

2019 Consultant & Construction Contractor Symposium

City of Austin





CIP Construction Pay Process & Claims

Presenters:

Jessica Salinas, Project Manager Supervisor – Public Works Department

Project Management Division

Felecia Shaw, Business Process Consultant Sr. – Capital Contracting Office

Support Services Division

Training Objectives

This session will cover:

- **Construction Pay Application process**
- **Prompt Pay Program & schedule**
- **City Project Manager's role in reviewing pay applications**
- **Statute 2253 governing public works performance & payment bonds**
- **Requirements for initiating a claim**
- **Critical timelines associated with claim process**



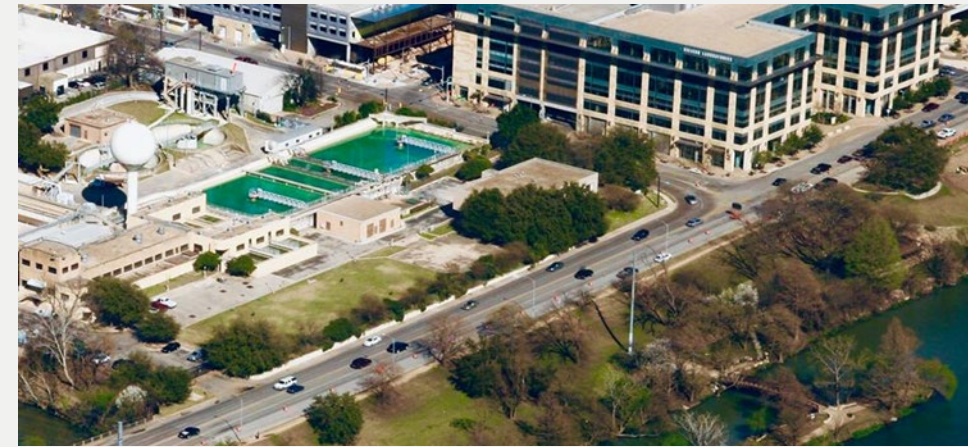
Payment Applications

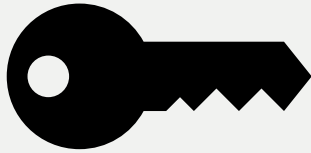
Unit Price Contract
Lump Sum Contract



Prompt Pay Program

- Contractor's shall submit to the Owner's Representative a complete, correct, and approved application for payment with all supporting documentation.
- Prompt Payment process is approximately 10-15 working days
- Project Manager's Due Dates are typically 1st & 3rd Monday of the month
- Automated Clearing House (ACH) process is a 4 day turnaround and requires the vendor to register bank info with VendorReg@austintexas.gov
- Checks are mailed to "payment address" (no pickup)





Project Manager's Review Of Pay Application

- Verify Cover Sheet includes accurate contract (CT) number, Vendor name, Vendor code and "Payment" address
- The contract # on the cover sheet needs to match the recap sheet
- Pay application cover sheet cannot be revised with markups, written notations, or white-out, only signatures
- Invoice date must be within 31 days or it will be returned for correction and new signatures
- The Estimated Period Date range must be sequential days and correct year
- Verify funding sources (FDU) are accurate and coincide with eCapris
 - Ensure any Change Order funding is encumbered before inclusion in payment application
- Ensure monthly Sub-K is included with pay application
 - All subs must be in the compliance plan and if not, submit Request for Change (RFC) form before payment can be processed
- Errors will cause payment delays and may require resubmitting pay application

