



MAY THE CLAUSE BE WITH YOUSM

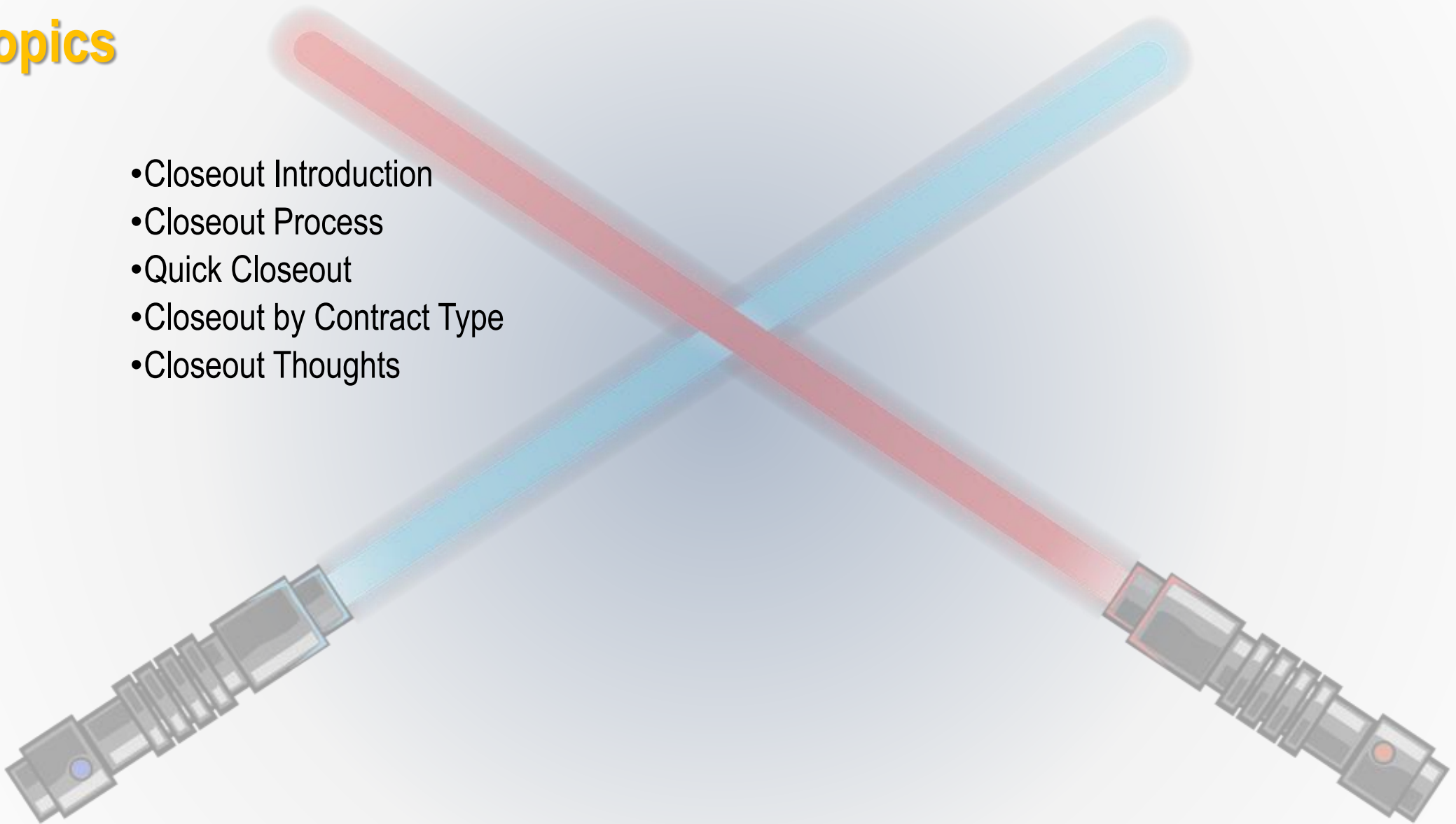
CONTRACT CLOSEOUT

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August 28, 2024

Topics

- Closeout Introduction
- Closeout Process
- Quick Closeout
- Closeout by Contract Type
- Closeout Thoughts





Closeout Introduction

What is Contract Closeout?

- Process of completing all performance, financial, and administrative requirements for both contractor and Government.
- Closeout preparation begins at **AWARD**.
- Closeout is initiated by...? Check your contract.
 - Some agencies notify the contractor
 - Some agencies wait for the Contractor to notify the agency
 - Some agencies have their own local forms to aid the process.
- It's the Clean-up after the Big Game/Concert/etc.

