



# CONTRACT CLOSEOUT

Physically Complete and Administratively Closed

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## • OBJECTIVES –

- ❑ Understand and define closeout terms of art
  - ❑ Identify when a contract is physically complete
- ❑ Contract types and closeout timeframes; and a Question
- ❑ Final indirect cost rate proposals and final payment
- ❑ Discuss the NEW quick-closeout procedures and reality check
- ❑ Some closeout tips

- **INTRODUCTION –**



- Contract closeout is an often overlooked aspect of contract administration
- After final delivery of goods or services some folks believe the contract is closed
- The closeout function is often regarded as the most distasteful activity of the contracting process
- The closeout specialist is frequently acting in the capacity of a problem solver
- Journeyman knowledge of the contracting process, use of contract terms, and excellent interpersonal skills is critical to closeout process success

- **DEFINITIONS –**

- Physical completion –

A contract is considered physically complete when –

- The seller has completed the required deliveries and the buyer has inspected and accepted the supplies;
- The seller has performed all services and the buyer has accepted these services; and
- All option provisions, if any, have expired; or
- The buyer has given the seller a notice of complete contract termination.

- **DEFINITIONS –**

- Questioned costs –

Those amounts on which audit action has been completed and which are not considered acceptable as a contract cost will be shown by the auditor as questioned costs. This category includes amounts for:

- Those items specifically identified as unallowable under the contract terms, statute, public policy, applicable Government regulations, or legal advice.
- Those items which, although not specifically unallowable, are determined to be unreasonable in amount, contrary to generally accepted government accounting principles, or not properly allocable to the contract considering the relative benefit received or other equitable relationship...
- Those items questioned for other reasons, usually based on buyer engineering or technical advice.

- **DEFINITIONS –**

- Administrative completion –

A contract is considered administratively complete when all administrative actions have been accomplished, all contractual releases obtained, and final payment made.

- Closeout –

The wrap-up of a physically complete contract, which involves reviewing the contract file and finalizing all administrative requirements under the contract, i.e., technical, desk review, contractual and accounting actions, closeout audit/review, storage and timely disposal of the contract file.

- Time standards for closing out contract files -

Contract	Months + Physical Completion
Using Simp Acq >\$3k ≤\$150k	On receipt of property and final payment, UOS
FFP >\$150k	6
Cost-Plus	36
Other	20

- What actions prevent or preclude timely closeout?



- **FINAL INDIRECT COST RATE PROPOSAL –**

- (06/13) FAR 52.216-7, Allowable Cost and Payment clause applies to a cost-reimbursement contract and a time-and-materials contract.
  - The clause controls the contract closeout process, possibly more than any other clause.
- (06/11) The seller is required to submit the final indirect cost rate proposal within the 6-month period following the expiration of each of its fiscal years.
  - The proposed rates shall be based on the seller's actual cost experience for that period. The cognizant representative and the seller *shall establish the final indirect cost rates as promptly as practical after receipt of the seller's proposal.*
  - The government auditor will review the adequacy of the seller's proposal for audit in support of negotiating final indirect cost rates and will provide a written description of any inadequacies to the seller and contracting officer.
  - The proposal must be supported with adequate supporting data, some of which may be required subsequent to finding that the proposal is adequate for audit in support of negotiating final indirect cost rates, see 52.216-7(d)(2)(iii) for the description of an adequate final indirect cost rate proposal and supporting data.



- **FINAL INDIRECT COST RATE PROPOSAL –**

- Once a proposal has been determined to be adequate for audit in support of negotiating final indirect cost rates, the auditor shall –
  - Audit the proposal and prepare an advisory audit report to the contracting officer (or cognizant Federal agency official), including a listing of any relevant advance agreements or restrictive terms of specific contracts; and,
  - Seek agreement on indirect costs with the seller.
- The seller shall update the billings to reflect the final settled rates and update the schedule of cumulative direct and indirect costs claimed and billed within 60 days after settlement of final indirect cost rates.
- The seller and the cognizant representative shall execute a written agreement setting forth the final indirect cost rates. The agreement shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in the contract. The agreement is incorporated into the contract upon execution.

- **FINAL INDIRECT COST RATE PROPOSAL –**

- Within 120 days after settlement of the final annual indirect cost rates for all years of a physically complete contract, the seller shall submit a completion invoice or voucher to reflect the settled amounts and rates.
  - The completion invoice or voucher shall include settled subcontract amounts and rates. The prime contractor is responsible for settling subcontractor amounts and rates included in the completion invoice or voucher and providing status of subcontractor audits to the contracting officer upon request.
- Upon approval of a completion invoice or voucher submitted by the seller and upon the seller's compliance with all terms of the contract, the buyer shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

- **QUICK-CLOSEOUT PROCEDURES** – (Ref: 31406 FR / Vol. 76, No. 104 / May 31, 2011)
  - (06/11) FAR 42.708 provides for expedited negotiated settlement of unsettled direct and indirect costs to be allocated to a contract, task order, or delivery order to be closed, in advance of the determination of final direct costs and indirect rates set forth in 42.705, if –
    - The contract, task order, or delivery order is physically complete;
    - (06/11) The amount of unsettled direct costs and indirect costs to be allocated to the contract, task order, or delivery order is relatively insignificant, which means the total unsettled direct costs and indirect costs to be allocated to any one contract, task order, or delivery order does not exceed the lesser of—
      - \$1,000,000; or
      - 10 percent of the total contract, task order, or delivery order amount

