

BRIEFING PAPERS[®] SECOND SERIES



PRACTICAL TIGHT-KNIT BRIEFINGS INCLUDING ACTION GUIDELINES ON GOVERNMENT CONTRACT TOPICS

MAXIMIZING TERMINATION FOR CONVENIENCE SETTLEMENTS/EDITION II—PART I

By Paul J. Seidman and David J. Seidman

The “Termination for Convenience of the Government” clause in a Government contract conveys broad rights on the Government to terminate the contract when termination is in the Government’s interest. The Government may cancel the contract simply because its needs change and regardless of contractor fault.¹ In return for this privilege, the Government agrees to pay the terminated contractor its incurred costs and certain continuing costs in a traditional Government contract. Alternatively, in a contract for commercial items or services under Federal Acquisition Regulation Part 12, the Government agrees to pay the terminated contractor the percentage of contract price reflecting the percentage of completion and charges resulting from the termination.²

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All too often, contractors do not know what costs they are entitled to recover following a convenience termination. Contractors may even resort to asking Government personnel for advice. Government personnel, however, are not always knowledgeable, and, more importantly, a contractor request for advice places them in an obvious conflict-of-interest position. Their job is to dispose of termination for convenience claims for as little money as possible rather than to maximize contractor recovery. As a result, contractors often do not claim all their allowable costs in termination settlement proposals and may

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