

CHAPTER VII

PAYMENTS

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### **SECTION 1** **ESTABLISHING A RETAINAGE ACCOUNT**

PURPOSE:

Balance sheet liability accounts, called retainage accounts, are established to account for the state agency's liability for contract balances that are retained from payments to a contractor. The contractually arranged balances are retained by the state agency until the contractor has completed performance under the contract and a statutory advertisement has been made indicating that the retained balance of the contract is to be paid to the contractor as of a certain date.

Retainage balances are withheld from payment to a contractor until performance under the contract is completed and the final payment of the retained balance to the contractor is advertised for the following reasons:

- ♦ To pay for the correction of inadequate performance by other parties, if the contractor is unwilling to correct inadequacies that are identified by the state agency on the punch list for the project.
- ♦ To pay for the completion of incomplete or inadequate performance of the contractor's responsibilities under the contract, if the contractor is unwilling to complete items that are identified as incomplete by the state agency on the punch list for the project.
- ♦ To pay for subcontractors' and suppliers' claims made to the state agency against the contractor for services provided and materials purchased, for which the subcontractor or supplier has not been paid. State statutes require that retainage be withheld from capital construction contract payments because liens cannot be placed against state owned buildings. CRS 24-91-103.

Contractor deposits in lieu of withheld retainage may be found in Section 2.

DEFINITIONS:

See Chapter 1, Section 2.

ACCOUNTING/FISCAL ADMINISTRATIVE REQUIREMENTS:

CRS 24-91-103 requires retainage to be withheld on all capital construction/controlled maintenance project contracts exceeding \$80,000.

- ♦ Retainage is required for a contract if the contract contains the required performance of labor other than professional services.
- ♦ Contracts for the performance of professional services do not require retainage.
- ♦ Retainage may be withheld for contracts under \$80,000 if a state agency believes it to be in the best interest of the state.

If retainage is required to be withheld, advertising the final settlement date of a contract is required.

PROCEDURAL FOCUS:

On COFRS, the balance sheet account #2315 has been established to be used by all state agencies to record retainages withheld. Each amount of retainage withheld is to be related to a specific contract and the liability for that retainage must be accounted for separately. State agencies that are initially accounting for appropriated capital construction projects on a system other than COFRS and feeding that data to COFRS, must adhere to the requirement to track contract specific retainages, but are not required to feed that retainage amount by reporting category code as described below.

State agencies must establish individual reporting category codes (COFRS table RPTC) for each contract for which retainage is required to be withheld. The appropriate reporting category code is then used when recording each liability in balance sheet account #2315 so that withholdings are tracked by contract. The reporting category class field should be completed as RTG to indicate retainage and the reporting category name field should indicate the name of the contractor, the project number and the contract encumbrance number.

State agencies may also establish an individual reporting category code for each sub-contractor/supplier claim made against a contract. This reporting category is then used when recording the liability for subcontractor claims in balance sheet account #2315.

Before these reporting category codes can be established on COFRS, the three-digit reporting class code for retainage, "RTG" - Capital Construction Retainage and "REV" - Capital Construction Revenue, must be established in the reporting class table (RPCL). Though these reporting class codes are centrally defined, the reporting class table is a state agency controlled table, and the reporting class codes must be established for each fiscal year. Once these tables are established by a state agency, they will roll from year to year.

PROCEDURAL STEPS:

Each state agency is required to create a unique four-digit retainage or claim reporting category code for tracking retainage eligible contracts and subcontractor claims. Add it to the reporting category code table and use it as follows:

- Step 1:** Review the contract, purchase order or subcontractor claim to determine if retainage is required to be withheld per CRS 24-91-103.
- Step 2:** Establish the required reporting category code in COFRS.
- Step 3:** Write the reporting category code in the contract's permanent file for future reference.
- Step 4:** When processing payment vouchers for the contract and retainage is to be withheld, code the liability to balance sheet account #2315 and the appropriate reporting category code. Procedures for processing subcontractor claims are found in Section 4 of this Chapter.

**SECTION 2**  
**DEPOSITS OF SECURITIES IN LIEU OF WITHHOLDING**  
**RETAINAGE**

PURPOSE:

The purpose of this procedure is to enable state agency personnel to collect security deposits from contractors instead of withholding retainage from payments due, and to release security deposits from vendors when applicable.

