52.232-28 Invitation to Propose Performance-Based Payments.

As prescribed in 32.1005(b)(1), insert the following provision:

Invitation to Propose Performance-Based Payments (Mar 2000)

(a) The Government invites the *offeror* to propose terms under which the Government will make performance-based contract financing payments during contract performance. The Government will consider performance-based payment financing terms proposed by the *offeror* in the evaluation of the *offeror*'s proposal. The *Contracting Officer* will incorporate the financing terms of the successful *offeror* and the FARclause, Performance-Based Payments, at FAR 52.232-32, in any resulting contract.

(b) In the event of any conflict between the terms proposed by the *offeror* and the terms in the clause at FAR 52.232-32, Performance-Based Payments, the terms of the clause at FAR 52.232-32 *shall* govern.

(c) The *Contracting Officer* will not accept the *offeror*'s proposed performance-based payment financing if the financing does not conform to the following limitations:

(1) The Government will make delivery payments only for *supplies* delivered and accepted, or services rendered and accepted in accordance with the payment terms of this contract.

(2) The terms and conditions of the performance-based payments *must*-

(i) Comply with FAR 32.1004;

(ii) Be reasonable and consistent with all other technical and cost information included in the *offeror*'s proposal; and

(iii) Their total *shall* not exceed 90 percent of the contract price if on a whole contract basis, or 90 percent of the delivery item price if on a delivery item basis.

(3) The terms and conditions of the performance-based financing *must* be in the best interests of the Government.

(d) The *offeror*'s proposal of performance-based payment financing *shall* include the following:

(1) The proposed contractual language describing the performance-based payments (see FAR 32.1004 for appropriate criteria for establishing performance bases and performance-based finance payment amounts).

(2) A listing of-

(i) The projected performance-based payment dates and the projected payment amounts; and

(ii) The projected delivery date and the projected payment amount.

(3) Information addressing the Contractor's investment in the contract.

(e) Evaluation of the *offeror*'s proposed prices and financing terms will include whether the *offeror*'s proposed performance-based payment events and payment amounts are reasonable and consistent with all other terms and conditions of the *offeror*'s proposal.

(End of Provision)

Alternate I (Mar 2000). As prescribed in FAR 32.1005 (b)(2), add the following paragraph (f) to the basic provision:

(f) The Government will adjust each proposed price to reflect the cost of providing the proposed performance-based payments to determine the total cost to the Government of that particular combination of price and performance-based financing. The Government will make the adjustment using the procedure described in FAR 32.205(c).

Parent topic: 52.232 [Reserved]