

**SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS  
PART 832—CONTRACT FINANCING**

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AUTHORITY: 40 U.S.C. 121(c) and 48 CFR 1.301-1.304.

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**832.006 Reduction or suspension of contract payments upon finding of fraud.****832.006-1 General.**

The SPE is authorized to make determinations that there is substantial evidence that contractors' requests for advance, partial, or progress payments are based on fraud and may direct that further payments to the contractors be reduced or suspended, as provided in FAR 32.006. This authority may not be redelegated.

**832.006-2 Definitions.**

The remedy coordination official for VA is the DSPE.

**832.006-3 Responsibilities.**

VA personnel must report suspected fraud related to advance, partial, or progress payments to the DSPE and VA Office of the Inspector General. The report must include all available information supporting the suspicion.

**832.006-4 Procedures.**

(a) Any recommendation from a VA employee through the DSPE to the SPE to reduce or suspend payment to a contractor under FAR 32.006 must address the considerations in FAR 32.006-4(d).

(b) The DSPE shall carry out the responsibilities of the Secretary or designee in FAR 32.006-4(e) to notify the contractor of proposed action under FAR 32.006. The notice of proposed action will be sent to the last known address of the contractor, the contractor's counsel, or agent for service of process, by certified mail, return receipt requested, or any other method that provides signed evidence of receipt. In the case of a business, the notice of proposed action may be sent to any partner, principal, officer, director, owner or co-owner, or joint venture. The contractor will be afforded an opportunity to appear before the DSPE to present information or argument in person or through a representative. The contractor may supplement the oral presentation with written information and argument. The proceedings will be conducted in an informal manner and without the requirement for a transcript. If the DSPE does not receive a reply from the contractor within 30 calendar days, the DSPE will base his or her recommendations on the information available. Any recommendation of the DSPE under paragraph (a) of this section must address the results of this notification and the information, if any, provided by the contractor.

(c) The SPE must provide a copy of each final determination and the supporting documentation to the contractor, the DSPE and the contracting officer. The contracting officer will place a copy of the determination and the supporting documentation in the contract file.

### **SUBPART 832.1 – NON-COMMERCIAL ITEM PURCHASE FINANCING**

#### **832.111 Contract clauses for non-commercial purchases.**

In solicitations and contracts for construction that include the FAR clause at 52.232-5, Payments under Fixed-Price Construction Contracts, the contracting officer shall insert the following clauses:

(a) If the solicitation or contract does not contain a section entitled “Network Analysis System (NAS),” the contracting officer must insert the clause at 852.236-82, Payments under fixed-price construction contracts (without NAS). When the solicitation or contract includes guarantee period services, the contracting officer must use the clause with its Alternate I.

(b) If the solicitation or contract contains a section entitled “Network Analysis System (NAS),” the contracting officer must insert the clause at 852.236-83, Payments under fixed-price construction contracts (including NAS). When the solicitation or contract includes guarantee period services, the contracting officer must use the clause with its Alternate I.

### **SUBPART 832.2 – COMMERCIAL ITEM PURCHASE FINANCING**

#### **832.201 Statutory authority.**

The contracting officer may make the determination that terms and conditions for payment for commercial items are appropriate and customary in the commercial marketplace and are in the best interest of the Government, provided the terms and conditions for payment do not conflict with FAR Subpart 32.2.

#### **832.202 General.**

##### **832.202-1 Policy.**

As provided in FAR 32.202-1(d), contracting officers must obtain the approval of the DSPE before awarding a contract that includes unusual contract financing. The contracting officer must fully support the request with the reasons why the proposed unusual contract financing is in the best interest of the Government. In addition, contracting officers must not use commercial interim

payment or commercial advance payment terms in solicitations or contracts without the approval of the DSPE.

