

Federal Acquisition Regulation

32.806

Moneys due or to become due under the contract described above have been assigned to the undersigned under the provisions of the Assignment of Claims Act of 1940, as amended, 31 U.S.C. 3727, 41 U.S.C. 15.

A true copy of the instrument of assignment executed by the Contractor on _____ [date], is attached to the original notice.

Payments due or to become due under this contract should be made to the undersigned assignee.

Please return to the undersigned the three enclosed copies of this notice with appropriate notations showing the date and hour of receipt, and signed by the person acknowledging receipt on behalf of the addressee.

Very truly yours,

[name of assignee]

By _____
[signature of signing officer]

Title _____
[title of signing officer]

[address of assignee]

ACKNOWLEDGEMENT

Receipt is acknowledged of the above notice and of a copy of the instrument of assignment. They were received at ____ (a.m.) (p.m.) on _____, 20____.

[signature]

[title]

On behalf of

[name of addressee of this notice]

(d) *Examination by the Government.* In examining and processing notices of assignment and before acknowledging their receipt, contracting officers should assure that the following conditions and any additional conditions specified in agency regulations, have been met:

(1) The contract has been properly approved and executed.

(2) The contract is one under which claims may be assigned.

(3) The assignment covers only money due or to become due under the contract.

(4) The assignee is registered separately in the Central Contractor Registration unless one of the exceptions in 4.1102 applies.

(e) *Release of assignment.* (1) A release of an assignment is required whenever—

(i) There has been a further assignment or reassignment under the Act; or

(ii) The contractor wishes to reestablish its right to receive further payments after the contractor's obligations to the assignee have been satisfied and a balance remains due under the contract.

(2) The assignee, under a further assignment or reassignment, in order to establish a right to receive payment from the Government, must file with the addressees listed in 32.802(e) a—

(i) Written notice of release of the contractor by the assigning financing institution;

(ii) Copy of the release instrument;

(iii) Written notice of the further assignment or reassignment; and

(iv) Copy of the further assignment or reassignment instrument.

(3) If the assignee releases the contractor from an assignment of claims under a contract, the contractor, in order to establish a right to receive payment of the balance due under the contract, must file a written notice of release together with a true copy of the release of assignment instrument with the addressees noted in 32.802(e).

(4) The addressee of a notice of release of assignment or the official acting on behalf of that addressee shall acknowledge receipt of the notice.

[48 FR 42328, Sept. 19, 1983, as amended at 51 FR 2665, Jan. 17, 1986; 52 FR 9039, Mar. 20, 1987; 62 FR 237, Jan. 2, 1997; 64 FR 10533, Mar. 4, 1999; 65 FR 24325, Apr. 25, 2000; 68 FR 56673, Oct. 1, 2003]

32.806 Contract clauses.

(a)(1) The contracting officer shall insert the clause at 52.232-23, Assignment of Claims, in solicitations and contracts expected to exceed the micro-purchase threshold, unless the contract will prohibit the assignment of claims (see 32.803(b)). The use of the clause is not required for purchase orders. However, the clause may be used in purchase orders expected to exceed the micro-purchase threshold, that are accepted in writing by the contractor, if such use is consistent with agency policies and regulations.

32.900

(2) If a no-setoff commitment has been authorized (see FAR 32.803(d)), the contracting officer shall use the clause with its *Alternate I*.

(b) The contracting officer shall insert the clause at 52.232-24, Prohibition of Assignment of Claims, in solicitations and contracts for which a determination has been made under agency regulations that the prohibition of assignment of claims is in the Government's interest.

[48 FR 42328, Sept. 19, 1983, as amended at 51 FR 2665, Jan. 17, 1986; 60 FR 49730, Sept. 26, 1995; 61 FR 18921, Apr. 29, 1996]

Subpart 32.9—Prompt Payment

SOURCE: 66 FR 65355, Dec. 18, 2001, unless otherwise noted.

32.900 Scope of subpart.

This subpart prescribes policies, procedures, and clauses for implementing Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

32.901 Applicability.

(a) This subpart applies to invoice payments on all contracts, except contracts with payment terms and late payment penalties established by other governmental authority (*e.g.*, tariffs).

(b) This subpart does not apply to contract financing payments (see definition at 32.001).

32.902 Definitions.

As used in this subpart—

Discount for prompt payment means an invoice payment reduction offered by the contractor for payment prior to the due date.

Mixed invoice means an invoice that contains items with different payment due dates.

Payment date means the date on which a check for payment is dated or, for an electronic funds transfer (EFT), the settlement date.

Settlement date, as it applies to electronic funds transfer, means the date on which an electronic funds transfer payment is credited to the contractor's financial institution.

48 CFR Ch. 1 (10-1-06 Edition)

32.903 Responsibilities.

(a) Agency heads—

(1) Must establish the policies and procedures necessary to implement this subpart;

(2) May prescribe additional standards for establishing invoice payment due dates (see 32.904) necessary to support agency programs and foster prompt payment to contractors;

(3) May adopt different payment procedures in order to accommodate unique circumstances, provided that such procedures are consistent with the policies in this subpart;

(4) Must inform contractors of points of contact within their cognizant payment offices to enable contractors to obtain status of invoices; and

(5) May authorize the use of the accelerated payment methods specified at 5 CFR 1315.5.

(b) When drafting solicitations and contracts, contracting officers must identify for each contract line item number, subline item number, or exhibit line item number—

(1) The applicable Prompt Payment clauses that apply to each item when the solicitation or contract contains items that will be subject to different payment terms; and

(2) The applicable Prompt Payment food category (*e.g.*, which item numbers are meat or meat food products, which are perishable agricultural commodities), when the solicitation or contract contains multiple payment terms for various classes of foods and edible products.

32.904 Determining payment due dates.

(a) *General.* Agency procedures must ensure that, when specifying due dates, contracting officers give full consideration to the time reasonably required by Government officials to fulfill their administrative responsibilities under the contract.

(b) *Payment due dates.* Except as prescribed in paragraphs (c) through (f) of this section, or as authorized in 32.908(a)(2) or (c)(2), the due date for making an invoice payment is as follows:

(1) The later of the following two events: