

Department of Defense

§ 1128.305

conditions will support construction projects financed in whole or in part by the Federal Government.

(b) *Award terms and conditions*—(1) *General*. Appendix B provides wording for Section B of FMS Article II that a DoD Component:

(i) Must use in general terms and conditions for non-construction awards to authorize recipients to request advance payments; and

(ii) May use in general terms and conditions for construction awards if it elects to authorize recipients of those awards to request advance payments.

(2) *Alternative award terms and conditions*. A DoD Component may develop an alternative to appendix B's wording for Section B of FMS Article II to use in general terms and conditions for construction awards, if it elects to specify reimbursement as the payment method for those awards. The alternative:

(i) Would replace appendix B's wording for paragraph B.1 with wording to specify the reimbursement method of payment;

(ii) Must include appendix B's wording for paragraphs B.2.b and c, B.4, and B.5, which may be renumbered as appropriate, because those paragraphs apply to reimbursements as well as advance payments;

(iii) Should omit appendix B's wording for paragraphs B.2.a, B.3, and B.6 because those paragraphs apply specifically to advance payments; and

(iv) Must inform recipients that the DoD payment office generally makes payment within 30 calendar days after receipt of the request for reimbursement by the award administration office, unless the request is reasonably believed to be improper.

§ 1128.220 Electronic funds transfer and other payment procedural instructions or information.

(a) *Policy*. A DoD Component's general terms and conditions must specify that payments will be made by electronic funds transfer (EFT) unless a recipient is excepted in accordance with Department of the Treasury regulations at 31 CFR part 208 from the Governmentwide requirement to use EFT.

(b) *Award terms and conditions*—(1) *Electronic funds transfer*. Appendix B

provides wording for Section C of FMS Article II that a DoD Component must use to specify payment by EFT, when awards are not excepted from the Governmentwide requirement.

(2) *Other payment procedures or instructions*. A DoD Component may insert one or more paragraphs in its general terms and conditions in lieu of the reserved paragraph C.2 in appendix B, to provide procedural instructions or information regarding payments that is common to awards using those terms and conditions. For example, it may insert wording to give detailed instructions on where and how recipients are to submit payment requests. All forms, formats, and data elements for payment requests must be OMB-approved information collections.

Subpart C—Allowable Costs, Period of Availability of Funds, and Fee or Profit (FMS Article III)

§ 1128.300 Purpose of FMS Article III.

FMS Article III of the general terms and conditions specifies what costs are allowable as charges to awards and when they are allowable. It also specifies restrictions on payment of fee or profit. It thereby implements OMB guidance in §§ 200.209 and 200.309 and Subpart E of 2 CFR part 200. It also partially implements 2 CFR 200.201(b)(1) and 200.323(c), as those sections apply to the cost principles to be used in relation to subawards and contracts, respectively.

§ 1128.305 Content of FMS Article III.

(a) *Requirement*. A DoD Component's general terms and conditions must address allowability of costs and permissibility of fee or profit.

(b) *Award terms and conditions*. A DoD Component's general terms and conditions must include the wording appendix C to this part provides for FMS Article III with appropriate reservations as described in §§ 1128.310 through 1128.325.