



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

17 October 1997

MEMORANDUM FOR RECIPIENTS OF SMC/PK INFORMATIONAL LETTERS

FROM: SMC/PKC

SUBJECT: Incremental Funding of Procurement Funds

1. The attached letter provides the PCO the authority to incrementally fund procurement funds for contract support services not directly related to production and delivery of end items. When incrementally funding, PCO's should remember to use the Limitation of Government's Obligation or the Limitation of Funds clause, as appropriate, to limit the Government's liability to the funds currently on contract.

2. If you have any questions relative to the above, refer them to Sallie Grubbs, ext. 3-3208 or PKC, ext. 30004.



WILLIAM E. ORZECH, Chairman
Contracting Committee
Directorate of Contracting

Attachment:

SAF Staff Summary Sheet (dual coord.), 2 Jul 97,
w/signed SAF/AQX/FMB Memo, 29 Sep 97,
w/OSD Policy Memo, 16 May 97,
w/Comp. Gen. Summary

cc: SMC/JA/FM w/o atch
PL/PK

CY97-Q

MAJ Tomasini

Staff Summary Sheet

Printed 20 Aug 97

To	Action	Signature (Surname), Grade, Date	To	Action	Signature (Surname), Grade, Date
1 AFPEO/SP	COORD	Collins 2 Jul '97	3 SAF/FMB	SIG	
2 SAF/AQX	SIG				

Grade and Surname of Action Officer Lt Col Saxer	Symbol AFPEO/SP	Phone 693-8057	Suspense Date
Subject SAF Funding Guidance for Incrementally Funded Programs			SSS Date 2 July 1997

- 1. Purpose.** Proposed SAF/AQX & SAF/FMB joint memo (Tab 1) formalizes Air Force funding guidance as it applies to incrementally funded integration and launch operations contracts, and clarify SAF/AQ and SAF/FM's interpretation of the bona fide need rule in light of the recent OSD incremental funding policy memo (Tab 2).
- 2. Background.** During the course of the May 1997 Inertial Upper Stage (IUS) Integration and Launch Operations contract award, OSD issued a funding policy memo (Tab 2) in an attempt to settle an on-going dispute within the Air Force as to whether integration and launch operations should be fully or incrementally funded. The OSD Comptroller concluded in his memo that contractor support services (integration and launch operations) budgeted in procurement appropriations should be incrementally funded if they do not relate to the delivery of end items. For incrementally funded contracts, budgets should cover twelve month periods of performance corresponding to the fiscal year for which they are appropriated, and if actual costs turn out to be less than budgeted costs for a fiscal year, then the Air Force should either reprogram excess current year or prior year funds, or roll-over funds (use current and/or prior year funds) to finance the budget year and reduce the budget year request to put the program back on a year-to-year pay-as-you-go basis. The OSD position is consistent with the conclusions drawn in a Comptroller General decision cited in 68 Comp. Gen. 170 (Tab 3).
- 3. Discussion.** The OSD Comptroller's memo, while clear in its intention with regard to IUS program incremental funding, is somewhat vague in it's treatment of the bona fide need rule. As a result, this has caused some delay in the full implementation of this new guidance. In an attempt to clarify and uniformly implement OSD's guidance across the various SMC field organizations, the PEO staff believes it is prudent to formally document the Air Force's position on this significant funding policy change.
- 4. Recommendation.** Both SAF/AQX and SAF/FMB sign letter at Tab 1.

ROBERT K. SAXER, LtCol, USAF
Director, Launch Vehicles
Program Executive Officer for Space

- Tab 1**
1. Proposed SAF/AQX - SAF/FMB Memo
 2. OSD Policy Memo
 3. Comp. Gen. Summary

AQXKF (7 Aug)
 Hughes
 Chellis
 Robinson 7 Aug 97

AQXR
 Balven (11)

FMBIM
 D. Aguilar 20 Aug
 Off. handles -
 needs policy
 coord -
 1/1/97

FMBI
 (16)

FMBmm
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 Mauer
 12 Sep 97

FMBIM
 15 Sep 97
 as changed

7 Aug 97
 12 Aug 97
 11 Aug 97
 as changed

Staff Summary Sheet

	To	Action	Signature (Surname), Grade, Date		To	Action	Signature (Surname), Grade, Date
1	AFPEO/SP	COORD	<i>Collier 2 Jul '97</i>	3	SAF/FMB	SIG	<i>Shawn Mc 9/28/97</i>
2	SAF/AQX	SIG					

Grade and Surname of Action Officer Lt Col Saxer	Symbol AFPEO/SP	Phone 693-8057	Response Date
Subject SAF Funding Guidance for Incrementally Funded Programs			SSS Date 2 July 1997

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Robert K. Saxer
ROBERT K. SAXER, LtCol, USAF
 Director, Launch Vehicles
 Program Executive Officer for Space

