PART 932—CONTRACT FINANCING

Authority: 42 U.S.C. 7101 and 50 U.S.C. 2401

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

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Parent topic: SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

932.006 Reduction or suspension of contract payments upon

finding of fraud.

932.006-4 Procedures.

(a) The remedy coordination official shall follow the procedures identified in 48 CFR 32.006-4.

(b) [Reserved]

Subpart 932.1—Non-Commercial Item Purchase Financing

932.102 Description of contract financing methods.

(e)(2) Progress payments based on a percentage or stage of completion may be authorized by the Head of the Contracting Activity when a determination is made that progress payments based on costs cannot be practically employed and that there are adequate safeguards provided for the administration of progress payments based on a percentage or stage of completion.

Subpart 932.3—Loan Guarantees for Defense Production

932.304 Procedures.

932.304-2 Certificate of eligibility.

(h) Guaranteed loan applications shall be authorized and transmitted to the Federal Reserve Bank only by the Secretary or designee specified for that purpose.

Subpart 932.4—Advance Payments for Non-Commercial Items

932.402 General.

(e)

(1) The Head of the Contracting Activity or designee shall have the responsibility and authority for making findings and determinations, and for approval of contract terms concerning advance payments.

(2) Before authorizing any advance payment arrangements, the approving official shall obtain the advice, and other inputs of the servicing finance office.

932.407 Interest.

(d)(4) Advance payments may be made without interest under cost-reimbursement contracts for construction or engineering services.

Subpart 932.5—Progress Payments Based on Costs

932.501 General

932.501-2 Unusual progress payments.

(a)(3) For DOE, the Head of the Contracting Activity shall forward all requests which are considered favorable, with supporting information, to the DOE Senior Procurement Executive, who, after coordination with the Chief Financial Officer, Headquarters, will approve or deny the request. For NNSA, the NNSA Senior Procurement Executive will coordinate with the NNSA Chief Financial Officer before approving or denying the request.

(d) Requests for unusual progress payments will not be considered as a handicap or adverse factor in the award of a contract; provided the bid or proposal is not conditioned on approval of such request.

Subpart 932.6—Contract Debts

932.602 Responsibilities.

The Department of Energy (DOE) contracting officer has primary responsibility for determining the amount of contract debt and notifying the cognizant finance office of such debt due the Government. The servicing DOE finance office making payments under the contract has primary responsibility for debt collection.

Subpart 932.8—Assignment of Claims

932.803 Policies.

(d) In the case of prime contracts, when it has been determined that the financing of contracts will be facilitated in the interest of DOE programs, it is the policy of DOE that such contracts provide, or be amended without consideration (see Assignment of Claims Act of 1940) to provide, in conformance with 48 CFR 32.804, that payments to be made to an assignee shall not be subject to reduction or setoff. In the case of subcontracts, when loans are made for the purpose of financing performance of subcontracts under DOE prime contracts, financing institutions or the Government as guarantor in those instances in which such loans are guaranteed should not be required to incur risks of loss by reason of possible diversion of assigned subcontracts proceeds for payment of other

claims of the prime contractor against the borrower, otherwise unrelated to the assigned subcontracts. The Head of the Contracting Activity shall require the adoption of these policies and practices by DOE prime contractors with respect to DOE subcontract work. The Head of the Contracting Activity should inform the Chief Financial Officer, Headquarters of each DOE contractor who is unwilling to adopt policies consistent with this paragraph and the reasons given in support of the contractor's position.

Subpart 932.9—Prompt Payment

932.970 Implementing DOE policies and procedures.

(a) *Invoice payments—*

(1) *Contract settlement date.* For purposes of determining any interest penalties under cost-type contracts, the effective date of contract settlement shall be the effective date of the final contract modification issued to acknowledge contract settlement and to close out the contract.

(2) *Constructive acceptance periods.* Where the contracting officer determines, in writing, on a case-by-case basis, that it is not reasonable or feasible for DOE to perform the acceptance or approval function within the standard period, the contracting officer should specify a longer constructive acceptance or approval period, as appropriate. Considerations include, but are not limited to, the nature of supplies or services involved, geographical site location, inspection and testing requirements, shipping and acceptance terms, and available DOE resources.

(b) *Accelerated payments to limit contractor working capital requirements.* Contracting Officers may specify payment due dates that are less than the standard under the Prompt Payment Act when a determination is made, in writing, on a case-by-case basis, that a shorter contract financing payment cycle will be beneficial to the Government by reducing the contractor's working capital requirements. In such cases, the Contracting Officer should coordinate with the finance and program officials that will be involved in the payment process to ensure that the contract payment terms to be specified in solicitations and resulting contract awards will provide sufficient time for officials to perform an appropriate review of the invoices before they are paid. Consideration should be given to geographical separation, workload, contractor ability to submit a proper request, and other factors that could affect timing of payment. However, payment due dates that are less than 7 days for progress payments or less than 14 days for interim payments on cost-type contracts are not authorized. In all cases whereby the contract specifies payment due dates that are sooner than those required under the relevant prompt payment requirements, the contract will permit the Contracting Officer to unilaterally authorize additional time for review of invoices if needed to perform an adequate review of those invoices prior to payment.

932.971 Electronic submission of invoices/vouchers.

In general, Contracting Officers should insert the clause at 952.232-7, Electronic Submission of Invoices/Vouchers, in contracts. However, after consultation with the Office of the Chief Financial Officer, the Contracting Officer may approve alternate methods of submission.