

# INDIAN AFFAIRS MANUAL

Part 27  
Chapter 17

Financial Management  
Use of Expired Funds

Page 1

- 1.1 Purpose.** This chapter establishes the process and responsibilities of personnel for recording obligations using expired funds.
- 1.2 Scope.** This policy applies to all Indian Affairs (IA) programs and offices under the authority of the Assistant Secretary-Indian Affairs (AS-IA), including the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE).
- 1.3 Policy.** IA programs and offices will adhere to the procedures outlined in this policy, designed to prevent unauthorized obligations using expired funds.
- 1.4 Authority.**

## **A. Statutes and Regulations.**

- 1) 31 U.S.C. §§ 1501 – 1503, General, Appropriation Accounting
- 2) 31 U.S.C. §§ 1551 – 1558, Closing Accounts, Appropriation Accounting
- 3) 31 U.S.C. §§ 1341 *et seq.*, The Anti-Deficiency Act

## **B. Guidance.**

- 1) Principles of Federal Appropriation Law, 3d Ed., Vol. I, Chapter 5 – Availability of Appropriations: Time (available through the U.S. Government Accountability Office: [www.gao.gov/legal/red-book/overview](http://www.gao.gov/legal/red-book/overview))
- 2) Department of the Interior (DOI) Acquisition, Assistance, and Asset Policy (DOI-AAAP) 0035, Purchase Requests, September 2015 (available through the DOI-AAAP-Portal: <https://www.doi.gov/pam/programs/acquisition/pamareg>)
- 3) 26 IAM 2, Administrative Control of Funds
- 4) 27 IAM 6, Undelivered Orders

## **1.5 Roles and Responsibilities.**

- A. Deputy Assistant Secretary – Indian Affairs (Management) (DASM)** provides leadership and oversight of IA administrative operations, budget management, financial management, and acquisition management to ensure compliance with applicable laws, regulations, policies, and procedures.

## INDIAN AFFAIRS MANUAL

- B. Office of Budget and Performance Management (OBPM)** develops and implements budget policy, procedures, processes, and systems to execute IA budget functions. OBPM ensures that:
- Budgetary data entered into Financial and Business Management System (FBMS) is accurate;
  - Expiration dates for certain account assignments are accurate;
  - Accesses and privileges of updating budget tables in FBMS are properly controlled and monitored; and
  - Appropriate controls are established and maintained within the Funds Management Module of FBMS.
- C. Chief Financial Officer (CFO)** serves as the principal financial management advisor to the AS-IA and senior IA officials. The CFO establishes an overall system of fund controls, reports Anti-Deficiency Act statutory violations, and serves as the head of contracting activity.
- D. Contracting Officers** make the final determination on the applicability of the use of expired funds in relation to scope and antecedent liability for commercial contracts.
- E. Division of Financial Reporting and Analysis (FRA)** is responsible for:
- Reviewing requests for FBMS overrides involving expired funds;
  - Ensuring FBMS override authority is coordinated between the FBMS user and the Business Integration Office (BIO) for approved requests; and
  - Monitoring obligation activities in expired funds.
- F. Division of Acquisition Management** provides senior leadership, policy and oversight for the acquisition, contracts and cooperative agreement functions. The division ensures that:
- The interests of IA are maintained throughout the contracting process; and
  - Contracting personnel operate within their authority and comply with applicable laws, regulations, policies, and procedures.
- G. IA Bureau Procurement Chief** will provide oversight and guidance to contracting personal regarding use of expired funds for commercial contracts.
- H. Program Offices** are responsible for carrying out IA services or supporting IA service providers with funding allocations received. Program offices must:
- Verify the availability of expired funds prior to requesting the obligation of funds;

# INDIAN AFFAIRS MANUAL

- Complete and submit to FRA the Obligation in Expired Fund Request Form when requesting to use expired funds.

## 1.6 Definitions.

- A. Appropriation** – Budget authority to incur obligations and to make payments from the Treasury for specified purposes.
- B. “Bona Fide Needs” Rule** – A fiscal year appropriation may be obligated only to meet a legitimate, or *bona fide*, need arising, in or in some cases arising prior to, but continuing to exist in, the fiscal year for which the appropriation was made.

*There are numerous examples of the “Bona Fide Needs” rule in several cases, as indicated below:*

- [16 Comp. Gen. 37 \(1936\)](#)
  - [33 Comp. Gen. 57, 61 \(1953\)](#)
  - [B-235678, July 30, 1990](#)
  - [B-282601, Sept. 27, 1999](#)
  - [B-289801, Dec. 30, 2002](#)
  - *Principles of Federal Appropriation Law, 3d Ed., Vol. I, Chapter 5 – Availability of Appropriations: Time, B. The Bona Fide Needs Rule*  
[\(http://www.gao.gov/legal/red-book/overview\)](http://www.gao.gov/legal/red-book/overview)
- C. Contract Change** – In the context of 31 U.S.C. § 1553(c), a change in which the contractor is required to perform additional work, not including adjustments to pay claims or increases under an escalation clause.
- D. Expired Fund** – A fund whose period of availability has ended and is no longer available for new obligations, but retains its fiscal identity and is available for an additional five fiscal years for disbursement of obligations properly incurred during the fund’s period of availability.
- E. FBMS (managed by the BIO)** – An integrated business system that supports all organizations with the DOI for budget, performance, financial, acquisition, financial assistance and property management. FBMS is both the accounting and procurement system of record for DOI.

