

OSE Tip of the Day
Retainage of Construction Funds
March 2, 2020

First, a slight correction on last week's Tip of the Day. Land surveying provides a document that does not involve construction. It is a recording of existing conditions; therefore, an SE-235 for incidental services would be used.

Can we talk about the retainage of construction funds? SC Law § 11-35-3030(4)(a) clearly sets a maximum amount that can be retained in a state construction contract that provides for progress payments based on estimated percentage of completion. The maximum percentage that can be retained from each progress payment by the State or a general contractor pending completion of a contract or subcontract is 3-1/2%.

In most of our projects, a Schedule of Values is used to account for the various divisions of subcontracted work. SC Law § 11-35-3030(4)(b) notes that as each division of the work is certified as having been completed, that portion of the retained funds allocable to the completed division must be released within ten (10) days of receipt. For example, if the concrete foundations are a division of work on the Schedule of Values and have been installed and certified complete, the Agency should pay the remaining portion of that division including any amount that was previous retained.