

# **Interagency Agreement Policy Issuance (IPI) 11-01**

## **Managing Unliquidated Obligations and Ensuring Progress under EPA Interagency Agreements**

### **1.0 PURPOSE**

This policy establishes procedures for managing ULOs under EPA funds-out Interagency Agreements (IAs). It also includes provisions to further the timely progress of work under EPA IAs.

### **2.0 AUTHORITY**

Office of Management and Budget Circular A-123 and Resource Management Directive (RMDS) 2520-03-P1.

### **3.0 EFFECTIVE DATE**

This policy is effective October 1, 2010. This IPI applies to all Funds-Out IAs.

### **4.0 BACKGROUND**

As part of EPA's implementation of Government Accountability Office's (GAO's) Policy and Procedures Manual for Guidance of Federal Agencies, Title 7, the Federal Managers' Financial Integrity act (FMFIA) and Office of Management and Budget Circular A-123, EPA Assistant Administrators and Regional Administrators are required to certify annually to the Administrator that unneeded funds are deobligated from EPA interagency agreements.

The Office of Inspector General (OIG) has found, however, that EPA's internal controls have not always been effective in identifying and deobligating unneeded funds. In particular, the OIG concluded that IAs are not monitored effectively to identify funds that should have been deobligated and used for other environmental purposes. This policy addresses the OIG's concerns by emphasizing the need for timely project completion and strengthening the monitoring of ULOs. It also addresses the Agency's responsibilities under FMFIA by highlighting the need for timely project completion and effective management of ULOs.

### **5.0 DEFINITION**

For purposes of this policy, ULO means the obligated balance remaining on an IA after considering the amount of orders placed, contracts or other binding agreements awarded, or services rendered by the performing agency. ULOs are determined after EPA makes any payments or processes deobligations.

### **6.0 ROLES AND RESPONSIBILITIES IN MANAGING ULOs**

The EPA IA Project Officer (PO), IA Specialist and Interagency Agreement Shared Service Center (IASSC) share responsibilities for ensuring that IAs are structured and managed to promote timely completion of projects and proper utilization of funds. Consistent with the respective roles defined in Chapter 2 of the [Interagency Agreement Policies, Procedures, and Guidance Manual - EPA Order 1610](#), these responsibilities include effective planning, preparation, management and administration of IAs to facilitate timely project progress and ongoing monitoring of payment activity to ensure that unnecessary balances are deobligated expeditiously.

- 6.1 Responsibilities of POs:** PO responsibilities include providing programmatic management and oversight of ULOs under IAs. In particular, the PO develops the IA funding package, including the relevant programmatic terms and conditions. The PO also is responsible for monitoring project progress; determining whether funds should be deobligated or remain available for authorized project activities; timely notifying the IA Specialist and the Cincinnati Finance Center (CFC), as appropriate, of issues impacting the project or requiring the adjustment of funds; initiating deobligation action as necessary; and maintaining adequate documentation of project management activities from inception to closeout.
- 6.2 Responsibilities of IA Specialists:** IA Specialists have primary responsibility for the award and administration of IAs through final closeout. IA Specialists work with POs to ensure appropriate IA terms and conditions and appropriate enforcement actions are taken as necessary to resolve issues. In consultation with the PO and CFC, IA Specialists take action to deobligate funds the PO determines are no longer needed under the IA. The IA Specialist also ensures proper documentation is maintained in the IA administration file to support related administrative actions.
- 6.3 Responsibilities of the Funds Control Officers (FCOs):** FCOs have primary responsibility for reviewing funding documents related to the IA and preparing necessary reprogramming requests to the Office of Budget. The FCO will assist the IA Specialists and POs in 1) preparing documents required to establish a budget for the IA; 2) monitoring payment progress of the IA; 3) and preparing proper documentation to deobligate funds as appropriate.

- 6.4 Responsibilities of the IASSC:** The IASSC is responsible for developing and implementing Agency-wide procedures for validating IA ULO balances as part of the Office of the Chief Financial Officer (OCFO) annual ULO certification process.

