



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
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SECNAVINST 7810.12C
ASN(RDA) DASN(ACQ)
23 December 2005

SECNAV INSTRUCTION 7810.12C

From: Secretary of the Navy

Subj: SHIPBUILDING PROGRESS PAYMENTS

Ref: (a) Federal Acquisition Regulation Subpart 32.5
(b) Federal Acquisition Regulation Subpart 52.232.16

1. Purpose. To authorize progress payments based on a percentage of completion for fixed price and fixed price incentive contracts for shipbuilding or ship conversion, alteration, or repair. This instruction implements the provisions of 10 U.S.C. 2307 and is a revision of SECNAV Instruction 7810.12B. This Instruction has been administratively revised and should be reviewed in its entirety.

2. Cancellation. SECNAVINST 7810.12B

3. Scope. This instruction shall apply to all Navy contracts for shipbuilding (including small boats) or ship conversion, alteration, or repair, sometimes referred to herein collectively as shipbuilding contracts, entered into on or after the approval date of this SECNAVINST, except cost reimbursement type contracts and Master Ship Repair Contracts (DOD Federal Acquisition Regulation (FAR) Supplement Subpart 217.71). For all other contracts (except contracts for construction, as defined in FAR Subpart 36.102), including any separate contracts for engines, machinery, equipment, or other components for ships, the only type progress payment provisions will be those based on costs in accordance with reference (a).

4. Small boat contracts. The progress payments clause shown in reference (b) may be used in small boat acquisition contracts when deemed appropriate with respect to the size of the contract and length of performance. This clause provides for progress payments based on cost incurred for work accomplished. In such cases, the requirements of reference (a) are applicable. Payment of progress payments on small boat contracts by any method other than physical completion or costs incurred as provided herein requires the approval of Assistant Secretary of the Navy (Research, Development & Acquisition) Deputy Assistant Secretary for Acquisition Management (DASN ACQ).

5. Progress payments based on percentage of physical completion. Shipbuilding contracts (with the exceptions set forth in paragraphs 3 and 4 above) will provide for progress payments commensurate with the work that has been accomplished that meets the standard of quality established under the contract as approved by the Contracting Officer.

Notwithstanding any other provisions of this paragraph, progress payments may not exceed 80 percent (80%) of the cost of the work accomplished if the contract terms, specifications and price are indefinite. Segregation of costs incurred for work performed on an undefinitized contract is required in connection with progress payment requests.

a. Progress payments will be made during the first fifty percent (50%) of performance at ninety percent (90%) of the amount determined by multiplying the contract or billing price by the percentage of progress, provided that no such payment shall be made in an amount which when added to the total of all previous payments made (including escalation payments), except release of reserves as otherwise provided for or permitted by the contract, exceeds one hundred percent (100%) of the allowable costs certified by the contractor to have been incurred (as defined in paragraph 6) in the performance of the contract.

b. After the percentage of physical progress has reached fifty percent (50%) of total performance, progress payments on undelivered work will be made at one hundred percent (100%) of the amount determined by multiplying the contract or billing price by the percentage of progress less five percent (5%) of the contract or billing price provided that no such payment shall be made in an amount which when added to the total of all previous payments made (including escalation payments), except release of reserves as otherwise provided for or permitted by the contract, exceeds one hundred and five percent (105%) of the allowable costs certified by the contractor to have been incurred (as defined in paragraph 6) in the performance of the contract, further provided that the contractor furnishes data on actual cumulative costs and estimated future costs acceptable to the Contracting Officer which demonstrates to the satisfaction of the Contracting Officer that the contractor will make a profit of at least five percent (5%) on completion of the contract, and the contractor agrees to provide updated information on a quarterly basis or upon request of the Government. Further, if any updated information required or requested indicates that the contractor will not make a profit of at least five percent (5%), or if the contractor does not provide such information, the progress payments shall revert retroactively to a percentage not to exceed one hundred percent (100%) of the allowable costs certified by the contractor to have been incurred in the performance of the contract.

