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SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART M832—CONTRACT FINANCING

**M832.001 Definitions.**

As used in this part—

*Incremental funding* means a method of funding contracts that provides specific spending limits that are less than the total estimated cost/price of the entire contract, with the understanding that additional funds are expected to be provided at a later date. Incremental funding typically is used because funds are not available to obligate the total cost of an entire contract that will cover multiple years or other periods or increments of performance. After obligation of the initial increment at contract award, normally for the first year, funds are subsequently obligated in periodic installments as work progresses, consistent with the terms of the contract.

*Non-severable services* means services that cannot feasibly be separated into components, but will be performed as a single task to meet the needs of the agency.

*Severable services* means services that are characterized as continuing and recurring in nature, e.g., lawn maintenance, janitorial services, security services, etc., and can be separated into components that independently provide value to meet the needs of the agency.

**M832.006 Reduction or suspension of contract payments upon finding of fraud.**

**M832.006-1 General.**

(b) The Senior Procurement Executive (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 32.006-1](#). This authority may not be redelegated.

**M832.006-3 Responsibilities.**

(a) The Remedy Coordination Official (RCO) for VA is the Deputy Senior Procurement Executive (DSPE).

(b) VA personnel shall report suspected fraud related to advance, partial, or progress payments to the contracting officer. The contracting officer will forward the report, with recommendations through the HCA to the RCO and VA Office of the Inspector General (OIG). The report must include all available information supporting the suspicion, including, but not limited to:

- (1) The particular VA contract involved;
- (2) The identity of the person suspected of the fraud;
- (3) The incident, document, invoice, or other evidence supporting the allegation of fraud;
- (4) The amount of the fraudulent claim;
- (5) The date(s) when the fraudulent claim was made;
- (6) Copies of relevant documents that support the allegation;
- (7) Whether anyone else has already reviewed the allegation; and
- (8) An address and telephone number of complainant and whether the complainant wishes confidentiality.

The person that initially made the report may be required to provide additional information as requested by the CO, HCA, RCO, and the OIG.

**M832.006-4 Procedures.**

(e) The RCO shall carry out the responsibilities of the agency head 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 RCO 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 RCO does not receive a reply from the contractor within 30 calendar days, the RCO will base the recommendations to the SPE on the information available. Any recommendation of the RCO under this section must address the results of this notification and the information, if any, provided by the contractor.

(g) In addition to following the procedures in [FAR 32.006-4](#), the SPE shall provide a copy of each final determination and the supporting documentation to the contractor, the RCO, the contracting officer, and the OIG. The contracting officer will place a copy of the determination and the supporting documentation in the contract file.

**M832.009 Providing accelerated payments to small business subcontractors.**

**M832.009-1 General.**

Agencies are encouraged to provide accelerated payments to small business contractors and to prime contractors that subcontract with a small business concern.

**Subpart M832.1—Non-Commercial Item Purchase Financing**

**M832.102 Description of contract financing methods.**

(e)(2) The head of the contracting activity (HCA) shall establish procedures for making progress payments based on a percentage or stage of completion. The procedures shall ensure that payment is not made unless the contractor provides sufficient information about work completed and that the work meets the quality standards of the contract.

**Subpart M832.2—Commercial Item Purchase Financing**

**M832.201 Statutory authority.**

The contracting officer is delegated the authority under [FAR 32.201](#) to 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 United States.

**M832.202 General.**

**M832.202-1 Policy.**

(b) Before using commercial interim payment or commercial advance payment terms in solicitations or contracts exceeding the simplified acquisition threshold (as defined in [FAR 2.101](#)), the contracting officer shall request the approval of the head of the contracting activity (HCA). The approval of the HCA shall be based on the requirements of [FAR 32.202-1\(b\) and \(d\)](#). The contracting officer must fully support the request with the reasons why the proposed commercial interim payments or commercial advance payments are in the best interest of the Government. The approval may be in the format of a D&F with the signatures of contracting office and the approving official.

**M832.202-4 Security for government financing**

(a)(2) The Office of Acquisition Operations (OAO) has awarded a contract to Dun & Bradstreet (D&B) for VA COs to have unlimited access to multiple reports on contractor businesses as a source for information to help determine contractor responsibility. Utilizing these types of business reports will enhance the ability of COs to assess the financial and operational stability of prospective contractors. In the absence of, or in

addition to, the D&B report information, COs should utilize the type of information as described in [FAR 9.104-1](#), General standards.

### **Subpart M832.4—Advance Payments for Non-Commercial Items**

#### **M832.402 General.**

Authority to make the determination described at [FAR 32.402\(c\)\(1\)\(iii\)](#) and to approve contract terms concerning advance payments, as provided by [FAR 32.402\(e\)\(1\)](#), is delegated to the head of the contracting activity (HCA).

