



DCMA

Contract Financing: Performance Based Payments Review

Presented By:

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Contract Administrator

- **Performance based payment** is an alternative to progress payments for contract financing. The financing is based upon specified performance criteria being accomplished versus cost accumulation which is the basis for progress payments (Preferred method of contract financing).

Per Statute: 10 U.S.C. 2307 (b)

- (b) Performance-Based Payments — Whenever practicable, payments under subsection (a) shall be made on any of the following bases:
- (1) Performance measured by objective, quantifiable methods such as delivery of acceptable items, work measurement, or statistical process controls.
 - (2) Accomplishment of events defined in the program management plan.
 - (3) Other quantifiable measures of results.

PBPs are:

- Provided financing to Contractors performing fixed price contracts or fixed priced CLINs on a mixed type contract
- Paid based upon contractor performance of definitive criteria established within each contract
- Represent expenses the contractor could reasonably expect to incur in order to achieve completion of each defined criteria or event
- Fully recoverable in the event of default

PBPs are not:

- Advanced payments
- Payment for accepted goods or services
- Payments for partial deliveries
- Payments based solely on incurrence of costs
- an incentive arrangement

PBP Limitation:

- Can be established on a contract basis or line item basis
- Cannot exceed 90% of the contract price (or line item price if using line item basis)

- **FAR 32.1001(a): Policy- Performance Based Payments are the preferred Government financing method when the CO finds them practical and the contractor agrees to their us**
- **FAR 52.232-32: Performance Based Payments**
- **FAR 32.1004(b): Establishing Performance Based Payment Amounts**
- **DFARS 232.10: Performance Based Payments**
- **DFARS PGI 232.1001 (a): Contracting Officers Actions, PBPs**

- **Basic Criteria:**
 - **> \$2.5M contract - Large Business**
 - **> \$150K contract - Small Business**
 - **FAR 32.104(d)(2) &(3)**
 - **Unable to bill for delivery of product for a time after work begins**
 - Large business- normally 6 months)
 - Small business- normally 4 months
 - **Has a financial need or unable to get private financing**
- **Ideally contractor has a mature, stable production program**
- **Not as practicable for service contracts**

- **Benefits to Contractor**
 - Improved cash flow
 - Reduced cost of oversight and compliance
 - Management team focus on technical and schedule progress
- **Benefits to Government**
 - Oversight and compliance costs may be reduced
 - Risk of overpayment may be reduced

- **Risks to Contractor**

- **No payment if PBP event not successfully completed**
- **Usually bear risk for property loss, theft, destruction or damage**
- **Comparable to Progress Payment requirements**

- **Potential risks to Government**

- **Poor completion events**
- **Poor completion criteria**
- **Event values not commensurate with milestone activities**
- **Front loading of event values**

- **Defense Contract Management Agency (DCMA)**
- **Defense Contract Audit Agency (DCAA)**
- **Defense Finance and Accounting Services (DFAS)**

- **Step 1: Establish PBS events**
- **Step 2: Define the completion criteria for PBP events**
- **Step 3: Evaluate the Contractors Expenditure Profile**
- **Step 4: Establish event values**
- **Step 5: Incorporate the PBP arrangement into the Contract via special contract provisions**
- **Step 6: Post Award Orientation Conference**

- **Entitles the Contractor to receive a performance based financed payment after verification an activity has been successfully completed during the performance of a contract**
- **Integrated Master Plan**
- **Integrated Master Schedule**
- **Types**
 - **Severable (Stand Alone)**
 - **Cumulative (Dependent)**
- **No Magic number**

- **Inappropriate Milestone Examples**
 - **Milestone 1: Kick-off Meeting**
 - **Milestone 2: Place POs**
 - **Milestone 3: Signing modifications**
- **Appropriate Milestone Examples**
 - **Milestone 4: Receipt of 90% of Bill of Material Value (all critical parts delivered)**
 - **Milestone 5: Completion of Subassembly**

Contract Award Delivery	Contract Price	PBP Total	Final Payment
Dec-15 Jan-16	\$ 61,809,439	\$ 55,628,495	\$ 6,180,944

