



1. PURPOSE

The purpose of this document is to provide the policy and guidance for processing assignment of claims for the SPAWAR Claimancy. Assignment of claims means the transfer to a bank, trust company, or other financial institution, as security for a loan to a contractor, of its right to be paid by the Government for contract performance.

2. POLICY

2.1. Requirements and procedures for the assignment of claims are set forth under the Assignment of Claims Act, as implemented by [FAR Subpart 32.8](#).

2.2. Prohibition of Assignment: Only contracts for personal services may prohibit the assignment of claims per [DFARS 232.803](#).

3. RESPONSIBILITIES

3.1. Procuring Contracting Officer (PCO). If contract administration is retained by SPAWAR, the cognizant **PCO** is responsible for reviewing, approving, disapproving and acknowledging the request for an assignment from the contractor. This acknowledgement is forwarded to the financial institution, with a copy to the contractor and the disbursing officer. In examining and processing notices of assignment and before acknowledging their receipt, **PCO** should ensure that the following conditions have been met:

- a. The contract has been properly approved and executed.
- b. The contract is one under which claims may be assigned
- c. The assignment covers only money due or to become due under the contract.

3.2. Office of Counsel. Reviews are required by the cognizant office of counsel for proper form and legality of assignment of claims request.

3.3. Administrative Contracting Officer (ACO). If contract administration is delegated to DCMA then assignment of claims will be processed by the **ACO** in accordance with [DFARS 232.805](#).



3.4. Payment Office. *In accordance with [DoD 7000.14-R Volume 10 Chapter 3 Paragraph 0302 Assignment of Claims](#), the following procedure applies to the Payment Office:*

- a. *If the contracting officer determines that the assignment is valid, then the designated **payment office** acknowledges the Notice of Assignment and takes the required action as detailed:*
 1. *Acknowledge and return to the assignee the copy of the Notice of Assignment and file the true copy of the Instrument of Assignment and the original Notice of Assignment.*
 2. *Pay assignees only after receipt of these assignment documents:*
 - *Copy of the Notice of Assignment acknowledged by the **PCO**,*
 - *Copy of the signed notice and a true copy of the Instrument of Assignment from the assignee, and*
 - *Copy of the notice acknowledged from the surety or sureties, if any.**The copy is received from the surety or sureties via the assignee.*
- b. *If the **PCO** rejects the assignment, then the payment office returns the acknowledged notice and copy of the assignment to the assignee. The office advises that the assignment cannot be recognized for the reasons stated by the **PCO**.*



4. PROCEDURE

4.1. Instrument of Assignment: The contractor and the bank, trust company or financial institution shall come to an agreement, termed the Instrument of Assignment. In this agreement, the bank lends money to the contractor to assist in performance under a government contract. In return, the contractor agrees to transfer its right to be paid under the contract, to the bank.

4.2. Assignments: Procedures vary according to the type of company, i.e., corporation, partnership, or individual:

- a. Assignments by **corporations** should be:
 - 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.
- b. If the contractor is a **partnership**, the assignment may be signed by one partner, if it is accompanied by an acknowledged certification that the signer is a general partner of the partnership and is authorized to execute assignments on behalf of the partnership.
- c. If the contractor is an **individual**, the assignment must be signed by that individual and the signature acknowledged before a Notary Public or other person authorized to administer oaths.

4.3. Conditions for Use. A contractor may assign moneys due or to become due under a contract if all of the following conditions are met:

- a. The contract specifies payments aggregating \$1,000.00 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:
 - 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
- e. The assignee sends a written notice of assignment together with a true copy of the assignment instrument to the:
 - **PCO** or the agency head
 - Surety on any bond applicable to the contract; and
 - Disbursing officer designated in the contract to make payment.

4.4. Filing Procedures:

- a. The assignee forwards to each party specified in [FAR 32.802\(e\)](#) an original and three copies of the Notice of Assignment, together with one true copy of the instrument of assignment. The true copy shall be a certified duplicate or photostat copy of the original assignment.
- b. The **ACO/PCO** shall acknowledge receipt by signing and dating all copies of the notice of assignment as specified in [DFARS 232.805](#).

4.5. Requirements Contracts: Requirements contracts cannot be assigned, however, the delivery orders under a requirements contract may be assigned if the amounts due are for \$1,000.00 or more. A group of orders may be combined in an



assignment for efficiency as long as the total amount of each order exceeds \$1,000.00.

4.6. Indefinite Delivery Contracts may be assigned as long as the guaranteed minimum exceeds \$1,000.00. The policy is based on the [GAO Opinion B-42669](#), which sanctions the assignment of the entire contract under this condition.

4.7. Release of Assignment. Further assignment or release of assignment shall be accomplished in accordance with [FAR 32.805\(e\)](#). Release of assignment is required whenever there has been a further assignment or reassignment under the Act or the contractor wishes to reestablish their rights to receive further payments after the contractor's obligations to the assignee have been satisfied and a balance remains due under the contract. The assignee, under a further assignment or reassignment, in order to establish a right to receive payment from the Government, must file with the addressees, as follows:

- a. Written notice of release of the contractor by the assigning financing institution;
- b. Copy of the release instrument;
- c. Written notice of the further assignment or reassignment; and
- d. Copy of the further assignment or reassignment instrument.

4.8. Written Notice of Release. If the assignee releases the contractor from an assignment of claims under a contract, the contractor, in order to establish a right to receive payment of the balance due under the contract, must file a written notice to release together with a true copy of the release of assignment instrument with the addressees noted in [FAR 32.802\(e\)](#).

5. APPROVALS

The required approvals are indicated above.

6. TOOLBOX

- 1. [Assignment](#)
- 2. [Notice of Assignment](#)
- 3. [Notice of Assignment Under Contract](#)
- 4. [Assignment Under Contract](#)
- 5. [Release of Assignment Under Contract](#)

7. CHANGE HISTORY

Updated material is highlighted by *purple text* and an Alert/New  icon.

Date	Description of Changes
December 2015	Content reorganized, reformatted, and links updated. Payment Office information in paragraph 3.4 was revised.
December 2011	Last version created in old format. No changes indicated.