ORDER

U.S. DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

WESTERN-PACIFIC REGION

WP 2700.27
NM 2700.24

OK 12/27/85

MASTER FILE

12/4/85

SUBJ: AVAILABILITY OF APPROPRIATIONS AS TO TIME OF CONTRACTS

1. PURPOSE. This order clarifies the limitations on the use of appropriations relating to time of contracts.

2. DISTRIBUTION. This order is distributed to the branch level in the regional offices and to all field offices and facilities, in the Western-Pacific and Northwest Mountain Regions.

3. BACKGROUND. Recently, there have been discussions related to the correct appropriation to be charged for different kinds of contract agreements. The problems become more relevant when:

a. A contract is issued at or near the end of the fiscal year.

b. A contract goes beyond a fiscal year.

c. A contract is questionable as to whether or not it is severable.

d. A contract is modified.

e. A contract is issued to replace another contract on which the contractor has defaulted.

4. GENERAL PRINCIPLES.

a. Many of the rules related to availability are statutory and can be found in the provisions of Title 31, United States Code.

b. An annual appropriation, such as Operations (_01.0), is available for obligation to meet a legitimate or bona fide need only during the period for which it is made, the fiscal year. However, it remains available beyond that period for expenditures to liquidate properly made obligations.

c. A contract that provides for delivery of goods or services beyond the fiscal year of an annual appropriation that are needed on a recurring basis must expressly provide that the Government's liability is contingent upon the future availability of appropriations. A multi-year lease agreement would be an example of this.

d. In order to obligate a fiscal year appropriation for payments to be made in a succeeding fiscal year, the contract imposing the obligation must have been made within the fiscal year sought to be charged, and the contract must have been made to meet a bona fide need of the fiscal year to be charged.

Distribution: WP: A-X-3; A-FOF-0 (LTD)
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5. GUIDELINES. The following guidelines are provided to determine the bona fide need of a fiscal year:

a. Delivery of Materials Beyond the Fiscal Year.

(1) A contract will meet the bona fide need of the fiscal year in which it was made if:

(a) The time intervening between contracting and delivery is not excessive.

(b) The procurement is not for standard commercial items readily available from other sources.

(c) The requirement for the goods is legitimate for the fiscal year of contracting.

(2) Funds may not be obligated when it is apparent from the onset that there will be no requirement for the goods or services until the following fiscal year.

b. Services Rendered Beyond the Fiscal Year.

(1) Services are generally viewed as chargeable to the appropriation current at the time the services are rendered.

(2) When a need arises in one fiscal year for services which, by their nature, cannot be separated for performance in separate fiscal years, the appropriation chargeable is current to the date the contract is made. In other words, if a contract is viewed as ENTIRE and not SEVERABLE, it is chargeable to the fiscal year in which it was made.

(3) The determining factor for whether certain services are "severable" or "entire" appears to be whether they represent a single undertaking. However, where the services are continuing in nature, the contract is severable and the services must be charged to the fiscal year in which they are rendered.

(4) Personal services are presumptively severable by their nature and are properly chargeable to the fiscal year in which the services are rendered.

c. Replacement Contracts.

(1) Where a contract performance period has extended beyond the expiration of the period of availability for obligation of a fiscal year appropriation, and where it becomes necessary to terminate the contract because of the contractor's default, the funds obligated under the original contract are available for the purpose of engaging another contractor to complete the unfinished work, provided a need for the work continues to exist at the time of the replacement contract.

(2) Where a contract is determined to be invalid and canceled rather than terminated, no binding agreement ever existed and the original funds cannot be regarded as having been obligated. Therefore, the funds obligated under an invalid contract that is subsequently canceled cannnot be made available to fund a replacement contract in the following fiscal year.

(3) The original funding obligation will not remain available in subsequent years to fund a replacement contract, if the contracting officer has terminated the contract for the convenience of the Government, either on his own initiative or upon the recommendation of the General Accounting Office (GAO).

d. Contract Modifications and Amendments Affecting Price.

(1) If a contract contains provisions which, under certain conditions, render the agency liable to make equitable adjustments in the contract price (change clause), these increases, if rendered in a subsequent fiscal year, will be charged against the appropriation current at the time the contract was originally executed.

(2) If the amendment exceeds the general scope of the contract or is not made pursuant to a provision in the original contract, the increase rendered may only be charged to the appropriation current at the time the change is issued.

6. RESPONSIBILITIES.

a. Requisitioning Office. The appropriate official making the requisition shall:

(1) Determine the bona fide need of the goods or services to be provided.

(2) Determine the correct appropriation chargeable for the contract.

(3) Indicate on the requisition of a service contract if the services are SEVERABLE or ENTIRE.

(4) If necessary, contact the Accounting Division, Examination & Classification Branch, AWP-26, for clarification relating to the bona fide need or the determination if a service contract is entire.

b. Accounting Division. The Accounting Division shall:

(1) Assist the requisitioning office, when assistance is requested.

(2) Inform the requisitioning office, if there is a change to the appropriation data on a specific contract.

(3) Confer with the Logistics Division to determine the fiscal year to be charged, when the bona fide need on a contract is not clear.

(4) Contact GAO to request a decision on the bona fide need of a contract where a final determination cannot be made.

7. COORDINATION. This order was coordinated with the Northwest Mountain Region.

F. P. Cantrell
Manager, Accounting Division

ORDER

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
Western-Pacific Region

WP 2700.29A
NM 2700.26A

5/24/96

SUBJ: REPORT FOR COST RECOVERY UNDER OPERATIONS REIMBURSABLE AGREEMENTS

1. PURPOSE. This order provides a standard method and a WP form for reporting costs which are reimbursable to operations appropriations under terms of properly executed reimbursable agreements, except the JSS program (NAT 614) and R2508 (NAT 664) for which costs are accumulated by unique cost center codes. Operational funded agreements are identified by the number 1 in the ninth position of the agreement number.

2. DISTRIBUTION. This order is distributed to branch level in the regional headquarters and limited distribution to all field offices and facilities in the Western-Pacific and Northwest Mountain Regions.

3. CANCELLATION. This order cancels WP 2700.29/NM 2700.26, Report for Cost Recovery Under Operations Reimbursable Agreements (RIS: WP 6040-10), dated December 15, 1989.

4. POLICY. The Western-Pacific and Northwest Mountain Regions' reimbursable agreement number shall have nine digits. Accordingly, the first two digits (WP) and (NM) representing the region. The third digit, R or M representing real estate or a maintenance agreement. The seventh and eighth digits represent the year. The fourth, fifth, and sixth digits represent the number of agreements written that year. The last digit denotes type of fund being used, 1 operating funds, i.e., WPR010961.

5. ACTION.

a. Each month a report will be submitted to reflect distribution of costs including all man-hours expended by sector personnel in the maintenance of electronic, plant equipment, or air traffic service under reimbursable agreements. This report, WP Form 2700-88 (4/96), will be prepared by the sector manager or air traffic manager and submitted to the Western-Pacific Region, Accounting Operations Branch, AWP-22 (ATTN: AWP-22A). The report should reach AWP-22A by the sixth workday following the end of the month for which the report applies and contain the following information:

(1) Labor Costs:

(a) Reimbursable agreement numbers (excludes JSS Agreement NAT 614 and R2508 NAT 664).

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