

*New Jersey Department of Transportation*  
1035 Parkway Avenue, PO Box 600, Trenton, New Jersey 08625-0600



## *Baseline Document Change Announcement*

**ANNOUNCEMENT: BDC20S-07**

**DATE: May 29, 2020**

**SUBJECT: Subcontractor Retainage**  
- **Revision to the 2019 Standard Specifications for Road and Bridge Construction, Subsection 109.05**

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Subsection 109.05 of the *2019 Standard Specifications for Road and Bridge Construction* has been revised to clarify requirements for the Contractor withholding retainage against subcontractors, and clarifying language pertaining to contractor certification of payment to subcontractors and suppliers.

**The following revisions have been incorporated into the Standard Inputs (SI 2019):**

### **109.05 ESTIMATES**

THE FOURTH PARAGRAPH IS CHANGED TO:

The RE will provide a summary of the Estimate to the Contractor. Before the issuance of each payment, certify, on forms provided by the Department, whether:

#### **A. On Federally Funded Projects**

1. No subcontractor or supplier was used on the project; or
2. Each subcontractor and supplier used on the project has been paid the amount due, from the previous progress payment and will be paid the amount due from the current progress payment, for the subcontractor or supplier's work that was paid by the Department.

#### **B. On State Funded Projects**

1. No subcontractor or supplier was used on the project; or
2. Each subcontractor and supplier used on the project has been paid the amount due, excluding retainage, from the previous progress payment and will be paid the amount due from the current progress payment, excluding retainage, for the subcontractor or supplier's work that was paid by the Department; or
3. There exists a valid basis under the terms of the subcontractor's or supplier's contract to withhold payments from the subcontractor or supplier. Therefore, the following subcontractors and suppliers have not been paid for work performed or materials supplied to the project from the proceeds of the previous progress payment or will not be paid for work performed or materials supplied to this project from the proceeds of the current progress payment, or both.

THE TWELFTH PARAGRAPH IS CHANGED TO:

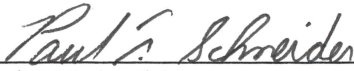
The Department will deduct and withhold 2 percent in retainage from the total Estimate amount for State Funded Projects. On State Funded Projects, the Contractor may not withhold subcontractor retainage that exceeds the amount of retainage that the Department withholds from the Contractor.

Regarding Federally Funded Projects, the Department will deduct and withhold 2 percent in retainage from the total Estimate amount, excluding amounts for subcontracted work, until Substantial Completion. Pursuant to 49 C.F.R. § 26.29(b)(1), the Contractor may not withhold retainage from a subcontractor on Federally Funded Projects.

**Implementation Code R (ROUTINE)**

Changes must be implemented in all applicable Department projects scheduled for Final Design Submission at least one month after the date of the BDC announcement. This will allow designers to make necessary plan, specifications, and estimate/proposal changes without requiring the need for an addenda or postponement of advertisement or receipt of bids.

**Recommended By:**



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Paul F. Schneider  
Director  
Capital Program Support

**Approved By:**



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Snehal Patel, P.E., PMP  
Assistant Commissioner  
Capital Program Management  
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