

## CHAPTER 8

STANDARDS FOR RECORDING COMMITMENTS AND OBLIGATIONS0801 PURPOSE

The purpose of this chapter is to set forth the basis for determining the amount and accounting period in which commitments and obligations shall be recorded under various circumstances.

0802 COMMITMENTS

080201. General. The term “commitment” is defined in Chapter 15, paragraph 150202.A., of this Volume. The amount to be recorded as a commitment is the estimated procurement cost set forth in the commitment document. The date the commitment document is signed by an authorized official determines the accounting period in which the commitment is to be recorded.

080202. Special Provisions for Determining the Amounts of Commitments

A. Contingent Liabilities Remaining under Outstanding Contracts. There are contingent liabilities for price or quantity increases or other variables that cannot be recorded as valid obligations in the cases of (1) outstanding fixed-price contracts containing escalation, price redetermination, or incentive clauses, or of (2) contracts authorizing variations in quantities to be delivered, or of (3) contracts where allowable interest may become payable by the U.S. Government on contractor claims supported by written appeals pursuant to the “DISPUTES” clause contained in the contract (see section D., below). Amounts to cover these contingent liabilities should be carried as outstanding commitments pending determination of actual obligations. However, the amounts of such contingent liabilities need not be recorded at the maximum or ceiling prices under the contracts. Rather, amounts should be committed that are conservatively estimated to be sufficient to cover the additional obligations that probably will materialize, based upon judgment and experience. In determining the amount to be committed, allowances may be made for the possibilities of downward price revisions and quantity underruns. The contingent liability shall be supported by sufficient detail to facilitate audit.

B. Letter Contracts and Letters of Intent. When accepted, a letter contract or letter of intent shall be recorded as an obligation, but only in the amount of the maximum liability stated. The maximum liability amount may be required by other regulations to be limited to the costs that the contractor may incur pending execution of a definitive contract. In that case, the estimated amount of the definitive contract, over and above the obligation recorded under the letter contract or letter of intent, shall be carried as an outstanding commitment, pending execution of the definitive contract. If the letter provides that awarding of the definitive contract is dependent upon a congressional appropriation, then no funds are available to commit and no commitment may be recorded.

C. Open-end Contracts and Option Agreements. An authorization to incur an obligation under an open-end contract or option agreement (when either the items or quantities are not specified, but are to be the subject of subsequent orders) shall be recorded as a commitment only when the amount estimated is reasonably firm. The existence of a specific dollar amount in the procurement directive or request does not make the dollar amount reasonably firm. Rather, the required quantities and the quality specification must have been determined by competent authorized personnel so that reasonable prices may be estimated. An example is a planning estimate for spare parts. While it is known that an initial complement of spare parts will be acquired, the specification and quantity still must be determined. Experienced personnel can estimate an amount useful in planning, but this amount is not reasonably firm. The amount is recordable as a memorandum “initiation” (see Chapter 15), but not as a commitment.

D. Contract Amendments or Engineering Changes. An authorization to execute engineering change orders during the course of performance of a contract may be recorded as a commitment upon the basis of a stated cost limitation even though the scope and amount of such changes are not yet defined and require specific approval of the person authorizing the procurement (or another designee) before the execution of the change orders. However, in such circumstances it is necessary from time to time to revise the authorization (and the recorded commitment) as may be appropriate in the light of subsequent events, including change orders actually placed.

E. Intra-Governmental Requisitions and Orders. Intragovernmental requisitions and orders (such as DD Form 448, “Military Interdepartmental Purchase Request”) must be considered as commitments until validly obligated under the guidelines in section 0806., below.

F. Multiyear Contracts. Contingent liabilities for multiyear contracts that provide for cancellation charges when it is necessary for the government to cancel the contract for reasons other than contractor liability, are not recorded as commitments. Any such cancellation charge must be recorded as an obligation when it becomes necessary to cancel the contract and the contractor is so notified.

### 0803 OBLIGATIONS

080301. The term obligation is defined in Chapter 15. No amount shall be incurred as an obligation by any DoD Component except in accordance with this section; however, once an obligation is incurred, it shall be recorded promptly whether funds are or are not available.

080302. An amount shall be recorded as an obligation only when supported by documentary evidence of the transaction. A verbal order or agreement shall be reduced to writing and conform to the applicable provisions of this section before the obligation may be recorded. When the amount is not known or cannot be ascertained feasibly at the time it is to be recorded, the best estimate shall be used. The best estimate should be based on a sensitive reflection of the transaction that actually occurred.

080303. In recording obligations under this section, the following principles shall be applied:

A. Contracts or Orders for Goods, Supplies, or Services to Meet Bona Fide Need. DoD Components shall determine that the goods, supplies, or services required under contracts entered into, or orders placed obligating an annual or multiple-year appropriation, are intended to meet a bona fide need of the period for which funds were appropriated. Such determinations shall consider estimated current consumption, the requirements that may be foreseen for future years based upon the procurement lead time, authorized stock levels, and authorized mobilization reserves. However, if the Appropriation Act makes such appropriations available for payments under contracts for specified services for periods beyond the period for which the appropriation otherwise is available, the contract for such services extending into the ensuing period (fiscal year) may be charged to the appropriation current at the time the contract is signed.

