

BRIEFING PAPERS[®] SECOND SERIES



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

MAXIMIZING TERMINATION FOR CONVENIENCE SETTLEMENTS/EDITION II—PART II

By Paul J. Seidman and David J. Seidman

This Edition II BRIEFING PAPER is the second of two PAPERS that update and expand BRIEFING PAPERS No. 95-5, “Maximizing Termination for Convenience Settlements,” which focused on fixed-priced contracts. These BRIEFING PAPERS provide new strategies and cover new topics such as cost-reimbursement contracts, indefinite delivery/indefinite quantity contracts, Federal Acquisition Regulation Part 12 commercial item contracts, and avoiding the “Termination for Convenience” clause prohibition on the recovery of anticipatory profits. Part I, BRIEFING PAPERS No. 08-3, provided a background discussion of the purpose and effect of the “Termination for Convenience” clause and a review of the standard “Termination for Convenience” clauses for various types of contracts, compared the cost-based formula used for traditional Government contracts with the modified price-based formula used in FAR Part 12 commercial item contracts, summarized pertinent cost principles, and presented general strategies for maximizing recovery.¹ This Part II addresses how to recover specific costs and

provides strategies for specific contract types such as IDIQ, cost-type, and FAR Part 12 commercial item contracts.

These two BRIEFING PAPERS focus on *what* costs to claim. They are companions to “Preparing Termination for Convenience Settlement Proposals for Fixed-Priced Contracts,” an earlier PAPER by one of the authors, which focused on *how* to claim costs by putting together an effective termination for convenience settlement proposal.²

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IN BRIEF

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| Contractor-Caused & Concurrent Delays | Costs Under First Article Contracts |
| Defective Or Nonconforming Work | G&A Expense On Subcontractor Settlements |
| Precontract Costs | Settlement Expenses |
| Costs Continuing After Termination | CDA Interest |
| ■ Idle Facilities & Idle Capacity | ■ Requirements For A “Claim” |
| ■ Employee Compensation | ■ Interest vs. Settlement Expenses/ REA Preparation Costs |
| ■ Severance Payments | Specific Contract Types |
| ■ Warranties & Hardware/ Software Upgrades | ■ IDIQ Contracts |
| Rental Costs | ■ Service Contracts |
| Facilities Capital Cost Of Money | ■ Cost-Type Contracts |
| Common Items | ■ FAR Part 12 Commercial Item Contracts |