3452.232-72 Limitation of Government's obligation.

As prescribed in 3432.706–2(c), insert the following clause. The Contracting Officer may vary the 90-day period from 90 to 30 or 60 days and the 85 percent from 85 to 75 percent. “Task Order,” “contract,” or other appropriate designation may be substituted for “CLIN(s)” wherever that word appears in the clause:

Limitation of Government's Obligation (OCT 2023)

Sufficient funds are not presently available to cover the total price of the CLIN(s) listed in paragraph (l) below. The CLIN(s) identified in paragraph (l) below are incrementally funded to cover the identified period of performance. Additional funds are intended to be allotted to the applicable CLIN(s) by contract modification up to and including the full price of the entire period of performance. This notwithstanding, the Government will not be obligated to pay the Contractor for amounts payable in excess of the amount actually allotted, nor will the Contractor be obligated to perform in excess of such amount.

(a) The CLIN(s) in paragraph (l) of this clause is/are incrementally funded. Paragraph (l) also lists the allotment amount presently available for payment and allotted to the CLIN(s), inclusive of any termination costs for the Government's convenience, and the allotment schedule that provides the last date of Contractor performance for which it is estimated the allotted amount will cover. The parties contemplate that the Government may allot additional funds incrementally to the applicable CLIN(s) under the contract, up to the full price specified in the contract. The Contractor agrees to perform work under the applicable CLIN(s) up to the point at which the total amount paid and payable by the Government under the contract for the applicable CLIN(s), including estimated costs in the event of termination of those CLIN(s) for the Government's convenience, approximates the total amount currently allotted to such CLIN(s).

(b) Notwithstanding the dates specified in the allotment schedule in paragraph (l) of this clause, the Contractor shall notify the Contracting Officer in writing at least ninety (90) days prior to the date when, in the Contractor's best judgment, the work will reach the point at which the total amount payable by the Government, including any cost for termination for the Government's convenience, will approximate 85 percent of the total amount then allotted to the contract for performance of the applicable CLIN(s). The notification will state

(1) the estimated date when that point will be reached, and (2) an estimate of additional funding, if any, needed to continue performance of applicable CLIN(s) up to the date in paragraph (l) of this clause, or to a mutually agreed upon substitute date.

(c) If, after notification pursuant to paragraph (b) of this clause, additional funds are not allotted by the date identified in paragraph (l), the date identified in the Contractor's notification, or by an agreed substitute date, upon the Contractor's written request, the Contracting Officer may terminate for the Government's convenience any CLIN(s) for which additional funds have not been allotted. If the Contractor estimates that the funds available will allow it to continue to discharge its obligations beyond that date, it may specify a later date in its request to terminate the applicable CLIN(s), and the Contracting Officer may terminate such CLIN(s) on that later date. In no event is the Contractor authorized to continue work on those CLIN(s) beyond the time when the amount payable, to include costs of termination for the Government's convenience, is equal to the funds

allotted.

(d) If, solely by reason of failure of the Government to allot additional funds, by the dates indicated in paragraph (l) of this clause, in amounts sufficient for timely performance of the CLIN(s) identified in paragraph (l) of this clause, the Contractor incurs additional costs or is delayed in the performance of the work under this contract and if additional funds are allotted, the Contractor may request an equitable adjustment to the price or prices (including appropriate target, billing, and ceiling prices, where applicable) of the applicable CLIN(s), or in the time of delivery, or both, by written request to the Contacting Officer with sufficient documentation to support such equitable adjustment. Failure to agree to any such equitable adjustment hereunder will be a dispute concerning a question of fact within the meaning of the clause titled “Disputes.” Notwithstanding anything to the contrary herein, in no event will an equitable adjustment under this paragraph (d) be due to the Contractor for costs that arise from or relate to the Contractor's breach of the notification obligations in paragraph (b) of this clause.

(e) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause—

(1) The Government is not obligated to pay for goods or services, to include reimbursement of costs for termination for the Government's convenience, in excess of the total amount allotted by the Government to the CLIN(s) identified in paragraph (l) of this clause; and

(2) The Contractor is not authorized to continue performance of the CLIN(s) identified in paragraph (l) of this clause in excess of the amount allotted by the Government to the applicable CLIN(s).

(3) As used in this clause, the total amount payable by the Government in the event of termination of applicable CLIN(s) for convenience includes reasonable costs, profit, and termination settlement costs for those item(s).

(f) No communication or representation in any form other than in writing from the Contracting Officer shall affect the amount allotted by the Government to this contract and applicable CLIN(s). The Government is not obligated to reimburse the Contractor for any costs in excess of the total amount allotted by the Government to the applicable CLIN(s), whether incurred during the course of the contract or as a result of termination.

(g) The Government may at any time prior to termination allot additional funds for the performance of the CLIN(s) identified in paragraph (l) of this clause.

(h) When additional funds are allotted for continued performance of the CLIN(s) identified in paragraph (l) of this clause, the parties will agree as to the period of contract performance that will be covered by the funds. The provisions of this clause will apply in like manner to the additional allotted funds and agreed substitute date, and the contract will be modified accordingly.

(i) The termination provisions of this clause do not limit the rights of the Government to terminate the contract, in whole or in part, for cause in the event of any breach or default by the Contractor. The provisions of this clause are limited to the work and allotment of funds for the CLIN(s) set forth in paragraph (l) of this clause. This clause no longer applies once the contract is fully funded except with regard to the rights or obligations of the parties concerning equitable adjustments negotiated under paragraph (d) of this clause.

(j) Nothing in this clause affects the right of the Government to terminate this contract, in whole or in part, for convenience or cause.

(k) Nothing in this clause shall be construed as authorization of voluntary services whose acceptance is otherwise prohibited under 31 U.S.C. 1342.

(l) Incremental funds are allotted to the CLIN(s) under this contract as follows:

CLIN	Amount allotted	Last date of performance

(End of clause)

Parent topic: Subpart 3452.2—Text of Provisions and Clauses