## **7.0 PREPARATION OF FUNDING PACKAGE**

In developing and negotiating a new IA or amendment, the PO is responsible for submitting an accurate and complete funding package, with supporting Decision Memorandum. The Decision Memorandum should address, as appropriate, the following to facilitate timely performance and effective management of ULO balances:

- 7.1 Sufficiently Defined Statement of Work (SOW):** The SOW should clearly define the specific requirements for the project, product or service that will be furnished under the IA. To the maximum extent practicable, the SOW should specify a timetable, including targeted milestones for the timely completion of agreed-upon deliverables and outcomes.
- 7.2 Reasonable Estimated Costs:** The Decision Memorandum must specify necessary, reasonable and allowable costs for efficient performance under the IA.
- 7.3 Project Period:** The Decision Memorandum must specify an appropriate project period commensurate with the time period for the funds obligated on the IA, the estimated time for completion of the work and achievement of the intended results. In accordance with the Interagency Agreement Policy Issuance 08-02, *Guidance on Project Period Duration*, the total project period, including extensions, may not exceed seven years without specific regulatory or statutory authorization, or a signed waiver.
- 7.4 Payment:** The Decision Memorandum must specify a reasonable payment or billing cycle to encourage regular expenditure of funds. EPA's guidance on establishing billing cycles is set forth in the IA Policy Issuance, *Billings Under Funds-Out Interagency Agreements*, IPI 09-01, available at <http://intranet.epa.gov/ogd/policy/8.0-1AG-09-01.pdf>.

## **8.0 SUFFICIENT PROGRESS TERM AND CONDITION**

Unless prohibited by law, the IA Specialist will include in all new funds-out IAs a standard administrative term and condition reserving EPA's right to terminate the IA for failure to make sufficient progress towards completing the defined SOW and/or achieving the desired outcomes. The term and condition must clearly

define the parameters of what constitutes sufficient progress under the IA. A sample standard term and condition is provided as Exhibit 1.

## **9.0 PROCESSING AND AWARDING THE IA**

In processing a new IA or amendment, the assigned IA Specialist is responsible for verifying that the funding package contains a defined SOW, milestones, target dates, project period, budget, and payment terms to allow timely completion and closeout of the IA. The IA Specialist should work with the PO to resolve any identified inconsistencies, deficiencies or other issues in the funding package before awarding the IA or amendment.

## **10.0 POST-AWARD MANAGEMENT OF ULOs**

The [Interagency Agreement Policies, Procedures, and Guidance Manual - EPA Order 1610](#), details the responsibilities of POs and IA Specialists in managing and administering IAs following award. As part of those post-award responsibilities, both the PO and IA Specialist are jointly responsible for ongoing review of ULO balances as a means of ensuring that the project is progressing as scheduled and the remaining obligation balance is still necessary and therefore valid.

- 10.1 Monitoring Project Progress:** As provided in Chapter 5 of the [Interagency Agreement Policies, Procedures, and Guidance Manual - EPA Order 1610](#), monitoring project progress includes verifying that:
- a. Products and/or services are delivered as scheduled;
  - b. Progress reports are submitted in a timely manner;
  - c. Progress reports reflect the completion of activities and milestones as defined in the SOW;
  - d. Invoices and billings are timely and are consistent with progress reports and agreed schedule for completion of milestones; and
  - e. Any issues or disputes involving the IA are resolved or elevated for resolution in a timely manner.
- 10.2 Post-Award Activities Appropriate for ULO Reviews:** ULOs should be reviewed as part of the following specific post-award activities:
- a. Reviewing Progress Reports: In reviewing progress reports, POs should consider whether the remaining obligation is appropriate for

the percentage of work to be completed under the IA. The PO should work with the IA Specialist to make any necessary adjustments.

- b. Preparing and Issuing Amendments: Before requesting an amendment to an existing IA, including a no cost amendment, the PO should consider the total amount of the remaining unliquidated balance under the IA to verify that the entire balance is still needed for project completion. In addition, the PO should ensure that any additional funds requested for funded amendments are necessary to accomplish the remaining work.
- c. Annual Post-Award Review of IAs: In accordance with the *IA Post-Award Monitoring Policy*, IPI 11-XX, the PO and IA Specialist of record are required to conduct a documented annual post-award review of the status of the IA. This annual programmatic and administrative review consists of an examination of the IA's programmatic and technical progress, payment activity, ULO, and compliance with the defined SOW, terms and conditions, and regulatory requirements. The annual review may constitute the basis for the annual ULO certification addressed in Section 12.0 of this Policy, and therefore must include an accurate, complete and documented examination of the unliquidated balance, with appropriate follow-up.

