

# **PART 49 -- TERMINATION OF CONTRACTS**

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# **SUBPART 49.1 – GENERAL PRINCIPLES**

## **49.101 Authorities and responsibilities.**

(a) A DITCO contracting officer may terminate contracts for convenience or default to the extent of the authority provided on the Contracting Officer's Certificate of Appointment (SF 1402). All proposed terminations shall be coordinated through legal counsel and the HCO. Coordinate through the CoCO and OSBP if the contractor is a small business.

## **49.102 Notice of termination.**

(d) A DITCO contracting officer may reinstate a contract only after a Determination and Findings (D&F) recommending such has been approved by the cognizant HCO. The D&F must set forth the reasons why the contract was terminated and why it should now be reinstated. The D&F must be coordinated with legal counsel.

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

(a) The termination contracting officer (TCO) shall ensure that each prime contract settlement proposal is reviewed by a DITCO Cost/Price Analyst for the purpose of evaluating the reasonableness prior to negotiating the final settlement. A DITCO Cost/Price Analyst shall assist the TCO in the development of a settlement negotiation position, if required. The TCO may request assistance from a DITCO Cost/Price Analyst with respect to prime contract settlement proposals below \$100,000, if the TCO believes circumstances warrants.

(c) Requests to the audit agency to perform the accounting review shall be prepared by a DITCO Cost/Price Analyst, for signature by the TCO.

### **Settlement of subcontract settlement proposals.**

#### **49.108-8 Assignment of rights under subcontracts.**

(a) The TCO shall submit a D&F recommending the assignment to the HCO for approval. The D&F shall be coordinated with a DITCO Cost/Price Analyst and legal counsel.

(b) The TCO shall not finalize any settlement proposal arising out of the termination of subcontracts until the D&F is approved by the HCO. The D&F shall be coordinated with a DITCO Cost/Price Analyst and legal counsel.

### **Settlement agreements.**

#### **49.109-1 General.**

(S-90) The settlement agreement and SF30 shall be coordinated with a DITCO Cost/Price Analyst, legal counsel, and the HCO, if the amount of the settlement is above \$100,000.

## **SUBPART 49.2 – ADDITIONAL PRINCIPLES FOR FIXED-PRICE CONTRACTS TERMINATED FOR CONVENIENCE**

#### **49.202 Profit.**

(a) The TCO shall coordinate the Government's proposed profit position with a DITCO Cost/Price Analyst to ensure that it is fair and reasonable.

#### **49.206 Settlement proposals.**

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

(c) The TCO shall provide the contractor instructions regarding how to submit a settlement proposal, including which forms are to be used as related to FAR 49.206-2. The TCO shall coordinate these instructions with a DITCO Cost/Price Analyst before forwarding them to the contractor.

## **SUBPART 49.3 – ADDITIONAL PRINCIPLES FOR COST-REIMBURSEMENT CONTRACTS TERMINATED FOR CONVENIENCE**

#### **49.303 Procedure after discontinuing vouchers.**

##### **49.303-4 Adjustment of indirect costs.**

(a) The TCO shall coordinate with a DITCO Cost/Price Analyst and the audit agency before determining whether or not to negotiate indirect costs into the settlement.

##### **49.303-5 Final settlement.**

(a) The settlement agreement shall be approved by the cognizant HCO. It shall be coordinated with a DITCO Cost/Price Analyst and legal counsel.

#### **49.305 Adjustment of fee.**

##### **49.305-1 General.**

(a) The TCO shall coordinate adjustments in fee with a DITCO Cost/Price Analyst.

## SUBPART 49.4 — TERMINATION FOR DEFAULT

### **49.402 Termination of Fixed-Price Contracts for Default.**

#### **49.402-3 Procedure for default.**

(d) Cure notices shall be coordinated with legal counsel, the CoCO, and HCO. Cure notices involving a small business shall also be coordinated with OSBP.

(e)(1) Show cause notices shall be coordinated with legal counsel, the CoCO, and HCO. Show cause notices involving a small business shall also be coordinated with OSBP.

## **SUBPART 249.70 — SPECIAL TERMINATION REQUIREMENTS**

### **249.7001 Congressional notification on significant contract terminations.**

The contracting officer shall obtain coordination from the CoCO, HCO, local legal counsel, and the OSBP, and approval from the HCA prior to the release of any termination notice under this section.

