

48.102 Policies.

(a) As required by Section 36 of the Office of Federal Procurement Policy Act (41 U.S.C. 401, *et seq.*), agencies shall establish and maintain cost-effective value engineering procedures and processes. * * *

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DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 49 and 52**

[FAC 90-40; FAR Case 94-003; Item XV]

RIN 9000-AG13

**Federal Acquisition Regulation;
Termination Inventory Schedules**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) concerning termination of contracts to preclude excessive delays in processing terminations for the convenience of the Government. The amendments will require contractors to prepare and submit termination inventory schedules within 120 days from the effective date of termination, unless otherwise extended by the Termination Contracting Officer (TCO). This will enable the TCO to initiate early inventory screening and final disposition, thereby substantially reducing the time required to achieve termination settlement. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: September 24, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-40, FAR case 94-003.

SUPPLEMENTARY INFORMATION:**A. Background**

When inventory schedules required for contracts terminated for the convenience of the Government are not submitted in a timely manner by the terminated contractor(s), unnecessary delays are experienced both in effecting redistribution and disposal of the termination inventory and in reaching final settlement of those contracts.

In an attempt to preclude excessive delays in processing terminations for the convenience of the Government, a proposed rule was published in the Federal Register at 59 FR 61734, December 1, 1994, with a request for comment. As a result of the comments received under the proposed rule, the following changes to the final rule have been made:

- The reference to “provisions” in the first sentence of both FAR 49.206-3 and 49.303-2 has been revised to read “terms”;
- The word “must” in the last sentence of FAR 49.206-3 and 49.303-2 is changed to read “shall”;
- The events described in the clauses at 52.249-2 (c) and (d), 52.249-3 (c) and (d), 52.249-6 (d) and (e), and 52.249-11 (c) and (d) have been reversed to reflect the order in which the events occur; and
- Several references have been updated.

B. Regulatory Flexibility Act

A Final Regulatory Flexibility Analysis (FRFA) has been prepared and will be provided to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the FRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subparts will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601 *et seq.* (FAC 90-40, FAR Case 94-003), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* Submission of termination inventory schedules is an existing requirement; this rule merely changes the timing for submission of those schedules.

List of Subjects in 48 CFR Parts 49 and 52

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 49 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 49 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

**PART 49—TERMINATION OF
CONTRACTS****49.105 [Amended]**

2. Section 49.105(c)(13) is amended by adding “(see 49.206-3 and 49.303-2)” to the end of the sentence.

3. Section 49.206-3 is added to read as follows:

**49.206-3 Submission of inventory
schedules.**

Subject to the terms of the termination clause and whenever termination inventory is involved, the contractor shall submit complete inventory schedules, to the TCO, reflecting inventory that is allocable to the terminated portion of the contract. The inventory schedules shall be submitted within 120 days from the effective date of termination unless otherwise extended by the TCO based on a written justification to support the extension. The inventory schedules shall be prepared on the forms prescribed in 49.602-2 and in accordance with 45.606-5.

**49.303-2, 49.303-3, 49.303-4
[Redesignated as 49.303-3 through 49.303-5].**

4. Sections 49.303-2, 49.303-3, and 49.303-4 are redesignated as 49.303-3, 49.303-4, and 49.303-5, respectively, and a new 49.303-2 is added to read as follows:

**49.303-2 Submission of inventory
schedules.**

Subject to the terms of the termination clause and whenever termination inventory is involved, the contractor shall submit complete inventory schedules, to the TCO, reflecting inventory that is allocable to the terminated portion of the contract. The inventory schedules shall be submitted within 120 days from the effective date of termination unless otherwise extended by the TCO based on a written justification to support the extension. The inventory schedules shall be prepared on the forms prescribed in

49.602-2 and in accordance with 45.606-5.

49.403 [Amended]

5. Section 49.403 is amended in paragraph (b)(1) by removing "(g)(3)" and inserting "(h)(3)"; and in paragraph (b)(2) by removing "(g)(4)" and inserting "(h)(4)".

