



July 18, 2016

VIA ELECTRONIC MAIL ONLY AT (johnndon.martinez@dot.gov)

Mr. John Don Martinez, Division Administrator
Federal Highway Administration (FHWA), New Mexico Division Office
4001 Office Court Drive, Suite 801
Santa Fe, New Mexico 87507

Re: 2016 2nd Quarter Special Experimental Projects No. 14 (SEP-14) New Mexico Department of Transportation (NMDOT) Contractor Prequalification Program Update

Dear Mr. Martinez,

In accordance with FHWA's SEP-14 reporting requirements outlined in the FHWA letter of February 26, 2015 the NMDOT is required to submit quarterly reporting to the FHWA. The NMDOT is continuing its quarterly reporting for 2016 with the submission of this report. The NMDOT requests that the New Mexico Division Office forward this correspondence and all attachments to Mr. Gerald Yakowenko and Mr. Walter Waidelich with SEP-14's approval office in the FHWA's Office of Infrastructure. The 2016 second quarter reporting for the NMDOT Contractor Prequalification Program (Program) is as follows:

Update on Appeal Matters

In the last quarterly report, the NMDOT provided a synopsis of an appeal by a contractor of its prequalification score. As a result of the appeal the NMDOT committed to the following:

- 1) Provide an official interpretation of what constitutes project closure for the Rule and post the interpretation on its external webpage;
- 2) Modify the compass form to include a project closure date, the compass form once completed with the project closure date will be provided to the contractor for each project closed, and;
- 3) Provide additional internal training to NMDOT staff related to communication with contractors about Program and Rule.

Items one and two are completed and attached. The first attachment is the NMDOT's official interpretation of project closure as it applies to the Rule. The second attachment is the NMDOT's form A-1103 or compass form (Form). The Form has been modified to include a project closure date in the lower right hand corner of page two (2). Both documents include modifications to address:

Susana Martinez
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Tom Church
Cabinet Secretary

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Dr. Kenneth White
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1. When the NMDOT determines a project is closed;
2. Where that date is contained on the Form, and;
3. How that date will be shared with the contractor?

Item three is pending. The NMDOT will be updating staff at the bi-annual meetings for Project Engineers/Project Managers and Project Development Engineers.

Application of the Program

There have been four (4) lettings where contractor scores have been applied. Application of the Program has not changed the apparent low bid, but the order of bidders has changed. With more projects closing in 2016, more data points will be obtained for 2017 and more contractors will have a score. The NMDOT anticipates that in 2017 there is a greater likelihood that the apparent low bidder will change because of the Program.

Continued meetings with Associated Contractors of New Mexico (ACNM) about the Program

As part of NMDOT's ongoing commitment to communication and transparency, the NMDOT has ongoing quarterly meetings with ACNM. The meetings involve members of the NMDOT prequalification team and members of ACNM. The meetings pertain to the day-to-day operations of the Program and questions about the Contractor Prequalification Rule NMAC 18.27.5 (11/13/98 as amended through 01/01/2015) (Rule). ACNM requested that the NMDOT include in its 2016 SEP-14 reporting a summary of ACNM's concerns raised in the previous quarterly meeting. In the last SEP-14 report the NMDOT included this summary, but ACNM disagreed with the representations made in the summary.

In light of this, the NMDOT has implemented a communication protocol with ACNM. That protocol reiterates the NMDOT's preferred method for submittal of outside inquiries. The protocol ensures accurate documentation of discussions between ACNM (or outside parties) and the NMDOT and memorialization of the NMDOT's response. A copy of ACNM's letter and the communication protocol letter is attached.

Since the implementation of the communication protocol the NMDOT has received two written inquiries, one from Fisher Sand and Gravel Co. and one from ACNM. The NMDOT is in the process of responding. Copies of the inquiries and responses will be provided in the NMDOT's 3rd quarter report.

Utah Legislature, Office of the Legislative Auditor General

A recent request came from the Utah Legislature, Office of the Legislative Auditor General that is preparing a report for its legislature on improving contractor performance on its public works projects. As part of its report, the auditor general is investigating the methods that other states use to evaluate contractor performance. Based on the discussion with the auditor general the Utah Department of Transportation (UDOT) also competitively bids its road projects and is seeking a method to evaluate past contractor performance as it applies to award of UDOT projects. The NMDOT prequalification team had a conference call with the auditor general about the Program workings and our experiences thus far. The auditor general is in the process of preparing a report compiling information from other state DOTs related to their contractor evaluation programs. Upon completion of the report, the auditor general has committed to provide a copy to the NMDOT. The NMDOT will forward the same in the next SEP-14 quarterly update.

2016 ACNM State Convention (Thursday, July 21 - Sunday, July 24, 2016) in Santa Ana Pueblo Bernalillo, NM (Tamaya Resort and Spa)

The NMDOT has been invited to participate in a panel discussion on the Program at the ACNM State Convention this summer. The presentation is Friday, July 22, 2016, 3:00 pm to 5:00 pm. The NMDOT will provide a briefing and a summary of questions posed in its 3rd quarter report.

American Association of State Highway and Transportation Officials (AASHTO) Subcommittee on Construction (Sunday, August 14 - Friday, August 19, 2016) in Big Sky, MT

The NMDOT has been invited to present on the Program at the AASHTO Subcommittee on Construction this fall. The presentation is Tuesday, August 16, 2016, 8:00 am to 9:30 am. The NMDOT will provide a copy of the presentation, a briefing and a summary of questions posed in its 3rd quarter report.

Should there be any questions or comments regarding this quarterly update please contact me.

Sincerely,

/S/

Armando Armendariz, PE
Division Director

Attachment(s)

NMDOT Project Closure
Interpretation
NMDOT Revised Compass Form
NMDOT Application Data
ACNM Letter
NMDOT Communication Protocol Letter

cc: Tom Church, Cabinet Secretary NMDOT
Anthony Lujan, Deputy Secretary, NMDOT
Loren Hatch, Deputy Secretary, NMDOT
Mike Beck, ACNM Executive Director



July 18, 2016

VIA ELECTRONIC MAIL ONLY AT mbeck@aconm.org

Associated Contractors of New Mexico (ACNM)
Mike Beck, Executive Director
6135 Edith Boulevard NE
Albuquerque, New Mexico 87125

Re: Contractor Prequalification Rule 18.27.5 NMAC (Rule) and Interpretation of Project Closure

Mr. Beck,

The New Mexico Department of Transportation (NMDOT) recently completed an informal hearing in accordance with the Rule 18.27.5.13 "Appeal Procedure". At issue in the informal hearing was the meaning of the terms "closed" and "project closure" as they apply to the Rule and when the NMDOT determines a project is closed for the Prequalification Program (Program). This correspondence clarifies for purposes of the Rule and Program the following:

1. When the NMDOT determines a project is closed;
2. Where that date is contained on the Compass form (Form), and;
3. How that date will be shared with the Contractor.

In the Rule 18.27.5.7 "Definitions" the Form is the document that is generated at project closure that contains certain contractor performance factor data. If all performance factor data is available when the Form is generated, the performance factor data contained on the Form will be claims, disincentives, liquidated damages, non-conformance and subcontractor. The Form is generated by the project office and is provided to the Contractor with the final estimate.

In some instances a claim may be unresolved when the Form is generated. In this situation the performance factor data for claims will not be included on the Form until the claim is resolved. The performance factor for safety is not contained on the Form but is reported on the Contractor's prequalification packet. See Rule 18.27.5.11(5) "Prequalification Calculation".

Because all performance factor data may not be available when the Form is generated by the project office and sent to the Contractor the NMDOT has revised the Form. The revision includes a signature and date line that the NMDOT will use as the project closure date for the Program.

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The revised form is attached. As you can see the signature and date line are on page two of the revised Form.

Once the final estimate is returned by the Contractor to the NMDOT project office the NMDOT will process the final payment. The project office will then deliver certain project files for closure to the NMDOT Construction and Civil Rights Bureau (CCRB). The CCRB will audit the project files for closure. Upon completion of this process the Form will be signed and dated by the State Construction Engineer (SCE). This date is the project closure date for the Program. The completed Form will be emailed to the Contractor for their records. Simply stated if the Form is not signed and dated by the NMDOT SCE the NMDOT does not consider the project closed for the Program.