Why is Closeout Important?

- **Allows contractors and Government to officially close the Contract and end the risk to both sides.**
- **Government Importance:**
 - Get funds de-obligated or get repayment from the contractor.
 - **NOTE:** Annual appropriation funds expire after 5 years – closeout delay can easily result in the loss of necessary funding.
- **Contractor Importance:**
 - Ensure full payment and ensure records reflect performance accurately
- **Starts the clock**
 - **Audit Clause: 3 years** from contract completion for government to inspect records
 - **Statute of Limitations:** contractor or government claims must be filed within **6 years** after accrual of the claim (*FAR § 33.206*)

BOTTOM LINE: *Lack of diligence now may result in a CRISIS LATER*

Who are the Closeout Players?

CIVILIAN AGENCY

- Contracting Officer, with support from COR/COTR, Contract Specialist/Administrator
 - Requirements Owner/Government Customer
 - Project Manager
 - Finance Department
 - Legal

DEFENSE AGENCY

- Contracting Officer or Administrative Contracting Officer (“ACO”), with support from:
 - Defense Contract Management Agency (“DCMA”)
 - Defense Finance & Accounting Service (“DFAS”)
 - Buying Activity
 - Defense Contract Audit Agency (“DCAA”)
 - Legal Counsel
 - Defense Criminal Investigative Service (“DCIS”), DoD Inspector General (“IG”) or Department of Justice (“DOJ”), if necessary

CONTRACTOR

- Contractor:
 - Contracts Department
 - Project Manager
 - Finance Department
 - Subcontractors
- Third party support:
 - Bank/Financial Institution
 - Insurance
 - Legal



Contract Documentation

- Contract files serve as history of contract and should include all letters, memos, emails, invoices, and reports.
- Government Contract Files:

Contracting Office File

FAR § 4.803(a)(1)-(42)

From planning to bid, competition, evaluation of the bid, determination of responsibility, price/cost evaluation, to award.

Contract Admin. File

FAR § 4.803(b)(1)-(20)

From beginning of performance, obtaining required certifications, vetting of bonds/insurance, quality assurance, property administration, contract mods, stop work orders, to final inspection.

Paying Office File

FAR § 4.803(c)(1)-(4)

Includes contract modifications, bills, invoices, vouchers, supporting documents, records of payments or receipts, and anything else related to contract payments.

Closeout Funding Terms

- **OVERAGE:** (*think: over age*) Contract is not closed-out within time standards.
- **CURRENT FUNDS:** Funds can be obligated and used for payment.
- **EXPIRED FUNDS:** funds cannot be obligated for new requirements but can pay current obligations.
- **CANCELLED FUNDS:** funds can no longer pay any obligations.
- **DORMANT:** Contract cannot be closed because of litigation, bankruptcy, or investigation.
- **EXCESS FUNDS:** Funds relating to a specific line item or deliverable that was not performed in the contract.
- **REMAINING FUNDS:** Funds left on contract due to price variances, roundings, or cost underruns when all performance has been completed.
- **REPLACEMENT FUNDS:** Funds needed to cover cancelled appropriations.

Funding Expiration

	FY24	FY25	FY26	FY27	FY28	FY29	FY30	FY31	FY32	FY33	FY34	FY35
Operations & Maintenance	Current Funds	Expired Funds	Expired Funds	Expired Funds	Expired Funds	Expired Funds	Cancelled Funds	Cancelled Funds	Cancelled Funds	Cancelled Funds	Cancelled Funds	Cancelled Funds
Research, Development, T & E	Current Funds	Current Funds	Expired Funds	Expired Funds	Expired Funds	Expired Funds	Expired Funds	Cancelled Funds	Cancelled Funds	Cancelled Funds	Cancelled Funds	Cancelled Funds
Procurement	Current Funds	Current Funds	Current Funds	Expired Funds	Expired Funds	Expired Funds	Expired Funds	Expired Funds	Cancelled Funds	Cancelled Funds	Cancelled Funds	Cancelled Funds
MilCon/Ship Building	Current Funds	Current Funds	Current Funds	Current Funds	Current Funds	Expired Funds	Expired Funds	Expired Funds	Expired Funds	Expired Funds	Cancelled Funds	Cancelled Funds

Current Funds
Expired Funds
Cancelled Funds

A diagram illustrating the 'Closeout Process'. It features two thick, glowing lines that cross each other in the center. One line is red and the other is blue. Both lines have a textured, metallic-looking connector at their ends, resembling a multi-pin connector. The background is a light blue gradient with a faint circular pattern.

