

Change is Happening with Contract Terminations



Dave Fix, CPA, CFE

Director – GovCon
Compliance



Redstone
Government Consulting



Phone: (256) 704 - 9866

Email: DFix@RedstoneGCI.com

David (Dave) Fix, CPA, CFE

Director

- **35+ Years with Defense Contract Audit Agency**
 - Regional Audit Manager (DCAA Adjunct Instructor as well)
 - Regional Special Programs Manager
 - Chief, Investigative Support
 - Branch Manager (CONUS & OCONUS), Supervisory Auditor, Technical Specialist, Auditor
- **36 Years as Air Force Reservist-last duty: Chief, Contracting Inspections, Air Force Reserve Command, Robins AFB, Georgia**
- **3 –plus years with Redstone**
 - Business Systems, CAS, FAR, DFARS, Forward Pricing Proposals, Claims

BS in Accounting, State University of NY at Buffalo; MS, Accounting – Western New England College (now University); Graduate of Department of Defense Executive Leadership Development Program; CPA (Active Licenses) –Alabama, Georgia, & North Carolina; Certified Fraud Examiner (CFE)



Redstone
Government Consulting

© 2025 Redstone Government Consulting, Inc.

THE
REDSTONE
EDGE

Learning Objectives

- ✓ Understanding the termination process [INCLUDING A CLASS EXERCISE]
- ✓ Identify the FAR clauses applicable to terminations of contracts awarded [INCLUDING FAR OVERHAUL ANNOUNCED CHANGES]
- ✓ Distinguish between entitlement and quantum
- ✓ Identify common pitfalls in contract terminations
- ✓ Identify sources for assisting with the termination settlement proposal through audit support

Understanding the Termination Process

Factors Leading to Government Contract Terminations

- **Reductions** within Government agencies
- **Changing** government programs and priorities (**T4C**)
- FYs 2025/6 National Defense Authorization Act
- Modernization of weapon platforms
- Reduction in what was contracted (partial termination)
- Failure to perform (**T4D**)
- **Changes** in regulations: FAR OVERHAUL

Class Exercise - *Assume No Rules....*



EXERCISE
QUESTIONS

- ☐ One side of the room is Government
- ☐ Other side of the room is Contractor
- ☐ Go through with questions on each side and discuss
- ☐ How could this be done better?
- ☐ Let's see how the regulations/processes compare

Understanding the Terminations Process

Complete or Partial Termination



© 2025 Redstone Government Consulting, Inc.

FAR 49.100, *General Principles, Scope of subpart*

- Contracting officers have the authority and responsibility to ***terminate contracts in whole or in part*** for the convenience of the Government or for default

Understanding the Terminations Process

FAR Part 49, Termination of Contracts

Two Types of Terminations:

1. Termination for Default (T4D) – FAR 49.401(a)

Termination for default is generally the exercise of the Government's contractual right to completely or partially terminate a contract ***because of the contractor's actual or anticipated failure to perform its contractual obligations***. This could be ***executed by FAR 52.249-8 through FAR 52.249-10*** (T4D Clauses)

2. Termination for Convenience of the Government (T4C) – FAR 49.502 (a)–(e)

The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date. Executed through contract clauses in the FAR 52 series, examples below:

- FAR 52.249-2 (Fixed-Priced)
- FAR 52.249-6 (Cost-Reimbursable)

Understanding the Terminations Process

Phases & Timelines (All Done in Writing)

Suspension of Work (FAR 52.242-14)

- Contracting officer direction to suspend contract defined work at a defined date. Contractor can make a request for equitable adjustment (REA) but as soon as practical and not later than the date of the final contract payment. Think REA right now.

Stop Work (FAR 52.242-15)

- Contracting officer directs contractor to stop work either all or in part for a period of (usually) 90 days.
 - Although there can be agreed to extensions within this 90-day period, a decision is to be made to --
 - Cancel stop work order and continue with the contractual effort
 - Terminate the work covered by the contract

Contract Termination (FAR 52.249 Series, “Terminations,” FAR 52.212-4 (Commercial items, FAR Part 12) & FAR 52.243 Series, “Changes”)

- Submission of inventory disposal schedules (FAR 49.206-3) – SF 1428 reported to TCO as directed within 120 days of effective termination date [**not required in commercial item contracts**]
- Submission of a termination settlement proposal (FAR 49.206-1(a)) due date:
 - One year after the effective date of termination (Can be extended by TCO)
 - For example, SF 1436 for Total Cost Method with SF 1439 for Accounting Background

Understanding the Terminations Process

The Rules



FAR Part 49 – *Termination of Contracts*

- Establishes policies and procedures
 - Complete or partial termination
 - Convenience or default
- Prescribes contract clauses (FAR 52.249 Series)*
- Provides instructions on the **forms** to use for termination settlement proposals (FAR 49.602)
- Prescribes prime contractors to use FAR Part 49 to settle subcontracts
 - **Subcontractor** has **no contractual rights** against the Government upon the termination of a prime contract (FAR 49.108-1)
- Provides for equitable adjustments due to the changes clause (FAR 52.243 Series)
 - Partial terminations (example)

* ***Commercial items contracts are not subject to FAR Part 49 and will use FAR 52.212-4.***