B. Performance Under Contracts or Orders. Contracts entered into or orders placed for goods, supplies, or services shall be executed only with bona fide intent that the contractor (or other performing activity) shall commence work and perform the contract without unnecessary delay.

C. Specific Guidelines for Maintenance and Repair Projects. Current fiscal year appropriations may be obligated for those maintenance and repair contracts awarded near the end of the fiscal year, even though contractor performance may not begin until the following fiscal year. However, the contract must satisfy a bona fide need that arose in or before the fiscal year of the appropriation to be charged. In addition, contracts awarded near the end of the fiscal year must contain a specific requirement that work begin before January 1 of the following calendar year. The foregoing guidelines on required start dates do not apply to cases in which an installation or contracting officer is required to place an order or contract with a foreign government agency because of a legally binding provision in a treaty or other international agreement. Guidelines for the administrative contracting officer to use in determining the commencement of work are as follows:

1. Physical Onsite Evidence. A visual inspection of the work site discloses significant work has been accomplished, or contractor employees actually are engaged in work performance. (No further verification is necessary.)

2. Documentary Evidence. If physical onsite evidence of performance does not exist, and to prevent unwarranted default proceedings, the contractor may be requested to produce documentary evidence that cost has been incurred or material has been ordered to allow performance of the contract.

D. Contractor Default. In the event of contractor default and termination for default of the contract, the funds cited on the defaulted contract may be cited again on the replacement contract. The replacement contract must satisfy certain general criteria to be considered a replacement, as opposed to a new contract. The replacement contract shall be made

without undue delay after the termination of the original contract. Its purpose shall be to fulfill a bona fide need that has continued from the original contract, and the replacement contract shall be awarded on the same basis and be similar substantially to the original contract in its scope and size.

080304. Specific Guidelines for Determining Scope of Work Changes

A. Responsibilities for Making Determinations. The contracting officer is primarily responsible for determining whether a change is within the scope of a contract. In making such a determination, the contracting officer must be guided by appropriate provisions of the Federal Acquisition Regulation (FAR), the DoD FAR Supplement, legal principles applicable to scope changes, and the provisions of this Regulation. In cases where no clear cut determination can be made by the contracting officer, DoD Component general counsel should provide appropriate guidance and determinations concerning the scope of a contract.

B. Standards for Making Determinations. Statutes and DoD policies for the use of appropriations limit the period of availability to fund original obligations. However, unobligated balances that have expired for the purpose of original obligation are available to fund within scope cost growth or increases in costs arising from claims arising out of the original obligation. This paragraph provides standards for determining if cost growth or a price increase is within scope. The baseline scope of a contract is all work contracted for prior to the expiration of funds. This includes changes incorporated by modification provided that they are within the scope of the contract.

C. Increases in Quantities. Changes in the quantity of the major items called for by a contract generally are not authorized under the “CHANGES” clause. Therefore, if there are changes that increase the number of end items ordered on a contract, this is a change in the scope of the contract and would have to be funded from funds available at the time the change was made. For example, if the original contract provided for delivery of 50 items and a modification was issued to provide for the delivery of 70 items, the additional 20 items would represent a change in the scope of the contract. Thereafter, cost growth, or claims arising out of the delivery of the first 50 items, would be funded from the appropriation available at the time of the order of those items and those arising out of the additional 20 items would be funded from the appropriation charged for those items. The foregoing applies in general; however, changes in the quantity of subsidiary items under a contract, such as spare parts, generally are considered to be within the scope of a contract unless they are so significant that they alter the basic contractual undertaking.

D. Increases in Required Levels of Service Performance. Any modification of a service contract that increases deliverable services or reports is a change in the scope of the contract and must be funded by appropriations available at the time the change is made. Examples follow:

1. A modification of a contract to provide accounting and audit services to a government agency to add a requirement for on-site technical assistance and training

to grantees of the agency on financial management systems would be beyond the scope of the original contract, and would have to be funded from funds available at the time the additional requirement was added to the original contract. An increase in the number of people needed to complete the contract, or to their level of expertise, would be a within scope cost growth change, which could be funded as part of the original contract.

2. A modification of a contract to provide research and development for a new weapons system that is designed to meet a specified area of threats, and reach given levels of performance could be beyond the scope of the original contract. However, the “CHANGES” clause specifically authorizes unilateral changes, within the scope of the contract, in specifications, drawings, and designs pertaining to the contract. Therefore, the mere fact that there may be a change in the specifications regarding levels of performance or specifications regarding threats does not, thereby, automatically result in a change in scope. An increase in the number of people assigned to the project, or increased costs due to travel increases would be cost growth that would be within scope and could be funded as part of the original contract.

3. A modification of a cost type level of effort contract for a specified number of hours to be worked by personnel with a specific level of experience and training that called for a change in the number of hours to be worked or the level of experience and training called for under the contract could be a change in the scope of the original contract. An increase, however, in direct or indirect rates under the contract would be cost growth that would be within scope and could be funded as part of the original contract.

E. Claims. As reflected in paragraph 080304.C., above, claims arising out of an original undertaking, or resulting from a within-scope change, would be funded from the appropriation available at the time of the original undertaking. Claims arising out of a change-in-scope change to the original contract would be funded from the appropriation available and charged for the change-in-scope change.

