

32.410 Findings, determination, and authorization.

(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) (propose 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\$ _____ at any time outstanding) (in an aggregate amount not exceeding \$ _____, less the aggregate amounts repaid, or withdrawn by the Government) are required by the Contractor to perform under the contract.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) of this section 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) institution, and the contract is for (experimental) (.) (research and development) work.

(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 paragraph (a) of this section, 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 (41 U.S.C. chapter 45, Contract Financing) (10 U.S.C. chapter 277) (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 terms:) *[Insert the appropriate terms.]* (All prior authorizations for advance payments under Contract No. _____ are superseded.)

_____ *[Signature]*

_____ *[Name Typed]*

_____ *[Title of Authorized Official]*

[Each Findings, Determination, and Authorization shall be individually prepared to fit the particular circumstances at hand. Paragraphs (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, paragraph (a)(5) should not be included. If the advance payment is to be made without interest to the contractor, include paragraph (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.]

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