

accordance with the procedures provided in 31 U.S.C. 1304 (the Permanent Indefinite Judgment Fund). The agency concerned shall reimburse that fund out of funds available for the procurement.

(3) No agency shall pay a party, other than a small business concern within the meaning of section 3(a) of the Small Business Act (see 19.001, "Small business concern"), costs under paragraph (g)(1) of this section—

(i) For consultant and expert witness fees that exceed the highest rate of compensation for expert witnesses paid by the Government; or

(ii) For attorneys' fees that exceed \$150 per hour unless the Board determines, on a case by case basis, that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee. The cap placed on attorneys' fees for businesses, other than small businesses, constitutes a benchmark as to what constitutes a "reasonable" level for attorneys' fees for small businesses.

(4) Within 30 days after receipt by the agency of an application for cost, the agency may file an answer.

(h) The GSBCA's final decision may be appealed by the agency or by any interested party, including any intervening interested parties, as set forth in the Contract Disputes Act.

7. Section 33.106 is amended by revising paragraph (a) to read as follows:

33.106 Solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 52.233-2, Service of Protest, in solicitations for other than simplified acquisitions.

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8. Section 33.201 is amended by revising the definition "Alternate means of dispute resolution"; and in the definition "Claim" by removing the amount "\$50,000" and inserting "\$100,000".

33.201 Definitions.

Alternate dispute resolution (ADR) means any procedure or combination of procedures voluntarily used to resolve issues in controversy without the need to resort to litigation. These procedures include, but are not limited to, assisted settlement negotiations, conciliation, facilitation, mediation, fact-finding, minitrials, and arbitration.

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9. Section 33.206 is revised to read as follows:

33.206 Initiation of a claim.

(a) Contractor claims shall be submitted, in writing, to the contracting officer for a decision within 6 years after the contractor knew or should have known the facts and circumstances giving rise to the issue in controversy unless a shorter time period has been agreed to. This 6 year time period does not apply to contracts in existence as of October 13, 1994, that contain a clause requiring submittal of a claim earlier than 6 years after accrual of the claim. The contracting officer shall document the contract file with evidence of the date of receipt of any submission from the contractor deemed to be a claim by the contracting officer.

(b) The contracting officer shall issue a written decision on any Government claim initiated against a contractor within 6 years after accrual of the claim. The 6 year period shall not apply to a Government claim against a contractor that is based on a claim by the contractor involving fraud.

33.207 [Amended]

10. Section 33.207 is amended in paragraph (a)(1) by removing "\$50,000" and inserting "\$100,000".

33.208 [Amended]

11. Section 33.208 is amended in paragraph (c) by removing "as defined in 33.201,".

12. Section 33.211 is amended in paragraph (a)(4)(v) by removing the amounts "\$10,000" and "\$50,000" and inserting "\$50,000" and "\$100,000", respectively; in paragraphs (c)(1), (c)(2) and (e) by removing the amounts "\$50,000" and inserting "\$100,000"; and by revising paragraph (f) to read as follows:

33.211 Contracting officer's decision.

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(f) In the event of undue delay by the contracting officer in rendering a decision on a claim, the contractor may request the tribunal concerned to direct the contracting officer to issue a decision in a specified time period determined by the tribunal.

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13. Section 33.214 is amended by redesignating paragraphs (b) through (d) as (c) through (e) and adding a new paragraph (b) to read as follows:

33.214 Alternative dispute resolution (ADR).

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(b) If the contracting officer rejects a request for ADR from a small business contractor, the contracting officer shall provide the contractor written explanation citing one or more of the

conditions in 5 U.S.C. 572(b) or such other specific reasons that ADR procedures are inappropriate for the resolution of the dispute. In any case where a contractor rejects a request of an agency for ADR proceedings, the contractor shall inform the agency in writing of the contractor's specific reasons for rejecting the request.

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PART 39—ACQUISITION OF INFORMATION RESOURCES

14. Section 39.002 is amended by redesignating paragraph (b) as (c) and adding a new paragraph (b) to read as follows:

39.002 Delegations of procurement authority.

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(b) The Administrator of the General Services Administration, or the appropriate official of any agency authorized to issue a redelegation of procurement authority (DPA) for any procurement initiated or contract award executed without the requisite DPA. If the Administrator or other appropriate agency official issues a DPA, the originally executed contract may be ratified by the contracting agency. Preaward procurement actions taken prior to obtaining a DPA do not need to be reaccomplished.

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15. Subpart 42.15 is added to read as follows:

Subpart 42.15—Small Business Contract Administration

42.1501 General.

The contracting officer shall make every reasonable effort to respond in writing within 30 days to any written request to the contracting officer from a small business concern with respect to a contract administration matter. In the event the contracting officer cannot respond to the request within the 30 day period, the contracting officer shall, within such period, transmit to the contractor a written notification of the specific date the contracting officer expects to respond. This provision shall not apply to a request for a contracting officer decision under the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS

50.303 [Redesignated as 50.303-1]

16. Section 50.303 is redesignated as 50.303-1 and a new 50.303 heading is added to read as follows: