Determination

(b) Based on the findings in (a) above, the undersigned determined that the making of the proposed advance payments, (with interest at the rate of ____ [Insert the interest rate computed in accordance with 32.407] percent on the daily unliquidated balance of the advance payments,) (without interest, except as provided by the proposed advance payment clause,) (is in the public interest) (will facilitate the national defense).

Authorization

(c) The advance payments, of which (the amount at any time outstanding) (the aggregate amount, less the aggregate amounts repaid, or withdrawn by the Government), shall not exceed $_____, are hereby authorized under (section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255)) (the Armed Services Procurement Act (10 U.S.C. 2307)) (the Extraordinary Contracting Authority of Government Agencies in Connection with National Defense Functions (50 U.S.C. 1431-1435) and Executive Order No. 10789 of November 14, 1958 (3 CFR 1958 Supp. pp. 72-74)) (or, if other, cite appropriate authority) on (terms substantially as contained in the proposed advance payment clause, a copy (an outline) of which is annexed to this authorization) (the following clause, a copy (an outline) of which is contained in the proposed advance payment clause,) (is in the public interest) (will facilitate the national defense).

[Signature]

(Name typed)

(Title of authorized official)

[Each Findings, Determination, and Authorization shall be individually prepared to fit the particular circumstances at hand. Subparagraphs (a)(1), (2), (3) and (4) and paragraphs (b) and (c) shall be used in each case. If the contract is (a) for experimental, developmental, or research work and with a nonprofit educational or research institution, or (b) only for management and operation of a Government-owned plant, subparagraph (a)(5) should not be included. If the advance payment is to be made without interest to the contractor, include subparagraph (a)(6), (7), or (8). If any advance payments have previously been authorized for the contract, include the final sentence of paragraph (c). The alternate parenthetical wording or other modifications may be used as appropriate. The paragraphs actually used shall be renumbered sequentially].

32.411 Agreement for special account at a financial institution.

The contracting officer must use substantially the following form of agreement for a special account for advance payments:

Agreement for Special Account

This agreement is entered into this ____ day of ____, 20____, between the United States of America (the Government), represented by the Contracting Officer executing this agreement, _______ [Insert the name of the Contractor], a [Insert the name of the State of Incorporation] corporation (the Contractor), and _______ a financial institution operating under the laws of ____, located at _______ (the financial institution).

Recitals

(a) Under date of _______ 20____ the Government and the Contractor entered into Contract No. _______ or a related supplemental agreement, providing for advance payments to the Contractor. A copy of the advance payment terms was furnished to the financial institution.

(b) The contract or supplemental agreement requires that amounts advanced to the Contractor be deposited separate from the Contractor’s general or other funds, in a Special Account at a member bank of the Federal Reserve System, any “insured” bank within the meaning of the Act creating the Federal Deposit Insurance Corporation (12 U.S.C. 1811), or a credit union insured by the National Credit Union Administration. The parties agree to deposit the amounts with the financial institution, which meets the requirement.

(c) This Special Account is designated _______ [Insert the Contractor’s name], _______ [Insert the name of the Government agency] Special Account.”

Covenants

In consideration of the foregoing, and for other good and valuable considerations, the parties agree to the following conditions:

(a) The Government shall have a lien on the credit balance in the account to secure the repayment of all advance payments made to the Contractor. The lien is paramount to any lien or claim of the financial institution regarding the account.

(b) The financial institution is bound by the terms of the contract relating to the deposit and withdrawal of funds in the Special Account, but is not responsible for the application of funds withdrawn from the account.

The financial institution shall act on written directions from the Contracting Officer, the administering office, or a duly authorized...
representative of either. The financial institution is not liable to any party to this agreement for any action that complies with the written directions. Any written directions received by the financial institution through the Contracting Officer on \( \text{Insert the name of the agency} \) stationery and purporting to be signed by, or by the direction of, or duly authorized representative, shall be, as far as the rights, duties, and liabilities of the financial institution are concerned, considered as being properly issued and filed with the financial institution by the \( \text{Insert the name of the agency} \).

(c) The Government, or its authorized representatives, shall have access to the books and records maintained by the financial institution regarding the Special Account at all reasonable times and for all reasonable purposes, including (but not limited to), the inspection or copying of the books and records and any and all pertinent memoranda, checks, correspondence, or documents. The financial institution shall preserve the books and records for a period of 6 years after the closing of this Special Account.

(d) In the event of the service of any writ of attachment, levy of execution, or commencement of garnishment proceedings regarding the Special Account, the financial institution will promptly notify \( \text{Insert the name of the administering office} \).

(e) While this Special Account exists, the financial institution shall inform the Government each month of the financial institution’s published prime interest rate and changes to the rate during the month. The financial institution shall give this information to the Contracting Officer on the last business day of the month. (This covenant will not be included in the Special Account Agreements covering interest-free advance payments.) Each of the parties to this agreement has executed the agreement on __________, 20_________.

[SIGNATURES AND OFFICIAL TITLES]
[66 FR 2138, Jan. 10, 2001]

32.501 Scope of subpart.

This subpart prescribes policies, procedures, forms, solicitation provisions, and contract clauses for providing contract financing through progress payments based on costs. This subpart does not apply to—

(a) Payments under cost-reimbursement contracts, but see 32.110 for progress payments made to subcontractors under cost-reimbursement prime contracts; or

(b) Contracts for construction or for shipbuilding or ship conversion, alteration, or repair, when the contracts provide for progress payments based on a percentage or stage of completion.


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32.501 General.

Progress payments may be customary or unusual. Customary progress payments are those made under the general guidance in this subpart, using the customary progress payment rate, the cost base, and frequency of payment established in the Progress Payments clause, and either