FBMS ensures that no new commitments, obligations (purchase orders or funds commitments), investments, or sales orders are created against expired funds. FBMS also prevents changes to previously posted commitments, obligations (purchase orders or funds commitments), investments, and sales orders if the change involves an expired fund. FBMS does not currently perform an expired fund validation on other activities such as direct labor postings, charge card, or travel transactions. However, FBMS users can be granted the authority to override the validation if such authority is warranted.

# INDIAN AFFAIRS MANUAL

- F. Fiscal Year** – Any yearly accounting period, regardless of its relationship to a calendar year. The fiscal year for the Federal Government begins on October 1 of each year and ends on September 30 of the following year; it is designated by the calendar year in which it ends.
- G. Funds** – Funds in the context of FBMS are structures used to track budgetary resources received through appropriations from the General Fund at Treasury, revenues and other budgetary authority.
- H. Obligation** – A definite commitment that creates a legal liability of the government for the payment of goods and services ordered or received, or a legal duty on the part of the United States that could mature into a legal liability by virtue of actions on the part of the other party beyond the control of the United States.
- Obligations within FBMS refer to reserving or obligating monies to a specific Vendor. Obligation documents include Funds Commitments and Purchase Orders.
- I. Period of Availability** – The period of time for which appropriations are available for obligation.

## 1.7 Procedures.

Before recording an obligation using expired funds, the program office must ensure that the obligation is permissible per all applicable statutes, regulations, and guidance. 31 U.S.C. § 1501(a) lists documentary evidence requirements for valid obligations, and requires that obligation amounts reported to Congress only include valid obligations. In summary, valid obligations are categorized as follows:

- Binding Agreements;
- Loan Agreements;
- Interagency Orders Required by Law;
- Orders without Advertising;
- Grants & Subsidies;
- Pending Litigation;
- Employment and Travel;
- Public Utilities; or
- Other Legal Liabilities.

Appropriated funds may not be obligated after the end of the period of availability, except:

- Contract modifications affecting price;
- Bid protests;
- Terminations for default; and

## INDIAN AFFAIRS MANUAL

- Terminations for convenience.

### A. When an FBMS override is not necessary.

When an FBMS override is not necessary to record a transaction, the program office is responsible for reviewing, approving, and recording, when applicable, the transaction in FBMS.

### B. When an FBMS override is necessary.

When an FBMS override is necessary to record a transaction in FBMS, the responsible program office must prepare and submit an Obligation in Expired Fund Request Form to the FRA.

The form will be reviewed by FRA within OCFO. A determination will be made as to whether or not the use of expired funds is appropriate; the FRA Division Chief or designee will communicate the result. Examples of situations that may be approved are:

- Valid obligations that were erroneously de-obligated and need to be re-obligated;
- Obligations that were erroneously recorded with an incorrect FBMS account assignment and need to be re-entered with the correct account assignment;
- Existing obligations requiring additional funding;
- Valid obligations that were created prior to fund expiration but were not recorded in FBMS; and
- Settlement payments.

When appropriate, FRA may request additional review by the OBPM, Office of Self-Determination, Office of Self-Governance, Education Resource Centers and/or Division of Acquisition Management. These offices may be asked to present additional justification to support or oppose approval. However, the final determination will be made by the FRA Division Chief or designee. Examples of situations that may require additional review are:

- Obligations that require an increase in contract costs;
- Obligations in excess of available funding;
- Obligations related to P.L. 93-638 contracts and compacts; and
- Obligations related to P.L. 100-297 school grants.

If the obligation is required to cover a contract change, additional approvals may be required depending on the dollar amount of the request per 31 U.S.C. § 1553(c).

## INDIAN AFFAIRS MANUAL

Part 27  
Chapter 17

Financial Management  
Use of Expired Funds

Page 6

If the obligation is found to be valid, but funds are not available or were not available at the time of obligation, an anti-deficiency violation has occurred and must be reported to the CFO pursuant to 26 IAM 2.

If FRA approves the request for obligation of expired funds, FRA personnel will coordinate the authority to override the obligation in FBMS and will assist in completing the recording of the obligation. If the request is not approved, FRA will provide the reason and a recommendation for proceeding.

All requests for use of expired funds will be logged and tracked by FRA. Transactions not requiring FBMS override (e.g. labor and charge card reallocations) will not be tracked. In addition, the FRA will perform a cursory review of expired fund activity on a quarterly basis. If such activity meets a materiality threshold, additional reviews may be performed as needed.

### 1.8 Forms.

When an FBMS override is necessary, program offices must complete and submit an Obligation in Expired Fund Request Form. The form is available at:  
<https://www.bia.gov/policy-forms/online-forms>.

### Approval



James N. Burckman

Acting Deputy Assistant Secretary – Indian Affairs (Management)

OCT 27 2017

Date