

Legal Q and A: Potential payment issues on federal projects, Construction Broadsheet, author Erik Ortmann, Esq., June 30, 2022

Q. Is there any way to negotiate better payment terms on a federal project? We are general contractors on a federally funded state highway project, and one of our subcontractors has had trouble making payroll, paying its suppliers, etc., and we would like to be able to pay them every two weeks.

A. Generally, the payment terms for federal or state highway projects are not negotiable. Assuming the payment terms to the general contractor are thirty (30) days from a proper/accepted invoice, the payment time period would not likely be negotiated down to two weeks.

However, there are rules in the FAR (Federal Acquisitions Regulations) and CFR (Code of Federal Regulations) that touch on prompt pay and release of retainage language that at will at least govern when a general/prime contractor must release funds to a subcontractor, after being paid. Note, the general contractor can decide for business reasons to pay a subcontractor every two weeks regardless of when payment comes in from the federal or state owner. ***Please read full article at link below.***

Erik Ortmann, partner and co-chair of the construction practice group at Kaufman Dolowich Voluck LLP in Woodbury, New York, has more than 25 years of experience representing private and public owners, municipalities, general contractors, construction managers, design professionals, trade contractors and suppliers with respect to all aspects of construction law.