

# PROMPT PAYMENT

## Notice to all subcontractors and suppliers

**The Colorado Department of Transportation (CDOT) is committed to the principle that all members of the construction team are entitled to prompt payment for work properly performed. It is CDOT's intention to work in partnership with all Contractors, Subcontractors, and Suppliers to improve the prompt payment of all parties involved in CDOT contracts.**

This notice is provided to explain to all parties how CDOT makes payments for work in progress.

### PARTIAL PAYMENTS

**Monthly Partial Payments.** The Prime Contractor will be paid based on estimates prepared by the Engineer. The Prime Contractor establishes the estimate cut-off date at the Preconstruction Conference. This date is used for estimating the partial payment of work performed through that date. CDOT does not require the Prime Contractor to bill for normal contract work other than force account or stockpiled materials.

**Delayed Partial Payments.** The Engineer shall notify the Prime Contractor, in writing, of the reason for any delay to a partial payment. All Prime Contractor requests to delay a partial payment to permit inclusion of a specific amount of work shall be made in writing. The Prime Contractor shall notify each Subcontractor who has performed work during the payment period of the reason for the delay.

**Copies of Partial Payment Estimates.** The Project Engineer will provide the Prime Contractor with a copy of all monthly partial payment estimates. The Prime Contractor should provide a copy of the monthly estimate to each Subcontractor that has performed work during the period covered by the estimate. If the Contractor requires the Subcontractor to bill for their work the Subcontractors may need the quantities of work paid by CDOT to prepare their billing. The Subcontractors should get a copy of the monthly estimate from the Prime Contractor. CDOT will assist Subcontractors in obtaining a copy of the monthly estimate. Copies of the monthly estimate may be found at the following website:

<http://www.coloradodot.info/business/payestimates>

**Electronic Funds Transfer (EFT).** The Prime Contractor can authorize CDOT to electronically transfer funds. Forms are available from Accounts Payable by calling 303-757-9569 or 303-757-9996. Funds are normally available in 4 to 5 days after the Resident Engineer authorizes the estimate. Funds are immediately available after the deposit is made via EFT. With EFT, the Contractor avoids waiting on the mail and does not have to deposit the warrant.

3/23/10

# PROMPT PAYMENT LAW

Standard Specification section 109.06(a) requires all Contractors to comply with the existing Prompt Payment Law (CRS 24-91-103(2)). This law requires the Contractor to pay all Subcontractors within seven calendar days providing the Subcontractor complies with the Prompt Payment law. Failure by the Contractor to comply with the prompt payment law may be reason to debar the Contractor.

The citation for Colorado's Prompt Payment Act is 24-91-103(2), C.R.S. (1991), relating to public works. Following is an exact quote:

(2) Whenever a contractor receives payment pursuant to this section, the contractor shall make payments to each of his subcontractors of any amounts actually received which were included in the contractor's request for payment to the public entity for such subcontracts. The contractor shall make such payments within seven calendar days of receipt of payment from the public entity in the same manner as the public entity is required to pay the contractor under this section if the subcontractor is satisfactorily performing under his contract with the contractor. The subcontractor shall pay all suppliers, sub-subcontractors, laborers, and any other persons who provide goods, materials, labor, or equipment to the subcontractor any amounts actually received which were included in the subcontractor's request for payment to the contractor for such persons, in the same manner set forth in this subsection (2) regarding payments by the contractor to the subcontractor. If the subcontractor fails to make such payments in the required manner, the subcontractor shall pay said suppliers, sub-subcontractors, and laborers interest in the same manner set forth in this subsection (2) regarding payments by the contractor to the subcontractor. At the time the subcontractor submits a request for payment to the contractor, the subcontractor shall also submit to the contractor a list of the subcontractor's suppliers, sub-subcontractors, and laborers. The contractor shall be relieved of the requirements of this subsection (2) regarding payment in seven days and interest payment until the subcontractor submits such list. If the contractor fails to make timely payments to the subcontractor as required by this section, the contractor shall pay the subcontractor interest as specified by contract or at the rate of fifteen percent per annum whichever is higher, on the amount of the payment which was not made in a timely manner. The interest shall accrue for the period from the required payment date to the date on which payment is made. Nothing in this subsection (2) shall be construed to affect the retention provisions of any contract.