

PAYMENT FOR GOODS AND SERVICES

Payments to Contractors for Construction Contracts

~~The District shall make~~ Payment on any contract for the creation, construction, alteration, repair, or improvement of any **district property or facility or other public works project shall be made in accordance with the estimates, process, and/or schedule approved by the Board of Education.** ~~public structure, building, or other improvement of any kind which costs over \$5,000 based on estimates of actual work completed that have been approved by the Governing Board. The District shall not make progress payments in excess of 90 percent of the actual work completed and may include 90 percent of the value of material delivered or stored but as yet unused. The District shall withhold at least ten percent of the contract price until the final completion and acceptance of the project. However, any time after 50 percent of the work has been completed, the Board may make any of the remaining progress payments in full for actual work completed if the Board finds that satisfactory progress is being made. (Public Contract Code 9203)~~

As necessary, the Superintendent or designee shall ensure that requests for **may make** progress payments ~~related to construction contracts are processed and paid within 30 days~~ **as actual work is completed or materials are delivered.** ~~Any improper request shall be returned to the contractor within seven days, together with a written statement of why the request is not proper. When a payment request is properly submitted by a contractor, any undisputed portion of the payment request shall be paid within 30 days. If the Superintendent or designee determines any payment request to be improper, he/shall return the payment request to the contractor with a written statement of reasons why the request is not proper. (Public Contract Code 9203, 20104.50)~~

(cf. 3312 - Contracts)

The district may withhold up to five percent of the proceeds due to the contractor until completion and acceptance of the project. (Public Contract Code 7201)

The proceeds to be withheld by the district may exceed five percent when the Board has made a finding, prior to the bid and during a properly noticed and regularly scheduled public meeting, that the project is substantially complex and requires a higher retention amount than five percent. In such cases, the Board's finding shall include a description of the specific project and why it is a unique project that is not regularly, customarily, or routinely performed by the district or licensed contractors. The bid documents shall include details explaining the basis for the finding and the actual amount to be withheld. (Public Contract Code 7201)

(cf. 3311 – Bids)

(cf. 9320 – Meetings and Notices)

(cf. 9324 – Minutes and Recordings)

At any time after 50 percent of the work has been completed, the Board may release the withheld proceeds if it finds that satisfactory progress is being made. (Public Contract Code 9203)

PAYMENT FOR GOODS AND SERVICES (continued)

~~Retention~~ Proceeds withheld by the district from payments to contractors for public works contracts shall be released within 60 days after the construction or improvement is completed. In the event of a dispute between the district and the contractor, the district may withhold from the final payment an amount not to exceed 150 percent of the disputed amount. (Public Contract Code 7107)

Regulation amended: April 15, 2021

Regulation amended: November 6, 2008

Regulation approved: April 19, 2007