

Federal Acquisition Regulation

49.000

49.115 Settlement of terminated incentive contracts.

Subpart 49.2—Additional Principles for Fixed-Price Contracts Terminated for Convenience

49.201 General.
49.202 Profit.
49.203 Adjustment for loss.
49.204 Deductions.
49.205 Completed end items.
49.206 Settlement proposals.
49.206-1 Submission of settlement proposals.
49.206-2 Bases for settlement proposals.
49.206-3 Submission of inventory disposal schedules.
49.207 Limitation on settlements.
49.208 Equitable adjustment after partial termination.

Subpart 49.3—Additional Principles for Cost-Reimbursement Contracts Terminated for Convenience

49.301 General.
49.302 Discontinuance of vouchers.
49.303 Procedure after discontinuing vouchers.
49.303-1 Submission of settlement proposal.
49.303-2 Submission of inventory disposal schedules.
49.303-3 Audit of settlement proposal.
49.303-4 Adjustment of indirect costs.
49.303-5 Final settlement.
49.304 Procedure for partial termination.
49.304-1 General.
49.304-2 Submission of settlement proposal (fee only).
49.304-3 Submission of vouchers.
49.305 Adjustment of fee.
49.305-1 General.
49.305-2 Construction contracts.

Subpart 49.4—Termination for Default

49.401 General.
49.402 Termination of fixed-price contracts for default.
49.402-1 The Government's right.
49.402-2 Effect of termination for default.
49.402-3 Procedure for default.
49.402-4 Procedure in lieu of termination for default.
49.402-5 Memorandum by the contracting officer.
49.402-6 Repurchase against contractor's account.
49.402-7 Other damages.
49.402-8 Reporting information.
49.403 Termination of cost-reimbursement contracts for default.
49.404 Surety-takeover agreements.
49.405 Completion by another contractor.
49.406 Liquidation of liability.

Subpart 49.5—Contract Termination Clauses

49.501 General.
49.502 Termination for convenience of the Government.
49.503 Termination for convenience of the Government and default.
49.504 Termination of fixed-price contracts for default.
49.505 Other termination clauses.

Subpart 49.6—Contract Termination Forms and Formats

49.601 Notice of termination for convenience.
49.601-1 Telegraphic notice.
49.601-2 Letter notice.
49.602 Forms for settlement of terminated contracts.
49.602-1 Termination settlement proposal forms.
49.602-2 Inventory forms.
49.602-3 Schedule of accounting information.
49.602-4 Partial payments.
49.602-5 Settlement agreement.
49.603 Formats for termination for convenience settlement agreements.
49.603-1 Fixed-price contracts—complete termination.
49.603-2 Fixed-price contracts—partial termination.
49.603-3 Cost-reimbursement contracts—complete termination, if settlement includes cost.
49.603-4 Cost-reimbursement contracts—complete termination, with settlement limited to fee.
49.603-5 Cost-reimbursement contracts—partial termination.
49.603-6 No-cost settlement agreement—complete termination.
49.603-7 No-cost settlement agreement—partial termination.
49.603-8 Fixed-price contracts—settlements with subcontractors only.
49.603-9 Settlement of reservations.
49.604 Release of excess funds under terminated contracts.
49.605 Request to settle subcontractor settlement proposals.
49.606 Granting subcontract settlement authorization.
49.607 Delinquency notices.

AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

SOURCE: 48 FR 42447, Sept. 19, 1983, unless otherwise noted.

49.000 Scope of part.

This part establishes policies and procedures relating to the complete or partial termination of contracts for the

49.001

convenience of the Government or for default. It prescribes contract clauses relating to termination and excusable delay and includes instructions for using termination and settlement forms.

49.001 Definitions.

As used in this part—

Other work means any current or scheduled work of the contractor, whether Government or commercial, other than work related to the terminated contract.

Plant clearance period, as used in this subpart, means the period beginning on the effective date of contract completion or termination and ending 90 days (or such longer period as may be agreed to) after receipt by the contracting officer of acceptable inventory schedules for each property classification. The final phase of the plant clearance period means that period after receipt of acceptable inventory schedules.

Settlement agreement means a written agreement in the form of a contract modification settling all or a severable portion of a settlement proposal.

Settlement proposal means a proposal for effecting settlement of a contract terminated in whole or in part, submitted by a contractor or subcontractor in the form, and supported by the data, required by this part. A settlement proposal is included within the generic meaning of the word *claim* under false claims acts (see 18 U.S.C. 287 and 31 U.S.C. 3729).

Unsettled contract change means any contract change or contract term for which a definitive modification is required but has not been executed.

[48 FR 42443, Sept. 19, 1983, as amended at 51 FR 2666, Jan. 17, 1986; 66 FR 2134, Jan. 10, 2001; 67 FR 43514, June 27, 2002; 69 FR 17748, Apr. 5, 2004]

49.002 Applicability.

(a)(1) This part applies to contracts that provide for termination for the convenience of the Government or for the default of the contractor (see also 12.403 and 13.302-4).

(2) This part does not apply to commercial item contracts awarded using part 12 procedures. See 12.403 for termination policies for contracts for the acquisition of commercial items. How-

48 CFR Ch. 1 (10-1-13 Edition)

ever, for contracts for the acquisition of commercial items, this part provides administrative guidance which may be followed unless it is inconsistent with the requirements and procedures in 12.403, Termination, and the clause at 52.212-4, Contract Terms and Conditions—Commercial Items.

(b) Contractors shall use this part, unless inappropriate, to settle subcontracts terminated as a result of modification of prime contracts. The contracting officer shall use this part as a guide in evaluating settlements of subcontracts terminated for the convenience of a contractor whenever the settlement will be the basis of a proposal for reimbursement from the Government under a cost-reimbursement contract.

(c) The contracting officer may use this part in determining an equitable adjustment resulting from a modification under the Changes clause of any contract, except cost-reimbursement contracts.

(d) When action to be taken or authority to be exercised under this part depends upon the *amount* of the settlement proposal, that amount shall be determined by deducting from the gross settlement proposed the amounts payable for completed articles or work at the contract price and amounts for the settlement of subcontractor settlement proposals. Credits for retention or other disposal of termination inventory and amounts for advance or partial payments shall not be deducted.

[48 FR 42447, Sept. 19, 1983, as amended at 62 FR 64927, Dec. 9, 1997; 75 FR 82577, Dec. 30, 2010]

Subpart 49.1—General Principles

49.100 Scope of subpart.

(a) This subpart deals with—

(1) The authority and responsibility of contracting officers to terminate contracts in whole or in part for the convenience of the Government or for default;

(2) Duties of the contractor and the contracting officer after issuance of the notice of termination;

(3) General procedures for the settlement of terminated contracts; and

(4) Settlement agreements.