#### **832.202-4 Security for Government financing.**

An offeror's financial condition may be considered adequate security to protect the Government's interest when the Government provides contract financing. In assessing the offeror's financial condition, the contracting officer may obtain, to the extent required, the following information to establish the offeror's financial capability and to determine the offeror's financial condition:

(a) A current year interim balance sheet and income statement and balance sheets and income statements for the two preceding fiscal years. The statements should be prepared in accordance with generally accepted accounting principles and must be audited and certified by an independent public accountant or an appropriate officer of the firm.

(b) A cash flow forecast for the remainder of the contract term showing the planned origin and use of cash within the firm or branch performing the contract.

(c) Information on financing arrangements disclosing the availability of cash to finance contract performance, the contractor's exposure to financial crisis, and credit arrangements.

(d) A statement of the status of all State, local, and Federal tax accounts, including any special mandatory contributions.

(e) A description and explanation of the financial effects of any leases, deferred purchase arrangements, patent or royalty arrangements, insurance, planned capital expenditures, pending claims, contingent liabilities, and other financial aspects of the business.

(f) Any other financial information deemed necessary.

(g) A Dun and Bradstreet Report on the company.

### **SUBPART 832.4 – ADVANCE PAYMENTS FOR NON-COMMERCIAL ITEMS**

#### **832.402 General.**

Authority to make the determination required by FAR 32.402(c)(1)(iii) and to approve contract terms, as provided by FAR 32.402(e)(1), is delegated to the SPE and is further delegated to the DSPE. Before award, contracting officers must submit a request for approval to use advance payment to the DSPE. The

request must include the information required by FAR 32.409-1 and must address the standards for advance payment in FAR 32.402(c)(2).

#### **832.404 Exclusions.**

(a) Under 31 U.S.C. 3324(d)(2), VA allows advance payment for subscriptions or other charges for newspapers, magazines, periodicals, and other publications for official use, notwithstanding the provisions of 31 U.S.C. 3324(a). The term “other publications” includes any publication printed, microfilmed, photocopied or magnetically or otherwise recorded for auditory or visual use.

(b) Under 31 U.S.C. 1535, VA allows advance payment for services and supplies obtained from another Government agency.

(c) Under 5 U.S.C. 4109, VA allows advance payment for all or any part of the necessary expenses for training Government employees in Government or non-Government facilities, including the purchase or rental of books, materials, and supplies or services directly related to the training of a Government employee.

### **SUBPART 832.5 – PROGRESS PAYMENTS BASED ON COSTS**

#### **832.502 Pre-award matters.**

##### **832.502-2 Contract finance office clearance.**

Contracting officers must obtain approval from the DSPE before taking the actions listed in FAR 32.502-2. Full justification and the recommendations of the contracting officer must accompany requests for approval.

### **SUBPART 832.8 – ASSIGNMENT OF CLAIMS**

#### **832.805 Procedure.**

##### **832.805-70 Distribution/notification of assignment of claims.**

(a) Prior to acknowledgement of receipt, in addition to the requirements of FAR 32.805(d), the contracting officer shall obtain legal review of the assignment (see 801.602-75(a)(7)). Upon acknowledgement of receipt, the contracting officer shall:

- (1) File the retained copy of the notice of assignment and the certified copy of the original instrument of assignment with the Government Accountability Office copy of the contract; and

(2) Forward a copy of the notice of assignment and instrument of assignment to the local finance office and to the payment office cited in the contract.

(b) Contracting officers must notify field facilities of any recognized assignment of payments for contracts under which payment for articles and services is certified and approved for payment in the field.

### **SUBPART 832.9 – PROMPT PAYMENT**

#### **832.904 Determining payment due dates.**

(a) When preparing specification packages, contracting officers must give full consideration to the time reasonably required for constructive acceptance or approval of the goods or services and for making invoice payments. Based on this analysis, contracting officers may, when authorized by FAR 32.904, modify the number of days allowed for notifying contractors of defects in invoices or, for construction solicitations, the number of days allowed for payment of invoices specified in the applicable prompt payment clause. Changes, if any, should be made before issuing the solicitation.

