PART 332—CONTRACT FINANCING

Authority: 5 U.S.C. 301; 40 U.S.C. 121(c)(2).

Source: 80 FR 72151, Nov. 18, 2015, unless otherwise noted.

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Parent topic: SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Subpart 332.4—Advance Payments for Non-Commercial Items

332.402 General.

(e) The head of the contracting activity (HCA) (non-delegable) shall make determinations related to advanced payments and assure compliance with FAR 32.402.

332.407 Interest.

(d) The HCA (non-delegable) shall make the determinations in FAR 32.407(d).

Subpart 332.5—Progress Payments Based on Cost

332.501 General.

332.501-2 Unusual progress payments.

(a)(3) The HCA (non-delegable) shall approve unusual progress payments.

Subpart 332.7—Contract Funding

332.702 Policy.

Departmental employees shall report any suspected violation of the Anti-Deficiency Act (31 U.S.C. 1341, 13 U.S.C. 1342, and 31 U.S.C. 1517) immediately to the Operating Division's Chief Financial Officer (CFO), who in turn will report the matter to the HHS Deputy CFO.

332.703 Contract funding requirements.

332.703-1 General.

(b) The following requirements govern all solicitations and contracts using incremental funding, as appropriate:

(1) The contracting officer shall consider the estimated total cost of the contract, including all planned increments of performance when determining the requirements that must be met before contract execution (e.g., Justification and Approvals, clearances, and approvals).

(2) The solicitation and resultant contract shall include a statement of work or performance work statement that describes the total project, covers all proposed increments of performance, and contains a schedule of planned increments of performance. No funding increment may exceed 1 year, and the services rendered during each increment of performance must provide a specific material benefit that can stand alone if the remaining effort is not funded. The resultant contract

shall also include the corresponding amount of funds planned for obligation for each increment of performance.

(3) The contracting officer shall request that offerors respond to the solicitation with technical and cost proposals for the entire project, and shall require distinct technical and cost break-outs of the planned increments of performance.

(4) Proposals shall be evaluated and any discussions and negotiations shall be conducted based upon the total project, including all planned increments of performance.

332.703-71 Incrementally funded cost-reimbursement contracts.

Incremental funding may be used in cost-reimbursement contracts for severable services only when all of the following circumstances are present:

(a) Funding of increments after the initial increment of performance is provided from the appropriation account available for obligation at that time;

(b) The project represents a *bona fide* need of the fiscal year in which the contract is awarded and initially funded (*i.e.,* the initial increment of performance) and is also a *bona fide* need of each subsequent fiscal year whose appropriation will be used; and

(c) The project's significance provides reasonable assurance that subsequent year appropriations will be made available to fund the project's continuation and completion.

332.703-72 Incremental Funding Table.

(a) The contracting officer shall insert substantially the following language in Section B: Supplies or Services and Prices or Costs, Table 1, in all cost-reimbursement contracts for severable services using incremental funding. The language requires the contracting officer to:

(1) Insert the initial funding obligated by the award;

(2) Identify the increment of performance covered by the funding provided; and

(3) Specify the start and end dates for each increment of performance, as required by the "Limitation of Funds" clause at FAR 52.232-22.

(b) Modification of the language is permitted to fit specific circumstances of the contract, including but not limited to language necessary to reflect the specific type of cost reimbursement contract awarded, but the language may not be omitted completely.

Table 1—B. ____Estimated Cost—Incrementally Funded Contract

(a) The total estimated cost to the Government for full performance of this contract, including all allowable direct and indirect costs, is $____ [*insert full amount*].

(b) The following represents the schedule* by which the Government expects to allot funds to this contract:

CLIN, task number, or description	Start date of increment of performance	End date of increment of performance	Estimated cost ($)	Fee ($) (as appropriate)	Estimated cost plus fee ($) (as appropriate)
			[Total]	[Total]	[Total]

* To be inserted after negotiation

(c) Total funds currently obligated and available for payment under this contract are $____ [*insert amount funded to date*].

(d) The contracting officer may issue unilateral modifications to obligate additional funds to the contract and make related changes to paragraphs (b) and/or (c) above.

(e) Until this contract is fully funded, the requirements of the clause at FAR 52.232-22, *Limitation of Funds,* shall govern. Once the contract is fully funded, the requirements of the clause at FAR 52.232-20, *Limitation of Cost,* govern.

332.706 Solicitation provision and contract clauses.

332.706-2 Provision and clauses for limitation of cost or funds.

(b) In addition to the clause at FAR 52.232-22, Limitation of Funds, the contracting officer shall insert the provision at 352.232-70, Incremental Funding, in all solicitations when a cost-reimbursement contract for severable services using incremental funding is contemplated. The provision requires the contracting officer to insert a specific increment of performance that the initial funding is expected to cover.

Subpart 332.70—Electronic Submission and Processing of Payment Requests

Source: 87 FR 5718, Feb. 2, 2022, unless otherwise noted.

332.7000 Scope of subpart.

This subpart prescribes policies and procedures for electronic submission and processing of

payment requests.

332.7001 Definitions.

Payment request, as used in this subpart, is defined as a bill, voucher, invoice, or request for contract financing payment with associated supporting documentation. The payment request must comply with the requirements identified in FAR 32.905(b), Content of invoices, and the applicable Payment clause included in this contract.

332.7002 Policy.

(a) Contracts shall require the electronic submission of payment requests, except for—

(1) Purchases paid for with a Government-wide commercial purchase card; and

(2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise classified information or national security.

(b) Where a contract otherwise requires the electronic submission of invoices, the Contracting Officer may authorize alternate procedures only if the Contracting Officer makes a written determination that:

(1) The Department of Health and Human Services (HHS) is unable to receive electronic payment requests or provide acceptance electronically;

(2) The contractor has demonstrated that electronic submission would be unduly burdensome; or

(3) The contractor is in the process of transitioning to electronic submission of payment requests, but needs additional time to complete such transition. Authorizations granted on the basis of this paragraph (b)(3) must specify a date by which the contractor will transition to electronic submission.

(c) Except as provided in paragraphs (a) and (b) of this section, HHS officials shall process electronic payment submissions through the Department of the Treasury Invoice Processing Platform or successor system.

(d) If the requirement for electronic submission of payment requests is waived under paragraph (a)(2) or (b) of this section, the contract or alternate payment authorization, as applicable, shall specify the form and method of payment request submission.

332.7003 Contract clause.

Except as provided in 332.7002(a), use the clause at 352.232-71, Electronic Submission of Payment Requests, in all solicitations and contracts.