Pay Application Cover Sheet Example

PROJECT NAME: Austin Civil Project

SPONSOR DEPT: Austin Water

FDU(s): 5678 78956 1235

CONTRACTOR:
ADDRESS: ATX Corp.
567 First Street, Austin, TX 78701

VENDOR
CODE: ATX345 CIP ID No.: 1234.567 CT No.: 6100 123456789 DATE: 9/18/2019

ORIGINAL CONTRACT PRICE: \$1,220,000.00 Estimate No.: 1

CHANGE ORDER TOTAL: \$0.00 Page: 1 of 6

ADJUSTED CONTRACT PRICE: \$1,220,000.00

ESTIMATE PERIOD FROM: 2/20/2018 TO: 3/21/2018

TOTAL DUE FOR WORK DONE \$145,275.00

ALLOWED FOR MATERIALS ON HAND \$0.00

SUB-TOTAL \$145,275.00

LESS 5% RETAINED \$7,263.75

SUB-TOTAL \$138,011.25

LESS CUMULATIVE DEDUCTIONS \$0.00

AMOUNT DUE TO DATE \$138,011.25

LESS PREVIOUS PAYMENTS \$0.00

AMOUNT DUE THIS ESTIMATE \$138,011.25

SIGNATURES

Payment Timetable

10 days prior to Prompt Pay deadline	Contractor submits pay application to Owner's Rep/Inspector
Wednesday before Prompt Pay deadline	Owner's Rep/Inspector submits pay application to Project Manager
9 am on Prompt Pay due date	Project Manager submits pay application to PWD Accounts Payable
Same day	PWD Accounts Payable enters payment into financial system and e-sends to City's Controller's office
Within 1-3 days	Controller's offices issues check or electronic (EFT) payment to Contractor

NOTE: There are occasions when different schedules are necessary to accommodate holidays and other factors.

Example:

Contractor's Application Submittal Dates	Project Manager's Pay Processing Dates
10/11/2019 Fri	10/21/2019 Mon

Checking Payment Status

- www.austintexas.gov/financeonline/finance



AUSTIN FINANCE ONLINE

Sign In

Create Account

FINANCIAL DOCUMENTS

STRATEGIC PLAN

CHECKBOOK

UNCLAIMED PROPERTY

PROCUREMENT

HOTEL/STR

Rectangular Snip



Financial Documents

Find all financial documents, reports, and additional information that Financial Services provides.



Strategic Plan

Browse our six priority Outcomes in Austin Strategic Direction 2023.



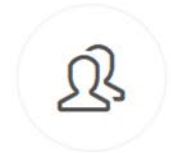
Checkbook

The data in the Checkbook represents purchases of goods and services made by City departments from third parties. Checkbook does include ACH, wire, and check activity. Checkbook does not include employee payroll data.



Procurement

View detailed information about current business opportunities with the City of Austin. Subscribe to solicitations and download solicitation documents. Vendors may also register to be notified of any new business opportunities based on commodity codes that they select.



Hotels & Short Term Rentals

Create an account to file / pay Hotel Occupancy Taxes and request / renew an Operating License for a Hotel / Short Term Rental property.

Payment Bond Claims

Texas Government Code 2253

2253.021 - A governmental entity that makes a public work contract with a Prime Contractor **SHALL** require the contractor, to execute to the governmental entity a PAYMENT BOND, if the contract exceeds \$50,000 and the entity is a municipality.

