



**The “Nine Commandments” for Getting Paid;
Thou Shalt . . .**

1. If the Registrar of Contractors requires you to have a contractor’s license, obtain the applicable license and do not enter into contract until the license is in good standing (in Arizona, failure to have such a license may prevent you from suing for amounts owed);
2. Have a written contract sufficient to addresses reasonably anticipated complexities of the project. At a minimum, the contract should reasonably describe the **work** and/or **materials** to be furnished, **price** (or terms addressing how price is calculated), **payment terms**, **timeframes** for performance, and liability for **interest and costs** of collection;
 - In AZ, if you furnish labor/materials to an “owner-occupied dwelling,” you must have a written contract signed by the owner-occupant in order to preserve lien rights;
 - Make all contract modifications in writing and signed by all necessary parties (*i.e.*, change orders, extras, subsequent waivers of finance charges, etc.);
3. Be aware of pay-when-paid / pay-if-paid contract provisions. Despite popular belief, such clauses may still be enforceable in Arizona (shared risk / payment source identified);
4. Utilize, but be careful with, joint checks and joint check agreements;
5. Consider ROC “prompt pay,” “no-pay,” or license bond complaint, but be wary the two sides of this sword (*i.e.*, “ROC domino effect” – ROC inspector may err in contract interpretation, subjective evaluation of workmanship, or application of ROC’s statutes, rules and regulations, but ALJ/OAH will still often side with the inspector’s position, then submits a recommended decision to ROC which, in turn, typically adopts decision as final);
6. Preserve ability to leverage payment through lien, stop notice, and bond claim rights;
 - Timely prepare and serve preliminary lien notices on all projects of significant value;
 - Pay attention to recipient addresses and the estimated amount stated in the prelim (in AZ, you cannot lien for more than 120% of the stated estimate);
 - Do not sign an unconditional waiver and release unless cash or a cash equivalent is in hand for the amount indicated in the waiver and release through the date indicated;
 - Pay attention to the date indicated in the waiver and release and whether the waiver is on “final payment” or “progress payment”;
 - “Perfect” and enforce your lien, stop notice, and bond rights before statutory deadlines run (consult an attorney knowledgeable in determining these deadlines);



7. Document, document, document;
 - Maintain good business records and store them in an orderly, retrievable fashion;
 - Keep a written record of potential issues and problems (*i.e.*, keep notes and write letters addressing issues and problems, and, if time allows, make reasonable, non-inflammatory written requests for payment before initiating heavy-handed tactics)
8. Utilize legal counsel well before litigation becomes the only alternative;
9. Learn the statutes, rules, and regulations in your jurisdiction which may provide unique and powerful payment remedies (*e.g.*, AZ has specific statutes governing payment rights and remedies, including mechanics' liens, payment bonds, stop notices, "prompt payment," and suspension/termination of performance).