Understanding the Terminations Process

The Rules



FAR Part 31.205-42, *Termination Costs*

- Special treatment
 - Costs that would not have arisen except for the contract termination
- Common Items
 - Costs of items that can be used on other contracts **will not be allowable costs**
- Costs continuing after termination
 - Costs that **cannot be discontinued immediately** will generally be allowable
- **Settlement costs [Important]**
 - Generally allowable costs for preparation of the settlement proposal (e.g., accounting, clerical, legal)
 - Storage costs
 - Indirect costs related to salary and wages **[that are normally indirect can be directly charged as termination settlement costs]** shall be limited to payroll taxes, fringe benefits, occupancy, and immediate supervision costs
 - **Takeaway here: think of separate accounts for capturing these costs**

Understanding the Terminations Process

Contracting Officer Responsibilities



FAR Part 49.101

- Determining whether it is in the Government's interest to terminate the contract
- Determining the type of contract termination
- Issuing notices:
 - **Suspension of Work (FAR 52.242-14)**
 - **Stop Work (FAR 52.242-15)**
 - **Termination (FAR 52.249 (Series))**
- Issuing cure notices and/or show cause letters as applicable (FAR 49.607(a))
 - **Required in a T4D**
- Release of any excess funds (*if not delegated to Termination Contracting Officer, TCO*)

Understanding the Terminations Process

Notice of Termination




FAR Part 49.102(a)

- Termination type and applicable contract clause stating the contract number
- Effective date
- Extent of termination
- Applicable special instructions
- Delineate steps the contractor should take to minimize the impact on personnel if the termination, together with all other outstanding terminations, will result in a significant reduction in the contractor work force

Understanding the Terminations Process

Termination Notice Example

 **DEPARTMENT OF THE ARMY**
CORPS OF ENGINEERS, [REDACTED]
[REDACTED]
October 22, 2024

[REDACTED] Serial Letter C-0008

SUBJECT: Notice of Termination for the Convenience of the Government, Contract
[REDACTED]
[REDACTED]

Dear Mr. [REDACTED]:

You are hereby notified that Contract [REDACTED] is terminated for the convenience of the Government in accordance with (IAW) Federal Acquisition Regulation (FAR) Clause 52.249-2, "Termination for Convenience of the Government (Fixed-Price) (April 2012), Alternate I (September 1996)." This termination results from the Government's determination that the supplies or services covered by the contract as solicited in the Statement of Work are no longer needed.

You were previously issued a suspension of work notice on [REDACTED], IAW FAR 42.1305 and FAR Clause 52.242-14 which provided you direction to suspend all work at that time. The Government will pay [REDACTED] verified and reimbursable allowable contract costs and expenses incurred to date IAW the FAR Clause 52.249-2. Full settlement of any termination costs and expenses can be made only after you submit a complete and timely settlement proposal. Upon receipt of your proposal, and after completion of an audit by the Defense Contract Audit Agency, if necessary, the Government will negotiate a fair and final agreement with you. The Government's intent is to close out this contract efficiently and quickly as practicable.

This letter enumerates some of your obligations from this date forward.

(a) Contract No. [REDACTED] ("the contract") is completely terminated effective the date of this Notice.

(b) In furtherance of your duties under FAR 49.104 and 52.249-2, you shall immediately take the following steps for cessation of work and notification to immediate subcontractors:

(1) Stop all work, make no further shipments, and place no further orders or provide no services, relating to the contract, except for-

(i) The continued portion of the contract, if any;

(ii) Work-in-process or other materials that you may wish to retain for your own account; or

Understanding the Terminations Process

Termination Contracting Officer (TCO) Responsibilities



FAR Part 49.105

- Promptly hold a conference with prime contractor to delineate actions to be done (**15 items in FAR 49.105(c)**)
- Direct the action of the prime contractor
- Examine the settlement proposal submitted by the prime contractor, and when appropriate, the settlement of the subcontractor proposals
- Negotiate the prime contractor's settlement proposal
- TCO may have others assisting such as legal, auditors, contract specialists/CORs, and associated functions related to inventory
- Furnish status reports as needed
- Release funding as required

Understanding the Terminations Process

Termination Conference Example


U.S. ARMY

4


TERMINATION CONFERENCE

Termination for Convenience:

- Federal Acquisition Regulation (FAR) Part 2: The exercise of the Government's right to completely or partially terminate performance of work under a contract when it is in the Government's interest.

Purpose of the Termination Conference:

- Mutual understanding of timelines and requirements from both parties

(1) General principles relating to the settlement of any settlement proposal, including obligations of the contractor;

- FAR 52.249-1 through FAR 52.249-5, and FAR Part 49.502: When the Government terminates a fixed price contract, the contractor is permitted to recover allowable costs incurred during performance, reasonable profit for the work performed, settlement expenses and some continuing or post-termination costs. Total recovery is limited by the total contract price including any equitable adjustments.
- Refer to termination notice paragraph (g)(2) and FAR 49.206-1(a):

TIMELINE FOR SUBMISSION OF FINAL TERMINATION SETTLEMENT PROPOSAL:

- The final settlement proposal must be submitted within one year from the effective date of the termination unless a written extension is submitted and approved by the Contracting Officer.
- Termination for Convenience Notification (Serial Letter [REDACTED] issued [REDACTED])
- Final Termination Settlement Proposal due no later than [REDACTED]

DETAILS OF FINAL TERMINATION SETTLEMENT PROPOSAL:

- The final settlement proposal shall be in sufficient detail to allow evaluation by the Government.
- The Contractor must show the terminations costs with sufficient certainty so that the determination of the amount of damages will be more than mere speculation.
- Settlement proposals in excess of \$2M must be accompanied by certified cost or pricing data and will be audited by the Defense Contract Audit Agency.

