

Department of Defense

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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

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 \$500.

232.409 Contracting officer action.

232.409-1 Recommendation for approval.

To ensure uniform application of this subpart (see FAR 32.402(e)(1)), the departmental/agency contract financing office shall prepare the documents required by FAR 32.409-1 (e) and (f).

232.410 Findings, determination, and authorization.

(b) If an advance payment procedure is used without a special bank account, replace paragraph (a)(4) of the Findings, Determination, and Authorization for Advance Payments at FAR 32.410 with:

(4) The proposed advance payment clause contains appropriate provisions as security for advance payments. These provisions include a requirement that the outstanding advance payments will be liquidated from cost reimbursements as they become due the contractor. This security is considered adequate to protect the interest of the Government.

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

(iii) In addition to any other advance payment pool agreement at a single contractor location when it is more convenient or otherwise preferable to have more than one agreement.

Subpart 232.5—Progress Payments Based on Costs

232.501 General.

232.501-1 Customary progress payment rates.

(a) The customary progress payment rates for DoD contracts, including contracts that contain foreign military

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sales (FMS) requirements, are 80 percent for large business concerns, 90 percent for small business concerns, and 95 percent for small disadvantaged business concerns.

[66 FR 49865, Oct. 1, 2001]

232.501-2 Unusual progress payments.

(a) Unusual progress payment arrangements require the advance approval of the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) (OUSD(AT&L)DP). Contracting officers must submit all unusual progress payment requests to the department or agency contract financing office for approval, coordination with the Contract Finance Committee (see 232.071), and submission to OUSD(AT&L)DP.

[65 FR 39722, June 27, 2000]

232.501-3 Contract price.

(b) The contracting officer may approve progress payments when the contract price exceeds the funds obligated under the contract; provided, the contract contains an appropriate Limitation of Funds clause. However, the contracting officer must limit such payments to the lesser of—

(i) The applicable rate (i.e., the lower of the progress payment rate, the liquidation rate, or the loss-ratio adjusted rate); or

(ii) 100 percent of the funds obligated.

[56 FR 36409, July 31, 1991, as amended at 65 FR 39722, June 27, 2000]

232.502 Preaward matters.

232.502-1 Use of customary progress payments.

(b)(1) If the contractor is a small disadvantaged business, progress payments may be provided when the contract will involve \$50,000 or more.

232.502 Contract clauses.

232.502-4-70 Additional clauses.

(a) Use the clause at 252.232-7002, Progress Payments for Foreign Military Sales Acquisitions, in solicitations and contracts that—

- (i) Contain FMS requirements; and
- (ii) Provide for progress payments.

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(b) Use the clause at 252.232-7004, DoD Progress Payment Rates, instead of Alternate I of the clause at FAR 52.232-16, if the contractor is a small business or small disadvantaged business concern.

[56 FR 36409, July 31, 1991, as amended at 56 FR 67217, Dec. 30, 1991; 64 FR 8731, Feb. 23, 1999; 65 FR 39722, June 27, 2000; 66 FR 49865, Oct. 1, 2001]

232.503 Postaward matters.

232.503-6 Suspension or reduction of payments.

(b) *Contractor noncompliance.* See also 242.7503.

(g) *Loss contracts.* Use the following loss ratio adjustment procedures for making adjustments required by FAR 32.503-6(f) and (g)—

(i) Except as provided in paragraph (g)(ii) of this subsection, the contracting officer must prepare a supplementary analysis of the contractor's request for progress payments and calculate the loss ratio adjustment using the procedures in FAR 32.503-6(g).

(ii) The contracting officer may request the contractor to prepare the supplementary analysis as an attachment to the progress payment request when the contracting officer determines that the contractor's methods of estimating the "Costs to Complete" are reliable, accurate, and not susceptible to improper influences.

(iii) To maintain an audit trail and permit verification of calculations, do not make the loss ratio adjustments by altering or replacing data on the contractor's original request for progress payment (SF 1443, Contractor's Request for Progress Payment, or computer generated equivalent).

[56 FR 36409, July 31, 1991, as amended at 60 FR 29499, June 5, 1995; 65 FR 39722, June 27, 2000]

232.503-15 Application of Government title terms.

(d) An administrative contracting officer (ACO) determination that the contractor's material management and accounting system conforms to the standard at 252.242-7004(f)(7) constitutes the contracting officer approval requirement of FAR 32.503-15(d). Prior to granting blanket approval of