32.405 Applying Pub.L.85-804 to advance payments under sealed bid contracts.

- (a) Actions that designated agencies may take to facilitate the $national\ defense$ without regard to other provisions of law relating to contracts, as explained in 50.101-1(a), also include making advance payments. These advance payments may be made at or after award of sealed bid contracts, as well as negotiated contracts.
- (b) Bidders *may* request advance payments before or after award, even if the invitation for bids does not contain an advance payment provision. However, the *contracting officer shall* reject any bid requiring that advance payments be provided as a basis for acceptance.
- (c) When advance payments are requested, the agency may-
- (1) Enter into the contract and provide for advance payments conforming to this part 32;
- (2) Enter into the contract without providing for advance payments if the contractor does not actually need advance payments; or
- (3) Deny award of the contract if the request for advance payments has been disapproved under <u>32.409-2</u> and funds adequate for performance are not otherwise available to the *offeror*.

Parent topic: Subpart 32.4 - Advance Payments for Other Than Commercial Acquisitions