



MANAGING STOP WORK ORDERS AND SUSPENSION UNDER USG CONTRACTS AND GRANTS

The purpose of this guide is to provide summary guidance on Stop Work Orders under U.S. Government Prime Contracts and Suspension of Work instructions under Cooperative Agreements. This guide is not comprehensive and may not apply to all situations. Seek advice for help with complex situations.

Leave emotion at the door. Remember: Your government counterparts are likely just as stressed about the situation as you are. Be direct, be specific, and be forthright in your communications, discussions negotiations with them. Show them that your approach to implementing their order is reasonable and appropriate: The easier you can make it for them to simply say yes, the more likely that they will. Also, be confident in your organization, your policies, and business decisions when you can – you do not have to ask permission at every turn.

Overview of Stop Work Orders for Contracts

- The most common Federal Acquisition Regulation clause included in most government contracts is [FAR 52.242-15 Stop-Work Order \(AUG 1989\)](#), which may include the Alternate I text for cost reimbursement contracts.
- The stop work order clause permits the Contracting Officer (CO) to unilaterally (i.e., without your consent) require the contractor to stop all or part of the work on the contract for a period of up to 90 days, or a longer period if the contractor agrees.
- The stop work order clause requires contractors to do two things – actually stop work and minimize costs related to the direction to stop work.
- In exchange for this unilateral right in your contract, the contractor is entitled to an *equitable adjustment* to the contract price or period of performance or both if the stop-work order Stop Work Order results in an increase in the time or cost required for performance.
- The contractor must assert its right to an adjustment under the clause within 30 days of receiving notice that the Stop Work Order has been lifted, or 30 days from when the Stop Work Order has expired, or another relevant action has been taken. However, the Contracting Officer has the discretion to approve payment for Stop Work Order claims at any time before the contract's conclusion.

Overview of Suspension of Work on Cooperative Agreements & Grants

- Suspension of Work clauses generally could operate somewhat similarly to stop work orders for contracts but depend on agency-specific provisions. Not all agencies include these clauses.
- **USAID** implements suspensions under **2 CFR 700.14 (Award Suspension and Termination)** for U.S. recipients and under **Mandatory Standard Provision M.10** for non-U.S. recipients in cost-type awards.
- Suspensions under USAID assistance awards often last **60 days or longer**, if extended.
- **Fixed Amount Awards (FAAs) to non-US recipients** do not fall under 2 CFR 700.14 or Mandatory Standard Provision M.10. In these cases, see below.
- Some agencies may incorrectly, issue Suspension Orders using Termination clauses under **2 CFR 200.343** effectively introducing a new term to the award. In such cases, recipients should:
 - **Accept the term**, express willingness to negotiate suspension costs, and request revisions to the award and budget.
 - **Request termination** of the award and negotiate termination costs.
- For USAID, the Agreement Officer (AO) typically issues a unilateral suspension, but neither 2 CFR 700.14 nor the Mandatory Standard Provision guarantees compensation for costs or delays. However, since suspension changes the award terms, recipients should reserve the right to request adjustments to costs, the period of performance, or both.
- To protect these rights, send a letter to the AO outlining unavoidable estimated suspension costs and justification and prior obtain agreement, if possible (which may not be possible, or the AO may be unwilling to pre-approve).

Stop Work Order or Suspension Process and Resolution

A Stop Work Order or Suspension may conclude in one of the following ways:

1. The order is lifted, and work resumes under the original terms (or with equitable adjustments to ceiling/price and duration and deadlines).
2. The order is converted to a termination, either partial or full, with subsequent settlement.
3. The period of suspension ends, requiring renegotiation of terms, deliverables, or the budget using FAR Changes clauses (contracts) or 2 CFR 200.308 Revision of Program & Budget (grants).

Procedures for Handling Stop Work Orders and Suspensions

1. **Receive the Order:**
The Contracting Officer (CO) or Agreement Officer (AO) will issue a written communication, typically via letter or email, ordering the suspension of work or

activities. This communication will generally include specific instructions on how the suspension is to be implemented, but this is not guaranteed.

2. Acknowledge and Reserve Right to Adjustment:

Promptly respond to the written order, acknowledging receipt and confirming your compliance. In your response, clearly state that you are taking reasonable steps to reduce costs and reserve the right to request an equitable adjustment to costs and/or the period of performance should the suspension be lifted or converted to a termination. Reserving this right is crucial, even if you later choose not to pursue an adjustment. As part of this response, consider identifying estimated specific suspension-related costs that cannot reasonably be mitigated or reduced. Also consider describing specific costs related to the protection and preservation of government property. You may also seek the agency's input on whether continuing certain costs during the suspension period aligns with a cost-benefit analysis compared to reducing or terminating those activities. This proactive approach helps establish transparency, facilitates decision-making, and strengthens your position for potential future adjustments. Key Points for Communication with the CO or AO:

- Clearly document all decisions made and costs incurred during the stop work or suspension period.
- Highlight cost-benefit analyses, including trade-offs between maintaining readiness and minimizing expenses.
- Provide a detailed breakdown of unavoidable costs and explain why they could not be mitigated.
- Seek guidance and pre-approvals for actions that could have a significant cost impact, such as retaining employees or renewing commercial contracts.
- By following these steps and maintaining transparent, well-documented communication with the CO or AO, you can protect your organization's position and facilitate equitable resolution of costs associated with the stop work order or suspension.

3. Establish Cost Centers:

Create a specific cost center or "ghost project code" to track all costs incurred during the suspension period that could not reasonably be avoided or mitigated. This clear segregation of costs will be critical in demonstrating cost reasonableness and substantiating a Request for Equitable Adjustment (REA) under contracts or a Revision of Program and Budget under grants or cooperative agreements, if applicable.

4. Assess and Document the Impact of the Suspension on Performance and Program Objectives

It is essential to thoroughly evaluate and document how the suspension has impacted your ability to meet performance milestones, deliverables, or program objectives. Suspensions can have a cascading effect, not only increasing costs but also disrupting timelines, delaying the achievement of key outcomes, and potentially requiring additional resources to meet revised deadlines.

- **Timeline Impacts:** Clearly identify specific delays to deliverables, milestones, or the overall period of performance directly caused by the suspension. Detail how these delays affect the project schedule and downstream activities.
- **Programmatic Adjustments:** Outline any challenges or changes to achieving program objectives. This may include shifts in implementation plans, the need to restructure activities, or modifications to the scope of work to align with the adjusted timeline or available resources.
- **Cost-Time Interdependencies:** Explain how the suspension's effects on timelines or program activities have resulted in increased costs or resource demands. For example, consider remobilization costs if suspended work required demobilizing and later restarting operations, or idle labor costs if local regulations did not permit staff to be retained at reduced costs. Highlight the direct connection between the suspension's time impact and financial consequences.

Clear and detailed documentation of these impacts is critical to strengthening your position in discussions with the CO or AO. This level of preparation not only ensures transparency but also significantly improves the likelihood of achieving an equitable resolution, whether through an REA or a renegotiation of the award terms.

5. Make Decisions Regarding Your Workforce

Inform all staff assigned to the project that they must immediately cease performing duties under the statement of work. Clearly communicate the following practical implications of the stop work order as a stop work order directs the stoppage of work (full stop):

- Emphasize that the stop work order is a formal directive tied to compliance with federal regulations and that resumption of activities will depend entirely on instructions from the Contracting Officer (CO) or Agreement Officer (AO).
- Discontinue all activities, including preparing deliverables or reports.
- Do not hold or attend any project-related meetings.
- Halt any project-related travel, procurement of supplies, or incurring other expenditures.
- **Managing Labor.** Consider the following options for managing workforce impact during the suspension period:
 - Identify essential employees to maintain operational readiness and provide justification for why that is. E.g.: normally Key Personnel are required to be provided under a contract for the duration of the contract, therefore presumably required when contract resumes after SWO is lifted.
 - Consistent with your financial position, consider encouraging other employees to use annual leave rather than leave without pay, to reduce the financial burden on both employees and the organization.
 - Where legally and contractually permissible, place employees on unpaid administrative leave (furlough), ensuring that benefits such as health insurance are maintained.