Should you have any questions or comments please submit them in writing to NMDOT#GO-prequal-questions@state.nm.us

Thank you,



Armando Armendariz, PE
Division Director

Attachment(s)

NMDOT Revised Compass Form

Cc: Tom Church, Cabinet Secretary
Anthony Lujan, Deputy Secretary
Loren Hatch, Deputy Secretary
J. Don Martinez, FHWA

COMPASS INFORMATION - FINAL INFORMATION

District	
Contractor	
Control No.	
Project No.	
Type of Project	
Route Road No.	
Bridge (Yes/No)	
Rural/Urban	
Lane Miles	
Interstate/Non-Interstate	
Date Construction Started	
Substantial Completion Date	
Date of Letting	
N.T.P. Notice to Proceed	
Physical Completion Date	
District Final Acceptance	
Type of Time Count	
Total Days District to Final	
Reason over 120 days to Final	
Original Contract Time	
Time Extensions- Days	
Reason for Time Extension	
Revised Contract Time	
Time Charged	
Liquidated Damages Charged	
Liquidated Damages Amount	
Date sent to S.C.B.	
Original Bid Amount	
Engineer Estimate Amount	
Final Project Cost(Less GRT)	
Final Total (GRT Inc.)	
G.R.T. Amount	
Final Change Order Completed (Yes/No)	
Claim	
Date Final Paid by NMDOT	
Notes/ Comments	
Pro Rata Values (Fed / State)	
EEO Interviews	
Project Diaries	
Warranties	

COMPASS INFORMATION - FINAL INFORMATION

Contractor:		Control No.:		District:	
0		0		0	
Prequalification Performance Factor Measurements					
Fields that are highlighted in yellow are calculated values - do not enter any data					
Pf liquidated damages (Pfld)			For MCD Projects:		
Mandatory Completion Date					
# of Days added via CO (awarded time)					
Adjusted Mandatory Completion Date (calculated value - do not enter any data)			1/0/00		
Notice to Proceed Date (as indicated in SiteManager)					
Substantial Completion Date (Actual Completion Date)					
			For WD or CD Projects:		
Original Contract Time					
# of Days added via CO (awarded time)					
Total Days Contracted (calculated value - do not enter any data)			0		
Total Days Charged					
Pf claim (Pfc)					
Yes or No. If yes, indicate level of claim at this time.					
Pf non-conformance (Pfn)					
# of Progress Payments (including zero dollar payments)					
# of Progress Payments without a non-conformance					
Pf safety (Pfs)			Obtained by OIG from contractor prequalification packet.		
Pf disincentive (Pfd)		\$Value of applicable Item		\$ Value of Disincentive	
401					
403					
404					
416					
417					
423					
424					
450					
451					
901					
Sums(calculated values - do not enter any data)		\$0.00		\$0.00	
Pf subcontractor (Pfsc)					
# of negative findings from the State DBE Liaison. Attach letter(s) from the DBE Liaison.					
Project Manager		Date		Project Manager Signature	
Pf claim (Pfc)					
# of Claims resolved for less than the value of the claim					
State Construction Engineer Signature			Pre-Qualification Project Closure Date		

18-Mar-16

Rank	Call Order	Description	Counties	Letting ID	Bidder ID	Bidder Name	Bid Amount	Pqfra	Modified Bid	Modified Rank
1	1	Roadway Reconstruction	Lea	16031802	5071534	Mountain States Constructors, Inc.	\$10,435,031.53	0.95	\$9,913,279.95	1
2	1	Roadway Reconstruction	Lea	16031802	0	Engineer's Estimate	\$10,947,566.80	1	\$10,947,566.80	2
3	1	Roadway Reconstruction	Lea	16031802	5195840	FNF Construction, Inc.	\$12,155,431.70	0.95	\$11,547,660.12	3
4	1	Roadway Reconstruction	Lea	16031802	5003769	Constructors, Inc.	\$12,737,861.60	1	\$12,737,861.60	5
5	1	Roadway Reconstruction	Lea	16031802	79240	Fisher Sand & Gravel - NM Inc.	\$12,765,432.10	0.95	\$12,127,160.50	4
6	1	Roadway Reconstruction	Lea	16031802	1003223	James Hamilton Construction Co.	\$12,858,500.00	1	\$12,858,500.00	6