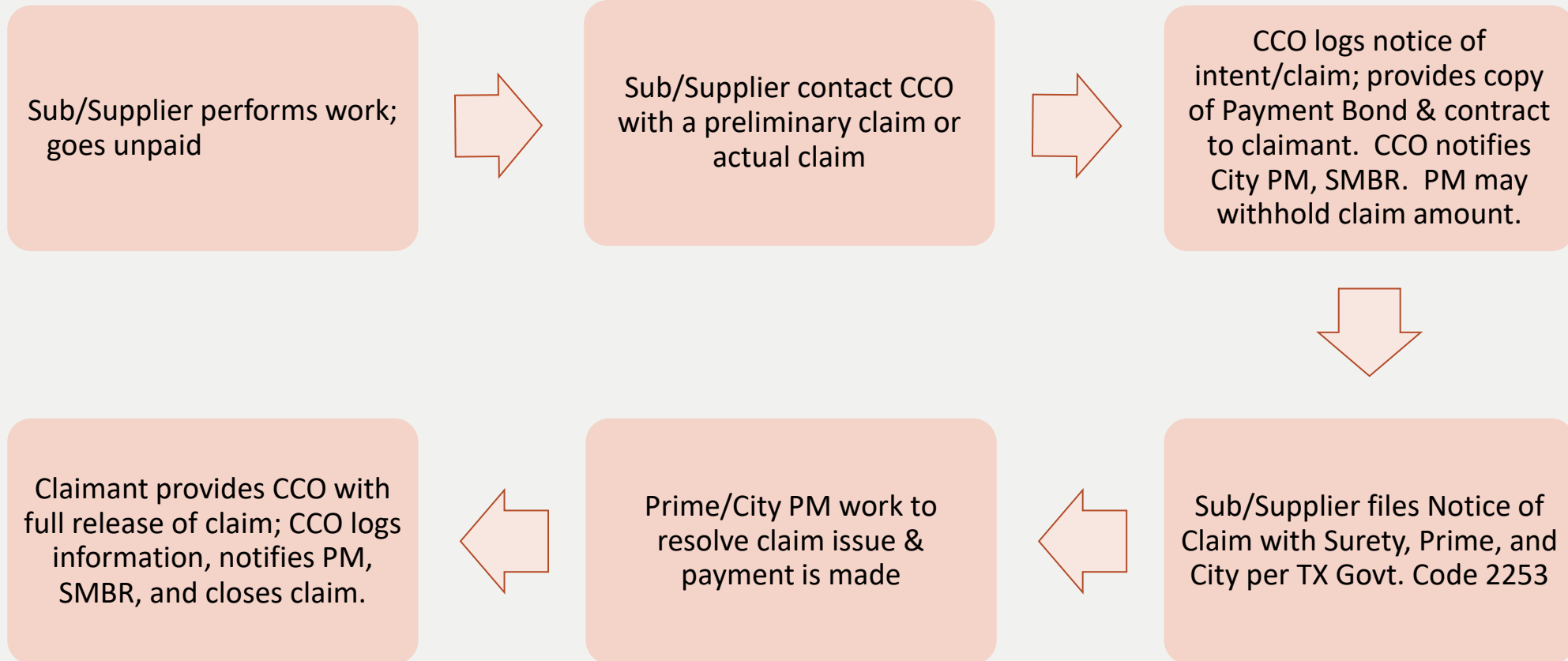
The payment bond is:

- (1) **solely for the protection and use of payment bond beneficiaries** who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material; and
- (2) in the amount of the contract.



A payment bond guarantees the owner that subcontractors and suppliers will be paid the monies that they are due; and will continue performance.

Payment Bond Claim Process

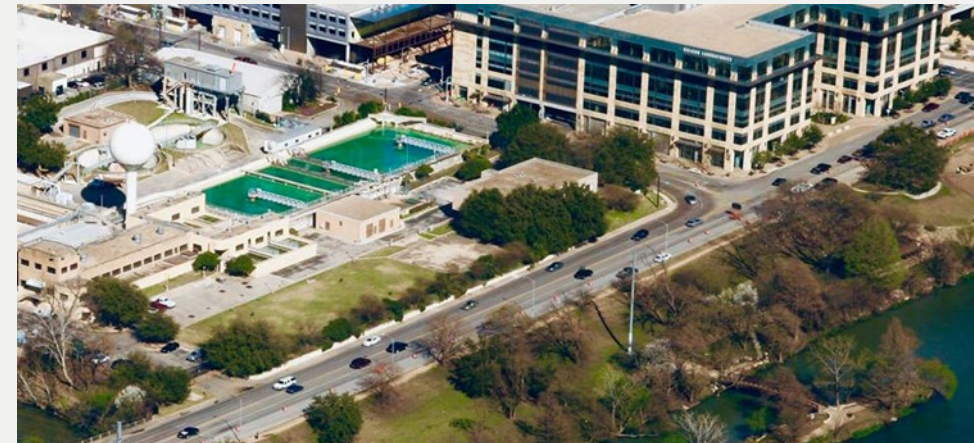


Requesting a Payment Bond

Claimants may request and receive copy of the payment bond from:

- Prime Contractor
- Subcontractor
- City Staff
 - Project Manager, or
 - CCO SPOC – Celia Campos-Ortiz (Celia.Campos-Ortiz@austintexas.gov)
(512) 974-2870

NOTE: Claimant MUST receive information within a reasonable time, but no later than the 10th day after receipt of written request.