F. Judgment Fund. Title 31, United States Code, section 1304 and Title 41, United States Code, section 612 provide that monetary judgments under the Contracts Disputes Act of 1978, as amended, that are awarded by the Armed Services Board of Contract Appeals (ASBCA) or the Court of Federal Claims are paid by the Department of the Treasury from the Permanent Judgment Appropriation (Judgment Fund): Claims for Contract Disputes (Treasury Symbol 20X1743). After such payment, the DoD Components are required to reimburse the Department of the Treasury’s Judgment Fund. The following provides guidance for reimbursement to the Judgment Fund.

1. The DoD Components first must determine what appropriation(s) originally funded the portion of the contract that led to the claim and subsequent judgment. Second, 63 Comp. Gen. 308 (1984) requires that the Judgment Fund be reimbursed with funds that were currently available for new obligation at the time of the judgment. Therefore, a then current year appropriation that is for the same purpose as that which originally funded the contract shall be used as the funding source. Expired appropriations that were current at the time of the judgment also may be used. If more than one appropriation is involved in the monetary

judgment, then the reimbursement is prorated against those appropriations. Any proration between or among appropriations must be based on the nature of the claim and the basis of the monetary judgment in the particular case.

2. Reimbursement to the Department of the Treasury is not an antecedent liability of the original contract. Therefore, reimbursements are not charged back to the original appropriation unless the original appropriation was available for new obligations at the time of the judgment. Further, judgments do not subject the original appropriation to a violation of the Anti-Deficiency Act.

3. In all official accounting and reporting systems, a separate and unique Sub-Activity Group (SAG) or P-1 / R-1 designator will be assigned for the recording and reporting of such reimbursements. These SAG or P-1/R-1 designator will be identified as a separate line on the Appropriation Status by Fiscal Year Program and Subaccounts (DD COMP (M) 1002). This new line of accounting is to be called "Judgment Fund Reimbursement." Funds are to be reprogrammed into this new line from existing allocated funds within the appropriation. These reprogrammed funds are not subject to normal reprogramming rules with respect to the increase, but must conform to reprogramming guidance governing delegated authority for program reductions. If sufficient funds do not exist within the appropriation, then supplemental funds must be sought.

4. Upon identification of funds to be charged and completion of any reprogramming actions, the documented package will be forwarded to the Operating Location (OPLOC) of the Defense Finance and Accounting Service (DFAS), having accounting responsibility for the designated fund accounts to process the payment. Ordinarily, a miscellaneous obligation document will be used to obligate the designated fund accounts. However, if programming actions have reserved funds, the DFAS OPLOC may be authorized to process the payment as an obligate-expend transaction. The DFAS OPLOC can process the transfer of funds for the payment to the Treasury's Judgment Fund, using the Treasury's Online Payment and Collection (OPAC) system.

5. Approval authority is required from the cognizant Assistant Secretary of the Military Department (Financial Management and Comptroller) or Defense Agency Comptroller for all Judgment Fund Reimbursements to the Department of the Treasury in excess of \$1,000,000.00.

#### 0804 RECORDING OBLIGATIONS FOR COMMERCIAL PROCUREMENT CONTRACTS AND ORDERS

080401. Firm Fixed-Price Contract. When the contract is executed, an obligation must be recorded for the total amount stated in the contract.

080402. Fixed-Price Contract With an Escalation, Price Redetermination, or an Incentive Provision. When the contract is awarded, an obligation must be recorded for the amount of the target or billing price stated in the contract, even though the contract may contain a

ceiling price in a larger amount. Subsequently, a target or billing price should be adjusted (upward or downward) to a “best-cost estimate” whenever it is determined that, and documentary evidence supports, the actual cost of the contract will differ materially from the original target or ceiling price stated in the contract.

080403. Cost-Reimbursement and Time-and-Material Contracts. Cost-reimbursement and time-and-material contracts include: cost, cost-sharing, cost-plus-fixed-fee, cost-plus-incentive-fee, cost-plus-award-fee, time-and-material, and labor-hour contracts. When the contract is executed, an obligation must be recorded. The amount of the obligation is the total estimated payment provided by the contract. The amount recorded may not be in excess of the maximum current liability, which must include the fixed fee in the case of a cost-plus-fixed-fee contract, the target fee in the case of a cost-plus-incentive-fee contract, or the base fee in the case of a cost-plus-award-fee contract.

080404. Open-End Contracts and Option Agreements. When the quantity required under a contract or agreement is indefinite and is determined by subsequent orders, an order not requiring acceptance by the contractor shall be recorded as an obligation in the amount of the price stated in the order upon placement. When the contract or agreement requires acceptance of the order by the contractor, the amount of the order must be recorded as an obligation upon acceptance. In the case of indefinite quantity contracts for supplies or services that specify delivery of minimum quantities during a given period, an obligation must be recorded upon execution of the contract for the cost of the minimum quantity specified.

080405. Contract Authorizing Variations in Quantities to be Delivered. When the contract is executed, an obligation must be recorded for the price of the quantity specified for delivery, exclusive of the permitted variation.

080406. Multiyear Procurement Contract. An obligation for a multiyear procurement contract must be recorded in the amount of the price of the quantities specified for delivery under the first program year's requirement, and the amount must be identified with that program year. Unless the contract is funded fully at inception, each time the contractor is notified that funds are available to cover another program year's requirement, an obligation must be recorded in the amount of the price of the quantities specified for delivery and must be identified with that program year. If the contract is canceled, an obligation must be charged to the program year current at the time of cancellation to cover the government's liability under the terms of the contract.

