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PAYMENT CERTIFICATION (IPC) FOR LOAN-FINANCED PROJECTS AND NATIONAL BUDGET PROCEDURES: LEGAL AND INSTITUTIONAL BARRIERS

Ergashev Radjabjon Rustamovich
Ministry of Agriculture of the Republic of Uzbekistan, Tashkent.
rajabjon@gmail.com

Abstract

This thesis examines the legal and institutional barriers affecting Interim Payment Certificates (IPCs) in loan-financed construction projects implemented under international contract conditions and national budget procedures. Particular attention is given to the relationship between contractual certification, verification of completed works, treasury registration, financing disbursement, and the actual transfer of funds to contractors. The analysis identifies unclear allocation of responsibilities, differences between contractual and budgetary procedures, incomplete supporting documentation, foreign-currency and tax-related issues, and delays in administrative approvals as potential obstacles to timely payment. It argues that effective coordination between the Employer, Engineer, Project Implementation Unit, treasury authorities, and financing institution is essential for reducing payment delays and maintaining predictable project implementation. The thesis proposes practical measures to improve payment procedures while ensuring compliance with contractual obligations and applicable national legislation.

Keywords: Interim Payment Certificate, IPC, loan-financed projects, construction contracts, FIDIC, national budget, treasury procedures, payment delays, financial management, Uzbekistan.

Introduction

Timely payment is a fundamental condition for the successful implementation of construction projects financed through international loans and other external financial resources. In design-and-build and other internationally procured construction contracts, the Interim Payment Certificate (IPC) is an important mechanism for verifying the value of work performed and determining the amount payable to the Contractor during the implementation period.

Under FIDIC-based contracts, the payment process generally involves the Contractor's submission of a payment application, verification of the claimed amounts, certification by the Engineer, and payment by the Employer in accordance with the applicable contractual conditions. However, in loan-financed projects implemented through public institutions, the contractual process may interact with additional administrative requirements, including budget allocation, treasury registration, financial control, supporting-document verification, and disbursement procedures established by the financing institution.

These procedures serve legitimate purposes, including the protection of public funds, financial accountability, and compliance with financing conditions. Nevertheless, difficulties arise when the timing and requirements of contractual certification do not align with the administrative procedures required to release funds. An IPC may therefore be certified under the contract while payment remains pending because of incomplete budget documentation, delayed treasury processing, unresolved tax questions, or the absence of an internal financial approval.

The purpose of this thesis is to identify the principal legal and institutional barriers affecting IPC processing in loan-financed construction projects and to propose measures for improving coordination between contractual payment obligations and national budget procedures, with particular relevance to projects implemented in Uzbekistan.

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The legal framework governing IPC payments in loan-financed construction projects consists of several interrelated layers: the construction contract, the financing agreement, applicable international procurement and disbursement procedures, and national budget and treasury legislation.

Under the FIDIC MDB Harmonised Conditions of Contract for Construction, Clause 14 regulates the Contract Price and Payment. In the 2010 MDB Harmonised edition, Sub-Clause 14.7 establishes a contractual payment period for certified interim payments, subject to the terms of the applicable contract and the specified circumstances. The published edition provides for payment of the amount certified in an Interim Payment Certificate within 56 days after the Engineer receives the Contractor's statement and supporting documents. The exact wording and calculation of deadlines must be verified against the edition and Particular Conditions incorporated into the project contract. [1]

In Uzbekistan, the Budget Code regulates budget preparation, approval, execution, state borrowing, and financial control. Article 122 addresses the acceptance, registration, and accounting of legal obligations by budget organisations and recipients of budget funds. Article 123 regulates the acceptance and registration of financial obligations by treasury units, subject to the applicable legal requirements. These provisions are relevant when project payments fall within the national budget and treasury execution system. [2]

The key institutional distinction is that an IPC establishes a contractual payment entitlement through the certification process, whereas treasury processing and financing disbursement are separate steps in the release of funds. The relationship between these steps depends on the project's financing structure, the identity of the borrower and implementing agency, the applicable budget arrangements, and the contract documents.

Accordingly, the existence of a certified IPC should not be confused with the completion of every administrative requirement for payment. Equally, administrative processing should not be treated as automatically extinguishing the Employer's contractual payment obligations. The parties must address both requirements through a coherent payment procedure.

