

**Progress Payments based
on Cost**
Brief Overview and Insight

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Contractor Update 5/15/2108

DISCLAIMER: The views expressed are not necessarily representative of DCMA. I am here to present on behalf of NCMA, Wisconsin Chapter. Although much of the information contained within is public knowledge, any opinions expressed are those of the presenter alone. If you have any questions, feel free to contact Jason Rath sack at visn12jr@gmail.com

Agenda

- A. Intro to Financing**
- B. Pre-Award Steps**
- C. Post Award Setup**
- D. Technical Oversight**
- E. Progress Payment Requests and Review**
- F. Administration**

Contract Financing – What is it?

Invoice Payment, means a Government disbursement of monies to a contractor under a contract or other authorization for supplies or services accepted by the Government.

Contract Financing Payment, means an authorized Government disbursement of monies to a contractor prior to acceptance of supplies or services by the Government.

Progress Payments Progress payments based on costs are made on the basis of costs incurred by the contractor as work progresses under the contract. (*FAR 32.102 (b)*)

Regulations

- FAR 32.5
- DFAR 232.5
- PGI 232.5

Instructions

- DCMA Instruction 102
- DoD and Agency Memos
- Agency Trainings

Resources

- DAU/DPAP
- iRAPT/WAWF
- NCMA

Pre-Award

Pre-Solicitation



Solicitation



Negotiation

Is your Contract Eligible for Progress Payments?

FAR 32.5 & 32.1001

- Non-commercial
- Fixed Price or Fixed Price CLINS on Mixed KTR
- Can't have both Progress and Performance Based Payments on same contract (PGI 232.1001 and FAR 32.1003)
- Request for Proposal (FAR 15)
- Progress Payments allowed on Sealed Bid, not PBP
- NO Construction or Ship Building when contract is paid based on stage of completion

Is your Contract Eligible for Progress Payments?

FAR 32.5 & 32.1001

- Large business: contract is valued at \$2.5M or greater
- Small business: contract is valued over the Simplified Acquisition Threshold - now \$150K

- Contractor is not expected to be able to bill for delivery of products for substantial time after work begins:
 - Large business: 6 months
 - Small business: 4 months

Pre-Award Matters – Contracting Officer Decision

- **Contract Financing – Area of Negotiation?**
 - 32.005 -- Consideration for Contract Financing
- **PCO – When to use financing (FAR 32.104)**
 - Based on Need – performance and availability of private financing – Up front costs? Long lead items?
 - Value added to the acquisition
 - Avoid undue risk
 - Type of financing in best interest of Government
 - Monitor contractor's use and financing condition

Contract financing payments include--

- I. Advance payments;
- II. Performance-based payments;
- III. Commercial advance and interim payments;
- IV. Progress payments based on cost
- V. Progress payments based on a percentage or stage of completion
- VI. Interim payments under a cost reimbursement contract, except for a cost reimbursement contract for services

Most Preferred?
Performance Based Payments

Least Preferred?
Advance payments

FAR
32.106

Why?
RISK

Pre-Award Matters – PCO, ACO, or Both?

- **Pre-Award Survey – FAR 32.104(a)(5) & 32.503-2**
 - Financial Capability Review (conducted in last 12 months?)
 - Accounting System
 - FAR 32.503-2 & 3 – What to look for
 - Provision FAR 52.232-13
 - Contractor Business Systems
 - Past Performance

Determine the contractor's capability to perform

Is your Contract Eligible?

Read your solicitation!

- 52.232-13: Notice of Progress Payments (Apr 1984)
- 52.232-14: Notice of Availability of Progress Payments for Small Business Concerns
- 52.232-15: Progress Payments Not Included

Read your contract!

- 52.232-16: Progress Payments
- 252.232-7002: Progress Payments for Foreign Military Sales (FMS) Acquisitions
- 252.232-7004: DoD Progress Payment rates