080407. Letter Contract or a Letter of Intent

A. When the offer and acceptance are specific and definitive enough to show the purpose and scope of the final contract to be executed, a letter contract or a letter of intent and any amendments to them accepted in writing by the contractor are documentary evidence to support the recording of an obligation. The obligation must be recorded in the amount stated as the maximum liability under the letter or amendment.

B. The maximum liability may be a limitation on the amount of obligations that may be incurred pending execution of a definitive contract. In this case, the estimated amount of the definitive contract, over and above the obligation recorded under the letter of intent, must be carried as a commitment, pending execution of the definitive contract, unless the letter of intent provides that awarding of the definitive contract is dependent upon congressional appropriation action (see subsection 080302., above).

C. Commitments cannot be carried past the fiscal year end. A miscellaneous obligation document must be recorded at fiscal year end.

080408. Interest on Contractor Claims. Some contracts may contain a statement permitting the payment of interest by the government on contractor claims supported by a written appeal pursuant to the “DISPUTES” clause of the contract. When such an appeal has been settled in the contractor’s favor and the amount owed the contractor has been determined, an obligation for the interest payable to the contractor must be recorded under the appropriation that financed the contract.

080409. Interest Payable under the Prompt Payment Act (Public Law 92-177). Such interest payable is recorded as an obligation unless payments are made within specified payment due dates. Interest penalties will not continue to accrue and be obligated (1) after the filing of a claim for such penalties under section 611 of reference (s), or (2) for more than one year.

080410. Purchase Orders

A. A purchase order creates an obligation when issued in the amount stated, if the purchase order represents acceptance of a binding written offer of a vendor to sell specific goods or furnish specific services at a specific price, or the purchase order was prepared and issued in accordance with small purchase or other simplified acquisition procedures.

B. A purchase order requiring acceptance by the vendor before a firm agreement is reached must be recorded as an obligation in the amount specified in the order at the time of acceptance. Evidence of this acceptance must be retained in the files. If written acceptance is not received, delivery under the purchase order is evidence of acceptance to the extent of the delivery.

080411. Amendment of a Contract. A change in the amount of the government’s contractual liability resulting from an amendment to a contract is chargeable generally to the appropriation or other fund current at the time the contract was executed. Specific applications of and exceptions to this general rule follow:

A. The amount of the recorded obligation for a contract containing a provision for amendment or modification, within the general scope of the contract, must be increased or decreased by the amount specified by any and all amendments or modifications

when executed. The same source of funds that originally was obligated on the contract must be charged or credited.

B. The amount of a recorded obligation must be adjusted to reflect an increase or decrease resulting from a determination made pursuant to the provisions of 50 U.S.C. 1431-1435 that results in the correction of a mistake or the formalization of an informal agreement. These adjustments must be recorded against the same source of funds that originally was obligated when the amendments or modifications do not change the scope of the contract and, thus, do not result in a new procurement. When the scope of the contract is increased, the adjustment is chargeable properly to the appropriation or fund available at the time that the amendment is executed.

C. A contingent obligation, such as one existing under an indemnification clause or a clause involving an equitable adjustment, must be recorded as an obligation only in the amount of the contractual liability incurred when the amendment fixing the obligation is executed. If no amendment is required, the adjustment is recorded as an obligation when the event occurs that fixes the amount of the liability under the contingent obligation. The obligation must be recorded against the same obligation or fund that originally was obligated for the contract.

D. When an increase occurs in the price of one or more items in a fixed-price contract that contains an escalation clause, a price redetermination clause or an incentive provision, or in the fee in a cost-plus-award-fee or a cost-plus-incentive-fee contract, an obligation must be recorded in the amount of the increase at the time the changed price or fee is determined in accordance with the terms of the contract. The obligation must be recorded against the same appropriation or fund that originally was obligated for the contract.

E. In some instances it is appropriate to reduce a recorded obligation for firm fixed-price contracts with escalation, price redetermination, or incentive provisions, when a determination is made by the contracting officer (and approved by the allotment holder or his designee) that the anticipated amount of liability under the contract may be reduced and the amount of the recorded obligation maybe decreased by the amount so determined and approved. Such action is taken after taking all circumstances into consideration including available costs and production data or tentative offers from contractors.

F. Amounts for increases in cost reimbursement contracts that exceed the original contract ceiling price, and which are not based on an antecedent liability enforceable by the contractor, are chargeable to funds available when the price increase is granted, rather than funds from the fiscal year cited on the original contract.

080412. Termination of Contracts and Agreements. When a contractor agreement is terminated in whole or in part for the convenience of the government by the giving of a "Notice of Termination" to the other party to the contract or agreement, the obligation recorded for the contract or agreement must be decreased to an amount sufficient to meet the settlement costs under the termination. The obligation must not be decreased below the amount estimated

by the contracting officer, based on the best evidence then available, as the amount due as a result of the termination.

080413. Foreign Currency Exchange Fluctuations. Changes in obligations and contractual liabilities caused by foreign currency exchange fluctuations are determined and recorded when payment is made. For foreign currencies not specified in a special foreign currencies fluctuations appropriation account, adjustments also are made at fiscal yearend, and may be made at any other time a significant change occurs in order to help avoid overobligation of an allotment.