- If administrative leave is not feasible due to legal, contractual, or labor law constraints, provide paid administrative leave where laws or agreements mandate continued employment during a suspension period.
- Carefully review applicable labor laws, employment agreements, and internal policies before implementing these measures to ensure compliance and mitigate risks. Communicate clearly and compassionately with employees about the rationale for these decisions, the temporary nature of the situation, and any potential next steps once the suspension is resolved.
- Terminate short term consultants or get assurances that if you pause their agreements, they will not claim any suspension costs.

6. Flow Down the Order to Subcontractors and Subawardees:

- Notify subcontractors under the contract promptly about the stop work order, in accordance with the applicable subcontract or subaward clauses. Provide a copy of the Contracting Officer's (CO) order to ensure clarity and demonstrate that the directive originates from the federal agency, not your organization.
- For subawardees under grants or cooperative agreements, flow down the suspension if the terms of the prime award permit. If the terms do not allow for a suspension flow-down, you may:
 - **Negotiate a suspension provision** as an amendment or new term to the subaward, ensuring mutual agreement on suspension-related conditions; or
 - **Offer termination with a termination settlement**, following applicable procedures to address allowable costs and settle obligations fairly.
- Ensure all communications are clear, well-documented, and aligned with the governing terms and conditions of the subaward or subcontract.

Annex: Guidelines for Justifying Costs and Making Decisions During a Stop Work Order or Suspension

General Guidance:

Be prepared to justify any costs that cannot be mitigated or avoided, explaining their necessity and the results of any cost/benefit analysis conducted. Maintain meticulous records of all decisions, as you will likely need to substantiate your reasoning and demonstrate that your actions were reasonable, cost-effective, and appropriate. It is just as important to show compliance with the Stop Work Order or Suspension as to actually comply with it.

Labor Costs:

The key decision regarding labor costs is whether to reassign, furlough, or terminate employees to minimize expenses. This decision can be particularly complex in the international development context due to foreign employment laws and local labor agreements. You may need to seek legal advice to ensure compliance.

- **Review Local Employment Laws and Contracts:** Assess severance provisions, notification requirements, and other legal obligations. Obtain new advice from local labor lawyers to demonstrate contemporaneous efforts to comply.
- **Reassign Employees:** If feasible, shift employees to other unaffected activities, indirect cost functions like encourage them to go on paid or unpaid leave to retain their capacity without incurring unnecessary idle labor costs.
- **Furlough or Lay Off Employees:** If employees cannot be reassigned, consider furloughs or layoffs when the cost savings outweigh the costs of termination (e.g., severance payments, notice periods).
- **Retaining Employees:** If you choose to retain employees to maintain readiness and capacity, calculate the costs associated with this decision compared to alternative options. Document your analysis and rationale in writing and communicate it to the CO or AO as early as possible to obtain their consent.

Subcontractors and Subawardees:

Subcontractor and Subawardee costs are part of your prime award's costs, and you are responsible for managing them effectively.

- **Flow Down the Stop Work Order:** Promptly notify subcontractors of the stop work order and provide a copy of the CO's order for clarity.
- **Request Cost Details:** Require subcontractors to submit a detailed breakdown of costs they cannot mitigate or avoid by a specified deadline, so you can include this information in your communication to the CO.
- **Subawardees:**
 - If your award terms allow, flow down the suspension to subawardees.
 - If suspension rights are not provided in the subaward (e.g. FAA), negotiate adding a suspension term. Make it clear that failure to agree could result in termination of the subaward, bearing in mind that recipients can request early termination.

Commercial Contracts:

Commercial agreements (e.g., leases, utilities, service contracts) may not include stop work provisions, so managing these costs requires careful analysis.

