



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(RESEARCH, DEVELOPMENT AND ACQUISITION)
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

DEC 18 2008

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Contract Financing and Payment

Encl: (1) USD(AT&L) memo of December 11, 2008

Enclosure (1) results from recent feedback of Defense contractors on the effect of the shrinking credit markets and is forwarded for your information and action, as appropriate. This memorandum emphasizes the need to be vigilant and proactive in addressing contract financing and payment matters early in the formation of a contract and throughout contract performance and closeout.

Contracting officers can take certain actions to ease the burden on contractors resulting from contract financing needs. Of utmost importance is the need to ensure that our contractors receive timely contract payments. Likewise, encourage our prime contractors to pay particular attention to their obligations in making timely payment to their subcontractors or suppliers. Make contract financing and payment decisions early in the acquisition process to mitigate the need for additional consideration and administrative effort after contract award. Consider adding contract financing as an area of discussion during market research efforts before deciding on the type of contract payment or financing clause that would apply to a requirement. Where appropriate, structure contracts to allow payments for partial delivery of supplies or partial performance of services. Finally, respond promptly to requests from contractors or their financial institutions for information on contracting officer authority or limitations.

As public stewards, we must demonstrate a true commitment to fairness and responsiveness in performing our duties while protecting the U.S. Government's interests. Please disseminate this memorandum to your contracting staff and others, as appropriate. My point of contact for this memorandum is Evelyn Ortiz who is available by telephone at (703) 614-9640 or email at evelyn.ortiz@navy.mil.


M. F. Jaggard
Chief of Staff/Policy
for DASN(A&LM)

Distribution: (see page 2)

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ACQUISITION,
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THE UNDER SECRETARY OF DEFENSE
3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

DEC 11 2008

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
(ATTN: ACQUISITION EXECUTIVES)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Contract Financing and Payment

At a recent National Defense Industry Association event, representatives from several DoD contractors expressed concern over the difficulties experienced or anticipated due to the tightening credit markets. As a result, I would like to: encourage the proper use of progress payments and other financing methods; stress the increased importance of timely payments to our contractors; and remind our contractors of their obligations to make timely payments to their subcontractors and suppliers.

The Department can help contractors reduce the need for contract financing by making timely payments and by providing payments for partial delivery of supplies or partial performance of services. This is encouraged in FAR 32.906(c)(1), which reads, "Contracting officers must, where the nature of the work permits, write contract statements of work and pricing arrangements that allow contractors to deliver and receive invoice payments for discrete portions of work as soon as completed and found acceptable by the Government."

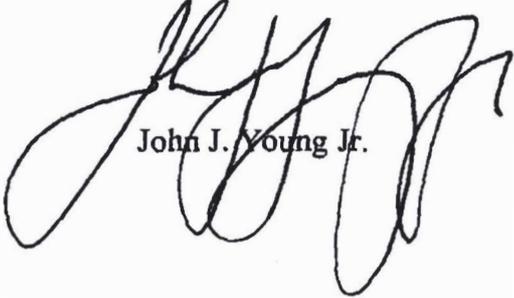
In addition, FAR 32.005 requires no separate consideration for any contract financing clause when it is included at contract inception. However, adequate new consideration is required for changes to, or the addition of, contract financing after award. Hence, planning for the type of contract payments or financing early on can avoid additional administrative effort later. One method that contracting officers may use to aid them in their decisions to include financing clauses at contract inception is to include contract financing as a subject of their market research, as described in FAR 10.001(a)(3)(iv).

During administration of contract performance under progress payments, FAR 32.503-6(e) and FAR 32.112 provide the conditions under which prime contractors are expected to cure payment delinquencies, avoid further payment delinquencies, and make timely payments to subcontractors and suppliers. Attention and rapid response to evidence that a prime contractor is delinquent in paying undisputed amounts claimed by its subcontractors is an important part of post-award contract management. In addition, if a contractor or its financial institution requests a contracting officer to provide the limits of his or her contracting authority to support the contractors commercial financing efforts, please readily and quickly provide such documentation, as required by FAR 1.602-1.



ENCLOSURE(1)

By being vigilant and proactive in contract financing and payment matters from contract inception to closeout, the Department will remain a fair and considerate partner to industry while serving the best interests of the U.S. Government. My point of contact is Mr. Al Saletta at 703-602-0289 or Alfred.Saletta@osd.mil.



John J. Young Jr.