



OFFICE OF THE UNDER SECRETARY OF DEFENSE

1100 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1100

MAR 24 2005

COMPTROLLER

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (FINANCIAL  
MANAGEMENT AND COMPTROLLER)  
ASSISTANT SECRETARY OF THE NAVY (FINANCIAL  
MANAGEMENT AND COMPTROLLER)  
ASSISTANT SECRETARY OF THE AIR FORCE  
(FINANCIAL MANAGEMENT AND COMPTROLLER)  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF DOD FIELD ACTIVITIES

SUBJECT: Proper Use of Interagency Agreements for Non-Department of Defense  
Contracts Under Authorities Other Than the Economy Act

Billions of dollars have been provided by Department of Defense (DoD)  
Components to the General Services Administration (GSA) Federal Technology Service  
and other Federal agencies, by agreement, to acquire a wide variety of supplies and  
services.

Based on recent work by the DoD Office of Inspector General (OIG), it appears  
that some interagency agreements continue to be used in an attempt to keep funds available  
for new work after the period of availability for those funds has expired. This was the  
subject of the DoD Comptroller memorandum dated September 25, 2003, subject: "Fiscal  
Principles and Interagency Agreements" (Attachment 1). This memo, in conjunction with  
DoD Comptroller and DoD Acquisition, Technology and Logistics memorandum dated  
October 29, 2004, subject: "Proper Use of Non-DoD Contracts" (Attachment 2),  
establishes DoD policy that includes assisted acquisitions.

To ensure interagency agreements (under other than the Economy Act) for non-  
DoD contracts are used in accordance with existing laws and DoD policy, and to save  
Government resources, the following actions should be completed by June 1, 2005:

- Completed agreements. All interagency agreements shall be reviewed to  
determine if they are complete. Completed agreements shall be closed out, and  
the financial accounts shall be adjusted to ensure the return of any funds held  
by servicing agencies, irrespective of whether the funds have expired.
- Services. Funds provided to a servicing agency that are now past their period  
of availability ("expired funds") shall, in the case of services, be deobligated  
and returned from the servicing agency unless all of the following criteria are met--
  - c. the order was made during the period of availability of the funds;
  - c. the order was specific, definite and certain, with specificity similar to  
that found in contractual orders; **and**

- c. in the case of severable services, the performance period does not exceed one year.
- Goods. Funds provided to a servicing agency that are now expired shall, in the case of ordered goods, be deobligated and returned from the servicing agency unless the request for goods was:
  - c. made during the period of availability of the funds; **and**
  - c. for an item that, solely because of delivery, production lead time, or unforeseen delays, could not be delivered within the period of availability of those funds.
- Limitation on Work. Expired funds shall not be available for work outside the original interagency agreement.
- Performance.
  - c. DoD expired funds may be used by a servicing agency to enter into a non-severable service contract, provided the interagency agreement was properly executed while the funds were available and with the good faith intent that the servicing agency commence work and perform without unnecessary delay.
  - c. DoD expired funds may *not* be used by a servicing agency to enter into a severable services contract. However, DoD expired funds may *continue* to be used for a severable services contract, properly entered into by the servicing agency *before* the funds expire, provided the period of contract performance does not exceed one year.
- Oversight. Interagency agreements in excess of the simplified acquisition threshold shall comply with the DoD policy memorandum, "Proper Use of Non-DoD Contracts," (Attachment 2); the DoD Components' procedures for proper use of non-DoD contracts; the procedures found in the Federal Acquisition Regulation Part 7, "Acquisition Planning" and Part 17.5, "Interagency Acquisitions Under the Economy Act," and DoD Instruction 4000.19, "Interservice and Intragovernmental Support."

The GSA provided a summary of unobligated funds by DoD Component and fiscal year as of December 30, 2004 (Attachment 3). You are to immediately initiate needed actions to review these unobligated balances, coordinate with GSA to return unobligated balances to your respective offices, and coordinate with your servicing accounting office to ensure that appropriate adjustments to the accounting records are recorded before June 1, 2005. You are to certify to my office, no later than June 30, 2005, that you have completed these actions in accordance with the DoDFMR, Volume 3, Chapter 8, Section 0804, "Tri-Annual Review of Commitments and Obligations." In addition, all potential violations of the Antideficiency Act detected during this review shall be processed promptly in accordance with the Department of Defense Financial Management Regulation (DoDFMR), Volume 14.

My point of contact for this matter is Ms. Carol Phillips at 703-693-6503, or e-mail at carol.phillips@osd.mil. My point of contact for tri-annual reviews is Mr. Oscar Covell at 703-697-6149, or e-mail at oscar.covell@osd.mil.



Teresa McKay  
Deputy Chief Financial Officer

Attachments:  
As stated

cc:  
USD (AT&L)



UNDER SECRETARY OF DEFENSE  
1100 DEFENSE PENTAGON  
WASHINGTON DC 20301-1100



SEP 26 2003

COMPTROLLER

MEMORANDUM FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
ASSISTANT SECRETARY OF THE ARMY (FINANCIAL  
MANAGEMENT AND COMPTROLLER)  
ASSISTANT SECRETARY OF THE NAVY (FINANCIAL  
MANAGEMENT AND COMPTROLLER)  
ASSISTANT SECRETARY OF THE AIR FORCE (FINANCIAL  
MANAGEMENT AND COMPTROLLER)  
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE  
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Fiscal Principals and Interagency Agreements

Recent media attention has focused on the impropriety of using interagency agreements to "bank" funds that would otherwise expire at the end of the fiscal year. For Economy Act agreements, this is expressly forbidden. The Economy Act requires servicing agencies to return unobligated funds to requesting agencies before the funds would expire.

