

# DEPARTMENT OF TRANSPORTATION PROMPT PAYMENT PROCEDURES

By Office of Construction  
with  
Office of Contract Compliance

Jim Connery – Nelio Rodrigues – Emilio Flores

Debra Goss – Scott Hoffman – Phylisha Coles

# PURPOSE OF MEETING



*Overview of topics to cover in today's presentation*

- ▶ **Where Prompt Payment criteria comes from:**
  - Federal Statutes
  - State Statutes
  - Department Specifications
  - Contract documents



# PURPOSE OF MEETING



## *Overview of topics to cover in today's presentation*

- ▶ **Steps to be taken by subcontractor(s):**
  - Initial detailed letter from subcontractor to Department with copy to Prime.
  - Department letter response to Prime requesting justification.



# PURPOSE OF MEETING



## *Overview of topics to cover in today's presentation*

- ▶ **Steps to be taken by subcontractor(s):**
  - Timely explanation by Prime within (10-Days)
  - Additional corrective actions to Prime by Department, as needed.





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# FEDERAL AND STATE STATUTES GOVERNING PROMPT PAYMENT



## ▶ **The Prime and the Commissioner: *a two-party Contract process***

- Department Contracts are entered by only two parties, the Commissioner (or their representative) and the Prime Contractor
- These needed procedures have been implemented because the Department has no contract with the subcontractor(s).





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# FEDERAL AND STATE STATUTES GOVERNING PROMPT PAYMENT



## FHWA – Prompt Payment (PP) defined:

### ▶ 49 CFR 26.29:

- Outlines Prompt Payment terms to Prime from DOT
- Outlines Prompt Payment terms to subcontractors for each subsequent tier (3 tier maximum in CT)
- Each tier has a maximum 30 days to *“pay when paid”* for work accepted by the Department.
- *“require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor”*



# FEDERAL AND STATE STATUTES GOVERNING PROMPT PAYMENT



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## STATE – Prompt Payment (PP) defined:

- ▶ **C.G.S Chapter 847 Section 49-41c and 49-42**
  - Similar Prompt Payment requirements
  - Outlines Prompt Payment terms to Primes and subcontractors for each subsequent tier
  - Each tier has a maximum 30 days to *“pay when paid”* for work accepted by the Department.
    - *“Any person contracting with the state shall make payment to any subcontractor employed by such contractor within thirty days of payment by the state for any work performed “*



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# FEDERAL AND STATE STATUTES GOVERNING PROMPT PAYMENT



## Department Specifications – (FORM 816):

### – Prompt Payment (PP) defined:

- **Article 1.03.04** – Requires payment within 30 days of Prime being paid or notify the Department and subcontractor of reasons for withholding
- **Article 1.08.01** – Requires payment within 30 days of Prime being paid for work properly assigned or transferred (CLA-12)





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## Department Specifications–(Special Provisions)

### DBE Specifications:

- (II.A) – Required Verified payments to be provided to Department by–monthly
- (II.B) – Required prompt payment mechanism
- **CLA–12 FORM:** – Every subcontract agreement must contain a mechanism for payment within 30 days of receipt of payment from CTDOT
- **Website Information–New :** Prompt Payment site with instructions and other information available



# FEDERAL AND STATE STATUTES GOVERNING PROMPT PAYMENT



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http://www.ct.gov/dot/cwp/view.asp?a=1410&Q=413518

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transportation engineer  
Phone: (860) 894-2692

[LaVern J. Brown](#)  
Secretary 2  
Phone: (860) 594-2671

Subcontractor Approval (SE4)  
ConnDOT - Office of Construction  
2800 Berlin Turnpike  
P.O. Box 317546  
Newington, CT 06131-7546

### Useful Documents

- [Bi-Monthly Report of DBF Participation](#) (PDF 73 KB)
- [Bi-Monthly Report of DBF Participation](#) (XLS 42 KB)
- [CLA-12 \(Subcontractor Approval Form\)](#) (PDF 129 KB)
- [CLA-12 \(Subcontractor Approval Form\)](#) (XLS 54 KB)
- [CLA-12 Additional Information Page](#) (XLS 21 KB)
- [Ethics Affirmation \(Form 6\)](#) (PDF 104 KB)
- [Federal-Aid Contract Provisions](#) (PDF 220 KB)
- [Instructions for Completing CLA-12](#) (PDF 84 KB)
- [Required Contract Provisions for Federal-Aid Construction Contracts \(FHWA 1273, Rev. 5/12\)](#) (PDF 220 KB)
- [Prompt Payment Issues](#)
- [Title VI Assurance](#) (PDF 80 KB)

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# FEDERAL AND STATE STATUTES GOVERNING PROMPT PAYMENT



## Prompt Payment (PP) Process:

- ▶ Prime Contractors are required to provide Payment Bond to the Department (1.03.04).
- ▶ Primes must notify the Department, in advance, if/when they plan to withhold funds from a subcontractor for work performed and accepted by Department.