DEFINITIONS:

See Chapter 1, Section 2.

ACCOUNTING/FISCAL ADMINISTRATIVE REQUIREMENTS:

All construction/controlled maintenance contracts exceeding \$80,000 are required to have retainage withheld in accordance with CRS 24-91-103, 103.5 and 103.6. The same rules for collection and release of retainage apply to deposits of acceptable securities as funds withheld from contractor payments.

A contractor may provide acceptable securities to the state agency or through an escrow agreement instead of having funds withheld for retainage from his/her payments. Acceptable securities held by the state agency must be kept in a secure place or deposited with the state treasurer. State agencies should insure that they have a procedure in place so that securities can only be accepted and released by certain qualified employees.

If a state agency and contractor enter into an escrow agreement with a qualified custodian for acceptable securities, the state agency shall maintain a file of the escrow agreement and the balance of the contractor's account as provided by the qualified custodian.

**SECTION 3**  
**PREPARING AND APPROVING A PAYMENT VOUCHER**

PURPOSE:

The purpose of this procedure is to assist state agency personnel in preparing, documenting and entering payment vouchers for capital construction projects into COFRS. Capital construction payments may only be approved for fixed and movable equipment/furniture, materials and supplies, professional fees, labor, retainage and advertising.

State agencies that initially account for appropriated capital construction projects on systems other than COFRS and feed that data to COFRS must meet payment requirements stated below except for actually making the payments on the COFRS system.

DEFINITIONS:

See Chapter 1, Section 2.

ACCOUNTING/FISCAL ADMINISTRATIVE REQUIREMENTS:

Project payments can only be paid from the capital construction fund or appropriated higher education plant fund. For state agencies who do not use COFRS to make initial capital construction payments, all payments fed by interface to the capital construction fund must arise from a direct payment in an account coded to cross to an appropriate capital construction account in COFRS. Payments made from an inappropriate fund cannot be reimbursed by any method from the capital construction fund. Vendor codes must be established for all project payments. Miscellaneous vendor codes cannot be used for processing any project payments.

A purchase requisition transaction must not be entered in COFRS to record a commitment in the capital construction fund unless it complies with Fiscal Rules (see Appendix F). Please note that Fiscal Rule 4-2 states:

“All funds appropriated from the State Capital Construction Fund shall be used for their intended purpose. A state agency shall not use Capital Construction Funds to pay or reimburse state employees for construction management, administrative activities, direct labor performed, or any other expense outside the scope of the Capital Construction or Controlled Maintenance Project.”

PROCESSING AND APPROVAL PROCEDURAL STEPS:

Payment vouchers are prepared for three types of payments made for capital construction projects:

- ♦ A payment for which retainage is not held.
- ♦ A payment for which retainage is held.
- ♦ A payment of a retained balance.

In COFRS, the header screen of the payment voucher is prepared in the same manner for the three types of payments noted above; however, the payment voucher line screen for each of the different payments is prepared differently.

If your state agency follows all procedure steps for processing a payment voucher and adheres to all of the criteria for approving a payment voucher presented in this guideline, the SCO will consider your approval review to be adequate.

**Step 1:** Receive documentation in the form of invoices, applications for payments, or certificate for contractors payment.

**Step 2:** Review the documentation for approval signatures.

- ♦ Approval signatures may be made on the actual invoice or on the accompanying receiving report signed by the principal representative or project manager of the state agency.
- ♦ Application for payment of architect/engineer fees require the signatures of the architect/engineer and the principal representative or project manager of the state agency.
- ♦ Certificates for contractor payments.
  - ♦ Certificates for contractor payments for a project that does not involve an architect/engineer require these two signatures: The contractor and the principal representative or project manager of the state agency.
  - ♦ Certificates for contractor payments, where the services of an architect/engineer are being used, require these three signatures: The contractor, architect/engineer, and the principal representative or project manager of the state agency.

**Step 3:** Determine the accounting codes that are necessary to record the payment voucher in COFRS or identify encumbrance document to be referenced.

**Step 4:** Determine the amount of payment by performing the following:

A. *For payment of invoices:*

- ♦ Identify the total invoice amount approved by the principal representative or project manager for the state agency. Invoices must be used as the basis of preparing payment vouchers.

