Department of Energy

Washington, DC 20585

November 20, 2009

MEMORANDUM FOR DISTRIBUTION

FROM: LOIS A. JESSUP, ACTING DIRECTOR
OFFICE OF FINANCIAL POLICY

SUBJECT: Updated Guidance on Annual and Multiple Year Appropriations

The Department has received time-limited funding for various programs as part of the American Recovery and Reinvestment Act of 2009 (Recovery Act). This memorandum is to remind offices of the current requirements and limitations of annual and multiple year (time-limited) appropriations issued by the Office of the Chief Financial Officer (CFO) in the attached February 24, 1998 and April 7, 2000, memorandums on time-limited appropriations.

Annual appropriations (also called fiscal year or 1-year appropriations) are for a specified fiscal year and are only available for obligation during that fiscal year. The federal government's fiscal year begins on October 1 and ends on September 30 of the following year. (31 U.S.C. § 1102) For example, fiscal year 2009 began on October 1, 2008, and ended on September 30, 2009. Unlike the Department's usual "no year" funds, a fiscal year appropriation may be obligated only to meet a legitimate, or *bona fide*, need arising in the fiscal year for which the appropriation was made and in some limited cases as explained in the attached memorandums.

Multiple year appropriations are available for obligation for a period in excess of one fiscal year. For example, if a fiscal year 2009 appropriation account specifies that it shall remain available until September 30, 2010, it is a multiple year appropriation. Apart from the extended period of availability, multiple year appropriations are subject to the same principles applicable to annual appropriations, such as the *bona fide* needs rule. The majority of Recovery Act funding received by the Department is multiple year funding. (Recovery Act, div. A, § 1603)

If an agency fails to obligate its appropriations by the end of the fiscal year for which they were appropriated, they discontinue and are not available for incurring and recording new obligations and are said to have "expired." (31 U.S.C. § 1502(a)) Appropriated funds which have not been spent at the end of the period of availability are referred to as the "unexpended balance." The unexpended balance, in turn, is composed of two components, the "obligated balance" and the "unobligated balance."

a. Obligated balance – represents funds which have been obligated, but have not been expended at the end of the appropriation's period of availability. The obligated balance is defined as "the amount of unliquidated obligations applicable to the appropriation less amounts collected as repayments to the appropriation." (31 U.S.C. § 1551(a)(1))

b. Unobligated balance – represents funds which have not been obligated (unencumbered) at the end of the period of availability. The unobligated balance is defined as the "difference between the obligated balance and the total unexpended balance." (31 U.S.C. §1151(a)(2))

At the end of the period of availability, the unexpended balance remains in the account, which becomes expired. The account is identified by the appropriation's fiscal year, and the funds remain available for an additional five years for expenditures and to make valid adjustments and payments to liquidate liabilities arising from obligations made within the fiscal year for which the funds were appropriated. (31 U.S.C. § 1553(a)) In other words, so long as a valid obligation was made within the period of availability, the Department has another five fiscal years to expend ("cost") those obligated funds. Additional guidance on upward and downward adjustments can be found in Chapter 5, "Accounting for Obligations," of the DOE Accounting Handbook.

After five fiscal years, all funds (obligated and unobligated) which remain in the expired account(s) are cancelled and closed. (31 U.S.C. § 1552(a)) Under 31 U.S.C. § 1553(b), after that five year period, any proposed expenditure which would have been properly charged to the closed account, in purpose and amount before closure, may be charged to a current appropriation account of the agency. Any such expenditure may only be charged to an appropriation which is available for the same purpose. The authority to use current year appropriations to pay obligations chargeable to closed accounts is not unlimited. The cumulative total of old obligations payable from current appropriations may not exceed the lesser of 1 percent of the current appropriation or the remaining balance (whether obligated or unobligated) canceled when the expired appropriation account is closed. (31 USC § 1553(b)(2)) Each office must maintain the integrity of all legal funding controls for both expired and closed accounts as outlined in Chapter 2, "Administrative Control of Funds," of the DOE Accounting Handbook. Once an account has been closed, collections received which could have been credited to the closed account must be deposited in the Treasury General Fund as a miscellaneous receipt. (31 U.S.C. § 1552(b))

Because of the unique nature of the Recovery Act, offices should consult with the Office of Financial Policy at (202) 586-4860 for Recovery Act and time-limited appropriation requirements on specific programs and projects. Offices may also contact their local site counsel or the Office of the Assistant General Counsel for General Law at (202) 586-1522 for legal questions relating to Recovery Act funds specifically or time-limited appropriations in general.