- Refer to termination notice paragraph (g)(3) and FAR 49.206-1(a):
- The final settlement proposal shall include resolution of all outstanding requests for equitable adjustment under the contract. This includes all costs associated with the suspension of work.

(2) Extent of the termination, point at which work is stopped, and status of any plans, drawings, and information that would have been delivered had the contract been completed;

- Contract terminated in whole. At the point at which work was stopped, and in accordance with the Partial Clearance for Construction, the contractor mobilized and completed installation of the New Alaska Barriers, delivered a generator and provided design submittals (Work In Progress).

Understanding the Terminations Process

Prime Contractor Duties (FAR 49.104)

After receipt of the termination notice:

- Stop work on terminated contract part and stop placing subcontracts
- Terminate all subcontracts related to terminated part
- Advise TCO of any special circumstances
- Perform the continued contract portion and submit promptly any request for an equitable adjustment of price for the continued portion *if the termination is partial*
- Preserve and protect property
- Notify TCO of any legal issues from subcontracts
- Submit settlement proposal with required supporting schedules withing one year
 - SF 1435 – Inventory Method (**Preferred** –FAR 49.206-2(a))
 - SF 1436 – Total Cost Method (Requires TCO approval – FAR 49.206-2(b))
 - SF 1439 – Schedule of Accounting Information
 - SF 1428 – Inventory Disposal Schedule (TCO may require)
 - SF 1437 – Settlement for Cost-Reimbursement Contracts
- FAR Part 31, Contract Cost Principles and Procedures Required (**FAR Part 49.113**)

ALTHOUGH NOT A SPECIFIC OVERALL DUTY, EMPHASIS SHOULD BE ON COST MITIGATION

Understanding the Termination Process: Fixed-Priced Contracts Settlement Proposals (FAR 49.206-2)

FAR 49.206-2 NOT Impacted by FAR Overhaul

Two Different Methods for Termination Settlement Proposals (TSPs)

1. Inventory Basis [Preferred] - left
2. Total Cost Basis [Needs TCO approval] - right

Pro Tip: FAR 49.112-1 – consider requesting a partial payment when submitting TSP via an SF 1440!



SETTLEMENT PROPOSAL (INVENTORY BASIS)		OMB Control Number: 9000-0012 Expiration Date: 2/28/2026		
<small>Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0012. We estimate that it will take 2.5 hours to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: U.S. General Services Administration, Regulatory Secretariat Division (MIV1CB), 1800 P Street, NW, Washington, DC 20405.</small>				
FOR USE BY A FIXED-PRICE PRIME CONTRACTOR OR FIXED-PRICE SUBCONTRACTOR				
THIS PROPOSAL APPLIES TO (Check one)		COMPANY		
<input type="checkbox"/> A PRIME CONTRACT WITH THE GOVERNMENT <input type="checkbox"/> SUBCONTRACT OR PURCHASE ORDER		STREET ADDRESS		
SUBCONTRACT OR PURCHASE ORDER NUMBER(S)		CITY AND STATE (Include ZIP Code)		
CONTRACTOR WHO SENT NOTICE OF TERMINATION		NAME OF GOVERNMENT AGENCY		
NAME		GOVERNMENT PRIME CONTRACT NUMBER		
ADDRESS (Include ZIP Code)		CONTRACTOR'S REFERENCE NUMBER		
If moneys payable under the contract have been assigned, give the following:		EFFECTIVE DATE OF TERMINATION		
NAME OF ASSIGNEE		PROPOSAL NUMBER		
ADDRESS (Include ZIP Code)		CHECK ONE		
SF 1439, SCHEDULE OF ACCOUNTING INFORMATION		<input type="checkbox"/> IS NOT ATTACHED (If not, explain below)		
SECTION I - STATUS OF CONTRACT OR ORDER AT EFFECTIVE DATE OF TERMINATION				
PRODUCTS COVERED BY TERMINATED CONTRACT OR PURCHASE ORDER	PREVIOUSLY SHIPPED AND INVOICED	FINISHED ON HAND PAYMENT TO BE RECEIVED THROUGH INVOICING	UNFINISHED OR NOT COMMENCED TO BE COMPLETED (Partial termination only)	TOTAL COVERED BY CONTRACT OR ORDER
(a)	(b)	(c)	(d)	(e)
QUANTITY				
\$				
QUANTITY				
\$				
QUANTITY				
\$				
SECTION II - PROPOSED SETTLEMENT				
NUMBER	ITEM	USE COLUMNS (b) AND (c) ONLY WHERE PREVIOUS PROPOSAL HAS BEEN MADE	TOTAL PROPOSED TO DATE	FOR USE OF CONTRACTING AGENCY ONLY
(a)	(b)	(c)	(d)	(e)
1	METALS			
2	RAW MATERIALS (other than metals)			
3	PURCHASED PARTS			
4	FINISHED COMPONENTS			
5	MISCELLANEOUS INVENTORY			
6	WORK-IN-PROCESS			
7	SPECIAL TOOLING AND SPECIAL TEST EQUIPMENT			
8	OTHER COSTS (from Schedule B)			
9	GENERAL AND ADMINISTRATIVE EXPENSES (from Schedule C)			
10	TOTAL (Items 1 to 9 inclusive)			
11	PROFIT (explain in Schedule D)			
12	SETTLEMENT EXPENSES (from Schedule E)			
13	TOTAL (Items 10 to 12 inclusive)			
14	SETTLEMENTS WITH SUBCONTRACTORS (from Schedule F)			
15	ACCEPTABLE FINISHED PRODUCT			
16	GROSS PROPOSED SETTLEMENT (Items 13 thru 15)			
17	DISPOSAL AND OTHER CREDITS (from Schedule G)			
18	NET PROPOSED SETTLEMENT (Item 16 less 17)			
19	ADVANCE, PROGRESS & PARTIAL PAYMENTS (from Schedule H)			
20	NET PAYMENT REQUESTED (Item 18 less 19)			

