

BDS Terms and Conditions Guide

Clause Number: F221

Effective: 10/04/2022

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Partial Funding

1. **Funding Limitation.** The Goods/Services ordered under this contract are subject to funding limitations. The current funding limitation is stated on the purchase contract. The funding period of performance is in clause F216 or the “Funding Through Date” specified in the Contract.

2. **Performance.** Seller shall perform within the funding limitation and funding period of performance as specified in clause F216, or the “Funding Through Date” as incorporated in this Contract. Buyer may unilaterally modify this Contract to extend the period of performance, in which case Seller shall continue to perform to the new funding performance period. If such modification requires additional funding, the termination liability incorporated in clause F218 “Termination Liability” or the expenditure profile incorporated in clause F219 “Expenditure Profile” may be equitably adjusted.

3. **Limitation of Buyer’s Obligation.** For fixed price Contracts, Seller agrees to perform only up to the point at which the total amount payable by the Buyer, including reimbursement in the event of termination, approximates the total amount currently funded in the Contract but not to exceed the maximum termination liability per clause F218 “Termination Liability”. Seller is not authorized to continue work beyond that point. In any event, the Buyer will not be obligated to reimburse Seller in excess of the amount stated in clause F218 “Termination Liability”.

For cost reimbursable Contracts, Seller agrees to perform only up to the point at which the total amount payable by the Buyer, including reimbursement in the event of termination, approximates the total amount currently funded in the Contract but in accordance with clause F219 “Expenditure Profile (Payment)”. Seller is not authorized to continue work beyond that point. In any event, the Buyer will not be obligated to reimburse Seller in excess of the amount stated in clause F219 “Expenditure Profile (Payment)”.

4. **Additional Funds.** Buyer may at any time prior to termination allot additional funds for the performance of the line item(s) which are incrementally funded under this Contract.

5. **Additional Funding Notification.** Seller shall notify Buyer in writing of any additional termination liability and expenditure profile amount required to continue timely performance under this contract for sixty (60) days after the date specified in clause F216 or the “Funding Through Date” as incorporated in this Contract or for any further period specified by Buyer. If Seller fails to give notice at least thirty (30) days before the date specified in clause F216 or the “Funding Through Date”, Seller agrees to continue performance of the work under this contract with no additional termination liability and expenditure profile amount authorized for thirty (30) days from the date that the notice is received by Buyer in order to allow Buyer time to authorize the additional funding amount.

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6. **Delayed Funding.** If Seller incurs additional costs or is delayed in the performance of the work under this Contract, solely by reason of the failure of Buyer to allot additional funds in amounts sufficient for the timely performance of this Contract, and if funds are later allotted sufficient to resume performance, the parties agree to negotiate an equitable adjustment in the price or prices (including appropriate target, billing, and ceiling prices where applicable) or in the time of delivery, or both. Failure to agree to any such equitable adjustment hereunder will be a dispute concerning a question of fact within the meaning of the clause entitled "Disputes."

7. **Contract Rights.** Nothing contained in this clause shall affect the right of Buyer to cancel or terminate this Contract under the "Default" or "Termination for Convenience" articles of this Contract. In the event not all line items of this Contract are being incrementally funded, the provisions of this clause are limited to the Goods/Services and allotment of funds for those line items which are being incrementally funded. This clause no longer applies once the Contract is fully funded except with regard to the rights or obligations of the parties pending equitable adjustments to be negotiated under paragraph six (6) of this clause.