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PROMPT PAYMENT LAWS FOR SMALL AND MINORITY-OWNED BUSINESSES

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You asked whether any states have laws that require (1) public agencies to pay minority-owned or small state contractors earlier than other state contractors or (2) state contractors to pay small or minority-owned subcontractors more quickly than other subcontractors.

While most states (including Connecticut) have laws that set deadlines for payments to state contractors and subcontractors (often known as prompt payment laws- see BACKGROUND), we did not find any that base these deadlines on whether the contractor or subcontractor is small or minority-owned.

However, we found one state, California, where the law penalizes late payments by the state differently based on the type of contractor that is receiving the payment. Specifically, California law requires the state to pay a higher penalty for late payments to a certified small business, nonprofit organization whose contract is less than \$500,000, nonprofit public benefit corporation, or small business or nonprofit organization that provides services or equipment under the Medi-Cal program. For these contractors, the penalty rate is 10% above the U.S. prime rate on June 30 of the prior fiscal year (3.25% for FY 13). The penalty is waived if it is \$10 or less. For late payments to other contractors, the penalty rate is 1% above the state's Pooled Money Investment Account daily rate on June 30 of the prior fiscal year (0.307% for FY 13), not to exceed a rate of 15%. The penalty is waived if it is \$100 or less (Cal. Government Code §§ 927.6 and 927.7).

BACKGROUND

Prompt Payment Laws

Generally, prompt-payment laws set out a schedule within which contracting agencies must pay state contractors and these contractors must in turn pay subcontractors. These laws also include remedies for contractors and subcontractors that are not paid according to the schedule. The remedies often include interest on the amount owed, beginning on the date payment was due and, for those contractors and subcontractors who are successful in civil actions for payment, attorneys' fees.

In Connecticut, for example, payments by state agencies are due either on the date specified in the contract or, if no date is specified, within 45 days of a properly completed claim or receipt of services, whichever is later. The state must pay interest on late payments at a rate equal to the monthly effective yield for the state's Short Term Investment Fund (.07% for September 2013) ([CGS §§ 4a-71 to 4a-73](#)). State contractors must pay subcontractors within 30 days of receiving payment from the state and, if the payment is for a project that requires a payment bond, are liable for late payments at a rate of 1% per month ([CGS §§ 49-41a and -41c](#)).

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