

## **Subchapter 3049.1 General Principles**

### **3049.101 Authorities and responsibilities.**

(a) *Notice to the Office of the Chief Procurement Officer (OCPO).* The contracting officer shall coordinate with the Component's Head of Contracting Activity and Component legal counsel or the Office of the Chief Counsel, as applicable and provide a copy of all termination notices, including terminations under FAR Part 12, for anticipated terminations of contracts or orders for default or cause with an undelivered balance exceeding \$1 million to the OCPO at least five business days *prior* to issuing the notice to the contractor. An undelivered balance is the total dollar value of products and/or services that remains to be delivered to the Government, excluding unexercised options, when the contracting officer determines that the contract should be terminated. The contracting officer shall complete the template in HSAM, Appendix AD and shall submit it along with the termination notice to the Executive Director, Acquisition Policy and Oversight for the Chief Procurement Officer notification. As necessary, OCPO's Component Acquisition & Audit Support Branch shall coordinate with the Component regarding the termination on behalf of OCPO.

(b) *Suspension and Debarment for Terminations for Default or Cause.* Contracting officers shall refer all terminations for default or cause for potential suspension and debarment. Components shall follow the DHS Management Directive (MD) 146-01 and DHS Instruction Number 146-01-001 concerning procedures, documentation, and process for each referral. All referrals for terminations for default or cause shall be made to the Office of the Inspector General (OIG). The contracting officer shall document the contract file with the reason(s) for referring the contractor for suspension and debarment.

(c) In an assisted acquisition, the interagency agreement shall state whether the requesting or servicing agency is responsible for costs associated with termination, disputes, and protests, including settlement costs. The servicing agency shall obtain approval in writing from the requesting agency to terminate a contract or order five business days prior to terminating a contract or order.

### **3049.106 Fraud or other criminal conduct.**

For DHS, the Termination Contracting Officer (TCO) is the contracting officer assigned at the time the decision is made to terminate the contract. The TCO shall submit the report required by FAR 49.106<sub>2</sub> along with supporting documentation, to legal counsel and the OIG for review and concurrence.

### **3049.111 Review of proposed settlements.**

All proposed settlement agreements shall be reviewed by counsel for legal sufficiency.