FEDERAL UTILITY PARTNERSHIP WORKING GROUP SEMINAR

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Cancellation or Termination?

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FEMP
Federal Energy Management Program

Dominion Energy®
Termination for Convenience

- Termination for convenience (T4C) is the unilateral right of the government
- Contractor entitled to “reasonable termination costs”
- Can be some or all of a project
- For a UESC, can occur prior to project acceptance
Cancellation

• After acceptance, repayment of the loan begins; the government cannot “terminate” its obligation to repay the lender.

• The government may, at its option, pre-pay the loan and the lender has calculated an amount for such early payment into the amortization schedule.

• This is referred to as the Termination Schedule in most UESC agreements and does not require separate negotiation.
Cancellation (CONTINUED)

• A revised amortization schedule is incorporated into the modification to apply funds

• This revised schedule can either shorten the term of the loan or can reduce the payments for the remainder of the term.
How Does Cancellation Differ from Termination for Convenience?

• For purposes of the FAR, cancellation affects only multiyear contracts, and occurs between fiscal years.

• Termination, in contrast, can affect multiyear contracts (at times other than between years) or other contracts (at any time).

• Agencies may vary to some degree in how they process either cancellations or terminations for the UESC, while still adhering to FAR and the TO language
Helpful Tips

• The Contracting Officer may notify the utility by letter if an agency chooses not to pursue a project after the Preliminary Assessment which are performed at no cost/no obligation to the government.

• There will need to be a Termination for Convenience if a project is terminated after the award of an Investment Grade Audit:
  – If funds were not obligated at time of award, current year funds must be obligated to pay for the IGA.
Tips (continued)

• A partial T4C is required if the government decides not to pursue one or more ECMs prior to acceptance.

• If the total requirement is to be cancelled in its entirety prior to acceptance, the T4C process is followed in accordance with the applicable contract clause.
Termination Liabilities

- Terminate After PA
  - Letter to Utility
  - No cost

- Terminate during or after IGA
  - T4C Procedures
  - “Reasonable termination costs”

- Termination of ECM/ECMs pre-Acceptance
  - T4C Procedures
  - “Reasonable termination costs”
Termination Liabilities

Termination of ECM, Pre-Acceptance  
T4C  
“Reasonable Termination Costs”

Termination of ECM, Post-Acceptance  
Termination Liability  
Amount in Termination Schedule
Audience Participation

• Best practices?
• Lessons Learned?