

42.801 Notice of intent to disallow costs.

(a) At any time during the performance of a contract of a type referred to in [42.802](#), the cognizant *contracting officer* responsible for administering the contract *may* issue the contractor a written notice of intent to disallow specified costs incurred or planned for incurrence. However, before issuing the notice, the *contracting officer* responsible for administering the contract *shall* make every reasonable effort to reach a satisfactory settlement through discussions with the contractor.

(b) A notice of intent to disallow such costs usually results from monitoring contractor costs. The purpose of the notice is to notify the contractor as early as practicable during contract performance that the cost is considered unallowable under the contract terms and to provide for timely resolution of any resulting disagreement. In the event of disagreement, the contractor *may* submit to the *contracting officer* a written response. Any such response *shall* be answered by withdrawal of the notice or by making a written decision within 60 days.

(c) As a minimum, the notice *shall*-

- (1) Refer to the contract's Notice of Intent to Disallow Costs clause;
- (2) State the contractor's name and list the numbers of the affected contracts;
- (3) Describe the costs to be disallowed, including estimated dollar value by item and applicable time periods, and state the reasons for the intended disallowance;
- (4) Describe the potential impact on billing rates and *forward pricing rate agreements*;
- (5) State the notice's effective date and the date by which written response *must* be received;
- (6) List the recipients of copies of the notice; and
- (7) Request the contractor to acknowledge receipt of the notice.

(d) The *contracting officer* issuing the notice *shall* furnish copies to all *contracting officers* cognizant of any *segment* of the contractor's organization.

(e) If the notice involves elements of *indirect cost*, it *shall* not be issued without coordination with the *contracting officer* or auditor having authority for final *indirect cost* settlement (see [42.705](#)).

(f) In the event the contractor submits a response that disagrees with the notice (see paragraph (b) of this section), the *contracting officer* who issued the notice *shall* either withdraw the notice or issue the written decision, except when elements of *indirect cost* are involved, in which case the *contracting officer* responsible under [42.705](#) for determining *final indirect cost rates* *shall* issue the decision.

Parent topic: [Subpart 42.8 - Disallowance of Costs](#)