



Bulletin: OCFO 06-05

Date: August 25, 2006

Subject: Procedures for Processing Assignment of Claims

To: All Agencies

PURPOSE

The purpose of this bulletin is to provide guidance and the Controller Operations Division (COD's) procedures for processing assignment of claims for money due or to become due under a contract processed through the Integrated Acquisition System (IAS).

DEFINITION

Assignment of claims is the transfer or making over by a contractor to a bank, trust company, or other financing institution, as security for a loan to the contractor, of its right to be paid by the Government for contract performance. For more definitive information on assignment of claims, refer to excerpts from the Federal Acquisition Regulation (FAR), Sub Part 32.8, Assignment of Claims, provided as an attachment to this bulletin.

RESPONSIBILITIES

Agencies will process assignment documentation as follows:

- Upon receipt, examine the notice of assignment, instrument of assignment, and assignment order(s) to determine that the assignment documentation has been properly executed.
- Record the task order, purchase order, or delivery order number (AG#) and the original contractor vendor code on the assignment documentation.
- Create a cover letter or transmittal form providing the name, address, and telephone number of a contact person (for problems related to the assignment and to whom an acknowledgement letter can be sent).
- Submit three (3) sets of notarized original assignment documents to COD, Administrative Certification Section (ACS), Treasury Certifying Officer for review and acknowledgement.

COD, ACS Treasury Certifying Officers, will process assignment documentation as follows:

- Receive three (3) sets of notarized original assignment documents from the agency; examine the documents for accuracy; and enter the documents into the system.
- Establish a proper vendor code for the financial organization named in the notice of assignment.
- Sign and acknowledge receipt of assignment documents to the financial organization, contractor, and agency.
- If a change of assignment to another financial institution is necessary, process a release of assignment from the previous financial institution before processing the re-assignment of claims.

POLICY

Assignment of claims for money due under a contract can only be received from a bank, trust company, or other financing institution, including any Federal lending agency.

Assignment documentation consists of two parts:

- 1) Notice of Assignment, which is completed by the financial institution.
- 2) Instrument of Assignment or Assignment of Claims, which is completed by the vendor/contractor.

Assignment documents must be notarized. Four sets of forms with original signatures and a notary seal or stamp are required. The agency sends three (3) sets of notarized original documents to a COD, ACS Treasury Certifying Officer and files one (1) set with the contracting officer.

NOTE: COD, ACS will not accept faxed copies or photocopies of assignment documents. Only notarized original documents will be processed.

Payments to financial organizations named in assignments can only be made to a purchase order that has been awarded in the IAS feeder system and sent to FFIS for payment. Payments cannot be made using a vendor contract number, unless it is a stand-alone purchase order. It is required that the assignment documentation must reference the task order, purchase order, or delivery order number issued under the contract. This is the number that will be processed through IAS (i.e., IAS AG#) and paid in FFIS.

When choosing the vendor code to issue the order, the agency must use the contractor's **original** vendor code. This code should be verified with the contractor to make sure that the proper Vendor Reference Table (VEND) record is being used. The contractor's original vendor code must be shown on the notice of assignment. COD, ACS Treasury

Certifying Officers will establish a proper vendor code for the financial institution named in the notice of assignment.

When the assignment's obligation is satisfied, the financial institution must send, on their letterhead, a release of assignment to COD, ACS, so that the notice of assignment record can be removed from the assigned order number (IAS AG#). This number must be referenced in the letter. Further payments will then be sent to the payee that was initially shown on the order.

If a change of assignment to another financial institution is necessary, the previous financial institution must send a release of assignment to COD, ACS, for processing before the re-assignment of claim can be processed.

Since liability for payments begin with receipt of acknowledgement, agency procurement officials should not sign or acknowledge the assignment documentation, especially at the contract level, since payments are recorded and made at the task order, purchase order, or delivery order level. If receipt is acknowledged at the contract level, the specific order number (IAS AG#) cannot be placed in the Third Party Assignment Table (TPAT) for redirecting payments to the financial institution. Therefore, payments will continue to go to the vendor and not the financial institution, which would result in a violation of the acknowledged assignment. It is suggested that the agency verify the notice of assignment information on the TPAT table before submitting payment documents. If a notice of assignment is not in place, agencies should contact a COD, ACS Treasury Certifying Officer.

