



FISCAL POLICY MANUAL

POLICY D-6: Policy for Contractor Stop Notices
APPROVED: Auditor-Controller-Treasurer-Tax Collector (ACTTC)
AUTHORITY: California Civil Code Sections 8500-8510, 8520-8522,
8530-8538, 8540-8544, 8550-8560
ISSUE/REVISED DATE: January 2017

I. PURPOSE

To comply with the California Civil Code for Stop Notices and Stop Notice Remedies on Public Works projects.

A stop notice is a written notice signed and verified by the claimant or the claimant's agent which puts a lender or anyone else holding construction funds on notice that there is money due and owing to the claimant. The notice must be filed in the office of the ACTTC whose duty it is to make payments under the provisions of the contract, or with the Board of Supervisors who awarded the contract. The stop notice obligates the person holding construction funds to withhold sufficient funds to satisfy the amount in the stop notice.

II. POLICY

California Civil Code Sections 8000-8144, and 9100-9566 apply to stop notices for Public Works projects.

The ACTTC claims section division to implement the stop notice procedure provided herein. It is written to comply with the Enterprise Financial System (EFS) accounting system.

III. RESPONSIBILITIES

A. ACTTC

The ACTTC (Accounting division,) is responsible for acknowledging receipt of the 20 day preliminary notice and/or the stop notice and notifying related project management personnel. When a claimant files a stop notice directly with the ACTTC and tenders \$10 at the same time, it files the stop notice. The ACTTC is also responsible to ensure that vendor accounts are properly flagged for stop payment, and deductions made accordingly, (See section IV below). ACTTC authorizes payment after stop notice is resolved by a stop notice release is received by ACTTC. After resolution of stop notice by the stop notice release bond, court, or payment by contractor, the stop on the vendor and/or voucher is removed and payment is made to contractor. We must also comply with the California Civil Codes regarding Stop Notices for Public Works projects and their remedies on public works construction projects.

B. DEPARTMENT

Department to do the following;

1. Forward preliminary notice to ACTTC (The Notice puts the Owner/Contractor on notice that subcontractor has entered into a contract to perform labor or furnish materials for the named public project, and will look to Owner/Contractor and our Sureties for payment if the person ordering such material/and or labor fails to pay for them). This must be on file for a stop notice to be effective from any second-tier or lower-tier subcontractor. A stop notice from a first-tier subcontractor or a laborer is effective without a preliminary notice. (See Civil Code 9300).
2. Record Notice of Completion (NOC) within 10 day statutory period. Otherwise, the time extends to 90 days for a stop notice.
3. Forward stop notices timely to ACTTC. Within 24 hours of receipt.

IV. PROCEDURE FOR STOP NOTICE

A. Contractor

Civil Code requires conditions for stop notice enforcement by the County of Sonoma.

1. Preliminary notice is on file for second-tier or lower-tier subcontractors.
2. Subcontractors have filed a stop notice (when they have not received payment for work or materials supplied for a County Public Works Project.) Per Civil Code section 8106, the stop notice must be served by (a) Personal delivery, or (b) by registered or certified mail, express mail, or overnight delivery by an express service carrier, or (c) leaving the notice and mailing a copy in the manner provided in Section 415.20 of the Code of Civil Procedure for service of summons and complaint in a civil action.

Civil Code states that, to be effective, a stop notice must be served:

1. No later than thirty days after the notice of completion.
2. If no notice of completion filed, then no later than 90 days after substantial completion.

B. ACTTC

1. Place a STOP on the EFS Vendor
2. Stop Notice provided by the sub-contractor will indicate monies owed. The County will calculate & withhold 125% of this amount by placing a hold on the vendor. (see vendor desk notes: Vendor Setup Special Situations)
3. If a subsequent claim is posted in EFS, because of the Stop on the account, checks will not be produced and claims section will inquire as to why. At this time, payment to vendor is reduced by Stop Amount.

4. When the project is substantially complete, a Notice of Completion (NOC) is filed by the County of Sonoma. (Typically the department requesting the work files the NOC.)
5. The ACTTC should receive a copy from the Department processing the Notice of Completion (NOC). The ACTTC then faxes or emails it to the parties with stop on file.
6. Stop Notice Funds held can be released in two of three ways.
 - i. The contractor can pay the subcontractor directly; subcontractor will forward a release of stop notice to all parties concerned.
 - ii. The prime contractor can post a stop notice release bond per Civil Code section 9364. The bond must be executed by an admitted surety insurer, in an amount equal to 125 percent of the claim stated in the stop payment notice.
 - iii. The subcontractor can go to court, get a court judgment, present it to the ACTTC, and then the ACTTC will pay the subcontractor directly out of withheld funds.
7. Sub-Contractor will forward a "Release of Stop Notice" when they have received payment from Contractor.
8. After completion of #5 or #6, stop is removed from vendor and/or voucher in EFS.

V. STOP NOTICE REMEDY FOR SUBCONTRACTOR/CONTRACTOR

The Stop Notice Remedy provides a methodology whereby the subcontractor can get paid for work performed.

1. The Subcontractor gets paid by the Contractor and files a release of stop notice.
2. The Subcontractor gets a court order serves the court settlement upon the county demanding payment of outstanding amount.
3. The contractor gets a surety company to guarantee payment and files a notarized bond to release money withheld on stop notice.