this challenge to high schools. The campaign created a friendly competition between class levels and encouraged them to pledge to NEVER text and drive. Several high schools throughout the state participated in this week-long campaign and additional planned educational events further stressed this important safety message. One such event was held at Janesville Waldorf Pemberton High School, where students were challenged to drive golf carts through a designated course while attempting to text.

Work Zone Safety

TZD's goal is zero death from traffic crashes for ALL roadway users including those users who build and maintain our bridges and roadways. In June, MnDOT partnered with the TZD program and launched its work zone safety campaign "Hang Up! Workers Lives at Stake. Orange Cones: No Phones" to help motorists remember this important message. The campaign ran from June through October, utilizing a variety of communication methods including billboards and radio spots.

TZD Coordination Efforts Go Nationwide

The "I-90/94 Challenge" enforcement project was the largest, single event, data-driven initiative to date on a nationwide interstate

and had a goal of zero traffic fatalities during the enforcement period of August 1-4. Agencies from coast-to-coast participated in this event, including hundreds of local, county and federal partners. Thirteen of the 15 participating states reported no fatalities during the challenge, including Minnesota.

Changing Traffic Safety Culture

TZD has experienced great success in its journey toward zero deaths on our roadways, however, data show that our progress appears to be plateauing. TZD wants to not only continue reducing the number of fatalities caused by traffic crashes, but also keep our progress sustainable long-term, which will take attention to the broader concept of creating a positive Traffic Safety Culture. TSC is a new national concept model that does not just center on motorists' driving behaviors on the roads, but also on the values that drive those behaviors. Changing Minnesota's traffic culture will help TZD continue to reduce the number of deaths on our roadways and keep those numbers down long-term. While our 4-E approach continues to produce desirable results, it is now time to expand this approach and create a positive traffic safety culture in Minnesota.

We hope that you will join TZD as we embark on this new approach to moving Minnesota toward zero deaths. If you would like to be more involved with TZD efforts, visit www.minnesotatzd.org.

Master Contracts

By: Sharon LeMay, Special Programs Manager

Does your agency have a Master Contract with MnDOT? If not, consider getting one today. If you've had one in the past, it expired in 2012, or will expire in the near future.

A Master Contract allows for the transfer of funds for services rendered by local agencies or MnDOT, and provides a streamlined process which allows work orders to be executed in a short timeframe.

Payments made to MnDOT under the Master Contract are returned

to the office providing the service instead of being deposited into the general fund. This allows us to ensure staffing will be retained in those offices and future service requests can be fulfilled.

The Master Contract allows MnDOT to provide the following routine tasks without an additional work order: pavement striping, sign and signal repair, bridge load ratings, bridge and structure inspections, minor bridge maintenance, minor road maintenance (such as guard rail repair and sign

knockdown repair), pavement condition data, materials testing and carcass removal.

Work orders will be written for anything not listed above, and are always written when MnDOT is paying a local agency for services.

If you have any questions, or would like to receive a Master Contract for review and execution, please contact your DSAE in out-state Minnesota, or in Metro, contact Sharon LeMay at sharon.lemay@state.mn.us or 651-234-7773.

Contract Change Reminder

By: Mitch Bartelt, Construction Engineer

The weather has warmed up so construction season is about to begin for most of us. (Of course, for some agencies that opted to do winter work, it never really ended.)

As things ramp up out in the field, please remember to do a contract change when it is necessary. Especially on federal and state aid projects, it's imperative that Supplemental Agreements, Change Orders and Work Orders are executed when needed.

It is also important to perform the correct contract change. The [State Aid construction webpage](#) contains a lot of helpful information and guidance for performing [contract changes](#). This includes a [Contract Changes Flow Chart](#) (Word) to help determine which contract change is most appropriate in each situation.



There are also links that contain examples with sample language for respective contract changes. These include templates for Supplemental Agreements, Change Orders and Work Orders where information specific to each project can be filled in by the Engineer or other agency personnel.

On federal and state aid projects, it is important to obtain the appropriate signatures required in each case. These requirements can

vary with respect to the type of project and the type of contract change.

Please contact your respective DSAE and/or area State Aid Construction Engineer or Specialist with questions regarding contract changes.



Structural Rumble Strip Installation on Concrete Pavement Surfaces Clarification

By: Sulmaan Khan, Program Support Engineer

There has been some misunderstanding in regards to the use of structural rumble strips installed on concrete pavement surfaces which is described in MnDOT [Technical Memorandum 14-07-T-01](#) (PDF) "Rumble Strips and Stripes on Rural Trunk Highways." As stated in the tech memo, there are two options for how to install shoulder rumble strips on concrete pavement. They include:

1. Installing 3' long structural rumble strips on alternating panels, and also shoulder rumble strips on the adjacent paved bituminous shoulder. (Figure 7)
2. Milling in either continuous or intermittent shoulder rumble strips outside the edgeline, but on the concrete surface. (Figure 8)

The intended purpose of the 3' structural rumble strip is not traffic safety driven to reduce vehicle lane departures but is rather a feature to help reduce the occurrence of vehicles driving on the edge of the concrete pavement, which can potentially lead to pavement edge cracking, by providing a tactile and audible warning. If structural rumble strips are installed, continuous or intermittent rumble strips must also be installed on the adjacent bituminous shoulder to be considered as a roadway safety measure eligible for federal safety dollars.

