

## 32.705

(iv)(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 subparagraph (1) above 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.

[48 FR 42328, Sept. 19, 1983, as amended at 51 FR 2665, Jan. 17, 1986]

### 32.705 Contract clauses.

#### 32.705-1 Clauses for contracting in advance of funds.

(a) Insert the clause at 52.232-18, Availability of Funds, in solicitations and contracts if the contract will be chargeable to funds of the new fiscal year and the contract action will be initiated before the funds are available.

(b) The contracting officer shall insert the clause at 52.232-19, Availability of Funds for the Next Fiscal Year, in solicitations and contracts if a one-year indefinite-quantity or requirements contract for services is contemplated and the contract—

(1) Is funded by annual appropriations; and

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(2) Is to extend beyond the initial fiscal year (see 32.703-2(b)).

[48 FR 42328, Sept. 19, 1983, as amended at 63 FR 58602, Oct. 30, 1998; 67 FR 13054, Mar. 20, 2002]

#### 32.705-2 Clauses for limitation of cost or funds.

(a) The contracting officer shall insert the clause at 52.232-20, Limitation of Cost, in solicitations and contracts if a fully funded cost-reimbursement contract is contemplated, except those for consolidated facilities, facilities acquisition, or facilities use, whether or not the contract provides for payment of a fee.

(b) The contracting officer shall insert the clause at 52.232-21, Limitation of Cost (Facilities), in solicitations and contracts for consolidated facilities, facilities acquisition, or facilities use (see 45.301).

(c) The contracting officer shall insert the clause at 52.232-22, Limitation of Funds, in solicitations and contracts if an incrementally funded cost-reimbursement contract is contemplated.

### Subpart 32.8—Assignment of Claims

#### 32.800 Scope of subpart.

This subpart prescribes policies and procedures for the assignment of claims under the Assignment of Claims Act of 1940, as amended, 31 U.S.C. 3727 (hereafter referred to as *the Act*).

[48 FR 42328, Sept. 19, 1983, as amended at 51 FR 2665, Jan. 17, 1986]

#### 32.801 Definitions.

*Designated agency*, as used in this subpart, means any department or agency of the executive branch of the United States Government (see 32.803(d)).

*No-setoff commitment*, as used in this subpart, means a contractual undertaking that, to the extent permitted by the Act, payments by the designated agency to the assignee under an assignment of claims will not be reduced to liquidate the indebtedness of the contractor to the Government.

[48 FR 42328, Sept. 19, 1983, as amended at 60 FR 49730, Sept. 26, 1995; 66 FR 2132, Jan. 10, 2001]