Award

Capability to Perform - RISK



Technical Review

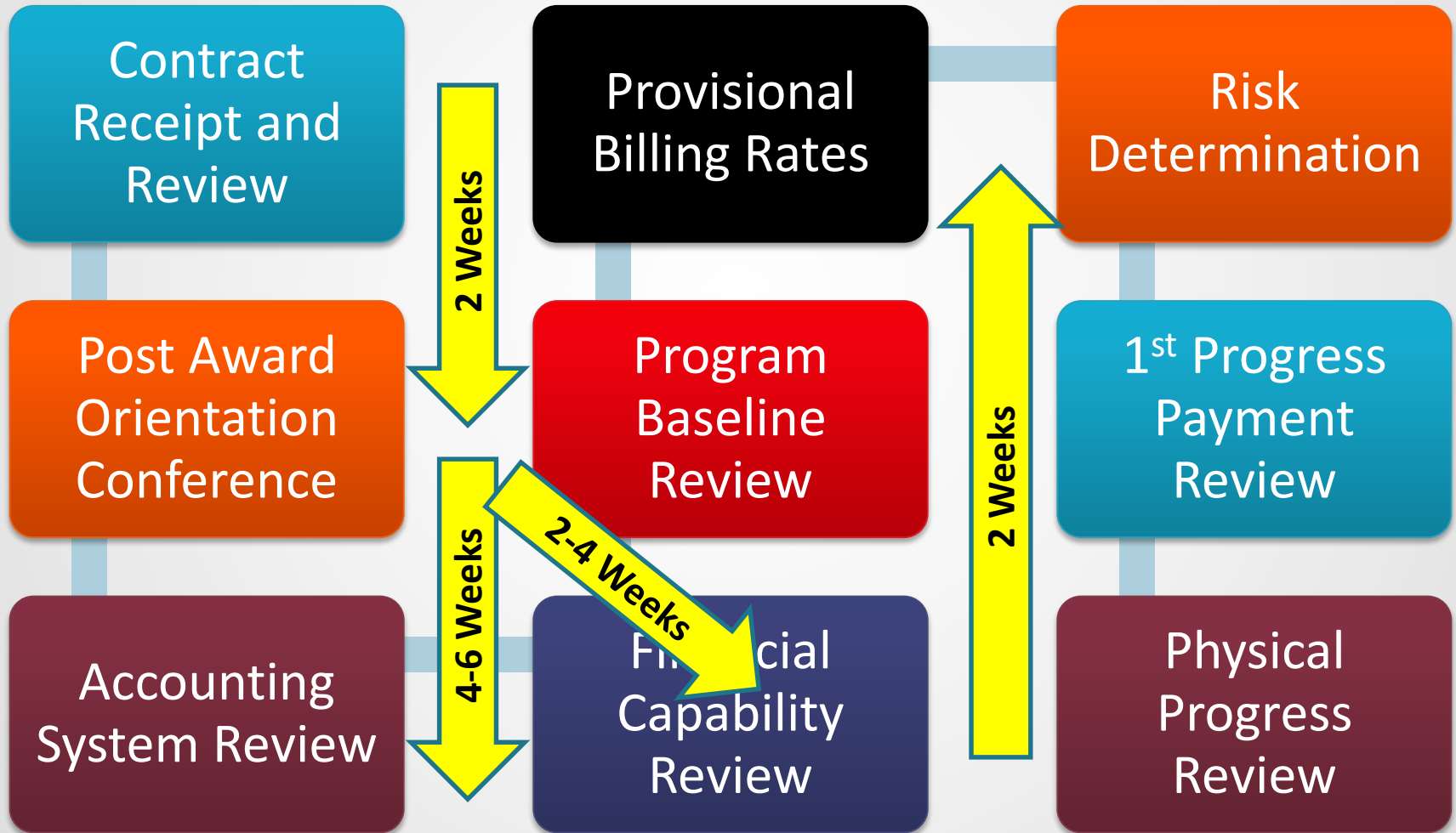


Progress Payments Requests



Administration

Post-Award Matters – Process



Post Award Matters – PCO, ACO, or Both?

- **Post Award** – FAR 32.503-2 & 3, DCMA INST 102; 3.4
 - Financial capability
 - Adequacy of accounting system and controls
 - Past performance
 - Experience
 - Quality of management
 - Reliability

ACO Determination of contractor's capability to perform

- ✓ The reviews continue throughout the life of the contract

Program Baseline and Physical Progress Reviews

ACO must ensure the IS is notified that a Baseline is required if there is no earned value on the contract, reflecting:

- Contractor's plan to do the work
- Contract price set at beginning of contract
- A reference point by which to determine physical percentage of completion

Program Baseline and Physical Progress Reviews

Best measure of Progress? Incurred Costs?

Price	\$1,000,000	100%
Materials	\$400,000	40%
Labor	\$300,000	30%
Indirect Costs	\$200,000	20%
Profit	\$100,000	10%

Program Baseline and Physical Progress Reviews

Best measure of Progress? Incurred Costs?