080414. Contracted Advisory and Assistance Services [CAAS]. See Section 2454 of the Federal Acquisition Act of 1994 (P.L. 103-355) stipulates that the OMB will establish funding for CAAS as a separate object class in each agency's budget. DoD Directive 4205.2 contains four basic categories for identifying and controlling CAAS. Volume 2 of this Regulation contains budget exhibit PB-27 for reporting CAAS expenditures and estimates to the Congress. In addition to the four basic CAAS categories, budget exhibit PB-27 includes a specific breakout of three additional categories: (a) ADP-related CAAS services, (b) contract systems engineering, and (c) total services procured from Federally Funded Research and Development Centers (FFRDCS). These additional services are reported because of general interest in the overall estimates for such services. DoD Components shall establish an accounting procedure to ensure that actual data for all seven categories of contract effort reported to the Congress as "CAAS and other Contract Support Services (CSS)" on the PB-27 budget exhibit are uniformly generated from the accounting data base. The accounting procedures also shall clearly delineate the PB-27 categories as listed below. Activities in categories a. through f. performed at an FFRDC shall be reported in category g. and not in any of the other six categories. Appropriate codes shall be entered on applicable requests for procurement and on the associated contracts. When CAAS/CSS is procured in a predominantly non-CAAS/CSS contract, the CAAS/CSS portion separately shall be identified and coded for identification in the PB-27 budget exhibit. The predominance rule which pertains to the assignment of codes for the Federal Procurement Data System (DD Form 350) has no bearing on the identification of CAAS/CSS for budget and accounting purposes. Expenditures shall be accumulated by budget exhibit category as they are entered into DoD accounting systems. The first four categories equate to the four CAAS categories (A, B, C, and D). The last three are the additional ones called for in the PB-27. The PB-27 categories areas follows:

- A. Individual Experts and Consultants
- B. Studies, Analyses, and Evaluations
- c. Management Support Services
- D. Engineering Technical Services
- E. Information Technology

- F. Systems Engineering
- G. Federally Funded Research and Development Centers (FFDRCs)

#### 0805 RENTAL AGREEMENTS AND LEASES OF REAL AND PERSONAL PROPERTY

080501. The amount recorded as an obligation must be based on the agreement or lease, or on a written administrative determination of the amount due under its provisions.

080502. Under a rental agreement that maybe terminated by the U.S. Government at any time without notice and without incurring any obligation to pay termination costs, the obligation must be recorded each month in the amount of the rent for that month.

080503. Under a rental agreement providing for termination without cost upon giving a specified number of days notice of termination, an obligation must be recorded upon execution of the agreement in the amount of rent payable for the number of days notice called for in the agreement. In addition, an obligation must be recorded each month in the amount of the rent payable for that month. When the number of days remaining under the lease term is equal to the number of days advance notice required under it, no additional obligation need be recorded.

080504. Under a rental agreement providing for a specified dollar payment in the event of termination, an obligation must be recorded upon execution of the agreement in the amount of the specified minimum dollar payment. In addition, an obligation must be recorded each month in the amount of the rent payable for that month. When the amount of rent remaining payable under the terms of the agreement is equal to the obligation recorded for the payment in the event of termination, no additional monthly obligation need be recorded.

080505. For a domestic or foreign rental agreement not containing a termination clause, but which is financed under an annual appropriation, an obligation must be recorded at the time of its execution in the total amount of rent specified in the agreement even though the period of the lease (12 months maximum) extends into the subsequent fiscal year. Leases of structures and real property in foreign countries may be entered into for periods of up to 5 years (10 years for military family housing) under authority of 10 U.S.C. 2675. However, the period for which obligations may be recorded for leases without termination clauses may not exceed the period for which the applicable financing appropriation is available for obligation. Thus, a lease should be obligated for its full term when it is financed by a no-year appropriation. When the lease is financed by an annual or multiple-year appropriation, however, the obligation is limited by the period of availability of the appropriation. If the term of the lease is for more than 12 months and exceeds the availability of the financing appropriation, the amount of the obligation related to the excess term shall be recorded against the appropriation that becomes available for the same purpose in the subsequent year or years. If the laws and customs of a foreign country require advance payment for rent, the advance payment may be made in accordance with 10 U.S.C. 2395 for the full term of a foreign lease, and an obligation may be recorded against the current appropriation in the same amount at the time the lease is consummated.

080506. Domestic lease agreements entered into for periods greater than one year under authority delegated by the General Services Administration (GSA) under 40 U.S.C. 490 and 40 U.S.C. 614 need not include a provision to the effect that lease funding in future fiscal periods is subject to fund availability in those future fiscal periods. The obligation to be recorded is that of the applicable financing appropriation for the current fiscal year.

080507. When leasing ADP equipment without a purchase option, obligations in the amount of the contract are recorded when the contract offer is accepted.

080508. Obligations to the GSA for standard-level user charges are recorded from the GSA bill.

#### 0806 REIMBURSABLE ORDERS PLACED WITH DOD COMPONENTS OR OTHER U.S. GOVERNMENT AGENCIES

080601. Reimbursable procurement means an order for supplies, material, or equipment placed by a requiring DoD Component for procurement by another DoD Component or Federal agency on a contract funded by the procuring DoD Component or Federal agency, without separate identification of the items, or separate citation of the funds of the requiring DoD Component; and with subsequent delivery to and reimbursement by the requiring DoD Component. The reimbursable order is recorded as an obligation by the requiring DoD Component when the procuring DoD Component accepts the reimbursable order in writing. For GSA, see subsection 080604, below.

