

Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure:

- If affected subcontractor is not comfortable contracting the prime contractor directly regarding payment or unable to resolve payment discrepancies with prime contractor, subcontractor must initiate the complaint in writing to the DBELO at Aviation.SBO@sanantonio.gov. The complaint should identify specifics regarding the subcontract language, items of work in question and the subcontractor's attempt to obtain payment from the prime contractor. Notify the complaining subcontractor a complaint will not be accepted until the subcontractor provides satisfactory written evidence they have contacted the prime contractor and their payment bond surety in an attempt to resolve the issue.

1. Verify the work in question has been approved by the City.
 - If the work or materials in question have not been approved by the City, notify the prime contractor and subcontractor that no prompt payment issue exists. (No further department action necessary related to prompt payment.)
 - If the work was approved, determine if payment was made by the City. If payment was not made, make payment to the prime contractor and notify the parties involved of the resolution. (No further department action necessary related to prompt payment.)
2. If the City paid for the work or materials, determine if a dispute exists by referring to prompt payment certifications and other supporting information. Supporting information to aid in the determination of a dispute or resolution of a dispute may include subcontractor or supplier agreements, invoices, subcontract or supplier agreement revisions (change orders), cancelled checks, identification of billing errors, etc.
 - If a dispute is determined to exist, advise the subcontractor that they may file against the payment bond surety. Forward the subcontractor's letter of complaint to the prime contractor with a letter advising them of their responsibility to work with the subcontractor to resolve the dispute. Provide copies of the letter to the prime contractor to both the subcontractor and the payment bond surety. (No further City action necessary related to prompt payment.)
 - If it is determined that a dispute does not exist, forward the subcontractor's letter of complaint to the prime contractor with a copy to the payment bond surety. Request payment or justification for non-payment. Set a response deadline.
 - i.) If the prime contractor makes payment or provides documentation that substantiates the dispute, forward the response to the subcontractor and advise them payment was made or a dispute exists. Send a copy of the subcontractor notice to the payment bond surety. In instances of a dispute, advise that it is the responsibility of the parties involved to resolve the issue. (No further City action necessary related to prompt payment.)
 - ii.) If the prime contractor has not made payment and does not provide justification of a dispute within the timeframe specified, initiate the appropriate administrative action. Possible administrative actions include: suspension of work, withholding all or a portion of an estimate, withholding project acceptance, default for breach of contract, or other actions deemed appropriate.

- Second tier subcontractor complaints should be forwarded to and addressed by the prime contractor, with a copy of the prime contractor's notice sent to the payment bond surety.
- Ensure that notices associated with prompt payment are received by the prime contractor and subcontractor prior to the 20th calendar day from the date of the subcontractor's written notice of complaint.
- If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by the City to resolve prompt payment disputes, affected subcontractor may contact the Federal Aviation Administration (FAA). The FAA will investigate the complaint of noncompliance by program participants.

Contact: Office of Civil Rights (ACR-1) Federal Aviation Administration
External Programs Team ACR-4
800 Independence Ave SW Room 1030
Washington, DC 20591
Phone: (202)366-4018 / Fax: (202) 366-3475
TTY: Federal Relay Service

Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.