

Federal Acquisition Regulation

32.502-4

as the following may be used in addition to the Progress Payments clause of the contract:

- (a) Personal or corporate guarantees.
- (b) Subordinations or standbys of indebtedness.
- (c) Special bank accounts.
- (d) Protective covenants of the kinds in paragraph (p) of the clause at 52.232-12, Advance Payments.
- (e) A provision, included in the solicitation and resultant contract when first article testing is required (see subpart 9.3), limiting progress payments on first article work by a stated amount or percentage.

[48 FR 42328, Sept. 19, 1983, as amended at 55 FR 52794, Dec. 21, 1990]

32.502 Preaward matters.

This section covers matters that generally are relevant only before contract award. This does not preclude taking actions discussed here after award, if appropriate; e.g., postaward addition of a Progress Payments clause for consideration.

32.502-1 Use of customary progress payments.

The contracting officer may use a Progress Payments clause in solicitations and contracts, in accordance with this subpart. The contracting officer must reject as nonresponsive bids conditioned on progress payments when the solicitation did not provide for progress payments.

[65 FR 16280, Mar. 27, 2000]

32.502-2 Contract finance office clearance.

The contracting officer shall obtain the approval of the contract finance office or other offices designated under agency procedures before taking any of the following actions:

- (a) Providing a progress payment rate higher than the customary rate (see 32.501-1).
- (b) Deviating from the progress payments terms prescribed in this part.
- (c) Providing progress payments to a contractor—
 - (1) Whose financial condition is in doubt;
 - (2) Who has had an advance payment request or loan guarantee denied for fi-

nancial reasons (or approved but withdrawn or lapsed) within the previous 12 months; or

- (3) Who is named in the consolidated list of contractors indebted to the United States (known commonly as the *Hold-up List*).

32.502-3 Solicitation provisions.

(a) The contracting officer shall insert the provision at 52.232-13, Notice of Progress Payments, in invitations for bids and requests for proposals that include a Progress Payments clause.

(b)(1) Under the authority of the statutes cited in 32.101, an invitation for bids may restrict the availability of progress payments to small business concerns only.

(2) The contracting officer shall insert the provision at 52.232-14, Notice of Availability of Progress Payments Exclusively for Small Business Concerns, in invitations for bids if it is anticipated that (1) both small business concerns and others may submit bids in response to the same invitation and (2) only the small business bidders would need progress payments.

(c) The contracting officer shall insert the provision at 52.232-15, Progress Payments Not Included, in invitations for bids if the solicitation will not contain one of the provisions prescribed in paragraphs (a) and (b) above.

32.502-4 Contract clauses.

(a)(1) Insert the clause at 52.232-16, Progress Payments, in—

(i) Solicitations that may result in contracts providing for progress payments based on costs; and

(ii) Fixed-price contracts under which the Government will provide progress payments based on costs.

(2) If advance agency approval has been given in accordance with 32.501-1, the contracting officer may substitute a different customary rate for other than small business concerns for the progress payment and liquidation rate indicated.

(3) If an unusual progress payment rate is approved for the prime contractor (see 32.501-2), substitute the approved rate for the customary rate in paragraphs (a)(1), (a)(6), and (b) of the clause.