

MDOT Subcontract / Prompt Pay Overview

Prompt Pay Special Provision



Chris Roe – MDOT
Subcontract Compliance
(517) 202-3716

Construction Project Begins

- Contract Signed (Pre-construction Meeting)
- MDOT Form 1302 Subcontract (s) signed
- MSL's and Certifications Submitted
- Work Performed
- Work Inspected, Accepted and Recorded
- Engineer Estimate Generated
- Transfer of Funds

Prompt Pay Special Provision

12SP-109A-03

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
PROMPT PAYMENT

CFS:JJG

1 of 4

APPR:JDM:DBP:06-29-15

FHWA:APPR.07-16-15

Add the following subsection to section 109, on page 106, of the Standard Specifications for Construction:

109.08 Prompt Payment.

A. Definitions.

Lower-tier subcontract. An agreement between a subcontractor of any tier and any individual or legal entity to perform a part of the subcontract work.

Lower-tier subcontractor. The individual or legal entity that performs part of the subcontract work through a lower-tier subcontract with a subcontractor.

Supplier. The individual or legal entity that agrees to provide materials or services to the prime Contractor, a subcontractor, or a lower-tier subcontractor for the performance of their contract work.

Sworn Statement. A written verification under oath reflecting all persons or entities, which have furnished labor, equipment, services or materials to a subcontractor or lower-tier subcontractor for performance of work on the project. The written verification includes union fringe benefit funds, original contract amount, current amount due, amounts paid to date and balance to finish the work for each person or entity.

Waiver of Lien. A written release and waiver of any claim or right to payment for payments actually received for labor, equipment, services or materials furnished for performance of work on the project.

The sworn statement and waiver of lien documents are used by the prime Contractor and its subcontractors for verifying payments made to lower-tier subcontractors/suppliers and are not to be submitted to the Engineer unless requested as an aid in determining an alleged prompt payment violation. These documents can be found at the following website under the Construction Field Services - Forms heading:

http://www.michigan.gov/mdot/0,1607,7-151-9622_11044_11367---,00.html

B. Progress Payments. For the first payment, or for a one time payment, the prime Contractor agrees to pay each subcontractor for the work associated with their subcontract no later than 10 calendar days from the date the prime Contractor receives payment from the Department.

For the second and subsequent payments, the prime Contractor agrees to pay each

Prompt Pay Special Provision

- A. Definitions
- B. Progress Payments
- C. Satisfactory Completion
- D. Less than full payment release
- **E. Non-Payment Claims**
- F. Remedies
- G. Sanctions

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B. Progress Payments

- The prime Contractor agrees to pay each subcontractor for the work associated with their subcontract **no later than 10 calendar days** from the date the prime Contractor receives payment from the Department.

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B. Progress Payments

- Prior to release of the third payment and subsequent payments.
 - The Contractor is required to **provide payment information for previous payments made** to all first tier subcontractors and all DBE companies (sub-subcontractors, suppliers, truckers, etc.) at any tier.

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B. Progress Payments

- The payment information is provided through submittal of the information via the 2124A biweekly reporting system (MERS) located using the MiLogin.
- **The prime Contractor is ONLY required to report biweekly reports if prior estimates included any payments to first tier subcontractors and any DBE companies at any tier.**

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Department of
Transportation



Michigan.gov

MDOT 2124A Employment Reporting System

Welcome Chris Roe

[Bi-Weekly Data Admin Review](#)

[Manage Users](#)

[Reports](#)

[Sign out](#)

BIWEEKLY DATA

Prime Contractor:

Contracts List (with last Biweekly submit date):

Bi-Weekly Period Ending: * = Submitted, # = Approved

Approved by Brent Dankert

[Print 2124A](#)

