

Subpart 432.8—Assignment of Claims

432.802 Conditions.

Written notices of assignment and a true copy of the assigned instrument are to be sent to the contracting officer rather than the agency head. Other copies are distributed as directed in FAR 32.802.

432.803 Policies.

The HCA may make a determination of need to include a no-setoff commitment in a contract.

432.805 Procedure.

The information described in FAR 32.805 shall be filed with the contracting officer.

432.806 Contract clauses.

The contracting officer may make the determination whether to include the clause at FAR 52.232-23 in any purchase order expected to exceed the micro-purchase threshold.

Subpart 432.9—Prompt Payment

432.905 Invoice payments.

The payment terms for supplies and services on the Procurement List and provided by a Javits-Wagner-O'Day Act participating nonprofit agency are governed by FAR 8.709.

432.906 Contract financing payments.

The HCA may prescribe, on a case-by-case basis, a shorter period for financing payments.

Subpart 432.10—Performance-Based Payments

432.1007 Administration and payment of performance-based payments.

The responsibility for receiving, reviewing, and approval of performance-based payment requests may not be transferred from the contracting officer.

PART 433—PROTESTS, DISPUTES AND APPEALS

Subpart 433.1—Protests

Sec.

433.102 General.

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433.203 Applicability.

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AUTHORITY: 5 U.S.C. 301 and 40 U.S.C. 486(c).

SOURCE: 61 FR 53646, Oct. 15, 1996, unless otherwise noted.

Subpart 433.1—Protests

433.102 General.

(a) The Senior Procurement Executive (SPE) is responsible for coordinating the handling of bid protests lodged with the General Accounting Office (GAO).

(b) The head of the contracting activity (HCA), on a non-delegable basis, may resolve protests and authorize reimbursement of costs in accordance with FAR 33.102(b).

433.103 Protests to the agency.

(a) Actual or prospective bidders or offerors may file protests either with the HCA, as provided by 433.102(b), or with the contracting officer. Protesters who file protests with the HCA shall furnish a complete copy to the contracting officer no later than 1 day after the protest is filed with the HCA.

(b) When a protest is received, the adjudicating official shall take prompt action towards resolution and notify the protester in writing of the action taken. The written final decision shall include a paragraph substantially as follows:

This decision shall be final and conclusive unless a further written notice of protest is filed with the General Accounting Office in accordance with 4 CFR part 21. Neither the filing of a protest with USDA nor the filing of a protest with the General Accounting Office affects your right to file an action

433.104

in a district court of the United States or the United States Court of Federal Claims.

433.104 Protests to GAO.

The contracting activity shall furnish a copy of all reports submitted to the GAO, including all relevant documents, to the SPE simultaneously with their submission to the GAO.

Subpart 433.2—Disputes and Appeals

433.203 Applicability.

The Assistant Secretary for Administration is authorized to determine the applicability of the Contract Disputes

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Act to contracts with foreign governments pursuant to FAR 33.203.

433.203–70 Agriculture Board of Contract Appeals.

The organization, jurisdiction, and functions of the Agriculture Board of Contract Appeals, together with its Rules of Procedure, are set out in 7 CFR part 24.

433.209 Suspected fraudulent claims.

The contracting officer shall refer all matters related to suspected fraudulent claims by a contractor under the conditions in FAR 33.209 to the Office of Inspector General for additional action or investigation.