

# Fiscal Law Primer

## OVERVIEW

Fiscal Law is the body of law that governs the availability and use of federal funds. It is derived from many sources to include but not limited to opinion, regulations, Public Law, US Code, and the US Constitution.

## DISCUSSION

### ▪ **Key Terms**

- **Commitment** – an administrative reservation of funds in anticipation of future obligation
- **Obligation** – act legally binding the Government to make payment
- **Expenditure** – authorization for expenditure of funds from the Treasury
- **Outlay** – cash paid by the Treasury
- **Expiring** – No longer available for obligation
- **Canceling** – No longer available for payment
- **Appropriation** – Legal basis for withdrawing funds from the treasury and may contain specific provisions for specific expenditures

### ▪ **Obligation Availability** – Do you know when your funds expire?

- Operations & Maintenance (O&M) Funds (3400) – one (1) year
  - Generally the type of funds utilized at Schriever AFB
- Research, Development, Test, & Evaluation (RTD&E) Funds (3600) – two (2) years
- Other Procurement Funds (Air Force) (3080) – three (3) years
- Personnel (Air Force/Active Duty Only) (3500) – one (1) year
- Military Construction (MILCON) (3300) – five (5) years

### ▪ **Expenditure Availability** – Do you know when your funds are available for use & when they cancel?

- Funds are available for expenditure for five (5) years after obligation period ends
- After expenditure period ends, funds are canceled and no longer available for payment periods

### ▪ **Obligation Purpose** – Do you know what your funds are designated for?

- Funds are designated for a specific purpose. Many times this is transparent to our users at Schriever since we use mostly O&M funds, which are designated for use for operations & maintenance. This may become an issue if you are trying to purchase a system or some type of RTD&E service.

### ▪ **THE THREE CONTROLS IMPOSED BY CONGRESS ARE:**

- **PURPOSE** (Authorization) – Congress authorizes purpose of appropriations
  - The purpose for which the funds may be used
  - The length of time the funds may remain available for use
  - The maximum amount an agency may spend on particular elements of a program
- **TIME** (Bona Fide Need Rule) – Are funds available in the same fiscal year as the Gov't need?
  - Service Contracts – need is determined by the year the Contractor will perform the service
  - Supply Contracts – need is determined by date Gov't will actually be able to use the supplies
    - Exceptions are long lead time and stock level
- **AMOUNT** (Anti-Deficiency Act (ADA) FAR 32.702 and 31 USC 1341) – Government agency may not obligate, spend, authorize obligations, or authorize expenditures without having sufficient funds
  - Cannot obligate funds in excess of or in advance
  - May NOT accept goods/services until actually receive funds
  - Must have written assurance from financial authority that adequate funds are available
  - If no funds are available, use “Availability of Funds” clause
    - FAR 52.232-18 – Availability of Funds
    - FAR 52.232-19 – Availability of Funds for the Next Fiscal Year

## SUMMARY

Fiscal law is derived from many sources which impose a restriction on the availability of funds or the authority to obligate or expend appropriations for certain objects or purposes. All contractual actions must follow the guidelines and parameters set forth under this law.

## **TRAINING RESOURCES**

- **Where in Federal Contracting Fiscal Law/ Bona Fide Need Website:** <http://www.wifcon.com/bonafidecontents.htm>
- **DoD Financial Management Regulation 7000.14-R:** <http://www.dod.mil/comptroller/fmr/>
- **GAO Red Book – Principles of Federal Appropriations Law:** <http://www.gao.gov/legal/redbook.html>
- **AF Contracting Fiscal Law Website:** <https://www.my.af.mil/gcss-af/USAF/ep/contentView.do?contentType=EDITORIAL&contentId=1406541&programId=1406679&pageId=681742&channelPageId=-547851>
- **AF Fiscal Law Tutorial:** [https://www.my.af.mil/gcss-af/USAF/AFP40/SAF\\_FM/FMWorkSp/ProfDev/ProfDevRsrc/fiscallaw/index.htm](https://www.my.af.mil/gcss-af/USAF/AFP40/SAF_FM/FMWorkSp/ProfDev/ProfDevRsrc/fiscallaw/index.htm)