

## 8.406-4 Termination for cause.

(a)

(1) An *ordering activity contracting officer* may terminate individual orders for cause. Termination for cause *shall* comply with FAR 12.403, and *may* include charging the contractor with excess costs resulting from repurchase.

(2) The schedule *contracting office* *shall* be notified of all instances where an *ordering activity contracting officer* has terminated for cause an individual order to a Federal Supply Schedule contractor, or if fraud is suspected.

(b) If the contractor asserts that the failure was excusable, the *ordering activity contracting officer* *shall* follow the procedures at 8.406-6, as appropriate.

(c) If the contractor is charged excess costs, the following apply:

(1) Any repurchase *shall* be made at as low a price as reasonable, considering the quality required by the Government, delivery requirement, and administrative expenses. Copies of all repurchase orders, except the copy furnished to the contractor or any other commercial concern, *shall* include the notation:

Repurchase against the account of \_\_\_\_\_ [*insert contractor's name*] under Order \_\_\_\_\_ [*insert number*] under Contract \_\_\_\_\_ [*insert number*].

(2) When excess costs are anticipated, the *ordering activity* *may* withhold funds due the contractor as offset security. *Ordering activities* *shall* minimize excess costs to be charged against the contractor and collect or set-off any excess costs owed.

(3) If an *ordering activity* is unable to collect excess repurchase costs, it *shall* notify the schedule *contracting office* after final payment to the contractor.

(i) The notice *shall* include the following information about the terminated order:

- (A) Name and address of the contractor.
- (B) Schedule, contract, and order number.
- (C) *Line item number(s)* and a brief description of the item(s).
- (D) Cost of schedule items involved.
- (E) Excess costs to be collected.
- (F) Other pertinent data.

(ii) The notice *shall* also include the following information about the purchase contract:

- (A) Name and address of the contractor.
- (B) Item repurchase cost.

(C) Repurchase order number and date of payment.

(D) Contract number, if any.

(E) Other pertinent data.

(d) Only the schedule *contracting officer* may modify the contract to terminate for cause any, or all, *supplies* or services covered by the schedule contract. If the schedule *contracting officer* has terminated any *supplies* or services covered by the schedule contract, no further orders *may* be placed for those items. Orders placed prior to termination for cause *shall* be fulfilled by the contractor, unless terminated for the convenience of the Government by the *ordering activity contracting officer*.

(e) *Reporting*. An *ordering activity contracting officer*, in accordance with agency procedures, *shall* ensure that information related to termination for cause notices and any amendments are reported. In the event the termination for cause is subsequently converted to a *termination for convenience*, or is otherwise withdrawn, the *contracting officer shall* ensure that a notice of the conversion or withdrawal is reported. All reporting *shall* be in accordance with [42.1503\(h\)](#).

**Parent topic:** [8.406 Ordering activity responsibilities](#).