

## BDS Terms and Conditions Guide

**Clause Number: F220**

**Effective: 10/04/2022**

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### Incremental Funding

1. **Incremental Funding.** The Goods/Services ordered under this Contract shall be incrementally funded. The current funding limitation is stated on the purchase contract. The funding period of performance is found in clause F216 or the “Funding Through Date” specified in the Contract.
2. **Performance.** Seller shall perform within the funding limitation and funding period of performance specified per clause F216 or the “Funding Through Date” as incorporated in this Contract and Buyer may unilaterally modify this Contract to extend the period of performance in which case Seller shall continue to perform to the new performance period. If such modification requires additional funding, the termination liability incorporated in clause F218 “Termination Liability” may be equitably adjusted.
3. **Limitation of Buyer’s Obligation.** Seller agrees to perform only up to the point at which the total amount payable by the Buyer, including reimbursement in the event of termination, approximates the total amount currently funded in the Contract but not to exceed the maximum termination liability per clause F218 “Termination Liability”. Seller is not authorized to continue work beyond that point. In any event, the Buyer will not be obligated to reimburse Seller in excess of the amount stated in clause F218 “Termination Liability”.
4. **Additional Funds.** Buyer may at any time prior to termination allot additional funds for the performance of the line item(s) which are incrementally funded under this Contract.
5. **Additional Funding Notification.** Seller shall notify Buyer’s Authorized Procurement Representative in writing, by the earlier of 50 days prior to: the expiration of the performance period; OR when, in Seller’s best judgment, the date when the work will reach the point when Buyer’s required payment will approximate 75% of the funding, including any cost for termination for convenience. The written notification shall state (1) the estimated date when Seller’s work will reach the point when Buyer’s required payment will approximate 75% of the funding and (2) an estimate of additional funding, if any, needed to continue performance up to the next scheduled date for allotment of funds as previously agreed between the parties. If after such notification additional funds are not provided and/or the period of performance is not extended by the date identified in the Seller’s notification, or by an agreed to substitute date, Buyer may terminate any Goods/Services for which additional funds have not been allotted, pursuant to the “Termination for Convenience” clause of this Contract.

If Seller fails to give notice as required above, Seller shall continue to perform within the funding limitation for thirty (30) days from the date that the notice is received by Buyer; such continued performance shall allow Buyer time to either authorize additional funding or implement termination.

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6. **Delayed Funding.** If Seller incurs additional costs or is delayed in the performance of the work under this Contract, solely by reason of the failure of Buyer to provide additional funds in amounts sufficient for the timely performance of this Contract, and if additional funds are later provided to resume performance, the parties agree to negotiate an equitable adjustment in the price or prices (including appropriate target, billing, and ceiling prices where applicable) or in the time of delivery, or both. Failure to agree to any such equitable adjustment hereunder will be a dispute concerning a question of fact within the meaning of the clause entitled “Disputes.”
  
7. **Contract Rights.** Nothing contained in this clause shall affect the right of Buyer to cancel or terminate this Contract under the “Default” or “Termination for Convenience” articles of this Contract. In the event not all line items of this Contract are being incrementally funded, the provisions of this clause are limited to the Goods/Services for those line items which are being incrementally funded. This clause no longer applies once the Contract is fully funded except with regard to the rights or obligations of the parties pending equitable adjustments to be negotiated under paragraph six (6) of this clause.