

(6) If, at the completion of the second meeting, the representative of the unit determines that the contractor continues to be delinquent in payments owed to the subcontractor, the representative:

(i) shall order that further payments to the contractor not be processed until payment to the subcontractor is verified;

(ii) may order that work under the contract be suspended based on the failure of the contractor to meet obligations under the contract; and

(iii) subject to paragraph (7) of this subsection, may require that the contractor pay a penalty to the subcontractor, in an amount not exceeding \$100 per day, from the date that payment was required under subsection (e)(2) of this section.

(7) A penalty may not be imposed under paragraph (6)(iii) of this subsection for any period that the representative of the unit determines the subcontractor was not diligent in reporting nonpayment to the procurement officer.

(g) (1) A contractor or a subcontractor may appeal a decision under subsection (f)(6) of this section to the procurement officer.

(2) The contractor shall comply with the procurement officer's decision.

(h) An act, failure to act, or decision of a procurement officer or a representative of a unit concerning a payment dispute between a contractor and subcontractor OR BETWEEN SUBCONTRACTORS under this section may not:

(1) affect the rights of the contracting parties under any other provision of law;

(2) be used as evidence on the merits of a dispute between the unit and the contractor or the contractor and subcontractor in any other proceeding; or

(3) result in liability against or prejudice the rights of the unit.

(i) A decision of a procurement officer or a representative of the unit designated by the procurement officer under this section is not subject to judicial review or the provisions of Part III of this subtitle.

(j) (1) A UNIT SHALL INCLUDE IN EACH STATE PROCUREMENT CONTRACT FOR CONSTRUCTION A PROVISION:

(I) GOVERNING PROMPT PAYMENT TO SUBCONTRACTORS; AND

(II) REQUIRING INCLUSION OF A SIMILAR PROVISION IN EACH SUBCONTRACT AT ANY TIER.

(2) THE CONTRACT PROVISION SHALL ESTABLISH PROCEDURES AND REMEDIES FOR THE RESOLUTION OF PAYMENT DISPUTES SIMILAR TO THE PROCESS AND REMEDIES PRESCRIBED IN SUBSECTIONS (C) THROUGH (G) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any contracts entered into before the effective date of this Act.