- **QUICK-CLOSEOUT PROCEDURES –**

*NOTE: The FAR Councils believe the percentage and monetary threshold [reflected above] will provide increased oversight and reduced risk to the government. The \$1,000,000 threshold aligns with current inventories of physically-complete contracts that are amenable to use of quick-closeout procedures...This final rule allows the contracting officer to close contracts with unaudited direct costs and unsettled indirect cost rates.*

- (06/11) Perform a risk assessment and determine that the use of the quick-closeout procedure is appropriate, which includes –
  - Consideration of the contractor's accounting, estimating, and purchasing systems;
  - Other concerns of the cognizant contract auditors; and
  - Any other pertinent information, such as, documented history of Federal Government approved indirect cost rate agreements, changes to contractor's rate structure, volatility of rate fluctuations during affected periods, mergers or acquisitions, special contract provisions limiting contractor's recovery of otherwise allowable indirect costs under cost reimbursement or time-and-materials contracts; and

- **QUICK-CLOSEOUT PROCEDURES –**

- Agreement must be reached on a reasonable estimate of allocable dollars.
- No adjustment shall be made to other contracts for over- or under-recoveries of costs allocated or allocable to the contract covered by the agreement.
- Indirect cost rates used in the quick-closeout of a contract shall not be considered a binding precedent when establishing the final indirect cost rates for other contracts.

**My experience** - *Quick-closeout procedures used < 10 times. One respondent to FAR Case 2008-020, does not believe that the revised rule will achieve any predictable reduction of time or resources associated with contract closeout.*

**What do you think?**

- **HELPFUL TIPS –**

- FAR 42.707, Cost-sharing rates and limitations on indirect cost rates
  - When ceiling provisions are utilized, the contract **shall** also provide that—
    - (1) The Government will not be obligated to pay any additional amount should the final indirect cost rates exceed the negotiated ceiling rates, and
    - (2) In the event the final indirect cost rates are less than the negotiated ceiling rates, the negotiated rates will be reduced to conform with the lower rates.
- Release of Claims, *in a form acceptable to the CO (Handout, why?)*
  - What Sum of dollars is provided on the Release? (DCAA Manual No. 7641.90)
    - The amount listed on the release is the total allowable cost plus allowable fee. It should tie in to the total amount claimed on the final voucher.

- **HELPFUL TIPS –**

- Inventory of Closeout Actions

- Read the entire contract file – *Watch for these clauses, e.g.:*
  - 52.211-11, Liquidated Damages—Supplies, Services, or Research and Development
  - 52.211-16, Variation in Quantity
  - 52.211-17, Delivery of Excess Quantities
  - 52.216-2, Economic Price Adjustment—Standard Supplies
  - 52.216-6, Price Redetermination—Retroactive
  - 52.216-7, Allowable Cost and Payment (June 2013)
  - 52.216-8, Fixed Fee
  - 52.216-11, Cost Contract—No Fee
  - 52.232-7, Payments under Time and Material/Labor Hour Contracts (August 2012)
- Make a numbered list of unresolved issues
- Take steps to ensure resolution
- Document the file accordingly



- **HELPFUL TIPS –**

- Contract Closeout Checklist

- Use your agency's Checklist or develop your own to record requests for and receipts of closeout documents.
  - Seller's Name
  - Contract No. and Last Modification No.
  - Final Funded Amount
  - Deobligation of Funds
  - Contract Completion Date
  - Acceptance Report of Services, Materials, or Equipment
  - Contract Performance Report
  - Disposition of Government Furnished Property
  - Disposition of Patents or Inventions
  - Disposition of Classified Material
  - Audit Report No.
  - Release of Claims
  - Assignment
  - Final Contract Payment

- **DEE'S MAXIMS –**

- *Closeouts take time*, and the amount of time generally varies by contract type. [The Army General's Law: "Nothing is impossible, if you're not the one to do it."]
- *No-two-alike*, and each contract is an original and must be viewed as such.
- *Reading-is-fundamental*, and prior to any closeout activity, the closeout specialist must read the contract file to avoid oversight of important requirements and/or loss of money.
- *Inventory*, and while reading the file, make a complete list of actions needing attention.
- *Follow-up*, because some folks will not put your requested action on their priority to-do list. Therefore, use a tickler system, e.g., MS Office Outlook, or whatever helps you achieve results and stay on schedule.

## REFERENCES –

- FAR 4.804, Closeout of Contract Files
- FAR 42.708, Quick Closeout Procedures
- FAR 42.705, Final Indirect Cost Rates
  
- FAR Subpart 31.2—Contracts with Commercial Organizations
- OMB Circular A-21, Cost Principles for Educational Institutions
- OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments
- OMB Circular A-110, Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- OMB Circular A-122, Cost Principles for Non-Profit Organizations
  
- Indirect-Cost Management Guide, 3rd Ed., 2011 (Navigating the Sea of Overhead)
- DCAA Manual No. 7641.90, Information for Contractors – June 2012

# Q & A Time