252.239-7007 Cancellation or Termination of Orders.

As prescribed in 239.7411 (a), use the following clause:

CANCELLATION OR TERMINATION OF ORDERS (SEP 2019)

(a) *Definitions*.

“Actual nonrecoverable costs” means the installed costs of the facilities and equipment, less cost of reusable materials, and less net salvage value.

“Basic cancellation liability” means the actual nonrecoverable cost, which the Government shall reimburse the Contractor at the time services are cancelled.

“Basic termination liability” means the nonrecoverable cost amortized in equal monthly increments throughout the liability period.

“Installed costs” means the actual cost of equipment and materials specifically provided or used, plus the actual cost of installing (including engineering, labor, supervision, transportation, rights-of-way, and any other items which are chargeable to the capital accounts of the Contractor), less any costs the government may have directly reimbursed the Contractor under the Special Construction and Equipment Charges clause of this agreement/contract.

“Net salvage value” means the salvage value less the cost of removal.

(b) If the Government cancels any of the services ordered under this agreement/contract, before the services are made available to the Government, or terminates any of these services after they are made available to the Government, the Government will reimburse the Contractor for the actual nonrecoverable costs the Contractor has reasonably incurred in providing facilities and equipment for which the Contractor has no foreseeable reuse. The Government will not reimburse the Contractor for any actual nonrecoverable costs incurred after notice of award, but prior to execution of the order.

(c) When feasible, the Contractor shall reuse cancelled or terminated facilities or equipment to minimize the charges to the Government.

(d) If at any time the Government requires that telecommunications facilities or equipment be relocated within the Contractor's service area, the Government will have the option of paying the costs of relocating the facilities or equipment in lieu of paying any termination or cancellation charge under this clause. The basic cancellation liability or basic termination liability applicable to the facilities or equipment in their former location shall continue to apply to the facilities and equipment in their new location. Monthly recurring charges shall continue to be paid during the period.

(e) When there is another requirement or foreseeable reuse in place of cancelled or terminated facilities or equipment, no charge shall apply and the basic cancellation liability or basic termination liability shall be appropriately reduced. When feasible, the Contractor shall promptly reuse discontinued channels or facilities, including equipment for which the Government is obligated to pay a minimum service charge.

(f) The amount of the Government's liability upon cancellation or termination of any of the services ordered under this agreement/contract will be determined under applicable tariffs governing cancellation and termination charges which—

(1) Are filed by the Contractor with a governmental regulatory body, as defined in the Rates, Charges, and Services clause of this agreement/contract;

(2) Are in effect on the date of termination; and

(3) Provide specific cancellation or termination charges for the facilities and equipment involved or show how to determine the charges.

(g) The amount of the Government's liability upon cancellation or termination of any of the services ordered under this agreement/contract, which are not subject to a governmental regulatory body, will be determined under a mutually agreed schedule in the communication services authorization (CSA) or other contractual document.

(h) If no applicable tariffs are in effect on the date of cancellation or termination or set forth in the applicable CSA or other contractual document, the Government's liability will be determined under the following settlement procedures—

(1) The Contractor agrees to provide the Contracting Officer, in such reasonable detail as the Contracting Officer may require, inventory schedules covering all items of property or facilities in the Contractor's possession, the cost of which is included in the Basic Cancellation or Termination Liability for which the Contractor has no foreseeable reuse.

(2) The Contractor shall use its best efforts to sell property or facilities when the Contractor has no foreseeable reuse or when the Government has not exercised its option to take title under the Title to Telecommunications Facilities and Equipment clause of this agreement/contract. The Contractor shall apply any proceeds of the sale to reduce any payments by the Government to the Contractor under a cancellation or termination settlement.

(3) The Contractor shall record actual nonrecoverable costs under established accounting procedures prescribed by the cognizant governmental regulatory authority or, if no such procedures have been prescribed, under generally accepted accounting procedures applicable to the provision of telecommunication services for public use.

(4) The net salvage value shall be deducted from the Contractor’s installed cost. In determining net salvage value, the Contractor shall consider the foreseeable reuse of the facilities and equipment by the Contractor. The Contractor shall make allowance for the cost of dismantling, removal, reconditioning, and disposal of the facilities and equipment when necessary either for the sale of facilities or their reuse by the Contractor in another location.

(5) Upon termination of services, the Government will reimburse the Contractor for the nonrecoverable cost less such costs amortized to the date services are terminated and establish the liability period as mutually agreed to but not to exceed ten years. In the case of either a cancellation or a termination, the Government’s presumed maximum liability will be capped by the unpaid non-recurring charges and the monthly recurring charges set out in the contract/agreement. The presumed maximum liability for monthly recurring charges shall be capped at monthly recurring charges for the minimum service period and any required notice period.

(6) When the basic cancellation liability or basic termination liability established by the CSA or other contractual document is based on estimated costs, the Contractor agrees to settle on the basis of

actual cost at the time of cancellation or termination.

(7) The Contractor agrees that, if after settlement but within the termination liability period of the services, should the Contractor make reuse of equipment or facilities which were treated as nonreusable or nonsalvable in the settlement, the Contractor shall reimburse the Government for the value of the equipment or facilities.

(8) The Contractor agrees to exclude—

(i) Any costs which are not included in determining cancellation and termination charges under the Contractor's standard practices or procedures; and

(ii) Charges not ordinarily made by the Contractor for similar facilities or equipment, furnished under similar circumstances.

(i) The Government may, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the cancelled or terminated portion of this agreement/contract. The Government may make these payments if the Contracting Officer determines that the total of the payments is within the amount the Contractor is entitled. If the total of the payments is in excess of the amount finally agreed or determined to be due under this clause, the Contractor shall pay the excess to the Government upon demand.

(j) Failure to agree shall be a dispute concerning a question of fact within the meaning of the Disputes clause.

(End of clause)

Parent topic: 252.239 RESERVED