

MISSOURI PROMPT PAY ACT

SUBJECT	PUBLIC	PRIVATE
Relevant Laws:	Mo. Rev. Stat. §§ 34.057 et. seq.	Mo. Rev. Stat. § 431.180
Which contracts it applies to:	All public works contracts involving any officer, state board, or agency or political subdivision of the state which involves construction, reconstruction, or alteration.	All contracts for private design or construction (excluding owner-occupied residential property of four units or less).
Who is covered: <u>General Contractors?</u>	Yes	Yes
<u>Subcontractors?</u>	Yes, as well as lower-tier subcontractors and material suppliers	Yes, as well as lower-tier subcontractors and material suppliers
<u>Architects and Engineers?</u>	Yes	Yes
Progress payment: <u>When due to GC:</u>	Unless the public contract is drafted to require only a lump sum payment, progress payments are due 30 days of the latter of 1) delivery of materials/services, 2) invoice duly delivered, or 3) duly delivered approval of public owner's estimate.	Per contract terms
<u>When due to Subs, Lower-Tier Subs, and Material Suppliers:</u>	15 days after payment made to the general contractor or higher-tiered subcontractor. However, if the contractor defaults on the contract where no bond is required or where the surety fails to execute its duties, then the subcontractor or supplier can be paid directly by the public owner.	Per Contract terms
<u>When due to Engineers, Architects, and Land Surveyors:</u>	30 days after receipt of an invoice prepared and submitted in accordance with the contract terms	Per contract terms
Final payment: <u>When due to GC:</u>	30 days of the earliest of 1) completion of the project and filing required documentation/certifications, 2) certification of completion by the architect or engineer, or 3) certification of completion by the contracting authority	Per contract terms
<u>When due to Engineers, Architects, and Land Surveyors:</u>	30 days after receipt of an invoice prepared and submitted in accordance with the contract terms	Per contract terms

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When interest starts	The day after the 30 day period. However, interest will not accrue on payments withheld in good faith or for reasonable cause.	From the date payment was due pursuant to the contract.
When interest stops	When payment is made in full	When payment is made in full
Interest rate <u>General Contractor</u>	1.5% per month	Up to 1.5% per month
<u>Subcontractors, Lower-Tier Subs, and Material Suppliers:</u>	1.5% per month	Up to 1.5% per month
<u>Engineers, Architects, and Land Surveyors</u>	1.5% per month	Up to 1.5% per month
Attorney's fees	Only if in bad faith ¹	If unpaid, court may award to prevailing party.

RETAINAGE ACT

SUBJECT	PUBLIC	PRIVATE
Relevant Laws:	Mo. Rev. Stat. §§ 34.057 et. seq.	Mo. Rev. Stat. § 436.300 et seq.
	<ul style="list-style-type: none"> *Provides that retention not be more than 5% unless contractor not required to obtain a bond because cost is less than \$50,000 (but still shall not exceed 10%). *Limits funds held after substantial completion to just 150% of the value of incomplete work. *Required to pay 98% of retainage after substantial completion less offsets and deductions. *In the discretion of the owner, the project architect or engineer, and the contractor, the amount of retainage held by the owner may be adjusted to allow a subcontractor to be paid in full if releasing the subcontractor would not result in risk to the public owner. *Retainage on any contract payment may be reduced or eliminated if the work is proceeding satisfactorily in the public owner's opinion. 	<ul style="list-style-type: none"> *No more than 10% (unless special circumstances are present). *Bars the general contractor from holding more retainage from subs than the owner holds from the contractor. *Requires the release of retainage within thirty days of substantial completion. *Requires that an owner or general contractor release retainage within five days of receipt of "acceptable substitute security." *Requires the release of retainage to early finishing subs. *Limits funds held after substantial completion to just 150% of the value of incomplete work. *Requires that subs be paid within seven days of payment to the general contractor. *Allows the court to award 1.5% interest per month, plus attorney's fees if retainage is held improperly.

¹ Atty fees in Missouri are discretionary to court.
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