

Funding for Contingency Contracts

Overview

Funding lies at the core of all government functions. During a contingency, humanitarian, or peacekeeping operation, Contingency Contracting Officers (CCO) are required to rapidly procure a wide variety of critical supplies and services.

The proper use of funds from a variety of sources is essential for accountability of the taxpayer's money.

To ensure that expenditures and contract actions are proper, the CCO must be familiar with the constraints and controls placed on various types of funds they may see in the contingency environment.



Objective

After completing this lesson, you will be able to recognize funding implications for the contingency contracting environment.



Basic Fiscal Controls

Appropriated funds are subject to **three** basic fiscal controls:

Purpose: Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law. For example, family housing money should not be used to purchase new aircraft. In addition, CCO use of [non-Department of Defense \(DoD\) contracts](#) needs to conform to the intended use of those contracts.

Time: An appropriation is available only for payment of expenses properly incurred during the period of availability, or to complete contracts properly made during the period of availability. This is also referred to as the "Bona Fide Need" rule.

Amount: An officer or employee of the United States Government may not make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation, or involve the government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law. This is also known as the Antideficiency Act.



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Time: An appropriation must be properly incurred and contracts properly executed also referred to as

Amount: An obligation exceeding the amount appropriated for the expenditure in a contract or obligation for the payment of money before an appropriation is made unless authorized by law. This is also known as the Antideficiency Act.

Non-DoD Contracts

The DoD spends billions of dollars annually using non-DoD contract vehicles. These include orders issued under these contracts by DoD personnel (referred to as "direct acquisition") and orders issued by the non-DOD agencies on DoD's behalf ("assisted acquisition"). Examples of non-DoD contracts include GSA Schedules and Government-wide Acquisition Contracts (GWAC)s.



Basic Fiscal Controls, Cont.

Of the three basic fiscal controls, the **purpose statute** most often arises as a point of concern. Probably the most fundamental statute dealing with the use of appropriated funds is [31 USC 1301\(a\)](#), which clearly states that "appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law."

It prohibits charging authorized items to the wrong appropriation and prohibits charging unauthorized items to any appropriation.

Anything less would render Congressional control meaningless. In a decision titled Misapplication of Appropriations (4 Comp. Dec. 569), the Comptroller General ruled that "it is difficult to see how a legislative prohibition could be expressed in stronger terms. The law is plain, and any disbursing officer disregards it at his peril."

Real world example: A contract for interrogation of prisoners in Iraq was awarded on behalf of DoD by an assisting agency using a contract for information technology (IT) services. The DoD requirement was outside the scope of the contract that was used, and was therefore improper.

[Click here to learn about the general rule for determining whether this statute has been met.](#)

[WARNING - Procurement of Organizational COINS!](#)



Basic Fiscal Controls, Cont.

Purpose Statute General Rule

There is a 3-pronged test known as the "Necessary Expense Doctrine" which states that expenditures must:

- Be **logically related to the appropriation**: The expenditure must be for a particular statutory purpose, or necessary and incident to proper execution of the general purpose of the appropriation. A necessary expense will contribute materially to the effective accomplishment of an authorized function.
- Not be **prohibited by law**: The rationale that a certain expenditure is necessary to carry out the mission of the agency is insufficient to overcome a statutory prohibition. Also, agencies may presume that restrictions in an appropriations act are effective only for the fiscal year covered unless the legislation clearly indicates its permanent character.
- Not be **otherwise provided for**: Regardless of a logical relationship between the appropriation and the expense, if another specific appropriation exists for a given purpose, it must be used. For example, the Comptroller General ruled that the Navy could not use its shipbuilding appropriation to deepen a river channel allowing the submarines under construction to move to deeper water, because the Army Corps of Engineers is specifically funded for that function. Running out of money is not sufficient excuse to use another appropriation. If there are two appropriations reasonably equal for expenditures, then the agency may choose either appropriation. However once the election is made, the agency must continue to use the selected appropriation to the exclusion of any other.

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Basic Fiscal Controls, Cont.

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It prohibits charges for items not specifically authorized by law and prohibits charges for items not specifically authorized by law. Many DoD IG, Service Component Audit Agencies (e.g. DCAA), and GAO reports have identified many, many instances of inappropriate purchases of Unit, Commander and Organizational coins in the contingency environment.

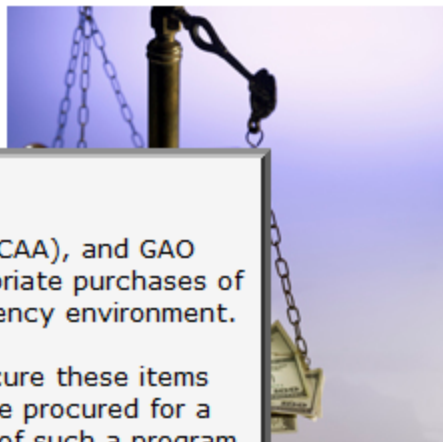
Anything less than a clear, specific authorization by law is a decision titled "unauthorized." Appropriated funds are not authorized to be used to procure these items unless strict conditions apply. Typically, they may only be procured for a legislative purpose, such as a sanctioned and official rewards program. Characteristics of such a program include "a one-time award to an individual for an achievement directly related towards mission accomplishment."

Real world example

Iraq was awarded a contract for information services. The purchase of organizational coins was a requirement was outside the scope of the contract that was used, and was therefore improper. Most DoD Components have regulations which govern the limitations of and the purchase of organizational coins. A great example is AFI 65-601 Vol 1.

[Click here to learn about the general rule for determining whether this statute has been met.](#)

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Special Inspector General Identified Funding Types

[Public Law 108-106](#) as amended requires the Special Inspector General for Iraq Reconstruction (SIGIR) and Afghanistan Reconstruction (SIGAR) to report on the oversight and accounting of the obligation and expenditure of funds used for Iraq and Afghanistan reconstruction and humanitarian assistance.

- [Iraq Funding](#)
- [Afghanistan Funding](#)

Another great resource for learning about the different types of funds used during contingency operations, see the Defense Contingency Contracting Handbook ([DCCCH](#)), Contingency Funding chapter.



Lesson Summary

This is the end of the Funding Considerations for the Contingency Environment lesson.

In this lesson, you learned to recognize important funding implications that you will need to deal with as a deployed CCO.



Knowledge Review

Which three of the following represent basic control considerations for the proper expenditure of appropriated funds? (Select all that apply)

☐ Convenience

☒ Purpose

☒ Time

☒ Amount

Check Answer



Purpose, **Time** and **Amount** are the basic control considerations for the proper expenditure of appropriated funds.

Knowledge Review

The CCO can use any existing non-DoD contracting instrument that will lead to the most expeditious contract award, providing the decision is fully documented.

☐ True

☒ False

Check Answer



False. It is essential that the requirement falls within the scope (purpose) of the non-DoD contracting instrument.

Lesson Completion

You have completed the content for this lesson.

To continue, select another lesson from the Table of Contents on the left.

If you have closed or hidden the Table of Contents, click the Show TOC button at the top in the Atlas navigation bar.