

833.106 Solicitation provisions.

(a) The contracting officer shall insert the provision at 852.233-70, Protest content/alternative dispute resolution, in each solicitation expected to exceed the simplified acquisition threshold.

(b) The contracting officer shall insert the provision at 852.233-71, Alternative protest procedure, in solicitations expected to exceed the simplified acquisition threshold.

Subpart 833.2—Disputes and Appeals

833.209 Suspected fraudulent claims.

The contracting officer must refer matters relating to suspected fraudulent claims to the Office of Inspector General for investigation and referral to the Department of Justice. The contracting officer may not initiate any collection, recovery, or other settlement action while the matter is in the hands of the Department of Justice without first obtaining the concurrence of the U.S. Attorney concerned, through the Office of the Inspector General.

833.211 Contracting officer's decision.

(a) When a dispute cannot be settled by agreement and a final decision under the Disputes clause of the contract is necessary, the contracting officer must furnish the contractor the contracting officer's final decision in the matter.

(b) The contracting officer must identify the decision, in writing, as a final decision and include a statement of facts in sufficient detail to enable the contractor to fully understand the decision and the basis on which it was made. The decision must set forth those facts relevant to the dispute with which the contractor and the contracting officer are in agreement, and as clearly as possible, the area of disagreement.

(c) For VA contracts, the Board of Contract Appeals noted in FAR 33.211 is the Civilian Board of Contract Appeals (CBCA), 1800 F Street, NW., Washington, DC 20405.

833.212 Contracting officer's duties upon appeal.

(a) When a contracting officer receives notice of appeal in any form, the contracting officer must do the following:

(1) Annotate the appeal with the date of mailing (or date of receipt, if otherwise conveyed).

(2) Within 10 days, forward the original notice of appeal and a copy of the contracting officer's final decision letter to the OGC.

(3) Concurrently transmit copies of the notice of appeal and the final decision letter to the DAS for A&MM. (In cases of construction contracts administered by the Office of Construction and Facilities Management, copies of the appeal and the final decision letter need not be transmitted to the DAS for A&MM but instead should be sent to the Director, Office of Construction and Facilities Management.)

(b) Within 20 days of receipt of an appeal, or advice that an appeal has been filed, the contracting officer must assemble and transmit to the OGC, an appeal file consisting of all documents pertinent to the appeal, including all of the following:

(1) The decision and findings of fact that are being appealed.

(2) The contract, including specifications and pertinent amendments, plans and drawings.

(3) All correspondence between the parties pertinent to the appeal, including the letter or letters of claim in response to which the decision was issued.

(4) Transcripts of any testimony taken during the course of proceedings and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal.

(5) Any additional information considered pertinent.

833.213 Obligation to continue performance.

(a) As provided in FAR 33.213, contracting officers shall use FAR clause 52.233-1, Disputes, with its Alternate I. Clause 52.233-1 requires the contractor to continue performance in accordance with the contracting officer's decision in the event of a claim arising *under a*