

Rule No.: 941 - 7401 - 06000

Agency: Mississippi Department of Transportation

Agency Effective Date: May 15, 2005

Agency Issued Date: March 8, 2005

Secretary of State Authority Date: May 15, 2005

Supercedes Rule:

Division: Contract Administration

Rule Title: Prompt Payment

The person to be contacted regarding the Proposed Rule is: Facility and Records Management Director

Name of person originating the proposed rule: Neal Dougherty

Name of supervisor or person who approved the proposed rule: B. B. House, P. E.

Purpose:

The purpose of this rule is to establish a rule the contractor must adhere to when payment to a subcontractor is required.

Summary:

The rule conforms to the Mississippi Code of 1972 as amended and the Mississippi Standard Specifications for Road and Bridge Construction as amended.

The full text of the proposed rule is:

All cites herein refer to the most current version of the cited document.

When a contractor receives any payment under a public construction contract, the contractor shall upon receipt of that payment, pay each subcontractor and material supplier in proportion to the percentage of work completed by each subcontractor and material supplier. If for any reason the contractor receives less than the full payment due under the public construction contract, the contractor shall be obligated to disburse on a pro rata basis those funds received, with the contractor, subcontractors and material suppliers each receiving a prorated portion based on the amount due on the payment. If the contractor, without reasonable cause, fails to make any payment to his subcontractors and material suppliers within fifteen (15) days after the receipt of payment under the public construction contract, the contractor shall pay to his subcontractors and material suppliers, in addition to the payment due them, a penalty in the amount of one-half of one percent (1/2 of 1%) per day of the delinquency, calculated from the expiration of the 15-day period until fully paid. The total penalty shall not exceed fifteen percent (15%) of the outstanding balance. Such is supported in Section 31-5-27 of the *Mississippi Code of 1972 as amended*, Section 108.01.1 of the Mississippi Standard Specifications for Road and Bridge Construction as amended. Should the contractor fail to comply then Section 109.06.4 of the *Mississippi Standard Specifications for Road and Bridge Construction as amended* may govern as applicable.

Electronic links to all materials referenced (manuals, laws, regulations, etc.) relative to the Administrative Procedures Act Rules for the Contract Administration Division may be accessed via the department's internet website as follows:

<http://www.gomdot.com>