Part 233 - PROTESTS, DISPUTES, AND APPEALS

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Parent topic: Defense Federal Acquisition Regulation

Subpart 233.1 - PROTESTS

233.102 General.

If the Government exercises the authority provided in 239.7305 (d) to limit disclosure of information, no action undertaken by the Government under such authority shall be subject to review in a bid protest before the Government Accountability Office (GAO) or in any Federal court (see subpart 239.73).

233.104 Protests to GAO.

(c) Protests after award. (1) In lieu of the time periods in FAR 33.104 (c)(1), contracting officers shall immediately suspend performance or terminate the awarded contract, task order, or delivery order upon notice from the GAO of a protest filed within the time periods listed in paragraphs (c)(1)(A) through (D) of this section, whichever is later, except as provided in FAR 33.104 (c)(2) and (3)—

(A) Within 10 days after the date of contract award;

(B) Within 10 days after the date a task order or delivery order is issued, where the value exceeds

$25 million (10 U.S.C. 3406(f));

(C) Within 5 days after a debriefing date offered to the protestor under a timely debriefing request in accordance with FAR 15.506 regardless of whether the protestor rejected the offered debriefing date, unless an earlier debriefing date is negotiated as a result; or

(D) Within 5 days after a postaward debriefing under FAR 15.506 is concluded in accordance with 215.506-70 (b).

233.170 Briefing requirement for protested acquisitions valued at $1 billion or more.

Follow the procedures at PGI 233.170 for briefing protested acquisitions valued at $1 billion or more.

233.171 Reporting requirement for protests of solicitations or awards.

Follow the procedures at PGI 233.171 for reporting information on protests involving the same contract award or proposed award that have been filed at both the GAO and the United States Court of Federal Claims.

Subpart 233.2 - DISPUTES AND APPEALS

233.204 RESERVED

233.204-70 Limitations on payment.

See 10 U.S.C. 3862 for limitations on Congressionally directed payment of a claim under 41 U.S.C. chapter 71 (Contract Disputes), a request for equitable adjustment to contract terms, or a request for relief under Public Law 85-804.

233.210 Contracting officer's authority.

See PGI 233.210 for guidance on reviewing a contractor’s claim.

233.215 Contract clauses.

Use Alternate I of the clause at FAR 52.233-1, Disputes, when—

(1) The acquisition is for—

(i) Aircraft

(ii) Spacecraft and launch vehicles

(iii) Naval vessels

(iv) Missile systems

(v) Tracked combat vehicles

(vi) Related electronic systems;

(2) The contracting officer determines that continued performance is—

(i) Vital to the national security, or

(ii) Vital to the public health and welfare; or

(3) The head of the contracting activity determines that continued performance is necessary pending resolution of any claim that might arise under or be related to the contract.

233.215-70 Additional contract clause.

Use the clause at 252.233-7001 , Choice of Law (Overseas), in solicitations and contracts when contract performance will be outside the United States and its outlying areas, unless otherwise provided for in a government-to-government agreement.