(b)(1) For construction solicitations, the analysis specified in paragraph (a) of this section may routinely take more than the 7 days provided in paragraph (a)(2) of the FAR clause at 52.232-27, Prompt Payment for Construction Contracts, to evaluate and return defective progress payment invoices.

(2) It also may take more than the 14 days provided in paragraph (a)(1)(i)(A) of the prompt payment clause to adequately inspect the work, determine the adequacy of the contractor's performance, approve, and pay progress payment invoices.

(3) Contracting officers should consider the following and, if necessary, revise the number of days stated in paragraphs (a)(2) and (a)(1)(i)(A) of the prompt payment clause before issuing construction solicitations (see FAR 32.904(d)(1)(i)):

- (i) Recent interest payment history.
- (ii) The complexity of the project.
- (iii) Workload.
- (iv) Work site location.

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(4) In no event may the number of days be set in excess of 14 days for return of a defective progress payment invoice or 30 days for payment of the invoice.

**SUBPART 832.11 – ELECTRONIC FUNDS TRANSFER****832.1106 EFT mechanisms.**

(a) The Assistant Secretary for Management may, with the concurrence of the Department of the Treasury office responsible for making payment, authorize the use of EFT mechanisms other than those authorized under FAR 32.1106(a).

(b) The Assistant Secretary for Management may, with the concurrence of the Department of the Treasury office responsible for making payment, authorize the use of EFT for payments to be received by or on behalf of a contractor outside the United States or Puerto Rico or for contracts paid in other than United States currency, as provided in FAR 32.1106(b).

**SUBPART 832.70—ELECTRONIC INVOICING  
REQUIREMENTS****832.7000 General.**

This subpart prescribes requirements and procedures for submitting and processing payment requests in electronic form.

**832.7001 Definitions.**

As used in this subpart:

(a) *Contract financing payment* has the meaning given in FAR 32.001.

(b) *Designated agency office* has the meaning given in 5 CFR 1315.2(m).

(c) *Electronic form* means an automated system transmitting information electronically according to the accepted electronic data transmission methods identified in VAAR 832.7002-1. Facsimile, e-mail, and scanned documents are not acceptable electronic forms for submission of payment requests.

(d) *Invoice payment* has the meaning given in FAR 32.001.

(e) *Payment request* means any request for contract financing payment or invoice payment submitted by a contractor under a contract.

**832.7002 Electronic Payment Requests.**

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(a) The contractor shall submit payment requests in electronic form unless directed by the contracting officer to submit payment requests by mail. Purchases paid with a Government-wide commercial purchase card are considered to be an electronic transaction for purposes of this rule, and therefore no additional electronic invoice submission is required.

(b) The contracting officer may direct the contractor to submit payment requests by mail, through the United States Postal Service, to the designated agency office for:

(1) Awards made to foreign vendors for work performed outside the United States;

(2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified or privacy information;

(3) Contracts awarded by contracting officers in the conduct of emergency operations, such as responses to national emergencies;

(4) Solicitations or contracts in which the designated agency office is a VA entity other than the VA Financial Services Center in Austin, Texas; or

(5) Solicitations or contracts in which the VA designated agency office does not have electronic invoicing capability as described above.

**832.7002-1 Data Transmission.**

The contractor shall submit electronic payment requests through:

(a) VA's Electronic Invoice Presentment and Payment System (See Web site at <http://www.fsc.va.gov/einvoice.asp>); or,

(b) A system that conforms to the X12 electronic data interchange (EDI) formats established by the Accredited Standards Center (ASC) chartered by the American National Standards Institute (ANSI). The X12 EDI Web site (<http://www.x12.org>) includes additional information on EDI 810 and 811 formats.

**832.7002-2 Contract Clause.**

The contracting officer shall insert the clause at 852.232-72, Electronic submission of payment requests, in all solicitations and contracts.