Assignment documentation should be mailed to:

Regular Mail:

USDA, OCFO, COD, ICB
 Administrative Certification Section
 Attention: Treasury Certifying Officer
 P.O. Box 61700
 2nd Floor, Post C-41
 New Orleans, LA 70160

Overnight or Certified Mail:

USDA, OCFO, COD, ICB, ACS
 Attention: Treasury Certifying Officer
 13800 Old Gentilly Road
 2nd Floor, Post C-41
 New Orleans, LA 70129

COD, ACS Treasury Certifying Officers are listed as follows:

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Sandi S. Williams, **504-426-5035** or sandi.williams@usda
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Tammy Alphonse, **504-426-5025** or tammy.alphonse@usda.gov

INQUIRIES

Any questions concerning this bulletin should be directed to COD, ACS at **(504) 426-5059**.

EFFECTIVE DATE

This bulletin is effective immediately.

/s/

JOHN G. BREWER
Associate Chief Financial Officer for Financial Operations

Attachment

32.800 Scope of subpart.

This subpart prescribes policies and procedures for the assignment of claims under the Assignment of Claims Act of 1940, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as “the Act”).

32.802 Conditions.

Under the Assignment of Claims Act, a contractor may assign moneys due or to become due under a contract if all the following conditions are met:

- (a) The contract specifies payments aggregating \$1,000 or more.
- (b) The assignment is made to a bank, trust company, or other financing institution, including any Federal lending agency.
- (c) The contract does not prohibit the assignment.
- (d) Unless otherwise expressly permitted in the contract, the assignment—
 - (1) Covers all unpaid amounts payable under the contract;
 - (2) Is made only to one party, except that any assignment may be made to one party as agent or trustee for two or more parties participating in the financing of the contract; and
 - (3) Is not subject to further assignment.
- (e) The assignee sends a written notice of assignment together with a true copy of the assignment instrument to the—
 - (1) Contracting officer or the agency head;
 - (2) Surety on any bond applicable to the contract; and
 - (3) Disbursing officer designated in the contract to make payment.

32.803 Policies.

- (a) Any assignment of claims that has been made under the Act to any type of financing institution listed in 32.802(b) may thereafter be further assigned and reassigned to any such institution if the conditions in 32.802(d) and (e) continue to be met.
- (b) A contract may prohibit the assignment of claims if the agency determines the prohibition to be in the Government’s interest.
- (c) Under a requirements or indefinite quantity type contract that authorizes ordering and payment by multiple Government activities, amounts due for individual orders for \$1,000 or more may be assigned.
- (d) Any contract of a designated agency (see FAR 32.801), except a contract under which full payment has been made, may include a no-setoff commitment only when a determination of need is made by the head of the agency, in accordance with the Presidential delegation of authority dated October 3, 1995, and after such determination has been published in the *Federal Register*. The Presidential delegation makes such determinations of need subject to further guidance issued by the Office of Federal Procurement Policy.

The following guidance has been provided:

Use of the no-setoff provision may be appropriate to facilitate the national defense; in the event of a national emergency or natural disaster; or when the use of the no-setoff provision may facilitate private financing of contract

Excerpt from FAR, Sub Part 32.8, Assignment of Claims

- performance. However, in the event an offer or is significantly indebted to the United States, the contracting officer should consider whether the inclusion of the no-setoff commitment in a particular contract is in the best interests of the United States. In such an event, the contracting officer should consult with the Government officer(s) responsible for collecting the debt(s).
- (e) When an assigned contract does not include a no-setoff commitment, the Government may apply against payments to the assignee any liability of the contractor to the Government arising independently of the assigned contract if the liability existed at the time notice of the assignment was received even though that liability had not yet matured so as to be due and payable.