

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 [32.409-2](#) and funds adequate for performance are not otherwise available to the *offeror*.

Parent topic: [Subpart 32.4 - Advance Payments for Other Than Commercial Acquisitions](#)