080602. Direct citation procurement means procurement accomplished by combining the requirements of one or more other DoD Components with those of the procuring DoD Component. The procuring DoD Component may issue one contract with separate schedules showing the quantities, prices, dollar amounts, and citation of funds of each requiring DoD Component. The direct citation order is recorded as an obligation by the requiring DoD Component when it is notified in writing that the procuring DoD Component's contract or project order has been executed, or when a copy of the contract or project order is received. Note: DD Forms 448, "Military Interdepartmental Purchase Requests" (MIPRs), are used for these orders. MIPRs are described in subpart 8.70 of the DoD FAR Supplement. MIPRs are Economy Act (31 U.S.C. 1535) orders subject to downward adjustment when the obligated appropriation is no longer available for obligation to the extent that the procuring component has not executed its agreed-upon contract or project order actions.

080603. An order for specific supplies, material, equipment, work, or services, may be placed either under the Project Order Act (41 U.S.C. 23), as implemented by DoD Instruction 7220.1, or under section 601(a) of the Economy Act. The reimbursable order must be recorded as an obligation against the appropriation of the ordering DoD accounting entity as follows.

A. Project Order. The fact that an order is a Project Order must be so identified on the document itself. A project order is treated as a contract. When it is accepted in

writing by the performing activity, the amount of the project order must be recorded as an obligation in the amount stated in the order.

B. Economy Act Order. An Economy Act order is an intragovernmental order that does not qualify as a project order on another Federal agency or on another DoD Component. It must be recorded as an obligation in the amount stated in the order when it is accepted in writing. Undelivered Economy Act orders issued against annual or multiple-year appropriations, or both, must be adjusted downward when the appropriation is no longer available for obligation in accordance with section 1210 of the General Appropriation Act of 1951 (subsection (d) of 31 U.S.C. 1535). The amount of the adjustment shall be the difference between the value of the order or orders and the obligations incurred by the performing agency.

080604. An order required by law to be placed with a U.S. Government agency, such as an order required to be placed with (a) Federal Prison Industries (18 U.S.C. 4124), (b) Government Printing Office (44 U.S.C. 111), (c) General Services Administration (GSA), or (d) U.S. Army Corps of Engineers -- Civil Functions Revolving Fund (33 U.S.C. 576), must be recorded as an obligation by the ordering agency in the amount stated in the order at the time it is issued. Note: This is a major difference from the acceptance requirement of normal project orders and Economy Act orders discussed in subsection 080603, above.

#### 0807 ORDERS FOR MATERIEL PLACED WITH (OR THROUGH) STOCK FUNDS

##### 080701. Placing an Order

A. An order placed with a stock fund may only be for a bona fide need of the period for which the ordering activity's financing appropriation is available.

B. An order placed for a stock-funded item shall be recorded as an undelivered order (obligation) when the order is placed. An order placed with a stock fund for a nonstock-numbered item (stock number not assigned at the time of placement of the order) shall be recorded as an undelivered order when the stock fund accepts the order.

##### 080702. Change Notices

A. An undelivered order (obligation) placed with the stock fund shall be adjusted when a change notice affecting price, quantity, or an acceptable substitution of a like item is received from the stock fund. An undelivered order placed with the stock fund shall be canceled when the customer receives a notice of (1) substitution that is unacceptable, (2) transfer of a stock-funded item to funding by a centrally managed procurement appropriation within a DoD Component, or (3) advice that the stock fund is unable to perform under the terms of the order.

B. Conversely, an undelivered order (obligation) shall be recorded when a notice is received that an ordered item funded by a centrally managed procurement appropriation has been transferred to funding by the stock fund.

C. If a change notice results in a shortfall of customer funds, the customer may cancel the order or reduce the quantity on order. If the customer does not receive a change notice, or does not receive it in time to cancel or modify the quantity on order, the material may be refused or returned to the stock fund. Credit for returns to the stock fund shall be provided in accordance with the provisions of DoD Directive 7420.1. There is no violation of administrative control for customer funds if an apparent funding deficiency that results from a change notice is resolved with the stock fund by means of (1) cancellation or modification of the quantity on order, or (2) refusal or return to the stock fund of the material.

080703. Expiration of an Order. When the customer's financing appropriation expires, an undelivered order for a nonstock-numbered item for which the stock fund has not executed a procurement action (that is, incurred an obligation) also expires.

#### 0808 PERSONAL SERVICES AND BENEFITS

080801. Obligations for the amounts payable to military members and civilian employees must be recorded in the month in which earned. These obligations must be supported by written administrative determinations of the amounts of the liabilities incurred for personal services based on payroll or personnel records. Payroll charges based on salaries and wages, such as civilian living and quarters allowances, equalization allowances under 5 U.S.C. 3584, and the employer's share of contributions to the retirement fund, insurance premiums, and FICA taxes also are obligations at the time that salaries and wages are earned. Enlistment bonuses, and allowances to military members for subsistence, quarters and clothing, as well as civilian uniform allowances and incentive awards, are obligated in the month that they become payable to the employee.

