



**Contract Management Department**

*The Contracting Education Academy*

**Subcontractors Academy**

**2014**

*Rolando Fernandez, Assistant Director*  
*Marisol Claudio-Ehalt, Program Consultant*  
*City of Austin – Contract Management Department*

February 26, 2014

*Karen Maggio, Support Services Manager*  
*City of Austin – Public Works Department*

# Subcontractors Academy

*February 26, 2014*



## Agenda

1. Welcome and Introductions
2. Subcontractors Academy
3. Getting Paid, Fast





# Subcontractors Academy - Goals

1. Ensure all interested subcontractors have access to information, resources and tools they need to be successful in their City contracts.
2. Provide subcontractors an opportunity to network with, and learn alongside, government contracting officials to gain a better understanding of the City processes, roles, and responsibilities associated with City government contracting.



# 2014 Proposed Subjects

## ✓ **Getting Paid, Fast** *(February 26, 2014)*

- Understanding COA Bid Documents
- Know Your Contract
- How to Avoid Construction Claims – And What to Do About Them If They Occur.
- Contract Compliance: Wage Rates and Payroll Reporting
- MBE/WBE Procurement Program: Compliance Plan, Sub K and Requests For Change (RFC)
- Grant Funded Projects
- Safety Related Topics: City Supplied Insurance, OSHA, Rest Break Ordinance
- Public Involvement During Construction – The Role of the Contractor and Subcontractors
- Sustainability and Environment
- Here is the RFP...Now What?
- Traffic Control
- Ethical Issues in The Construction Industry: Contractor's Perspective
- Scheduling
- Risk Management and Insurance
- Technology and Tools: How to Navigate the City's Website - Vendor Registration, Solicitations, Awards, and Contracts
- Division 1 – General Requirements
- Alternative Delivery
- Estimating





**Contract Management Department**

# Getting Paid, Fast

**Improving your company's cash flow**

*Rolando Fernandez, Assistant Director  
Marisol Claudio-Ehalt, Program Consultant  
City of Austin – Contract Management Department*

*Karen Maggio, Support Services Manager  
City of Austin – Public Works Department*

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# Getting Paid, Fast

Today's class explores:

1. City of Austin's CIP payment process, and
2. Strategies for success on how to expedite payments.



# Timeliness of payments is of great importance to both contractors... and the City of Austin

1. Getting paid is the obvious inducement for contractors to undertake work.
2. Moreover, receiving payment on time is often essential to provide the necessary funds to continue work on the contract.
3. From the City's perspective, its concern with paying on time is tied to the frequently repeated maxim that the government's primary contractual obligation is to make prompt and proper payment for services performed.



***The City of Austin's goal is to pay contractors as soon as possible after they have performed satisfactory work on a project.***

# How long does it take to get a bill paid by the City?

- The City operates under the Prompt Payment State law that requires municipalities to pay bills within 30 days of receiving a valid invoice.
- If payment is delayed, the City is required to pay interest on the amount owed at the rate specified in State law.

*Source: Government Code, Section 2251.025b*

- A contractor who receives a payment from an owner in connection with a contract to improve real property shall pay each of its subcontractors the portion of the owner's payment, including interest, if any, that is attributable to work properly performed or materials suitably stored or specially fabricated as provided under the contract by that subcontractor, to the extent of that subcontractor's interest in the owner's payment.  
*Source: Texas Property Code CHAPTER 28. PROMPT PAYMENT TO CONTRACTORS AND SUBCONTRACTORS*
- A vendor or subcontractor shall pay interest as a payment is overdue. (*Source: Government Code Section 2251.028*)





Contractor shall pay each Subcontractor and Supplier their appropriate share of payments made to Contractor no later than ten (10) calendar days of Contractor's receipt of payment from Owner. *(Source: Government Code Title 10, Chapter 2251.021; and COA General Conditions / 00700 / Article 6.4.7)*