#### **M832.409-1 Recommendation for approval.**

Before award, contracting officers shall submit a request for approval to use advance payment to the Head of the Contracting Activity (HCA). The request must include the information required by [FAR 32.409-1](#) and must address the standards for advance payment in [FAR 32.402\(c\)\(1\)\(iii\)](#). (See an example of the determination in [FAR 32.410](#).)

#### **M832.409-2 Recommendation for disapproval.**

If recommending disapproval, the contracting officer shall submit the information required by [FAR 32.409-2](#) to the HCA.

### **Subpart M832.5—Progress Payments Based on Costs**

#### **M832.502 Preaward matters.**

##### **M832.502-2 Contract finance office clearance.**

Contracting officers shall request approval from the head of the contracting activity (HCA) before taking the actions listed in [FAR 32.502-2](#). The rationale and recommendations of the contracting officer must accompany requests for approval.

##### **M832.503-6 Suspension or reduction of payments.**

(a)(2) The contracting officer may suspend or reduce progress payments if the contractor is delinquent in delivery of supplies or performance of services in accordance with the due dates specified in the contract. Payment may resume when the delinquency is cured or when the contracting officer is satisfied that sufficient progress has been made and future deliveries or performance will be timely.

### **Subpart M832.6—Contract Debts**

#### **M832.607 Installment payments and deferment of collection.**

**M832.607-2 Deferment of collection.**

(c)(2) The contracting officer shall forward the information required by [FAR 32.607-2\(c\)\(2\)](#) to the VA Financial Services Center.

(d) The Financial Services Center may authorize a deferment pending the resolution of appeal to avoid possible over-collections.

**Subpart M832.7—Contract Funding**

**M832.703 Contract funding requirements.**

**M832.703-1 General.**

(b) Use of incremental funding is limited as follows:

(1) The Federal Acquisition Streamlining Act (FASA) of 1994 provides the legal authority for contracting officers to enter into a contract for the procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year provided the contract performance period does not exceed one year.

(2) Without statutory authority, incremental funding may not be used for—

(i) firm-fixed price contracts; or

(ii) multi-year contracts that cannot be separated for performance by fiscal year.

The Department of Veterans Affairs does not have this authority.

(3) A contract for non-severable services cannot be incrementally funded. Examples are consulting studies, software development efforts, construction services, or architect-engineer services.

**Subpart M832.8—Assignment of Claims**

**M832.805 Procedure.**

(d) As a best practice, after acknowledgment of receipt, the contracting officer should consider issuing a modification to the contract to reflect the assignment of claims and the changed payment information.

**M832.805-70 Distribution/notification of assignment of claims.**

(a) Prior to acknowledgement of receipt of an assignment of claims, and in addition to the requirements of [FAR 32.805\(d\)](#), the contracting officer shall submit the notice of assignment to the Office of General Counsel (OGC) for review and approval. Upon

conclusion of OGC's review and 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's 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 those field facilities.

### **Subpart M832.9—Prompt Payment**

#### **M832.904 Determining payment due dates.**

(a) *General.*

(1) 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. Contracting officers should consider the following before taking the actions in this section:

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

(2) After consideration of the factors in paragraph (a)(1), the contracting officer may specify a longer period in the solicitation and resulting contract—

(i) for constructive acceptance of goods or services specified in [FAR 32.904\(b\)](#);

(ii) for constructive acceptance of Architect-Engineer services in [FAR 32.904\(c\)](#); and

(iii) to afford the Government a reasonable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under construction contracts as specified in [FAR 32.904\(d\)](#).

These revisions shall be included in solicitations before issuance. The contracting officer and the payment office must indicate agreement in writing (by memo or e-mail) to

the negotiated payment terms before awarding the contract.

**Subpart M832.11—Electronic Funds Transfer**

**M832.1106 EFT mechanisms.**

(a) *Domestic EFT mechanisms.* The Assistant Secretary for Management/Chief Financial Officer (CFO) 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) *Nondomestic EFT mechanisms and other than United States currency.* The Assistant Secretary for Management/Chief Financial Officer (CFO) 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 M832.70—Electronic Invoicing Requirements**

**M832.7001-1 Data transmission.**

(a) The contracting officer shall provide in the contract the current website address for VA's Electronic Invoice Presentment and Payment System located at <http://www.fsc.va.gov/einvoice.asp>.

(b) The contracting officer may upon request provide the current X12 EDI website address (<http://www.x12.org>) for additional information on EDI 810 and 811 formats.

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