080802. An obligation must be recorded for subsistence in kind based on requisitions and orders when issued, or on a written administrative determination of the estimated cost of subsistence furnished by others.

080803. Annual leave must be reported as an obligation only when it becomes due and payable. Accruals of annual leave as it is earned are used in costing.

080804. Severance pay for U.S. Government civilian employees (and foreign national employees such as those German nationals covered by the German Tariff Agreement) shall be reported as an obligation on a pay-period-by-pay-period basis, that is, at the time the severance pay becomes payable, regardless of the time it is disbursed.

080805. Obligations for severance pay are incurred and reported after an employee has been separated and specified conditions (such as those set forth in the German Tariff Agreement) have been met. The organization that terminates the employment of such individuals shall be responsible for recording and reporting the severance pay obligation. If the liability for severance pay is significant, reasonable estimates shall be made and an unfunded liability recorded and reported IAW the Federal Agencies' Centralized Trial Balance System

(FACTS). In accordance with other foreign country contracts and agreements, certain foreign national employees earn a separation allowance, also sometimes called “severance pay” in some contracts and agreements, from inception of or during their employment. In such cases, a liability accrues from such date and obligations shall be recorded as indicated in the following paragraphs.

A. In general, obligations for separation allowances for foreign national employees shall be recorded against applicable current allotments in the full amount of the liability that accrues during the accounting period even though the amount may not currently be payable. However, when a foreign country is committed to fund part of the separation allowance for its nationals, DoD funds shall be obligated only for the Department’s portion of that cost. The amount chargeable to the applicable current allotment is the separation allowance liability incurred during the current accounting period and adjustments to outstanding liabilities for separation as a result of changes in pay. Adjustments for fluctuations in foreign currency exchange rates must be made at the time of the disbursement. However, see subsection 081110, below, for guidance on those currencies not covered by the foreign currency fluctuations appropriation.

B. Upon transfer of a foreign national employee from one DoD Component to another, the relinquishing DoD Component shall give detailed records to the gaining DoD Component on the unpaid accrued separation allowance for that employee. The detailed records must include the name of the employee, beginning and ending dates of employment, grade or classification, or both, amounts of the accrued liability by fiscal year appropriations and accounting classifications to be charged at the time of separation, and the name (or designation) and address of the activity that will be responsible for retaining the appropriation records. The relinquishing DoD Component must retain its liability for the accrued separation allowance, including the adjustment for any final fluctuation in the rate of foreign currency exchange, until notified of the employee’s separation and payment of the allowance by the DoD Component effecting the separation. The gaining DoD Component is responsible for obligating separation allowances earned from the date of an employee’s accession. Accrued separation allowances shall be paid when a foreign national employee is separated. The DoD Component effecting the separation of an employee must coordinate its payment actions with the other DoD Components whose funds are to be charged. DoD Components should designate one of their activities to maintain centrally the detailed employee and appropriation records for all transferred employees to facilitate the closeout and liquidation of liabilities.

C. Appropriated funds may not be obligated for separation allowances earned by foreign national employees during any period of employment by DoD non-appropriated fund instrumentalities. The accrued separation allowance shall be paid when a foreign national employee transfers from an appropriated fund organization to a nonappropriated fund instrumentality.

0809 PERMANENT CHANGE OF STATION

080901. Civilian Employees. At the time permanent change of station orders are issued to civilian employees, obligations shall be recorded against the current appropriation for all the authorized reimbursable expenses incident to relocation at the request of the U.S. Government and for transportation requests and bills of lading expected to be issued.

080902. Military Personnel. A report of estimated costs obtained from each individual or unit permanent change of station order shall be recorded as an obligation in the month of departure (relief) from the duty station. The date of relief shall be established and specified in the orders based on specific criteria consistently applied for the various types of moves, such as accessions, transfers, and losses. The obligation shall include the total cost for travel and transportation of the member, dependents, household goods, dislocation allowance, separation travel allowance, etc., whether performed by privately owned conveyance, common carrier, military air or sea lift, or other method. Any costs incurred by the U.S. Government before the date of relief shall be charged against the appropriation current at the time the payment is made with a subsequent adjustment to the proper fiscal year (appropriation current in the month of relief). The only exception is the cost of contemporary contract commercial storage of household goods which will be charged to the period during which the service is rendered.

#### 0810 TEMPORARY DUTY TRAVEL

Tentative obligations for temporary duty travel shall be recorded from written administrative determinations, based on the travel authorizations issued, for the estimated transportation to be purchased and the estimated reimbursement to be earned by the traveler for per diem allowances, use of privately owned vehicles, and incidental travel expenses. When travel is performed under a blanket authorization (with the itinerary not definite), the amount of the tentative obligation recorded in the current month shall not exceed the estimate of the travel expenses to be incurred to the end of the current month. When the period covered by the travel authorization extends beyond the end of the fiscal year, and the travel costs are being paid by means of an annual appropriation or the final year of availability of a multiple-year appropriation, the amount of the recorded obligation shall be the cost of transportation purchased and reimbursements earned to the end of the fiscal year.

