



Construction Industry Round Table

Regulatory News

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2/24/09 – 3 Percent Withholding Provision Moves to Rulemaking

With the last minute exclusion of a provision in the “stimulus bill” (H.R. 1) to delay or rescind the 3 percent withholding requirement, attention has switched back to the regulatory rulemaking process. The Government Withholding Relief Coalition (which CIRT is a member) will be submitting a comprehensive joint comment to the IRS about this rule by the March 5, 2009 deadline. If interested, firms should also consider doing the same – although it is not within the IRS’s power to ignore or to not implement the law – even though it appears it does understand the difficulties such a provision will create for both contractors and government entities (state and local). CIRT members may like to point out the problems inherent in the new law when compared to: (1) retainage rules, and (2) FAR requirements for prompt payment to subcontractors. It is reasonable to ask IRS how it will conform the new rule to these contract requirements – and if a contract is under these regiments would it be a “safe harbor” or a regulatory exception to the 3% withholding requirement?