



GSA Office of Governmentwide Policy

Class Deviation CD-2021-05
January 15, 2021

MEMORANDUM FOR GSA PBS CONTRACTING ACTIVITIES

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SUBJECT: GSAR Class Deviation - Incremental Funding for Severable Service Contracts

1. Purpose.

This memorandum explains the circumstances under which a contract for severable services may cross fiscal years and be incrementally funded, supplementing 41 U.S.C. § 3902, Federal Acquisition Regulation (FAR) 32.703-3 and General Services Administration Regulation (GSAR) Subparts 532.702, 532.703, 532.706, and 552.232.

2. Background.

Due to certain limitations within the Federal Buildings fund, in 2013 GSA identified an inability to fully fund various contracts for severable services. Class deviation SPE-2013-08-12 was issued to create a temporary solution in the form of a "Limitation of Government's Obligation (LOGO)."

The 2013 deviation is outdated. Over the last several years, GSA has reduced the population of contracts that must be incrementally funded. The 2021 deviation updates and further limits use of the LOGO clause for the remaining eligible population.

3. Applicability.

Class deviation 2021-05 may only be used for contracts meeting all the following criteria:

- It is a follow-on to a contract which already contained the LOGO process under class deviation SPE-2013-08-12
- The contract has a total value greater than \$500,000

LOGO is not authorized for new acquisitions. Follow-on contracts, that are otherwise eligible to use the authority granted by this class deviation, that are combined with one

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or more fully funded contracts (e.g., contract consolidation) require a written direction from the Office of the Chief Financial Officer, to determine if the new action will be incrementally funded or fully funded.

4. Authority.

This class deviation is issued under the authority of FAR 1.404 and General Services Administration Acquisition Manual (GSAM) 501.404.

5. Deviation.

See Attachment A for the changes in the GSAR text as revised by this deviation.

6. Cancellation.

This memorandum cancels and replaces SPE memorandum 2013-08-12 and the class deviation contained therein.

7. Effective Date.

This deviation is effective immediately and remains in effect until rescinded or incorporated into the GSAR, the FAR, or canceled, as applicable.

8. Point of Contact.

Any questions regarding this deviation may be directed to GSARPolicy@gsa.gov.

Attachments Appendix A – GSAR Deviation Text

**CD-2021-05
APPENDIX A
GSAR DEVIATION TEXT**

GSAR Baseline: Change 121 effective 12/31/2020

- Additions to baseline made by deviation are indicated by **[bold text in brackets]**
- Deletions to baseline made by deviation are indicated by ~~strikethroughs~~
- Five asterisks (* * * * *) indicate that there are no revisions between the preceding and following parts or sections
- Three asterisks (* * *) indicate that there are no revisions between the material shown within a section and subsection or subsection

PART 532 - CONTRACT FINANCING

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Subpart 532.7 - Contract Funding

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532.702 Policy.

GSA's contract funding policies are in compliance with the full funding policy at 2, Section 31.6, OMB-C A-11, published June 26, 2008. **[Except as provided in 532.703, fixed-price contracts shall be fully funded.]**

532.703 Contract funding requirements.

~~(a) "Severable services" means services that are continuing and ongoing in nature—such as help-desk support, maintenance, or janitorial services—for which benefit is received each time the service is rendered.~~

~~(b) "Non-severable services" means work that results in a final product or end-item and for which benefit is received only when the entire project is complete, such as systems design, building conversion, or environmental study.~~

~~(c) Contracts for severable services may cross fiscal years as long as the period of performance (excluding options) is no more than 12 months. Contracts for goods or non-severable services are not similarly limited.~~

[532.703-1 General.

(a) Definitions.

“Severable services” means services that are continuing and ongoing in nature—such as help-desk support, maintenance, or janitorial services—for which a benefit is received each time the service is rendered.

“Non-severable services” means work that results in a final product or end-item and for which a benefit is received only when the entire project is complete, such as systems design, building conversion, or environmental study.]

[532.703-3 Contracts crossing fiscal years.

(a) Contracts for goods or non-severable services may cross fiscal years without the one year limitation on the period of performance in FAR 32.703-3(b) and must be fully obligated at contract award.

(b) Contracts for severable services may only cross fiscal years if the period of performance (excluding options) is no more than one year, in accordance with 41 U.S.C. 3902 and FAR 32.703-3(b).

(c) A fixed-price contract may be incrementally funded only if the contract (excluding any options) or any exercised option --

(1) Is for severable services; and

(2) Is incrementally funded using funds available (unexpired) as of the date the funds are obligated.]