Edit/ Save/ Cancel	Subcontractor or DBE/WBE Subcontractor/ Trucker/ Supplier/ Service Provider	DBE/ WBE?	Service/ Work Classify	Total Subcontract Amount	DBE Commitment Amount	Dollar Value of Services Completed	Deductions (Bond,Fees, Holdbacks)	Comments	Actual Amount Paid to date
	001: Severance Electric Co., Inc.			\$20,020.00					
	002: P.K. Contracting, Inc.			\$160,700.00		\$93,430.22	\$934.30	Bonds..	\$92,495.92
	003: F and M Concrete Construction LLC	DBE		\$38,320.00		\$30,466.00	\$304.66	Bonds..	\$30,161.34
	004: C & D Hughes, Inc.			\$260,100.00		\$240,133.99	\$0.00		\$240,133.99
	005: Alpine Engineering, Inc.	D+W		\$4,200.00		\$4,200.00	\$0.00		\$4,200.00
	006: Miller Bros. Const., Inc.			\$4,800.00					
	007: L & L Construction Company, Incorporated			\$5,500.00					

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BIWEEKLY DATA

Prime Contractor:

Ajax Paving Industries, Inc. (Vendor# 00588)

Contracts List (with last Biweekly submit date):

50111-123136 (11/01/2014) - I-94 Mill and Resurface Masonic to Clinton Rvr Br

Bi-Weekly Period Ending:

- Select -
- 03/08/2015 - 03/21/2015
- 02/22/2015 - 03/07/2015
- 02/08/2015 - 02/21/2015
- 01/25/2015 - 02/07/2015
- 01/11/2015 - 01/24/2015
- 12/28/2014 - 01/10/2015
- 12/14/2014 - 12/27/2014
- 11/30/2014 - 12/13/2014
- 11/16/2014 - 11/29/2014
- 11/02/2014 - 11/15/2014
- 10/19/2014 - 11/01/2014 *
- 10/05/2014 - 10/18/2014 *
- 09/21/2014 - 10/04/2014 * #
- 09/07/2014 - 09/20/2014 * #
- 08/24/2014 - 09/06/2014 * #
- 08/10/2014 - 08/23/2014 * #
- 07/27/2014 - 08/09/2014 * #
- 07/13/2014 - 07/26/2014 * #
- 06/29/2014 - 07/12/2014
- 06/15/2014 - 06/28/2014

* = Submitted, # = Approved

and falls off Contractor's list when CPDT53 (Final paid date) is entered
Contract. To re-open it, you can mark the contract "Manually Incomplete" --

Project Completion: AC
OR an Admin clicks the "Manu
BUT REMEMBER: you will the

Dates: CPDT53

Change Project's Comple

te Manual Complete

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E. Non-Payment Claims

- Alleged prompt pay violations need to be placed in writing to the alleged offending party within 30 days of the date payment was to be received.
- Copies of the notification need to be provided to;
 - Engineer
 - Prime Contractor (if the prime is not the offending party)

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E. Non-Payment Claims

- The alleged offending party must respond in writing within 10 calendars days of receipt of notification.
 - Sworn Statements and waivers of lien must also be provided with this response.
- Copies of the response need to be provided to;
 - Engineer
 - Prime Contractor (if the prime is not the offending party)
 - Engineer of Construction Field Services
- The Department will consider the failure of the alleged party to respond to the claimant as an admission of prompt pay ¹¹ violation which may result in sanctions.

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A. Definitions

- The sworn statement and waiver of lien documents are used by the prime Contractor and its subcontractors for verifying payments made to lower-tier subcontractors/suppliers.
 - **not to be submitted to the Engineer unless requested.**
- The Engineer may request sworn statement and waiver of lien documents as an aid in determining an alleged prompt payment violation.

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A. Definitions

Sworn Statement (MDOT form 5602)

A written verification under oath reflecting all persons or entities, which have furnished labor, equipment, services or materials to a subcontractor or lower-tier subcontractor for performance of work on the project. The written verification includes union fringe benefit funds, original contract amount, current amount due, amounts paid to date and balance to finish the work for each person or entity.

Waiver of Lien (MDOT form 5611, 5612, 5613, 5614)

A written release and waiver of any claim or right to payment for payments actually received for labor, equipment, services or materials furnished for performance of work on the project.

