

Subpart 430.3—CAS Contract Requirements

430.304 Waiver.

(a) The Director, Office of Operations, is authorized to waive CASB requirements as prescribed in FAR 30.304(c).

(b) Requests for waivers under (a) above shall be prepared by the contracting officer as prescribed in FAR 30.304(a) and submitted by the HCA.

[49 FR 12125, Mar. 28, 1984]

PART 431—[RESERVED]

PART 432—CONTRACT FINANCING

Subpart 432.1—General

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

SOURCE: 49 FR 12125, Mar. 28, 1984, unless otherwise noted.

Subpart 432.1—General

432.102 Description of contract financing methods.

Progress payments based on a percentage or stage of completion are authorized for use as a payment method under USDA contracts or subcontracts for construction, alteration or repair, and shipbuilding and conversion. Such payments are authorized also for service contracts, if the contracting officer determines that progress payments based on costs are not practicable and adequate safeguards can be provided to administer progress payments based on a percentage or stage of completion. For all other contracts, progress pay-

ment provisions shall be based on costs, as provided in FAR 32.5, as supplemented by Subpart 432.5, except that progress payments based on a percentage or stage of completion may be authorized on a case-by-case basis by the HCA or designee when a determination is made that progress payments based on costs cannot be employed practically and that there are adequate safeguards provided for the administration of progress payments based on a percentage or stage of completion.

[50 FR 14198, Apr. 10, 1985]

432.103 Progress payments construction contracts.

The Government does not, in the course of making progress payments under a fixed-price construction contract, reimburse the contractor for any amount of paid bond premiums in addition to the stated contract price. When the contractor furnishes evidence to the contracting officer that the surety company has been paid in full for bond premiums and requests reimbursement therefore, the first subsequent progress payment shall include the total amount attributable to such bond premiums and the Government shall pay that amount in full without proration or affixing any retainage then or later.

[53 FR 6067, Feb. 29, 1988]

432.111 Contract clause.

The contracting officer shall insert the clause at 452.232-74, Reimbursement for Bond Premiums—Fixed-Price Construction, whenever the clause at FAR 52.232-5 is used in a contract.

[53 FR 6067, Feb. 29, 1988]

Subpart 432.4—Advance Payments

432.402 General.

The HCA is designated as the individual responsible for making the findings and determination and for approval of contract terms concerning advance payments as required by FAR 32.402(e).

Subpart 432.5—Progress Payments Based on Costs

432.502 Preaward matters.

432.502-2 Contract finance office clearance.

The contracting officer shall obtain the approval of the HCA and the cognizant finance office for the contract before taking action under FAR 32.502-2.

PART 433—PROTESTS, DISPUTES, AND APPEALS

Subpart 433.1—Protests

Sec.

- 433.102 General.
- 433.103 Protests to the agency.
- 433.104 Protests to GAO.
- 433.105 Protests to GSBCA.

Subpart 433.2—Disputes and Appeals

- 433.203 Applicability.
- 433.203-70 Agriculture Board of Contract Appeals.
- 433.209 Suspected fraudulent claims.
- 433.211 Contracting officer's decision.
- 433.212 Contracting officer's duties upon appeal.

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

Subpart 433.1—Protests

SOURCE: 51 FR 34566, Sept. 29, 1986, unless otherwise noted.

433.102 General.

The Director, Office of Operations, is responsible for coordinating the handling of bid protests lodged with the General Accounting Office (GAO) and the General Services Board of Contract Appeals (GSBCA) against contracts awarded by contracting activities. However, in order that the Department be responsive to the mandatory time frames established in the FAR, the Director, Office of Operations, has authorized each contracting activity to coordinate protests directly with the GAO and the GSBCA.

433.103 Protests to the agency.

When a protest is filed with the contracting activity, the contracting officer shall take prompt action toward

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 or, when applicable, with the General Services Board of Contract Appeals in accordance with 48 CFR Part 61.

The contracting officer need not notify the contractor if the protest can be promptly resolved. If the protest appears to have merit, or if the contracting officer denies the protest but has reason to believe that the protester will file a protest with the GAO or the GSBCA, the contracting officer should promptly notify the contractor in writing and consider suspending contract performance.

433.104 Protests to GAO.

(a) The Director, Office of Operations, has furnished to the GAO a list of the name, title, address and telephone number of an official in each of the contracting activities whom the GAO can contact regarding protests. Contracting activities shall promptly notify the Chief, 00, Procurement Division, of any changes to the list.

(b) Protests received after award shall be handled in accordance with the contracting activities' internal procedures.

(c) If the protest involves significant legal issues, the Office of Operations and the Office of the General Counsel will, upon request, assist contracting activities to reach a proper resolution of the protest.

(d) The HCA shall report to the GAO pursuant to FAR 33.104(f) when the contracting activity has decided not to comply with the GAO's recommendation.

433.105 Protests to GSBCA.

(a) Upon receiving notification of a protest filed with the GSBCA, the contracting officer shall promptly notify the Assistant General Counsel, Research and Operations Division, and coordinate with OGC the contracting activity's response to the protest. The OGC will provide necessary legal counsel.