

How To Make A Payment Bond Claim: Non-MDOT Public Works Projects

Event: Formation of Contract

Action:

- Prepare and send a letter by certified mail to the governmental owner requesting a copy of the Payment Bond that the General Contractor furnished for the Project.

Event: First Furnishing

Action: **Within 30 days** of the date of first furnishing labor or materials to the Project:

- If you are a SUBCONTRACTOR or SUPPLIER who does not have a contract with the Principal Contractor (i.e., the contractor furnishing the Payment Bond to the governmental owner), prepare a Notice of Furnishing and send it by Certified Mail Return Receipt Requested to the Principal Contractor and 2 additional copies to the Owner.
 - No particular form required. A letter is sufficient.
 - Failure to send full and timely Notice of Furnishing is fatal to claim.
- Prepare a Proof of Service of Notice of Furnishing and attach a copy of the Daily Report or load ticket. Place Proof of Service and document in your file for later use, if necessary.
 - Upon receipt, attach the Certified Mail Return Receipt (Green Card) to the Proof of Service of Notice of Furnishing.

Practical Tip: While the bond may not shorten the 30-day period for filing a Notice of Furnishing, it may expressly or by omission

extend or waive the Notice of Furnishing requirement. Read the bond!

Event: Non-Payment/Last Furnishing

Action: **Within 90 days** following last date of furnishing:

- Prepare a Notice of Intent to Rely upon the Payment Bond for payment.
 - No particular form required. A letter is sufficient.
 - Include outstanding balance, including retainage, accrued interest, finance or time-price differential charges authorized by contract, and unresolved claims asserted in good faith.
- Serve the Notice of Intent to Rely on the Payment Bond upon the Principal Contractor and 2 additional copies upon the Governmental Owner via Certified Mail Return Receipt Requested.
- Prepare a Proof of Service of Notice of Intent to Rely Upon the Payment Bond and attach a copy of the Daily Report or load ticket for last day of work. Place Proof of Service and document in your file for later use, if necessary.
 - Upon receipt, attach the Certified Mail Return Receipt (Green Card) to the Proof of Service of Notice of Intent to Rely Upon the Payment Bond.

Practical Tip: Monitor status of final payment to the Principal Contractor by the Governmental Owner on a monthly basis and document date of final payment to the Principal Contractor.

Event: One Year from Owner's Final Payment

Action:

- File lawsuit against the payment bond **within one year** following date of the final payment to the contractor.

SAMPLE LETTER REQUESTING COPY OF PAYMENT BOND

NON-MDOT PROJECT

<Name and Address of
Governmental Owner>

VIA CERTIFIED MAIL
No. _____
Return Receipt Requested

Re: <Project Name>

Dear Sir or Madam:

We have entered into a contract with _____ to
furnish _____ to the above referenced Project. Please provide us
with a certified copy of the Payment Bond furnished by the principal contractor for this
Project.

Your cooperation is appreciated.

Sincerely,

SAMPLE LETTER/NOTICE OF FURNISHING

NON-MDOT PROJECT

<Name and Address of
Principal Contractor >

VIA CERTIFIED MAIL
No. _____
Return Receipt Requested

Re: Notice of Furnishing
<Project Name>

Dear _____:

This is to inform you that we are furnishing _____ to the
above referenced Project under our contract with _____.
This work or these materials or supplies will be performed on, or delivered to (identify
the project site or location if differs from project site.).

This Notice is being provided to you in accordance with applicable Michigan law
and you should govern yourself accordingly.

Thank you for your attention in this regard.

Sincerely,

SAMPLE LETTER/NOTICE OF INTENT TO RELY UPON PAYMENT BOND

NON-MDOT PROJECT

<Name and Address of
Governmental Owner>

<Name and Address of
Principal Contractor >

VIA CERTIFIED MAIL
No. _____
No. _____
Return Receipts Requested

Re: Notice of Intent to Rely Upon Payment Bond
<Project Name>

Gentlemen:

PLEASE TAKE NOTICE that _____ (your company name) _____
has furnished _____ under our contract with
_____, commencing on _____ (date) _____, and the last date of
furnishing was _____ (date) _____.

The amount of \$ _____, [lus interest, finance, time-price differential charges at
\$ _____ per diem from and after [(payment due date)] remains unpaid. This letter
constitutes formal notice of our intent to rely upon the payment bond for payment of all
sums due for the labor, materials, supplies and equipment furnished to this Project.
Please govern yourselves accordingly.

Thank you for your attention in this regard.

Sincerely,

cc: <Payment Bond Surety>
<Company Attorney>