- Tabs**
1. Proposed SAF/AQX - SAF/FMB Memo
 2. OSD Policy Memo
 3. Comp. Gen. Summary



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

29 SEP 1997

MEMORANDUM FOR AFPEO/SP

FROM: SAF/AQX
1060 Air Force Pentagon
Washington DC 20330-1060

SAF/FMB
1130 Air Force Pentagon
Washington DC 20330-1130

SUBJECT: Incremental Funding of Inertial Upper State (IUS) Integration and Launch Operations Contracts (OSD Comptroller Program/Budget) Memorandum for the Record, 16 May 1997)

The referenced memorandum advises that the policy of full funding in the procurement appropriations applies to the procurement of end items. Contractor support services budgeted for the IUS Integration and Launch Operations Contract in the procurement appropriations may be incrementally funded if the services are not related to the delivery of end items. Although the memorandum specifically addresses IUS, the concept is applicable to any procurement program where there are contractor support services which are separate and distinct from the production contract.

In the future, contract support services not directly related to the production and delivery of an end item will be budgeted for on an annual basis (incremental funding). Procurement funds for these services should be budgeted in the year the services are expected to be performed. This policy will be included in the next update of AFI 65-601, Vol I.

During execution years, procurement funds are available for a need arising at any time within the period of availability under the bona-fide need rule. Therefore, FY95 funds can be used for a need arising in FY95, FY96, or FY97. In a Comptroller General (CG) decision cited in 68 Comp. Gen 170, the CG rejected the argument that a multiple year appropriation can be obligated only to meet a bona-fide need of the year in which the funds are appropriated. This decision focused on the Defense Logistics Agency (DLA) use of two-year Research and Development (R&D) appropriations, the CG determined that DLA could use its FY87 R&D funds for a need arising in FY88, stating that "There is no requirement that 2-year funds be used only for the needs of the first year of their availability.". The same argument can be applied to other multi-year appropriations.

In view of the above, FY97 IUS Integration and Launch Operations services can be incrementally funded with FY95, FY96, or FY97 funds. However, it is imperative we integrate the practices allowed under the law with good business practices. Although incrementally funding services with any currently available funds is legal, the OSD(C)

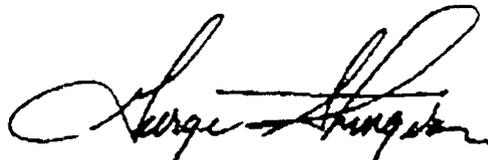
obligation goal for procurement obligations is 80 percent of funds obligated in the first year of availability. Therefore, if significant amounts of funds are obligated in the second or third year of availability, the program is vulnerable to reductions due to poor first year execution performance.

If you need assistance or have questions, the SAF/AQ appropriation manager is Ms Hughes, and she can be reached at 695-4774.


BLAISE J. DEFANTE
Dep Asst Sec (Mgt Policy & Program Integrator)
Assistant Secretary of the Air Force (Acquisition,

Attachments

1. OSD Comptroller (Program/Budget)
Memo for Record, 16 May 97
2. Distribution List


GEORGE T. STRINGER, Maj Gen, USAF
Deputy Assistant Secretary (Budget)



COMPTROLLER
(Program/Budget)

OFFICE OF THE UNDER SECRETARY OF DEFENSE
1100 DEFENSE PENTAGON
WASHINGTON, DC 20301-1100

May 16, 1997

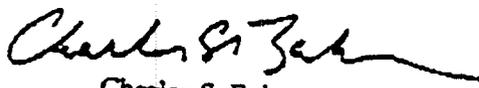
MEMORANDUM FOR THE RECORD

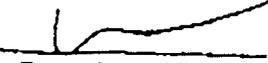
SUBJECT: Incremental Funding of Inertial Upper Stage (IUS) Integration and Launch Operations Contracts

The purpose of this memorandum is to document verbal guidance that I provided to the Air Force on May 7, 1997 concerning budgeting and contracting for IUS launch operations. There has been a dispute within the Air Force as to whether these launch operations should be fully funded or incrementally funded. The DoD Financial Management Regulation does not specifically address launch operations as such. However, all launch operations were incrementally funded when they were financed from Operation and Maintenance (O&M) appropriations in FY 1992 and prior years. When the Program Budget Decision approved the functional transfer of these costs from O&M to Procurement appropriations, the exact same dollar amounts that were previously budgeted in O&M were added to the FY 1993 and outyear Procurement budget requests. If the PBD had intended to fully fund launch operations in the fiscal year of the launch, there would have been a "leftward" rephasing of budget amounts to reflect such a policy change -- but this did not happen.

The full funding policy applies to end items (i.e., deliverable hardware) budgeted in Procurement appropriations. Contractor support services budgeted in Procurement appropriations are incrementally funded if they are not related to the delivery of end items. In most major acquisition programs, therefore, the P-5 Cost Analysis budget exhibit will contain a mixture of hardware cost elements that are fully funded and support services cost elements that are incrementally funded. In the case of IUS, the basic hardware procurements took place a number of years ago, and all IUS systems have already been delivered (DD 250) to the Air Force. Current budgets are for the procurement of a few replacement hardware items (batteries, ground support equipment, etc.) and for contractor services to prepare the IUS for launch. The hardware items should be fully funded, and the services should be incrementally funded.

