Subpart 970.32—Contract Financing

Parent topic: PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

970.3200 Policy.

It is the policy of the Department of Energy (DOE) to finance management and operating contracts through advance payments and the use of special financial institution accounts.

970.3200-1 Reduction or suspension of advance, partial, or progress payments.

(a) The procedures prescribed at 48 CFR 32.006 shall be followed regarding the reduction or suspension of payments under management and operating contracts.

(b) Agency head responsibilities under 48 CFR 32.006 have been delegated to the Senior Procurement Executive.

(c) The Head of the Contracting Activity is responsible for receiving, assessing, and making recommendations to the Senior Procurement Executive.

970.3200-11 Contract clause.

The contracting officer shall insert the clause at 970.5232-1, Reduction or suspension of contract payments, in management and operating contracts.

970.3204 Advance payments.

970.3204-1 Applicability.

(a) The Head of the Contracting Activity shall authorize advance payments without interest, and approve the findings, determinations and the contract terms and conditions concerning advance payments in accordance with the procedures set forth in 48 CFR subpart 32.4, Advance Payments for Non-Commercial Items, as supplemented by subpart 932.4.

(b) Advance payments shall be made under a payments cleared financing arrangement for deposit in a special financial institution account or, at the option of the Government, by direct payment or other payment mechanism to the contractor.

(c) Prior to providing any advance payments, the contracting officer shall enter into an agreement with the contractor and a financial institution regarding a special financial institution account where the advanced funds will be deposited by the Government. Such agreement shall—

(1) Provide that DOE shall retain title to the unexpended balance of funds in the special financial institution account including collections, if any, deposited by the contractor;

(2) Provide that the title in paragraph (c)(1) of this subsection shall be superior to any claim or lien of the financial institution of deposit or others; and

(3) Incorporate all applicable requirements, as determined by the Office of Chief Financial Officer.

(d) Deviations from the requirements cited in paragraph (c) of this subsection shall be considered a deviation requiring approval of the Head of the Contracting Activity.

(e) Letter-of-credit arrangements shall be prepared in accordance with 48 CFR 32.406, Letters of Credit, and shall be coordinated between the procurement and finance organizations.

970.3270 Standard financial management clauses.

(a) The following DEAR and FAR clauses are standard financial management clauses. The contracting officer shall insert them in all management and operating contracts:

(1) *970.5232-2, Payments and Advances.*

(i) The contracting officer shall insert the basic clause with its Alternate I if a separate fixed-fee is provided for a separate item of work.

(ii) The contracting officer shall insert the basic clause with its Alternate II when total available fee provisions in the basic clause are used.

(iii) The contracting officer shall insert the basic clause with its Alternate III in management and operating contracts with integrated accounting systems.

(iv) The contracting officer shall insert the basic clause with its Alternate IV in management and operating contracts without integrated accounting systems.

(2) *970.5232-3, Accounts, records, and inspection.* If the contract includes the clause at 48 CFR 52.215-11, Price Reduction for Defective Cost or Pricing Data—Modifications, the contracting officer shall use the clause with its Alternate I.

(3) *970.5232-4, Obligation of funds.* The contracting officer may use the clause with its Alternate I in contracts which, expressly or otherwise, provide a contractual basis for equivalent controls in a separate clause.

(4) 970.5232-5, Liability with respect to Cost Accounting Standards.

(5) 970.5232-6, Strategic Partnership Projects funding authorization.

(6) 48 CFR 52.230-2, Cost Accounting Standards.

(7) 48 CFR 52.230-6, Administration of Cost Accounting Standards.

(b) The following DEAR clauses are standard financial management clauses. The contracting officer shall insert them in all management and operating contracts with integrated accounting systems:

(1) 970.5232-7, Financial management system.

(2) 970.5232-8, Integrated accounting.

(c) Any deviations from the standard financial management clauses specified in paragraphs (a) and (b) of this section require the approval of the Head of the Contracting Activity and the written concurrence of the Department's Chief Financial Officer.