PART 49 -- TERMINATION OF CONTRACTS

SUBPART 49.1 — GENERAL PRINCIPLES

49.101 Authorities and responsibilities.

49.102 Notice of termination.

49.107 Audit of prime contract settlement proposals and subcontract settlements.

49.108 Settlement of subcontract settlement proposals.

49.108-8 Assignment of rights under subcontracts.

49.109 Settlement agreements.

49.109-1 General.

SUBPART 49.2 — ADDITIONAL PRINCIPLES FOR FIXED–PRICE CONTRACTS TERMINATED FOR CONVENIENCE

49.202 Profit.

49.206 Settlement proposals.

49.206-1 Submission of settlement proposals.

SUBPART 49.3 — ADDITIONAL PRINCIPLES FOR COST–REIMBURSEMENT CONTRACTS TERMINATED FOR CONVENIENCE

49.303 Procedure after discontinuing vouchers.

49.303-4 Adjustment of indirect costs.

49.303-5 Final settlement.

49.305 Adjustment of fee.

49.305-1 General.

SUBPART 49.4 — TERMINATION FOR DEFAULT

49.402 Termination of Fixed–Price Contracts for Default.

49.402-3 Procedure for default.

SUBPART 249.70 — SPECIAL TERMINATION REQUIREMENTS

249.7001 Congressional notification on significant contract terminations.

SUBPART 49.1 — GENERAL PRINCIPLES

49.101 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 49.101.

49.102 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.

49.107 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.

49.108 Settlement of subcontract settlement proposals.

49.108-8 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.

49.109 Settlement agreements.

49.109-1 General.

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

SUBPART 49.2 — ADDITIONAL PRINCIPLES FOR FIXED–PRICE CONTRACTS TERMINATED FOR CONVENIENCE

49.202 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.

49.206 Settlement proposals.

49.206-1 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 49.3 — ADDITIONAL PRINCIPLES FOR COST–REIMBURSEMENT CONTRACTS TERMINATED FOR CONVENIENCE

49.303 Procedure after discontinuing vouchers.

49.303-4 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.

49.303-5 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.

49.305 Adjustment of fee.

49.305-1 General.

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

SUBPART 49.4 — TERMINATION FOR DEFAULT

49.402 Termination of Fixed–Price Contracts for Default.

49.402-3 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 249.70 — SPECIAL TERMINATION REQUIREMENTS

249.7001 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.