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F. Remedies

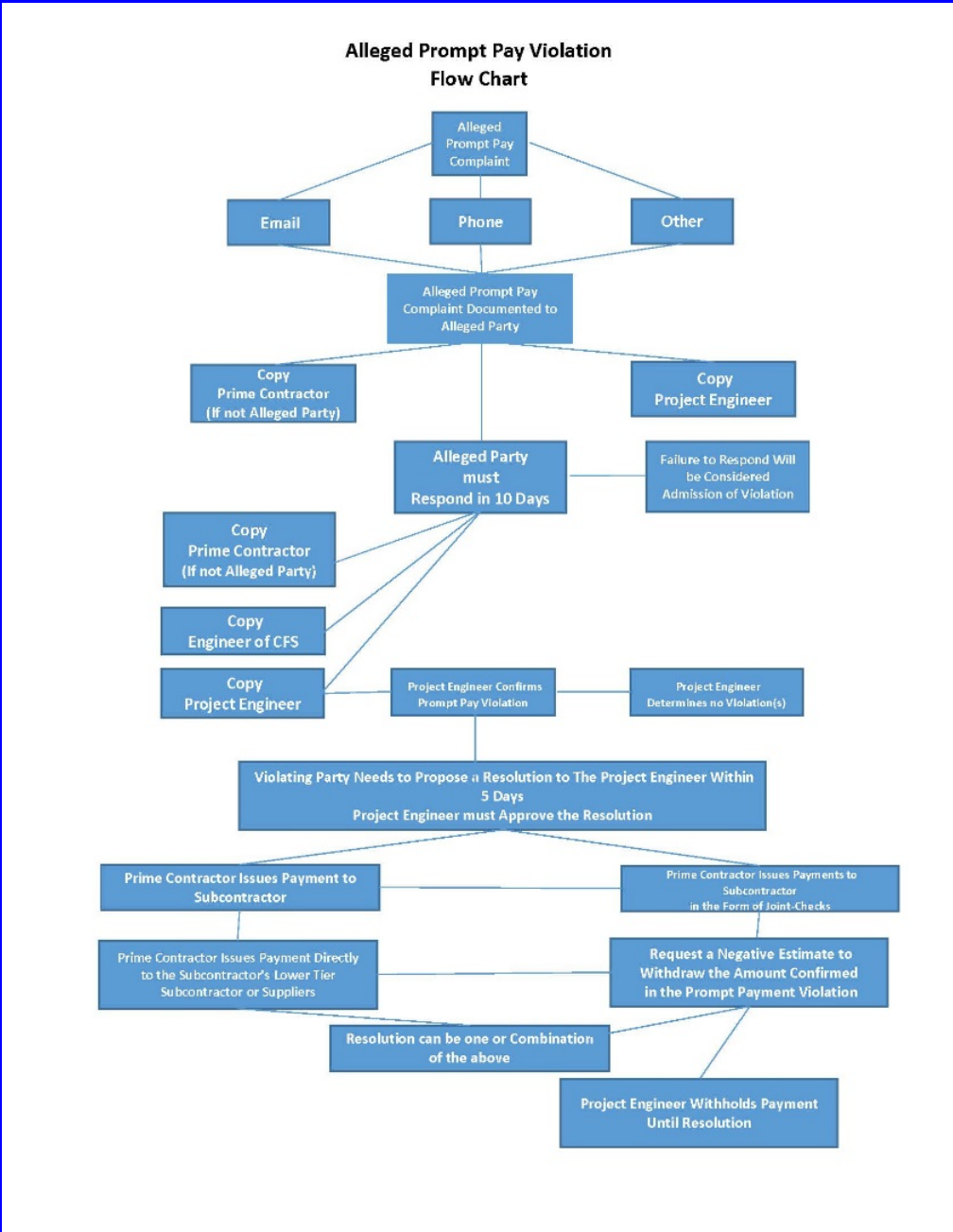
- If the Engineer verifies a prompt pay violation, the prime Contractor must propose a resolution within 5 days to the Engineer for approval.
- The prime Contractor must propose one or a combination of the following action items to resolve the prompt pay violation.
 - Issue payment to subcontractor.
 - Issue payments to subcontractor in the form of joint-checks.
 - Issue payment directly to the subcontractor's lower tier subcontractor or suppliers.
 - Request a negative estimate to withdraw the amount confirmed in the prompt payment violation.

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F. Remedies

- If the proposed remedy is to have the Engineer process a negative estimate.
 - The parties will initiate whatever dispute resolution procedure is specified in their agreement or is available under Michigan law.
 - The Engineer will withhold amount until the result of the dispute proceedings or litigation is concluded.
 - The Engineer will release the disputed payment in accordance with the outcome of the proceedings.

