

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 1342—CONTRACT ADMINISTRATION

AUTHORITY: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

Subpart 1342.1—Interagency Contract Administration and Audit Services

1342.102-70 Post award audit reviews.

(a) Generally, the final invoice shall not be approved until a close-out audit has been performed and all outstanding issues have been negotiated or resolved on the following types of contracts of \$100,000 and above:

- (1) Cost-reimbursement type contracts;
- (2) The cost-reimbursement portion of fixed-price contracts;
- (3) Letter contracts which provide for reimbursement of costs;
- (4) Time and materials contracts; and
- (5) Labor-hour contracts.

(b) Even though the \$100,000 postaward audit threshold generally applies, an audit may be requested regardless of the dollar amount when the contracting officer determines that an audit is justified under one of the following circumstances:

- (1) There is some evidence of fraud or waste;
- (2) The contractor's performance under the contract has been questionable;
- (3) The contractor had a high incidence of unallowable costs under a previous contract;
- (4) The contract is with a newly established firm, or a firm which has just begun dealing with the Government.

[49 FR 12965, Mar. 30, 1984; as amended at 60 FR 47310, Sept. 12, 1995]

PART 1345 [RESERVED]

PART 1349—TERMINATION OF CONTRACTS

Sec.
1349.001 Definitions.

Subpart 1349.4—Termination for Default

1349.402-7 Other damages.

AUTHORITY: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Sec'y of Commerce in Dept. Org. Order 10-5 and Dept. Adm. Order 208-2.

1349.001 Definitions.

(a) *Administrative costs*, as used in this part, means those costs other than excess costs, incurred by the Government as a result of the contractor's default. Administrative costs include but are not limited to:

- (1) Salaries and fringe benefits paid to Government employees who are assigned to a work activity (e.g., reprocurement activities) as a result of the default;
- (2) Preaward survey expenses incurred in qualifying reprocurement contractors; and
- (3) Costs incurred in printing and distributing the reprocurement solicitation.

(b) *Excess costs*, as used in this part, means any costs, other than administrative costs, incurred by the Government in reprocurring similar supplies or services or performing similar services as a result of the contractor's default.

[51 FR 15332, Apr. 23, 1986]

Subpart 1349.4—Termination for Default

1349.402-7 Other damages.

(a) The contracting officer may recover administrative costs under the default clause when it is in the best interest of the Government. A contracting officer's decision to recover administrative costs must balance the expected cost to the Government of documenting and supporting the assessment with the expected recovery amount.

(b) Documents used to support an assessment of administrative costs must clearly demonstrate that the added costs incurred by the Government were a direct result of the default.

(1) To support administrative labor costs, the contracting officer should keep a record of:

(i) Name, position, and organization of each employee performing work activities as a consequence of the default;

(ii) Dates of work and time spent by each employee on the repurchase;

(iii) Specific tasks performed (e.g., solicitation preparation, clerical);

(iv) Hourly rates of pay (straight time or overtime); and

(v) Applicable fringe benefits.

(2) Travel vouchers, invoices, printing requisitions, and other appropriate evidence of expenditures may be used to support other administrative costs (e.g., travel, per diem, printing and distribution of the repurchase contract).

(c) If assessment of administrative costs is considered appropriate after review by the AGC, the contracting officer shall make a written demand on the contractor for administrative costs. The written demand shall describe the basis for the assessment and the cost computations. The same demand letter may be used to assess administrative costs and any excess costs. If the contractor fails to make payment after receiving a contracting officer's final decision, the contracting officer shall follow the procedures in subpart 1332.6 and FAR Subpart 32.6 to collect the amount owed the Government.

(d) The recovery of excess or administrative costs does not preclude the Government from exercising other rights or remedies which it may have by law or under the terminated contract.

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