Attachments

Department of Energy
Washington, DC 20585

April 7, 2000

MEMORANDUM FOR HEADS OF DEPARTMENTAL ELEMENTS

FROM: **RICHARD H. HOPF, DIRECTOR OFFICE OF PROCUREMENT AND ASSISTANCE MANAGEMENT**

MICHAEL L. TELSON CHIEF FINANCIAL OFFICER

SUBJECT: **PROCUREMENT AND FINANCIAL GUIDANCE TO SUPPLEMENT THE CHIEF FINANCIAL OFFICER'S FEBRUARY 24, 1998, GENERAL GUIDANCE ON ONE-YEAR APPROPRIATIONS**

This guidance is being issued jointly by the Office of Chief Financial Officer (CFO) and the Office of Procurement and Assistance Management to recognize the roles and responsibilities of both Offices when time-limited funds are involved and to ensure that guidance used by both Offices is consistent with respect to the use of time-limited appropriations. It has been reviewed by the Field Management Council and has been approved by the Deputy Secretary for release.

As you may be aware, since FY 1998, the Department has been receiving time-limited funding in various appropriation accounts. For example, the Energy Supply Appropriation Account received one-year funding for FY 1998 and both one-year and two-year funding for FY 1999. Since most of the Department's funding prior to FY 1998 was on a no-year basis, on February 24, 1998, the CFO issued guidance on time-limited appropriations[1] as an attachment to a memorandum to Field Chief Financial Officers and Program Liaisons (copy attached).

Since then, we have become aware of time-limited-appropriations issues that are not addressed in the CFO's February 24, 1998, guidance. For example, one issue concerns the roles and responsibilities of the program, procurement, and finance staffs vis-à-vis each other when recommending and making severability determinations in the process of funding various activities. Another issue is that the Department's guidance implementing the Federal Acquisition Streamlining Act of 1994 is silent with respect to sections 1072 and 1073, multi-year contracting and contracts for severable services, respectively, which are pertinent to time-limited appropriations.

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[1] "Concept Paper - Time Limited (One-Year) Appropriations"

Department of Energy
Washington, DC 20585

February 24, 1998

MEMORANDUM FOR: **FIELD CHIEF FINANCIAL OFFICERS AND PROGRAM LIAISONS**

FROM: **MICHAEL L. TELSON** Michael L. Telson
CHIEF FINANCIAL OFFICER

SUBJECT: **GENERAL GUIDANCE ON ONE-YEAR APPROPRIATIONS**

The FY 1998 Energy and Water Development Appropriations Act (Public Law 105-62) provides funding for the Energy Supply Appropriation account (8980224) on a one-year basis; i.e., new FY 1998 funds are available for incurring obligations for the period which began October 1, 1997, and ends September 30, 1998. Previously, funding for Departmental programs, projects, and activities in the Energy Supply R&D account (89X0224) were provided on a no-year basis; i.e., funds remained available for incurring obligations without fiscal year limitation.

Since this Department has not had one-year funds for a number of years, the Office of Chief Financial Officer thought it appropriate to provide general guidance on this subject. The attached concept paper provides some basic guidance, concepts, and related reference materials pertaining to conducting mission operations utilizing one-year appropriations. This guidance is for your use pending incorporation into a future revision of the DOE Accounting Handbook. However, in the event you encounter specific issues or situations that are not addressed by this guidance, and that warrant special attention, we recommend you submit them to the Office of Financial Policy for coordination.

Many of the citations contained in the paper are from chapters 5 and 7 of the GAO "Red Book" (Principles of Federal Appropriations Law, Volumes I and II, Second Edition, July 1991 and December 1992, respectively) which is accessible at Internet address: http://www.gao.gov/special.pubs/publist.htm. Citations for the United States Code are also available on the Internet and may be accessed at Internet address: http://www.law.cornell.edu/uscode. Since we have not been able to identify an Internet address for retrieval of the three Comptroller General decisions cited in the paper, we have attached a copy of each for your convenience.

If you have questions related to this matter, please contact either Paul Kelley, Office of Budget, on 301-903-5327 or Mary Rosicky, Office of Financial Policy, on 202-586-9354.

Attachments

Field CFOs

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