

Why Wait to Get Paid?

by Quenda Behler Story

A lot of my columns seem to be about how to get paid for your work — and with good reason. When it comes to business legal questions, that's the big one. Fortunately, there are a number of things you can do during the course of a job that will help head off any payment problems.

Progress Payments

Structure your payment schedule so you get paid as you go. A customer is less likely to miss a scheduled payment if, for example, you could walk off the job, leaving his roof open.

You can make a payment due every Friday or something, but I personally like to tie progress payments to events: when you finish pouring the footings, complete the drywall, install the utilities — things like that.

Leave as little owing as possible at the completion of the job. In the sample contract language that follows, only 5% is left owing when the job is finished:

SCHEDULE OF PAYMENTS

A deposit in the amount of 20% [or whatever you choose] of the contract price is due at signing.

Additional payments as specified will be due as the items of work listed below are completed:

- 15% of the contract price is due *when the excavation is complete*
- 15% of the contract price is due *when the foundation is poured*
- 15% of the contract price is due *when framing is complete*
- 15% of the contract price is due *when drywalling is complete*
- 15% of the contract price is due *when the roof is finished*

The balance of the contract price (5%) is due upon the substantial completion of the work. ["Substantial completion" is a legal term meaning that the work can be used as

intended.]

If payments are not paid within five days of the due date, the contractor may suspend work until payment is made. Failure to make a payment on time automatically extends the contract schedule.

Change Orders

Get those change orders in writing. In many states you aren't legally required to, but you should do it anyway, and include the estimated cost. That avoids moments like when the customer realizes that his mid-night vision of granite-covered countertops has created a money problem for him and decides that it must be your fault, because if you were any kind of competent contractor, you would have told him that granite wouldn't work for him.

Make your payments for change orders due as soon as each change order is completed.

If you're working with an architect's contract, read your documentation to see whether you're required to go through a particular process to authorize change orders. Sometimes, for example, the architect has to sign off on the change order before it's considered authorized.

Here's some sample language for change orders to include in your contract:

CHANGE ORDERS

The owners agree that charges resulting from the furnishing of additional labor or materials will be immediately due and payable upon completion of the extra work. The owners agree that either of them may sign a change order, and either signature will be binding on both.

Punch Lists

Taking the client through the

almost finished job with a punch list provides an opportunity to identify any callback problems while you're still on the site. A punch list also helps avoid disputes in which, for example, the customer says he's withholding part of your payment because the countertop isn't the right color. If it wasn't the right color (you could ask the court), why didn't he mention that in the walk-through?

A punch list not only helps you collect your money, it's also good for business. It makes the client feel that you care about his satisfaction.

Here is some sample contract language for using a punch list:

FINAL INSPECTION

Upon notification to the owners by the remodeling contractor of the substantial completion of the work, the owners and the contractor will inspect the work performed. At that time, the owners will prepare a punch list that identifies any incomplete work or deficiencies in workmanship or materials. The owners may retain the value of the punch list work from the final payment only until five days after the punch list items are complete. 

Quenda Behler Story has practiced and taught law for over 25 years and is the author of The Contractor's Plain-English Legal Guide (www.craftsman-books.com).