

## 32.1009 Title.

(a) Since the clause at [52.232-32](#), Performance-Based Payments, gives the Government title to the property described in paragraph (f) of the clause, the *contracting officer shall* ensure that the Government title is not compromised by other encumbrances. Ordinarily, the *contracting officer*, in the absence of reason to believe otherwise, *may* rely upon the contractor's certification contained in the payment request.

(b) If the *contracting officer* becomes aware of any arrangement or condition that would impair the Government's title to the property affected by the Performance-Based Payments clause, the *contracting officer shall* require additional protective provisions.

(c) The existence of any such encumbrance is a violation of the contractor's obligations under the contract, and the *contracting officer may*, if necessary, suspend or reduce payments under the terms of the Performance-Based Payments clause covering failure to comply with a material requirement of the contract. In addition, if the contractor fails to disclose an existing encumbrance in the certification, the *contracting officer should* consult with legal counsel concerning possible violation of [31 U.S.C.3729](#), the False Claims Act.

**Parent topic:** [Subpart 32.10 - Performance-Based Payments](#)