

3.2.4-28 Cancellation of Items (February 2003)

(a) "Cancellation," as used in this clause, means that the Government is canceling its requirements for all items in program years subsequent to that in which notice of cancellation is provided. Cancellation shall occur, by the date or within the time period specified in the Schedule, (unless a later date is agreed to) if the Contracting Officer (1) notifies the Contractor that funds are not available for contract performance for any subsequent program year or (2) fails to notify the Contractor that funds are available for performance of the succeeding program year requirement.

(b) Except for cancellation under this clause or termination under the "Default" clause, any reduction by the Contracting Officer in the requirements of this contract shall be considered a termination under the "Termination for Convenience of the Government" clause.

(c) If cancellation under this clause occurs, the Contractor will be paid a cancellation charge not over the cancellation ceiling specified in the "Schedule" as applicable at the time of cancellation.

(d) The cancellation charge will cover only (1) costs (i) incurred by the prime contractor and/or subcontractor, (ii) reasonably necessary for performance of the contract, and (iii) that would have been equitably amortized in the unit prices for the entire multi-year contract period but, because of the cancellation, are not so amortized, and (2) a reasonable profit on the costs.

(e) The cancellation charge shall be computed and the claim made for it as if the claim were being made under the "Termination for Convenience of the Government" clause of this contract. The Contractor shall submit the contract dispute promptly but no later than 1 year from the date (1) of notification of the nonavailability of funds, or (2) specified in the "Schedule" by which notification of the availability of additional funds for the next succeeding program year is required to be issued, whichever is earlier, unless extensions in writing are granted by the Contracting Officer.

(f) The Contractor's contract dispute may include--

(1) Reasonable nonrecurring costs which are applicable to and normally would have been amortized in all items to be furnished under the multi-year requirements;

(2) Allocable portions of the costs of facilities acquired or established for the conduct of the work, to the extent that it is impracticable for the Contractor to use the facilities in its commercial work and if the costs are not charged to the contract through overhead or otherwise depreciated;

(3) Costs incurred for the assembly, training, and transportation to and from the job site of a specialized work force; and

(4) Costs not amortized by the unit price solely because the cancellation had precluded anticipated benefits of Contractor or subcontractor learning.

(g) The contract dispute shall not include--

(1) Labor, material, or other expenses incurred by the Contractor or subcontractors for performance of the canceled work;

(2) Any cost already paid to the Contractor;

(3) Anticipated profit on the canceled work; or

(4) For service contracts, the remaining useful commercial life of facilities. 'Useful commercial life' means the commercial utility of the facilities rather than their physical life with due consideration given to such factors as location of facilities, their specialized nature, and obsolescence.

(h) This contract may include an "Option" clause with the period for exercising the option limited to the date in the contract for notification that funds are available for the next succeeding program year. If so, the Contractor agrees not to include in the price for option quantities any costs of a startup or nonrecurring nature, that have been fully provided for in the unit prices of the firm quantities of the program years. The Contractor further agrees that the prices offered for option quantities will reflect only those recurring costs, and a reasonable profit necessary to furnish the additional option quantities.

(i) Quantities added to the original contract through the "Option" clause of this contract shall be included in the quantity canceled for the purpose of computing allowable cancellation charges.

(End of clause)

PRESCRIPTION

Should be used in RFIs/RFPs when a multiyear contract is contemplated.