6. Incurred costs

a. For the purpose of computing the limitation on progress payments, "incurred costs" are those costs identified through the use of the accrual method of accounting, as supported by the records maintained by the contractor and which are allowable in

accordance with the applicable cost principles of the acquisition regulations and include only:

(1) Costs for items or services purchased directly for the contract that have been paid by cash, check, or other form of actual payment; or when the contractor is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid for items or services purchased directly for the contract and associated financing payments to subcontractors, provided payments will be made:

(a) In accordance with the terms and conditions of the subcontract or invoice; and

(b) Ordinarily prior to the submission of the Contractor's next payment request to the Government; and

(2) Cost incurred, but not necessarily paid, for materials issued from the contractor's stores inventory and placed in the production process for use on the contract, for direct labor, for direct travel, for other direct in-house costs and for properly allocable and allowable overhead (indirect) costs, all as shown by records maintained by the contractor for the purpose of obtaining payment under Government contracts, provided that the contractor is not delinquent in payment of costs of contract performance in the ordinary course of business; and

(3) With respect to allocated and allowable costs of pension contributions, when pension contributions are paid by the contractor to the retirement fund less frequently than quarterly, accruals of the costs of these pension contributions shall be excluded from the contractor's incurred costs until such costs are paid. If pension contributions are paid on a quarterly or more frequent basis, accruals of the costs of the pension contributions may be included in the contractor's incurred costs, provided that the pension contributions are paid to the retirement fund within thirty (30) days after the close of the period covered by the payment. If payments are not paid within such thirty-day period, pension contributions shall be excluded from the contractor's incurred cost until paid.

b. In the event an overpayment occurs relative to paragraph 6a, interest shall be charged at the prevailing per annum rate established by the Secretary of the Treasury, pursuant to Public Law 92-41, from the date such overpayment is made (date of Government payment) until the date the overpayment is fully recovered.

7. Frequency of payment. Progress payments based on percentage of physical progress will be made to the contractor when requested as work progresses under the contract, but not more frequently than every two weeks.

8. Unusual Progress Payments. Progress payments made more frequently than every two weeks or contrary to this instruction are considered unusual progress payments and require the approval of Assistant Secretary of the Navy (Research, Development & Acquisition) Deputy Assistant Secretary for Acquisition Management (DASN ACQ) with coordination from Assistant Secretary of the Navy (Financial Management and Comptroller). Requests for such approvals shall include appropriate supporting data justifying the financial need for, or, alternatively, shall identify other factors relevant to the use of unusual progress payments. Such factors may include construction periods substantially longer than those covered by normal shipbuilding contracts and avoidance of reserves far in excess of those necessary to motivate contractor performance (i.e., CVN or lead ship of a class construction contracts). Forward requests for unusual progress payments to the Assistant Secretary of the Navy (Research, Development & Acquisition) Deputy Assistant Secretary for Acquisition Management (DASN ACQ).

9. Release of Contract Retentions. Prior to the delivery of the vessel(s), the Assistant Secretary of the Navy (Research, Development & Acquisition), Deputy Assistant Secretary of the Navy (Acquisition Management) is authorized to approve the early release of contract retentions. Following delivery of the vessel(s), the Deputy Commander for Contracts of the Naval Sea Systems Command is authorized to approve release of contract retentions.

10. Liquidation. Progress payments (except for small boat contracts using the clause in reference (b)) will be liquidated upon preliminary acceptance of each vessel to the extent that progress payments made under the contract are allocable to the vessel accepted.

11. Required audit. The Supervisor of Shipbuilding, Conversion and Repair, USN, will request the Defense Contract Audit Agency to conduct an audit of shipbuilding contractors as often as may be necessary but not less frequently than semiannually in order to ensure that contractors are not being overpaid progress payments.


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