



Payment Plans in a Pandemic

As the economic effects of the coronavirus pandemic continue, many contractors are looking for different and creative ways to resolve disputes. Regardless of whether the dispute relates to ongoing litigation or a current project, parties are increasingly including payment plans in settlement proposals. Payment plans can be a pragmatic way to resolve a dispute, especially when so many contractors are suffering from short-term cash flow issues.

However, there are a number of important factors to consider when evaluating whether to accept a payment plan:

- **When the statute of limitations on your claim against the payor may run out if you have not already initiated a lawsuit or arbitration.** It is important to be aware of the date by which your company has to assert its claims when considering a long-term payment plan. Depending on the length of the payment period, the best practice may be to enter into a tolling agreement with the payor to extend the statute of limitations.
- **The interest and carry costs for which your company may be responsible.** Your company may consider adding an additional amount to the principal balance owed by the payor to cover interest and attorneys' fees, particularly for payment plans over an extended period of time.
- **Which steps may need to be taken if the dispute is already in litigation or arbitration.** If your company has already filed suit, there is likely a scheduling order from the court or the arbitrators that dictates the trial date and other interim deadlines. Depending on the jurisdiction, it may not be possible to abate the lawsuit for the pendency of the payment plan. While circumstances vary from case to case, obtaining an agreed judgment from the payor may be one avenue for resolving the case and ensuring future payment from the payor.

Depending on the circumstances, there may be a number of important factors concerning the payment period that the parties need to address in their settlement. Addressing these factors in the terms of the settlement is one of the best ways to avoid the unintended consequences of accepting periodic payments.

For more information please contact Brittany Cooperrider at 713.351.0334 or via [email](#).