

## **SUBPART 33.2 - DISPUTES AND APPEALS**

*(Revised December 16, 2016 through PROCLTR 2017-04)*

**Parent topic:** PART 33 - PROTESTS, DISPUTES, AND APPEALS

### **33.209 Suspected fraudulent claims.**

Referrals shall be made to procuring organization Office of Counsel for appropriate action.

### **33.211 Contracting officer's decision.**

(a)(4)(v) Contracting officers shall include ADR language in final decisions, unless the proper official has determined in writing that ADR is inappropriate (FAR 33.214). The contracting officer shall add a statement substantially as follows to the end of the paragraph regarding the contractor's appeal rights: "Subject to the appeal time frames specified above, you may request that this dispute be resolved using alternative dispute resolution procedures."

### **33.212 Contracting officer's duties upon appeal.**

Notices of appeal to the Armed Services Board of Contract Appeals (ASBCA) that are submitted directly to the contracting officer shall be forwarded immediately to the procuring organization Office of Counsel for further re-transmission to the ASBCA.

The DLA Office of General Counsel assigns trial attorneys to represent DLA in appeals to the ASBCA. In coordination with the assigned trial attorney, the contracting officer prepares the "Rule 4 file" for any appeal to the ASBCA in accordance with Rule 4 of the ASBCA rules (see DFARS, Appendix A, Part 2), and provides other needed support and assistance to the trial attorney regarding the appeal.

### **33.214 Alternative dispute resolution (ADR).**

The contracting officer shall insert the provision at [5452.233-9001](#)~~5452.233-9001~~ Disputes - Agreement to Use Alternative Dispute Resolution (ADR) . in all solicitations unless the conditions at FAR 33.203(b) apply.