Closeout Process

Closeout Process ~ The Real Quick Version (Government-Side)

- Verify contract completion
- Obtain all forms, reports, and clearances
- Resolve outstanding issues
- Initiate final payment (or collect overpayment)
- De-obligate excess funds (or request additional funds)
- Prepare contract completion statement
- Prepare past performance input
- Contract file disposition (e.g., storage and ultimately disposal)

Closeout Process ~ the Real Version

1. TIMING

- Closeout timeframe depends on contract type

2. COMPLETION

3. PERFORMANCE

4. ADMINISTRATIVE

- Initiation of administrative closeout on physical completion
- 15 closeout steps must be accomplished (*FAR § 4.804-5(a)*)
- ACO prepares contract completion statement

Timing of Closeout: FAR 4.804-1(a)

	Type	Closeout Timeframe	Contract Type
1.	Contracts Under the Simplified Acquisition Threshold (“SAT”) (\$250K)	Upon Receipt of Item or Service and Final Payment	Firm Fixed Price
2.	FFP Contracts Above SAT	6 Months from evidence of physical completion.	Firm Fixed Price
3.	Contracts Requiring Settlement of Indirect Cost Rates	36 Months of evidence of physical completion	FPI, Cost+, T&M, Labor Hour
4.	All other contracts	20 Months of evidence of physical completion.	FP Redetermination, FP EPA, and Basics/BOA’s

FAR § 4.804-1(a) uses “should.” The process often takes longer.

Performance Completion

FAR 4.804-4 Physically Completed Contracts

- Work completed
 - Contractor has made all deliveries of items/supplies
 - Contractor performed/provided all services
- Work Accepted by the Government
 - Inspected supplies/deliverables
 - Accepted all services provided
- Contract term and any exercised options have expired
- Or, Government has terminated the complete contract (for convenience or default)
- Note: Contracts that have litigation, appeals, claims, REAs, etc. are not complete and cannot be closed out. They are placed in a dormant phase

Administrative Completion

FAR 4.804-5 Procedures for Closing Out Contract Files

- After receiving evidence of physical completion, the contract administration office initiates administrative closeout of the contract.
- Once delivery/performance is complete, the contract administration office must accomplish the following closeout administrative actions. There are 15 steps described in FAR 4.804-5(a)

Administrative Completion

Closeout Administrative Actions (FAR 4.804-5)

(15 Mandatory Actions)

1. **Ensure disposition of classified material is completed.**
 - Accomplished at issuance of a final **DD Form 254** or by the contractor's written certification that all data has been properly processed.
2. **Receive final patent report, if required.**
 - Must submit within 3 mo. of physical completion of the contract (if the contract includes FAR 52.227-11) or within 3 mo. of completion of the contract work (if the contract includes DFARS 252.227-7039)
3. **Receive final royalty report. (See FAR 52.227-9)**
 - Must state royalties paid/to be paid and submit before final contract payment.
4. **Ensure there is no outstanding value engineering change proposal (VECP).**
 - ACO must verify no outstanding VECPs (if the contract includes FAR 52.248-1)
5. **Receive and file plant clearance report.**
 - Plant clearance officer must prepare a **SF 1424** for the termination CO and a copy for the property administrator.

Administrative Completion

Closeout Administrative Actions (FAR 4.804-5)

6. **Ensure property clearance report is received and recorded.**
 - Government property not consumed must be dispositioned. (FAR § 45.6).
7. **Settle all interim or disallowed costs.**
 - CO and contractor must agree as to finalizing and resolving these amounts.
8. **Complete price revision**
 - Settle/resolve outstanding claims, modifications, interim rates, and the final contract price.
9. **Ensure all subcontracts are settled by the prime contractor.**
 - Government should confirm payment and closeout of subcontracts.
 - Prime should confirm completion, payment, & administrative resolution similar to procedures used by the Government (detailed on next slide)

Administrative Completion – Step #9

Closeout Administrative Actions (FAR 4.804-5)

(9) Ensure all subcontracts are settled by the prime contractor - EXPANDED

- Prime contractors should ensure that all its subcontracts have been properly closed out.
- Confirm physical completion/delivery, e.g., make sure each delivery is checked for damages and any discrepancies in quantity or damages are resolved beforehand, make sure that delivery documents, shipping documents and inspection records are all in sync;
- Confirm all administrative actions have been completed, e.g., any subcontract terminations have been fully completed, any claims settled and any disputes resolved via whatever disputes process was required – arbitration, mediation, litigation;
- Confirm all payments of amounts due under the subcontract or P.O., as amended via changes, claims and disputes, have been paid and any required releases or waivers have been signed and submitted. There should be no open liabilities between the Prime contractor and its subcontractors;
- Confirm that all documentation is properly preserved and all required documentation has been provided, e.g., warranties by third parties, etc.
- Try not to enter into subcontracts that require complicated closeout procedures.

