



American Subcontractors Association, Inc.

Subcontractor's Negotiating Tip Sheet

Retainage for Sub Is More than for GC

Sample Language

ASA Recommends:

"Customer shall not deduct retainage from Subcontractor's payments except to the extent of retainage held by project owner on Subcontractor's work."

What You May See in the Wild:

"The General Contractor shall retain ten percent of the amount of each progress payment to the Subcontractor."

Impact on the Subcontractor

- The GC may have a disincentive to complete the project if it is retaining more from its subs than the owner retained from it.
- The subcontractor's cash flow may be severely reduced, too often even below its profit margin on the job.

Negotiating Tips

When the GC Says: "It's really none of your business how much the owner retains."

The Sub Should Say: "If the owner felt that we were not entitled to payment, he wouldn't have released the funds for our work."

When the GC Says: "Ten percent retainage is standard industry practice."

The Sub Should Say: "That may have been true a generation ago. But today, industry leaders like ConsensusDocs and even the federal government and many states prohibit GCs from retaining more from their subs than the owner is retaining from the GC."

Additional Resources:

ASA Subcontract Addendum (2011), ¶ 6. Available to ASA members at www.ASAonline.com.

Retainage Laws in the 50 States (2013). Available to ASA members at www.ASAonline.com.

Eliminating or Limiting Retainage (2009). Available to ASA members at www.ASAonline.com.

ConsensusDocs Form 750, Standard Agreement Between Constructor and Subcontractor (2012), ¶ 8.2.2. Available at www.ConsensusDocs.org; ASA members can get a 20 percent discount by entering ASA100.

American Institute of Architects *Form A401, Standard Form of Agreement Between Contractor and Subcontractor (2007)*, ¶ 11.7.1. Available at www.aia.org/contractdocs/.

Guidelines for a Successful Construction Project (2008), "Guideline on Retainage." Available at www.ConstructionGuidelines.org.