**10.3 Considerations in ULO Review:** The following factors should be considered, as applicable, in making the determination as to whether the unliquidated balance represents a valid obligation:

- a. Period of fund availability;
- b. Timeliness and quality of delivery or performance;
- c. Timeliness, completeness and accuracy of progress reports;
- d. Relation of the expenditure of funds with the percentage of project completion;
- e. Sufficiency of the remaining funds to complete performance in accordance with the SOW;
- f. Justifications for amendments to funding levels;
- g. Likelihood of additional expenditure of funds; and

- h. Reasons for lack of IA activity, such as litigation or legitimate delays in closeout.

**10.4 Presumption of Invalid Obligations:** Funds remaining on an IA with no payment activity for the most recent 12-month period are presumed to be no longer needed and should be deobligated unless the PO includes a written justification in the file and provides the justification to the IA specialist explaining the reason for the inactivity and the continued need for the balance.

## **11.0 DEOBLIGATION OF UNNECESSARY FUNDS**

If the PO determines that the remaining balance, or a portion of it, is no longer needed under the IA, the PO must submit a written request for the IA Specialist to take the necessary steps to promptly deobligate the unneeded balance, and amend and/or closeout the IA, as appropriate, in accordance with the procedures set forth in Chapters 5 and 6 of the [Interagency Agreement Policies, Procedures, and Guidance Manual - EPA Order 1610](#). The actions taken should be properly documented in the file for purposes of independent financial management reviews and audits. POs should notify their Funds Certifying Officer (FCO) that funds are being deobligated to enhance the organization's understanding of increases to a unit's allowance.

## **12.0 REQUIREMENT FOR ULO CERTIFICATION**

As part of the Agency's overall efforts to ensure effective management of ULO balances, OCFO's RMDS 2520-03-P1, requires an annual certification that the required ULO reviews were conducted and the appropriate action taken to deobligate unneeded funds. In accordance with the established deadline for the ULO certification each year, the IASSC is responsible for coordinating the process for verifying that the required reviews and identified follow-up actions are completed in a timely manner. The IASSC is required to notify the Regions and Program Offices of the specific date within which their ULO review and the necessary follow-up actions for the particular year must be completed. As provided under the *IA Post-Award Monitoring Policy*, IPI 10-XX, the documented determinations and actions taken in connection with the most recently completed annual review of the ULO within the subject year, may serve as a basis for the IASSC verification of the timely, accurate, and complete validations of open obligations each year.

## **13.0 DOCUMENTATION**

The responsible PO and IA Specialist are required to document all actions relating to their ongoing management and review of ULOs. Proper documentation included in the programmatic and administrative file may consist

of contemporaneous emails, memoranda to the file, or other written communications, as well as other documentation relating to the project status, billings or related issues under the IA. The documentation must be maintained in accordance with the EPA Records Management Schedule available at <http://www.epa.gov/records/policy/schedule/program.htm>. The IASSC will issue separate procedures for the annual IA ULO certification and for IA Specialists to enter the ULO determinations in the required desktop tool (s) in accordance with OCFO's annual ULO guidance.

#### **14.0 CLOSEOUTS**

Closeout of IAs is necessary following completion or early termination of a project. In accordance with the closeout procedures described in Chapter 6 of the [Interagency Agreement Policies, Procedures, and Guidance Manual - EPA Order 1610](#), the PO and IA Specialist should work expeditiously with the partner agency to resolve any outstanding issues, ensure that final payments are made, and properly reconcile and close the EPA IA accounts. Any funding issues related to the closeout should be directed to the appropriate Fund Control Officer (FCO) of the PO's office. If necessary, outstanding issues should be elevated within EPA and the partner agency chain of command for prompt resolution.

#### **15.0 REVIEW**

The IASSC will periodically assess the effectiveness of this policy and will work with OCFO to develop Agency-wide metrics to assess EPA progress in reducing IA ULOs.

### **Exhibit 1.**

#### **SUFFICIENT PROGRESS TERM AND CONDITION**

EPA expressly reserves the right to terminate the IA for failure to make sufficient progress so as to reasonably ensure completion of the project within the project period, including any extensions. EPA will measure sufficient progress by examining the performance required under the Statement of Work, the time remaining for performance, and/or the availability of funds necessary to complete performance. In exercising this right to terminate, EPA will follow the procedures for terminating the IA in Term and Conditions.