15-Apr-16

Rank	Call Order	Description	Counties	Letting ID	Bidder ID	Bidder Name	Bid Amount	Pqfra	Modified Bid	Modified Rank
1	1	Roadway Reconstruction and Roadway Rehabilitation	Valencia	16041504	5071534	Mountain States Constructors, Inc.	\$5,122,294.25	0.95	\$4,866,179.54	1
2	1	Roadway Reconstruction and Roadway Rehabilitation	Valencia	16041504	5100116	Albuquerque Asphalt Inc.	\$5,499,464.49	1	\$5,499,464.49	2
3	1	Roadway Reconstruction and Roadway Rehabilitation	Valencia	16041504	0	Engineer's Estimate	\$6,562,117.50	1	\$6,562,117.50	3
4	1	Roadway Reconstruction and Roadway Rehabilitation	Valencia	16041504	5195840	FNF Construction, Inc.	\$7,330,877.75	0.95	\$6,964,333.86	4
1	2	Roadway Rehabilitation	Hidalgo	16041504	5071534	Mountain States Constructors, Inc.	\$3,416,740.95	0.95	\$3,245,903.90	1
2	2	Roadway Rehabilitation	Hidalgo	16041504	79240	Fisher Sand & Gravel - NM Inc.	\$3,740,000.00	0.95	\$3,553,000.00	2
3	2	Roadway Rehabilitation	Hidalgo	16041504	5195840	FNF Construction, Inc.	\$3,742,632.37	0.95	\$3,555,500.75	3
4	2	Roadway Rehabilitation	Hidalgo	16041504	0	Engineer's Estimate	\$3,884,456.50	1	\$3,884,456.50	4
1	3	Bridge Rehabilitation	Lincoln	16041504	5450920	Interstate Highway Construction	\$330,440.00	1	\$330,440.00	1
2	3	Bridge Rehabilitation	Lincoln	16041504	0	Engineer's Estimate	\$387,484.00	1	\$387,484.00	2
3	3	Bridge Rehabilitation	Lincoln	16041504	77876	El Terrero Construction, LLC	\$410,047.00	1	\$410,047.00	3
4	3	Bridge Rehabilitation	Lincoln	16041504	5031021	Hasse Contracting Company, Inc.	\$410,905.90	1	\$410,905.90	4
5	3	Bridge Rehabilitation	Lincoln	16041504	5416633	Kimo Constructors, Inc.	\$451,194.30	1	\$451,194.30	5
6	3	Bridge Rehabilitation	Lincoln	16041504	108749	A & A Painting, LLC	\$494,644.00	1	\$494,644.00	6
1	4	Bridge Rehabilitation	Mora Colfax	16041504	77876	El Terrero Construction, LLC	\$592,202.00	1	\$592,202.00	1
2	4	Bridge Rehabilitation	Mora Colfax	16041504	5031021	Hasse Contracting Company, Inc.	\$604,214.25	1	\$604,214.25	2
3	4	Bridge Rehabilitation	Mora Colfax	16041504	5450920	Interstate Highway Construction	\$609,978.00	1	\$609,978.00	3
4	4	Bridge Rehabilitation	Mora Colfax	16041504	5508029	Villalobos Construction Co. Inc.	\$616,940.00	1	\$616,940.00	4
5	4	Bridge Rehabilitation	Mora Colfax	16041504	0	Engineer's Estimate	\$776,173.00	1	\$776,173.00	5
6	4	Bridge Rehabilitation	Mora Colfax	16041504	5416633	Kimo Constructors, Inc.	\$802,395.20	1	\$802,395.20	6
7	4	Bridge Rehabilitation	Mora Colfax	16041504	54709	The Truesdell Corporation	\$958,958.00	1	\$958,958.00	7
8	4	Bridge Rehabilitation	Mora Colfax	16041504	5562890	Meridian Contracting, Inc.	\$1,194,024.00	1	\$1,194,024.00	8
1	5	Signalization (Temporary Signal Span)	San Juan	16041504	67770	MWI, Inc.	\$82,831.00	1	\$82,831.00	1
2	5	Signalization (Temporary Signal Span)	San Juan	16041504	5046222	Bixby, Electric, Inc.	\$98,729.98	1	\$98,729.98	2
3	5	Signalization (Temporary Signal Span)	Jan Juan	16041504	0	Engineer's Estimate	\$99,724.00	1	\$99,724.00	3