Event	Event Description	Acceptance Criteria	Event %	Cumulative %	Event Value	Cumulative Value	Event Date (Est.)
A	Complete Lay-up Bond Shop Process	Signed (DCMA QA) Bond-Shop Routing completion	22%	22%	\$ 13,852,737	\$ 13,852,737	Jan-16
B	Complete A/C Paint	DCMA QA signature on Paint and Paint Paperwork	24%	46%	\$ 14,650,066	\$ 28,502,803	Mar-16
C	Complete Load 624 Processes	DCMA ENG Signed-off process Paperwork	9%	55%	\$ 5,625,055	\$ 34,127,858	Apr-16
D	Complete Post-Splice	DCMA QA Written Approval on Post-Splice approval	5%	60%	\$ 3,150,066	\$ 37,277,924	May-16
E	Install Upper and Lower Skins	DCMA Verified Install/Signed Contractor Test Routing	13%	73%	\$ 7,750,329	\$ 45,028,253	Aug-16
F	Pass Final Test of Landing Gear Operation	DCMA QA Signature of Landing Gear Operations	4%	77%	\$ 2,625,055	\$ 47,653,308	Sep-16
G	DCMA QA Approved	Installation Documents	6%	83%	\$ 3,650,066	\$ 51,303,374	Oct-16
H	Install Propoter	DCMA QA Approved	4%	87%	\$ 2,175,055	\$ 53,478,429	Nov-16
I	Complete Wing/Fuselage	Installation Documents	4%	90%	\$ 2,150,065	\$ 55,628,494	Dec-16
	Pass Final Flight Test	DCMA GFR approved Flight	3%				

**Contract N00019-12-C-2001 (MYP1) V-22 Performance Based Payment Event Matrix
CLINS 0001, 0004, 0006, 0101, 0106, 0201, 0301, 0401**

Event	Cumulative/ Severable	Payment Event	Success Criteria	Verification	Schedule	Payment Amount
E1	Severable	Supplier EOQ Payment Request	Invoice of Supplier EOQ PBP events according to Boeing Month End October 2013 Accounting Calendar	DCMA verification through validation of supplier EOQ costs entered into EAS GL account or booked actuals Parts will be V-22 unique.	See clauses G-01, H-14 and the PBP Payment Schedule	See clauses G-01, H-14 and the PBP Payment Schedule
E2	Severable	Supplier EOQ Payment Request	Invoice of Supplier EOQ PBP events according to Boeing Month End December 2013 Accounting Calendar	DCMA verification through validation of supplier EOQ costs entered into EAS GL account or booked actuals Parts will be V-22 unique.	See clauses G-01, H-14 and the PBP Payment Schedule	See clauses G-01, H-14 and the PBP Payment Schedule
E3	Severable	Supplier EOQ Payment Request	Invoice of Supplier EOQ PBP events according to Boeing Month End February 2014 2008 Accounting Calendar	DCMA verification through validation of supplier EOQ costs entered into EAS GL account or booked actuals Parts will be V-22 unique.	See clauses G-01, H-14 and the PBP Payment Schedule	See clauses G-01, H-14 and the PBP Payment Schedule
E4	Severable	Supplier EOQ Payment Request	Invoice of Supplier EOQ PBP events according to Boeing Month End June 2014 Accounting Calendar	DCMA verification through validation of supplier EOQ costs entered into EAS GL account or booked actuals Parts will be V-22 unique.	See clauses G-01, H-14 and the PBP Payment Schedule	See clauses G-01, H-14 and the PBP Payment Schedule
E5	Severable	Supplier EOQ Payment Request	Invoice of Supplier EOQ PBP events according to Boeing Month End August 2014 Accounting Calendar	DCMA verification through validation of supplier EOQ costs entered into EAS GL account or booked actuals Parts will be V-22 unique.	See clauses G-01, H-14 and the PBP Payment Schedule	See clauses G-01, H-14 and the PBP Payment Schedule
E6	Severable	Supplier EOQ Payment Request	Invoice of Supplier EOQ PBP events according to Boeing Month End December 2014 Accounting Calendar	DCMA verification through validation of supplier EOQ costs entered into EAS GL account or booked actuals Parts will be V-22 unique.	See clauses G-01, H-14 and the PBP Payment Schedule	See clauses G-01, H-14 and the PBP Payment Schedule
A	Cumulative	Start of Lay-up in Composite Center	Start of Part # (901-031-156-XXX) Cockpit Belly Skin, in composite Center. Shop 83646	Visual verification by DCMA of commencement of part #(901-031-156-XXX) Cockpit Belly Skin	See clauses G-01, H-14 and the PBP Payment Schedule	See clauses G-01, H-14 and the PBP Payment Schedule

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Attachment 1(a) N00019-12-C-2001
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- Establishing successful PBP events completion criteria
 - Define the completion criteria as clearly and precisely as possible, including a specified completion date.
 - Understand the product and processes
- Understanding a “successful” completion of an event
 - Readily measurable and verifiable
 - Identified in the contract with a detailed description of what constitutes a successful performance

