

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(Revised December 19, 2006)

252.232-7000 Advance Payment Pool.

As prescribed in 232.412-70(a), use the following clause:

ADVANCE PAYMENT POOL (DEC 1991)

(a) Notwithstanding any other provision of this contract, advance payments will be made for contract performance in accordance with the Determinations, Findings, and Authorization for Advance payment dated _____.

(b) Payments made in accordance with this clause shall be governed by the terms and conditions of the Advance Payment Pool Agreement between the United States of America and (insert the name of the contractor). The Agreement is incorporated in the contract by reference.

(End of clause)

252.232-7001 Disposition of Payments.

As prescribed in 232.412-70(b), use the following clause:

DISPOSITION OF PAYMENTS (DEC 1991)

Payment will be by a dual payee Treasury check made payable to the contractor or the (insert the name of the disbursing office in the advance payment pool agreement), and will be forwarded to that disbursing office for appropriate disposition.

(End of clause)

252.232-7002 Progress Payments for Foreign Military Sales Acquisitions.

As prescribed in 232.502-4-70(a), use the following clause:

PROGRESS PAYMENTS FOR FOREIGN MILITARY SALES ACQUISITIONS
(DEC 1991)

If this contract includes foreign military sales (FMS) requirements, the Contractor shall—

(a) Submit a separate progress payment request for each progress payment rate; and

(b) Submit a supporting schedule showing—

(1) The amount of each request distributed to each country's requirements; and

(2) Total price per contract line item applicable to each separate progress payment rate.

(c) Identify in each progress payment request the contract requirements to which it applies (i.e., FMS or U.S.);

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(d) Calculate each request on the basis of the prices, costs (including costs to complete), subcontractor progress payments, and progress payment liquidations of the contract requirements to which it applies; and

(e) Distribute costs among contract line items and countries in a manner acceptable to the Administrative Contracting Officer.

(End of clause)

252.232-7003 Electronic Submission of Payment Requests.

As prescribed in 232.7004, use the following clause:

ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (MAY 2006)

(a) *Definitions.* As used in this clause—

(1) “Contract financing payment” and “invoice payment” have the meanings given in section 32.001 of the Federal Acquisition Regulation.

(2) “Electronic form” means any automated system that transmits information electronically from the initiating system to all affected systems. Facsimile, e-mail, and scanned documents are not acceptable electronic forms for submission of payment requests. However, scanned documents are acceptable when they are part of a submission of a payment request made using one of the electronic forms provided for in paragraph (b) of this clause.

(3) “Payment request” means any request for contract financing payment or invoice payment submitted by the Contractor under this contract.

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests using one of the following electronic forms:

(1) Wide Area WorkFlow-Receipt and Acceptance (WAWF-RA). Information regarding WAWF-RA is available on the Internet at <https://wawf.eb.mil>.

(2) Web Invoicing System (WInS). Information regarding WInS is available on the Internet at <https://ecweb.dfas.mil>.

(3) American National Standards Institute (ANSI) X.12 electronic data interchange (EDI) formats.

(i) Information regarding EDI formats is available on the Internet at <http://www.X12.org>.

(ii) EDI implementation guides are available on the Internet at <http://www.dod.mil/dfas/>.

(4) Another electronic form authorized by the Contracting Officer.

(c) If the Contractor is unable to submit a payment request in electronic form, or DoD is unable to receive a payment request in electronic form, the Contractor shall submit the payment request using a method mutually agreed to by the Contractor, the

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Contracting Officer, the contract administration office, and the payment office.

(d) In addition to the requirements of this clause, the Contractor shall meet the requirements of the appropriate payment clauses in this contract when submitting payment requests.

(End of clause)

252.232-7004 DoD Progress Payment Rates.

As prescribed in 232.502-4-70(b), use the following clause:

DOD PROGRESS PAYMENT RATES (OCT 2001)

(a) If the contractor is a small business concern, the Progress Payments clause of this contract is modified to change each mention of the progress payment rate and liquidation rate (excepting paragraph (k), *Limitations on Unfinalized Contract Actions*) to 90 percent.

(b) If the contractor is a small disadvantaged business concern, the Progress Payments clause of this contract is modified to change each mention of the progress payment rate and liquidation rate (excepting paragraph (k), *Limitations on Unfinalized Contract Actions*) to 95 percent.

(End of clause)

252.232-7005 Reimbursement of Subcontractor Advance Payments—DoD Pilot Mentor-Protege Program.

