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Prompt Pay Law will lead to a healthier economy

February 03, 2011 - Owners Developers & Managers

When the Prompt Pay Law took effect November 8th, 2010, it was a key step to ensuring the well-being of Massachusetts' construction industry and the Commonwealth, both during the current economic climate and as the economy rebounds. The Boston Chapter of NECA has been a strong and vocal supporter of this legislation, as it assures that subcontractors, and indeed all contractors, are paid in a fair and timely manner.

The Prompt Pay Law applies to projects of over \$3 million, and is designed to speed up the flow of funds in construction projects. It provides reasonable time periods for each step in the payment process: 60 days to submit payment application from the date work started; 15 days for approval; and 30 days for payment after approval.

With the passing of the Prompt Pay Law, Massachusetts has joined 29 other states that have passed prompt pay legislation. Our law is not nearly as restrictive as the laws in most other states, and has just four key elements:

- 1) It allows for reasonable "not to exceed" times for approval or rejection of regular payment requests, AND similarly...
- 2) It provides sufficient time for approval and payment of change orders, which always present the greatest payment challenge.
- 3) It sets restrictions on the use of "pay if paid" provisions, which are often used to avoid having to pay altogether.
- 4) It allows a contractor or subcontractor to stop work if not paid in a reasonable time, which was virtually impossible before it was passed.

The importance of this legislation comes down to this: delays in payment create serious cash flow problems for any business, especially small businesses. They are a major problem for subcontractors in particular, because subcontractors pay most of the costs for labor and material on a construction project. Throughout the time they are not paid, subcontractors essentially finance the project out of their own pockets. This can continue only so long before a company can no longer meet its obligations.

By ensuring fair payment practices, the law promotes the survival of businesses and the preservation of jobs, so vital to the Massachusetts economy. NECA is proud to have been involved in its passing. And, although the law applies to projects of over \$3 million, we believe the same principles should apply in projects of all sizes. Small and mid-size companies working on projects of any dimension, when delivering services that meet project parameters, should be paid in a fair and timely manner. It's the right way to conduct business.

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