



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS SPACE AND MISSILE SYSTEMS CENTER (AFMC)
LOS ANGELES, CA

MEMORANDUM FOR SEE DISTRIBUTION

19 NOV 98

FROM: SMC/FMBI

SUBJECT: Policy on Severable Services Crossing Fiscal Years

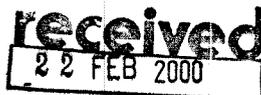
1. The attached guidance for Policy on Severable Services Crossing Fiscal years is provided for your information. Although 3400 funds are addressed, this policy pertains to operating requirements in RDT&E and Procurement funds as well.
2. The basic change is to 10 U.S. C. 2410a which was amended by the FY98 Authorization Act (P.L. 105-85). This amendment allows for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if the contract period does not exceed one year
3. Additionally, no waiver or approved exception to incremental funding (ETIF) is required for 3600 funds when the severable service contract is awarded during the first year of availability. This exemption to the waiver is not applicable in the second year of availability.
4. If you have any questions, please contact Resa Fredericks at ext. 3-3286.

A handwritten signature in black ink that reads "Evan Beenhouwer".

EVAN BEENHOUWER, GS-14
Acting Chief, Investments Programs
Programs/Budget Division

Attachments:

1. HQ AFMC/FMP, 7 Oct 98
2. HQ AFMC/FMPM, 31 Aug 98



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DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE MATERIEL COMMAND
WRIGHT-PATTERSON AIR FORCE BASE OHIO

OCT 07 1998

MEMORANDUM FOR AFRL/FM

FROM: HQ AFMC/FMP
4375 Chidlaw Road, Suite 6
Wright-Patterson AFB OH 45433-5006

SUBJECT: Severable Services Crossing Fiscal Years

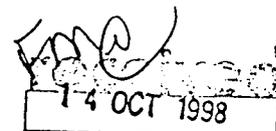
References: (a) HQ AFRL/FM Memo, 28 Sep 98
(b) HQ AFMC/FMBM Memo, 31 Aug 98

1. In answer to your memo (ref. (a)), we have obtained the attached guidance from Air Staff which clarifies how RDT&E in addition to O&M severable contracts will be allowed to implement 10 U.S.C. 2410a.
2. As we stated in our previous memo (ref. (b)), 10 U.S.C. 2410a was amended by the FY98 Authorization Act (P.L. 105-85) to permit all types of severable service contracts to be awarded for a period that begins one fiscal year and ends in the next fiscal year if the contract period does not exceed one year. This application is most suitable for an annual appropriation (e.g. 3400).
3. SAF/FMBIM has determined that this law also applies to 3600 funds when used to fund day-to-day operating (O&M type) requirements. Additionally, no waiver or approved exception to incremental funding (ETIF) is required when the severable service contract is awarded during the first year of availability. This exemption to the waiver is not applicable in the second year of availability.
4. Our point of contact is Mr. Edward Arnold, HQ AFMC/FMPM, DSN 787-4863.

BERNIE L. JOSTEN
Chief, Plans, Systems & Analysis Division
Directorate, Financial Management
& Comptroller

Attachment:
SAF/FMBIM Memo, 2 Oct 98

cc:
ALHQCTR/FMB/FMI/FMA



fw
10-22-98



Office of the Assistant Secretary

DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

001

MEMORANDUM FOR HQ AFMC/FMPM

2 Oct 98

FROM: SAF/FMBIM
1130 Air Force Pentagon
Washington D.C. 20330-1130

SUBJECT: Policy on Severable Services Crossing Fiscal Years

Air Force Instruction 65-601 requires programs to obtain written SAF/FMBI approval before second year RDT&E funds can be used to fund day to day operating requirements.

No waiver is required for a contract for procurement of severable services for a period that begins in the first fiscal year of availability and ends in the next fiscal year if the contract period does not exceed one year. This is consistent with the Operation and Maintenance appropriation policy, and is thus appropriate to apply to operating requirements in the RDT&E appropriation. This exemption to the waiver is not applicable for program funds in their second year of availability.

If you have further questions on this matter, please call Mr. Bill Stringer, (703) 614-4643.

A handwritten signature in black ink that reads "Ronald A. Nuss".