- The expenditure profile represents the expected financing need over the life of the contract.
- Government evaluation
 - Follow-On Contracts (Same or Similar items)
 - No Prior contracts

- Setting dollar or percentage values for the events themselves and are commensurate with the values of the events
- PBPs cannot, in total, exceed 90% (based on regulatory constraints) of the price of the contract or line item to which they apply.
- Special Considerations

- **All payment amounts must provide for liquidation upon delivery**
- **IAW FAR 32.1004(d): Liquidating Performance-Based Finance Payments**
 - **Performance-Based Financing payments must be liquidated by deducting either a percentage or a designated dollar amount from delivery payments**
 - **DFAS will make deductions**
- **Payment requests can only be submitted once in any given calendar month**
 - **Each request can, however, cover payment for multiple events**

- The special provision must contain a PBP schedule which will normally be in tabular form and will contain the following fields:
 - Event Number
 - Event Title or Description
 - Event Value
 - Cumulative or Severable Event
 - If Cumulative, list of Prior Event Numbers
 - Line Item (if PBPs are on a Line Item Basis)
 - Fund Type
 - Event Completion Criteria
 - Event completion date

- **Ensure all parties understand the awarded PBPs:**
 - **What the events are**
 - **How the events are determined to be completed**
 - **What value is associated with each event**
 - **Payment and liquidation process**
- **Type of technical evaluations/validations that must occur prior to ACO approval of PBPs**
- **Potential Risk Situations**

- **ACO Options**

- **Per FAR 52.232-32(e)**

- **ACO may reduce, suspend, or liquidate PBP's when:**

- KTR fails to comply with material requirement of the contract
- Performance of the contract is endangered by the Contractor's
 - Failure to make progress
 - Unsatisfactory financial condition
- KTR is delinquent in payment of any subcontractor or supplier under the contract.

- **Contract termination by default (FAR 52.232-32(j))**

- **KTR must repay amount of unliquidated PBP's**

- The contractor should assign a properly structured 7-character, alphanumeric invoice/shipment number on each PBP request.
 - PBPA: 4 character prefix for US funded
 - PBPB: 4 character prefix for FMS funded; also must include break-out by country code
 - Last 3 characters are numeric and should be sequentially numbered, e.g., PBPA001, PBPA002
- IAW FAR 52.232-32(m): Content of Contractor's Certification —Performance-Based Payment request must include contractor certification. Key points for certification:
 - Prepared from contractor's books and records
 - Subcontractors have been paid
 - No encumbrances that impair Government's title
 - No adverse change in financial condition
 - Signature

- **Designated government official**
 - Confirms completed payment event
 - Provides findings to ACO
- **ACO verifies:**
 - Receipt of documentation
 - Amount is less than or equal to incurred cost
- **ACO approves or rejects**

The ACO may reduce or suspend PBPs:

- When contractor:
 - Fails to comply with material requirement of the contract
 - Fails to progress
 - Becomes financially unsound
 - Is delinquent in paying subcontractors
 - Uses disapproved business systems
- When PCO requests
- ACO Notifications

- **Criteria for Eligibility- FAR 32.104(d)(2) & (3)**
- **2.5M or greater for large businesses**
- **Over 150K for small business (SAT)**
- **Fixed-priced contract, fixed-price contracts on mixed contracts**
- **Recoverable in case of default**

- **Basis for Payment**
 - **PP: 80% of actual incurred costs**
 - **PBP: Predetermined estimated amount on milestone events not to exceed actual costs**
- **Entitlement to Payment:**
 - **PP: Submission of allowable costs commensurate with progress made**
 - **PBP: Successful and verifiable completion of performance events**
- **Profit:**
 - **PP: excluded**
 - **PBP: Some profit may be included**

- **Accounting System**
 - **PP: Must be approved**
 - **PBP: Consider the adequacy of the accounting system**
- **Frequency of Payment**
 - **PP: Not more than monthly**
 - **PBP: Not more than monthly, may have more than one event per month**
- **Alternate liquidation rate**
 - **PP: Yes, under certain circumstances**
 - **PBP: Not available**

- **Resources**

- DPAP Guidebook and Analysis Tool:

http://www.acq.osd.mil/dpap/cpic/cp/Performance_based_payments.html

- iRAPT Performance based Payments Instructions

<https://wawftraining.eb.mil/wawfwbt/xhtml/unauth/web/wbt/other/iraptDocuments/PBP.pdf>

- PBP Users Guide

www.navair.navy.mil/nawctsd/Resources/Library/Acqguide/pbpguide.docx

Questions

