

Contract Administration

Activity 47: Collecting Contract Debts

Procedures for identifying, collecting, and deferring collection of contract debts.

Related Flow Charts: [Flow Chart 47](#)

Tasks	FAR Reference(s)	Additional Information
<p>1. Promptly determine the amount of the contractor's indebtedness (if any).</p>	<p>FAR 32.601 General [contract debts]. FAR 32.602 Responsibilities [contract debts]. FAR 32.603 Debt determination [contract debts].</p>	<p>Follow FAR, agency policy, or other applicable guidelines in calculating the contractor's debt to the Government. Fairly consider both the Government's claim and any contract claims by the contractor against the Government.</p> <p>Typical reasons for indebtedness include:</p> <ul style="list-style-type: none"> • Damages or excess costs related to defaults in performance; • Breach of contract obligations concerning progress payments, advance payments, or government furnished property or material; • Government expense for correcting defects; • Overpayments related to quantity, billing, or quality deficiencies; • Retroactive price reductions resulting from contract terms for price redetermination or for determination of prices under incentive contracts; • Overpayments disclosed by quarterly statements required under price fixed-price redetermination or incentive contracts; • Delinquency in contractor payments due under agreements or arrangements for deferral or postponement; and • Notification by another government agency (if for tax

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		debts, the Internal Revenue Service [IRS] furnishes instructions on debt collection).
2. Establish a control record for each contract debt.	FAR 32.604 Demand for payment.	<p>Include, at least, the following information:</p> <ul style="list-style-type: none"> • The name and address of the contractor. • The contract number, if any. • A description of the debt. • The amount of debt and the appropriation to be credited. • The date the debt was determined. • The date of demand for payment. • The amounts and dates of collections, as they occur. • The date of any appeal filed or action brought in the Court of Claims under the Disputes clause. • The status of collections, for example: <ul style="list-style-type: none"> ○ Actions reported to the disbursing officer (name, location, and date); ○ Funds requested to be withheld by the disbursing officer; ○ Funds requested to be withheld by other offices (date and office); ○ Deferment or installment payment arrangement requested; ○ Deferment or installment request reviewed; ○ Supplemental information requested to support deferment requests; or ○ Actions transferred to the contract financing office.

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<p>3. Negotiate with the contractor concerning the amount of debt and repayment options.</p>	<p>N/A</p>	<p>Approach negotiations as the quickest, most amicable method of collecting the debt.</p> <ul style="list-style-type: none"> • Schedule negotiations. • Develop a negotiation strategy. <ul style="list-style-type: none"> ○ Conduct negotiations covering such considerations as: <ul style="list-style-type: none"> ○ Validity of the debt; ○ Amount of the debt; ○ Recognition of tax credit under Section 1481 of the Internal Revenue Code; and ○ Repayment options. • If a refund to the Government is agreed upon in negotiations under a price revision type of contract, promptly write a memorandum to document the agreement and the contract debt. <ul style="list-style-type: none"> ○ Negotiators for the Government and the contractor must sign the agreement. ○ If the procedures of either party require approval of the negotiation results, write the memorandum without prejudice to final pricing. • Compute the amount of refund promptly, without waiting for itemization of adjustment of past billings, accounting adjustments, or the adjusted invoices.

Tasks	FAR Reference(s)	Additional Information
<p>4. If the contractor agrees with the amount of debt, issue a demand for payment immediately after determining that an actual debt is due the Government and the amount. Forward the demand to the payment office.</p>	<p>FAR 32.604 Demand for payment.</p>	<p>Make the demand for payment as soon as the responsible official has computed the amount of refund due.</p> <p>The demand letter must include the following:</p> <ul style="list-style-type: none"> • A description of the debt, including the debt amount. • Notification of applicable interest in accordance with FAR 32.610(b)(2). • A notification that the contractor may submit a proposal for deferment of collection if immediate payment is not practicable or if the amount is disputed. • Identification of the responsible official designated for determining the amount of the debt and for its collection. <p>The demand letter may also include other relevant information, such as the following:</p> <ul style="list-style-type: none"> • Any deadline or other instructions on submitting payment. • Future efforts to collect debt (e.g., withholding and offset on future invoices). • Appeal rights. <p>If FAR 52.232-17(b)(3) applies, the demand letter must accompany or be included in the transmittal mentioned in the clause.</p>

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5. Modify the contract to incorporate the agreement.	FAR 32.604 Demand for payment.	<p>Execute a bilateral contract modification without delay. Assure that the modification clearly establishes the:</p> <ul style="list-style-type: none"> • Amount of debt; • Method of payment; and • Payment terms, such as: <ul style="list-style-type: none"> ○ Cash payment; ○ Setoff; or ○ Deferment. • A best practice is to send the demand letter with the modification to the contractor for signature.