1st Progress Payment Request			Actual Breakdown		
Materials	\$150,000	15%	Materials	\$50,000	5%
			Scrap	\$100,000	10%
Labor	\$50,000	5%	Labor	\$25,000	3%
Indirect Costs	\$25,000	3%	Re-work	\$25,000	3%
			Indirect Costs	\$10,000	1%

DLAM – Form 1503A

Program Baseline and Physical Progress Reviews

- Setup a meeting with your assigned Industrial Specialist
- Be prepared to share information about:
 - Breakdown of Proposal (Cost elements and Profit)
 - Basis of Estimate
 - Bill of Materials – Kind and Count
 - Production Schedule
 - Process and Procedures



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Program Baseline and Physical Progress Reviews

Best measure of Progress? Incurred Costs?

	W56HZV17D0078 0001	PPRA0001	INVOICE DATE:	1/16/2018	VEHICLE QTY:	276	\$\$ INVOICED
No.	ELEMENT (A)	ITEM (B)	DIRECT VALUE (C)	WEIGHTED VALUE (D)	NUMBER REQUIRED (E)	NUMBER COMPLETED (F)	PERCENT COMPLETED (G)
MATERIALS							
1	2586895	WASHER, TAB LOCK	\$0.65	\$2,152.80	3312	-	0%
2	5214479	PLATE LOCK CAP SCREW	\$5.30	\$11,702.40	2208	1,150	52%
3	10910174-33	WASHER, FLAT	\$0.55	\$15,483.60	28152	16,000	57%
4	B1821AH075F175N	SCREW, CAP, HEX HEAD	\$1.49	\$11,514.72	7728	-	0%
5	12542295-C	CASTING, F.D. HOUSING	\$1,520.00	\$839,040.00	552	77	14%
6	12542297-C	CASTING, COVER	\$970.00	\$535,440.00	552	80	14%
7	12542321-LP	LUBE, DAM, LESS PART MARKING	\$10.53	\$5,812.56	552	552	100%
8	12542320-LP	SPACER, LUBE DAM, LESS PART MARKING	\$9.44	\$5,210.88	552	552	100%
9	B1821BH063C300N	SCREW, CAP, HEX HEAD	\$1.00	\$552.00	552	-	0%
10	B1821BH063C325N	SCREW, CAP, HEX HEAD	\$1.25	\$690.00	552	-	0%
11	B1821BH063C425N	SCREW, CAP, HEX HEAD	\$0.59	\$2,931.12	4968	-	0%
12	B1821BH063C475N	SCREW, CAP, HEX HEAD	\$1.89	\$521.64	276	-	0%
13	12294342-1	FILLER NECK, VEHICULAR	\$28.65	\$7,907.40	276	276	100%

DLAM – Form 1503A



Program Baseline and Physical Progress Reviews - Summary

- Validation of Estimate to Complete – Independent Estimate at Completion may be necessary
- Initial baselines should be established before performance starts on contract – or ASAP thereafter
- There is a tendency to reflect actual costs when developing baseline after performance begins
- Baselines that reflect actual costs tend to distort measurement of physical progress

ACO Risk Determination

- Gather input from all functional specialists
- DCMA Form 325
- Purpose: Identify, assess, and document risks to current and future contract performance
- Frequency: Assessing risk is an iterative activity that should be reassessed as changes occur in contract requirements or execution

Impact?



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Preparing Your Request – Confusing?

- Prepare a paper copy first – send to GOV for review then...

Section II - Statement Of Costs		
9.	Paid Costs Eligible Under Progress Payment Clause - <i>Reserved</i>	
10.	Incurred Costs Eligible Under Progress Payment Clause - <i>Reserved</i>	
11.	Costs Eligible for Progress Payments Under the Progress Payment Clause	4,968,090
12a.	Total Contract Costs Incurred to Date	4,968,090
12b.	Estimated Cost to Complete	15,108,173
12c.	Total Estimated Cost of Performance 12a plus 12b	20,076,263
13.	Item 11 Multiplied by Item 6a	3,974,472
14a.	Financing Payments Paid to Subcontractors	0
14b.	Liquidated Financing Payments to Subcontractors	0
14c.	Unliquidated Financing Payments Paid to Subcontractors 14a less 14b	0
14d.	Subcontract Financing Payments Approved for Current Payment	0
14e.	Eligible Subcontractor Financing Payments 14c less 14d	0
15.	Total Dollar Amount 13 plus 14e	3,974,472
16.	Item 5 Multiplied by Item 6b	31,915,113
17.	Lesser of Item 15 or Item 16	3,974,472
18.	Total Amount of Previous Progress Payments Requested	0
19.	Maximum Balance Eligible for Progress Payments 17 less 18	3,974,472
26.	Amount of Current Invoice for Progress Payment	3,974,472



Government Review Process – Initial Progress Payment - FAR 32.503-4

- ✓ Capability to Perform already established
- ✓ Review the accuracy of the SF1443
- ✓ Mini incurred cost audit
 - Subcontract costs
 - Indirect Rates

ACO Choices?

