

## **APD ALERT**



## **CONTINUING RESOLUTIONS**

### **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.

### **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 CONTRACTING OFFICERS**

Incorporate the appropriate clauses 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.

### **APD POINT OF CONTACT**

If you have any questions regarding this Alert, please contact the Acquisition Programs and Oversight Branch (APOB), on 301-504-1725, or via e-mail at [APOB@ars.usda.gov](mailto:APOB@ars.usda.gov).

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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/Service/ Equipment/Construction/AE 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.

Recommended 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.