Additional details and information on rumble strip and rumble stripe installation can be found in the

tech memo document. Any questions can be directed to Sulmaan Khan at 3651-366-3829 or sulmaan.m.khan@state.mn.us, or Mark Vizecky at 651-366-3839 or mark.vizecky@state.mn.us.

FIGURE 7 - CONCRETE PAVEMENT OPTION A - STRUCTURAL RUMBLE STRIP

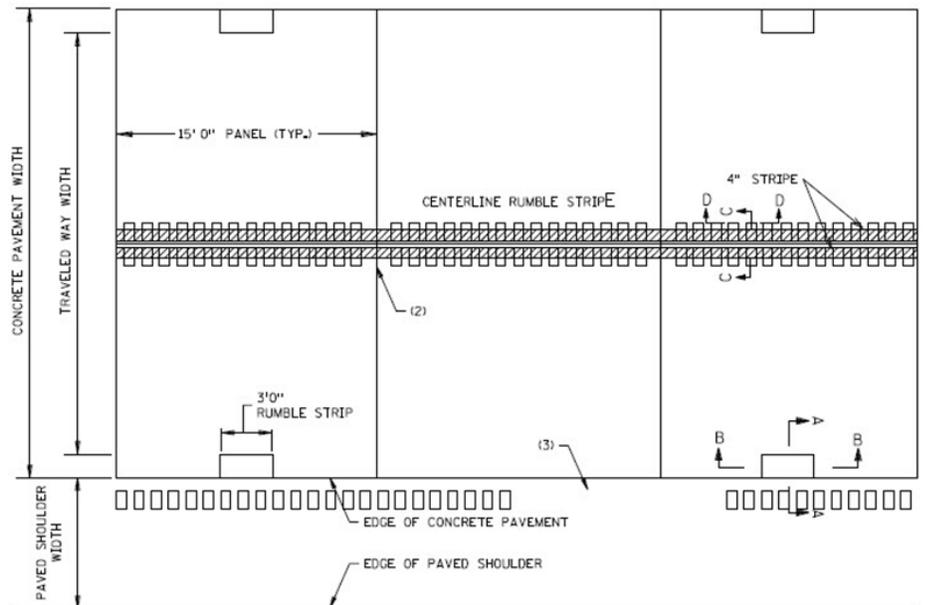
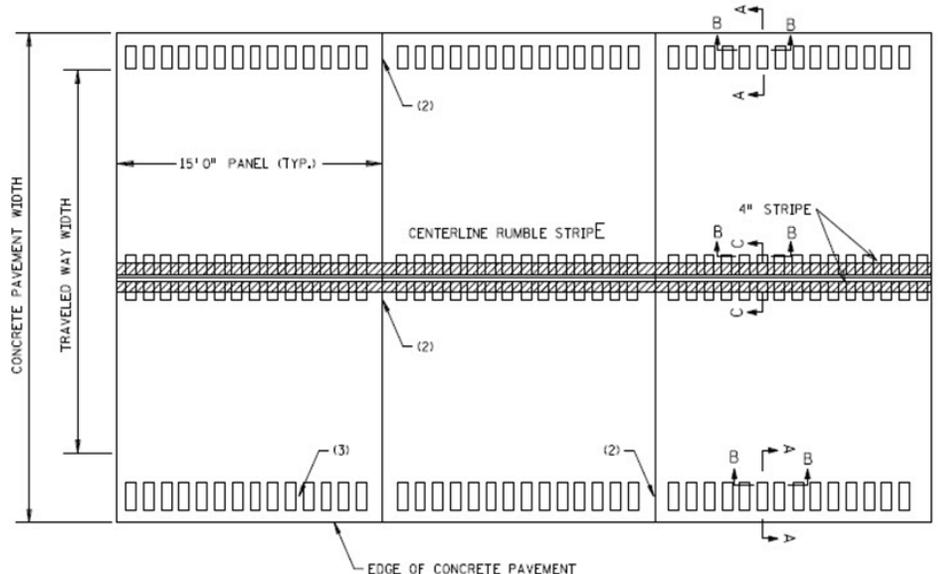


FIGURE 8 - CONCRETE PAVEMENT OPTION B - CONCRETE RUMBLE STRIP



Army Corp of Engineers Liaison for State Aid Projects

By: Gary Reihl, Project Development Engineer

On February 5, 2015, the St. Paul District Corps of Engineers issued a public notice that the Corps decided to accept and expend funds contributed by MnDOT, which includes funds contributed by State Aid. The funds would be used to expedite processing of MnDOT, State Aid and the Department of the Army Section 404 permit applications. The public notice encompasses two Memorandums of Agreement between the Corps and MnDOT. The first MOA is for one full-time position, Sarah Wingert, to strictly review MnDOT permit applications. It is intended

to expedite the processing of Section 404 permit applications in accordance with the provisions of Section 214. The second MOA is for one full-time position, Ben Orne, who will be shared by MnDOT and State Aid (50/50) to review Section 404 permit applications. Both of these positions will also be working to help develop a new General Permit for transportation projects.

At this time Ben is still in a transition period finishing up his current Corps responsibilities on permit reviews and will be working with Sarah and others to develop the

new General Permit.

It's anticipated to be late spring or early summer before he will assume his full duties of permit reviews for MnDOT and State Aid (we don't pay his salary until he assumes the full duties as liaison to MnDOT and State Aid). Plans will be made to bring Ben around to the districts and get acquainted with MnDOT and city/county staff.

If you have any questions please contact Gary Reihl at gary.reihl@state.mn.us or 651-366-3819.



State Aid for Local Transportation

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