49.502 [Amended]

6. Section 49.502 is amended in paragraph (e)(1) by removing "paragraph (c)" and inserting "paragraph (d)"; and in paragraph (e)(2) by removing "paragraph (g)" and inserting "paragraph (h)".

49.503 [Amended]

7. Section 49.503 is amended in paragraph (c) by removing "paragraphs

(d), (i), and (m)" and inserting "paragraphs (e), (j), and (n)".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 52.249-2 is amended by revising the introductory text and clause date; by redesignating paragraphs (c) through (m) as (d) through (n), respectively, and adding a new (c); and by redesignating paragraph (f) of Alternates I and III as (g), to read as follows:

52.249-2 Termination for Convenience of the Government (Fixed-Price).

As prescribed in 49.502(b)(1)(i), insert the following clause:

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SEP 1996)

* * * * *

(c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

* * * * *

52.249-2 [Amended]

5b. In addition to the amendments set forth above, 52.249-2 is amended in the newly designated paragraphs by revising internal references to read as follows:

Paragraph	Remove	Insert
(b)(9), 1st sentence	"subparagraph (6) above"	"subparagraph (b)(6) of this clause"
(f), 1st sentence	"paragraph (d)"	"paragraph (e)"
(f), 3rd sentence	"paragraph (e) or paragraph (f)"	"paragraph (f) or paragraph (g)"
	"subparagraph (f)(3)"	"subparagraph (g)(3)"
(f), last sentence	"Paragraph (f)"	"Paragraph (g)"
(g), introductory text	"paragraph (e) above"	"paragraph (f) of this clause"
(g)(1)	"subparagraph (b)(9) above"	"subparagraph (b)(9) of this clause"
(g)(2)(i)	"subparagraph (f)(1) above"	"subparagraph (g)(1) of this clause"
(g)(2) (ii) and (iii)	"subdivision (i) above"	"subdivision (g)(2)(i) of this clause"
(h)	"paragraph (f) above"	"paragraph (g) of this clause"
(j)	"paragraph (d), (f), or (k)"	"paragraph (e), (g), or (i)"
	"paragraph (d) or (k)"	"paragraph (e) or (i)"
Alternate I heading and introductory text	"(APR 1984)" "paragraph (f) for paragraph (f)"	"(SEP 1996)" "paragraph (g) for paragraph (g)"
Alternate I	Paragraph "(f)" designation	Paragraph "(g)" designation
Alternate I, (g) introductory paragraph	"paragraph (e) above"	"paragraph (f) of this clause"
Alternate I, (g)(1)(ii)	"subdivision (i) above"	"subdivision (g)(1)(i) of this clause"
Alternate I, (g)(1)(iii)	"(i) above"	"subdivision (g)(1)(i) of this clause"
Alternate II	"(APR 1984)"	"(SEP 1996)"
Alternate II	"subparagraph (l)(2)"	"subparagraph (m)(2)"
Alternate III heading	"(APR 1984)"	"(SEP 1996)"
Alternate III introductory text	"(f) for paragraph (f)"	"(g) for paragraph (g)"
	"Subparagraph (l)(2)"	"Subparagraph (m)(2)"
Alternate III	Paragraph "(f)" designation	Paragraph "(g)" designation
Paragraph (g) of Alternate III	"Paragraph (e) above"	"Paragraph (f) of this clause"
Alternate III, (g)(1)(ii)	"subdivision (i) above"	"subdivision (g)(1)(i) of this clause"
Alternate III, (g)(1)(iii)	"(i) above"	"subdivision (g)(1)(i) of this clause"

6. Section 52.249-3 is amended by revising the introductory text and clause date; redesignating paragraphs (c) through (m) as (d) through (n), respectively, and adding a new paragraph (c) to read as follows:

52.249-3 Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements).

