

49.205 Completed end items.

(a) Promptly after the effective date of termination, the TCO shall (1) have all undelivered completed end items inspected and accepted if they comply with the contract requirements, and (2) determine which accepted end items are to be delivered under the contract. The contractor shall invoice accepted and delivered end items at the contract price in the usual manner and shall not include them in the settlement proposal. When completed end items, though accepted, are not to be delivered under the contract, the contractor shall include them in the settlement proposal at the contract price, adjusted for any saving of freight or other charges, together with any credits for their purchase, retention, or sale.

(b) Work in place accepted by the Government under a construction contract is not considered a completed item even though that work may have been paid for at unit prices specified in the contract.

49.206 Settlement proposals.**49.206-1 Submission of settlement proposals.**

(a) Subject to the provisions of the termination clause, the contractor should promptly submit to the TCO a settlement proposal for the amount claimed because of the termination. The final settlement proposal must be submitted within one year from the effective date of the termination, unless the period is extended by the TCO. Termination charges under a single prime contract involving two or more divisions or units of the prime contractor may be consolidated and included in a single settlement proposal.

(b) The settlement proposal must cover all cost elements including settlements with subcontractors and any proposed profit. With the consent of the TCO, proposals may be filed in successive steps covering separate portions of the contractor's costs. Such interim proposals shall include all costs of a particular type, except as the TCO may authorize otherwise.

(c) Settlement proposals must be on the forms prescribed in 49.602 unless the forms are inadequate for a particular contract. Settlement proposals

must be in reasonable detail supported by adequate accounting data. Actual, standard (appropriately adjusted), or average costs may be used in preparing settlement proposals if they are determined under generally recognized accounting principles consistently followed by the contractor. When actual, standard, or average costs are not reasonably available, estimated costs may be used if the method of arriving at the estimates is approved by the TCO. Contractors shall not be required to maintain unduly elaborate cost accounting systems merely because their contracts may subsequently be terminated.

(d) The contractor may use the Settlement Proposal (Short Form), SF 1438 (see 49.602-1(d) and 53.249), when the total proposal is less than \$10,000, unless otherwise instructed by the TCO. Settlement proposals that would normally be included in a single settlement proposal; e.g., those based on a series of separate orders for the same item under one contract, should be consolidated whenever possible and not divided to bring them below \$10,000.

(e) The Schedule of Accounting Information, SF 1439, must be submitted for each termination under a contract for which a settlement proposal is submitted, except when the Standard Form 1438 is used. Although several interim proposals may be submitted, SF 1439 need be submitted only once unless, subsequent to filing the original form, major changes occur in the information submitted.

49.206-2 Bases for settlement proposals.

(a) *Inventory basis.* (1) Use of the inventory basis for settlement proposals is preferred. Under this basis, the contractor may propose only costs allocable to the terminated portion of the contract, and the settlement proposal must itemize separately—

(i) Metals, raw materials, purchased parts, work in process, finished parts, components, dies, jigs, fixtures, and tooling, at purchase or manufacturing cost;

(ii) Charges such as engineering costs, initial costs, and general administrative costs;

(iii) Costs of settlements with subcontractors;

- (iv) Settlement expenses; and
- (v) Other proper charges.

(2) An allowance for profit (49.202) or adjustment for loss (49.203(b)) must be made to complete the gross settlement proposal. All unliquidated advance and progress payments and all disposal and other credits known when the proposal is submitted must then be deducted.

(3) This inventory basis is also appropriate for use under the following circumstances:

(i) The partial termination of a construction or related professional services contract.

(ii) The partial or complete termination of supply orders under any terminated construction contract.

(iii) The complete termination of a unit-price (as distinguished from a lump-sum) professional services contract.

(b) *Total cost basis.* (1) When use of the inventory basis is not practicable or will unduly delay settlement, the total-cost basis (SF-1436) may be used if approved in advance by the TCO as in the following examples:

(i) If production has not commenced and the accumulated costs represent planning and preproduction or *get ready* expenses.

(ii) If, under the contractor's accounting system, unit costs for work in process and finished products cannot readily be established.

(iii) If the contract does not specify unit prices.

(iv) If the termination is complete and involves a letter contract.

(2) When the total-cost basis is used under a complete termination, the contractor must itemize all costs incurred under the contract up to the effective date of termination. The costs of settlements with subcontractors and applicable settlement expenses must also be added. An allowance for profit (49.202) or adjustment for loss (49.203(c)) must be made. The contract price for all end items delivered or to be delivered and accepted must be deducted. All unliquidated advance and progress payments and disposal and other credits known when the proposal is submitted must also be deducted.

(3) When the total-cost basis is used under a partial termination, the settlement proposal shall not be submitted

until completion of the continued portion of the contract. The settlement proposal must be prepared as in subparagraph (2) above, except that all costs incurred to the date of completion of the continued portion of the contract must be included.

(4) If a construction contract or a lump-sum professional services contract is completely terminated, the contractor shall—

(i) Use the total cost basis of settlement;

(ii) Omit Line 10 "Deduct-Finished Product Invoiced or to be Invoiced" from Section II of Standard Form-1436 Settlement Proposal (Total Cost Basis); and

(iii) Reduce the gross amount of the settlement by the total of all progress and other payments.

(c) *Other basis.* Settlement proposals may not be submitted on any basis other than paragraph (a) or (b) above without the prior approval of the chief of the contracting or contract administration office.

49.206-3 Submission of inventory disposal schedules.

Subject to the terms of the termination clause, and whenever termination inventory is involved, the contractor shall submit complete inventory disposal schedules to the TCO reflecting inventory that is allocable to the terminated portion of the contract. The inventory disposal schedules shall be submitted within 120 days from the effective date of termination unless otherwise extended by the TCO based on a written justification to support the extension. The inventory schedules shall be prepared on Standard Form 1428, Inventory Disposal Schedule.

[69 FR 17748, Apr. 5, 2004]

49.207 Limitation on settlements.

The total amount payable to the contractor for a settlement, before deducting disposal or other credits and exclusive of settlement costs, must not exceed the contract price less payments otherwise made or to be made under the contract.