

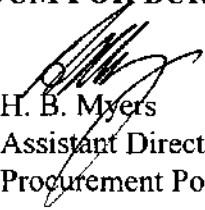


U.S. Department of Justice
Justice Management Division
Management and Planning Staff

Washington, D.C. 20530

February 8, 2007

MEMORANDUM FOR BUREAU PROCUREMENT CHIEFS

FROM: 
H. B. Myers
Assistant Director
Procurement Policy and Review Group

SUBJECT: Procurement Guidance Document (PGD) 07-03
Conducting Acquisitions under a Continuing Resolution.

The Anti-Deficiency Act prohibits an officer or employee of the government from creating or authorizing an obligation in excess of the funds available, or in advance of appropriations, unless otherwise authorized by law. Due to the duration of continuing resolutions in recent years, the Administrator, Office of Federal Procurement Policy, issued the attached memorandum which provides a list of basic steps acquisition officials should take when conducting acquisitions under a continuing resolution (CR) to establish the availability of funds.

These practices apply to both existing and new contract requirements. The memorandum encourages agencies to retain this list of practices as they will also apply to any continuing resolutions in future years.

If you have any questions regarding the practices described in the memorandum, please call Larry Silvis on (202) 616-3754.



OFFICE OF FEDERAL
PROCUREMENT POLICY

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 6, 2007

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES

FROM:

Paul A. Denett
Administrator

SUBJECT:

Conducting Acquisitions under a Continuing Resolution

The purpose of this memorandum is to provide agencies with a list of basic steps to take when conducting acquisitions under a continuing resolution (CR). The extended duration of CRs in recent years serves as an important reminder of the additional attention required by acquisition officials to ensure compliance with the Anti-Deficiency Act (ADA) and the avoidance of major disruptions to essential government services. As you know, the ADA prohibits an officer or employee of the government from creating or authorizing an obligation in excess of the funds available, or in advance of appropriations, unless otherwise authorized by law.

I appreciate the efforts you have taken over the past several months to help your agency meet its requirements during the most recent CR. I encourage you to retain the following list of practices so you may refer to them, as necessary, in the event your agency is subject to a CR in a future fiscal year.

- **Confer with responsible budget and finance personnel in your agency.** Determine the availability of funding for existing and new contract requirements. Modifications to existing contracts may be required by the fiscal constraints imposed by the CR.
- **Give your contractors appropriate notification of government funding limitations.** The Federal Acquisition Regulation (FAR) provides a clause (FAR 52.232.18) that expressly conditions the government's obligation under the contract upon the availability of funds. In addition, some agencies have developed their own clauses to notify contractors of the limitation of government obligations under a CR. You should review your agency's clauses to determine their appropriateness in the event of a long-term CR. Since this is an area of special importance to small businesses, agency contracting and small business personnel should also be ready to answer questions from the small business community regarding the availability of funds and the government's obligations under a CR.

- **Follow prudent contracting principles and practices.** Advance planning, maximum use of competition, and effective contract management will help ensure available funds are used as efficiently and effectively as possible and minimize disruption of agency operations.
- **Consult with your office of legal counsel.** Appropriations made under a CR are generally available only to fund ongoing projects and activities -- not new initiatives or projects. You should carefully review the terms of the CR with your counsel to establish the availability of funds.

Thank you for your attention to this matter.

cc: Controller, Office of Federal Financial Management
Chief Financial Officers