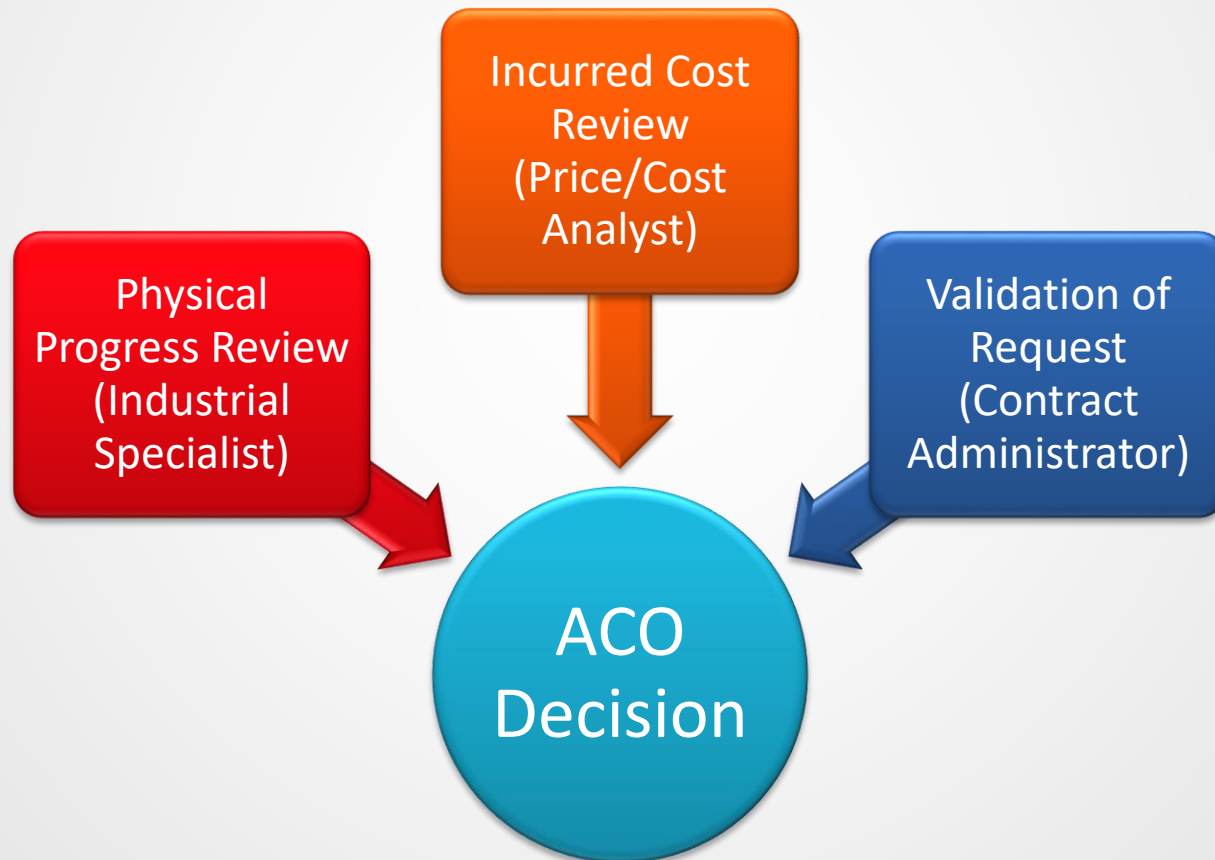
Disapprove

Approve with
Manual
Review

Approve with
Periodic
Review



Subsequent Reviews – Periodic or Manual



Subsequent Reviews – Contract Administrator

- Calculations when not submitted in WAWF
- Claimed amount for delivered, accepted and invoiced line items (Line 21A), Amount of previously progress payments liquidated, and those that will be liquidated from invoices submitted on or before the cut-off date
- If the contract is mixed type (e.g., Fixed Price, Cost, T&M), verify that only costs and price for fixed price work, authorized for PPs, were claimed
- **Financial Status – 12 month rule!**
- **Business System Status (Estimating, Accounting, Property) – Check with DCAA and Functional Specialists**
- **Past Performance – Check with your customer**