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<p>6. If the contractor does not agree to the amount of debt, issue the demand for payment with the final decision. Forward a copy of the demand and the final decision to the payment office.</p>	<p>FAR 32.605 Final decisions.</p>	<p>The contracting officer must issue a final decision as required by FAR 33.211 if:</p> <ul style="list-style-type: none"> • The contracting officer and the contractor are unable to reach agreement on the existence or amount of a debt in a timely manner; • The contractor fails to liquidate a debt previously demanded by the contracting officer within the timeline specified in the demand for payment unless the amounts were not repaid because the contractor has requested an installment payment agreement; or • The contractor requests a deferment of collection on a debt previously demanded by the contracting officer (see FAR 32.607-2). <p>If a demand for payment was previously issued for the debt, the demand for payment included in the final decision must identify the same due date as the original demand for payment.</p> <p>The contracting officer must:</p> <ul style="list-style-type: none"> • Furnish the decision to the contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt; and • Forward a copy to the payment office identified in the contract.

Tasks	FAR Reference(s)	Additional Information
<p>7. Upon receipt of the contractor's written request for deferment of collection, request any information needed to make the request adequate for action.</p>	<p>FAR 32.607-2(c) Deferment of collection [contract debts].</p>	<p>Promptly review the request to see if the information included is adequate for action on the request.</p> <ul style="list-style-type: none"> • Ask the contractor to furnish any needed information that was not provided. • If there is an appeal or action filed under the Disputes clause of the contract, the information with the request for deferment may be limited to an explanation of the contractor's financial condition. • If there is no appeal pending or action filed under the Disputes clause of the contract, the following information about the contractor should be submitted with the request: <ul style="list-style-type: none"> ○ Financial condition. ○ Contract backlog. ○ Projected cash receipts and requirements. ○ The feasibility of immediate payment of the debt. ○ The probable effect on operations of immediate payment in full. <p>Suggest any necessary changes to the terms of the proposed deferment/installment agreement.</p>
<p>8. Upon receipt of the contractor's written request, promptly provide a notification to the payment office and advise the payment office that the contractor's request is under consideration.</p>	<p>FAR 32.607-2 Deferment of collection.</p>	
<p>9. Develop a recommendation on the deferment request.</p>	<p>FAR 32.607-2(c) Deferment of collection.</p>	<p>The contracting officer should consider any information necessary to develop a recommendation on the deferment request.</p>

Tasks	FAR Reference(s)	Additional Information
<p>10. Forward a copy of the contractor's request for a deferment of collection along with the written recommendation to the office designated in agency procedures for a decision.</p>	<p>FAR 32.607 Deferment of collection.</p>	<p>The contracting officer must forward:</p> <ul style="list-style-type: none"> • A copy of the contractor's request for a deferment of collection. • A written recommendation on the request and the basis for the recommendation, including the advisability of deferment to avoid possible overcollections. • A statement as to whether the contractor has an appeal pending or action filed under the Disputes clause of the contract, and the docket number if the appeal has been filed. • A copy of the contracting officer's final decision (see FAR 32.605). <p>The office designated in agency procedures may authorize a deferment pending the resolution of appeal to avoid possible overcollections. The agency is required to use unexpired funds to pay interest on overcollections.</p> <p>Based on the contracting officer's recommendation, the office designated in agency procedures may authorize a deferment of collection and prepare a deferment agreement following the requirements in FAR 32.607.2.</p>
<p>11. Monitor contractor compliance with the agreement for repaying the debt or demand letter; identify and notify the contractor of any interest owed the Government.</p>	<p>FAR 32.608 Interest.</p>	<p>Determine interest debt or credit:</p> <ul style="list-style-type: none"> • In conformance with the contract Interest clause (FAR 52.232-17); or • In the case of debt arising from a defective pricing or a CAS noncompliance overpayment, as prescribed by the applicable Price Reduction for Defective Cost or Pricing Data or CAS clause. <p>If the Government delays delivery of the demands or notices required by the Interest clause (e.g., undue delay after dating at the originating office or delays in the mail), extend the date of the debt and accrual of interest to a time that is fair and reasonable under the particular circumstances.</p>

Tasks	FAR Reference(s)	Additional Information
12. If specifically authorized by agency procedures, determine whether to compromise the debt or terminate or suspend further collection action.	FAR 32.610 Compromising the debt.	The designated agency official may compromise the debt when the amount is under \$100,000, excluding interest, and further collection is not practicable or would cost more than the amount of recovery. Unless, specifically authorized by agency procedures, contracting officers cannot compromise debts.
13. Refer noncompliance with deferment agreements or demand letter to the payment office.	FAR 32.602 Responsibilities.	Take action in accordance with FAR and agency guidelines.