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48 CFR Ch. 1 (10-1-02 Edition)

32.1100 Scope of subpart.

This subpart provides policy and procedures for contract financing and delivery payments to contractors by electronic funds transfer (EFT).

32.1101 Statutory requirements.

31 U.S.C. 3332 requires, subject to implementing regulations of the Secretary of the Treasury at 31 CFR part 208, that EFT be used to make all contract payments.

32.1102 Definitions.

As used in this subpart—

Electron Funds Transfer information (EFT) means information necessary for making a payment by EFT through specified EFT mechanisms.

Governmentwide commercial purchase card means a card that is similar in nature to a commercial credit card that is used to make financing and delivery payments for supplies and services. The purchase card is an EFT method and it may be used as a means to meet the requirement to pay by EFT, to the extent that purchase card limits do not preclude such payments.

Payment information means the payment advice provided by the Government to the contractor that identifies what the payment is for, any computations or adjustments made by the Government, and any information required by the Prompt Payment Act.

[64 FR 10540, Mar. 4, 1999, as amended at 66 FR 2132, Jan. 10, 2001]

32.1103 Applicability.

The Government shall provide all contract payments through EFT except if—

(a) The office making payment under a contract that requires payment by EFT, loses the ability to release payment by EFT. To the extent authorized by 31 CFR part 208, the payment office shall make necessary payments pursuant to paragraph (a)(2) of the clause at either 52.232-33 or 52.232-34 until such time as it can make EFT payments;

(b) The payment is to be received by or on behalf of the contractor outside the United States and Puerto Rico (but see 32.1106(b));

(c) A contract is paid in other than United States currency (but see 32.1106(b));

(d) Payment by EFT under a classified contract could compromise the safeguarding of classified information or national security, or where arrangements for appropriate EFT payments would be impractical due to security considerations;

(e) A contract is awarded by a deployed contracting officer in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13), or a contract is awarded by any contracting officer in the conduct of emergency operations, such as responses to natural disasters or national or civil emergencies, if—

(1) EFT is not known to be possible; or

(2) EFT payment would not support the objectives of the operation;

(f) The agency does not expect to make more than one payment to the same recipient within a one-year period;

(g) An agency's need for supplies and services is of such unusual and compelling urgency that the Government would be seriously injured unless payment is made by a method other than EFT;

(h) There is only one source for supplies and services and the Government would be seriously injured unless payment is made by a method other than EFT; or

(i) Otherwise authorized by Department of the Treasury Regulations at 31 CFR part 208.

[64 FR 10540, Mar. 4, 1999, as amended at 67 FR 6114, Feb. 8, 2002]

32.1104 Protection of EFT information.

The Government shall protect against improper disclosure of contractors' EFT information.

32.1105 Assignment of claims.

The use of EFT payment methods is not a substitute for a properly executed assignment of claims in accordance with Subpart 32.8. EFT information that shows the ultimate recipient of the transfer to be other than the contractor, in the absence of a proper assignment of claims, is considered to

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be incorrect EFT information within the meaning of the “Suspension of Payment” paragraphs of the EFT clauses at 52.232-33 and 52.232-34.

32.1106 EFT mechanisms.

(a) *Domestic EFT mechanisms.* The EFT clauses at 52.232-33 and 52.232-34 are designed for use with the domestic United States banking system, using United States currency, and only the specified mechanisms (U.S. Automated Clearing House, and Fedwire Transfer System) of EFT. However, the head of an agency may authorize the use of any other EFT mechanism for domestic EFT with the concurrence of the office or agency responsible for making payments.

(b) *Nondomestic EFT mechanisms and other than United States currency.* The Government shall provide payment by other than EFT for payments received by or on behalf of the contractor outside the United States and Puerto Rico or for contracts paid in other than United States currency. However, the head of an agency may authorize appropriate use of EFT with the concurrence of the office or agency responsible for making payments if—

(1) The political, financial, and communications infrastructure in a foreign country supports payment by EFT; or

(2) Payments of other than United States currency may be made safely.

32.1107 Payment information.

The payment or disbursing office shall forward to the contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System.

32.1108 Payment by Governmentwide commercial purchase card.

A Governmentwide commercial purchase card charge authorizes the third party (e.g., financial institution) that issued the purchase card to make immediate payment to the contractor. The Government reimburses the third party at a later date for the third party’s payment to the contractor.

(a) The clause at 52.232-36, Payment by Third Party, governs when a contractor submits a charge against the

purchase card for contract payment. The clause provides that the contractor shall make such payment requests by a charge to a Government account with the third party at the time the payment clause(s) of the contract authorizes the contractor to submit a request for payment, and for the amount due in accordance with the terms of the contract. To the extent that such a payment would otherwise be approved, the charge against the purchase card should not be disputed when the charge is reported to the Government by the third party. To the extent that such payment would otherwise not have been approved, an authorized individual (see 1.603-3) shall take action to remove the charge, such as by disputing the charge with the third party or by requesting that the contractor credit the charge back to the Government under the contract.

(b) Written contracts to be paid by purchase card should include the clause at 52.232-36, Payment by Third Party, as prescribed by 32.1110(d). However, payment by a purchase card also may be made under a contract that does not contain the clause to the extent the contractor agrees to accept that method of payment.

(c) The clause at 52.232-36, Payment by Third Party, requires that the contract—

(1) Identify the third party and the particular purchase card to be used; and

(2) Not include the purchase card account number. The purchase card account number should be provided separately to the contractor.

32.1109 EFT information submitted by offerors.

If offerors are required to submit EFT information prior to award, the successful offeror is not responsible for resubmitting this information after award of the contract except to make changes, or to place the information on invoices if required by agency procedures. Therefore, contracting officers shall forward EFT information provided by the successful offeror to the appropriate office.