



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON D.C. 20548

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May 14, 1982

B-207097

The Honorable William V. Roth, Jr.  
Chairman, Committee on Governmental Affairs  
United States Senate

Dear Mr. Chairman:

You requested our views on S. 1782, a bill "to amend Section 305 of the Federal Property and Administrative Services Act of 1949 pertaining to contract progress payments made by agencies of the Federal Government, providing for the elimination of retainage in certain instances, and for other purposes." The proposed bill amends Section 305 of the Act by adding subsection (d). While we have not completed any studies which would allow us to provide audit-supported comments on the bill's proposed provisions, we are providing some observations for your consideration based on our general experience in reviewing procurement activities.

1. Proposed subsection (d)(1) of the bill provides that progress payments shall be made monthly as the work proceeds, at more frequent intervals as determined by the contracting officer, or at intervals stipulated by the contract.

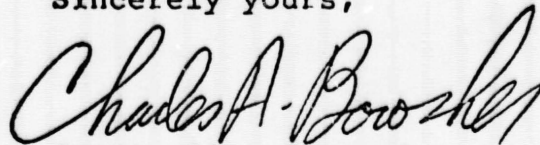
While it may be desirable in some cases to have the contracting officer authorize progress payments at more frequent intervals than monthly, we believe that making payments more frequently than once a month could create an unnecessary administrative burden on agencies. Therefore, to help assure consistent treatment of contractors by Federal contracting officers and to aid in reducing the administrative burden, we believe some criteria or guidance should be provided to help contracting officers in deciding when to authorize payments more frequently than once a month.

2. Proposed subsection (d)(3) provides that if the party performing the contract is a small business concern and has provided an adequate performance bond as determined by the contracting officer, the contracting officer shall authorize progress payments to be made in full without retention of any percentage of the contract price.

This provision would seem to permit full payment of the contract price even though the contracting officer has information showing that the contractor may not be performing satisfactorily. In our opinion it is not in the Government's best interest to make full progress payments when the contracting officer has knowledge that less than satisfactory progress towards completion of the contract is being achieved. Where the contracting officer has knowledge that the contractor is not performing satisfactorily, we believe the contracting officer should have the flexibility to retain a percentage of the progress payment.

We appreciate this opportunity to comment on the proposed legislation.

Sincerely yours,



Comptroller General  
of the United States