

## 49.402-6 Repurchase against contractor's account.

(a) When the *supplies* or services are still required after termination, the *contracting officer shall* repurchase the same or similar *supplies* or services against the contractor's account as soon as practicable. The *contracting officer shall* repurchase at as reasonable a price as practicable, considering the quality and delivery requirements. The *contracting officer may* repurchase a quantity in excess of the undelivered quantity terminated for default when the excess quantity is needed, but excess cost *may* not be charged against the defaulting contractor for more than the undelivered quantity terminated for default (including variations in quantity permitted by the terminated contract). Generally, the *contracting officer* will make a decision whether or not to repurchase before issuing the termination notice.

(b) If the repurchase is for a quantity not over the undelivered quantity terminated for default, the Default clause authorizes the *contracting officer* to use any terms and *acquisition* method deemed appropriate for the repurchase. However, the *contracting officer shall* obtain competition to the maximum extent practicable for the repurchase. The *contracting officer shall* cite the Default clause as the authority. If the repurchase is for a quantity over the undelivered quantity terminated for default, the *contracting officer shall* treat the entire quantity as a new *acquisition*.

(c) If repurchase is made at a price over the price of the *supplies* or services terminated, the *contracting officer shall*, after completion and final payment of the repurchase contract, make written demand on the contractor for the total amount of the excess, giving consideration to any increases or decreases in other costs such as transportation, discounts, etc. If the contractor fails to make payment, the *contracting officer shall* follow the procedures in subpart 32.6 for collecting contract debts due the Government.

**Parent topic:** 49.402 Termination of fixed-price contracts for default.