Subsequent Reviews – Industrial Specialist

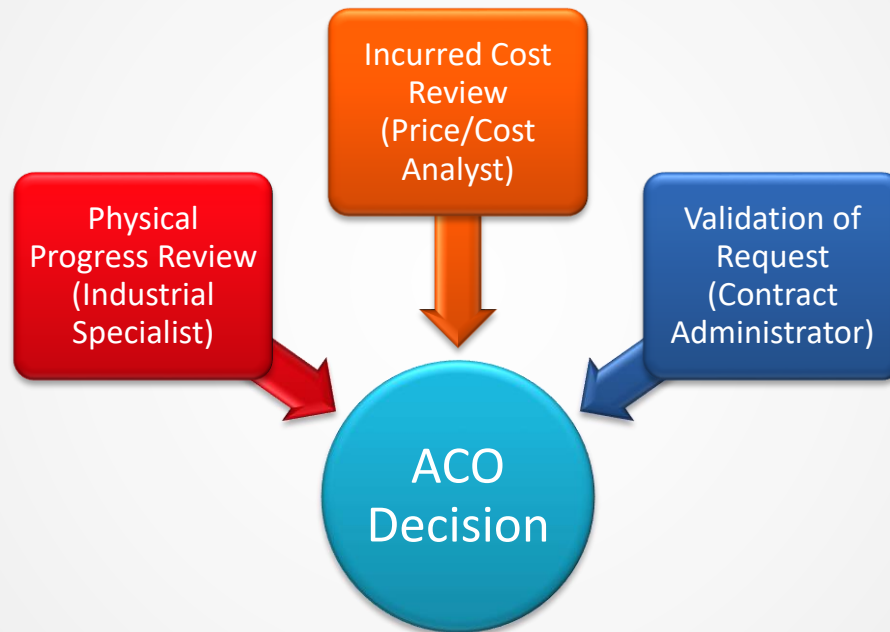
- Is the percentage of completed contract work commensurate with the cost incurred – e.g., 45% complete vs 55% cost incurred
- Production/delivery status information? If the contractor is in an actual or anticipated delinquent status, what is the contractor's capability of completing the contract?
- Is the contractor failing to make progress?
- Did the baseline values calculations on Form 1503A include reasonable estimates of direct costs?
- Is the contractor's Estimate to Complete still accurate or does it need updating?



Subsequent Reviews – Price/Cost Analyst

- Progress Payment, Liquidation Rates, treatment of CLINs, Calculations
- Subcontractor financing amounts – payments and liquidations
- Indirect Rates – approved?
- Direct Labor Costs (IS Input on QTY)
- Direct Material Costs (IS input on QTY), sample invoices, verify paid iaw terms and conditions
 - Has the prime acquired title of the property prior to claiming the cost?
- Other Direct Costs (IS input on QTY), sample invoices

Subsequent Reviews – Periodic or Manual



**% Incurred = Total Incurred Cost (Line 12a) / Estimated
Contract Cost at Completion (Line 12c)**

FAIR VALUE OF WORK > Unliquidated Progress Payments

Corrective Actions – Loss Ratio Factor FAR 32.503-6(g)

Loss-ratio factor is NOT the Progress Payment rate set by the contract
... it is a mathematical calculation:

- Compare the sum of lines 12a and 12b to line 5
- Contract in loss position if sum > line 5

Apply the loss-ratio factor to PPR when sum of incurred costs and ETC exceeds:

- Fixed contract price on Firm-Fixed-Price contracts
- Contract ceiling price on fixed-price incentive contracts

IAW FAR 32.503-6(g)

**Calculate Loss Ratio Factor (LRF) and apply to Line
(LRF = Price/ECAC) \$1,000,000/\$2,000,000 = 50%**

Corrective Actions – Reduction or Suspension

IAW FAR 52.232-16(c): Reduction or Suspension – the ACO may reduce or suspend Progress Payments, and/or increase the rate of liquidation when finding substantial evidence of:

- Contractor failing to comply with any material requirement of contract
- Performance of contract endangered by contractor's:
 - Failure to make progress
 - Unsatisfactory financial condition

Corrective Actions – Reduction or Suspension

- Inventory allocated to contract substantially exceeds reasonable requirements
- Contractor is delinquent in payment of the costs of performing contract in ordinary course of doing business
- Unliquidated Progress Payments exceed fair value of work accomplished on undelivered portion of contract
- Contractor is realizing less profit than that reflected in alternate liquidation rate, and that rate is less than Progress Payment rate

Questions?

Thank you.

Available Resources

- DCAA CAM: <http://www.dcaa.mil/>
- DCMA Pricing Guide:
 - <http://www.dcma.mil/policy/>
- Contract Pricing and Reference Guides
 - <https://acc.dau.mil/cprg>
- Defense Procurement & Acquisition Policy
 - <http://www.acq.osd.mil/dpap/cpf/>
- WIFCON
 - <http://www.wifcon.com/>