



**Federal Aviation  
Administration**

# **Prompt Payment Requirements for Airports**

*Office Of Civil Rights*

*ACHIEVING SAFETY  
THROUGH DIVERSITY*

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# Why are we talking about Prompt Payment?

- Prompt Payment remains a compliance priority
- Prompt Payment complements the purpose and intent of the DBE program
- FAST Act re-emphasizes role of Prompt Payment in DBE program
- OIG Audit of FAA's DBE Program - Year Two
- FAA Reauthorization Act of 2018 creates Prompt Payment complaint reporting requirements
- Prompt Payment affects all small businesses, including DBEs

# Prompt Payment – DBE Program Requirements

- Update DBE Program to reflect current rule and guidance
- Contract clause requiring primes to pay subcontractors no more than 30 days after receipt of payment
- Identify retainage option(s) from § 26.29(b) recipient selected
  - Decline to hold retainage from primes, **prohibit primes from holding retainage from subs**
  - Decline to hold retainage from primes, **require primes to pay retainage to subs within 30 days** if sub's work is satisfactorily completed
  - **Hold retainage from primes**, provide for prompt and regular incremental acceptances of portions of prime contract, pay retainage to primes based thereon, and require primes to pay retainage to subs within 30 days if sub's work is satisfactorily completed

# Prompt Payment – DBE Program Requirements (cont.)

- Program and contract documents should state what constitutes satisfactory completion, defined in § 26.29(c)
- Satisfactory completion of a subcontractor’s work should also be identically defined in the prime’s contract with the recipient
- FAA recipients must use the partial payment language from Section 90-06 of FAA Advisory Circular 150/5370-10G
- Identify dispute resolution mechanisms

# Prompt Payment Template

- Available Online, DBE Program Best Practices
  - <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/dbe-program-best-practices>
- Contains examples of Monitoring, Dispute Resolution Mechanisms, Enforcement Measures, etc.

# Prompt Payment Monitoring

- Monitor prompt payment actively
  - Website, automated system, manual practices are all acceptable, but prompt pay must be monitored
  - Includes monitoring release of retainage
- Same authority as monitoring for other program compliance ( § 26.37)
- Do not rely on complaints

# Complaint Reporting

- Section 157 of the 2018 FAA reauthorization (Public Law No. 115-254)
- Airport sponsors must track and report subcontractors' allegations of non-compliance
- FAA is required to assess and improve airport sponsor compliance based on analysis of reports received

# Complaint Reporting (cont'd)

- Report complaints and related data directly to FAA at the following URL:  
<https://www.surveymonkey.com/r/PromptPaymentComplaints>
- Report questions are previewed in the following slides



# Screen Shot 1

## PROMPT PAYMENT AND RETAINAGE COMPLAINTS

### 1. Sponsor and DBELO Information:

Sponsor/Owner Name	<input type="text"/>
Airport Name	<input type="text"/>
Airport ID Code (3 digit)	<input type="text"/>
DBELO Name	<input type="text"/>
DBELO Email Address	<input type="text"/>
DBELO Phone Number	<input type="text"/>

### 2. Date of Complaint

Date

MM/DD/YYYY	\
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### 3. How was this complaint submitted?

- Email
- Formal Letter
- Telephone
- Via weblink
- Other (please specify)

# Screen Shot 2

## 4. Complainant Information:

Complainant Name	<input type="text"/>
Company Name	<input type="text"/>
Certified DBE Firm (Yes/No)	<input type="text"/>
Address	<input type="text"/>
City/Town	<input type="text"/>
State/Province	<input type="text"/>
ZIP/Postal Code	<input type="text"/>
Email Address	<input type="text"/>
Phone Number	<input type="text"/>

## 5. FAA funded project information:

Project Name	<input type="text"/>
Project Number	<input type="text"/>
AIP Grant Number	<input type="text"/>

## 6. Description of complaint (include internal tracking #):

## 7. Resolution for Complaint:

## 8. Did all project contracts include the following provisions (check all that apply):

- A. Contract assurances as required by 49 CFR 28.13(b).
- B. 90-80 Partial Payment clause as required by AC150/5370-10G.
- C. Additional Prompt Payment language related to 49 CFR 28.29(a)-(c).
- D. Prompt Payment enforcement provision as required 49 CFR 28.29(d)-(e)
- If you checked D, please describe how contractual enforcement provisions are included, specify document name and section/clause.

# Screen Shot 3

9. Does the Sponsor proactively monitor prompt payment of all subcontractors?

- YES
- NO
- If YES, please describe how.

10. Did the Sponsor implement enforcement actions with this complaint to prevent prompt payment complaints from recurring?

- YES
- NO
- If YES, please describe how.

11. Has the Sponsor's DBE Program been updated to address USDOT prompt payment guidance released in 2016 and 2018?

- YES
- NO
- If YES, has a copy of it been uploaded to FAA Civil Rights Connect?

12. Was FAA involved in the resolution of the complaint?

- YES
- NO
- If YES, please provide staff name.

Done

# Complaint Reporting (cont . . .)

- Report complete details
- Reporting a complaint is an opportunity to review your own processes

# Additional Resources

- Official USDOT DBE Program Q&A:
  - Official Questions and Answers:
    - <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/official-questions-and-answers-qas-disadvantaged>
  - Prompt Payment Sample Template:
    - <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/prompt-payment-section-sample-template>

# Additional Resources Cont'd

- Your Operating Administration's Civil Rights Contact
  - FAA:  
[https://www.faa.gov/about/office\\_org/headquarters\\_offices/acr/bus\\_ent\\_program/media/faq\\_dbe\\_staff.pdf](https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/media/faq_dbe_staff.pdf)
  - FHWA:  
<https://www.fhwa.dot.gov/civilrights/overview/crpersons.cfm>
  - FTA: Your Regional Civil Rights Officer (RCRO) or Contact Us at  
<https://ftawebprod.fta.dot.gov/ContactUsTool/Public/NewRequest.aspx>.
  - Make sure to select “Civil Rights & Accessibility” as the dropdown Category

# Questions & Answers

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# Federal Aviation Administration Office of Civil Rights

[http://www.faa.gov/about/office\\_org/headquarters\\_offices/acr](http://www.faa.gov/about/office_org/headquarters_offices/acr)