

these same funds from the date the contracting officer receives the claim until payment is made.

1. After final agreement with the contractor, the contracting officer should initiate an SF 30, Amendment of Solicitation/Modification of Contract, to obligate the funds.

2. Upon receipt of the contractor's invoice and the SF 30, payment can be made including interest from the date the claim was received by the contracting officer to the date of payment.

120107 Payment to Contractors Based on Decisions of Board of Contract Appeals or Court of Federal Claims

A. Court action may follow contract termination by the United States. When it does, payment may be due the contractor if final judgment is against the United States. Should this happen, send a transcript of the court judgment direct to the General Accounting Office (GAO), Washington, DC 20548 (except for claims settled under the Contract Disputes Act of 1978 as noted in paragraph 120107-B.) GAO settlement is required by 28 U.S.C. 2414 on final judgment by the United States District Courts and by 28 U.S.C. 2517 on final judgments by the Court of Federal Claims. The GAO pays from the Treasury Department general funds. Do not use Operations and Maintenance or other appropriated funds for this purpose.

B. Payment of claims under the Contract Disputes Act of 1978 (41 U.S.C. 601-613 and FAR 33.2 and 52.233-1) is covered by 41 U.S.C. 612. Judgments against the United States by the Court of Federal Claims and monetary awards to a contractor by the ASBCA are authorized to be paid and charged to the permanent judgment fund established by 31 U.S.C. 1304. Amounts paid may include interest from the date the claim was received by the contracting officer to the date of payment. Attorney fees claimed by the contractor may not be included in amounts paid from the judgment fund in these cases. Attorney fees are processed under the Equal Access to Justice Act as noted in paragraph 120103. The Contract Disputes Act requires that the activity whose funds were used for the

contract must then reimburse the judgment fund out of available funds or by obtaining an additional appropriation.

120108 Payments to Reimburse Treasury for Payments in Settlement of Contractor Claims

Upon certification by the GAO, the amounts of contractor claims settled pursuant to the Contract Disputes Act of 1978 may be paid to the contractor by the Treasury Department from the permanent judgment fund. Amounts paid to contractors are reimbursable to the U.S. Treasury from the appropriation available for the purpose of the contract or by obtaining additional funds for such purpose. The Treasury Department will bill the contract disbursing office. If funds are not available in the proper account to cover invoices received from the Treasury Department, request additional funds through appropriate channels. Amounts reimbursed to the Treasury Department must be charged to current funds. Expired or M account funds cannot be used. See 63 Comp Gen 308 1984.

120109 Interest Awarded Contractor by the Armed Services Board of Contract Appeals (ASBCA)

A. Applicable interest rates are established by the Secretary of the Treasury under Public Law 92-41 in January and July of each year. Rates are announced in the Federal Register.

B. Interest is computed from the date that the contracting officer received the claim or the date that payment is due, if that date is later, until the date of payment. See FAR 33.208.

C. Contract claims and interest payments are chargeable to appropriations current at the time the basic contract was executed if they are based on "antecedent liability". A contract claim is based on antecedent liability if the modification or adjustment is within the general scope of the original contract and is made pursuant to a provision, such as a "changes" clause, in the original contract. Contract claims not based on antecedent liability are chargeable to appropriations current when the claim is allowed.