(When the space provided for any information is insufficient, continue on a separate sheet.)

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition is NOT usable

STANDARD FORM 1435 (REV. 3/2004)
Prescribed by GSA - FAR (48 CFR) 53.2

SETTLEMENT PROPOSAL (TOTAL COST BASIS)		OMB Control Number: 9000-0012 Expiration Date: 2/28/2026		
<small>Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0012. We estimate that it will take 2.5 hours to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: U.S. General Services Administration, Regulatory Secretariat Division (MIV1CB), 1800 P Street, NW, Washington, DC 20405.</small>				
FOR USE BY A FIXED-PRICE PRIME CONTRACTOR OR FIXED-PRICE SUBCONTRACTOR				
THIS PROPOSAL APPLIES TO (Check one)		COMPANY		
<input type="checkbox"/> A PRIME CONTRACT WITH THE GOVERNMENT <input type="checkbox"/> SUBCONTRACT OR PURCHASE ORDER		STREET ADDRESS		
SUBCONTRACT OR PURCHASE ORDER NUMBER(S)		CITY AND STATE (Include ZIP Code)		
CONTRACTOR WHO SENT NOTICE OF TERMINATION		NAME OF GOVERNMENT AGENCY		
NAME		GOVERNMENT PRIME CONTRACT NUMBER		
ADDRESS (Include ZIP Code)		CONTRACTOR'S REFERENCE NUMBER		
If moneys payable under the contract have been assigned, give the following:		EFFECTIVE DATE OF TERMINATION		
NAME OF ASSIGNEE		PROPOSAL NUMBER		
ADDRESS (Include ZIP Code)		CHECK ONE		
SF 1439, SCHEDULE OF ACCOUNTING INFORMATION		<input type="checkbox"/> IS NOT ATTACHED (If not, explain below)		
SECTION I - STATUS OF CONTRACT OR ORDER AT EFFECTIVE DATE OF TERMINATION				
PRODUCTS COVERED BY TERMINATED CONTRACT OR PURCHASE ORDER	PREVIOUSLY SHIPPED AND INVOICED	FINISHED ON HAND PAYMENT TO BE RECEIVED THROUGH INVOICING	UNFINISHED OR NOT COMMENCED SUBSEQUENTLY COMPLETED AND INVOICED*	TOTAL COVERED BY CONTRACT OR ORDER
(a)	(b)	(c)	(d)	(e)
QUANTITY				
\$				
QUANTITY				
\$				
QUANTITY				
\$				
SECTION II - PROPOSED SETTLEMENT				
ITEM	USE COLUMNS (b) AND (c) ONLY WHERE PREVIOUS PROPOSAL HAS BEEN MADE	TOTAL PROPOSED TO DATE	FOR USE OF CONTRACTING AGENCY ONLY	
(a)	(b)	(c)	(d)	
1	DIRECT MATERIAL			
2	DIRECT LABOR			
3	INDIRECT FACTORY EXPENSE (from Schedule A)			
4	SPECIAL TOOLING AND SPECIAL TEST EQUIPMENT (SF 1428)			
5	OTHER COSTS (from Schedule B)			
6	GENERAL AND ADMINISTRATIVE EXPENSES (from Schedule C)			
7	TOTAL COSTS (Items 1 thru 6)			
8	PROFIT (Explain in Schedule D)			
9	TOTAL COSTS (Items 7 and 8)			
10	DEDUCT FINISHED PRODUCT INVOICED OR TO BE INVOICED*			
11	TOTAL (Item 9 less Item 10)			
12	SETTLEMENT EXPENSES (from Schedule E)			
13	TOTAL (Items 11 and 12)			
14	SETTLEMENT WITH SUBCONTRACTORS (from Schedule F)			
15	GROSS PROPOSED SETTLEMENT (Items 13 thru 14)			
16	DISPOSAL AND OTHER CREDITS (from Schedule G)			
17	NET PROPOSED SETTLEMENT (Item 15 less 16)			
18	ADVANCE, PROGRESS & PARTIAL PAYMENTS (from Schedule H)			
19	NET PAYMENT REQUESTED (Item 17 less 18)			

*Column (e), Section I, should only be used in the event of a partial termination, in which the total cost reported in Section II should be accumulated to date of completion of the continued portion of the contract and the deduction for finished product (Item 10, Section II) should be the contract price of finished product in Column (b), (c), and (e), Section I.

