

## Federal Acquisition Regulation

49.107

continued portion of the contract exceeds the threshold in 15.403-4.

[48 FR 42447, Sept. 19, 1983, as amended at 61 FR 39221, July 26, 1996; 62 FR 51271, Sept. 30, 1997]

### 49.105-1 Termination status reports.

When the TCO and contracting officer are in different activities, the TCO will furnish periodic status reports on termination actions to the contracting office upon request. The contracting office shall specify the information required.

### 49.105-2 Release of excess funds.

(a) The TCO shall estimate the funds required to settle the termination, and within 30 days after the receipt of the termination notice, recommend the release of excess funds to the contracting officer. The initial deobligation of excess funds should be accomplished in a timely manner by the contracting officer, or the TCO, if delegated the responsibility. The TCO shall not recommend the release of amounts under \$1,000, unless requested by the contracting officer.

(b) The TCO shall maintain continuous surveillance of required funds to permit timely release of any additional excess funds (a recommended format for release of excess funds is in 49.604). If previous releases of excess funds result in a shortage of the amount required for settlement, the TCO shall promptly inform the contracting officer, who shall reinstate the funds within 30 days.

[56 FR 67134, Dec. 27, 1991]

### 49.105-3 Termination case file.

The TCO responsible for negotiating the final settlement shall establish a separate case file for each termination. This file will include memoranda and records of all actions relative to the settlement (see 4.801).

### 49.105-4 Cleanup of construction site.

In the case of terminated construction contracts, the contracting officer shall direct action to ensure the cleanup of the site, protection of serviceable materials, removal of hazards, and other action necessary to leave a safe and healthful site.

### 49.106 Fraud or other criminal conduct.

If the TCO suspects fraud or other criminal conduct related to the settlement of a terminated contract, the TCO shall discontinue negotiations and report the facts under agency procedures.

### 49.107 Audit of prime contract settlement proposals and subcontract settlements.

(a) The TCO shall refer each prime contractor settlement proposal of \$100,000 or more to the appropriate audit agency for review and recommendations. The TCO may submit settlement proposals of less than \$100,000 to the audit agency. Referrals shall indicate any specific information or data that the TCO desires and shall include facts and circumstances that will assist the audit agency in performing its function. The audit agency shall develop requested information and may make any further accounting reviews it considers appropriate. After its review, the audit agency shall submit written comments and recommendations to the TCO. When a formal examination of settlement proposals under \$100,000 is not warranted, the TCO will perform or have performed a desk review and include a written summary of the review in the termination case file.

(b) The TCO shall refer subcontract settlements received for approval or ratification to the appropriate audit agency for review and recommendations when (1) the amount exceeds \$100,000 or (2) the TCO wants a complete or partial accounting review. The audit agency shall submit written comments and recommendations to the TCO. The review by the audit agency does not relieve the prime contractor or higher tier subcontractor of the responsibility for performing an accounting review.

(c)(1) The responsibility of the prime contractor and of each subcontractor (see 49.108) includes performance of accounting reviews and any necessary field audits. However, the TCO should request the Government audit agency to perform the accounting review of a subcontractor's settlement proposal when—