

## Federal Acquisition Regulation

## 32.202-4

(6) Prior to any performance of work under the contract, the aggregate of commercial advance payments shall not exceed 15 percent of the contract price;

(7) The contract is awarded on the basis of competitive procedures or, if only one offer is solicited, adequate consideration is obtained (based on the time value of the additional financing to be provided) if the financing is expected to be substantially more advantageous to the offeror than the offeror's normal method of customer financing; and

(8) The contracting officer obtains concurrence from the payment office concerning liquidation provisions when required by 32.206(e).

(c) *Difference from non-commercial financing.* Government financing of commercial purchases under this subpart is expected to be different from that used for non-commercial purchases under subpart 32.1 and its related subparts. While the contracting officer may adapt techniques and procedures from the non-commercial subparts for use in implementing commercial contract financing arrangements, the contracting officer must have a full understanding of effects of the differing contract environments and of what is needed to protect the interests of the Government in commercial contract financing.

(d) *Unusual contract financing.* Any contract financing arrangement not in accord with the requirements of agency regulations or this part is unusual contract financing and requires advance approval in accordance with agency procedures. If not otherwise specified, such unusual contract financing shall be approved by the head of the contracting activity.

(e) *Best interest of the Government.* The statutes cited in 32.201 do not allow contract financing by the Government unless it is in the best interest of the United States. Agencies may establish standards to determine whether contract financing is in the best interest of the Government. These standards may be for certain types of procurements, certain types of items, or certain dollar levels of procurements.

[60 FR 49711, Sept. 26, 1995, as amended at 61 FR 39190, July 26, 1996]

### 32.202-2 Types of payments for commercial item purchases.

These definitions incorporate the requirements of the statutory commercial financing authority and the implementation of the Prompt Payment Act.

*Commercial advance payment*, as used in this subsection, means a payment made before any performance of work under the contract. The aggregate of these payments shall not exceed 15 percent of the contract price. These payments are contract financing payments for prompt payment purposes (*i.e.*, not subject to the interest penalty provisions of the Prompt Payment Act in accordance with subpart 32.9). These payments are not subject to subpart 32.4, Advance Payments for Non-Commercial Items.

*Commercial interim payment* (See 32.001.)

*Delivery payment* (See 32.001).

[60 FR 49711, Sept. 26, 1995, as amended at 66 FR 2132, Jan. 10, 2001]

### 32.202-3 Conducting market research about financing terms.

Contract financing may be a subject included in the market research conducted in accordance with part 10. If market research for contract financing is conducted, the contracting officer should consider—

(a) The extent to which other buyers provide contract financing for purchases in that market;

(b) The overall level of financing normally provided;

(c) The amount or percentages of any payments equivalent to commercial advance payments (see 32.202-2);

(d) The basis for any payments equivalent to commercial interim payments (see 32.001), as well as the frequency, and amounts or percentages; and

(e) Methods of liquidation of contract financing payments and any special or unusual payment terms applicable to delivery payments (see 32.001).

[60 FR 49711, Sept. 26, 1995, as amended at 66 FR 2132, Jan. 10, 2001]

### 32.202-4 Security for Government financing.

(a) *Policy.* (1) 10 U.S.C. 2307(f) and 41 U.S.C. 255(f) require the Government to