

PROMPT PAYMENT: FAQ Fact Sheet

What are Webber's prompt payment requirements?

In accordance with Texas state prompt payment laws, Webber is obligated to pay its subcontractors within 10 days of receipt of payment.

Is Webber obligated to meet prompt payment requirements regardless of the circumstances?

Webber, through its subcontract agreements, specifies circumstances under which it may withhold payment from subcontractors.

For what reasons may Webber withhold payment?

The most common reasons for delayed payment include:

- A subcontractor has demonstrated financial instability and has failed to pay its suppliers and lower tier subcontractors;
- A subcontractor has failed to provide lien releases and waivers in accordance with its subcontract provisions;
- A subcontractor has failed to meet federal regulatory requirements such as submission of weekly certified payroll;
- A subcontractor has failed to provide proof of insurance (i.e. its original insurance certificate has expired and the subcontractor fails to provide a new insurance certificate); and/or
- A subcontractor has failed to provide owner-approved documentation of jobsite quantities and work performed.

What can subcontractors do to ensure they're paid promptly?

Subcontractors aid Webber in meeting prompt payment requirements by:

- Submitting accurate daily documentation of quantities completed and work performed;
- Documenting disputed quantities and work items and requesting that agreed-to quantities are processed for payment immediately;
- Paying its material suppliers and lower tier subcontractors promptly and providing all appropriate lien releases and waivers;
- Submitting weekly certified payroll in accordance with Davis Bacon requirements;
- Keeping its insurance certificate on file up to date; and
- Asking for assistance with any of the above listed items as soon as issues arise rather than when payment is due.

Does Webber withhold retainage?

Webber establishes retainage requirements on a case-by-case basis depending on risk and owner requirements and limitations.

If Webber withholds retainage, when is the retainage released?

In accordance with Texas Department of Transportation requirements, Webber must pay any retainage on subcontractor work within 10 calendar days after satisfactory completion of all the subcontractor's work. Satisfactory completion is accomplished when:

- The subcontractor has fulfilled the Contract requirements of both the owner and the subcontract for the subcontracted work, including the submission of all information required by the specifications and the owner (i.e. final quantities, certified payroll, etc.); and
- The owner has inspected and approved the subcontractor's work, and the final quantities of the subcontractor's work hours have been determined and agreed upon.

Some contractors don't pay retainage when a subcontractor's work is complete. Why is this?

In some rare cases, an owner will issue a final partial acceptance of a subcontractor's work. However, in general, owners complete final inspection and acceptance at the end of a project. Depending on the policy of the contracting authority, a provision for partial acceptance of the work may not exist.

In the case where partial acceptance is against an owner's policy, if the prime contractor releases retention upon completion of a subcontractor's work, it assumes all risk for deficiencies cited by the owner during the final inspection process and has no means for ensuring that deficiencies are addressed. In these cases, prime contractors generally hold retention until final acceptance has occurred in order to mitigate risks associated with subcontractor performance.

If I have extenuating circumstances, will Webber work with me to expedite payment or assist with suppliers?

Webber is committed to the success of its subcontractors. If extenuating circumstances arise, contact your Webber Project Manager for assistance. Webber may be able to modify its payment schedule or issue joint checks pending owner approval. Accommodation is made on a case-by-case basis at the discretion of the Webber Project Manager.