

970.3170 Contract clause.

The contracting officer shall insert the clause at 970.5231–4, Preexisting Conditions, in all management and operating contracts.

(a) The contracting officer shall include the clause with its Alternate I in contracts with incumbent management and operating contractors.

(b) The contracting officer shall include the clause with its Alternate II in contracts with management and operating contractors not previously working at that particular site or facility.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36373, July 22, 2009]

Subpart 970.32—Contract Financing

970.3200 Policy.

It is the policy of the Department of Energy (DOE) to finance management and operating contracts through advance payments and the use of special financial institution accounts.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36373, July 22, 2009]

970.3200–1 Reduction or suspension of advance, partial, or progress payments.

(a) The procedures prescribed at 48 CFR 32.006 shall be followed regarding the reduction or suspension of payments under management and operating contracts.

(b) Agency head responsibilities under 48 CFR 32.006 have been delegated to the Senior Procurement Executive.

(c) The remedy coordination official is responsible for receiving, assessing, and making recommendations to the Senior Procurement Executive.

970.3200–1–1 Contract clause.

The contracting officer shall insert the clause at 970.5232–1, Reduction or suspension of contract payments, in management and operating contracts.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36373, July 22, 2009]

970.3204 Advance payments.**970.3204–1 Applicability.**

(a) The Head of the Contracting Activity shall authorize advance payments without interest, and approve the findings, determinations and the contract terms and conditions concerning advance payments in accordance with the procedures set forth in 48 CFR subpart 32.4, Advance Payments for Non-Commercial Items, as supplemented by 48 CFR subpart 932.4.

(b) Advance payments shall be made under a payments cleared financing arrangement for deposit in a special financial institution account or, at the option of the Government, by direct payment or other payment mechanism to the contractor.

(c) Prior to providing any advance payments, the contracting officer shall enter into an agreement with the contractor and a financial institution regarding a special financial institution account where the advanced funds will be deposited by the Government. Such agreement shall—

(1) Provide that DOE shall retain title to the unexpended balance of funds in the special financial institution account including collections, if any, deposited by the contractor;

(2) Provide that the title in paragraph (c)(1) of this subsection shall be superior to any claim or lien of the financial institution of deposit or others; and

(3) Incorporate all applicable requirements, as determined by the Office of Chief Financial Officer.

(d) Deviations from the requirements cited in paragraph (c) of this subsection shall be considered a deviation requiring approval of the Head of the Contracting Activity.

(e) Letter-of-credit arrangements shall be prepared in accordance with 48 CFR 32.406, Letters of Credit, and shall be coordinated between the procurement and finance organizations.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36373, July 22, 2009]

970.3270 Standard financial management clauses.

(a) The following DEAR and FAR clauses are standard financial management clauses. The contracting officer