



CAU Position Paper on delivering/transmitting Second Notification

(January 2024)

CA005

This paper discusses the following process:

- The method and manner of transmitting Second Notification related to the electronic document management system, the DocExpress® platform

Problem:

Since the introduction of electronic document management in Section 00170.08 as the required method of submitting documents on ODOT Projects, there appears to be inconsistency regarding the method of delivery to assure proper and timely notice of Second Notification.

Process Explanation:

As required in Section 00170.08, the RE is to issue Second Notification through the electronic document management system, Doc Express®. Ideally, the RE approves and transmits Second Notification to the Contractor on the same day the Contractor meets the requirements for issuance of Second Notification. In Doc Express®, since the submittal and approval steps occur within the Z00A-Agency Submittal Drawer, Second Notification shall be considered delivered to the Contractor once published to the Z07-Contract Documents Drawer. The transitioning process for submitting, approving, publishing, and processing Second Notification in the Doc Express® Document Directory lies entirely with the RE or RE office staff.

For cases when the Agency delayed issuing Final Second Notification, calculate the 45 Calendar Day deadline from the date of RE signature (date of approval on DocExpress) and promptly transmit to the Contractor (by publishing through DocExpress), the same day.

While Section 00170.08 also provides the Engineer the authority to permit paper documents, the RE should only provide Second Notification via paper documents as an additional measure to submittal through the electronic document management system, DocExpress®. If the RE elects to deliver Second Notification via paper documents *in addition* to the electronic document management system, DocExpress®, the method of delivery should be in accordance with the requirements of the Contract. To this end, section 00150.30 requires that paper copies of written notices be transmitted in one of three methods:

- In person
- US mail (first class or priority mail)
- overnight delivery service of a private industry carrier

When the RE elects to also deliver Second Notification via paper document, the RE should follow up, the same day, by uploading a complete package to DocExpress® (as the Second Notification document), including:

- a scanned, digital copy of the signed, paper document version of Second Notification
- a scanned digital copy of the transmittal letter (if any)
- a scanned digital copy of other documentation, explanation, or other proof that describes and affirms the method of delivery of the paper document.

Email delivery of Second Notification is not prohibited, but it does not meet the requirements of electronic document management or delivery in Section 00170.08 nor any of the delivery requirements given in Section 00150.30. Email communication regarding the issuance or transmittal of Second Notification should be limited to an explanation or indication that Second Notification has been issued through DocExpress as well as indication of delivery of the paper document, if any. To avoid accidental transmittal of an incomplete or incorrect version of Second Notification to the Contractor via email, consider including a link to the Second Notification document on DocExpress instead of an attachment.

Section 00199.30(b) requires Contractors to submit any claims no later than 45 Calendar Days following the date of Final Second Notification. The method of delivery of Final Second Notification should follow the methods required under the Contract in order to establish the start of the 45 Calendar Days deadline. Email delivery does not meet the requirements of the Contract, so sending an email as the notice of Second Notification cannot be used to establish the start of the 45 Calendar Day deadline for claims to be submitted.