[532.703-70 Incrementally funded fixed-price contracts.

(a) Unless otherwise agreed to by the Office of the Chief Financial Officer, incrementally funded fixed-price severable service contracts shall be funded using monthly allotment periods.

(b) Not less than 15 calendar days prior to the next allotment date in paragraph (j) of the clause at 552.232-70, Limitation of Government’s Obligation, the contracting officer shall promptly provide written notice to the contractor that the Government is --

(1) Allotting additional funds for continued performance and increasing the Government's limitation of obligation in a specified amount; or

(2) Terminating the contract.

(c) Upon a determination that the contract will receive no further funds, the contracting officer shall promptly give the contractor notice of the government’s decision and terminate for the convenience of the Government.

(d) The contracting officer shall ensure that, in accordance with paragraph (b) of the clause at 552.232-70, Limitation of Government's Obligation, sufficient funds are allotted to the contract to cover the total amount payable to the contractor in the event of termination for the convenience of the Government.]

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532.706 Contract clauses.

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[532.706-70 Clause for limitation of Government's obligation.

Use the clause at 552.232-70, Limitation of Government's Obligation, in solicitations and contracts for incrementally funded fixed-price severable service acquisitions.]

PART 552 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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Subpart 552.2 - Text of Provisions and Clauses

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~~552.232-70 [Reserved]~~

[552.232-70 Limitation on Government's Obligation

As prescribed in 532.706-70, use the following clause:

Limitation of Government's Obligation (JAN 2021)

(a) Contract line item(s) *[Contracting Officer insert after negotiations]* is/are incrementally funded. For this/these item(s), the sum of \$__ *[Contracting Officer insert after negotiations]* of the total price is presently available for payment and allotted to this contract. An allotment schedule is set forth in paragraph (j) of this clause.

(b) For item(s) identified in paragraph (a) of this clause, the Contractor agrees to perform up to the point at which the total amount payable by the Government, including reimbursement in the event of termination of those item(s) for the Government's convenience, approximates the total net amount currently allotted to the contract. The Contractor is not authorized to continue work on those item(s) beyond that point. The Government will not be obligated in any event to reimburse the Contractor in excess of the amount allotted to the contract for those item(s) regardless of anything to the contrary in the clause entitled "Termination for Convenience of the Government", or similar clause included in this contract. As used in this clause, the total amount payable by the Government in the event of termination of applicable contract line item(s) for

convenience includes costs, profit, and estimated termination settlement costs for those items(s).

(c) Notwithstanding the dates specified in the allotment schedule in paragraph (j) of this clause, the Contractor will be notified in writing (e.g., electronic mail) and via a GSA-maintained website (*[Contracting Officer insert website URL prior to award]*) at least 15 calendar days prior to the next scheduled allotment date in paragraph (j) of this clause that the Government is:

(1) Allotting additional funds for continued performance and increasing the Government's limitation of obligation in a specified amount and therefore the Contractor agrees to continue performance; or

(2) Terminating the contract.

(d) When additional funds are allotted for continued performance of the contract line item(s) identified in paragraph (a) of this clause, the Contractor agrees to continue performance in accordance with this contract. The provisions of paragraphs (b) and (d) of this clause will apply in like manner to the additional allotted funds and agreed substitute date(s).

(e) If, solely by reason of failure of the Government to allot additional funds, by the dates indicated in paragraph (j), in amounts sufficient for timely performance of the contract line item(s) identified in paragraph (a) 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, an equitable adjustment will be made in the price(s) (including appropriate target, billing, and ceiling prices where applicable) of the item(s), 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", or similar clause in this contract.

(f) The Government may at any time prior to termination, allot additional funds for the performance of the contract line item(s) identified in paragraph (a) of this clause.

(g) The termination provisions of this clause do not limit the rights of the Government under the clause entitled [*CO selects one or the other and deletes the one not selected: "Default" OR "Cause"*], or similar clause in this contract. The provisions of this clause are limited to the work and allotment of funds for the contract line item(s) set forth in paragraph (a) 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 paragraphs (d) or (e) of this clause.

(h) Nothing in this clause affects the right of the Government to terminate this contract pursuant to the clause entitled "Termination for Convenience of the Government", or similar clause in this contract.

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

(j) The parties contemplate that the Government will allot funds to this contract in accordance with the following schedule:

On execution of contract* \$__**

(month) (day), (year) \$__**

(month) (day), (year) \$__**

(month) (day), (year) \$__**

[Insert the award date of the contract]*

*[** To be inserted after negotiation]*

(End of Clause)]

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