For an incrementally funded contract, budgets should be prepared to cover twelve month periods of performance corresponding to the fiscal year for which the funds are appropriated. If actual costs turn out to be less than budgeted costs for a fiscal year time period, then the Air Force should either (a) reprogram out the excess current or prior year funds or (b) use the current and prior year funds within the program to finance the budget year and reduce the budget year request to put the program back on a year-to-year pay-as-you-go basis.


Charles S. Baker

CONCUR: 

Ronald G. Garant

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Chapter 5
Availability of Appropriations Time

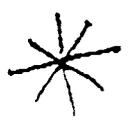
The principle that payment is chargeable to the fiscal year in which the obligation is incurred as long as the need arose, or continued to exist in, that year applies even though the funds are not to be disbursed and the exact amount owed by the government cannot be determined until the subsequent fiscal year. E.g., 21 Comp. Gen. 574 (1941). Thus, in a case where the United States entered into an agreement with a state to provide assistance for the procurement of civil defense items for the state and to pay a specified percentage of the cost, the Comptroller General found that the need arose in the year the agreement with the state was made. Therefore, appropriations current at that time were to be charged with the cost, notwithstanding the fact that the actual procurement contracts with suppliers, including the exact price, were not negotiated and executed until a subsequent fiscal year. 31 Comp. Gen. 608 (1952).

Several sections of this chapter, starting with B.4, explore the application of the bona fide needs rule in various aspects of government contracting in which transactions cover more than one fiscal year. We have structured these sections in large measure on a comprehensive and well-documented article entitled Legal Aspects of Funding Department of the Army Procurements by Capt. Dale Gallimore, 67 Mil. L. Rev. 85 (1975).

The bona fide needs rule applies to multiple-year as well as fiscal-year appropriations. 68 Comp. Gen. 170 (1989); 55 Comp. Gen. 768, 773-74 (1976); B-235678, July 30, 1990. See also 64 Comp. Gen. 163, 166 (1984). In other words, an agency may use a multiple-year appropriation for needs arising at any time during the period of availability.

An argument can be made, not wholly without logic, that a multiple-year appropriation can be obligated at any time during its availability, but only to meet a bona fide need of the year in which the funds were appropriated. Suppose, for example, that an agency receives a two-year appropriation every year. For FY 1989, it receives an appropriation available through FY 1990; for FY 1990, it receives an appropriation available through FY 1991, and so on. It is possible to apply the bona fide needs rule to require that the FY 1990 appropriation be used only for needs arising in FY 1990, although obligation may occur any time prior to the end of FY 1991. The Comptroller General specifically rejected this approach in 68 Comp. Gen. 170, holding that the Defense Logistics Agency

Chapter 8
Availability of Appropriations: Time



could use its FY 1987 2-year Research and Development appropriation for a need arising in FY 1988. "There is no requirement that 2-year funds be used only for the needs of the first year of their availability." Id. at 172.

It follows that the bona fide needs rule does not apply to no-year funds. 43 Comp. Gen. 657, 661 (1964).

2. Future Years' Needs

An appropriation may not be used for the needs of some time period subsequent to the expiration of its period of availability. As most appropriations are annual appropriations, a more common statement of the rule is that an appropriation for a given fiscal year is not available for the needs of a future fiscal year.⁴ Determining the year to which a need relates is not always easy. Some illustrative cases are listed below:

- Rent on property leased by National Park Service from National Park Foundation could be paid in advance, but lease could not cross fiscal year lines. Proposal was for lease to run from May 1 through April 30 and for the full annual rent to be paid in advance on May 1. However, appropriations available as of May 1 could not be used for period of October 1 through April 30 since rent for these months constituted a need of the following fiscal year. B-207215, March 1, 1983.
- Envelopes ordered near the end of one fiscal year, which were delivered in and were intended for use in the following fiscal year, could be charged only to appropriations for the latter year. 5 Comp. Dec. 486 (1899). (Maintaining an inventory level was not a factor in this case.)
- Balance of an appropriation for salaries remaining unexpended at the end of one fiscal year could not be used to pay salaries for services rendered in the following fiscal year. 18 Op. Att'y Gen. 412 (1886).
- Department of Housing and Urban Development recorded certain obligations for public housing subsidies on estimated basis. At end of fiscal year, obligations were found to be in excess of actual needs. It was held improper to send excess funds to state agency's operating reserve to offset subsidy for following year, since this amounted to using the funds for the needs of a subsequent year.

⁴The topic of obligating for needs of a future year arises in a variety of contexts and is also involved in several later sections of this chapter (e.g., B.4, B.5, B.8).