

SUBSTANTIALLY COMPLETE PROJECT

Under Chapter 38, a project is now considered “substantially complete” on the first day any one of the following occurs:

- a. Completion of the project, or when the work on the project has been substantially completed in general accordance with the terms and provisions of the contract and specifications.
- b. The work on the project or on the designated portion is substantially complete in general accordance with the terms of the contract and specifications so that the school district can occupy or utilize the project or designated portion of the project for its intended purpose.
- c. The work is certified as substantially complete by either the architect or engineer; or the authorized contract representative.
- d. The school district is occupying or utilizing the project for its intended purpose.
- e. The New Connection between Substantial Completion and the Project’s Retainage: Under Iowa’s former competitive bidding law, school districts would typically not release a contractor’s retention until the project was totally complete, even if the remaining work was minor. Now, under Chapter 38, once the project is substantially complete a contractor may request the release of all or part of the retainage funds being held on the project. The contractor’s request for release of the retainage funds shall be accompanied by a sworn statement that ten (10) calendar days prior to filing the request for release of the funds a notice was given to all known subcontractors, sub-subcontractors and suppliers that the contractor was requesting the early release of retainage funds.

If proper documentation is received from the contractor, the school district must release all the retainage funds at the next monthly school board meeting or within thirty (30) days, whichever is less, except it may retain the following:

- a. An amount equal to 200% of the value of labor or materials yet to be provided on the project as determined by the authorized contract representative. The authorized contract representative is the person chosen by the school to represent its interests, or the person or entity designated in the contract documents to represent the interests of the school.
- b. Double the amount of any 573 claims currently on file at the time the request for release of retainage is received. If the school district withholds an amount from the retainage payment to the contractor, the school district must provide an itemization or the reason the request is being denied to the contractor within thirty (30) calendar days of the receipt of the request.

ADOPTED: 4/5/07

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