# 49.108-3 Settlement procedure.

(a) Contractors *shall* settle with subcontractors in general conformity with the policies and principles relating to settlement of prime contracts in this subpart and subparts  49.2 or 49.3. However, the basis and form of the subcontractor's *settlement proposal must* be acceptable to the prime contractor or the next higher tier subcontractor. Each settlement *must* be supported by accounting data and other information sufficient for adequate review by the Government. In no event will the Government pay the prime contractor any amount for loss of anticipatory profits or consequential damages resulting from the termination of any subcontract (but see 49.108-5).

(b) Except as provided in 49.108-4, the TCO *shall* require that-

(1) All subcontractor *termination inventory* be disposed of and accounted for in accordance with the procedures contained in paragraph (j) of the clause at 52.245-1, Government Property; and

(2) The prime contractor submit, for approval or ratification, all termination settlements with subcontractors.

(c) The TCO *shall* promptly examine each subcontract settlement received to determine that the subcontract termination was made necessary by the termination of the prime contract (or by issuance of a *change order*-see 49.002(b)). The TCO will also determine if the settlement was arrived at in good faith, is reasonable in amount, and is allocable to the *terminated portion of the contract* (or, if allocable only in part, that the proposed allocation is reasonable). In considering the reasonableness of any subcontract settlement, the TCO *shall* generally be guided by the provisions of this part relating to the settlement of prime contracts, and *shall* comply with any applicable requirements of 49.107 and 49.111 relating to accounting and other reviews. After the examination, the TCO *shall* notify the contractor *in writing* of-

(1) Approval or ratification, or

(2) The reasons for disapproval.

**Parent topic:** 49.108 Settlement of subcontract settlement proposals.