B. *For payments of architect/engineer applications:*

- ♦ Determine that the fees authorized column matches the amount of the original contract encumbrance plus any supplements, amendments, or reimbursables to the contract. If reimbursable expenses are encumbered, it is much easier to balance the remaining portion of the contract to the remaining encumbrance. This will also eliminate the need for a separate line on a COFRS payment voucher, as the total payment will be liquidated.
- ♦ Verify that copies of receipts for reimbursable expenses are attached for billings included in the application.
- ♦ Verify the total payment by subtracting the “previous payments” from the total line. This sub-total will equal the amount of expenditure and encumbrance liquidation to be recorded on the payment voucher. It is also the amount of payment to be made.

C. *For payment of certificates for contractor payment:*

- ♦ Determine that the total contract value (TCV) is correct by comparing the “present contract value” to the original encumbrance for the contract plus or minus any modifications for change orders or amendments. If there is a total on the “net change by change orders” line, the change order summary box must be completed.
- ♦ Determine the encumbrance liquidation amount, to be included on the payment voucher, by subtracting the total of the “less previous payments” line and the total of the “less retainage previous payments” line from “total
- ♦ Verify amount of retainage to be held is 10 percent of TCV up to 50 percent of project or 5 percent of total TCV after 50 percent of project is completed.
- ♦ Subtract the “amount of retainage this payment” line from the subtotal calculated above. This calculated amount is the payment amount and will be listed on a COFRS payment voucher header as the document total.

**Step 5:** Access the COFRS start-up screen for data entry and enter the payment voucher header screen.

- ♦ Enter the certificate number, application number, or invoice number in the invoice field.
- ♦ Detailed procedures for recording a payment voucher in COFRS may be found in COFRS User Reference Manual, Volume 3, Chapter 3, Section 3.
- ♦ If the expenditure was encumbered by a transaction input on the extended purchasing system on the COFRS module (EPS), enter the appropriate receiver transaction (RC) and or vendor invoice transaction (VI) to generate the automatic payment voucher. Detailed procedures for using the EPS module may be found in COFRS User Reference Manual, Volume 5, Chapter 4, Section 12.

**Step 6:** Complete the COFRS line screen of the payment voucher.

*A. Payments for which retainage is not held:*

- ♦ Record the encumbrance liquidation portion of the payment by referencing the encumbrance document on the first line of the line screen and entering the amount in the “amount” field. Indicate whether the payment is a partial or total liquidation of the encumbrance by entering a “P” or “F” in the P/F Field.
- ♦ Payments for amounts not encumbered must be recorded on a separate line.

*B. Payments for which retainage is held:*

- ♦ The correct amount of retainage held is computed as follows:
  1. Compute 10 percent of “total amount due to date” line, when this amount is less than 50 percent of TCV;
  2. Compute 5 percent of TCV, when “total amount due to date” is greater than 50 percent of TCV; or
  3. Compute three times the amount of any punch list awaiting completion.
- ♦ Record the encumbrance liquidation portion of the payment by referencing the encumbrance document on the first line of the line screen. Refer to Step 4C for the amount to be entered in the amount field on this line. This line of the payment voucher should be entered as an increase (I) on the

Increase/Decrease field. Indicate whether the payment is a partial or total liquidation of the encumbrance by entering a “P” or “F” in the P/F Field.

- ♦ Record the retainage to be withheld on the second line of the line screen by crediting balance sheet account #2315 and the correct reporting category code for the vendor. This amount is equal to the computation from Step 6B minus any previous retainage withheld. This amount is found on the certificate for contractor payment on the “amount of retainage this payment” line. This line of the payment voucher should be entered as a decrease (D) on the Increase/Decrease field.
- ♦ For automatic payment vouchers generated by the EPS module of CORFS, an additional line.

