

Procurement & Property Division Policy Memorandum

Subject: Continuing Resolutions			Number: 32-01
Distribution: ARS: PAOs, COs, FD, FMD, PPD	Date: 9/29/99	This Replaces: N/A	

Background

Every year, there is always the possibility that Congress will not pass all the necessary appropriations bills to fund the Federal Government for a new fiscal year. In that event, Congress will most likely pass a Continuing Resolution (CR) or series of CR's to provide interim funding for the Government to allow additional time for Congress to pass appropriation bills.

Policy Guidance

In the event a CR is passed by Congress which covers USDA, we can only fund purchase orders and contracts to cover the minimum level of effort necessary for performance during the period of the CR. Contracting offices should work with fundholders after they have reviewed their new fiscal year CR, to establish funding levels/requirements.

In the event, a CR is passed, the enclosed guidance should be used to determine the appropriate course of action.

Action Required by REE Contracting Officers

Incorporate the appropriate clauses per the attached into your procurement document and take the required course of action to assure funding is provided to meet program needs during the term of the CR.

PPD Point of Contact

Policy Branch, PPD 301-504-1725

Approved:

_____/s/_____
Richard G. Irwin, Director
Procurement and Property Division

2 Enclosures

ACTIONS TO FOLLOW DURING A CONTINUING RESOLUTION:

<u>Purchase Order (PO)/Contract Type</u>	<u>Action Required</u>
Supply/Equipment/Construction/AE Purchase Orders and Contracts Issued Against Current FY Funds	None
New FY Fixed Price Supply, Equipment, Construction, AE and Service Purchase Orders and Contracts	Incorporate the Clause, FAR 52.232-18 Availability of Funds, and a clause similar to that included in Enclosure 2. Only award PO's and contracts for those items necessary to meet program needs during the CR. If contract performance can wait until a new full FY appropriation is in place, delay award accordingly.
Contracts Already Awarded Involving the Exercise of Options or Issuance of Delivery Orders Using New FY Appropriations	Pursuant to FAR 52.232-18, Availability of Funds, provide notification that \$____ funds are currently available only for services necessary to be performed during the CR period, to comply with the specifications/ statement of work. Incorporate language similar to that included in Enclosure 2 in the contract and enact the Limitation of Cost clause and/or the Limitation of Funds clause as appropriate.

Suggested Clause:

In accordance with the clause at FAR 52.232-18, Availability of Funds, you are hereby notified that funding for Fiscal Year ____ is only available for the period of _____ through _____. Therefore, costs should not be incurred for any services other than those necessary to be performed during this ____ (#) day period to comply with the specifications/statement of work. Subcontracts for services or equipment which are not required for performance of the contract during the ____ (#) day period must not be awarded during this period. The Government's obligation for performance of this contract beyond _____ (date) is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond that date, until you are notified in writing that Fiscal Year _____ appropriated funds have been made available to the Contracting Officer to fully fund this contract.

This clause does not affect the right of the Government to terminate this contract under the clause entitled "Termination for Convenience of the Government," nor will the Government be obligated in any event to pay or reimburse the contractor in excess of the costs incurred during the ____ (#) day period, regardless of anything to the contrary in that same clause.