Administrative Completion

Closeout Administrative Actions (FAR 4.804-5)

- 10. Settle prior year indirect cost rates (Cost Type Contracts).**
 - Contractor must submit final indirect cost proposal within 180 days of the close of its fiscal year. (FAR § 52.216-7).
 - Completion invoice reflecting settled amounts must be submitted by contractor within 120 days of indirect cost rate settlement.
- 11. Resolve litigation/claims/disputes/terminations.**
 - Warranties may extend past contract completion
- 12. Complete contract audit.**
 - Contractor must submit final indirect cost rate proposal to CO (FAR § 52.216-7)
- 13. Ensure receipt of contractor's closing statement.**
 - Essentially a release of claims signed by corporate officer with corporate seal.
- 14. Submit contractor's final invoice & ensure payment of final voucher.**
 - Submission required within 120 days of indirect cost rate settlement.
 - ACO's review verifies satisfaction of contractual requirements, no exceeding of contract limits, DFAS offsets are applied, contractor's Release and Assignment is accurate, vouchers are paid, and voucher is identified as "Final Voucher."
- 15. Complete contract funds review and deobligate excess funds.**
 - ACO will determine if any unliquidated funding remains and whether those are "excess" or "remaining" to the contract requirements.

DoD Administrative Completion

FAR 4.804-5 -- Procedures for Closing Out Contract Files

After verification of the 15 actions, the DOD ACO prepares a Contract Completion Statement (**DD Form 1594**) containing the following information:

- Contract administration office name and address (if different from the contracting office).
- Contracting office name and address.
- Contract number and last modification number.
- Contract last call or order number.
- Contractor name and address.
- Dollar amount of excess funds, if any.
- Voucher number and date, if final payment has been made.
- A statement that all required contract administration actions have been fully and satisfactorily accomplished.
- Name and signature of the contracting officer.
- Contractor invoice number and date, if the final approved invoice has been forwarded to a disbursing office of another agency or activity and the status of the payment is unknown.
- Date.

ACO must ensure **(1)** the signed original is in the contracting office contract file and **(2)** a signed copy is in the contract administration file if necessary. Typically this happens electronically.



Quick Closeout (QCO)

Civilian Agency Quick-Closeout

Quick-Closeout Procedures: a process used to settle indirect costs for a specific contract or group of contracts, *in advance of the determination of final indirect cost rates* (FAR § 42.708)

Negotiated settlement between KO and contractor for specific contract, task order or delivery order
IF:

1. The contract, task or delivery order is *physically complete*.
2. The amount of unsettled costs “relatively insignificant”. (Does not exceed *lesser* of \$1,000,000 or 10 percent of the total contract, task or delivery order amount.
3. CO must perform a risk assessment to determine whether quick-closeout is appropriate. The assessment should include:
 - Review/consideration of the Contractor’s accounting, estimating and purchasing systems;
 - Any cognizant contract auditors’ concerns (about the contractor or its accounting)
 - Any “other pertinent information” (M&As affecting indirect rates, changes to rate structure, fluctuation of rates, special contract provisions limiting recovery of otherwise allowable indirect costs, etc.)
4. Agreement can be reached on a reasonable estimate of allocable dollars.

Determinations are **final** for **that** contract only. Does not allow for **adjustments** under other contracts Is not **binding precedent** for other contracts.

Civilian Agency Quick-Closeout Procedure: Contractor Considerations

To encourage the use of **Quick Closeout**:

1. Prepare and present to the CO:
 - Confirmation and detail of the physical completion for any contract, task or delivery order, including subcontracts/purchase orders if applicable
 - Prepare comparative analysis of final fiscal year indirect rates to prior periods to demonstrate stability
 - Prepare narrative to explain why nothing should prevent the quick closeout procedure from being used; and
2. Confirm that your business systems (accounting, estimating & purchasing) are adequate/satisfactory before advocating for a Quick Closeout; and
3. Consider the savings of not having to prepare an incurred cost submission and supporting an audit as well as the time involved to wait for the normal procedures to conclude.

