

Subchapter 3033.2 Disputes and Appeals

3033.201 Definitions.

Agency Board of Contract Appeals (effective January 6, 2007) means the Civilian Board of Contract Appeals (CBCA), and replaces the previous, Department of Transportation Board of Contract Appeals (DOTBCA). The CBCA is the authorized representative of the Secretary of Homeland Security in hearing, considering, and determining all appeals of decisions of contracting officers filed by contractors pursuant to FAR Subpart 33.2.

3033.203 Applicability.

(b)(2) The Head of the Contracting Activity (HCA) shall make the determination that the application of the Disputes statute to any contract with (1) a foreign government or agency of that government, or (2) an international organization or a subsidiary body of that organization would not be in the public interest. The Transportation Security Administration (TSA) will use the CBCA for Contract Disputes Act matters.

3033.209 Suspected fraudulent claims.

These matters shall be referred to the Office of the Inspector General (OIG) or other appropriate investigative organizations one level above the contracting officer. In no case shall the authority be delegated below one level above the contracting officer.

3033.210 Contracting officer's authority.

It is the DHS's policy to encourage the use of ADR procedures. A decision to use ADR procedures requires review and approval by legal counsel.

3033.211 Contracting officer's decision.

If a final decision under FAR 33.211, Contracting officer's decision, results in a contractor owing any amount to the government, the final decision notice to the contractor shall include a demand for payment per FAR 32.604, HSAM 3032.604 and HSAM Appendix AB.

3033.212 Contracting officer's duties upon appeal.

Upon receipt of notice of appeal by a contractor, the contracting officer will notify Component legal counsel, who will appoint an attorney to represent the Government before the CBCA.

3033.213 Contract clause.

When using the clause at FAR 52.233-1, Disputes, with its Alternate I, the contracting officer shall make the determination that continued performance is necessary.