

32.405 Applying Pub.L.85-804 to advance payments under sealed bid contracts.

(a) Actions that designated agencies may take to facilitate the national defense without regard to other provisions of law relating to contracts, as explained in [50.101-1\(a\)](#), also include making advance payments. These advance payments may be made at or after award of sealed bid contracts, as well as negotiated contracts.

(b) Bidders may request advance payments before or after award, even if the invitation for bids does not contain an advance payment provision. However, the contracting officer shall reject any bid requiring that advance payments be provided as a basis for acceptance.

(c) When advance payments are requested, the agency may-

(1) Enter into the contract and provide for advance payments conforming to this [part 32](#);

(2) Enter into the contract without providing for advance payments if the contractor does not actually need advance payments; or

(3) Deny award of the contract if the request for advance payments has been disapproved under [32.409-2](#) and funds adequate for performance are not otherwise available to the offeror.

Parent topic: [Subpart 32.4 - Advance Payments for Non-Commercial Items](#)