

Prompt Pay for Federally Assisted Construction

Background: In 1988 Congress passed the Prompt Pay Act Amendments which granted the right to prompt payment to subcontractors at all tiers of federal construction work. Under these amendments, the federal government must pay prime contractors within 14 days of receipt of invoice for a progress payment. If payment is not made within that time, interest must be paid on the outstanding amount. Prime contractors, in turn, are required to pay subcontractors within seven days after receiving a payment, or they too must pay interest on the outstanding amount to the subcontractor. The law promotes fair practices and provides proper incentives for satisfactory performance by all members of the construction team.

During consideration of that measure, Congress also considered the payment problems that exist on federally assisted construction projects, but decided to leave it for another time. Since 1988 the construction industry has vigorously advocated enactment of prompt pay for federally assisted construction projects legislation.

Unless the Act is expanded to cover federally assisted or financially guaranteed construction projects, there will continue to be an unfair federal procurement payment loophole. At present, U.S. agencies spending federal dollars are required to pay their bills promptly, but non federal entities that are spending or using federal dollars are able to delay paying their bills, with no interest or penalties being assessed.

Because there is more federally assisted construction work than direct federal construction work, the majority of contractors who are getting paid for their work on federally assisted projects are not being paid in a timely manner.

PHCC of Nevada Position: PHCC of Nevada supports the extension of prompt payment protection for all federally assisted procurement.

Government Relations Committee Approval:
Board of Directors Approval: Feb. 2, 2009