The first major barrier is the potential mismatch between the payment period established in the construction contract and the time required for national budget and treasury procedures. Under a FIDIC-based contract, the Engineer's certification triggers contractual processes and deadlines as defined by the applicable conditions. Treasury registration, verification of supporting documents, and release of funds may follow separate administrative timelines.

Where these procedures are not coordinated, a certified payment may remain unpaid while the implementing agency completes additional internal steps. This can create uncertainty about responsibility for the delay and increase the risk of contractual claims.

The problem should be addressed at the project-planning stage. The Employer and Project Implementation Unit should map the complete payment process, identify all mandatory steps, establish which actions can be completed before an IPC is issued, and assign responsibility for each stage. Administrative procedures should be organised to support compliance with the contractual timetable rather than treated as an unplanned sequence after certification.

A second barrier concerns the distribution of responsibilities among the Contractor, Engineer, Employer, PIU, treasury authorities, and financing institution. The Contractor prepares the payment application and supporting records; the Engineer verifies and certifies the amount under the contract; and the Employer is generally responsible for payment in accordance with the contractual conditions. Other institutions may be responsible for budget documentation, treasury registration, or loan disbursement.

Delays occur when these functions overlap or when no institution is clearly accountable for progressing the payment after certification. For example, the PIU may consider the payment complete

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once the Engineer has issued the certificate, while the financial department may regard the file as incomplete because a separate supporting document or internal approval is missing.

A project-specific payment protocol should define the responsibilities of each participant, including who checks the completeness of the file, who submits it to the treasury or other competent authority, who requests funds from the financing institution, and who informs the Contractor of any outstanding issue.

IPC processing may be delayed when payment applications contain discrepancies between certified quantities, measurement records, invoices, tax documentation, approved variations, and the financial information required for payment. Additional verification may also be necessary where the certified amount includes advance-payment recovery, retention, price adjustment, or other contractual deductions.

Some verification is essential to protect public funds and ensure that payments correspond to contractual obligations. However, repeated requests for documents that could have been identified through an initial completeness check create avoidable delays.

The PIU should therefore introduce a standard IPC checklist aligned with the contract and applicable financial procedures. The checklist should identify the documents required for each payment package, the person responsible for verifying them, and the process for resolving discrepancies. Where appropriate, preliminary verification can take place while the Engineer is completing the certification process, provided that this does not interfere with the Engineer's independent contractual role.

Loan-financed projects may include a combination of external financing and domestic counterpart funding. The funding structure may affect the source of payment, the applicable account, the documentation required, and the process for transferring funds to the Contractor.

Where domestic co-financing, taxes, land-related expenditure, or other budget-funded components are involved, payment may depend on the timely availability of the relevant budget allocation. A certified IPC may therefore encounter administrative difficulties if the financing source for each component has not been clearly identified or if budget allocations are insufficient for the payment due.

The Budget Code recognises state external borrowing as a source of financing and provides for the use of borrowed funds in financing or co-financing projects implemented through state borrowing. [2]

Nevertheless, the precise budget and treasury arrangements for a particular project must be determined from its financing documents and applicable national regulations.

To reduce this risk, the PIU should maintain a cash-flow forecast that identifies expected IPC amounts, the anticipated timing of certification, the allocation between financing sources, and the administrative lead time required to release funds. Counterpart-funding requirements should be assessed before the relevant works are undertaken, not only when the payment application is submitted.

Where a project is financed by an international financial institution, payment may also depend on the financing agreement, the applicable disbursement method, and the submission of supporting information required by the lender. Depending on the arrangement, the process may involve direct payment to the Contractor, reimbursement to the borrower, or replenishment of a designated account.

These mechanisms should not be assumed to operate identically across all lenders or projects. The payment process must be examined against the relevant financing agreement and disbursement instructions.

A mismatch can occur when the Employer expects the financing institution to release funds immediately after certification, while the lender's procedures require a separate application or

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additional supporting documentation. Delays can also arise when the payment package is submitted with inconsistent amounts, incorrect references, or incomplete records.

The PIU should therefore prepare a payment-flow diagram before construction begins and verify the required documentation with the responsible financial authorities and financing institution. A single payment register should track the certificate date, submission date, review status, outstanding requirements, and actual payment date.

Foreign-currency payments may create additional administrative complexity when the contract price is denominated in a currency different from the currency used for domestic budget records or local payments. The applicable exchange rate, bank charges, tax treatment, and allocation of payment between local and foreign currencies should be established in accordance with the contract and relevant legislation.