DOD's Codified Changes to Quick Closeout

- DAR Council codified a policy change by amending DFARS 242.708 (March 2023), implementing two changes:
 1. In 2019, DOD policy was expanded for Defense agencies from the lesser of \$1,000,000 or 10% of unsettled direct and indirect costs of a contract, TO or DO to a single, increased threshold of \$2,000,000.
 2. Allows DCMA ACOs to **negotiate settlement prior to the determination of final direct costs and indirect rates**, regardless of dollar value.
- DFARS 252.204-7022 (May 2021) – Expediting Contract Closeout – parties agree that if the residual contract value is <\$1K, they waive entitlement.

DFARS 204.804 Closeout of Contract Files

- DoD Final Rule issued August 2021, implementing § 820 of the NDAA FY 2021

PREVIOUS RULE:

Allowed for the closeout of contracts at least **17** years prior to current fiscal year.



NEW RULE:

Shortens to **7** fiscal years (most contracts) or **10** fiscal years (military construction/shipbuilding)

- In December 2021, DOD estimated 30,975 contracts qualify for this rule & approximately 5,066 small business will have old contracts closed out.
 - Expedited closeout applies when (1) there is no outstanding supplies/services due and (2) contract records are not reconcilable due to lost/destroyed payment records or disproportionate time needed. *DFARS 204.804(3)(i)(A)-(C)*.

DCMA Quick Closeout

- DCMA's Manual 2501-07, effective January 14, 2019, discusses Contract Closeout, including Quick Closeout. Refers to FAR 42.708.
 - Replaces DCMA INST-135.
- Paragraph 13.1 provides: The QCO process offers an alternative to holding contracts open until final indirect rates are settled. When it becomes apparent that there will be a delay in the settlement of final indirect rates, it is recommended that ***the ACO utilize QCO to the maximum extent possible.***
- Paragraph 13.2 provides for Early Closeout of delivery/task orders under Indefinite Delivery Contracts before indirect rates have been settled to avoid cancelling funds or overage contracts. Performance must be physically complete and the amount of unsettled direct and indirect costs is relatively insignificant.



Closeout by Contract Type

Fixed Price Contracts

- Follow the **Fixed Price Closeout Checklist**
- Consider Warranty issues but do not delay closeout



Fixed Price Checklist

FIXED PRICE CLOSEOUT CHECKLIST

Action	Completed	Date
Final Acceptance Received?		
Final Acceptance Entered in MOCAS?		
LISSR Data Balanced (Line Items)?		
PSCN Data Entered ("Production Complete" in R8 Remarks field)?		
Contract Moved to Section 2?		
ULO Balance Equal \$0.00		
PCO Notified of Excess Funds?		
ACO Deobligated Excess Funds with Modification?		
WIP ULO Balance Equal \$0.00? (Progress Payment ULO)		
Has Government Property Been Cleared? (55 Code)		
Has Industrial Security Office Been Notified, for classified contracts?		
Final Royalty Report Received from Contractor?		
Final Royalty Report Clearance Received from PCO?		
Final Report of Inventions (DD882) Received from Contractor?		
Final Report of Inventions Clearance Received from PCO?		
Final Pay NLA or DD1593 Issued?		
Final NLA or DD1593 Signed and Processed by ACO?		
Contract Moved to Section 5?		
Non-MOCAS Contracts - DD1594 Completed for Contract File?		

Cost Type Contracts

- Follow the **Closeout Checklist**
- Biggest stumbling block is finalizing indirect cost rates
 - Contractor must submit all Incurred Cost Submissions
 - DCAA or cognizant government auditor must audit and issue audit report
- Delays always occur! For years, DCAA had a backlog with Incurred Cost Audits. DCMA now has the bulk of the backlog. Other auditors and
- Contracting Officer (with Govt. Auditor assistance) negotiate final indirect rates with Contractor
- Once rates are finalized, Contractor can finalize its costs and submit a completion voucher
- Final modification with reflect the final cost and add/subtract funds to equal final cost

IDIQ Contracts

- Task or delivery orders may be complete long before the Contract expires
- Each task or delivery order must be closed out individually, before the overarching IDIQ can be closed out.
 - Consider early closeout and Quick Closeout of individual task/delivery Orders to avoid cancellation of funds.
 - Benefit of 'closing out as you complete' means the materials and personnel for closeout are closer at hand.
 - Agencies may assign closeout timeframes for each order that align with the 6, 36, or 20-month limits.
 - E.g. MOCAS Coding requires DoD orders to have a closeout timeframe



Closeout Thoughts

Administrative Unilateral Closeout

Government process used when contractor is **unable** or **unwilling** to proceed with Closeout. (*FAR 42.705-1*).