NOTE: File inventory schedule (SF 1428) for allocable inventories on hand at date of termination (See 49.206).

(When the space provided for any information is insufficient, continue on a separate sheet.)

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition is NOT usable


STANDARD FORM 1436 (REV. 5/2004)
Prescribed by GSA - FAR (48 CFR) 53.24(a)(3)

Understanding the Terminations Process

Cost-Type Contracts Settlement Proposals (FAR 49.303-3)

- ✓ SF 1437 [Right] is for cost-type contracts – one page form
- ✓ Generally little or no inventory
- ✓ Can voucher out costs via an SF 1034 as regular billing

FAR 49.303-3 Re-Numbered in FAR Overhaul

SETTLEMENT PROPOSAL FOR COST - REIMBURSEMENT TYPE CONTRACTS				OMB Control Number: 9000-0012 Expiration Date: 2/28/2026	
<small>Paperwork Reduction Act Statement - This information collection meets the requirements of 44 USC § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0012. We estimate that it will take 2.5 hours to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing the burden, or any other aspects of this collection of information to: General Services Administration, Regulatory Secretariat Division (MIV1CB), 1800 F Street, NW, Washington, DC 20405.</small>					
<small>To be used by prime contractors submitting settlement proposals on cost-reimbursement type contracts under Part 49 of the Federal Acquisition Regulation. Also suitable for use in connection with terminated cost-reimbursement type subcontracts.</small>					
COMPANY		PROPOSAL NUMBER		CHECK ONE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	
STREET ADDRESS		GOVERNMENT PRIME CONTRACT NUMBER		REFERENCE NUMBER	
CITY AND STATE (include ZIP Code)		EFFECTIVE DATE OF TERMINATION			
ITEM (a)	TOTAL PREVIOUSLY SUBMITTED (b)	INCREASE OR DECREASE BY THIS PROPOSAL (c)	TOTAL SUBMITTED TO DATE (d)		
1. DIRECT MATERIAL	\$	\$	\$		
2. DIRECT LABOR					
3. INDIRECT FACTORY EXPENSE					
4. SPECIAL TOOLING AND SPECIAL TEST EQUIPMENT					
5. OTHER COSTS					
6. GENERAL AND ADMINISTRATIVE EXPENSE					
7. TOTAL COST (Items 1 thru 6)	\$	\$	\$		
8. FEE					
9. SETTLEMENT EXPENSES					
10. SETTLEMENTS WITH SUBCONTRACTORS					
11. GROSS PROPOSED SETTLEMENT (Items 7 thru 10)					
12. DISPOSAL AND OTHER CREDITS					
13. NET PROPOSED SETTLEMENT (Item 11 less 12)	\$	\$	\$		
14. PRIOR PAYMENTS TO CONTRACTOR	\$	\$	\$		
15. NET PAYMENT REQUESTED (Item 13 less 14)	\$	\$	\$		
CERTIFICATE					
<small>This is to certify that the undersigned, individually, and as an authorized representative of the Contractor, has examined this termination settlement proposal and that, to the best knowledge and belief of the undersigned:</small>					
<small>(a) AS TO THE CONTRACTOR'S OWN CHARGES. (1) The proposed settlement (exclusive of charges set forth in item 10) and supporting schedules and explanations have been prepared from the books of account and records of the Contractor in accordance with recognized commercial accounting practices; they include only those charges allocable to the terminated portion of this contract; they have been prepared with knowledge that they will, or may, be used directly or indirectly as the basis of settlement of a termination settlement proposal or claim against an agency of the United States; and the charges as stated are fair and reasonable.</small>					
<small>(b) AS TO THE SUBCONTRACTORS' CHARGES. (1) The Contractor has examined, or caused to be examined, to an extent it considered adequate in the circumstances, the termination settlement proposals of its immediate subcontractors (exclusive of proposals filed against these immediate subcontractors by their subcontractors); (2) The settlements on account of immediate subcontractors own charges are fair and reasonable, the charges are allocable to the terminated portion of this contract, and the settlements were negotiated in good faith and are not more favorable to its immediate subcontractors than those that the Contractor would make if reimbursement by the Government were not involved; (3) The Contractor has received from all its immediate subcontractors appropriate certificates with respect to their termination settlement proposals, which certificates are substantially in the form of this certificate; and (4) The Contractor has no information leading it to doubt (i) the reasonableness of the settlements with more remote subcontractors or (ii) that the charges for them are allocable to this contract. Upon receipt by the Contractor of amounts covering settlements with its immediate subcontractors, the Contractor will pay or credit them promptly with the amounts so received, to the extent that it has not previously done so. The term "subcontractors," as used above, includes suppliers.</small>					
<small>NOTE: The Contractor shall, under conditions stated in FAR 15.403, be required to submit a Certificate of Current Cost or Pricing Data (see FAR 15.406-2 and 15.408 Table 15-2).</small>					
NAME OF CONTRACTOR		BY (Signature of authorized official)			
					
		TITLE		DATE	
NAME OF SUPERVISORY ACCOUNTING OFFICIAL		TITLE			
<small>AUTHORIZED FOR LOCAL REPRODUCTION Previous Edition is NOT Usable</small>				<small>STANDARD FORM 1437 (REV. 9/1997) Prescribed by GSA - FAR (48 CFR) 53.249(a)(4)</small>	

Contract in a Loss Status?

