



FAR FACTS
SEASON 2023, EPISODE 22
FAR PARTS 42 AND 43

1. For contractors other than educational institutions and nonprofit organizations, the “cognizant” Federal agency normally will be the agency with the largest dollar amount of contracts, including options. **FAR 42.003(a).**
2. Once a Federal agency assumes cognizance for a contractor, it should remain cognizant for at least 5 years to ensure continuity and ease of administration. **FAR 42.003(b).**
3. Normally for contractors, other than educational institutions and nonprofit organizations, the Defense Contract Audit Agency (“DCAA”) is the responsible audit agency. **FAR 42.101(b).**
4. Agency contracting officers are permitted to delegate certain contract administration authority to the Defense Contract Management Agency (“DCMA”). Those specific contract administration duties are set forth at **FAR 42.302.**
5. “Billing rates” are indirect cost rates established temporarily for interim reimbursement of incurred costs and adjusted as necessary pending establishment of final indirect cost rates. **FAR 42.701.**
6. As a general rule, contracting officers may not accept a proposal for final indirect cost rates or make agreements to establish such rates until the costs have been certified by the contractor. **FAR 42.703-2(a).** However, under certain circumstances and utilizing strict guidelines, the contracting officer may unilaterally establish final indirect cost rates. **FAR 42.703-2(c).**
7. “Final rates” are established on the basis of contracting officer determination procedures (see **FAR 42.705-1**) or auditor determination procedures (see **FAR 42.705-2**). **FAR 42.705(a).**
8. Contractors are required to submit final indirect cost rate proposals with the six-month period following the expiration of its fiscal years. **FAR 42.705-1(b)(ii).**
9. Whenever a contract uses ceiling provisions, it 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 that the final indirect cost rates are less than the negotiated ceiling rates, the negotiated rates will be reduced to conform with the lower final rates. **FAR 42.707(c).**
10. Novation Agreements are usually executed by the U.S. Government after contractors have executed an asset sale agreement. **FAR 42.1204.**
11. The cognizant Federal agency of the contractor transferring its contracts via a Novation Agreement

is generally the party tasked with coordinating the government response and negotiating and executing that agreement on behalf of the U.S. Government. **FAR 42.1202.**

12. When it is in the Government's interest not to concur in the transfer of a contract from one company to another company, the original contractor remains under contractual obligation to the Government and the contract may be terminated for default, should the original contractor not perform. **FAR 42.1204(c).**
13. Even after the execution of a Novation Agreement with the Government, the contractor transferring its contracts to another contractor is still responsible for performance of those contracts until they are completed or terminated. Sometimes this is accomplished by a performance modification. See **FAR 42.1204(i) (standard Novation Agreement, Article (b)(8)).**
14. As a general rule, Government stop work orders should not last more than 90 days. **FAR 52.242-15.**
15. It is DoD, GSA, and NASA policy that past performance evaluations be prepared at least annually *and* at the time work under a contract or order is completed. Past performance evaluations are required for the contracts and orders specified in **FAR 42.1502(b)-(f)**, including contracts and orders performed outside the U.S. **FAR 42.1502.**
16. As a general rule, contracting officers are the only Government employees that have the authority to change the terms of a contract. **FAR 43.202.**
17. A contractor's ability to obtain monetary or schedule relief from a Government change order is controlled by the Changes clause in their Government contract. See **FAR 52.243-1 through 52.243-5.**