

(Revised December 20, 2005)

232.006 Reduction or suspension of contract payments upon finding of fraud.

232.006-5 Reporting.

Departments and agencies, in accordance with department/agency procedures, shall prepare and submit to the Under Secretary of Defense (Acquisition, Technology, and Logistics), through the Director of Defense Procurement and Acquisition Policy, annual reports (Report Control Symbol DD-AT&L(A)1891) containing the information required by FAR 32.006-5.

232.007 Contract financing payments.

(a) DoD policy is to make contract financing payments as quickly as possible. Generally, the contracting officer shall insert the standard due dates of 7 days for progress payments, and 14 days for performance-based payments and interim payments on cost-type contracts, in the appropriate paragraphs of the respective payment clauses. For interim payments on cost-reimbursement contracts for services, see 232.906(a)(i).

(b) The contracting officer should coordinate contract financing payment terms with offices that will be involved in the payment process to ensure that specified terms can be met. Where justified, the contracting officer may insert a due date greater than, but not less than, the standard. In determining payment terms, consider—

- (i) Geographical separation;
- (ii) Workload;
- (iii) Contractor ability to submit a proper request; and
- (iv) Other factors that could affect timing of payment.

232.070 Responsibilities.

(a) The Director of Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) (OUSD(AT&L)DPAP) is responsible for ensuring uniform administration of DoD contract financing, including DoD contract financing policies and important related procedures. Agency discretion under FAR Part 32 is at the DoD level and is not delegated to the departments and agencies. Proposals by the departments and agencies, to exercise agency discretion, shall be submitted to OUSD(AT&L)DPAP.

(b) Departments and agencies are responsible for their day-to-day contract financing operations. Refer specific cases involving financing policy or important procedural issues to OUSD(AT&L)DPAP for consideration through the department/agency Contract Finance Committee members (also see Subpart 204.1 for deviation request and approval procedures).

(c) See PGI 232.070(c) for information on department/agency contract financing offices.

232.071 Reserved.

232.072 Financial responsibility of contractors.

Use the policies and procedures in this section in determining the financial capability of current or prospective contractors.

232.072-1 Required financial reviews.

The contracting officer shall perform a financial review when the contracting officer does not otherwise have sufficient information to make a positive determination of financial responsibility. In addition, the contracting officer shall consider performing a financial review—

(a) Prior to award of a contract, when—

(1) The contractor is on a list requiring preaward clearance or other special clearance before award;

(2) The contractor is listed on the Consolidated List of Contractors Indebted to the Government (Hold-Up List), or is otherwise known to be indebted to the Government;

(3) The contractor may receive Government assets such as contract financing payments or Government property;

(4) The contractor is experiencing performance difficulties on other work; or

(5) The contractor is a new company or a new supplier of the item.

(b) At periodic intervals after award of a contract, when—

(1) Any of the conditions in paragraphs (a)(2) through (a)(5) of this subsection are applicable; or

(2) There is any other reason to question the contractor's ability to finance performance and completion of the contract.

232.072-2 Appropriate information.

(a) The contracting officer shall obtain the type and depth of financial and other information that is required to establish a contractor's financial capability or disclose a contractor's financial condition. While the contracting officer should not request information that is not necessary for protection of the Government's interests, the contracting officer must insist upon obtaining the information that is necessary. The unwillingness or inability of a contractor to present reasonably requested information in a timely manner, especially information that a prudent business person would be expected to have and to use in the professional management of a business, may be a material fact in the determination of the contractor's responsibility and prospects for contract completion.

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(b) The contracting officer shall obtain the following information to the extent required to protect the Government's interest. In addition, if the contracting officer concludes that information not listed in paragraphs (b)(1) through (b)(10) of this subsection is required to comply with 232.072-1, that information should be requested. The information must be for the person(s) who are legally liable for contract performance. If the contractor is not a corporation, the contracting officer shall obtain the required information for each individual/joint venturer/partner:

(1) Balance sheet and income statement—

(i) For the current fiscal year (interim);

(ii) For the most recent fiscal year and, preferably, for the 2 preceding fiscal years. These should be certified by an independent public accountant or by an appropriate officer of the firm; and

(iii) Forecasted for each fiscal year for the remainder of the period of contract performance.

(2) Summary history of the contractor and its principal managers, disclosing any previous insolvencies--corporate or personal, and describing its products or services.

(3) Statement of all affiliations disclosing—

(i) Material financial interests of the contractor;

(ii) Material financial interests in the contractor;

(iii) Material affiliations of owners, officers, directors, major stockholders; and

(iv) The major stockholders if the contractor is not a widely-traded, publicly-held corporation.

(4) Statement of all forms of compensation to each officer, manager, partner, joint venturer, or proprietor, as appropriate—

(i) Planned for the current year;

(ii) Paid during the past 2 years; and

(iii) Deferred to future periods.

(5) Business base and forecast that—

(i) Shows, by significant markets, existing contracts and outstanding offers, including those under negotiation; and

(ii) Is reconcilable to indirect cost rate projections.

(6) Cash forecast for the duration of the contract (see 232.072-3).

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- (7) Financing arrangement information that discloses—
- (i) Availability of cash to finance contract performance;
 - (ii) Contractor's exposure to financial crisis from creditor's demands;
 - (iii) Degree to which credit security provisions could conflict with Government title terms under contract financing;
 - (iv) Clearly stated confirmations of credit with no unacceptable qualifications; and
 - (v) Unambiguous written agreement by a creditor if credit arrangements include deferred trade payments or creditor subordinations/repayment suspensions.
- (8) Statement of all state, local, and Federal tax accounts, including special mandatory contributions, e.g., environmental superfund.
- (9) Description and explanation of the financial effect of issues such as—
- (i) Leases, deferred purchase arrangements, or patent or royalty arrangements;
 - (ii) Insurance, when relevant to the contract;
 - (iii) Contemplated capital expenditures, changes in equity, or contractor debt load;
 - (iv) Pending claims either by or against the contractor;
 - (v) Contingent liabilities such as guarantees, litigation, environmental, or product liabilities;
 - (vi) Validity of accounts receivable and actual value of inventory, as assets; and
 - (vii) Status and aging of accounts payable.
- (10) Significant ratios such as—
- (i) Inventory to annual sales;
 - (ii) Inventory to current assets;
 - (iii) Liquid assets to current assets;
 - (iv) Liquid assets to current liabilities;
 - (v) Current assets to current liabilities; and
 - (vi) Net worth to net debt.

232.072-3 Cash flow forecasts.

(a) A contractor must be able to sustain a sufficient cash flow to perform the contract. When there is doubt regarding the sufficiency of a contractor's cash flow, the contracting officer should require the contractor to submit a cash flow forecast covering the duration of the contract.

(b) A contractor's inability or refusal to prepare and provide cash flow forecasts or to reconcile actual cash flow with previous forecasts is a strong indicator of serious managerial deficiencies or potential contract cost or performance problems.

(c) Single or one-time cash flow forecasts are of limited forecasting power. As such, they should be limited to preaward survey situations. Reliability of cash flow forecasts can be established only by comparing a series of previous actual cash flows with the corresponding forecasts and examining the causes of any differences.

(d) Cash flow forecasts must—

(1) Show the origin and use of all material amounts of cash within the entire business unit responsible for contract performance, period by period, for the length of the contract (or until the risk of a cash crisis ends); and

(2) Provide an audit trail to the data and assumptions used to prepare it.

(e) Cash flow forecasts can be no more reliable than the assumptions on which they are based. Most important of these assumptions are—

(1) Estimated amounts and timing of purchases and payments for materials, parts, components, subassemblies, and services;

(2) Estimated amounts and timing of payments for purchase or production of capital assets, test facilities, and tooling;

(3) Amounts and timing of fixed cash charges such as debt installments, interest, rentals, taxes, and indirect costs;

(4) Estimated amounts and timing of payments for projected labor, both direct and indirect;

(5) Reasonableness of projected manufacturing and production schedules;

(6) Estimated amounts and timing of billings to customers (including progress payments), and customer payments;

(7) Estimated amounts and timing of cash receipts from lenders or other credit sources, and liquidation of loans; and

(8) Estimated amounts and timing of cash receipts from other sources.

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(f) The contracting officer should review the assumptions underlying the cash flow forecasts. In determining whether the assumptions are reasonable and realistic, the contracting officer should consult with—

- (1) The contractor;
- (2) Government personnel in the areas of finance, engineering, production, cost, and price analysis; or
- (3) Prospective supply, subcontract, and loan or credit sources.