FAR 49.203, Adjustment for loss (on contract being terminated)

Not Impacted by the FAR Overhaul

- TCO shall not allow profit if it appears the contractor would have incurred a loss had the contract been completed
- Examples shown for the calculation using the inventory and total cost methods in DCAA's Contract Audit Manual, Chapter 12, Section 12-308
 - (<https://www.dcaa.mil/Guidance/CAM-Contract-Audit-Manual/>)
- If loss is due to Government changes, then consider an REA?

FAR 49.207, Limitation on settlements

- Amount payable to the contractor before credits and exclusive of settlement costs must not exceed the contract price

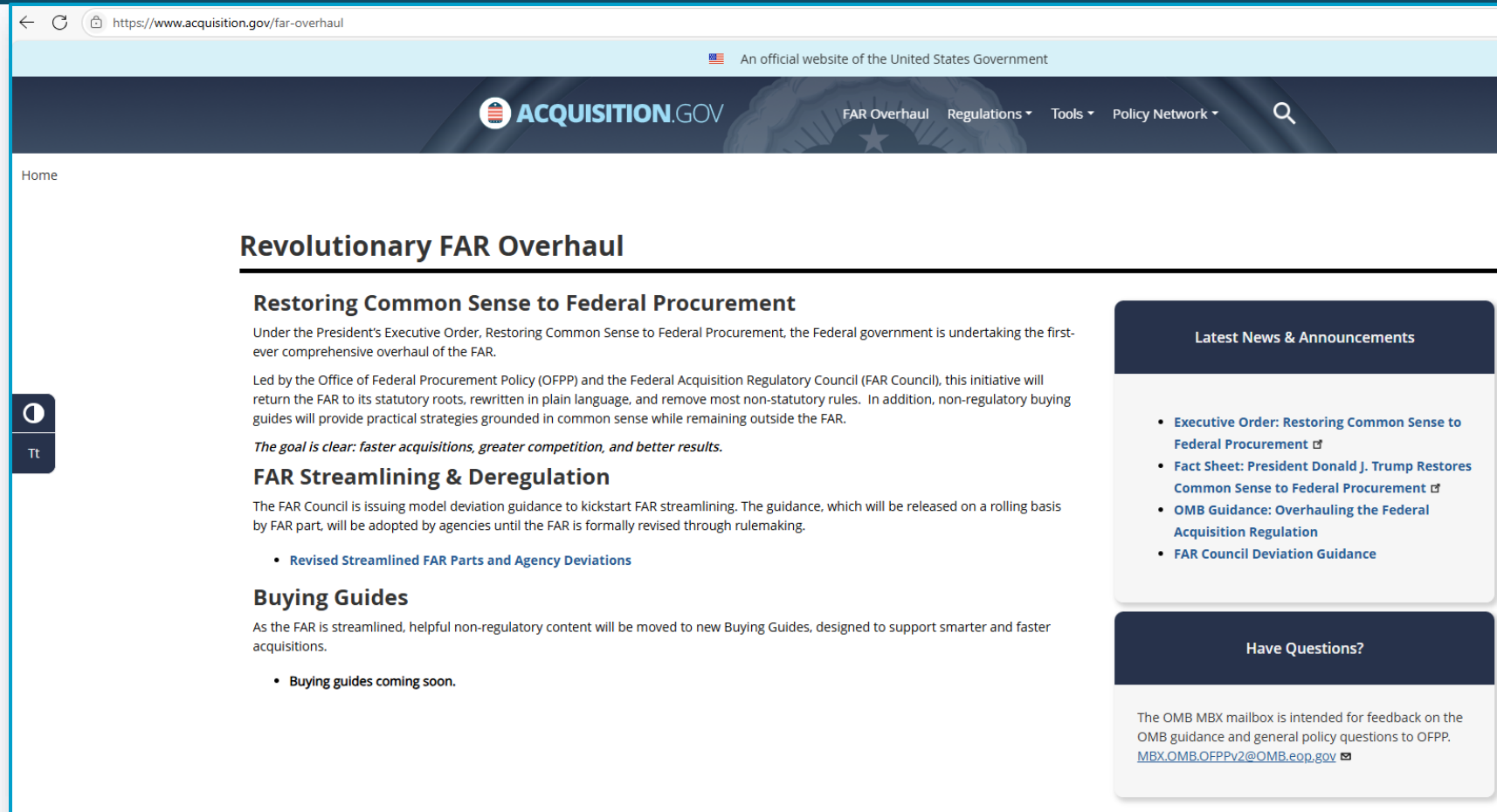
FAR Provisions Used in Contract Terminations (Including Commercial items – FAR Part 12)

Prescribed contract clauses:

- **FAR 52.249** (*Termination – T4C & T4D*) [**Still referenced in FAR Part 49 Overhaul - STILL STATES TO USE FAR PART 31 COST PRINCIPLES**]
 - T4C - FAR 52-249-1 through 52.249-7
 - T4D – FAR 52-249-8 through 52.249-10
- **FAR Part 49** – *Termination of Contracts*
- **FAR Part 31** - *Contract Cost Principles and Procedures*
 - FAR 49.113 identifies that **FAR Part 31** be used in termination settlement proposals [**AT THE TIME OF THE CONTRACT-FAR OVERHAUL DID NTO CHANGE**]
- **FAR 52.243** – (*Changes and uses -1 through -7 depending upon the contract*)
 - Equitable adjustment may be made for contract changes NOT part of original contract scope
- **FAR 52.242-14** – *Suspension of Work*
 - CO may suspend, delay, or interrupt all or part of work for the convenience of the Government
- **FAR 52.242-15** – *Stop-Work Order*
 - Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract
- **FAR 52.212-4** – *Commercial Products and Services* (**FAR Part 12**)
 - FAR 52.212-4 (l) - *Termination for the Government's convenience* [**Not Subject to CAS, FAR Part 31, or Audit**]
 - FAR 52.212-4 (m) - *Termination for cause*
 - FAR 52.212-4 implements FAR 12.403, “Terminations” and **FAR Part 49 does NOT apply**
 - **No specific prescribed form for termination submission to the Government**



Regulation Changes: FAR Overhaul



FAR Overhaul - Contract Terminations

FAR 31.205-42 Termination costs.

~~Contract terminations generally give rise to the incurrence of costs or the need for special treatment of costs that would not have arisen had the contract not been terminated. The following cost principles peculiar to termination situations are to be used in conjunction with the other cost principles in subpart 31.2:~~

Lined-Out since it was “interpreted” that it may allow unallowable costs

FAR 49.113 Cost principles.

~~The cost principles and procedures in the applicable subpart of part 31 shall, subject to the general principles in 49.201, (a) be used in asserting, negotiating, or determining costs relevant to termination settlements under contracts with other than educational institutions, and (b) be a guide for the negotiation of settlements under contracts for experimental, developmental, or research work with educational institutions (but see 31.104).~~

FAR Part 31 requirement lined-out, BUT perhaps not eliminated.

FAR Overhaul - Contract Terminations

FAR 49.108-7 Government assistance in settling subcontracts.

~~In unusual cases the TCO may determine, with the consent of the prime contractor, that it is in the Government's interest to provide assistance to the prime contractor in the settlement of a particular subcontract. In these situations, the Government, the prime contractor, and a subcontractor may enter into an agreement covering the settlement of one or more subcontracts. In these settlements, the subcontractor shall be paid through the prime contractor as part of the overall settlement with the prime contractor.~~

Govt. not going to assist prime contractors with subcontractor settlements

*The following non-regulatory sections and subsection are moving to the **FAR Companion Guide**: 49.108-7 Government assistance in settling subcontracts, **49.113 Cost principles**, and 49.405 Completion by another contractor.*

Sections eliminated from FAR BUT placed into an upcoming FAR Companion Guide

Requests for Equitable Adjustment Under the Changes Clauses

FAR 52.243 Series



- Contractor has a right to a contract adjustment price for changes made by the contracting officer (for example, changes to drawings, specifications, etc.)
- **FAR 49.208, *Equitable adjustment after partial termination***
 - *Request for equitable adjustment (REA) in the price of the continued unterminated fixed-priced portion of the contract*
 - *Contracting officer (CO) may keep this responsibility*
 - *Termination contracting officer (TCO) ensures REA is not included in the termination settlement proposal (double counting)*
- Not uncommon for REAs to be part of a contract termination
- Could be related to costs during suspension of the contract (FAR 52.242-14(c)) or Stop-Work Order (FAR 52.242-15(b))
- Entitlement vs. Quantum resolution

Distinguishing Between Entitlement & Quantum



From DCAA's CAM 12-802.1 (Auditing Delay/ Disruption Requests for Equitable Adjustment (REAs) or Claims)

- Entitlement relates to whether the ***contractor has been impaired by Government action*** and therefore has a right to a monetary adjustment
- Entitlement is a ***legal question***; however, the auditor should provide the requestor with any meaningful observations regarding the contractor's entitlement to recover delay damages
- Entitlement is not incorporated into DCAA audit findings

Distinguishing Between Entitlement & Quantum



From DCAA's CAM 12-802.1 (Auditing Delay/Disruption Requests for Equitable Adjustment (REAs) or Claims)

- **Quantum** is the amount of the monetary adjustment, assuming the contractor's assertion of entitlement is proven valid. The audit effort should be directed toward examining the contractor's *proposed or claimed costs (quantum)* to determine if they are acceptable if the contractor were entitled to recover.
- At a minimum, evaluate:
 - If the **amount** proposed/claimed was incurred or estimated,
 - If the contractor has **source documents** to establish that it incurred the costs
 - If the **costs** submitted have been **correctly allocated** or charged to the contract or REA/claim
 - If the costs submitted are **allowable**, pursuant to FAR 31.205 and the provisions of the contract
 - ***FAR 49.113 identifies that FAR Part 31 be used in termination settlement proposals [subject to FAR Overhaul changes]***

Common Pitfalls in Contract Terminations



[This Photo](#) by Unknown Author is licensed under [CC BY-SA-NC](#)

- Did a contracting officer terminate your contract or was it from another source?
- Do you know what to do?
- What are you documenting?
- Know the potentially **NEW REQUIREMENTS**: Do you understand the FAR regulations, especially FAR Part 31, Cost Principles?
- Do you know what the ***deadlines*** are?
- Do you know what forms to use?
- Are you prepared for audit?