- Permissible but not preferred.
- Prime Contractors may use this for subcontractors, but must show due diligence (following slides).

Examples of Problem Contract Closeout include:

- A. Contractor No Longer in Business**
- B. Contractor Fails to Submit Indirect Cost Data**
- C. Contractor in Bankruptcy**

ACO still has to perform due diligence, the LISSR must be balanced and the remaining balance must get to \$0.

Administrative Unilateral Closeout

A. Contractor No Longer in Business:

The Government **takes and documents every reasonable measure** to locate the contractor or its principals. If unsuccessful, initiate Administrative Unilateral Closeout, by doing the following:

1. Confirm physical completion with the correct Government Point of Contact.
2. Confirm any contract payments made to the contractor
3. Check with DCAA to determine status of any indirect cost rate settlement (**IF** cost type contract/has cost CLINS).
4. Determine whether the contract was terminated for default or convenience.
5. Check any other pertinent information relative to the contract.
6. Final check with agency legal office to determine if the agency/activity has done other business with the contractor.
7. Review all available data to determine the final contract price and any excess funds that can be de-obligated from the contract.
8. Issue a unilateral SF30 Modification of Contract to de-obligate excess funds and formally closeout the contract. Before signature, coordinate the draft modification with leadership and legal office.

Administrative Unilateral Closeout

B. Contractor Fails to Submit Indirect Cost Data

The contractor is required to submit a final indirect cost proposal to the Government **within 6 months** following the expiration of each of its fiscal years.

If the contractor does not submit its proposal in a timely manner, the Government can take steps to protect the Government interest.

Contracting Officer should:

1. Issue letters requesting submission
2. If unsuccessful, schedule a meeting with the contractor to advise that its continued non-responsiveness will result in a billing detriment
3. If continued non-receipt, and the contract is physically complete, the Contracting Officer should consider proceeding with unilateral determination of indirect cost rates (FAR 42.703-2(c)) and a unilateral determination of the final contract cost.

NOTE: This only makes sense when (1) the Contract is NOT a fixed price contract; and (2) there is an expectation of excess funds to be de-obligated.

Administrative Unilateral Closeout

C. Contractor in Bankruptcy (FAR 42.9)

When notified that a contractor has filed for bankruptcy, the Contracting Officer:

1. Determines impact of the bankruptcy on the Gov. and its interests;
2. Furnishes the bankruptcy notice to the Legal Office, the Contract point of contact, and, if appropriate, the cognizant, DFAS, DCAA and DCMA offices.
3. Determines whether to file a claim against the contractor. Any such Proof of Claim is filed in the Bankruptcy court by DFAS if a DoD contract.
4. Once a bankruptcy petition is filed, an automatic stay goes into effect. The stay precludes contract closeout unless the stay is lifted. Government attorneys work with the debtor's trustee to obtain relief where closeout is in the best interests of the Government.
5. Initiate all the steps articulated above to pursue an Administrative Unilateral Closeout and determination of final contract price (and de-obligation of any excess funds).

BANKRUPTCY

Contract Files

- Government agencies maintain the COMPLETE file
 - Periods stated in chart at *FAR 4.805* (range from 1 year to 6 years and 3 months)
 - Failure to properly store records can have disastrous effects
 - Documents get lost/print fades on hard copies
 - Electronic storage systems become corrupted, lost, or obsolete
 - Contracting officials and employees move, retire or cannot be located
- Contractors should keep their own files for the same reasons.
 - Typically required to retain documents for 4 years after final payment
 - Should consider keeping for the 6 years and 3 months after final payment so that the documentation is available to defend against Government claims.

Closeout Tips

- Have good communication with the PCO/ACO/staff
- Keep good records from the beginning
 - By CLIN, by TO/DO, by contract
 - Have back-up materials available
- Watch the deadlines - vary by contract type (6/36/20 months)
- Identify which actions in FAR 4.804-5 apply to your contract(s)
 - Track to those 15 actions
- Submit Incurred Costs Submission timely
 - Follow up with audit team (DCAA, Civilian Agencies)

QUESTIONS?

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