As prescribed in 232.412-70(c), use the following clause:

REIMBURSEMENT OF SUBCONTRACTOR ADVANCE PAYMENTS--DOD PILOT MENTOR-PROTEGE PROGRAM (SEP 2001)

(a) The Government will reimburse the Contractor for any advance payments made by the Contractor, as a mentor firm, to a protege firm, pursuant to an approved mentor-protege agreement, provided—

(1) The Contractor's subcontract with the protege firm includes a provision substantially the same as FAR 52.232-12, Advance Payments;

(2) The Contractor has administered the advance payments in accordance with the policies of FAR Subpart 32.4; and

(3) The Contractor agrees that any financial loss resulting from the failure or inability of the protege firm to repay any unliquidated advance payments is the sole financial responsibility of the Contractor.

(b) For a fixed price type contract, advance payments made to a protege firm shall be paid and administered as if they were 100 percent progress payments. The Contractor shall include as a separate attachment with each Standard Form (SF) 1443, Contractor's Request for Progress Payment, a request for reimbursement of advance payments made to a protege firm. The attachment shall provide a separate calculation of lines 14a through 14e of SF 1443 for each protege, reflecting the status of advance

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payments made to that protege.

(c) For cost reimbursable contracts, reimbursement of advance payments shall be made via public voucher. The Contractor shall show the amounts of advance payments made to each protege on the public voucher, in the form and detail directed by the cognizant contracting officer or contract auditor.

(End of clause)

252.232-7006 Alternate A.

ALTERNATE A (DEC 2003)

As prescribed in 232.111(b), substitute the following paragraph (a)(2) for paragraph (a)(2) of the clause at FAR 52.232-7:

(a)(2) The Administrative Contracting Officer (ACO) may unilaterally issue a contract modification requiring the Contractor to withhold amounts from its billings until a reserve is set aside in an amount that the ACO considers necessary to protect the Government's interests. The ACO may withhold 5 percent of the amounts due under this paragraph (a), but the total amount withheld shall not exceed \$50,000. The amounts withheld shall be retained until the Contractor executes and delivers the release required by paragraph (f) of this clause.

252.232-7007 Limitation of Government's Obligation.

As prescribed in 232.705-70, use the following clause:

LIMITATION OF GOVERNMENT'S OBLIGATION (MAY 2006)

(a) Contract line item(s) * through * are incrementally funded. For these item(s), the sum of \$ * of the total price is presently available for payment and allotted to this contract. An allotment schedule is set forth in paragraph (j) of this clause.

(b) For item(s) identified in paragraph (a) of this clause, the Contractor agrees to perform up to the point at which the total amount payable by the Government, including reimbursement in the event of termination of those item(s) for the Government's convenience, approximates the total amount currently allotted to the contract. The Contractor is not authorized to continue work on those item(s) beyond that point. The Government will not be obligated in any event to reimburse the Contractor in excess of the amount allotted to the contract for those item(s) regardless of anything to the contrary in the clause entitled "Termination for Convenience of the Government." As used in this clause, the total amount payable by the Government in the event of termination of applicable contract line item(s) for convenience includes costs, profit, and estimated termination settlement costs for those item(s).

(c) Notwithstanding the dates specified in the allotment schedule in paragraph (j) of this clause, the Contractor will notify the Contracting Officer in writing at least ninety days prior to the date when, in the Contractor's best judgment, the work will reach the point at which the total amount payable by the Government, including any cost for termination for convenience, will approximate 85 percent of the total amount then allotted to the contract for performance of the applicable item(s). The notification will state (1) the estimated date when that point will be reached and (2) an estimate of

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additional funding, if any, needed to continue performance of applicable line items up to the next scheduled date for allotment of funds identified in paragraph (j) of this clause, or to a mutually agreed upon substitute date. The notification will also advise the Contracting Officer of the estimated amount of additional funds that will be required for the timely performance of the item(s) funded pursuant to this clause, for a subsequent period as may be specified in the allotment schedule in paragraph (j) of this clause or otherwise agreed to by the parties. If after such notification additional funds are not allotted by the date identified in the Contractor's notification, or by an agreed substitute date, the Contracting Officer will terminate any item(s) for which additional funds have not been allotted, pursuant to the clause of this contract entitled "Termination for Convenience of the Government."

(d) When additional funds are allotted for continued performance of the contract line item(s) identified in paragraph (a) of this clause, the parties will agree as to the period of contract performance which will be covered by the funds. The provisions of paragraphs (b) through (d) of this clause will apply in like manner to the additional allotted funds and agreed substitute date, and the contract will be modified accordingly.

(e) If, solely by reason of failure of the Government to allot additional funds, by the dates indicated below, in amounts sufficient for timely performance of the contract line item(s) identified in paragraph (a) of this clause, the Contractor incurs additional costs or is delayed in the performance of the work under this contract and if additional funds are allotted, an equitable adjustment will be made in the price or prices (including appropriate target, billing, and ceiling prices where applicable) of the item(s), or in the time of delivery, or both. Failure to agree to any such equitable adjustment hereunder will be a dispute concerning a question of fact within the meaning of the clause entitled "Disputes."