Sources to Help Through Audit Support



Defense Contract Audit Agency (DCAA) Website:

<https://www.dcaa.mil> for overall contract audit guidance.

Termination audit program (see the appropriate one of the 17100 code)

<https://www.dcaa.mil/Guidance/Directory-of-Audit-Programs/>

DCAA's Contract Audit Manual – Chapter 12:

<https://www.dcaa.mil/Guidance/CAM-Contract-Audit-Manual/>

DCAA's Termination Settlement Proposal Adequacy Checklist Tool:

<https://www.dcaa.mil/ChecklistsAndTools/>

Acquisition.GOV – FAR 49.602 for Settlement & Inventory Forms:

https://www.acquisition.gov/far/part-49#FAR_49_602

Redstone Government Consulting, Inc.

<https://redstonegci.com>

See Redstone GCI's Blogs on the *next slide*

Redstone Government Compliance Blogs - Terminations



What Should I Do if My Contract or Grant is Affected by Executive Orders?

This blog goes over the impact of recent Presidential Executive orders.

<https://info.redstonegci.com/blog/what-should-i-do-if-my-contract-or-grant-is-affected-by-executive-orders>

Common Mistakes in Termination Proposals for Government Contracts

This blog goes over understanding the regulations, documentation needed, and knowing what to do. <https://info.redstonegci.com/blog/common-mistakes-in-termination-proposals-for-government-contracts>

What Should I Do Now that the Government Has Terminated My Contract?

*This blog goes over the **forms to be used** (SF 1435 – Inventory Method; SF 1436 – Total Cost Method & associated forms)*

*There is an avenue for termination settlements **when both the government and the contractor may be at an impasse. This is a Contract Disputes Act claim.** A Contract Disputes Act is a claim for money that provides for a written demand by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract.*

<https://info.redstonegci.com/blog/what-should-i-do-now-that-the-government-has-terminated-my-contract>

Takeaways



- Maintain communication!
- Ensure you are obtaining contract direction from a person authorized (Just an email, DOGE, etc. – this should be coming from the CO)
- Termination process may start with a suspension or stop work notice, ***but it does not need to be so; could just jump to termination***
- Know your regulations regarding the termination and what needs to be done
- Ensure that you have a notice of suspension of work, stop work or termination that is ***in writing***
- Attend the termination conference lead by either CO or TCO
- Know and adhere to the deadlines
- Prepare now for your termination settlement proposal: capture costs in separate charge numbers for the termination effort as well as retain source documents
- Audited? DCAA audit (See FAR 49.107(a) – TINA threshold currently \$2M – changing in October 2025)
- Communicate with CO or TCO through negotiations; if a subcontractor, then prime contractor

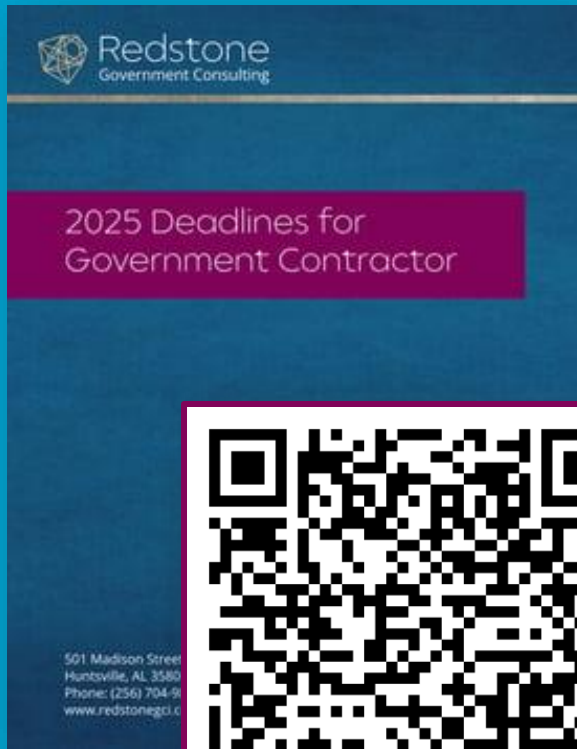
Questions and Discussion



2025 Critical Deadlines for Government Contractors

This guide provides you with all of the essential information and dates you need to know, including:

- Important deadlines for your internal departments
 - Accounting,
 - Human Resources,
 - Contracts & Subcontracts, and
 - Government Compliance
- Contract performance and delivery deadlines
- Deadlines for reporting and compliance requirements
- Deadlines for audits and reviews



DOWNLOAD TODAY





LEARN MORE &
SUBSCRIBE



Redstone
Government Consulting

Expert Insights for GovCon

Get the latest strategies, regulatory updates, and best practices to navigate GovCon compliance challenges, optimize operations, and drive success.

- Government Contracting Trends
- DCAA & DCMA Audit Updates
- FAR & Accounting Compliance
- Contracts & Subcontracts Administration
- HR & Employment Law for Government Contractors
- Project Management & Cost Control
- ERP & Software Best Practices



Redstone
Government Consulting



info@RedstoneGCI.com

www.RedstoneGCI.com

501 Madison Street SE, Ste .100
Huntsville, AL 35801

(256) 704 - 9800