PART 5849 - TERMINATION OF CONTRACTS

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SUBPART 5849.1 – GENERAL PRINCIPLES

5849.101 Authorities and Responsibilities

5849.102 Notice of Termination

5849.107 Audit of Prime Contract Settlement Proposals and Subcontract Settlements

5849.108-8 Assignment of Rights Under Subcontracts

5849.109-1 General

SUBPART 5849.2 – ADDITIONAL PRINCIPLES FOR FIXED-PRICE CONTRACTS TERMINATED FOR CONVENIENCE

5849.202 Profit

5849.206-1 Submission of Settlement Proposals

SUBPART 5849.3 – ADDITIONAL PRINCIPLES FOR COST-REIMBURSEMENT CONTRACTS TERMINATED FOR CONVENIENCE

5849.303-4 Adjustment of Indirect Costs

5849.303-5 Final Settlement

5849.305-1 General

SUBPART 5849.4 – TERMINATION FOR DEFAULT

5849.402-3 Procedure for Default

SUBPART 5849.70 – SPECIAL TERMINATION REQUIREMENTS

5849.7001 Congressional Notification on Significant Contract Terminations

SUBPART 5849.1 – GENERAL PRINCIPLES

5849.101 Authorities and Responsibilities

(a) A contracting officer (KO) may terminate contracts for convenience or default to the extent of the authority provided on the Contracting Officer's Certificate of Appointment (SF 1402). All proposed terminations shall be coordinated through legal counsel, the respective Chief of the Contracting Office (CoCO), and the Head of the Contracting Office (HCO). The proposed termination shall be coordinated with the DISA Office of Small Business Programs (OSBP) if the contractor is a small

business. Termination letter templates are located at DARS PGI 5849.101.

5849.102 Notice of Termination

(d) A contracting officer may reinstate a contract only after a Determination and Findings (D&F) has been approved by the cognizant HCO. The D&F must set forth the reasons why the contract was terminated and why it should now be reinstated. The D&F must be coordinated with legal counsel.

5849.107 Audit of Prime Contract Settlement Proposals and Subcontract Settlements

(a) The contracting officer shall ensure that each prime contract settlement proposal is reviewed by a DITCO Cost/Price Analyst for the purpose of evaluating the reasonableness prior to negotiating the final settlement. The Cost/Price Analyst will assist the KO in the development of a settlement negotiation position, as necessary

(c) Requests to an Audit agency to perform an accounting review will be prepared by the Cost/Price Analyst, for signature by the KO. An audit request is not required for commercial item contracts awarded under Part 12 procedures, in accordance with FAR 49.002(a)(2). See FAR subpart 12.403 for termination policies for commercial item contracts.

5849.108-8 Assignment of Rights Under Subcontracts

(a) The KO shall submit a D&F recommending the assignment to the HCO for approval. The D&F shall be coordinated with a DITCO Cost/Price Analyst and legal counsel.

(b) The KO shall not finalize any settlement proposal arising out of the termination of subcontracts until the D&F is approved by the HCO. A D&F shall be coordinated with a DITCO Cost/Price Analyst and legal counsel.

5849.109-1 General

(S-90) The settlement agreement and SF30 shall be coordinated with the Cost/Price Analyst, legal counsel, and the HCO.

SUBPART 5849.2 – ADDITIONAL PRINCIPLES FOR FIXED-PRICE CONTRACTS TERMINATED FOR CONVENIENCE

5849.202 Profit

(a) The KO shall coordinate the Government's proposed profit position with a DITCO Cost/Price Analyst to ensure that it is fair and reasonable.

5849.206-1 Submission of Settlement Proposals

(c) The KO shall provide the contractor instructions regarding how to submit a settlement proposal, including which forms are to be used as related to FAR 49.206-2. The KO shall coordinate these instructions with a DITCO Cost/Price Analyst before forwarding to the contractor.

SUBPART 5849.3 – ADDITIONAL PRINCIPLES FOR COST-REIMBURSEMENT CONTRACTS TERMINATED FOR CONVENIENCE

5849.303-4 Adjustment of Indirect Costs

(a) The KO shall coordinate with a DITCO Cost/Price Analyst and the audit agency before determining whether or not to negotiate indirect costs into the settlement.

5849.303-5 Final Settlement

(a) The settlement agreement shall be approved by the cognizant HCO. It shall be coordinated with a DITCO Cost/Price Analyst and legal counsel.

5849.305-1 General

(a) The KO shall coordinate adjustments in fee with the Cost/Price Analyst.

SUBPART 5849.4 – TERMINATION FOR DEFAULT

5849.402-3 Procedure for Default

(d) Cure notices shall be coordinated with legal counsel, the CoCO, and HCO. Cure notices involving a small business shall also be coordinated with the DISA OSBP.

(e)(1) Show cause notices shall be coordinated with legal counsel, the CoCO, and HCO. Show cause notices involving a small business shall also be coordinated with the OSBP.

SUBPART 5849.70 – SPECIAL TERMINATION REQUIREMENTS

5849.7001 Congressional Notification on Significant Contract Terminations

The contracting officer shall obtain coordination from legal counsel, the CoCO, the HCO, the OSBP (if the action involves a small business), and approval from the HCA prior to the release of any termination notice under this section.