However, some Federal agencies have separate legal authority to provide services—including contracting services—without the need to return unobligated funds at year's end. The Department of Interior's GovWorks and the General Services Administration's Federal Technology Service (FTS) are just two examples. These programs provide legitimate and useful services, but they are not intended solely to extend an appropriation's period of availability.

Every order under an interagency agreement must be based upon a legitimate, specific and adequately documented requirement representing a *bona fide* need of the year in which the order is made. As always, adequate funds of the appropriate type (procurement, O&M, etc.) must be available. If these basic conditions are met, these servicing agencies may retain and promptly obligate the funds in the *following* fiscal year. On the other hand, an interagency agreement may not be used in the last days of the fiscal year solely to prevent funds from expiring or to keep them available for a requirement arising in the following fiscal year.

As we close out each fiscal year, contracting officials and accountable officers must resist the misguided desire to bank government funds through improper use of interagency agreements. Misuse of interagency agreements may result in disciplinary action, adverse media attention, and additional congressional limitations and oversight Department-wide.

  
Dov S. Zakheim

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# Unobligated Funds by Agency and Fiscal Year as of 12/30/2004

	1999 & Prior	2000	2001	2002	2003	2004	Total
<b>Regional Programs</b>							
Dept. of the Air Force	\$24,506,076	\$11,332,916	\$18,255,174	\$32,089,659	\$227,158,855	\$230,248,928	\$543,591,608
Dept. of the Army	\$14,006,425	\$14,449,021	\$46,099,949	\$39,256,360	\$78,965,798	\$226,073,299	\$418,850,852
Dept. of the Navy	\$9,993,829	\$15,451,052	\$20,759,252	\$29,456,581	\$87,350,540	\$159,456,815	\$322,468,069
Defense Agencies	\$4,789,000	\$5,773,273	\$6,546,336	\$20,795,327	\$21,719,249	\$71,287,932	\$130,911,117
<b>Defense Agency Subtotal</b>	<b>\$53,295,330</b>	<b>\$47,006,262</b>	<b>\$91,660,711</b>	<b>\$121,597,927</b>	<b>\$415,194,442</b>	<b>\$687,066,974</b>	<b>\$1,410,801,646</b>
Dept. of Health and Human Services	\$607,254	\$1,616,439	\$9,524,556	\$14,522,752	\$16,216,711	\$30,260,915	\$72,748,627
Dept. of Homeland Security	\$211,958	\$4,038	\$1,146	\$612,519	\$21,185,238	\$24,884,255	\$46,899,154
Dept. of Justice	\$3,244,578	\$315,953	\$7,019,517	\$9,658,376	\$7,774,588	\$4,957,819	\$32,970,831
Other Civil Agencies (52 Entities)	\$10,691,961	\$9,751,657	\$22,285,891	\$12,304,798	\$22,195,298	\$36,326,768	\$113,556,373
<b>Civil Agency Subtotal</b>	<b>\$14,755,751</b>	<b>\$11,688,087</b>	<b>\$38,831,110</b>	<b>\$37,098,445</b>	<b>\$67,371,835</b>	<b>\$96,429,757</b>	<b>\$266,174,985</b>
General Services Administration	\$3,841,794	\$5,700,041	\$3,573,762	\$2,982,398	\$2,943,261	\$7,211,308	\$26,252,564
<b>Total</b>	<b>\$71,892,875</b>	<b>\$64,394,390</b>	<b>\$134,668,893</b>	<b>\$161,676,779</b>	<b>\$468,309,536</b>	<b>\$790,789,039</b>	<b>\$1,768,249,188</b>
<b>National Programs</b>							
Dept. of the Air Force	\$0	\$871,300	\$763,500	\$4,485,600	\$3,106,400	\$60,510,200	\$69,737,000
Dept. of the Army	\$0	\$1,136,800	\$4,796,400	\$664,800	\$7,565,700	\$72,557,000	\$86,720,700
Dept. of the Navy	\$0	\$1,347,100	\$572,800	\$734,000	\$2,757,500	\$33,264,800	\$38,676,200
Defense Agencies	\$0	\$1,276,000	\$1,245,400	\$1,827,800	\$7,517,500	\$105,572,200	\$117,438,900
<b>Defense Agency Subtotal</b>	<b>\$0</b>	<b>\$4,631,200</b>	<b>\$7,378,100</b>	<b>\$7,712,200</b>	<b>\$20,947,100</b>	<b>\$271,904,200</b>	<b>\$312,572,800</b>
Civil Agencies	\$0	\$6,235,100	\$18,423,100	\$10,814,900	\$78,204,000	\$191,750,800	\$305,427,900
<b>Total</b>	<b>\$0</b>	<b>\$10,866,300</b>	<b>\$25,801,200</b>	<b>\$18,524,100</b>	<b>\$99,151,100</b>	<b>\$463,655,000</b>	<b>\$618,000,700</b>
<b>Grand Total</b>	<b>\$71,892,875</b>	<b>\$75,260,690</b>	<b>\$159,866,783</b>	<b>\$180,205,870</b>	<b>\$584,660,638</b>	<b>\$1,254,363,039</b>	<b>\$2,326,249,895</b>