

**2933.203**

(c) *Protests after award.* The authority of the HCA under FAR 33.104(c) to authorize contract performance when the agency has received notice from the GAO of a protest filed directly with the GAO is nondelegable. The HCA has the responsibility to prepare and provide to the GAO the written finding with the information required by FAR 33.104(c)(2). The written finding must be coordinated with the Office of the Solicitor before the notice is signed by the HCA and sent to the GAO.

(d) *Notice to the GAO.* The authority of the HCA under FAR 33.104(g), to report to the GAO the failure to fully implement the GAO recommendations with respect to a solicitation for a contract or an award or a proposed award of a contract within 60 days of receiving the GAO recommendations, is nondelegable. The written notice must be coordinated with the Office of the Solicitor before the notice is signed by the HCA and sent to the GAO. A copy of all notices to the GAO submitted in accordance with FAR 33.104(g) must be provided to the Senior Procurement Executive within (two) working days after they are sent to the GAO.

**Subpart 2933.2—Disputes and Appeals**

**2933.203 Applicability.**

The authority of the Agency Head to determine that the application of the Contract Disputes Act of 1978 to any contract with a foreign government or agency of that government, or an international organization or a subsidiary body of that organization, would not be in the public interest is delegated to the HCA.

**2933.209 Suspected fraudulent claims.**

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

**2933.211 Contracting officer’s decision.**

The written decision required by FAR 33.211(a)(4) must include, in the paragraph listed under FAR 33.211(a)(4)(v), specific reference to the Department of Labor Board of Contract

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Appeals (LBCA), 800 K Street, NW, Suite 400 North, Washington, DC 20001-8002.

**2933.212 Contracting officer’s duties upon appeal.**

(a) When a notice of appeal has been received, the contracting officer must endorse on the appeal the date of mailing (or the date of receipt if the notice was not mailed). The contracting officer must also notify the Solicitor of Labor of the appeal.

(b) The contracting officer should prepare and transmit the administrative file for the Office of the Solicitor and assist with the appeal.

**2933.213 Obligation to continue performance.**

The contracting officer must include the clause at FAR 52.233-1, Disputes (Alternate I), in contracts where continued performance is necessary pending resolution of any claim arising under or relating to the contract.

**2933.270 Department of Labor Board of Contract Appeals.**

(a) The Department of Labor Board of Contract Appeals (LBCA) is authorized by the Secretary to consider and determine appeals from decisions of contracting officers arising under a contract, or relating to a contract, made by the Department or any other executive agency when such agency or the Administrator of the Office of Federal Procurement Policy has designated the LBCA to decide the appeal.

(b) The LBCA rules of procedure are contained in 41 CFR part 29-60.104, appearing in the July 1, 1983, edition of 41 CFR, subtitle A, chapters 19-100.

**PARTS 2934–2935 [RESERVED]**

**PART 2936—CONSTRUCTION AND ARCHITECT—ENGINEER CONTRACTS**

**Subpart 2936.2—Special Aspects of Contracting for Construction**

- Sec. 2936.201 Evaluation of contractor performance.
- 2936.209 Construction contracts with architect-engineer firms.