PART 2432 - CONTRACT FINANCING

Authority: 31 U.S.C. 3901-3905; 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

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Parent topic: SUBCHAPTER E - GENERAL CONTRACTING REQUIREMENTS

2432.006 Reduction or suspension of contract payments upon finding of fraud.

2432.006-1 General.

The Senior Procurement Executive is the agency head for the purposes of FAR 32.006-1. In accordance with FAR 32.006-1(c), the Senior Procurement Executive may delegate the remedy coordination official duties to personnel in the Office of the Chief Procurement Officer at or above the Level IV of the Executive Service.

2432.006-2 Definitions.

“Remedy coordination official” means the Senior Procurement Executive.

2432.006-3 Responsibilities.

(b) HUD personnel shall report immediately in writing when a contractor's request for advance, partial, or progress payments is suspected to be fraudulent. The report shall be made to the contracting officer and the remedy coordination official. The report shall describe the events, acts, and conditions that indicate the apparent or suspected violation and include all pertinent documents. The remedy coordination official will consult with, and refer cases to, the Office of the Inspector General for investigation, as appropriate. If appropriate, the Office of the Inspector General will provide a report to the Senior Procurement Executive.

2432.006-4 Procedures.

The Senior Procurement Executive is the agency head for the purposes of FAR 32.006-4.

2432.007 Contract financing payments.

(a) The Senior Procurement Executive is the agency head for the purposes of FAR 32.007(a).

Subpart 2432.1 - Non-Commercial Item Purchase Financing

2432.114 Unusual contract financing.

The Senior Procurement Executive is the agency head for the purpose of FAR 32.114.

Subpart 2432.2 - Commercial Item Purchase Financing

2432.201 Statutory authority.

The head of the contracting activity is the agency head for the purpose of FAR 32.201.

Subpart 2432.4 - Advance Payments for Non-Commercial Items

2432.402 General.

(e)

(1) The determination and findings required by FAR 32.402(c)(1)(iii) shall be made by the HCA.

(2) Each advance payment situation shall be coordinated with the head of the cognizant accounting office, before authorization may be given, to ensure that there are controls in place to assure proper administration of advance payments.

2432.407 Interest.

(d) The Senior Procurement Executive is the agency head's designee for the purposes of FAR 32.407(d).

Subpart 2432.7 - Contract Funding

2432.703-1 General.

(b)

(1) Except as described herein, a fixed-price contract may be funded incrementally only if -

(i) Sufficient funds are not available to the Department at the time of contract award or exercise of option to fully fund the contract or option; and

(ii) The contract (excluding any options) or any exercised option -

(A) Is for severable services; and

(B) Does not exceed one year in length; and

(C) Is incrementally funded using funds available (unexpired) as of the date the funds are obligated; and

(iii) If applicable, the contract uses funds available from multiple (2 or more) fiscal years and Congress has otherwise authorized incremental funding.

(2) An incrementally funded fixed-price contract shall be fully funded as soon as funds are available.

2432.703-3 Contracts crossing fiscal years.

(b) The contracting officer may enter into a contract, exercise an option, or place an order under a contract for severable services for a period that begins in one fiscal year and ends in the next fiscal year if the period of the contract awarded, option exercised, or order placed does not exceed one year.

2432.704 Limitation of cost or funds.

2432.704-70 Incrementally funded fixed-price contracts.

(a) Upon receipt of the contractor's notice under paragraph (c) of the clause at 2452.232-72, Limitation of Government's Obligation, the contracting officer shall promptly provide written notice to the contractor that the Government is -

(1) Allotting additional funds for continued performance and increasing the Government's limitation of obligation in a specified amount;

(2) Terminating the affected contract line items (CLINs) or contract, as applicable; or

(3) Considering whether to allot additional funds; and

(i) The contractor is required by the contract terms to stop work when the Government's limitation of obligation is reached; and

(ii) Any costs expended beyond the Government's limitation of obligation are at the contractor's risk.

(b) Upon learning that the contract will receive no further funds, the contracting officer shall promptly give the contractor written notice of the Government's decision and terminate the affected CLINs or contract, as applicable, for the convenience of the Government.

(c) The contracting officer shall ensure that, in accordance with paragraph (b) of the clause at 2452.232-72, “Limitation of Government's obligation,” sufficient funds are allotted to the contract to cover the total amount payable to the contractor in the event of termination for the convenience of the Government.

2432.705 Contract clauses.

(a) The Contracting Officer shall insert the clause at 2452.232-72, “Limitation of Government's Obligation,” in solicitations and resultant incrementally funded fixed-price contracts as authorized by 2432.703-1. The Contracting Officer shall insert the information required in the table in paragraph (b) and the notification period in paragraph (c) of the clause.

(b) The Contracting Officer shall insert the clause at 2452.232-74, “Not To Exceed Limitation” in all solicitations and contracts where the total estimated funds needed for the performance period are not yet obligated.

Subpart 2432.9 - Prompt Payment

2432.903 Policy.

(a) The Senior Procurement Executive is the agency head's designee for the purposes of FAR 32.903(a).

2432.906 Making payments.

(a) *General.* The authority to make the determination prescribed in FAR 32.906(a) is delegated to the HCA. Before making this determination, the HCA shall consult with the appropriate payment office to ensure that procedures are in place to permit timely payment.

2432.908 Contract clauses.

(c)

(1) The contracting officer shall insert the clause at 2452.232-73, Constructive Acceptance Period, in solicitations and contracts when the contracting officer has determined that an acceptance period longer than the 7 days provided for in the FAR clause at 52.232-25, “Prompt Payment,” is needed.

(2) The contracting officer shall insert a clause substantially the same as provided at 2452.232-70, Payment Schedule and Invoice Submission (Fixed-price), in fixed-price contracts other than performance-based contracts under which performance-based payments will be used.

(3) The contracting officer shall insert a clause substantially the same as provided at 2452.232-71, Voucher Submission, in all cost-reimbursement, time-and-materials, and labor-hour type solicitations and contracts. The contracting officer shall insert the billing period agreed upon with the contractor (see also the FAR clause at 52.216-7, “Allowable Cost and Payment”).

(4) The Contracting Officer may substitute appropriate language for the clauses in paragraph (c)(2) and (3) of this clause when payment under the contract will be made on the basis of other than the submission of an invoice or voucher; e.g., directly from proceeds of property sales.