



Oregon

John Kitzhaber, MD, Governor

Department of Transportation

Construction Section
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February 2, 2015

CA003

To: ODOT Area Managers, Project Managers, and Local Agency Liaisons

From: Steve Cooley, PE; Construction Administration Engineer

Subject: ODOT Form 734-1964 Contractor's Request for Subcontract Consent, allowance to electronically transmit Form FHWA 1273

Effective immediately ODOT Form 734-1964 Contractor's Request for Subcontract Consent will be modified to read:

**REQUIRED CONTRACT PROVISIONS - F.A. CONSTRUCTION CONTRACTS
(FORM FHWA- 1273 INCLUDED IN SPECIAL PROVISIONS EITHER
PHYSICALLY OR ELECTRONICALLY DELIVERED)**

This is a Construction Streamlining Initiative success that allows a contractor to transmit Form FHWA 1273 electronically as noted in the attached email exchange between ODOT and FHWA. The underlined wording above will be added to ODOT's Form 734-1964 shortly.

Action Requested:

- Discuss this memo with your construction crews and contractors at the pre-construction meeting.
- This memo will be posted on the Construction web page at:
<https://www.oregon.gov/ODOT/HWY/CONSTRUCTION/Pages/Construction-Memorandums.aspx>

If you have questions, please contact my office. Thank you.

Cc: Ric Miller, AGC - Highway Council Co-chair
Michael Cobb, OCR
Tiffany Hamilton, OCR
Brenda Marcus, OPL
Wynnette Gentemann, OPO
Luci Moore, MOB
Chris Bucher, FHWA

SQUIRE Joe

From: Gerald.Yakowenko@dot.gov
Sent: Saturday, January 31, 2015 12:22 PM
To: SQUIRE Joe
Subject: RE: Form FHWA 1273 Question regarding physically delivered in an electronic world

Hello Joe,
I've included responses below your questions below.

From: SQUIRE Joe [mailto:Joe.SQUIRE@odot.state.or.us]
Sent: Thursday, January 29, 2015 6:32 PM
To: Yakowenko, Gerald (FHWA)
Cc: Lawton, Emily (FHWA); SQUIRE Joe
Subject: Form FHWA 1273 Question regarding physically delivered in an electronic world
Importance: High

Hello Jerry,

I noted your name tied to the website link for form FHWA 1273.

As the Oregon DOT (ODOT) and other DOT's move into e-Construction (paperless) I am wondering if there any avenues or movement to allow FHWA 1273 to be delivered to Subcontractors and Contractors electronically versus the required physically as I note in Section 1 of the FHWA 1273. So a few questions.

1. Is ODOT over-interpreting physically delivered to mean hard copy only?

Yes, electronic copies are acceptable.

2. Can ODOT or Prime Contractors reference FHWA 1273 and provide a website linking <http://www.fhwa.dot.gov/programadmin/contracts/> in either ODOT's Contract or a Prime contractor to a Subcontractor, respectively, in lieu of the physical requirement?

No, referencing is not acceptable.

3. I believe FHWA 1273 was implemented in at least 1994, perhaps earlier. My generous interpretation would be that the FHWA 1273 is physically incorporated into the construction contracts albeit in the form of electrons. Knowing this and with the nearly universal nature of the internet, can an electronic version be provided in an electronic document in today's technological environment?

Yes, if the contract is in electronic form, the 1273 may be in electronic form.

4. It seems as though providing the FHWA 1273 in an electronic format could achieve many things such as:
 - a. Conform the FHWA 1273 with e-Construction technologies being adopted and promoted by FHWA in the EDC-3 Initiatives, see <http://www.fhwa.dot.gov/everydaycounts/edc-3/econstruction.cfm>;
 - b. Reduce cost of paper, postage, delivery, etc... i.e. Reduction of Paperwork Act; and
 - c. Via electronic delivery the sender can verify the recipient received the FHWA 1273 along with the Contract.