

32.704 Limitation of cost or funds.

(a)

(1) When a contract contains the clause at 52.232-20, Limitation of Cost; or 52.232-22, Limitation of Funds, the *contracting officer*, upon learning that the contractor is approaching the estimated cost of the contract or the limit of the funds allotted, *shall* promptly obtain funding and programming information pertinent to the contract's continuation and notify the contractor *in writing* that-

(i) Additional funds have been allotted, or the estimated cost has been increased, in a specified amount;

(ii) The contract is not to be further funded and that the contractor *should* submit a proposal for an adjustment of fee, if any, based on the percentage of work completed in relation to the total work called for under the contract;

(iii) The contract is to be terminated; or

(A) The Government is considering whether to allot additional funds or increase the estimated cost-

(B) The contractor is entitled by the contract terms to stop work when the funding or cost limit is reached; and

(C) Any work beyond the funding or cost limit will be at the contractor's risk.

(2) Upon learning that a partially funded contract containing any of the clauses referenced in paragraph (a)(1) of this section will receive no further funds, the *contracting officer shall* promptly give the contractor written notice of the decision not to provide funds.

(b) Under a cost-reimbursement contract, the *contracting officer may* issue a *change order*, a direction to replace or repair defective items or work, or a termination notice without immediately increasing the funds available. Since a contractor is not obligated to incur costs in excess of the estimated cost in the contract, the *contracting officer shall* ensure availability of funds for directed actions. The *contracting officer may* direct that any increase in the estimated cost or amount allotted to a contract be used for the sole purpose of funding termination or other specified expenses.

(c) Government personnel encouraging a contractor to continue work in the absence of funds will incur a violation of Revised Statutes section 3679 (31 U.S.C. 1341) that *may* subject the violator to civil or criminal penalties.

Parent topic: Subpart 32.7 - Contract Funding