

UNIT 59: ASSIGNMENT OF CLAIMS

October 2003

Duty	Approve or disapprove the request for an assignment of claims.
Conditions	Given a contract, a request from the contractor for an assignment of claims, and a copy of the notice of assignment.
Overall Standard	Approve the request if it meets contract, FAR, and agency requirements.

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Policies

<i>FAR</i>	<i>Agency Suppl.</i>	<i>Subject</i>
12.3		Solicitation provisions and contract clauses for the acquisition of commercial items.
32.8		Assignment of claims.
52.212-4(b)		Assignment in commercial item contracts.
52.232-23		Assignment of claims.
52.232-24		Prohibition of assignment of claims.

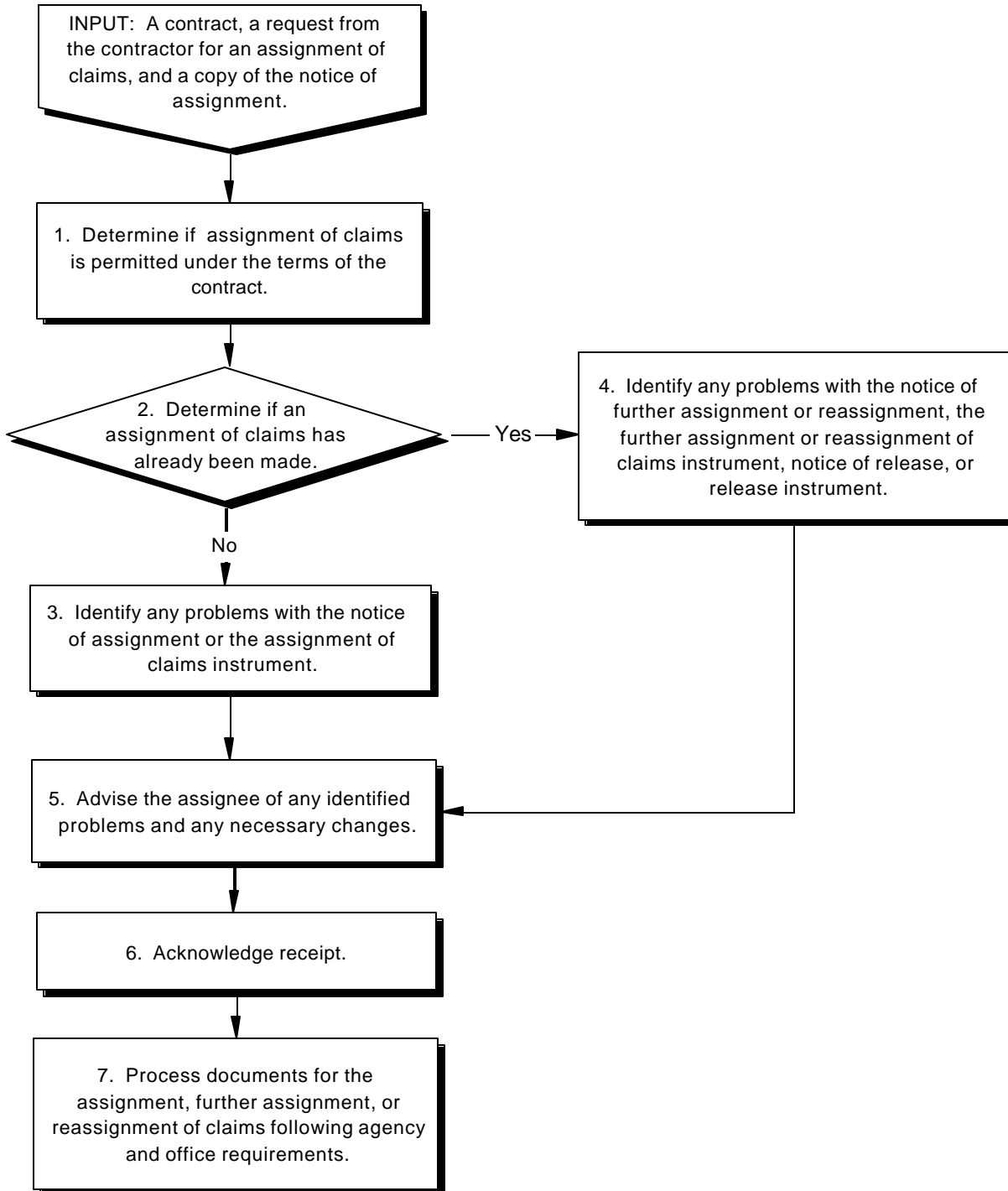
Other KSAs

1. Knowledge of types of financing institutions.
2. Knowledge of whether a contractor's agent has authority to sign legally binding documents.
3. Ability to work with others to complete an assignment of claims.
4. Ability to relate to people from the varied backgrounds involved in the assignment of claims.
5. Ability to conscientiously attend to the details involved in the assignment of claims.
6. Ability to maintain the honesty and integrity of the acquisition process.