# FEDERAL AND STATE STATUTES GOVERNING PROMPT PAYMENT



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## Prompt Payment (PP) Process:

- ▶ When prompt payment issues arise, Subcontractors are strongly encouraged to immediately notify CTDOT in writing and provide as much detail as practical.
- ▶ Subcontractors should be aware of “Alternate Dispute Resolution” thru AAA and limited time of notice requirements to the payment bond holder in section 1.08.01.





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# FEDERAL AND STATE STATUTES GOVERNING PROMPT PAYMENT

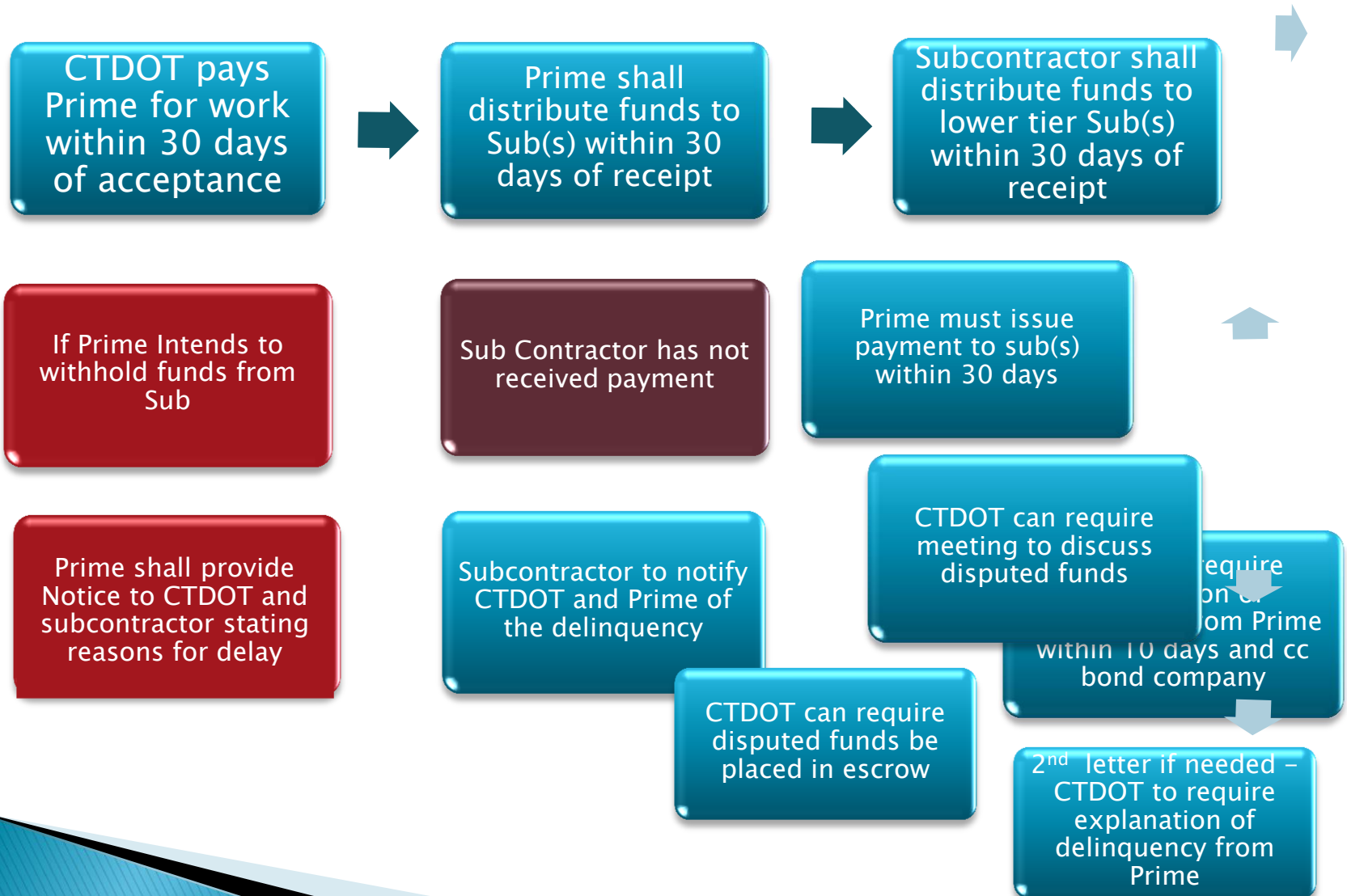


## Prompt Payment (PP) defined:

- ▶ These requirements apply to each respective subcontractor tier



# Prompt Payment Flowchart



# Questions and Discussions

Prompt Payment Questions and Concerns



## Issues that are not PP related:

- Rejection or reduced payment for work not accepted by department due to quality of work (1.06.04)
- Materials – Lack of certification of documentation (1.06.07)
- ~~On-site stored materials(??)~~
- ~~Incomplete work~~
- Understand clearly the scope of the work related to the specificaion
- Good business contract acumen
  - unauthorized or Extra work
  - ~~Partial item (??)~~



# OOC's maintenance of a central log to monitor compliance



- ▶ **Article 1.09.09** – Allows the Department to withhold payments from Prime for contract non-compliance purposes