C. *For payments of retainage:*

Make the payment if you:

- ♦ Verify that a copy of the notice of contractor’s settlement is attached to the certificate for contractor payment.
- ♦ Determine that the advertisement for final payment has been completed in accordance with CRS 38-26-107.
- ♦ Obtain a written certification from the principal representative and project manager that the state agency has not received “verified statements of claims” or “filings of lis pendens” within the ten days following the final date of advertising. The tenth day must end on a scheduled workday or be extended to a scheduled workday. Any claims received within this time period are considered valid, and retainage in the amount of the claim or claims shall not be released to the contractor. Claims are valid for a period of 100 days following the final date of advertising.
- ♦ Obtain written certification for all “verified statement of claims” received within the ten days of the final date of advertisement and determine that a “filing of lis pendens” has not been recorded with the court within 100 days following the final date of advertisement. If a claimant has not filed a lawsuit by this time, the retainage should be released to the contractor after a Certificate of Contractors Payment has been received. Retainage for the amount of these court filings shall not be released to the contractor until notification of settlement or dismissal by the courts is received.
- ♦ Obtain written verification from the principal representative or project manager that the state agency has received a verified release of claim(s).

Amounts equal to the verified release of claims may be released to the contractor.

- ♦ Record the amount of retainage being released on a line of the payment voucher line screen by debiting the balance sheet account #2315 and the correct reporting category code for the vendor.

**Step 7:** Forward an edited payment voucher screen print and attached documentation to the approving authority within your state agency.

**Step 8:** The approver receives and reviews the payment voucher and documentation in the form of an original invoice and/or receiving report, an application for payment, or a certificate for contractor payment.

**Step 9:** A payment voucher may not be approved if any of the following supporting documentation elements are missing:

A. A referenced encumbrance or requisition document on the payment voucher line screen for the amount of the expenditure for all applications for payment of architect/engineer fees, certificates of contractors payments, and invoices over \$3,000 or for payments under \$3,000 that have been encumbered because the regulations of the State Purchasing Division or the state agency purchasing authority require that a purchase order or purchase requisition be prepared.

B. Approving signatures for the following:

1. Invoices may be signed on the actual invoice by the state agency principal representative or project manager of the state agency, or may be accompanied by a receiving report signed by the state agency principal representative or project manager.

2. Applications for payment of architect/engineer fees require signature by the architect/engineer and the principal representative or project manager of the state agency.

3. Certificates for contractor payments.

- ♦ Certificates for contractor payments for a project that does not involve an architect/engineer require these two signatures: The contractor and the principal representative or project manager of the state agency.

- ♦ Certificates for contractor payments, where the services of an architect/engineer are being used, require these three signatures: The

contractor, architect/engineer, and the principal representative or project manager of the state agency.

- C. A separate line on the line screen for balance sheet account #2315 and the correct reporting category for the contractor, whenever retainage is withheld or paid as required.
  - D. Proof of payment by an architect/engineer for reimbursable expenses being paid by the state agency.
  - E. A vendor address on the payment voucher header screen.
  - F. Adequate external documentation supporting the propriety of the expenditure for the following:
    - 1. A payment for which retainage is not held.
      - ♦ An architect/engineer payment application.
      - ♦ An invoice.
    - 2. A payment for which retainage is held.
      - ♦ A certificate of contractor payment.
    - 3. A payment of retained balance.
      - ♦ A copy of the advertising for final payment of a retained balance. Payment can be made no sooner than ten days following the final date of advertising. Payment date must be a scheduled workday. Retainage in the amount of valid claims may not be released, retainage in excess of valid claims may be released.
      - ♦ A written certification from the principal representative and project manager that no “verified statements of claims” or “filings of Lis Pendens” have been received within the 10 days following the date of the advertising.
      - ♦ A written certification from the principal representative and project manager that no notification of “filings of Lis Pendens against the contractor” have been received within the 100 days following the final date of the advertising.
- Step 10:** A payment voucher may not be approved if any of the following conditions exist on the payment voucher:

