

tive agency that provides for those payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide information and evidence the executive agency determines is necessary to permit the executive agency to carry out this subsection.

(b) LIMITATION.—The executive agency shall ensure that progress payments referred to in subsection (a) are not made for more than 80 percent of the work accomplished under the contract as long as the executive agency has not made the contractual terms, specifications, and price definite.

(c) APPLICATION.—This section applies to a contract in an amount greater than \$25,000.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3791.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
4504	41:255(e).	June 30, 1949, ch. 288, title III, §305(e), as added Pub. L. 103-355, title II, §2051(e), Oct. 13, 1994, 108 Stat. 3304, as amended Pub. L. 104-106, title XLIII, §4321(a)(4), Feb. 10, 1996, 110 Stat. 671.

§ 4505. Payments for commercial items

(a) TERMS AND CONDITIONS FOR PAYMENTS.—Payments under section 4501 of this title for commercial items may be made under terms and conditions that the head of the executive agency determines are appropriate or customary in the commercial marketplace and are in the best interests of the Federal Government.

(b) SECURITY FOR PAYMENTS.—The head of the executive agency shall obtain adequate security for the payments. If the security is in the form of a lien in favor of the Federal Government, the lien is paramount to all other liens and is effective immediately on the first payment, without filing, notice, or other action by the Federal Government.

(c) LIMITATION ON ADVANCE PAYMENTS.—Advance payments made under section 4501 of this title for commercial items may include payments, in a total amount not more than 15 percent of the contract price, in advance of any performance of work under the contract.

(d) NONAPPLICATION OF CERTAIN CONDITIONS.—The conditions of sections 4503 and 4504 of this title need not be applied if they would be inconsistent, as determined by the head of the executive agency, with commercial terms and conditions pursuant to this section.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3791.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
4505	41:255(f).	June 30, 1949, ch. 288, title III, §305(f), as added Pub. L. 103-355, title II, §2051(e), Oct. 13, 1994, 108 Stat. 3304, as amended Pub. L. 104-106, title XLIII, §4321(a)(4), Feb. 10, 1996, 110 Stat. 671.

§ 4506. Action in case of fraud

(a) DEFINITION.—In this section, the term “remedy coordination official”, with respect to an executive agency, means the individual or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.

(b) RECOMMENDATION TO REDUCE OR SUSPEND PAYMENTS.—In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the executive agency reduce or suspend further payments to that contractor.

(c) REDUCTION OR SUSPENSION OF PAYMENTS.—The head of an executive agency receiving a recommendation under subsection (b) in the case of a contractor’s request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. On making an affirmative determination, the head of the executive agency may reduce or suspend further payments to the contractor under the contract.

(d) EXTENT OF REDUCTION OR SUSPENSION.—The extent of any reduction or suspension of payments by an executive agency under subsection (c) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the Federal Government resulting from the fraud.

(e) WRITTEN JUSTIFICATION.—A written justification for each decision of the head of an executive agency whether to reduce or suspend payments under subsection (c), and for each recommendation received by the executive agency in connection with the decision, shall be prepared and be retained in the files of the executive agency.

(f) NOTICE.—The head of each executive agency shall prescribe procedures to ensure that, before the head of the executive agency decides to reduce or suspend payments in the case of a contractor under subsection (c), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the executive agency in response to the proposed reduction or suspension.

(g) REVIEW.—Not later than 180 days after the date on which the head of an executive agency reduces or suspends payments to a contractor under subsection (c), the remedy coordination official of the executive agency shall—

(1) review the determination of fraud on which the reduction or suspension is based; and

(2) transmit a recommendation to the head of the executive agency whether the suspension or reduction should continue.

(h) REPORT.—The head of each executive agency who receives recommendations made by the remedy coordination official of the executive agency to reduce or suspend payments under subsection (c) during a fiscal year shall prepare for that year a report that contains the recom-