

AA 2024-03, D&F Attachment

Insert the following text at EDAR 3432.706-2(f):

(f) The Contracting Officer may insert clause 3452.232-73, Limitation of Government's Obligation When Fully Funding Variable Quantity Contract Line Items, in solicitations and contracts that have fixed-unit rates and the quantities serviced or performed (e.g., borrowers on loan servicing contracts, number of calls to a help desk, number of items generated for assessment, etc.) are outside the control of the Government or the Contractor, and the funds allotted to the contract equal the total estimated price.

Insert the following text at EDAR 3452.232-73:

3452.232-73 Limitation of Government's Obligation When Fully Funding Variable Quantity Contract Line Items

As prescribed in 3432.706-2(f), the Contracting Officer may insert the following clause in solicitations and contracts.

Limitation of Government's Obligation When Fully Funding Variable Quantity Contract Line Items (JAN 2024)

(a) This clause applies to the following CLIN(s):

(b) The total estimated price of the CLIN(s) is a product of the fixed-unit price, as specified in the order or contract, multiplied by an estimated quantity for the period of performance specified in the order or contract.

(c) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe either that-

(1) The total quantity the Contractor expects in the next 60 days, when added to all previous quantities and multiplied by the fixed-unit rate, will exceed 75 percent of the total estimated price specified in the order or contract; or

(2) The total quantity for the performance of the CLIN(s) will be either greater or less than the total estimated quantity in the order or contract.

(d) As part of the required notification in (c) above, the Contractor shall provide the Contracting Officer a revised estimate of the total quantity and the basis for the estimate.

(e) Upon either the Contractor's notification under (c) or upon notification by the Contracting Officer that the Government estimates a quantity lower or higher than that currently specified for the CLIN(s), the parties will negotiate a revised estimate and modify the order or contract accordingly.

(f) 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 the Contractor in excess of the total estimated price specified for the CLIN(s); and

(2) The Contractor is not authorized to continue performance under this contract when amounts paid and payable equal the total estimated price of the CLIN specified in the order or contract, unless the Contracting Officer authorizes in writing (e.g., typically in the form of a modification) to increase the total estimated price and allots additional funds to the order or contract. Absent such written authorization, the Contractor is required to stop work and any continued performance will be at no cost to the Government. Nothing herein shall be construed as authorization of voluntary services whose acceptance is otherwise prohibited under 31 U.S.C. 1342. The Contractor waives any claims, demands or actions related to compensation for such unauthorized performance and releases, remises and discharges the Government from all liability related thereto.

(g) No notice, communication, or representation in any form other than the written authorization specified in paragraph (f)(2) of this clause, or from any person other than the Contracting Officer, shall affect the CLIN(s)' total estimated price to the Government. In the absence of the specified notice, the Government is not obligated to pay the Contractor any amount in excess of the total estimated price.

(h) Change orders shall not be considered an authorization to exceed the total estimated price specified for the CLIN(s), unless they contain a statement increasing the total estimated price.

(i) If upon the end of the performance period and after the final invoice, the actual quantity is below the estimated quantity, the Contracting Officer may unilaterally reduce the total estimated price to equal the actual price and de-obligate excess funds. Such an action is not a Termination for Convenience of the Government.

(End of clause)