Maryland
GOVERNOR'S OFFICE
OF SMALL, MINORITY & WOMEN
BUSINESS AFFAIRS

GUIDE TO: *Updated Prompt Payment Statutes*

The Maryland General Assembly first adopted prompt payment statutes in 2008 and subsequently made changes over the years. The most recent statutes are reflected in Chapter 30 and Chapter 31 (effective October 1, 2024).

State Procurement – Prompt Payment of Supplier addresses payments for state-funded contracts owed by a contractor to a supplier for labor or materials.

Overview

Within 10 days of receiving a progress or final payment from the State, a contractor is expected to pay a subcontractor or supplier, and a subcontractor is expected to pay a lower tier subcontractor, any undisputed amount for work performed under a State procurement contract.

Subcontractor

A "subcontractor" means a person or firm that has an agreement with a contractor to perform all or some of the contractor's work under a state contract.

Supplier

A "supplier" is a person that has supplied labor or materials to a contractor for work provided on a state procurement contract.

Undisputed Amount

An "undisputed amount" is payment owed by a contractor to a subcontractor or supplier for which there is no good faith dispute, including any retainage withheld.

Withholding Payment

A contractor who withholds payment from a subcontractor or supplier within the 10 days must:

- Notify the subcontractor or supplier in writing, to include:
    - Name of contractor
    - Name of project,
    - Itemized description of which the amount is based
    - Explanation of dispute
- Provide a copy to the procurement officer

Actions by the Procurement Officer

The procurement officer or a designated representative must verbally contact the subcontractor or supplier within two (2) business days of receiving the written notice.

If the amount withheld is determined to be undisputed, the procurement officer or designated representative will instruct the contractor to pay the amount within three (3) business days and notify the subcontractor or supplier of the decision.

If payment is not made within the timeframe, the subcontractor or supplier should report nonpayment in writing to the procurement officer for further action. The procurement officer should schedule a meeting no later than 10 days after receiving notice from the subcontractor to establish why payment was not made.

If payment is determined to be delinquent, the contractor must pay the subcontractor or supplier within seven (7) days and further progress payments may be withheld until the subcontractor or supplier is paid.

If payment is not made within seven (7) days, the procurement officer should schedule a second meeting within five (5) days to determine if payments remain delinquent.

If payments are determined to still be delinquent, the procurement officer may utilize remedies outlined in State Finance and Procurement Article §15-226 and summarized below.

Delinquency of Payments Owed

If the contractor is found to be delinquent in payments owed to the subcontractor or supplier, the procurement officer or designated representative will:

- Order further payments to the contractor be suspended until payment to the subcontractor or supplier is verified
- In addition, the procurement officer or designated representative may:
    - Order work under the contract be suspended
    - Require the contractor to pay a penalty to the subcontractor or supplier (not to exceed $100 per day) except under specific circumstances
- A contractor, subcontractor, or supplier may appeal the procurement officer’s decision

What does the prompt payment directive mean to a Minority Business Enterprise (MBE) or Veteran-Owned Small Business Enterprise (VSBE) subcontractors and suppliers?

MBE and VSBE subcontractors and suppliers have the remedies as those described above. In addition, when MBE subcontractors or suppliers are experiencing payment issues on state contracts, the MBE Ombudsman unit within the Governor's Office of Small, Minority, and Women Business Affairs can assist the procurement officer managing the contract in attempts to resolve disputes between minority business enterprises and prime contractors.

Document information

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