Disputes may arise where the certified amount differs from the amount entered into the payment system because of exchange-rate conversion, withholding taxes, or deductions required under the contract. If these issues are not resolved before the IPC reaches the final payment-processing stage, the entire payment may be delayed.

The Employer should establish a consistent method for recording the original certified amount, any applicable deductions, the currency conversion used for accounting purposes, and the amount actually transferred. The method must be consistent with the contract, the financing arrangements, and applicable tax and financial regulations.

A further barrier is the absence of a unified mechanism for monitoring IPC processing. If the Engineer, PIU, Employer's financial department, and treasury authority maintain separate records, it may be difficult to establish precisely where a payment is delayed.

Without reliable data, project managers may be unable to distinguish between time spent correcting an incomplete application, time required for mandatory review, and avoidable administrative inactivity.

A central IPC register should record the submission date, date of certification, date of receipt by the responsible financial authority, dates of any requests for clarification, date of financing or treasury submission, and actual payment date. Each outstanding action should be assigned to a responsible person or institution.

This system would make it possible to identify recurring bottlenecks, improve cash-flow forecasting, and provide an auditable record of the reasons for delayed payment.

The identified barriers suggest that improving payment performance requires coordination between contract administration and public financial management.

First, the Employer should prepare a project-specific IPC payment procedure before the commencement of construction. This procedure should describe the complete process from the Contractor's application to the transfer of funds and identify all mandatory contractual, budgetary, treasury, and financing steps.

Second, the parties should distinguish between the Engineer's contractual certification and the subsequent financial processing of the certified amount. Each stage should have its own responsibilities, documentation requirements, and monitoring arrangements. The procedure should not introduce additional certification requirements that contradict the contract.

Third, the PIU should introduce an initial document-completeness check. This would help identify missing supporting documents early and reduce repeated submissions. The checklist should be agreed upon by the relevant technical, contractual, and financial personnel and should reflect the actual financing arrangements.

Fourth, the Employer and PIU should prepare a rolling cash-flow forecast based on the construction programme and anticipated payment applications. This forecast should cover both

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external financing and domestic counterpart funding and should be updated regularly to reflect progress, approved variations, and expected payment obligations.

Fifth, coordination with the financing institution and treasury authorities should begin during project preparation. The parties should clarify the applicable disbursement method, documentation standards, submission channels, and expected processing stages. Any project-specific arrangements should be documented rather than left to informal communication.

Sixth, payment delays should be monitored through a unified register. The PIU should regularly analyse the time elapsed at each stage and identify whether delays arise from incomplete applications, unresolved contractual issues, administrative processing, funding constraints, or lender-related requirements.

Seventh, the project should establish an escalation mechanism for unresolved payment issues. Where an IPC has been properly certified but payment remains pending, the responsible parties should promptly identify the cause, agree on corrective action, and document the expected resolution date. This mechanism should not replace contractual notice, claims, or dispute-resolution procedures where those procedures are required.

Finally, the Employer should ensure that Particular Conditions and project payment procedures are reviewed together with the applicable national budget and treasury requirements. Where the contract's payment provisions and domestic administrative arrangements appear inconsistent, the issue should be addressed through appropriate legal and financial review before it results in an overdue payment.

Conclusion

Interim Payment Certificates are a critical link between the contractual performance of construction works and the financial administration of loan-financed projects. Their effective processing requires more than the technical verification of completed works. It also depends on the timely coordination of contractual certification, budget documentation, treasury procedures, financing disbursement, and payment execution.

The principal barriers identified in this thesis are differences between contractual and administrative timelines, unclear institutional responsibilities, incomplete supporting documentation, uncertain counterpart-funding arrangements, coordination problems with financing institutions, currency and tax issues, and weak payment monitoring.

These barriers should not be interpreted as evidence that contractual payment procedures and national budget controls are inherently incompatible. Rather, they demonstrate the need for clear procedures that accommodate both contractual obligations and mandatory financial requirements.

The recommended approach combines early payment-process planning, standardised IPC documentation, cash-flow forecasting, clear allocation of institutional responsibilities, coordinated communication with financing institutions, and systematic monitoring of payment milestones.

The central conclusion is that a certified IPC and the actual release of funds are separate but interconnected stages of the payment process. Effective project management must ensure that the transition between them is transparent, predictable, and consistent with both the applicable contract and national law. Such coordination can reduce avoidable payment delays, strengthen contractor confidence, improve financial accountability, and support the timely implementation of internationally financed infrastructure projects in Uzbekistan.

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