



UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

PROCUREMENT MEMORANDUM 2020-06

ACTION

MEMORANDUM FOR: Senior Bureau Procurement Officials

FROM: Barry E. Berkowitz
Senior Procurement Executive and
Director for Acquisition Management

SUBJECT: Class Deviation: Customary Progress Payment Rates Based on Costs

Purpose

This class deviation is issued in accordance with Federal Acquisition Regulation (FAR) 1.404 to implement Civilian Agency Acquisition Council (CAAC) Letter 2020-03 in response to the Coronavirus Disease 2019 (COVID-19) national emergency.

Applicability

The Department of Commerce is issuing this deviation for customary progress payment rates based on costs at FAR 32.501-1 to increase the progress payment rates for large and small business concerns.

Deviation

The attached deviation includes revisions to FAR Parts 32 and 52 to increase the progress payment rates based on costs at FAR 32.501-1 from **80 to 90 percent** for large business concerns and from **85 to 95 percent** for small business concerns.

Required Actions

Contracting officers shall use the attached deviation FAR text as follows:

- Use the deviated language for 32.501-1(a), in lieu of the current language at 32.501-1(a)
- Use 52.232-16, Progress Payments (Apr 2012) (Deviation Apr 2020), in lieu of the clause at FAR 52.232-16, Progress Payments (Apr 2012).
NOTE: Remember to include FAR text unchanged in the clause shown as asterisks *** or*****
- Use Alternate I (Mar 2000) (Deviation Apr 2020), in lieu of Alternate I of FAR clause 52.232-16 (Mar 2000)

Adjustments on liquidations are not required for previously delivered items; financing limitations will be accomplished through Section III of the Standard Form 1443, *Contractor's Request for Progress Payment*.

Effective Date

This deviation is effective upon issuance and will remain in effect until cancelled after the COVID-19 emergency passes.

Additional Information

Please direct any questions regarding this Procurement Memorandum to [OAM Mailbox@doc.gov](mailto:OAM_Mailbox@doc.gov).

Attachment A: Deviated FAR Text

Attachment A

FAR Deviation Text For Class Deviation Procurement Memorandum 2020-06

FAR Deviation text - Baseline FAC 2020-05, effective March 30, 2020

Additions are **[bolded and bracketed]**, deletions are struck through.
FAR text unchanged shown as asterisks *** or *****

PART 32-CONTRACT FINANCING

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Subpart 32.5—Progress Payments Based on Costs

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32.501-1 Customary progress payment rates.

(a) The customary progress payment rate is ~~80~~ **[90]** percent, applicable to the total costs of performing the contract. The customary rate for contracts with small business concerns is ~~85~~ **[95]** percent.

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PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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Subpart 52.2—Text of Provisions and Clauses

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52.232-16 Progress Payments.

As prescribed in 32.502-4(a), insert the following clause: PROGRESS PAYMENTS (APR 2012) **[DEVIATION (APR 2020)]**

The Government will make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts of \$2,500 or more approved by the Contracting Officer, under the following conditions:

(a) *Computation of amounts.* (1) Unless the Contractor requests a smaller amount, the Government will compute each progress payment as 80 [90] percent of the Contractor's total costs incurred under this contract whether or not actually paid, plus financing payments to subcontractors (see paragraph (j) of this clause), less the sum of all previous progress payments made by the Government under this contract. The Contracting Officer will consider cost of money that would be allowable under FAR 31.205-10 as an incurred cost for progress payment purposes.

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(6) The total amount of progress payments shall not exceed 80 [90] percent of the total contract price.

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(b) *Liquidation.* Except as provided in the Termination of Convenience of the Government clause, all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress payments, the unliquidated progress payments, or 80 [90] percent of the amount invoiced, whichever is less. The Contractor shall repay to the Government any amounts required by a retroactive price reduction, after computing liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly. The Government reserves the right to unilaterally change from the ordinary liquidation rate to an alternate rate when deemed appropriate for proper contract financing.

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Alternate I (Mar 2000) [DEVIATION (APR 2020)]. If the contract is with a small business concern, change each mention of the progress payment and liquidation rates excepting paragraph(k) to the customary rate of 85 [95] percent for small business concerns (see FAR 32.501-1).

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