

## SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

### PART 327—PATENTS, DATA, AND COPYRIGHTS

#### Subpart 327.3—Patent Rights Under Government Contracts

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327.303 Solicitation provision and contract clause.

#### Subpart 327.4—Rights in Data and Copyrights

327.404–70 Solicitation provision and contract clause.

327.409 Solicitation provision and contract clause.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 121(c)(2).

SOURCE: 80 FR 72151, Nov. 18, 2015, unless otherwise noted.

#### Subpart 327.3—Patent Rights Under Government Contracts

**327.303 Solicitation provision and contract clause.**

The contracting officer shall insert the clause at 352.227–11, Patent Rights—Exceptional Circumstances and any appropriate alternates in lieu of Federal Acquisition Regulation (FAR) 52.227–11 whenever a Determination of Exceptional Circumstances (DEC) involving the provision of materials that has been executed in accordance with Agency policy and procedures calls for its use and the clause at 352.227–11, Patent Rights—Exceptional Circumstances, appropriately covers the circumstances. The contracting officer should reference the DEC in the solicitation and shall attach a copy of the executed DEC to the contract.

#### Subpart 327.4—Rights in Data and Copyrights

**327.404–70 Solicitation provision and contract clause.**

The contracting officer shall insert the clause at 352.227–70, Publications and Publicity, in solicitations, contracts, and orders that involve requirements which could lead to the contractor's publishing the results of its work under the contract.

**327.409 Solicitation provision and contract clause.**

The contracting officer shall insert the clause at 352.227–14, Rights in Data—Exceptional Circumstances, and any appropriate alternates in lieu of the FAR clause at 52.227–14, Rights in Data-General, whenever a DEC executed in accordance with Agency policy and procedures calls for its use. Prior to using this clause, a DEC must be executed in accordance with Agency policy and procedures. The contracting officer should reference the DEC in the solicitation and shall attach a copy of the executed DEC to the contract.

### PART 328 [RESERVED]

### PART 330—COST ACCOUNTING STANDARDS

**Subpart 330.2—CAS Program Requirements**

Sec.  
330.201 Contract requirements.  
330.201–5 Waiver.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 121(c)(2).

SOURCE: 80 FR 72151, Nov. 18, 2015, unless otherwise noted.

#### Subpart 330.2—CAS Program Requirements

**330.201 Contract requirements.**

**330.201–5 Waiver.**

The Senior Procurement Executive (SPE) shall exercise the waiver authority under Federal Acquisition Regulation 30.201–5(a)(2). Operating Divisions and Staff Divisions shall forward waiver requests to the SPE.

### PART 331—CONTRACT COST PRINCIPLES AND PROCEDURES

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 121(c)(2).

SOURCE: 80 FR 72151, Nov. 18, 2015, unless otherwise noted.

## Health and Human Services

332.703-1

### Subpart 331.1—Applicability

#### 331.101-70 Salary rate limitation.

(a) Beginning in fiscal year 1990, Congress has stipulated in the Department of Health and Human Services appropriations acts and continuing resolutions that, under applicable contracts, appropriated funds cannot be used to pay the direct salary of an individual above the stipulated rates. The applicable rates for each year are identified at *www.opm.gov*.

(b) The contracting officer shall insert the clause at 352.231-70, Salary Rate Limitation, in solicitations and contracts when a cost-reimbursement; fixed-price level-of-effort; time-and-materials; or labor-hour contract is contemplated.

## PART 332—CONTRACT FINANCING

### Subpart 332.4—Advance Payments for Non-Commercial Items

Sec.

332.402 General.

332.407 Interest.

### Subpart 332.5—Progress Payments Based on Cost

332.501 General.

332.501-2 Unusual progress payments.

### Subpart 332.7—Contract Funding

332.702 Policy.

332.703 Contract funding requirements.

332.703-1 General.

332.703-71 Incrementally funded cost-reimbursement contracts.

332.703-72 Incremental Funding Table.

332.706 Solicitation provision and contract clauses.

332.706-2 Provision and clauses for limitation of cost or funds.

### Subpart 332.70—Electronic Submission and Processing of Payment Requests

332.7000 Scope of subpart.

332.7001 Definitions.

332.7002 Policy.

332.7003 Contract clause.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 121(c)(2).

SOURCE: 80 FR 72151, Nov. 18, 2015, unless otherwise noted.

### Subpart 332.4—Advance Payments for Non-Commercial Items

#### 332.402 General.

(e) The head of the contracting activity (HCA) (non-delegable) shall make determinations related to advanced payments and assure compliance with FAR 32.402.

#### 332.407 Interest.

(d) The HCA (non-delegable) shall make the determinations in FAR 32.407(d).

### Subpart 332.5—Progress Payments Based on Cost

#### 332.501 General.

#### 332.501-2 Unusual progress payments.

(a)(3) The HCA (non-delegable) shall approve unusual progress payments.

### Subpart 332.7—Contract Funding

#### 332.702 Policy.

Departmental employees shall report any suspected violation of the Anti-Deficiency Act (31 U.S.C. 1341, 13 U.S.C. 1342, and 31 U.S.C. 1517) immediately to the Operating Division's Chief Financial Officer (CFO), who in turn will report the matter to the HHS Deputy CFO.

#### 332.703 Contract funding requirements.

#### 332.703-1 General.

(b) The following requirements govern all solicitations and contracts using incremental funding, as appropriate:

(1) The contracting officer shall consider the estimated total cost of the contract, including all planned increments of performance when determining the requirements that must be met before contract execution (e.g., Justification and Approvals, clearances, and approvals).

(2) The solicitation and resultant contract shall include a statement of work or performance work statement that describes the total project, covers