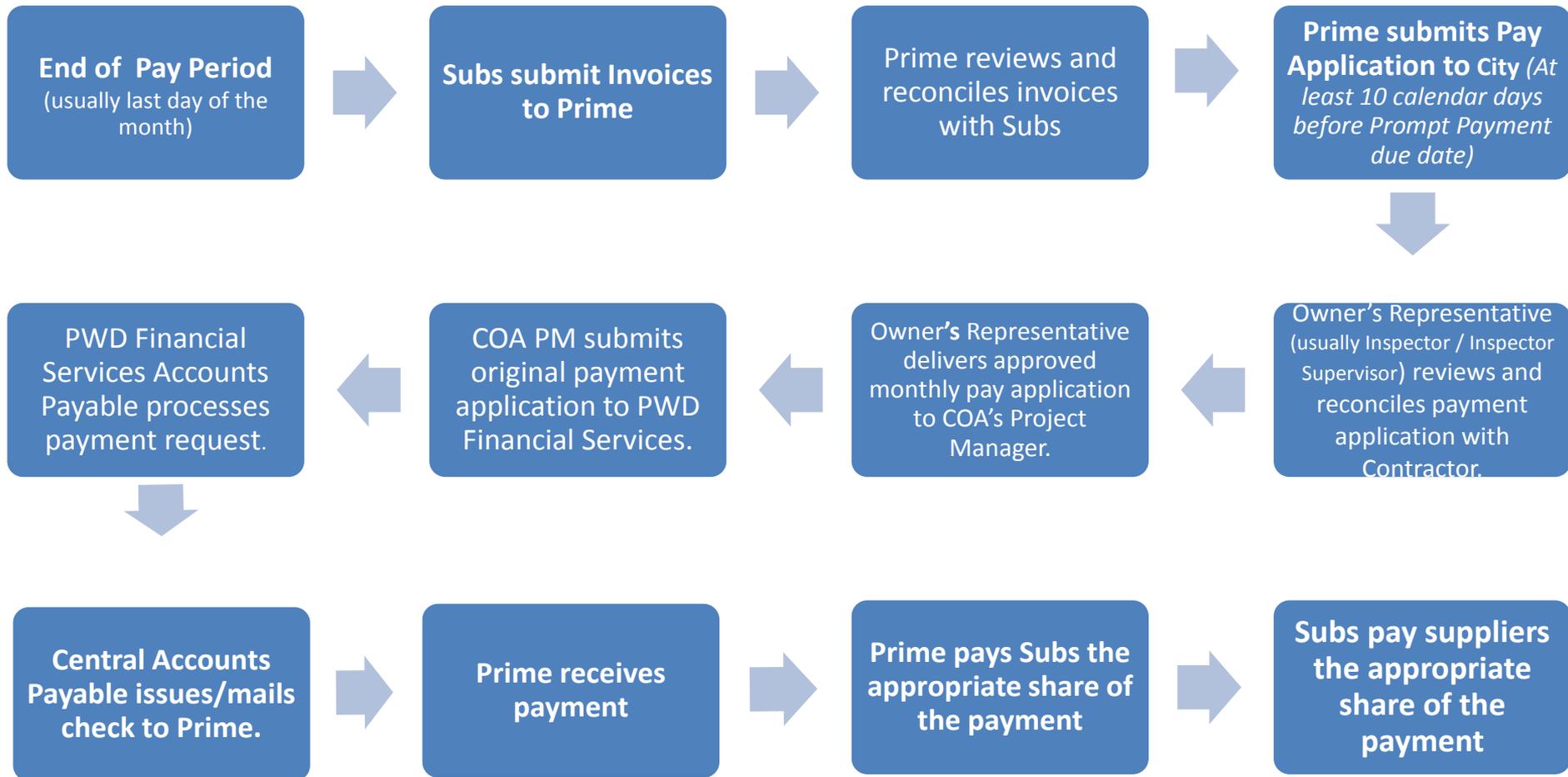
*COA is also in the process of:*

- 1. Incorporating language in contracts requiring contractor to notify subcontractors when payment applications are rejected.*
- 2. Evaluating and revising contract language for remedies regarding subcontractor payments, including the possibility of withholding future work.*



