32.006-4 Procedures.

(a) In any case in which an agency's *remedy coordination official* finds *substantial evidence* that a contractor's request for advance, partial, or progress payments under a contract awarded by that agency is based on fraud, the *remedy coordination official shall* recommend that the *agency head* reduce or suspend further payments to the contractor. The *remedy coordination official shall* submit to the *agency head* a written report setting forth the *remedy coordination official*'s findings that support each recommendation.

(b) Upon receiving a recommendation from the *remedy coordination official* under paragraph (a) of this subsection, the *agency head shall* determine whether *substantial evidence* exists that the request for payment under a contract is based on fraud.

(c) If the *agency head* determines that *substantial evidence* exists, the *agency head may* reduce or suspend further payments to the contractor under the affected contract(s). Such reduction or *suspension shall* be reasonably commensurate with the anticipated loss to the Government resulting from the fraud.

(d) In determining whether to reduce or suspend further payment(s), as a minimum, the *agency head shall* consider-

(1) A recommendation from investigating officers that disclosure of the allegations of fraud to the contractor *may* compromise an ongoing investigation;

(2) The anticipated loss to the Government as a result of the fraud;

(3) The contractor's overall financial condition and ability to continue performance if payments are reduced or suspended;

(4) The contractor's essentiality to the *national defense*, or to the execution of the agency's official business; and

(5) Assessment of all documentation concerning the alleged fraud, including documentation submitted by the contractor in its response to the notice required by paragraph (e) of this subsection.

(e) Before making a decision to reduce or suspend further payments, the *agency head shall*, in accordance with agency procedures-

(1) Notify the contractor *in writing* of the action proposed by the *remedy coordination official* and the reasons therefor (such notice *must* be sufficiently specific to permit the contractor to collect and present evidence addressing the aforesaid reasons); and

(2) Provide the contractor an opportunity to submit information within a reasonable time, in response to the action proposed by the *remedy coordination official*.

(f) When more than one agency has contracts affected by the fraud, the agencies *shall* consider designating one agency as the lead agency for making the determination and decision.

(g) The agency *shall* retain in its files the written justification for each-

(1) Decision of the *agency head* whether to reduce or suspend further payments; and

(2) Recommendation received by an *agency head* in connection with such decision.

(h) Not later than 180 calendar days after the date of the reduction or *suspension* action, the *remedy coordination official shall-*

(1) Review the *agency head*'s determination on which the reduction or *suspension* decision is based; and

(2) Transmit a recommendation to the *agency head* as to whether the reduction or *suspension should* continue.

Parent topic: 32.006 Reduction or suspension of contract payments upon finding of fraud.