

Payment to Contractors

Bidding documents should set forth the time and method of payment to the Contractors, monthly or otherwise, and payment should be made accordingly. If the Owner's financial arrangement is such that payments cannot be made regularly, and without delay, the Owner is obligated to make this condition known, or state the conditions under which payment will be made, in the bidding documents, so that bidders can take this into account when preparing their bids. For reference see AIA Document A201 (current edition) par. 2.2.1.

Owner's Ability to Pay

Delays or defaults by Owners in meeting their contractual payment obligations to Contractors is a growing cause of litigation, liens, long delays in completion of construction, abandonment of contracts, and bankruptcy of contractors and subcontractors. Qualified Contractors are often unwilling to bid on projects for Owners whose financial capacity and credit rating are not widely known. This results in reduced competition and the possibility of high bids to the detriment of the Owners

Invitations for bids should contain clear statements that the Owner has made sufficient arrangements for the completion of the project and administrative arrangements for timely disbursement of every payment; and bidders should be invited to make inquiry to these arrangements so that they may satisfy themselves about financial details. Inquiries from Contractors who have been invited to bid the project should be answered candidly by the Owner or the construction lender.

5% Retainage

Bidding documents should set forth retainage requirements, if made a part of the contract, and should be established with full regard for the fact that they normally add to the expense of the project. In no case should retainage requirements exceed 5 percent as set forth in Chapter 573.12 Code of Iowa as amended.

Schedule of Payments

The schedule assumes normal trade contract terms allowing monthly progress payments for work performed and materials suitably stored through the end of the billing period.

It is important to note that along the sequence of events, any recipient of a payment request who takes exception to an item of billing should immediately initiate corrective action.

A Recommended Sequence of Events

Day of Month

Events

20 th	Sub-subcontractors request payment from Subcontractors
25 th	Subcontractors request payment from Contractor, incorporating the sub-subcontractor's request in the billing.
1 st	Contractor submits to the Owner's representative an itemized application for payment with the necessary supporting data, covering the monthly progress of the entire contract being performed.
5 th	The Owner's representative issues the certificate for payment to the Owner for the amount certified.
10 th or Sooner	The Owner makes payment to the Contractor the amount certified by the Owner's representative.
No More than 7 Days after Receipt	The Contractor pays each subcontractor the amount received from the owner on his account promptly, but not later than seven days after receipt. Material suppliers shall Be dealt with likewise.
No More Than 7 Days after Receipt	Each subcontractor pays each sub-subcontractor and supplier the amount received from the Contractor on his account promptly, but not later than seven days after receipt. Material suppliers shall be dealt with likewise.

The schedule should be adjusted by making appropriate billings and payments on the last working day prior to any listed Saturday, Sunday or holiday. It is also recommended that collection efforts, including interest on unpaid balance, be commenced immediately following the day any payment due was not paid.