(f) The Government may at any time prior to termination allot additional funds for the performance of the contract line item(s) identified in paragraph (a) of this clause.

(g) The termination provisions of this clause do not limit the rights of the Government under the clause entitled "Default." The provisions of this clause are limited to the work and allotment of funds for the contract line item(s) set forth in paragraph (a) of this clause. This clause no longer applies once the contract is fully funded except with regard to the rights or obligations of the parties concerning equitable adjustments negotiated under paragraphs (d) and (e) of this clause.

(h) Nothing in this clause affects the right of the Government to terminate this contract pursuant to the clause of this contract entitled "Termination for Convenience of the Government."

(i) Nothing in this clause shall be construed as authorization of voluntary services whose acceptance is otherwise prohibited under 31 U.S.C. 1342.

(j) The parties contemplate that the Government will allot funds to this contract in accordance with the following schedule:

| | |
|--------------------------|----------|
| On execution of contract | \$ _____ |
| (month) (day), (year) | \$ _____ |
| (month) (day), (year) | \$ _____ |
| (month) (day), (year) | \$ _____ |

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(End of clause)

ALTERNATE I (MAY 2006).

If only one line item will be incrementally funded, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a) Contract line item _____ is incrementally funded. The sum of \$ ____* is presently available for payment and allotted to this contract. An allotment schedule is contained in paragraph (j) of this clause.

* To be inserted after negotiation.

252.232-7008 Assignment of Claims (Overseas).

As prescribed in 232.806(a)(1), use the following clause:

ASSIGNMENT OF CLAIMS (OVERSEAS) (JUN 1997)

(a) No claims for monies due, or to become due, shall be assigned by the Contractor unless—

- (1) Approved in writing by the Contracting Officer;
- (2) Made in accordance with the laws and regulations of the United States of America; and
- (3) Permitted by the laws and regulations of the Contractor's country.

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential" be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive such documents. However, a copy of any part or all of this contract so marked may be furnished, or any information contained herein may be disclosed, to such assignee upon the Contracting Officer's prior written authorization.

(c) Any assignment under this contract shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing. On each invoice or voucher submitted for payment under this contract to which any assignment applies, and for which direct payment thereof is to be made to an assignee, the Contractor shall—

- (1) Identify the assignee by name and complete address; and
- (2) Acknowledge the validity of the assignment and the right of the named assignee to receive payment in the amount invoiced or vouchered.

(End of clause)

252.232-7009 Mandatory Payment by Governmentwide Commercial Purchase Card.

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As prescribed in 232.1110, use the following clause:

MANDATORY PAYMENT BY GOVERNMENTWIDE COMMERCIAL PURCHASE CARD (DEC 2006)

The Contractor agrees to accept the Governmentwide commercial purchase card as the method of payment for orders or calls valued at or below the micro-purchase threshold in Part 2 of the Federal Acquisition Regulation, under this contract or agreement.

(End of clause)

252.232-7010 Levies on Contract Payments.

As prescribed in 232.7102, use the following clause:

LEVIES ON CONTRACT PAYMENTS (DEC 2006)

(a) 26 U.S.C. 6331(h) authorizes the Internal Revenue Service (IRS) to continuously levy up to 100 percent of contract payments, up to the amount of tax debt.

(b) When a levy is imposed on a payment under this contract and the Contractor believes that the levy may result in an inability to perform the contract, the Contractor shall promptly notify the Procuring Contracting Officer in writing, with a copy to the Administrative Contracting Officer, and shall provide—

(1) The total dollar amount of the levy;

(2) A statement that the Contractor believes that the levy may result in an inability to perform the contract, including rationale and adequate supporting documentation; and

(3) Advice as to whether the inability to perform may adversely affect national security, including rationale and adequate supporting documentation.

(c) DoD shall promptly review the Contractor's assessment, and the Procuring Contracting Officer shall provide a written notification to the Contractor including—

(1) A statement as to whether DoD agrees that the levy may result in an inability to perform the contract; and

(2)(i) If the levy may result in an inability to perform the contract and the lack of performance will adversely affect national security, the total amount of the monies collected that should be returned to the Contractor; or

(ii) If the levy may result in an inability to perform the contract but will not impact national security, a recommendation that the Contractor promptly notify the IRS to attempt to resolve the tax situation.

(d) Any DoD determination under this clause is not subject to appeal under the Contract Disputes Act.

(End of clause)