# Prompt Payment Process

# City of Austin Prompt Pay Process



# 2014 Prompt Payment Processing Schedule

Contractor's Application Submittal Dates	Project Manager's Pay Processing Dates	Contractor's Application Submittal Dates	Project Manager's Pay Processing Dates
12/27/13	01/06/14	07/11/14	07/21/14
01/10/14	01/21/14 – Tue*	07/25/14	08/04/14
01/24/14	02/03/14	08/08/14	08/18/14
02/07/14	02/18/14 – Tue*	08/22/14	09/02/14 – Tue*
02/21/14	03/03/14	09/05/14	09/15/14
<b>03/07/14</b>	<b>03/17/14</b>	09/26/14	10/06/14
03/28/14	04/07/14	10/10/14	10/20/14
04/11/14	04/21/14	10/24/14	11/03/14
04/25/14	05/05/14	11/07/14	11/17/14
05/09/14	05/19/14	11/21/14	12/01/14
05/23/14	06/02/14	12/05/14	12/15/14
06/06/14	06/16/14		
06/27/14	07/07/14		

- The City's Prompt Payment Schedule is updated and published annually.
- COA PM should provide the schedule and payment information to the contractor at the pre-construction conference.
- COA PM's Pay Processing dates are typically the 1<sup>st</sup> and 3<sup>rd</sup> Mondays of the month; however there are occasions when different schedules are necessary to accommodate holidays and other factors.

# COA Prompt Payment Example:

March 2014						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

2) Subs submit their pay app to Prime (\*\*Confirm w/ Prime\*\*)

1) Feb. 28. End of February work period

3) Application Submittal Date  
Prime submits pay application to COA Inspector  
**03/07/2014**

4) COA Inspector reviews & reconciles pay app w/ Prime

5) No later than noon, COA Inspector delivers approved pay app to COA PM

6) COA PM Pay Processing Date  
**03/17/2014**

7) PWD's Accounts Payable processes invoice and submits to Central A/P

8) Central A/P Issues and Mails check to contractor

# Common Voucher/Payment Problems

1. Name or address does not match what is on file with COA Vendor registration
2. Subcontractor(s) -all tiers- that are not listed in the approved Compliance Plan &/or not registered to do business with COA.
3. Incorrect quantities, rates or unit prices used.
4. Non-compensable delays, inefficiency, rework, and mismanagement.
5. Change in contractor/sub conducting the work, and name & EIN no longer match.
6. Incorrect PO or contract number used.
7. Mathematical error.
8. Costs weren't actually incurred.
9. Costs were incurred for purposes other than intended (out of scope).
10. Costs incurred outside the contract period.
11. Not adequately documented.



# Getting Paid



# Getting payment for work performed is more than just submitting a bill



## Be Proactive and Have a Process

Adopt proactive strategies to avoid payment delays before they start

*Example:*

Selective Bidding

Sign a written contract with your customer

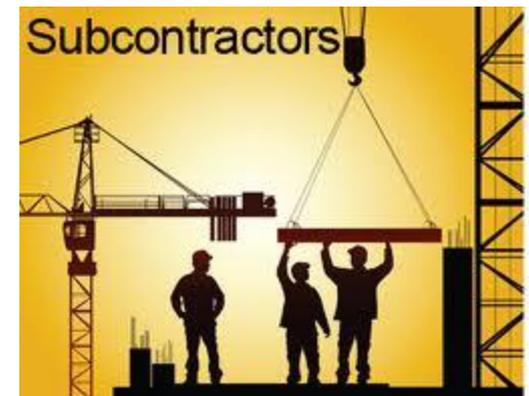
Document your work well

Invoice Promptly

Follow Up

# Selective Bidding

1. When you sign a contract with an owner or a general contractor you are actually granting credit to the other party.
2. Consider the size of the job – can you maintain cash flow if you don't get paid on time?
3. Beware of contractors with a large amount of liens on their projects.





# A good contract can help your company avoid collection scenarios by:

1. Clarifying the scope of work and its costs, to avoid disputes.
2. Providing for the recovery of interest on overdue accounts, to avoid losing interest on money owed to you and to offer non-paying parties an incentive to pay on time.
3. Providing for Alternative Dispute Resolution to ensure disputes over payment are resolved as quickly and inexpensively as possible.

***Read contract for payment provisions – When are payment applications submissions due? To whom?***





# Document your work well

1. Keep copy of signed work contracts, and all subsequent change orders/amendments.
2. Take photographs of the work completed (before and after is best).
3. Collect receipts for payments you made for materials.
4. Ask the Prime to sign off when the work is completed and for receipt of supplies goods you procure on their behalf.