Notice Requirements

2253.041

- Notification within the appropriate time is CRITICAL to ensuring the ability to file a claim and receiving payment against the bond.
- A claim by “subcontractor” MUST meet the requirements of Chapter 2253
- You may loose your claim against the bond if you fail to meet ALL of the notice requirements.



Notice Requirements

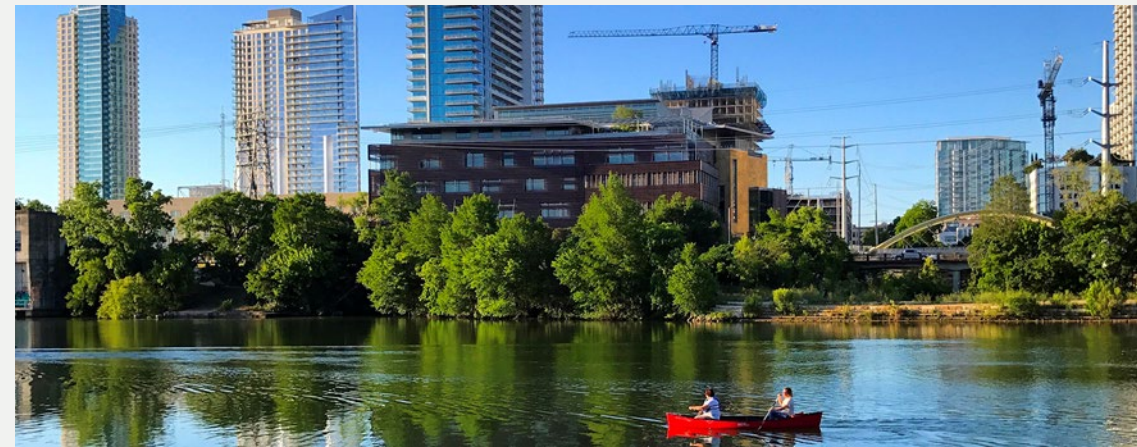
2253.041 & 2253.048

1. A payment bond beneficiary (sub or supplier) **MUST** mail **to the Prime and Surety** **written notice** of the claim. You will also want to notify the City of Austin
2. The notice **MUST** be mailed **on or before the 15th day of the third month after each month** in which any of the claimed labor was performed or any of the claimed materials was delivered. (***second month, if there is no direct contractual relationship with the prime contractor*)
3. A notice is required by Chapter 2253 **MUST** be sent via certified or registered mail.

Sworn Statement of Account 2253.041

The written notice must also be accompanied by a sworn statement of account that includes:

- The amount claimed is just and correct;
- All just lawful offsets, payments, and claims known have been allowed; and
- Includes the total contract amount claimed, plus retainage that applies to the account that has not become due under the terms of the public work contract



Your Payment Bond Claim Rights

- It is fine to send preliminary payment bond claim notices. This often keeps an emphasis your invoices and prioritizes your debt with the Prime.
- If your payment slips, filing a notice is the fastest way to grab someone's attention and assert leverage to get your debt paid.
- Don't fear filing a notice; millions of preliminary notices are sent on a monthly basis.
- Know your rights and responsibilities under 2253.



Going Beyond the Claim

In the event you have filed a claim and surety refuses to pay the bond claim, a suit against the surety and the prime contractor must be initiated:

- No sooner than 61 days after the notice of claim
- No later than 1 year after the date of mailing the notice of claim

(TX Govt Code 2253.073 & 078)



Questions?



Contact Information

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Thank You

