PGI 242.7000 Contractor business system deficiencies.

(b) *Determination to withhold payments.* The following are sample formats for written notifications of contracting officer determinations to initiate payment withholding, reduce payment withholding, and discontinue payment withholding in accordance with the clause at DFARS 252.242-7005, Contractor Business Systems:

(1) Use this sample format for written final determinations to implement payment withholding:

Payment Withholding

(i) The purpose of this final determination is to disapprove your *[identify the contractor business system(s)]* and implement payment withholding per the terms of the clause at DFARS 252.242-7005, Contractor Business Systems.

(ii) It is my final determination that XXX System(s) contains the following material weaknesses:

--[list all material weaknesses]

(iii) Effective immediately, five percent (or a lesser percentage if five percent will exceed the withhold limitations in the clause at DFARS 252.242-7005) of each request for payment under the contracts in Attachment A will be withheld as described below for material weaknesses in XXX system. Upon receipt of an acceptable corrective action plan and my determination that this corrective action plan is being effectively implemented, I will issue a notification with respect to reducing the percentage being withheld to two percent until I determine that all material weaknesses, as identified in this final determination, have been corrected. Failure to follow the accepted corrective action plan will result in an increase in the percentage withheld against each payment under this contract to five percent (or a lesser percentage if five percent will exceed the withhold limitations in DFARS 252.242-7005). *[Repeat this paragraph, as necessary, if multiple withholds are being applied to multiple systems in accordance with 252.242-7005 (d)]*

(iv) For payments under cost, labor-hour, or time-and-material contracts: The Contractor shall apply a five percent (or a lesser percentage if five percent will exceed the withhold limitations in DFARS 252.242-7005) withhold to the amount being billed and prepare a cost voucher in Wide Area WorkFlow (WAWF) for the net amount due. The Contractor shall show the amount withheld on the current billing, as well as the cumulative amount withheld to date on this contract in accordance with DFARS clause 252.242-7005, in the Comments block of the Miscellaneous Info Tab in WAWF.

(v) For progress payments: The Contractor shall prepare the request in WAWF without applying any withhold percentage. The Contracting Officer will reduce the approved amount by five percent (or a lesser percentage if five percent will exceed the withhold limitations in DFARS 252.242-7005) and record the amount being withheld on the progress payment request, as well the cumulative amount withheld on this contract in accordance with DFARS clause 252.242-7005, in the Comments block of the Miscellaneous Info Tab in WAWF.

(vi) For performance-based payments: The Contractor shall prepare the request in WAWF without applying any withhold percentage to the performance based payment event schedule amounts. The Contracting Officer will reduce the amount approved by five percent (or a lesser percentage if five

percent will exceed the withhold limitations in DFARS 252.242-7005) and record the amount being withheld on the performance based payment as well as the cumulative amount withheld on this contract in accordance with the DFARS clause 252.242-7005 in the Comments block of the of the Miscellaneous Info Tab in WAWF.

(2) Use this sample format for determinations to reduce payment withholding:

Reduction of Temporary Payment Withholding

(i) The purpose of this determination is to reduce the payment withholding percentage per the terms of the clause at DFARS 252.242-7005, Contractor Business Systems, as a result of receiving an acceptable corrective action plan from the contractor, dated YYYY/MM/DD, for resolving deficiencies in its XXX system(s) as identified in the Contracting Officer's determination, dated YYYY/MM/DD. This reduction is prospective and previous amounts withheld will not be reduced or released at this time.

(ii) Effective immediately, two percent of each request for payment under this contract will be withheld as described below. The two percent being withheld will remain in effect until the Contracting Officer determines that the Contractor has corrected all material weaknesses as directed by the Contracting Officer's determination. Failure to follow the accepted corrective action plan will result in an increase in the percentage withheld against each payment under this contract to five percent (or a lesser percentage if five percent will exceed the withhold limitations in DFARS 252.242-7005).

(iii) For payments under cost, labor-hour, or time-and-material contracts: The Contractor shall apply a two percent withhold to the amount being billed and prepare a cost voucher in Wide Area WorkFlow (WAWF) for the net amount due. The Contractor shall show the amount withheld on the current billing, as well as the cumulative amount withheld to date on this contract in accordance with DFARS clause 252.242-7005, in the Comments block of the Miscellaneous Info Tab in WAWF.

(iv) For progress payments: The Contractor shall prepare the request in WAWF without applying any withhold percentage. The Contracting Officer will reduce the approved amount by two percent and record the amount being withheld on the progress payment request, as well the cumulative amount withheld on this contract in accordance with DFARS clause 252.242-7005, in the Comments block of the Miscellaneous Info Tab in WAWF.

(v) For performance-based payments: The Contractor shall prepare the request in WAWF without applying any withhold percentage to the performance-based payment event schedule amounts. The Contracting Officer will reduce the amount approved by two percent and record the amount being withheld on the performance-based payment as well as the cumulative amount withheld on this contract in accordance with the DFARS clause 252.242-7005 in the Comments block of the of the Miscellaneous Info Tab in WAWF.

(3) Use the sample format below if payment withholding is discontinued pending receipt of auditor or functional specialist verification and based on evidence that the contractor has corrected all material weaknesses, in accordance with the clause at DFARS 252.242-7005, Contractor Business Systems:

Discontinuation of Payment Withholding Pending Verification

(i) The purpose of this determination is to approve your *[identify system(s)]* pending verification, discontinue the payment withhold as identified in the Contracting Officer's determination dated YYYY/MM/DD, and release previous amounts withheld on the contracts in Attachment A, in

accordance with DFARS clause 252.242-7005, Contractor Business Systems.

(ii) The discontinuation of the payment withhold is made pending receipt of verification and based on my review of the evidence submitted by the Contractor that all the Contractor's system(s) material weaknesses identified in the Contracting Officer's determination dated YYYY/MM/DD have been corrected.

(iii) The Contractor is authorized to submit a bill in the amount of $XXXXXXXX. The billed amount should be submitted on the same type of invoice as the withhold was originally taken, as appropriate.

(4) Use the sample format below if payment withholding is discontinued after auditor or functional specialist verification that the contractor has corrected all material weaknesses, in accordance with the clause at DFARS 252.242-7005, Contractor Business Systems:

Discontinuation of Payment Withholding

(i) The purpose of this determination is to approve your *[identify system(s)]*, discontinue the payment withhold as identified in the Contracting Officer's determination dated YYYY/MM/DD, and release previous amounts withheld on the contracts in Attachment A, in accordance with DFARS clause 252.242-7005, Contractor Business Systems.

(ii) The discontinuation of the payment withhold is made based on verification that all the Contractor's system(s) material weaknesses identified in the Contracting Officer's final determination dated YYYY/MM/DD have been corrected.

(iii) The Contractor is authorized to submit a bill in the amount of $XXXXXXXX. The billed amount should be submitted on the same type of invoice as the withhold was originally taken, as appropriate.

Parent topic: PGI 242.70 - CONTRACTOR BUSINESS SYSTEMS