Ronald A. Nuss
Director
Space, Technology and Integration

cc:
SAF/AQXR
AFMC/FMA



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE MATERIEL COMMAND
WRIGHT-PATTERSON AIR FORCE BASE OHIO

MEMORANDUM FOR ALHQCTR/FMB/FMI/FMA

AUG 31 1998

FROM: HQ AFMC/FMPM
4375 Chidlaw Road, Suite 6
Wright-Patterson AFB OH 45433-5006

SUBJECT: Severable Services Crossing Fiscal Years

1. The FY98 Authorization Act (P.L. 105-85) expanded the authority in 10 U.S.C. 2410A to include all types of severable service contracts crossing fiscal years. P.L. 105-85 (Atch 1) allows for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if the contract period does not exceed one year. This action is permitted without regard to any option to extend the period of the contract.
2. The previous authority permitted a contract for 12 months beginning at any time during the fiscal year for only specific purposes (e.g. tools and facility maintenance contracts, real and personal property leases, depot maintenance contracts, equipment operation and maintenance contracts) listed in the statute.
3. Additionally, Comptroller Decision B-259274 (Atch 2) allowed for awarding multiple contracts in the same fiscal year for severable services to the same contractor to finance more than 12 months of services as long as no one contract exceeds 12 months in duration. This Decision stated that 10 U.S.C. 2410a is a statutory exception to the bona fide need rule.
4. In order to change current contracts from running from October through September annually, bases may award two severable service contracts during the same fiscal year and charge the annual appropriation (e.g. 3400) current in the year of the award for each contract. Duration of each contract may vary so long as each contract is properly awarded in the same fiscal year and does not exceed 12 months.
5. Our point of contact is Mr. Edward Arnold, HQ AFMC/FMPM, DSN 787-4863.

STEPHEN R. KLIPFEL
Chief, Budget Policy Branch
Directorate, Financial Management
& Comptroller

Attachments:

1. Excerpt of P.L. 105-85, Subtitle A, Sec. 801
2. Digest of Comptroller General Decision B-259274

f.w.
9/10/98

Subtitle A—Amendments to General Contracting Authorities, Procedures, and Limitations

SEC. 801. EXPANSION OF AUTHORITY TO ENTER INTO CONTRACTS CROSSING FISCAL YEARS TO ALL SEVERABLE SERVICE CONTRACTS NOT EXCEEDING A YEAR.

(a) EXPANDED AUTHORITY.—Section 2410a of title 10, United States Code, is amended to read as follows:

“§ 2410a. Severable service contracts for periods crossing fiscal years

“(a) AUTHORITY.—The Secretary of Defense, the Secretary of a military department, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

“(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a).”

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

“2410a. Severable service contracts for periods crossing fiscal years.”



Comptroller General
of the United States

Washington, D.C. 20548

5-221

~~A. NEAL GILBERT~~
XX VDI

Decision

IT WOULD BE A SURE
... THE WORKING

Matter of: Funding of Maintenance Contract Extending Beyond
Fiscal Year

File: B-259274

Date: May 22, 1996

DIGEST

1. Section 2410a of title 10, U.S. Code, provides that funds appropriated to Department of Defense for a fiscal year are available for payments under maintenance contracts for 12 months beginning at any time during the fiscal year. Kelly Air Force Base may award two vehicle maintenance contracts charging fiscal year 1994 money for each contract so long as each contract is properly awarded in fiscal year 1994 and each contract does not exceed 12 months in duration.
2. Section 2410a of title 10, U.S. Code, is a statutory exception to the bona fide needs rule. The statute authorizes the Department of Defense to use current fiscal year budget authority to finance a severable service contract for equipment maintenance that continues into the next fiscal year.
3. Air Force decision to leave 8 months of a 12-month severable service contract unfunded at the time of award does not violate the Antideficiency Act because of Availability of Funds clause in the contract. Nor did the Air Force decision violate the bona fide needs rule, because severable services contracts are funded out of funds current at the time services are provided unless otherwise authorized by law.

15 May 1998

MEMORANDUM FOR SMC/PKO

FROM: SMC/JAQ (Capt Arnstein)

SUBJECT: Change in the *Bona Fide* Need Rule

1. Last year Congress passed a law that gives DoD much greater fiscal latitude. This law can have far-reaching effects on the way SMC/PKO funds contracts.
2. Effective 18 November 1997, under 10 U.S.C. § 2410(a), the DoD may award and fund contracts for a period not to exceed 12 months at any time during the fiscal year for severable services, using funds current at the time of award. This is a significant change, in that now we can spread out our severable service contracts throughout the fiscal year, instead of funding them from the usual 1 Oct to 30 Sept. In effect, you could pay for several months of maintenance performed in FY 99 with a FY 98 fund cite (presuming we had any '98 O & M money). Since Congress and the President have had budgetary squabbles leaving the government without the funds to function at the beginning of the fiscal year (like in 1995), it would be advisable to consider funding severable service contracts at times other than the beginning of the fiscal year.
3. If you have any questions about this memorandum, please contact me at 3-5681.

JESSE M. ARNSTEIN, Capt, USAF
Assistant Staff Judge Advocate