

## 32.608

the contract and the docket number if the appeal has been filed.

(iv) A copy of the contracting officer's final decision (see 32.605).

(d) The office designated in agency procedures may authorize a deferment pending the resolution of appeal to avoid possible overcollections. The agency is required to use unexpired funds to pay interest on overcollections.

(e) Deferments pending disposition of appeal may be granted to small business concerns and financially weak contractors, balancing the need for Government security against loss and undue hardship on the contractor.

(f) The deferment agreement shall not provide that a claim of the Government will not become due and payable pending mutual agreement on the amount of the claim or, in the case of a dispute, until the decision is reached.

(g) At a minimum, the deferment agreement shall contain the following:

(1) A description of the debt.

(2) The date of first demand for payment.

(3) Notice of an interest charge, in conformity with 32.608 and the FAR clause at 52.232-17, Interest; or, in the case of a debt arising from a defective pricing or a CAS noncompliance overpayment, interest, as prescribed by the applicable Price Reduction for Defective Certified Cost or Pricing Data or CAS clause (see 32.607(c)).

(4) Identification of the office to which the contractor is to send debt payments.

(5) A requirement for the contractor to submit financial information requested by the Government and for reasonable access to the contractor's records and property by Government representatives.

(6) Provision for the Government to terminate the deferment agreement and accelerate the maturity of the debt if the contractor defaults or if bankruptcy or insolvency proceedings are instituted by or against the contractor.

(7) Protective requirements that are considered by the Government to be prudent and feasible in the specific circumstances. The coverage of protective terms at 32.409 and 32.501-5 may be used as a guide.

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(h) If a contractor appeal of the debt determination is pending, the deferment agreement shall also include a requirement that the contractor shall—

(1) Diligently prosecute the appeal; and

(2) Pay the debt in full when the appeal is decided, or when the parties reach agreement on the debt amount.

(i) The deferment agreement may provide for the right to make early payments without prejudice, for refund of overpayments, and for crediting of interest.

[73 FR 54002, Sept. 17, 2008, as amended at 75 FR 53149, Aug. 30, 2010]

### 32.608 Interest.

#### 32.608-1 Interest charges.

Unless specified otherwise in the clause at 52.232-17, Interest, interest charges shall apply to any contract debt unpaid after 30 days from the issuance of a demand unless—

(a) The contract is a kind excluded under 32.611; or

(b) The contract or debt has been exempted from interest charges under agency procedures.

#### 32.608-2 Interest credits.

(a) An equitable interest credit shall be applied under the following circumstances:

(1) When the amount of debt initially determined is subsequently reduced; *e.g.*, through a successful appeal.

(2) When any amount collected by the Government is in excess of the amount found to be due on appeal under the Disputes Clause of the contract.

(3) When the collection procedures followed in a given case result in an overcollection of the debt due.

(4) When the responsible official determines that the Government has unduly delayed payments to the contractor on the same contract at some time during the period to which the interest charge applied, provided an interest penalty was not paid for such late payment.

(b) Any appropriate interest credits shall be computed under the following procedures:

(1) Interest at the rate under 52.232-17 shall be charged on the reduced debt