Subpart 649.1—General Principles

Parent topic: PART 649—TERMINATION OF CONTRACTS

649.101 Authorities and responsibilities.

649.101-70 Termination action decisions after debarment.

(a) Prior to making a decision to terminate, based on the consideration listed below, the contracting officer shall have the proposed action reviewed and approved by:

(1) The Office of the Legal Adviser;

(2) An individual one level above the contracting officer; and

(3) For overseas posts, A/OPE.

(b) *Termination for default.* Termination for default under a contract's default clause is appropriate when the circumstances giving rise to the debarment or suspension also constitute a default in the contractor's performance of that contract. Debarment or suspension of the contractor for reasons unrelated to the performance of that contract may not support a termination for default.

(c) *Termination for convenience or cancellation.* Termination for convenience or cancellation under appropriate contract clauses should be considered when the contractor presents a significant risk to the Government in completing a current contract and when such termination for convenience or cancellation is determined to be in the Government's best interests. In making this determination, the contracting officer should consider such factors as the—

(1) Seriousness of the cause for debarment or suspension;

(2) Extent of contract performance;

(3) Potential costs to the Government;

(4) Urgency of the requirement and the impact of the delay; and/or

(5) Availability of other safeguards to protect the Government's interests.

649.106 Fraud or other criminal conduct.

If the Contracting Officer (CO) suspects fraud or other criminal conduct related to the settlement of a terminated contract, the CO shall discontinue negotiations and report the facts to the Office of the Inspector General.

649.111 Review of proposed settlements.

All proposed termination settlements shall be reviewed and approved by the Office of the Legal Adviser for legal sufficiency. In addition,

(a) All proposed termination settlements from domestic contracting activities shall be approved by the head of the contracting activity, with the exception of termination settlements on simplified acquisitions and no-cost termination settlements; and,

(b) All proposed termination settlements from overseas contracting activities shall be approved by the Procurement Executive.