

32.604 Demand for payment.

(a) Except as provided in paragraph (c) of this section, the *contracting officer shall* take the following actions:

(1) Issue the demand for payment as soon as the *contracting officer* has determined that an actual debt is due the Government and the amount.

(2) Issue the demand for payment even if-

(i) The debt is or will be the subject of a bilateral modification;

(ii) The contractor is otherwise obligated to pay the money under the existing contract terms; or

(iii) The contractor has agreed to repay the debt.

(3) Issue the demand for payment as a part of the final decision, if a final decision is required by [32.605\(a\)](#).

(b) The demand for payment *shall* include the following:

(1) A description of the debt, including the debt amount.

(2) A distribution of the principal amount of the debt by line(s) of accounting subject to the following:

(i) If the debt affects multiple lines of accounting, the *contracting officer shall*, to the maximum extent practicable, identify all affected lines of accounting. If it is not practicable to identify all affected lines of accounting, the *contracting officer may* select representative lines of accounting in accordance with paragraph (b)(2)(ii) of this section.

(ii) In selecting representative lines of accounting, the *contracting officer shall*-

(A) Consider the affected departments or agencies, years of appropriations, and the predominant types of appropriations; and

(B) Not distribute to any line of accounting an amount of the principal in excess of the total obligation for the line of accounting; and

(iii) Include the lines of accounting even if the associated funds are expired or cancelled. While cancelled funds will be deposited in a miscellaneous receipt account of the Treasury if collected, the funds are tracked under the closed year appropriation(s) to comply with the Anti-Deficiency Act.

(iv) If the debt affects multiple contracts and the lines of accounting are not readily available, the *contracting officer shall*-

(A) Issue the demand for payment without the distribution of the principal amount to the affected lines of accounting;

(B) Include a statement in the demand for payment advising when the distribution will be provided; and

(C) Provide the distribution by the date identified in the demand for payment.

(3) The basis for and amount of any accrued interest or penalty.

(4)

(i) For debts resulting from specific contract terms (*e.g.*, debts resulting from incentive clause provisions, Quarterly Limitation on Payments Statement, Cost Accounting Standards, price reduction for defective *pricing*), a notification stating that payment *should* be made promptly, and that interest is due in accordance with the terms of the contract. Interest *shall* be computed from the date specified in the applicable *contract clause* until repayment by the contractor. The interest rate *shall* be the rate specified in the applicable *contract clause*. In the case of a debt arising from a price reduction for defective *pricing*, or as specifically set forth in a Cost Accounting Standards (CAS) clause in the contract, interest is computed from the date of overpayment by the Government until repayment by the contractor at the underpayment rate established by the Secretary of the Treasury, for the periods affected, under 26 U.S.C. . 6621(a)(2).

(ii) For all other contract debts, a notification stating that any amounts not paid within 30 days from the date of the demand for payment will bear interest. Interest *shall* be computed from the date of the demand for payment until repayment by the contractor. The interest rate *shall* be the interest rate established by the Secretary of the Treasury, as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as established by the Secretary until the amount is paid.

(5) A statement advising the contractor-

(i) To contact the *contracting officer* if the contractor believes the debt is invalid or the amount is incorrect; and

(ii) If the contractor agrees, to remit a check payable to the agency's payment office annotated with the contract number along with a copy of the demand for payment to the payment office identified in the contract or as otherwise specified in the demand letter in accordance with agency procedures.

(6) Notification that the payment office *may* initiate procedures, in accordance with the applicable statutory and regulatory requirements, to offset the debt against any payments otherwise due the contractor.

(7) Notification that the debt *may* be subject to administrative charges in accordance with the requirements of 31U.S. C. 3717(e) and the Debt Collection Improvement Act of 1996.

(8) Notification that the contractor *may* submit a request for installment payments or deferment of collection if immediate payment is not practicable or if the amount is disputed.

(c) Except as provided in paragraph (d) of this section, the *contracting officer should* not issue a demand for payment if the *contracting officer* only becomes aware of the debt when the contractor-

(1) Provides a lump sum payment or submits a credit *invoice*. (A credit *invoice* is a contractor's request to *liquidate* the debt against existing unpaid bills due the contractor); or

(2) Notifies the *contracting officer* that the payment office overpaid on an *invoice payment*. When the contractor provides the notification, the *contracting officer shall* notify the payment office of the overpayment.

(d) If a demand for payment was not issued as provided for in paragraph (c) of this section, the *contracting officer shall* issue a demand for payment no sooner than 30 days after the *contracting officer* becomes aware of the debt unless-

(1) The contractor has liquidated the debt;

(2) The contractor has requested an installment payment agreement; or

(3) The payment office has issued a demand for payment.

(e) The *contracting officer shall*-

(1) Furnish a copy of the demand for payment to the contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt; and

(2) Forward a copy of the demand to the payment office.

Parent topic: Subpart 32.6 - Contract Debts