

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

232.302

Subpart 32.9 for invoice payments for the item delivered.

(g) *Installment payment financing for commercial items.* Installment payment financing shall not be used for DoD contracts, unless market research has established that this form of contract financing is both appropriate and customary in the commercial marketplace. When installment payment financing is used, the contracting officer shall use the ceiling percentage of contract price that is customary in the particular marketplace (not to exceed the maximum rate established in FAR 52.232-30).

[63 FR 11537, Mar. 9, 1998, as amended at 70 FR 75413, Dec. 20, 2005]

Subpart 232.3—Loan Guarantees for Defense Production

232.302 Authority.

(a) The use of guaranteed loans as a contract financing mechanism requires the availability of certain congressional authority. The DoD has not requested such authority in recent years, and none is now available.

Subpart 232.4—Advance Payments for Non-Commercial Items

232.404 Exclusions.

(a)(9) The requirements of FAR subpart 32.4 do not apply to advertisements in high school and college publications for military recruitment efforts under 10 U.S.C. 503 when the contract cost does not exceed \$2,500.

[56 FR 36409, July 31, 1991, as amended at 70 FR 75413, Dec. 20, 2005]

232.409 Contracting officer action.

232.409-1 Recommendation for approval.

Follow the procedures at PGI 232.409-1 for preparation of the documents required by FAR 32.409-1(e) and (f).

[70 FR 75413, Dec. 20, 2005]

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232.410 Findings, determination, and authorization.

If an advance payment procedure is used without a special bank account, follow the procedures at PGI 232.410.

[70 FR 75413, Dec. 20, 2005]

232.412 Contract clause.

232.412-70 Additional clauses.

(a) Use the clause at 252.232-7000, Advance Payment Pool, in any contract that will be subject to the terms of an advance payment pool agreement with a nonprofit organization or educational institution. Normally, use the clause in all cost reimbursement type contracts with the organization or institution.

(b) Use the clause at 252.232-7001, Disposition of Payments, in contracts when payments under the contract are to be made by a disbursing office not designated in the advance payment pool agreement.

(c) Use the clause at 252.232-7005, Reimbursement of Subcontractor Advance Payments-DoD Pilot Mentor-Protege Program, when advance payments will be provided by the contractor to a subcontractor pursuant to an approved mentor-protege agreement (See subpart 219.71).

[56 FR 36409, July 31, 1991, as amended at 56 FR 67217, Dec. 30, 1991]

232.470 Advance payment pool.

(a) An advance payment pool agreement—

(1) Is a means of financing the performance of more than one contract held by a single contractor;

(2) Is especially convenient for the financing of cost-type contracts with nonprofit educational or research institutions for experimental or research and development work when several contracts require financing by advance payments. When appropriate, pooled advance payments may also be used to finance other types of contracts held by a single contractor; and

(3) May be established—

(i) Without regard to the number of appropriations involved;

(ii) To finance contracts for one or more department(s) or contracting activity(ies); or