

## ENGINEERING DIRECTIVES AND STANDARDS

Volume	Chapter	Section	Directive Number	Effective Date
III	1	1	33	10/20/2023

**SUBJECT: PROMPT PAYMENT TO SUBCONTRACTORS**

- PURPOSE:** The purpose of this directive is to establish a uniform policy concerning prompt payment to subcontractors.
- SCOPE:** This directive covers the Department's policy on prompt payment for subcontractors.
- POLICY:** In accordance with federal law, a prime contractor must pay all subcontractors within thirty days of receiving payment. Retainage may not be held. The contractor's fulfillment of the subcontractor payment commitment is monitored throughout the life of the contract. Retaliation against a subcontractor for submitting a prompt payment complaint is strictly prohibited.

The Compliance Section's role is to validate prompt payment complaints thoroughly.

- Compliance will ensure that the prime contractor has received payment for the work in question.
- Compliance will review outstanding issues that could constitute non-payment to the subcontractor.
- Compliance will verify that 30 days or more have passed since the prime contractor received payment for the specific work and that no liens have been filed related to the complaint. Liens or recorded statements of amounts due will be withheld in accordance with applicable state laws.

Once verification is complete, Compliance will prepare a memo/email addressed to the Project Engineer, with copies sent to the Area Engineer, HQ Construction, and the prime contractor. The memo will confirm the complaint's validity and state that 100% of the amount in question will be withheld from the contractor. Each Incident shall not exceed \$1 million dollars.

Subsequently, the Project Engineer will process a deductive change order and subsequent estimate to withhold the funds from the contractor. Once the prompt payment complaint is resolved, the Compliance Section will issue another memo/email, officially closing out the complaint and recommending the withheld funds to be returned to the prime contractor.

- PROCEDURE:** Prompt payment complaints from subcontractors must be submitted to the DOTD Compliance Programs Section.
- OTHER ISSUANCES AFFECTED:** All directives, memoranda, or instructions issued heretofore in conflict with this directive are hereby rescinded.
- EFFECTIVE DATE:** This policy will become effective upon signature of the DOTD Chief Engineer.

CHAD WINCHESTER, P.E.  
CHIEF ENGINEER