20-May-16

Rank	Call Order	Description	Counties	Letting ID	Bidder ID	Bidder Name	Bid Amount	Pqfra	Modified Bid	Modified Rank
1	1	Roadway Reconstruction	Catron	16052001	82502	La Calerita Construction, LLC	\$7,900,590.60	1	\$7,900,590.60	1
2	1	Roadway Reconstruction	Catron	16052001	5562890	Meridian Contracting, Inc.	\$9,401,019.00	1	\$9,401,019.00	2
3	1	Roadway Reconstruction	Catron	16052001	5141059	AU, Inc.	\$10,000,000.00	0.95	\$9,500,000.00	3
4	1	Roadway Reconstruction	Catron	16052001	0	Engineer's Estimate	\$10,634,816.40	1	\$10,634,816.40	5
5	1	Roadway Reconstruction	Catron	16052001	5195840	FNF Construction, Inc.	\$11,098,279.00	0.95	\$10,543,365.05	4
6	1	Roadway Reconstruction	Catron	16052001	77876	El Terrero Construction, LLC	\$11,454,301.00	1	\$11,454,301.00	6

20-May-16

Rank	Call Order	Description	Counties	Letting ID	Bidder ID	Bidder Name	Bid Amount	Pqfra	Modified Bid	Modified Rank
1	2	Roadway Rehabilitation	Bernalillo	16052001	5100116	Albuquerque Asphalt Inc.	\$3,519,385.70	1	\$3,519,385.70	1
2	2	Roadway Rehabilitation	Bernalillo	16052001	0	Engineer's Estimate	\$3,609,767.00	1	\$3,609,767.00	2
3	2	Roadway Rehabilitation	Bernalillo	16052001	5141059	AUi, Inc.	\$3,815,266.70	0.95	\$3,624,503.37	3
4	2	Roadway Rehabilitation	Bernalillo	16052001	5071534	Mountain States Constructors, Inc.	\$3,927,487.10	0.95	\$3,731,112.75	4
1	3	Roadway Reconstruction, Signalization, Lighting	Santa Fe	16052001	0	Engineer's Estimate	\$564,739.50	1	\$564,739.50	1
2	3	Roadway Reconstruction, Signalization, Lighting	Santa Fe	16052001	5100116	Albuquerque Asphalt Inc.	\$565,889.12	1	\$565,889.12	2
3	3	Roadway Reconstruction, Signalization, Lighting	Santa Fe	16052001	5138543	Star Paving Company	\$569,674.30	1	\$569,674.30	3
4	3	Roadway Reconstruction, Signalization, Lighting	Santa Fe	16052001	5071534	Mountain States Constructors, Inc.	\$843,261.50	0.95	\$801,098.43	4