Other Policies and References (Annotate As Necessary):

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Tasks	Related Standards
<p>1. Determine if assignment of claims is permitted under the terms of the contract.</p>	<p>A contractor may assign moneys due or to become due under a contract if all of the following conditions are met:</p> <ul style="list-style-type: none"> • The contract has been properly executed and approved. • The contract specifies payments aggregating \$1,000 or more. • The assignment is made to a bank, trust company, or other financing institution, including any Federal lending agency. • The contract does not prohibit the assignment. For example, assignment is prohibited when: <ul style="list-style-type: none"> – The contract includes the Prohibition of Assignment of claims clause (FAR 52.232-24); or – When commercial item contract payment will be made by a third party (e.g., use of a governmentwide commercial purchase card). • Unless otherwise expressly permitted in the contract, the assignment: <ul style="list-style-type: none"> – Covers all unpaid amounts payable under the contract; – 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 – Is not subject to further assignment.
<p>2. Determine if an assignment of claims has already been made.</p>	<p>Review the information provided with the current notice of assignment, available in the contract file, and readily available from other sources. Look for any indication of a previous assignment of claims.</p>

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Tasks

Related Standards

<p>3. Identify any problems with the notice of assignment or the assignment of claims instrument.</p>	<p>The notice of assignment:</p> <ul style="list-style-type: none">• Should follow the format prescribed in the FAR or provide the required information in another format.• Must be submitted with an original and three copies going to each of the following:<ul style="list-style-type: none">– Contracting Officer or the agency head;– Surety on any bond applicable to the contract; and– Disbursing officer designated in the contract to make payment.• Must include one true copy (i.e., a certified duplicate or photostat copy) of the assignment of claims. <p>An assignment by:</p> <ul style="list-style-type: none">• A corporation must be:<ul style="list-style-type: none">– Executed by an authorized representative;– Attested by the secretary or the assistant secretary of the corporation; and– Impressed with the corporate seal or accompanied by a true copy of the resolution of the corporation's board of directors authorizing the signing representative to execute the assignment.• A partnership may be signed by one partner if the assignment is accompanied by adequate evidence that the signer is:<ul style="list-style-type: none">– A general partner of the partnership; and– Authorized to execute assignments on behalf of the partnership.• An individual must be signed by that individual and the signature acknowledged before a notary public or other person authorized to administer oaths.
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Tasks	Related Standards
<p>4. Identify any problems with the notice of further assignment or reassignment, the further assignment or reassignment of claims instrument, notice of release, or release instrument.</p>	<p>If an assignment has already been made, the assignee must submit the following documents:</p> <ul style="list-style-type: none"> • Written notice of further assignment or re-assignment; • True copy (i.e., a certified duplicate or photostat copy) of the further assignment or reassignment instrument; • Written notice of release of the contractor by the assigning financial institution; and • True copy of the release instrument. <p>In identifying potential problems with these documents, consider the following:</p> <ul style="list-style-type: none"> • The notice of further assignment or re-assignment should meet the same requirements as a notice of assignment; • The true copy of the further assignment or reassignment instrument should meet the same requirements as a copy of an assignment instrument; • The notice of release should provide an acknowledgement similar to the one on the notice of assignment; and • The true copy of the release should clearly release the contractor from the previous assignment of claims.
<p>5. Advise the assignee of any identified problems and any necessary changes.</p>	<p>Advise the contractor of problems that prevent processing the assignment, further assignment, or reassignment of claims. For example, advise the assignee if:</p> <ul style="list-style-type: none"> • Assignment of claims is not permitted under the contract. • The notice of assignment or the assignment instrument do not meet FAR and agency requirements. • An assignment of claims has already been made for the contract and there is no record that a release of that assignment has been filed.

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Tasks	Related Standards
6. Acknowledge receipt.	<p>When the required documents are acceptable for further processing, acknowledge receipt. Before acknowledging receipt, you should assure that:</p> <ul style="list-style-type: none">• The contract has been properly approved and executed;• The contract is one under which claims may be assigned;• The assignment, further assignment, or re-assignment covers only money due or to become due under the contract; and• Any additional agency requirements have been met. <p>Return the required number of signed copies (normally three) to the assignee.</p>
7. Process documents for the assignment, further assignment, or reassignment of claims following agency and office requirements.	<p>Document information related to the assignment of claims in the contract file. Normally, this should include a:</p> <ul style="list-style-type: none">• Copy of the notice of assignment, further assignment or reassignment;• True copy of the assignment, further assignment, or reassignment of claims instrument;• Copy of any notice of release;• True copy of any release instrument; and• Record of any communication with the assignee or the contractor about the assignment. <p>Agency or office requirements may also require additional processing or documentation.</p>