

Michigan Department of Transportation (MDOT)

Prompt Payment Requirements

North Region DBE/Small Business Training Symposium

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**PROMPT
PAYMENT**



Prompt Payment is a Federal Requirement

Prompt payment is a requirement of 49 Code of Federal Regulations Part 26.29.



Prompt Payment – Subcontract Requirements

All subcontract agreements must contain notice to subcontractors of their right to prompt payment, and of the department's prohibiting prime contractors to hold retainage.

MDOT Prompt Payment Requirements

- Prime contractors and consultants must pay subcontractors no later than 10 calendar days from the date payment is received for satisfactorily completed work.
 - The term “subcontractor” includes subcontractors, subconsultants, truckers, material suppliers, other service providers, and businesses working as a lower tier subcontractor for another subcontractors.

- Primes are responsible for ensuring all subs, DBE and non-DBE, are paid in a timely manner.

Satisfactory Completion is Determined by MDOT

The determination of whether work meets the standards of satisfactory completion is the responsibility of the MDOT project manager and *not* the prime.

- ❑ Primes must have approval from the MDOT project manager *before* withholding or reducing payment to a sub.



MDOT Prompt Payment Requirements

03SP109(A)

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
PROMPT PAYMENT

FIN:SEA

1 of 2

C&T:APPR:KB:DBP:11-18-08
FHWA:APPR:11-18-08

Add the following subsection to Section 109, on page 111, of the Standard Specifications for Construction:

109.10 Prompt Payment. The prime Contractor agrees to pay each subcontractor for the work associated with their subcontract no later than 10 calendar days from the date the prime Contractor receives payment from the Department for said work. Release of payment from the Department for any work is confirmation that the Department has determined the work to have met the standards of satisfactory completion as defined below. If the prime Contractor has concerns about the satisfactory completion of subcontractor work items, this must be brought to the Engineers attention in advance of payment to the prime Contractor. This notice may give the prime Contractor the option to not release all subcontractor funds within the 10 calendar days specified. This requirement is also applicable to all sub-tier subcontractors and suppliers, and shall be made a part of all subcontracts and agreements.

This prompt payment provision is a requirement of 49 CFR 26.29 and does not confer third-party beneficiary right or other direct right to a subcontractor against the Department. This provision applies to both DBE and non-DBE subcontractors.

Special Provision for Prompt Payment 03SP109(A) describes MDOT prompt payment requirements.

www.michigan.gov/mdot

On the right of the screen, choose *Supplemental Specifications/Special Provisions, Special Provisions, Frequently Used (2003).*

How can a sub tell if a prime has been paid for their work?

Department of Transportation
Michigan.gov

Michigan.gov Home | MDOT Home | MDOT Sitemap | Contact MDOT | MDOT FAQs | Search GO

Construction Contract Inquiry
Contractor Home • Report Info • Search Again • Feedback • Help

To get a construction contract inquiry report:

- Select a report type or web display.
- Enter a Contract or Project Number.
- Enter all or part of it if you are not sure of the complete number.

Hours of operation
Mon - Fri: 6:00 AM - 11:30 PM
Saturday: 6:00 AM - midnight
Sunday: 24 hours

Select report type or web display:

- Project Voucher Summary -- Show vouchers for the last: All
- Project Voucher Summary by Contractor -- Show vouchers for the last: 7 days
- General Contract Level Information
- Contract Modifications
- Subcontracts
- Contract Award Status
- Insurance
- DBE Commitment

Enter Contract or Project Number: OK

Subs can verify a prime has been paid on construction contracts using MDOT's

Construction Contract Inquiry at

www.michigan.gov/mdot

The link is on the right of the screen under "quick links."

Primes are typically paid the Wednesday after the *Transfer Date*.



Construction Contract Inquiry

[Contractor Home](#) • [Report Info](#) • [Search Again](#) • [Feedback](#) • [Help](#)

PROJECT VOUCHER SUMMARY FOR CONTRACT: 82073-79724

Contractor: Posen Construction, Inc.
Surety: Safeco Insurance Co of America
Location: 3 structures on M-85 and viaduct retaining wall
Description: Removal and replacement of entire structures

Voucher	Type	Estimate Date	Transfer Date	Net Payment	Paid to Date	Amount Withheld	Amount Earned
Project: 79724A							
0000		0	0	0	\$0.00	0	0
0001	Semi Monthly	05/18/2010	05/20/2010	\$1,459,611.66	\$1,459,611.66	\$0.00	\$1,459,611.66
0002	Semi Monthly	06/08/2010	06/10/2010	\$95,976.80	\$1,555,588.46	\$0.00	\$95,976.80
0003	Semi Monthly	06/22/2010	06/24/2010	\$890,668.20	\$2,446,256.66	\$0.00	\$890,668.20
0004	Semi Monthly	07/06/2010	07/07/2010	\$5,969.03	\$2,452,225.69	\$0.00	\$5,969.03



How can a subconsultant tell if a prime has been paid for its work?

Contact the MDOT payment technician.

- The MDOT payment technician list is updated regularly and distributed by list server.

Subcontractors with prompt payment complaints **MUST** put it in writing



In order for MDOT to begin the process of reviewing a prompt pay complaint, the subcontractor must notify the prime in writing and copy the MDOT project manager.

DBEs should also copy the MDOT Office of Business Development.

Prime Contractor or Consultant Statements of DBE Subcontractor Payments

- ❑ MDOT is required by federal regulation to maintain a running tally of payments made to DBEs.
- ❑ To develop this tally, MDOT requires primes to submit payment statement forms. These forms are included in the following sections of contracts:
 - “Requirements for DBE” in construction contracts
 - “Attachment G” of service consulting contracts

DBE Signatures on Payment Statements



DBE signatures are required on *project completion* payment statements.

Projects with DBE Goals

No credit toward DBE project goals shall be allowed until all DBE subcontractors have been paid for their work.

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Questions?

Primes, subcontractors, project managers, and local agency grantees with questions about prompt payment requirements are encouraged to contact me:

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517-373-9246