17-Jun-16

Rank	Call Order	Description	Counties	Letting ID	Bidder ID	Bidder Name	Bid Amount	Pqfra	Modified Bid	Modified Rank
1	1	Bridge Rehabilitation and Reconstruction	Luna	16061703	0	Engineer's Estimate	\$3,754,936.00	1	\$3,754,936.00	1
2	1	Bridge Rehabilitation and Reconstruction	Luna	16061703	82502	La Calerita Construction, LLC	\$4,396,515.10	1	\$4,396,515.10	2
3	1	Bridge Rehabilitation and Reconstruction	Luna	16061703	77876	El Terrero Construction, LLC	\$4,699,893.40	1	\$4,699,893.40	3
4	1	Bridge Rehabilitation and Reconstruction	Luna	16061703	5195840	FNF Construction, Inc.	\$5,349,421.25	0.95	\$5,081,950.19	4
5	1	Bridge Rehabilitation and Reconstruction	Luna	16061703	5141059	AUi, Inc.	\$5,480,738.90	0.95	\$5,206,701.96	5
6	1	Bridge Rehabilitation and Reconstruction	Luna	16061703	5450920	Interstate Highway Construction	\$6,545,478.20	1	\$6,545,478.20	5
1	2	Roadway Rehabilitation, ADA, Rehabilitation and Signalization	Bernalillo	16061703	5071534	Mountain States Constructors, Inc.	\$3,170,601.40	0.95	\$3,012,071.33	1
2	2	Roadway Rehabilitation, ADA, Rehabilitation and Signalization	Bernalillo	16061703	0	Engineer's Estimate	\$3,195,130.30	1	\$3,195,130.30	2
3	2	Roadway Rehabilitation, ADA, Rehabilitation and Signalization	Bernalillo	16061703	5100116	Albuquerque Asphalt Inc.	\$3,496,505.60	1	\$3,496,505.60	4
4	2	Roadway Rehabilitation, ADA, Rehabilitation and Signalization	Bernalillo	16061703	5141059	AUi, Inc.	\$3,527,765.82	0.95	\$3,351,377.53	3
1	3	Roadway Reconstruction and Signalization (Flashing Beacon)	San Juan	16061703	0	Engineer's Estimate	\$689,287.50	1	\$689,287.50	1
2	3	Roadway Reconstruction and Signalization (Flashing Beacon)	San Juan	16061703	45239	Oldcastle SW Group, Inc.	\$1,749,000.00	1	\$1,749,000.00	2
1	4	Stockpiling	Catron, McKinley	16061703	0	Engineer's Estimate	\$1,033,916.71	1	\$1,033,916.71	1
2	4	Stockpiling	Catron, McKinley	16061703	5002757	C & E Concrete, Inc.	\$1,084,336.10	1	\$1,084,336.10	2
3	4	Stockpiling	Catron, McKinley	16061703	79240	Fisher Sand & Gravel - NM Inc.	\$1,640,000.00	0.95	\$1,558,000.00	3
4	4	Stockpiling	Catron, McKinley	16061703	5071534	Mountain States Constructors, Inc.	\$2,605,063.00	0.95	\$2,474,809.85	4



Associated Contractors of New Mexico

Vince DeMenno, Chapter President
Mike Beck, Executive Director
Phone 505-344-2072

6135 Edith Blvd NE
Fax 505-344-1554

Albuquerque, NM 87125
Email mbeck@aconm.org

March 17, 2016

Mr. Ernest Archuleta, Operations Director
New Mexico Department of Transportation
P.O. Box 1149
Santa Fe, New Mexico 87504

RE: NMDOT 2016 1st Quarter SEP-14 Contractor Prequalification Program Update

Dear Mr. Archuleta;

ACNM is in receipt of the aforementioned quarterly update letter which you prepared and forwarded to FHWA regarding the New Mexico Department of Transportation Contractor Performance-Based Prequalification Program. As you have stated in your letter, submittal of this correspondence satisfies a requirement imposed upon NMDOT in the FHWA's approval of the experimental SEP-14 program. I wish to offer a correction to a statement included in your letter detailing discussions between NMDOT and Associated Contractors of New Mexico (ACNM) at our meeting of January 6, 2016 relative to the programs \$5 million threshold.

Specifically, in your letter you indicate "ACNM expressed general positive feedback for lowering the threshold for application of the prequalification score to projects with engineer's estimates that exceed 5 million dollars". This, however, is not the case. The comment made by one individual contractor who was in attendance at this meeting should not be construed to be the official position of ACNM on this matter. As you will recall, immediately following this individuals remark, the distinction was made to clarify that this was not the consensus opinion of the other contractor representatives present, nor should it be considered a statement indicative of the position of ACNM or the totality of its membership.