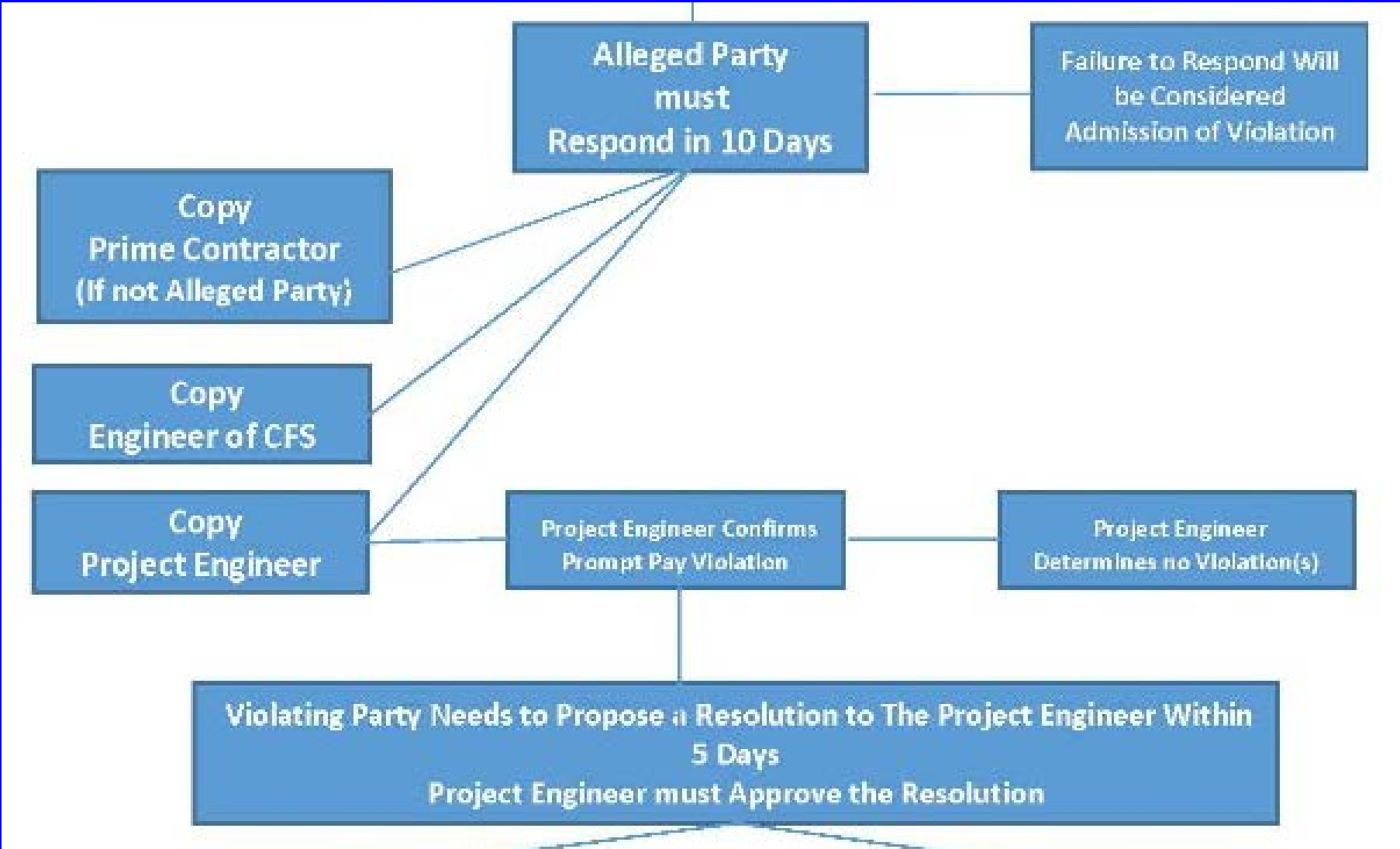
Prompt Payment Flow Chart



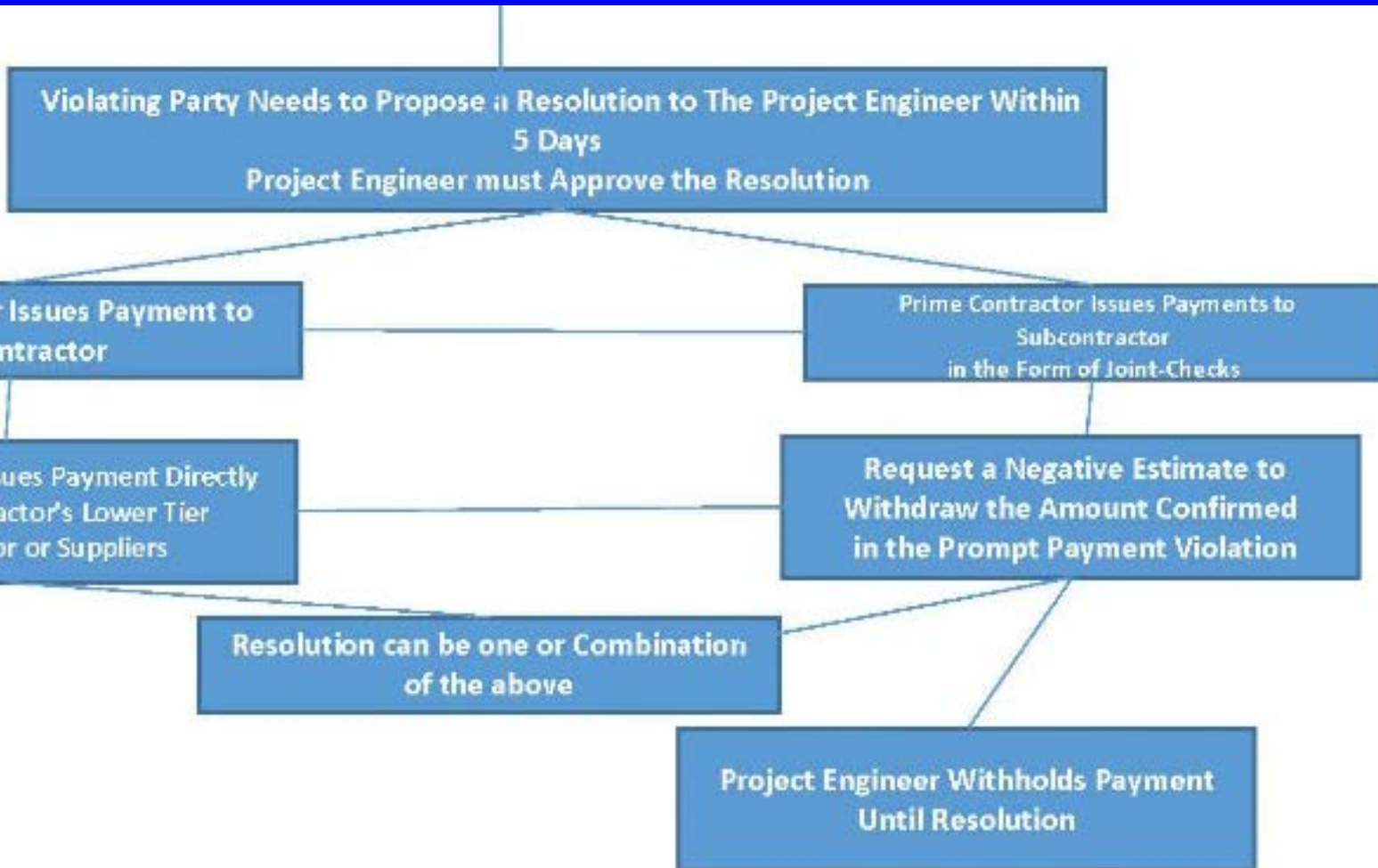
Prompt Payment Flow Chart



Prompt Payment Flow Chart



Prompt Payment Flow Chart



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Non-payment Summary

- Alleged complaint placed in writing 30 days from the time payment should have been received.
- Alleged offending party has 10 calendar days to respond.
- Engineer reviews the documentations and if the complaint is validated the offending party has 5 days to propose resolution to the Engineer.
- Only the Engineer will withhold payment beyond 30 days until the prompt pay violation is resolved.



Thank You

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