

## 43.105 Availability of funds.

(a) The *contracting officer shall* not execute a *contract modification* that causes or will cause an increase in funds without having first obtained a certification of fund availability, except for modifications to contracts that-

(1) Are conditioned on availability of funds (see [32.703-2](#)); or

(2) Contain a limitation of cost or funds clause (see [32.704](#)).

(b) The certification required by paragraph (a) of this section *shall* be based on the negotiated price, except that modifications executed before agreement on price *may* be based on the best available estimate of cost.

(c) In accordance with [10 U.S.C. 983](#), do not provide funds by contract or *contract modification*, or make contract payments, to an institution of higher education that has a policy or practice of hindering Senior Reserve Officer Training Corps units or military recruiting on campus as described at [9.110](#). The prohibition in this paragraph (c) does not apply to *acquisitions* at or below the *simplified acquisition threshold* or to *acquisitions of commercial products*, including commercially available off-the-shelf items, and *commercial services*.

**Parent topic:** [Subpart 43.1 - General](#)