

CHANGE REQUEST COVER SHEET

Change Request Number: 09-74

Date Received: 4/17/2009

Title: Bankruptcy

Name: Larry Wyborski

Phone: 202-493-4638

Policy OR Guidance: Guidance

Section/Text Location Affected: T3.10.A.12

Summary of Change: Add guidance for FAA contracting officers in the event a contractor is in financial difficulty or a contracting officer receives notice of contractor bankruptcy.

Reason for Change: The guidance provides procedures for actions by a contracting officer in response to a notification under AMS 3.10.1- 7, Bankruptcy.

Development, Review, and/or Concurrence: FAA contracting offices and AGC.

Target Audience: FAA contracting offices.

Potential Links within FAST for the Change: None

Briefing Planned: No

ASAG Responsibilities: None

Potential Links within FAST for the Change: None

Links for New/Modified Forms (or) Documents (LINK 1) [null](#)

Links for New/Modified Forms (or) Documents (LINK 2) [null](#)

Links for New/Modified Forms (or) Documents (LINK 3) [null](#)

SECTIONS ADDED:

Procurement Guidance:

T3.10.1 Contract Administration

Contract Administration

Section 12 : Bankruptcy [\[New Content\]](#)

SECTIONS ADDED:

Procurement Guidance:

T3.10.1 Contract Administration

Contract Administration

Section 12 : Bankruptcy

a. *General.* The CO must proactively monitor contracts to the extent practicable for indications of contractor financial difficulty, and respond appropriately to a written notification of bankruptcy. If the contractor provides the CO with a written notification of bankruptcy, the CO must protect FAA's rights and interests under contracts with the contractor.

b. *Contractor Financial Difficulties.* When the CO becomes aware of contractor financial difficulties, he or she must verify accuracy of the information, and follow the steps described below. Information relating to contractor financial difficulties should come from sources such as, but not limited to, the COTR, QRO, Finance Office, Office of Inspector General, a financial institution, Dun and Bradstreet, or a newspaper article.

(1) Determine whether the contractor is performing in a timely manner and making satisfactory progress.

(2) Consider terminating the contractor for default if performance is untimely or otherwise unsatisfactory and the reason is within the contractor's control.

(3) Request that the COTR or QRO monitor the contract more closely if contract termination is considered unnecessary.

(4) Notify the cognizant small and disadvantaged business utilization specialist if a small business contractor is involved.

(5) Notify the bonding company, if appropriate.

c. *Notification of Bankruptcy.* Upon receipt of a contractor notification of bankruptcy, as required by AMS clause 3.10.1-7, "Bankruptcy," the CO must:

(1) Furnish the notification of bankruptcy to Headquarters Assistant Chief Counsel for Procurement Law and other appropriate offices, such as finance, property, and other FAA contracting offices.

(2) Determine the amount of FAA's potential claim against the contractor. In assessing this impact, identify and review any contracts that have not been closed out, including those that are physically completed or terminated.

(3) Take actions necessary to protect FAA's rights and interests, including Government property.

(4) Consult with and furnish information to Headquarters legal counsel, as appropriate, throughout the process.