

shipbuilding, and ship conversion, alteration, or repair. However, percentage or state of completion methods of measuring contractor performance may be used for performance-based payments in accordance with FAR Subpart 32.10.

**232.102-70 Provisional delivery payments.**

(a) The contracting officer may establish provisional delivery payments to pay contractors for the costs of supplies and services delivered to and accepted by the Government under the following contract actions if undefinitized:

- (1) Letter contracts contemplating a fixed-price contract.
- (2) Orders under basic ordering agreements.
- (3) Spares provisioning documents annexed to contracts.
- (4) Unpriced equitable adjustments on fixed-price contracts.
- (5) Orders under indefinite-delivery contracts.

(b) Provisional delivery payments shall be—

- (1) Used sparingly;
- (2) Priced conservatively; and
- (3) Reduced by liquidating previous progress payments in accordance with the Progress Payments clause.

(c) Provisional delivery payments shall not—

- (1) Include profit;
- (2) Exceed funds obligated for the undefinitized contract action; or
- (3) Influence the definitized contract price.

**232.111 Contract clauses for non-commercial purchases.**

(b) Use the clause at FAR 52.232-7, Payments under Time-and-Materials and Labor-Hour Contracts, with 52.232-7006, Alternate A, in solicitations and contracts when a time-and-materials or labor-hour contract is contemplated.

(i) Alternate A permits the administrative contracting officer (ACO) to withhold 5 percent of the amounts due until a reserve is set aside in an amount the ACO considers to be necessary, but not to exceed \$50,000, to protect the Government's interests.

(ii) Normally, there should be no need to withhold payment for a contractor with a record of timely submittal of the release discharging the Government from all liabilities, obligations, and claims.

(iii) If the ACO determines that it is necessary to withhold payment to protect the Government's interests, the ACO shall unilaterally issue a modification requiring the contractor to withhold 5 percent of amounts due, up to a maximum of \$50,000. The ACO shall ensure that the modification specifies the percentage and total amount of the withhold.

[68 FR 69632, Dec. 15, 2003]

**Subpart 232.2—Commercial Item Purchase Financing**

SOURCE: 63 FR 11537, Mar. 9, 1998, unless otherwise noted.

**232.202-4 Security for Government financing.**

(a)(2) When determining whether an offeror's financial condition is adequate security, see 232.072-2 and 232.072-3 for guidance. It should be noted that an offeror's financial condition may be sufficient to make the contractor responsible for award purposes, but may not be adequate security for commercial contract financing.

**232.206 Solicitation provisions and contract clauses.**

(f) *Prompt payment for commercial purchase payments.* The contracting officer shall incorporate the following standard prompt payment terms for commercial item contract financing:

(i) *Commercial advance payments:* The contractor entitlement date specified in the contract, or 30 days after receipt by the designated billing office of a proper request for payment, whichever is later.

(ii) *Commercial interim payments:* The contractor entitlement date specified in the contract, or 14 days after receipt by the designated billing office of a proper request for payment, whichever is later. The prompt payment standards for commercial delivery payments shall be the same as specified in FAR