As prescribed in 49.502(b)(2), insert the following clause:

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (DISMANTLING, DEMOLITION, OR REMOVAL OF IMPROVEMENTS) (SEP 1996)

* * * * *

(c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

* * * * *

52.249-3 [Amended]

6b. In addition to the amendments set forth above, 52.249-3 is further amended in the newly designated paragraphs by revising internal references to read as follows:

Paragraph	Remove	Insert
(b)(9), 1st sentence	"subparagraph (6) above"	"subparagraph (b)(6) of this clause"
(f), 1st sentence	"paragraph (d) above"	"paragraph (e) of this clause"
(f), 3rd sentence	"paragraph (e) or paragraph (f) below"	"paragraph (f) or paragraph (g) of this clause"
(f), last sentence	"Paragraph (f) below"	"Paragraph (g) of this clause"
(g), introductory text	"paragraph (e) above"	"paragraph (f) of this clause"

Paragraph	Remove	Insert
(g)(1)(ii)	"subdivision (i) above"	"subdivision (g)(1)(i) of this clause"
(g)(1)(iii)	"subdivision (i) above"	"subdivision (g)(1)(i) of this clause"
(g)(2)(iii)	"subparagraph (b)(8) above"	"subparagraph (b)(8) of this clause"
(h)	"paragraph (f) above"	"paragraph (g) of this clause"
(j)	"paragraph (d), (f), or (k)" both times it appears.	"paragraph (e), (g), or (l) of this clause"
	"paragraph (d) or (k)"	"paragraph (e) or (l)"
Alternate I	"(APR 1984)"	"(SEP 1996)"
	"subparagraph (1)(2)"	"subparagraph (m)(2)"

7. Section 52.249-5 is amended by revising the introductory text and clause date; redesignating paragraphs (c) through (g) as (d) through (h), respectively, and adding a new paragraph (c) to read as follows:

52.249-5 Termination for Convenience of the Government (Educational and Other Nonprofit Institutions).

As prescribed in 49.502(d), insert the following clause:

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (EDUCATIONAL AND OTHER NONPROFIT INSTITUTIONS) (SEP 1996)

* * * * *

(c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

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52.249-5 [Amended]

7b. In addition to the amendments set forth above, 52.249-5 is further amended in the newly designated paragraphs by revising internal references to read as follows:

Paragraph	Remove	Insert
(b)(9)	"subparagraph (6) above"	"subparagraph (b)(6) of this clause"
(e)	"paragraph (c) above"	"paragraph (d) of this clause"
(h)	"paragraph (c)"	"paragraph (d) of this clause"

8. Section 52.249-6 is amended in the clause by revising the clause date; redesignating paragraphs (d) through (m) as (e) through (n), respectively; by adding a new paragraph (d); by redesignating paragraph (g) of Alternates (IV) and (V) as paragraph (h) to read as follows:

52.249-6 Termination (Cost-Reimbursement).

* * * * *

TERMINATION (COST-REIMBURSEMENT) (SEP 1996)

* * * * *

(d) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by

the Contracting Officer upon written request of the Contractor within this 120-day period.

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52.249-6 [Amended]

8b. In addition to the amendments set forth above, 52.249-6 is further amended in the newly designated paragraphs by revising internal references to read as follows:

