

New Jersey Permanent Statutes
TITLE 52. STATE GOVERNMENT, DEPARTMENTS AND OFFICERS
SUBTITLE 5. PUBLIC WORKS, CONTRACTS AND PRINTING
CHAPTER 32. GENERAL PROVISIONS; PROMPT PAYMENT ACT

§ 52:32-41. Construction contracts, timely payment to subs and suppliers, procedure

a. Prior to the issuance of a progress payment by a State agency to a prime contractor, the prime contractor shall certify to the State agency that a subcontractor or supplier has been paid any amount due from any previous progress payment and shall be paid any amount due from the current progress payment, or that there exists a valid basis under the terms of the subcontractor's or supplier's contract to withhold payment from the subcontractor or supplier and therefore payment is withheld.

b. If the prime contractor withholds payment from a subcontractor or supplier, the prime contractor shall provide to the subcontractor or supplier written notice of a withholding of payment. The notice shall detail the reason for withholding payment and state the amount of payment withheld. A copy of the notice shall be provided to the bonding company providing the performance bond for the general contractor and to the State agency.

c. In addition to any amount due, a subcontractor or supplier shall also receive from a prime contractor interest on the amount due at a rate equal to the prime rate plus 1% if a subcontractor or supplier is not paid within 10 calendar days after receipt by the prime contractor of payment by a State agency for completed work which is the subject of a subcontract or a material supply agreement and if no valid basis exists for withholding payment. This interest shall begin to accrue on the 10th calendar day after receipt of payment by the prime contractor. In addition, a subcontractor or supplier shall receive any court costs incurred by the subcontractor or supplier to collect payments withheld without a valid basis by the prime contractor.

d. If court action is taken by a subcontractor or supplier to collect payments withheld by a prime contractor and it is determined that a valid basis existed for the withholding of those payments, the subcontractor or supplier shall be liable for any court costs incurred by the prime contractor in connection with the action.

[L. 1991, c. 507, § 2.](#)

[N.J.A.C. 19:32-5.15](#), Prompt payment of subcontractors.