- **Evaluate Options for Suspension or Termination:** Determine whether contracts can be terminated or temporarily suspended. For example, you may be able to pause utility services or terminate a lease if it includes an early termination clause.
- **Communicate Unavoidable Costs:** For contracts where suspension or termination is not possible, document these costs and explain them to the CO or AO.
- **Limit New Obligations:** Do not place new orders during the stop work period. If unavoidable (e.g., renewing a lease to avoid higher future costs or maintaining government property).

Travel Costs:

Cancel all travel promptly to avoid unnecessary expenses. If employees need to be demobilized and returned to their place of origin, this may incur new travel costs. While reasonable and appropriate in some cases, you must document the necessity and justification for such decisions and include them in your communication to the CO or AO.

Indirect Costs and Recovery During Suspension

Recovering approved indirect costs through the application of your existing Negotiated Indirect Cost Rate Agreement (NICRA) to allowable suspension costs should generally be permitted. However, if personnel are reassigned to indirect functions during the suspension period, and you can demonstrate the necessity of these reassignments, your indirect costs may temporarily increase. This increase often occurs while your revenue base decreases due to the slowdown or halt of work, leading to a higher indirect cost burden across programs. It is critical to maintain a detailed analysis of how and why these changes occur, as this documentation will be essential if you seek to recover unabsorbed indirect costs or justify increased indirect costs. This analysis should clearly outline the relationship between the suspension, changes to your cost base, and the resulting impact on indirect cost recovery to ensure compliance and improve your position for negotiation with the CO or AO.

Lifting of Stop Work Order on Contracts and Resumption of Work

Within 30 days of the lifting of the Stop Work Order prepare and submit a **Request for Equitable Adjustment (REA)** to the Contracting Officer (CO) to address costs incurred and any adjustments needed for the period of performance. However, it is in the Contracting Officer's discretion if under their discretion the facts justify the action, to accept the REA after the 30 day period and receive and act upon the claim submitted at any time before final payment under the contract.

It is advised that Contractors begin preparing the REA before the Stop Work Order is lifted by collecting all the documentation and financial support referred to above. If the Stop Work Order is not lifted and instead the Contract is terminated for convenience the preparation work will not be wasted as it will be converted to the Termination for Convenience Settlement Proposal.

Avallon Consulting's experts are skilled in preparing REAs that meet all the regulatory requirements and enable contractors to recover costs incurred during the stop work period. The cost of obtaining professional assistance is generally allowable under REAs.

Lifting of Suspension of Work for Grants and Cooperative Agreements

Grants and Cooperative Agreements do not have time limits on when grantees and recipients must notify the Agreement Officer of the programmatic and financial impact of the suspension, but it is recommended that a formal request for a Revision of the Award and Budget be submitted and negotiated as soon as practicable after the suspension is lifted to allow timely adjustments to the budget and work plan.

Avallon Consulting's grant experts can assist in preparing successful requests to Agreement Officer's to allow your program to resume successfully.

Contract Terminations for Convenience

If the SWO transitions to a termination of the contract, the Contractor will be directed to submit a **Termination Settlement Proposal** under the Federal Acquisition Regulation Termination clauses and include all allowable costs incurred up to the date of the termination, as well as allowable termination-related costs, which will also include allowable suspension-related costs discussed in this guidance.

Grant or Cooperative Agreement Non-Disciplinary Terminations.

If the suspension leads to a Government interest termination of the Grant or Cooperative Agreement (e.g., the program no longer aligns with objectives, national security concerns, etc.), your organization should prepare a Termination and Closeout proposal that documents all costs incurred up to the termination notice, along with any allowable termination costs.

Avallon Consulting's experts can assist in preparing Termination Settlement or Termination and Close Out proposal to be submitted to the Agreement Officer.

Avallon can assist with many tasks in this guidance. For matters that require legal assistance, we can recommend **trusted and vetted legal professionals** with specialized expertise in Government contracts and grants, who have been tested and proven through our experience.