

ARS NIFA ERS NASS

Policies and Procedures

Title: Use of Prior Fiscal Year Appropriations

Number: 323.8-ARS

Date: January 10, 2012

Originating Office: Office of the Director, Financial Management Division,
AFM/ARS

This Replaces: P&P 323.8 dated 9/16/99 and 3/16/90; Financial Management
Manual Section 2380 dated 3/90; and FM Bulletin 91-1 dated
12/27/90

Distribution: ARS Offices in Headquarters, Areas, and Locations

This P&P states policy, responsibilities, and criteria for the use of unobligated balances of prior fiscal year appropriations.

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1. Authorities

- Title 31, United States Code (U.S.C.), Section 1301(a)
- Title 31, U.S.C., Section 1553(a)
- Title 31, U.S.C., Section 1341
- Office of Management and Budget (OMB) Circular A-11
- Comptroller General (CG) Decision B-197344, August 21, 1980

2. Policy

It is the Agricultural Research Service Policy to:

- Pay valid unpaid claims/orders according to prescribed Federal regulations governing current year (CY), prior year (PY)/expired, and closed appropriations.
- Comply with Title 31 of the U.S.C. which limits the use of unobligated balances remaining at the end of the year in expired appropriations.

Criteria. As appropriate, use PY appropriations for the following types of PY transactions:

- Contract modification(s) for the completion of work within the scope of the original contract.
- Replacement contract or purchase order that is substantially identical in scope and purpose to the original contract which was terminated for default.
- Other valid unpaid obligations arising from an event that occurred in a PY for which an obligation was not recorded in the financial management system and requires payment in a subsequent fiscal year. Examples are unpaid invoices, retroactive salary entitlements/payments, etc.
- Small obligation increases of \$1,000 or less due to imprecise estimating, small price adjustments, and shipping charges on purchase orders, travel vouchers, Research Support Agreements, and period end estimates which were recorded prior to the expiration of the fiscal year.

According to Principles of Appropriations Law, Chapter 7-3, an “obligation” is some action that creates a legal liability or definite commitment on the part of the Government, or creates a legal duty that could mature into a legal liability by virtue of an action that is beyond the control of the Government.

No charge to a PY appropriation may be made unless the transaction would have been an appropriate charge to that appropriation while it was current.

For facilities contracts, PY funds may be used to cover conditions related to the site or existing structure, which was unknown at the time the original contract was signed and when conditions must be corrected or addressed in order to complete the work as originally described in the contract.

Examples of unknown conditions related to the existing structure are:

- The presence of asbestos or other unhealthy materials.
- Faulty wiring or plumbing.
- Structural differences from existing facility blueprints.
- Failure to incorporate certain building code requirements in the original contract.

Examples of unknown conditions related to the site are:

- Subsurface or latent conditions differing materially from those in the contract; physical conditions, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work provided in the contract (e.g., the presence of an unusual amount of rock, water, or other materials which increases the cost of foundation work).
- Other unforeseeable environmental conditions.

For other contracts, purchase orders or agreements, PY funds may generally be used to cover only those items which relate to a clearly defined deliverable.

3. Procedures

All PY funds requests must meet the criteria identified in Section 2, “**Policy.**”

Category 1: Requests of \$1,000 or below - A Certification of Funds Availability **is not required.** No special approval is necessary. Automatically (or routinely) prepare and process PY payment transactions without initiating the approval request documentation identified below under Categories 2, 3, and 4.

Category 2: Requests of \$1,001 to \$10,000 - Area or Headquarters request and approval actions must be supported by administrative documentation. **Approving Officials must send informational copies of approved PY funds requests to the Director (attention: Assistant Director), Financial Management Division (FMD).** Approval from FMD is not required. The following procedures apply for Category 2 PY funds requests and approvals:

Send a Request for Use of Prior Fiscal Year Funds to the Deputy Area Director (DAD)/Division Director/or designee, via email. (See Exhibit 1) The following information must be included as administrative documentation:

- Date
- Contracting Officer
- Organizational Unit
- Contractor/Vendor
- Type of Obligation (Contract Modification, Replacement Contract, etc.)
- Contract/Document Number
- Accounting Code
- Amount
- Project Location
- Justification

Category 3: Requests from \$10,001 to \$25,000 (or if an appropriation (funds) restriction notice has been issued by FMD) - Area or Headquarters requests and approval actions must be supported by administrative documentation (as noted in Category 2). **Prior to approval, Approving Officials must send copies of PY fund requests to the Director (attention: Assistant Director) FMD, for a Certification of Funds Availability.** Approval from FMD is not required.

Category 4: Requests over \$25,000: Area or Headquarters requests must be supported by administrative documentation listed in Category 2. **Reviewing Officials must send copies of the PY fund requests to the Director (attention: Assistant Director) FMD, for a Certification of Funds Availability and approval.**

4. Summary of Responsibilities and Delegation of Authority

Director, FMD (or designee)

- Provides Agency guidelines and administrative processes and support systems to manage and monitor the approval, certification, and use of PY funds.
- Notifies Agency managers of any restrictions on the availability of PY funds.
- Certifies all PY funds requests over \$10,000 and approves/denies all PY funds requests exceeding \$25,000.

Directors of Facilities Division (FD), Acquisition and Property Division (APD), Human Resources Division (HRD), FMD; and DAD's

- Are responsible for the proper use and approval or disapproval of PY funds, in Categories 2 and 3 above (\$1,001 to \$25,000), by employees under their supervision and within the scope of their responsibility.
- Assign responsibilities to Division Branch Chiefs or Section Heads, or others as appropriate, to request, approve, disapprove, or obtain FMD approval of the use of PY funds. In order to maintain separation of duties, a Requesting Official may not also be the Approving Official on the same PY fund transaction. It is recommended, for example, that a procurement official be designated as the Requesting Official for PY funded contracts and modifications, and that the DAD or the Area Budget and Fiscal Officer, if designated, be the Approving Official.

Contracting Officer/Authorized Departmental Officers or Appropriate Managers

- Determine when needed change orders (or contract modifications) are within the scope of the original contract or agreement, according to the criteria listed in this guidance under Section 2, Policy.

Fundholders, Research Leaders, and Other Managers (or others acting on their behalf)

- Discuss funding needs and issues, and seek guidance from the appropriate Area or Headquarters contracting, procurement and/or budget and fiscal person(s) on the procedures for use of PY funds.

Robert H. Magill /s/
Acting Director
Financial Management Division

Sample Request for Prior Year Funds

From: Oak C. Wood (owood@ars.usda.gov)
To: DIRECTOR, FMD (attention: Assistant Director)
Subject: Request for Prior Year Funds

Date: December 31, 2011

Contracting Officer: Jim Far
Organizational Unit: ABC Research Unit

Contractor: Spruce & Evergreen Corp
10203 Causeway Street
Boston, MA 02003

Type of Obligation: CONTRACT MODIFICATION

Contract: 50-1JA4-8-1211
Accounting Code: 101XXXXXXXXX
Amount: \$26,000
Project Location: Marblehead, MA

Justification:

During the renovation of the headhouse in Marblehead, MA, it was suspected that asbestos was present. To confirm this, samples must be taken and analyzed before the renovation can be completed. The modification to the contract will provide for a 14 bulk sample test to determine the presence of asbestos.

The change is within the scope of the original contract. The presence of asbestos was an unknown condition at the time the parties signed the contract. The condition must be addressed in order for the contractor to complete the renovation of the headhouse.

The legal citation for the change is FAR 52.236-2, Differing Site Conditions.