On behalf of ACNM, I wish to express our concern that the actual content and context of the conversation that took place at the January 6, 2016 meeting relative to the \$5 million threshold is not accurately reflected in your statement attributed to ACNM in the March 16, 2016 SEP-14 update letter. For the record, ACNM is not in favor of any alteration to the threshold amount as it is currently established. In fact, previous discussions between NMDOT and ACNM relative to a potential threshold directly resulted in the \$5 million value as a means to allow contractors who, in the Department's view, needed to improve upon their performance on NMDOT projects. It was agreed that the threshold would afford those contractors opportunities to bid on work that would be smaller in

scope, thus providing a path to find improvement and ultimately the ability to compete and adequately perform on larger projects. This has been, and remains, ACNM's position on the \$5 million threshold amount. Accordingly, we would respectfully request that NMDOT prepare a clarification to the statement in the SEP-14 letter regarding our position, and that that then be forwarded to FHWA.

In conclusion, ACNM finds value in the opportunity to share our organizational perspective relative to the Departments Contractor Performance-Based Prequalification Program, and we trust that NMDOT likewise respects the input that the contracting community provides during our cooperative quarterly meetings.

Should you wish to discuss this matter further, please feel free to contact me at your convenience. Thank you for your interest and understanding in this regard.

Respectfully,

ASSOCIATED CONTRACTORS OF NEW MEXICO

/S/

Mike Beck
Executive Director

cc: Mr. J. Don Martinez, Division Administrator - FHWA
Secretary Tom Church, Cabinet Secretary -NMDOT
Deputy Secretary Anthony Lujan - NMDOT
Deputy Secretary Loren Hatch - NMDOT
Armando Armendariz, Division Director - NMDOT
Vince DeMenno, 2016 Chapter President - ACNM
ACNM Prequalification Team



VIA ELECTRONIC MAIL ONLY AT mbeck@aconm.org

April 15, 2016

Associated Contractors of New Mexico (ACNM)
Attention: Mike Beck
6135 Edith Boulevard N.E.
Albuquerque, New Mexico 87125

Mr. Beck,

Thank you for your response correspondence, dated March 17, 2016 related to statements in the New Mexico Department of Transportation (NMDOT) Special Experimental Projects-14 (SEP-14) March 16, 2016 update to the Federal Highway Administration (FHWA). Although the correspondence takes the statement actually made in the update out of context, the response brings to light a need for a communication protocol between the NMDOT and ACNM related to discussions that take place during our quarterly meetings. ACNM consistently stresses the need for a partnering relationship with the NMDOT, however, its correspondence seems to show that ACNM seeks a partnership in name more than substance. Nonetheless, this letter will lay out the steps that the NMDOT will implement to address the need for a communication protocol.

Although the NMDOT included ACNM's statements in the SEP-14 update at ACNM's request, the NMDOT will, in the future, limit the report of discussions without making any form of conclusion about ACNM's position. In essence, the NMDOT will only report on the subject of discussions had with ACNM.

Also, the NMDOT will take this opportunity to reiterate to ACNM that the purpose of the quarterly meetings is for discussion related to the implementation or day to day operation of the prequalification program and rule. This means that although the NMDOT will strive to answer questions related to the program or rule in the quarterly meetings, any question answered in the meeting should not be construed and will not be viewed by the NMDOT as its formal interpretation of the program or rule. Formal interpretations, which are within the sole discretion of the NMDOT to issue, will be posted for all contractors and subcontractors to access on the NMDOT website and prequalification page. The NMDOT provided this link to you in last year's second quarter SEP-14 update dated September 12, 2015. This process will allow for a more transparent communication with all entities affected by the prequalification rule or program, regardless of ACNM membership. Also, this process ensures that any questions posed or discussions had with ACNM receive the benefit of full

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Keith Mortensen
Commissioner
District 3

Butch Mathews
Commissioner
District 5

Jackson Gibson
Commissioner
District 6

consideration by all members of the prequalification team, regardless of those individual team members that are present at the quarterly meetings.

In lieu of these steps that the NMDOT will implement, the NMDOT sees no need for and will not rescind its statements in the SEP-14 update of March 16, 2016. The NMDOT will forward ACNM's response to FHWA in its next quarterly update to SEP-14.

Should you have any questions or comments, please do not hesitate to contact me directly in writing.

Thank You

/S/

Ernest D. Archuleta, P.E.

CC: Tom Church, Cabinet Secretary
Anthony Lujan, Deputy Secretary
Loren Hatch, Deputy Secretary
Prequalification Team
Marcus Wilner, FHWA
Frank Lozano, FHWA