Paragraph	Remove	Insert
(c)(9)	"subparagraph (6) above"	"subparagraph (c)(6) of this clause"
(g)	"paragraph (e) above"	"paragraph (f) of this clause"
(h)(2)	"subparagraph (1) above"	"subparagraph (h)(1) of this clause"
(h)(5)	"subparagraph (g)(4) above"	"subparagraph (h)(4) of this clause"
(j), 1st sentence	"paragraph (e) or (g) above or paragraph (k) below".	"paragraph (f), (h), or (l) of this clause"
	"paragraph (e)"	"paragraph (f)"
(j), 2nd sentence	"paragraph (e), (g), or (k)"	"paragraph (f), (h), or (l) of this clause"
Alternate I	"(APR 1984)" "(g)(4) for subparagraph (g)(4)"	"(SEP 1996)" "(h)(4) for subparagraph (h)(4)"
Alternate II	"(APR 1984)" "subparagraph (1)(2)"	"(SEP 1996)" "subparagraph (m)(2)"
Alternate III, introductory heading and text	"(APR 1984)"	"(SEP 1996)"
	"(g)(4) shall be substituted for subparagraph (g)(4)".	"(h)(4) shall be substituted for subparagraph (h)(4)"
Alternate IV introductory heading and text	"Subparagraph (1)(2)"	"Subparagraph (m)(2)"
	"(APR 1984)"	"(SEP 1996)"
	"(g) and (k) for paragraphs (g) and (k)"	"(h) and (l) for paragraphs (h) and (l)"
Alternate IV	Paragraph "(g)" designation	Paragraph "(h)" designation
Alternate IV, (h)(1)(iv)	"(g)(1)(i)"	"subdivision (h)(1)(i)"
Alternate (IV), (h)(2) introductory text	"(g)(1)"	"subparagraph (h)(1)"
Alternate IV	Paragraph "(k)" designation	Paragraph "(l)" designation
Alternate V introductory heading and text	"(APR 1984)"	"(SEP 1996)"
	"the following paragraphs (g) and (k) for paragraphs (g) and (k)".	"the following paragraphs (h) and (l) for paragraphs (h) and (l)"
	"Subparagraph (l)(2)"	"Subparagraph (m)(2)"
	Paragraph "(g)" designation	Paragraph "(h)" designation
Alternate V	"(g)(1)(i)"	"subdivision (h)(1)(i)"
(h)(1)(iv) of Alternate V	"(1) above"	"subparagraph (h)(1) of this clause"
Alternate V, (h)(2) introductory text		

Paragraph	Remove	Insert
Alternate V	Paragraph "(k)" designation	Paragraph "(l)" designation

9. Section 52.249-11 is amended by revising the introductory text and clause date; redesignating paragraphs (c) through (k) as (d) through (l), respectively; and adding a new paragraph (c) to read as follows:

52.249-11 Termination of Work (Consolidated Facilities or Facilities Acquisition).

As prescribed in 49.505(a), insert the following clause:

TERMINATION OF WORK
(CONSOLIDATED FACILITIES OR
FACILITIES ACQUISITION) (SEP 1996)

* * * * *

(c) The Contractor shall submit complete termination inventory schedules no later

than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

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9b. In addition to the amendments set forth above, 52.249-11 is further amended in the newly designated paragraphs by revising internal references to read as follows:

Paragraph	Remove	Insert
(b)(9)	"subparagraph (6) above"	"subparagraph (b)(6) of this clause".
(f)	"paragraph (d) above"	"paragraph (e) of this clause".
(g)(2)	"subparagraph (1) above"	"subparagraph (g)(1) of this clause".
(i)	"paragraph (d) or (f) above" both times it appears.	"paragraph (e) or (g) of this clause".
Alternate I	"paragraph (d) above"	"paragraph (e) of this clause".
	"(APR 1984)"	"(SEP 1996)".
	"subparagraph (j)(2)"	"subparagraph (k)(2)".

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DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Chapter 1

**Federal Acquisition Regulation; Small
Entity Compliance Guide**

AGENCIES: Department of Defense (DOD),
General Services Administration (GSA),

and National Aeronautics and Space
Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration as the Federal Acquisition Regulation (FAR) Council. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121). It consists of a summary of rules appearing in Federal Acquisition

Circular (FAC) 90-40 which amend the FAR. The rules marked with an asterisk (*) are those for which a final regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Further information regarding these rules may be obtained by referring to FAC 90-40 which precedes this notice. This document may be obtained from the Internet at <http://www.gsa.gov/far/compliance>.

FOR FURTHER INFORMATION CONTACT:
Beverly Fayson, FAR Secretariat, (202)
501-4755.

LIST OF RULES IN FAC 90-40

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