Federal Acquisition Regulation

32.410

(a) Each determination concerning advance payments shall be supported by written findings (see 32.402(c)(1)(iii)).

(b) The following is an example of the format and text of findings, determination, and authorization with alternative words, phrases, and paragraphs to be selected to conform to the circumstances involved:

FINDINGS, DETERMINATION, AND AUTHORIZATION FOR ADVANCE PAYMENTS

FINDINGS

(a) The undersigned hereby finds that:

(1) The ______ [insert the name of the contracting activity] and ______ [insert the name of the contractor] (have entered) (proposed to enter) into (negotiated) (sealed bid) Contract No. ______, dated ______. [Summarize the specific facts and significant circumstances concerning the contract and the contractor, that, together with the other findings, will clearly support the determination below.]

(2) Advance payments (in an amount not to exceed $____ at any time outstanding) (in an aggregate amount not exceeding $____ less the aggregate amounts repaid, or withdrawn by the Government) are required by the Contractor to perform under the contract. The amount does not exceed the unpaid contract price or the estimated interim cash needs arising during the reimbursement cycle.

(3) The advance payments are necessary for prompt, efficient contract performance that will benefit the Government.

(4) The proposed advance payment clause provides for security for the protection of the Government. The clause requires that all payments will be deposited in a special account at the Contractor’s financial institution and that the Government will have a paramount lien on (i) the credit balance in the special account, (ii) any supplies contracted for, and (iii) any material or other property acquired for performance of the contract. [Insert the following, if applicable] The Contractor’s financial management system provides for effective control over and accountability for all Federal funds under governing regulations of the Treasury Department. (An advance payment bond is required.) This security is considered adequate.

(5) Advance payments are the only adequate means of financing available to the Contractor, and the amount designated in (2) above is based, to the extent possible, on the use of the Contractor’s own working capital in performing the contract. [Insert paragraph (6), (7), or (8), as applicable].

(6) The Contractor is a nonprofit (educational) (and) (research) (governmental) (in the public interest) (will benefit the Government) (will clearly support the determination below).

(7) The contract is solely for the management and operation of a Government-owned plant.

(8) The following unusual facts and circumstances favor making advance payments to the Contractor without interest:

[List the pertinent facts and circumstances.]

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).
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 ex-