- A. The fund, agency, and appropriation code are incorrect for the expenditure.
- B. The vendor name on the payment voucher header screen does not match the vendor name on the invoice, the architect/engineer payment application, or the certificate for contractor's payment.
- C. COFRS error codes exist on the payment voucher screen print. No payment voucher may be approved until it has a message on the bottom of the screen stating it is awaiting level 3 approval.
- D. The payment amount is wrong for a payment for which retainage is not held.
  - ♦ The architect/engineer payment application amount or the invoice amount does not match the amount of the payment on the COFRS payment voucher header screen.
  - ♦ The additions and subtractions on the architect/engineer payment application are incorrect.
  - ♦ The total of the "fees authorized" column of the architect/engineer application for payment does not equal the current encumbrance balance in the sub-project for the contract in the COFRS project accounting module. Total fees authorized = original contract encumbrance + supplements + amendments + change orders + reimbursables (if reimbursables are encumbered by the state agency).
  - ♦ The "less previous applications amount" on the architect/engineer payment application does not equal the expenditures amount in the sub-project for the contract in the COFRS project accounting module.
- E. The payment amount is wrong for a payment for which retainage is held.
  - 1. The "total retainage to date" amount recorded on the certificate for contractor payment does not equal the following:
    - ♦ 10 percent of "total amount due to date" line, when this amount is less than 50 percent of TCV.
    - ♦ 5 percent of TCV, when "total amount due to date" is greater than 50 percent of TCV.
    - ♦ Three times the amount of any punch list awaiting completion.

2. The additions and subtractions on the architect/engineer payment application are incorrect.
3. The amount due this period does not equal the amount entered on the COFRS payment voucher header screen.
4. The “less previous payment” amount on the certificate for contractor payment does not equal the expenditures amount in the sub-project for the contract in the COFRS project accounting module.

**Step 11:** If all above conditions are met, apply level 3 approval and schedule the payment voucher for processing.

**SECTION 4**  
**PROCESSING A SUB-CONTRACTORS OR**  
**SUPPLIERS CLAIM MADE AGAINST A CAPITAL**  
**CONSTRUCTION PROJECT**

PURPOSE:

The purpose of this procedure is to provide guidance for state agency personnel when claims are filed by sub-contractor's and suppliers against a capital construction project. There are statutes that must be adhered to when processing these claims. These procedures will ensure compliance with those statutes.

DEFINITIONS:

See Chapter 1, Section 2.

ACCOUNTING/FISCAL ADMINISTRATIVE REQUIREMENTS:

- ♦ Valid claims, verified statement of claims and lis pendens filings must be honored by state agencies.
- ♦ All project contracts that require the withholding of retainage must be advertised before final settlement, final payment/release of retainage.
- ♦ All project contract payments are made only to the general contractor unless a court order states otherwise or the contractor has assigned payment to another entity.
- ♦ A separate liability account using balance sheet account #2315 and a reporting category code must be established for each valid claim made against a capital construction project.

PROCEDURAL FOCUS:

In order for state agencies to process claims made against capital construction projects they will need to reference and understand CRS 38-26-107.

CRS 38-26-107 has the following three sections:

- ♦ Section 1 - Who may file a claim and when claims may be filed.
- ♦ Section 2 - Time period that a valid claim is honored and what actions can be taken to extend that time limit.

- ♦ Section 3 - Actions to be taken once the time limit in section 2 has expired.

All of these sections are addressed in the following procedural steps.

PROCEDURAL STEPS:

- Step 1:** Receive and log-in by date received all claims and lis pendens filed by suppliers and sub-contractors.
- Step 2:** Determine whether claims are valid. Claims may be filed at any time up to and including the time of final settlement date for the work performed or materials supplied. A court of law may determine that a postmark is considered as adequate evidence of timely filing for this purpose.
- Step 3:** Determine the amount of the claim and the specific contract that this claim has been filed against.
- Step 4:** Determine the timeframe for which the claim will be valid. Funds held for verified statements of claims shall not be withheld longer than ninety days following the date fixed for final settlement as published unless a legal action is commenced within that time to enforce such unpaid claim and a notice of lis pendens is filed with the state agency. At the expiration of the ninety day period, the state agency shall pay the contractor such moneys as are not the subject of suit and lis pendens notices and shall retain thereafter, subject to the final outcome thereof, only sufficient funds to insure the payment of judgments which may result from such suit.
- Step 5:** Process a journal voucher to record the liability for the claim in the balance sheet account #2315 and claim retainage reporting category code if your state agency has set up a code for the claimant. Procedures for recording a journal voucher in COFRS can be found in the COFRS User Reference Manual, Volume 1, Chapter 8, Section 1, Page 1. Procedures for establishing a claim retainage reporting category code are in Section 1 of this Chapter 7.
- ♦ For contracts that have a reporting category for retainage, debit the contract or reporting category and credit the reporting category established for the claimant using balance sheet account #2315. The maximum liability, which can be recorded for the claim, is the sum of the amount of available retainage withheld and any encumbered balance.
  - ♦ For contracts that have no retainage withheld, the contract encumbrance should be decreased by the amount of the claim and a journal processed to debit the expenditure and credit balance sheet account #2315 and the claims retainage

reporting category code. The maximum liability which can be recorded for the claim is the contract's remaining encumbered balance.

