52.249-5 Termination for Convenience of the Government (Educational and Other Nonprofit Institutions).

As prescribed in 49.502(d), insert the following clause:

Termination for Convenience of the Government (Educational and Other Nonprofit Institutions) (Aug 2016)

(a) 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.

(b) After receipt of a Notice of Termination and except as directed by the *Contracting Officer*, the Contractor *shall* immediately proceed with the following obligations:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the *continued portion of the contract*.

(3) Terminate all applicable subcontracts and cancel or divert applicable commitments covering personal services that extend beyond the *effective date of termination*.

(4) Assign to the Government, as directed by the *Contracting Officer*, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government *shall* have the right to settle or pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the *Contracting Officer*, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; approval or ratification will be final for purposes of this clause.

(6) Transfer title (if not already transferred) and, as directed by the *Contracting Officer*, deliver to the Government any information and items that, if the contract had been completed, would have been required to be furnished, including-

(i) Materials or equipment produced, in process, or acquired for the work terminated; and

(ii) Completed or partially completed plans, drawings, and information.

(7) Complete performance of the work not terminated.

(8) Take any action that *may* be necessary, or that the *Contracting Officer may* direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or *may* acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the *Contracting Officer*, *termination inventory* other than that retained by the Government under paragraph (b)(6) of this clause;

provided, however, that the Contractor (i)is not required to extend credit to any purchaser and (ii) *may* acquire the property under the conditions prescribed by, and at prices approved by, the *Contracting Officer*. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the *Contracting Officer*.

(c) The Contractor *shall* submit complete *termination inventory* schedules no later than 120 days from the *effective date of termination*, unless extended *in writing* by the *Contracting Officer* upon written request of the Contractor within this 120-*day* period.

(d) After termination, the Contractor *shall* submit a final termination settlement proposal to the *Contracting Officer* in the form and with the certification prescribed by the *Contracting Officer*. The Contractor *shall* submit the proposal promptly but no later than 1 year from the *effective date of termination* unless extended *in writing* by the *Contracting Officer* upon written request of the Contractor within this 1-year period. If the Contractor fails to submit the termination settlement proposal within the time allowed, the *Contracting Officer may* determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and *shall* pay the amount determined.

(e) Subject to paragraph (d) of this clause, the Contractor and the *Contracting Officer may* agree upon the whole or any part of the amount to be paid because of the termination. This amount *may* include reasonable cancellation charges incurred by the Contractor and any reasonable loss on outstanding commitments for personal services that the Contractor is unable to cancel; *provided*, that the Contractor exercised reasonable diligence in diverting such commitments to other operations. The contract *shall* be amended and the Contractor paid the agreed amount.

(f) The cost principles and procedures in subpart 31.3 of the Federal *Acquisition* Regulation (FAR), Contracts with Educational Institutions (defined as institutions of higher education in the OMB Uniform Guidance in 2 CFR part 200, subpart A, and 20 U.S.C. 1001), as in effect on the date of the contract, *shall* govern all costs claimed, agreed to, or determined under this clause; however, if the Contractor is not an educational institution and is a nonprofit organization (as defined in the OMB Uniform Guidance at 2 CFR part 200), the cost principles and procedures in subpart 31.7 of the FAR, Contracts with Nonprofit Organizations, *shall* apply; unless the Contractor is a nonprofit institution listed in the OMB Uniform Guidance at 2 CFR part 200, appendix VIII, as exempted from the cost principles in subpart E, in which case the cost principles at FAR 31.2 for commercial organizations *shall* apply to such contractor.

(g) The Government *may*, under the terms and conditions it prescribes, make partial payments against costs incurred by the Contractor for the terminated portion of this contract, if the *Contracting Officer* believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(h) The Contractor has the right of appeal as provided under the Disputes clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) of this clause and failed to request a time extension, there is no right of appeal.

(End of clause)

Parent topic: 52.249 [Reserved]