



DEPARTMENT OF THE NAVY

NAVAL FACILITIES ENGINEERING COMMAND
200 STOVALL STREET
ALEXANDRIA, VA 22332

IN REPLY REFER TO
ACQ 021
22 May 1998

From: Commander, Naval Facilities Engineering Command
To: Distribution

Subj: ANTI-DEFICIENCY ACT (98-24)

Encl: (1) ASN(RD&A)/ABM memo of 29 Apr 98

1. Enclosure (1) is forwarded for your information and action, as appropriate.
2. The fiscal process involved in funding the acquisition of goods and services has many statutory and administrative controls. Basic descriptions of contract funding requirements are set forth in FAR Subparts 32.7 and 37.106 and DFARS 237.7 and 237.106. The NAVCOMPT Manual (in particular Volumes II, III and VII) contains much of the specific guidance concerning proper use of appropriations.
3. Contracting officers are reminded that in accordance with FAR 1.602-1 and 1.602-2, no contract shall be entered into unless the contracting officer ensures that all requirements of law, executive orders, regulations and all other applicable procedures, including clearances and approvals, have been met, and that sufficient funds are available. This requirement includes the use of proper funds pursuant to 31 U.S.C. 1301(a) which provides that "Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law." Additionally, as stated in FAR 32.702, no officer or employee of the government may create or authorize an obligation in excess of the funds available, or in advance of appropriations (Anti-Deficiency Act, 31 U.S.C. 1341) unless otherwise authorized by law. FAR 32.702 also requires that prior to executing any contract, the contracting officer shall (a) obtain written assurance that adequate funds are available or (b) expressly condition the contract upon availability of funds (in accordance with FAR 32.703-2).
4. Ensuring that sufficient funds are available and that the type of funds being obligated are proper requires the efforts of both the responsible fiscal officer/Comptroller of the requiring activity and the contracting officer responsible for executing the contract. In the event of uncertainty, contracting officers are strongly encouraged to submit their concerns in writing to the requiring activity/Comptroller/responsible fiscal officer and to consult with local counsel. Copies of such correspondence and the written response should be maintained in the official contract file.

A handwritten signature in black ink, appearing to read "M. F. Howard".

MICHAEL F. HOWARD
Director, Strategic Operations



THE ASSISTANT SECRETARY OF THE NAVY
Research Development and Acquisition
1000 Navy Pentagon
Washington DC 20350-1000

APR 29 1998

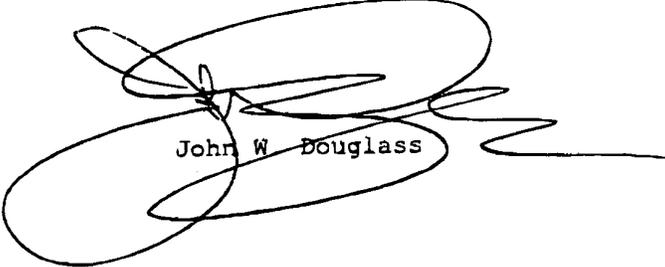
MEMORANDUM FOR DISTRIBUTION

Subj: ANTI-DEFICIENCY ACT

Recently the Department of the Navy (DON) has reported a number of Anti-Deficiency Act violations within our acquisition commands and program offices. Two investigations in a single program office revealed similar violations in overlapping time frames. This situation is unacceptable and concerns me.

I consider compliance with fiscal statutes and implementing regulations to be an integral element of proper execution of our acquisition responsibilities. I fully expect that all concerned are taking necessary action to ensure this compliance.

Further, I expect all current and future ADA violations that involve any of our program offices, PEOs, or DRPMS to be reported during their periodic RDA metrics briefings. The discussion should also address the management actions you are taking to prevent further violations.


John W Douglass

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