**Step 6:** Settlement of claims and release of retainage.

- ♦ Upon receipt of a verified statement of release of claim and after the final settlement date, a payment voucher may be processed for the general contractor by debiting the balance sheet account #2315 and the claim retainage reporting category code.
- ♦ Upon receipt of a court order, a payment voucher may be processed for the judgment by debiting the balance sheet account #2315 and the claim retainage reporting category code.
- ♦ After a period of ninety days following the published settlement date, a payment voucher may be processed for the general contractor for all amounts that are not the subject of suits and lis pendens notices.

**SECTION 5**  
**APPROPRIATE OBJECT OF EXPENDITURE CODES FOR**  
**CAPITAL CONSTRUCTION EXPENDITURES**

ACCOUNTING/FISCAL ADMINISTRATIVE REQUIREMENTS:

The following list of object codes are appropriate for state agencies and institutions to use for planning and charging capital construction and controlled maintenance projects funded from the state's capital construction fund. These object codes are in conformance with the statutory definition of capital construction included in Section 24-30-1301 CRS. Further, use of these object codes will ensure consistency among state agencies and institutions in charging expenditures on capital construction projects. This list of object codes should cover the majority of transactions state agencies and institutions will normally need to record expenditures of capital construction projects. In limited instances other object codes may be appropriate for use by state agencies and institutions. However, an explanation may be required if other object codes are used.

The State Controller's Office will monitor the use of these object codes in Fund 461 on a monthly and quarterly basis through the use of the "Abnormal Balances" diagnostic report.

Each set of object codes is followed by a general description of their use for capital construction purposes.

1910 PURCHASED SERVICES - PERSONAL SERVICES  
1920 PURCHASED SERVICES - PROFESSIONAL  
1930 PURCHASED SERVICE - TECHNICAL

As a general rule, object codes 19XX are to be used to record expenditures of independent consulting contractors (Part 14 of Article 30 Title 24, CRS).

2210 OTHER MAINTENANCE/REPAIR SVCS  
2220 BLDG MAINTENANCE/REPAIR SVCS  
2230 EQUIP MAINTENANCE REPAIR SVCS  
3126 REPAIR & MAINTENANCE SUPPLIES

Object codes 22xx and 3126 are generally used for state controlled maintenance projects.

2310 OTHER CONSTRUCTION SVCS  
2311 CONSTRUCTION CONTRACTOR SVCS  
2312 CONSTRUCTION CONSULTANT SVCS

Object codes 23xx are used for general contractor construction services.

2253 RENTAL OF EQUIPMENT  
2610 ADVERTISING  
2810 FREIGHT  
2820 OTHER PURCHASED SERVICES  
3128 NONCAPITALIZED EQUIPMENT  
4200 PURCHASE DISCOUNTS

These object codes are self explanatory and should be used as appropriate. Object code 2610 should be used for advertising related to the project (e.g., bid awards, end-of-project notifications). Rental of equipment is related to the rental of construction equipment required to complete a project.

61xx CAPITAL PROPERTY - DIRECT PURCH  
62xx PERSONAL PROPERTY - DIRECT PURCH  
63xx CAPITAL PROPERTY-LEASE PURCHASE

Object codes 61xx and 62xx are used for the direct purchase of capital equipment. Object codes 63xx should only be used for projects that have been approved for lease purchases.

The following types of expenditures are not appropriate and should not be charged to a capital construction/controlled maintenance project funded from the state capital construction fund:

- ♦ Personal Services including classified civil service employees and exempt contract employees
- ♦ All administrative expenditures including but not limited to travel, postage, telephone and fax, printing and reproduction

These expenditures should be charged to the state agency or institution's annual operating budget. In addition, state agencies and institutions should refer to OSPB's Information Technology Policy for additional requirements related to Information Technology projects. If you have any questions on the appropriateness of an expenditure please refer to the State Controller's External Policy Memorandum 1-97 or contact your OSPB analyst or SCO accounting specialist.