

FEDERAL UTILITY PARTNERSHIP WORKING GROUP SEMINAR

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Cancellation or Termination?

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Hosted by:



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

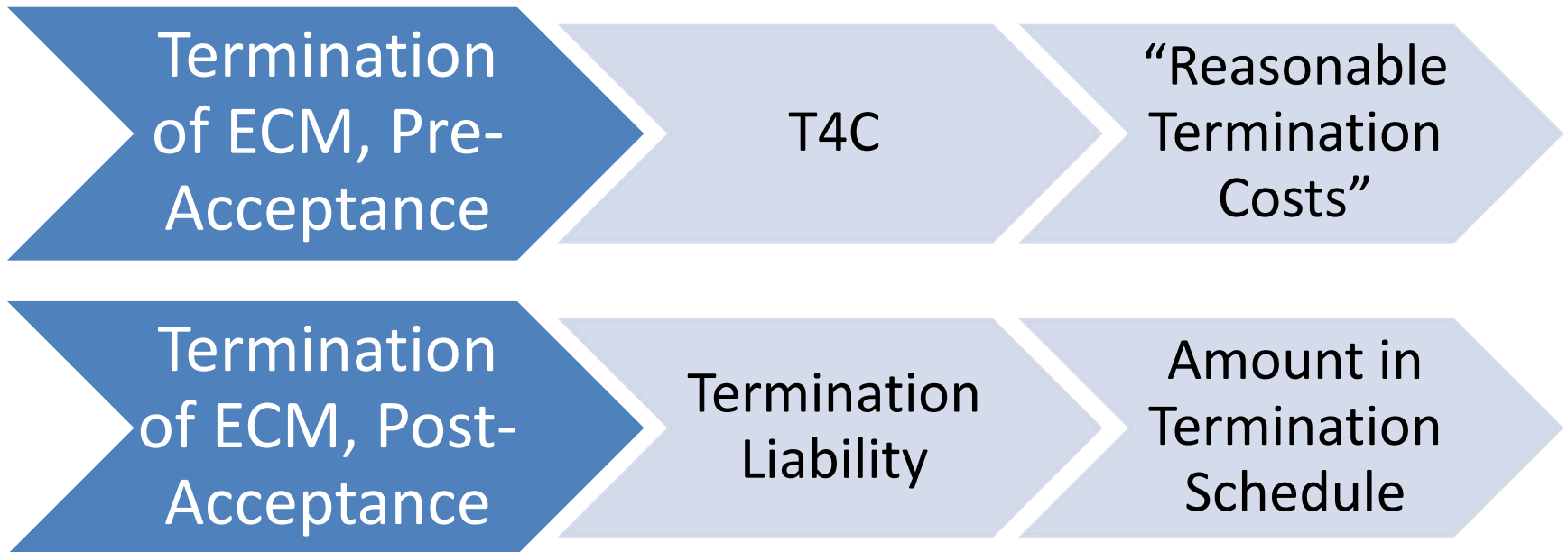
“Reasonable
termination
costs”

Termination of
ECM/ECMs pre-
Acceptance

T4C
Procedures

“Reasonable
termination
costs”

Termination Liabilities



Audience Participation

- Best practices?
- Lessons Learned?