# Invoice accuracy



1. Invoice promptly.
2. Always send out clear and accurate invoices.
3. Track the number of invoices sent and the number of responses or non-responses. Also track how many times a call for payment leads to them telling about an error on the invoice – or performance issue.
4. Your invoices must include all the required paperwork, cost breakdowns, and lien releases.
5. Never bill for unexecuted or unapproved change orders as part of a progress payment request.
6. Submit separate invoices for change orders not yet executed.



*A confusing or incomplete invoice will cause confusion and can lead to delays in receiving payment.*



# Subcontractor's Invoice Review

In order to receive payment, the subcontractor must request payment according to the terms specified in their agreement. Generally, the subcontractor requests payment by submitting an itemized invoice. When the Prime receives an invoice, it may be reviewed according to the following criteria:

1. Invoice has a stated period of performance, which is in agreement with the terms of the subcontract.
2. Invoice total does not exceed the subcontract amount and contains the cost detail which defines the types or categories of costs claimed.
3. Costs are allowable.
4. Invoices are not duplicates of previous submissions.
5. Proper documentation &/or other contractually binding information has been provided in the required format.
6. Signatures are from personnel authorized to approve expenditures for the project.

# Adopt proactive strategies to avoid delinquency before it starts

1. List contract provisions and get names, addresses and phone numbers of key people for each project.
2. Address customer service complaints quickly.
3. Build system to have field personnel report percentages of completion on time. And plan to get GC approval for percentage BEFORE submission.
4. Submit accurate invoices, on time, and to the proper party.
5. Confirm receipt of billing.
6. Tickler file all billings.
7. Produce management report of all billings over 30 days.
8. Follow-up and be persistent. Call or visit the contractor at least every 10 days to check on unpaid invoices. And make sure you are talking to the right person.
9. File written Notices of Claims as set forth in Chapter 2253 of the Texas Government Code. The statutory framework centers on notice to surety, and the statute contains strict requirements as to timing and to the content of that notice. The statute contains different requirements for different tiers of the subcontractor, different type of contracts, and retainage.





# Rules for Getting Paid Fast

Here are two simple rules to remember when you want to get paid:

## **Rule # 1: You can only collect if you are owed the money.**

Before doing any extra work, get your customer's approval and signature for it. Never spend time and money on work without the proper approvals.

## **Rule # 2: You can only collect if you bill according to your contract.**

Experience shows that half of invoices contractors submit are rejected the first time because they were not prepared according to contract terms and requirements. Always invoice on time, use the right billing format and include all of the required lien releases for every supplier and subcontractor.



# Who do I talk to if I have a problem getting a bill paid?

If you have any questions or have not received payment from your Prime for work performed:

## 1. Follow up with the Prime

During your conversation:

- a. Ask whether there have been any problems with the work you supplied.
- b. State you have not received payment and ask whether they had problems paying.
- c. Confirm your invoice was received in time to include in current month's pay request
- d. Confirm Prime's pay request has been submitted to the City in time for current Prompt Pay Cycle.
- e. Ask when the payment will be made and **agree on a date**. If they don't know, state you will call the following day once they've had an opportunity to investigate.

## 2. Verify in Austin Finance Online if COA payment to the Prime has been made.

## 3. Follow up with the COA PM

Confirm:

- a. Prime's pay request was received by the City in time for current Prompt Pay Cycle
- b. Pay request is approved, or if payment is being withheld - and why
- c. Payment to Prime has been made

*This process is not a substitute for the statutory payment bond claim process set forth in Chapter 2253 of the Texas Government Code ... which we will discuss next month*



# Let's Recap

## Recommendations to Improve Payment Issues:

1. Read contracts carefully and ensure you are content with payment terms and conditions before signing.
2. Provide security and remedies for recovering the payment in the construction contract.
3. Adopt proactive strategies to avoid delinquency before it starts.
4. Address customer-service complaints quickly.
5. Establish a speedy dispute resolution process.



# Questions? Comments?



**For additional  
Information:**

[http://austintexas.gov/  
department/contract-  
management](http://austintexas.gov/department/contract-management)

**Next Class:**

March 26, 2014

6 – 7 pm

One Texas Center

Room 1045B