#### 0811 OTHER OBLIGATIONS

081101. Loan Agreements. Under the Federal Credit Reform Act of 1990 (2 U.S.C. 661-661f), unless otherwise provided by statute, new direct loan obligations may be incurred only to the extent that budget authority to cover their costs is provided in advance. When a direct loan obligation is incurred, its cost (the estimated long-term cost of the loan to the government) is obligated against the "program account" established for the loan program. The actual funding of the loan is made through a revolving, non-budget "financing account." OMB Circular No. A-34 contains detailed guidance covering the obligation and disbursement of funds for direct and guaranteed loans.

081102. Grants and Subsidies. An obligation shall be recorded for grants and subsidies based on (a) a written administrative determination of the amount of the grant or

subsidy that is payable from an appropriation made available for payment of, or contribution toward, a sum required to be paid in a specific amount fixed by law or in accord with a formula prescribed by law; or (b) an agreement or plan covering a grant or subsidy authorized by law, provided the agreement or plan is approved in accordance with the law. In the case of a grant, the obligating action usually will be the execution of a grant agreement.

081103. Litigation. As a general rule, the amount of the liability expected to result from pending litigation shall be recorded as an obligation in cases where the government definitely is liable for the payment of money from available appropriations, and the pending litigation is for the purpose of determining the amount of the government's liability. In other cases, an obligation shall not be recorded until the litigation has been concluded or the government's liability finally is determined. A written administrative determination of the amount of the liability shall serve as documentary evidence of the obligation.

081104. Bills of Lading. A bill of lading issued to a commercial carrier shall be recorded, when issued, as a tentative obligation in an amount representing the estimated value of the transportation to be furnished, based on established rates. At yearend, any portion for transportation not yet commenced shall be eliminated from the account. (However, see subsection 080901, above.)

081105. Public Utility Services. Public utility services shall be recorded as an obligation based on billings received or on a written administrative determination of utility services furnished during the billing period ending in the monthly accounting period.

081106. Claims. A claim payable under law shall be recorded as an obligation, when finally approved, in the amount certified for such payment.

081107. Legal Determinations. A document evidencing a present legal liability of the U.S. Government, when the liability has been determined to exist by competent legal authority, shall be recorded as an obligation in the amount of the liability when that determination is made.

081108. Simultaneous Disbursement and Obligation. If a disbursement has been made (or is about to be made) without the related obligation having previously been recorded, an obligation shall be recorded immediately in the amount of the disbursement. Disbursement documents in payment of obligations not previously recorded shall be used to record the transaction as an Accrued Expenditure--Paid with a corresponding decrease in the uncommitted/unobligated balance of the affected allotment.

081109. Simultaneous Undelivered Order and Accrued Expenditure-Unpaid. If delivery or performance is due within a short period of time, contracts and other orders for \$1,000 or less may be entered into the budgetary accounts as Accrued Expenditures--Unpaid rather than Undelivered Orders. This will save one processing step when recording obligation transactions for small amounts.

081110. Foreign Currency Fluctuations

A. The foreign currency fluctuations appropriation was established to eliminate losses or gains to programs caused by fluctuation of specified foreign currency exchange rates from those used in the budget. (Working Capital Fund (WCF) foreign currency fluctuations are absorbed by the incurring WCF business area, not the foreign currency account.) Contractual obligations or other obligations payable in the specified foreign currencies may not be adjusted until disbursements are made from the appropriation account involved.

B. When foreign currencies not specified in the foreign currency fluctuations appropriation account are involved, any adjustments at the time of payment shall be supplemented with adjustments made at yearend and may be made at any other time a significant change occurs in order to avoid overobligation of an allotment.

081111. Security Guard and Firefighting Services

A. Title 10, United States Code, section 2465, prohibits the obligation or expenditure of appropriated funds for the purpose of entering into a contract for the performance of firefighting or security guard functions at any military installation or facility in the United States, including Alaska and Hawaii. This prohibition does not apply to (1) a contract that is to be performed in the commonwealths, territories, or possessions of the United States, or other locations outside the United States, when members of the Armed Forces otherwise would have to be used for the performance of firefighting or security guard services at the expense of unit readiness; (2) a contract to be carried out on a government-owned, contractor-operated (GOCO) installation; or (3) a contract (or renewal of a contract) for the performance of a function that was under contract on September 24, 1983.

B. Section 204(b) of the Defense Authorization Amendments and Base Closure and Realignment Act (P.L. 100-526), as amended by section 2905 (b)(8) of the Defense Base Closure and Realignment Act of 1990 (P.L. 100-510), as amended, authorizes special procedures for providing security guard (or firefighting) services 180 days before an installation closes under the Base Realignment and Closure initiative.

0812. APPROVAL OF ADJUSTMENTS IN EXPIRED APPROPRIATION ACCOUNTS

No automatic upward obligation adjustments in excess of \$1,000,000 that involve any individual action or contract shall be accomplished to expired appropriation accounts. Instead, such adjustments shall be submitted to, and approved by, the Head of the DoD Component. There shall be no "netting" of upward adjustments against downward adjustments to avoid this prior approval requirement. The prior approval authority may be delegated; however, a report of approvals must be submitted by the delegee to the Component Head since he or she ultimately is responsible for such approvals. This report to the Component Head shall be submitted no less frequently than annually prior to submission of the Year-End Closing Statement, TFS Form 2108 (see Volume 6, Chapter 4 of this Regulation). The Component Head shall confirm the actions taken by the delegee and evidence of the conflation shall be retained for audit.