PART 1632—CONTRACT FINANCING

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

Source: 52 FR 16043, May 1, 1987, unless otherwise noted.

Subpart 1632.1—General

1632.170 Recurring premium payments to carriers.

1632.171 Clause—community-rated contracts.

1632.172 Clause—experience-rated contracts.

Subpart 1632.6—Contract Debts

1632.607 Tax credit.

1632.617 Contract clause.

Subpart 1632.7—Contract Funding

1632.770 Contingency reserve payments.

1632.771 Non-commingling of FEHBP funds.

1632.772 Contract clause.

Subpart 1632.8—Assignment of Claims

1632.806-70 Contract clause.

Parent topic: SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Subpart 1632.1—General

1632.170 Recurring premium payments to carriers.

(a)

(1) *Recurring payments to carriers of community-rated plans.* OPM will pay to carriers of community-rated plans the premium payments received for the plan less the amounts credited to the contingency and administrative reserves, amounts assessed under paragraph (a)(2) of this section, and amounts due for other contractual obligations. Premium payments will be due and payable not later than 30 days after receipt by the Federal Employees Health Benefits (FEHB) Fund.

(2) The difference between one percent and the performance based percentage of the contract price described at 1615.404-4 will be multiplied by the carrier's subscription income for the year of performance and the resulting amount (performance adjustment) will be withheld from the net-to-carrier premium disbursement during the first quarter of the following contract period unless an

alternative payment arrangement is made with the carrier's Contracting Officer. Amounts withheld from a community rated plan's premium disbursement will be deposited into the plan's Contingency Reserve.

(3) Any subsidization penalty levied against a community rated plan as outlined in 48 CFR 1615.402(c)(3)(ii)(B) must be paid within 60 days from notification. If payment is not received within the 60 day period, OPM will withhold from the community rated carriers the periodic premium payment payable until fully recovered. OPM will deposit the withheld funds in the subsidization penalty reserve described in 5 CFR 890.503(c)(6).

(b)

(1) *Recurring payments to carriers of experience-rated plans.* OPM will make payments on a letter of credit (LOC) basis. Premium payments received for the plan, less the amounts credited to the contingency and administrative reserves and amounts for other obligations due under the contract, will be made available for carrier drawdown not later than 30 days after receipt by the FEHB Fund.

(2) Withdrawals from the LOC account will be made on a checks-presented basis. Under a checks-presented basis, drawdown on the LOC is delayed until the checks issued for FEHB Program disbursements are presented to the carrier's bank for payment.

(3) OPM may grant a waiver of the restriction of LOC disbursements to a checks-presented basis if the carrier requests the waiver in writing and demonstrates to OPM's satisfaction that the checks-presented basis of LOC disbursements will result in significantly increased liability under the contract, or that the checks-presented basis of LOC disbursements is otherwise clearly and significantly detrimental to the operation of the plan. Payments to carriers that have been granted a waiver may be made by an alternative payment methodology, subject to OPM approval.

1632.171 Clause—community-rated contracts.

The clause at 1652.232-70 shall be inserted in all community-rated FEHBP contracts.

1632.172 Clause—experience-rated contracts.

The clause at 1652.232-71 shall be inserted in all experience-rated FEHBP contracts.

Subpart 1632.6—Contract Debts

1632.607 Tax credit.

FAR 32.607 has no practical application to FEHBP contracts. The statutory provisions at 5 U.S.C. 8906(c) and (d) authorize joint enrollee and Government contributions to the FEHBP Fund. Because the Fund is comprised of contributions by enrollees as well as the Government, carriers may not offset debts to the Fund by a tax credit which is solely a Government obligation.

1632.617 Contract clause.

The clause at (FAR) 48 CFR 52.232-17 will be modified in all FEHBP contracts to exclude the words “net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481).”

Subpart 1632.7—Contract Funding

1632.770 Contingency reserve payments.

(a) Payments from the contingency reserve shall be made in accordance with 5 CFR 890.503.

(b) A carrier for an FEHB plan may apply to OPM at any time for a payment from the contingency reserve that is in addition to those amounts, if any, paid under 5 CFR 890.503(c)

(1) through (c)(4), if the carrier can show good cause, such as, unexpected adverse claims experience. OPM will decide whether to allow the request in whole or in part and will advise the carrier of its decision. However, OPM shall not unreasonably withhold approval for amounts requested that exceed the plan's preferred minimum balance for the contingency reserve.

1632.771 Non-commingling of FEHBP funds.

(a) This section applies to contracts based on cost analysis.

(b) Carrier or underwriter commingling of FEHBP funds with those from other sources makes it difficult to precisely determine FEHBP cash balances at any given time or to precisely determine investment income attributable to FEHBP invested assets.

(c) FEHBP funds shall be maintained separately from other cash and investments of the carrier or underwriter. Cash and investment balances reported on FEHBP Annual Accounting Statements must agree with the carrier's books and records.

(d) This requirement may be waived by the contracting officer in accordance with the clause at 1652.232-72 when adequate accounting and other controls are in effect. If the requirement is waived, the waiver will remain in effect until it is withdrawn by OPM. The waiver shall be withdrawn if OPM determines that the accounting controls are no longer adequate to properly account for FEHBP funds.

1632.772 Contract clause.

The clause at 1652.232-72 shall be included in all contracts that are based on cost analysis.

Subpart 1632.8—Assignment of Claims

1632.806-70 Contract clause.

The clause set forth in 1652.232-73 shall be inserted in all FEHBP contracts.