DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

OFFICE OF THE ASSISTANT SECRETARY

12 FEB 1996

ACQUISITION POLICY 96A-001

MEMORANDUM FOR DISTRIBUTION

FROM: SAF/AQ
1060 Air Force Pentagon
Washington DC 20330-1060

SAF/FM
1130 Air Force Pentagon
Washington DC 20330-1130

SUBJECT: Funds Management (Contingent Liability) Policy

Elimination of the "M" accounts by Public Law 101-510 requires the Air Force to innovate and improve the way we manage our budgets. This policy memo provides initiatives to improve funds management and applies to all programs and contracts. The talking paper at Atch 3 is provided for information and additional guidance.

We must plan better. Acquisition strategy panels must ensure the acquisition strategy is consistent with the appropriation life cycle. If contingent liabilities (CLs) are considered appropriate, the single acquisition management acquisition plan or acquisition plan must identify them and focus on procedures to fund unexpected shortfalls. Contract provisions establishing CLs must be carefully evaluated and used only when the benefit clearly exceeds the risk that funds won't be available when the liability materializes. Business and contract clearance officials must make the analysis of CLs a high priority and ensure that adequate, plans are in place to avoid Anti-deficiency Act violations that may be caused by the loss of funds due to cancellation.

Program/contract execution must include active management of CLs. To identify and determine the value of CLs, all programs are strongly encouraged to maintain the matrix at Atch 2, which may be tailored to meet local needs. Funds must be committed for all "probable" CLs as defined in the matrix. Also, all acquisition category I and II programs must identify the "probable" and "possible" CLs, their description, and an estimated date of obligation. This information should be provided as an addition to the current semi-annual AFMC/FMA Upward Adjustment Projections Report beginning 1 Jun 96.

Finally, contract closeout remains a critical element of effective funds management. Air Force personnel must continue to fully support and implement as many initiatives as possible to minimize the use of current year appropriations for canceled work and help reduce budget risks.

OPRs for this policy memorandum are SAF/FMBMC, DSN 225-4938, or SAF/AQCS, DSN 227-6400.

ARTHUR L. MONEY
Assistant Secretary of the Air Force
(Acquisition)

ROBERT F. HALE
Assistant Secretary of the Air Force
(Financial Management and Comptroller)

Attachments:
1. Distribution List
2. Contingent Liability Matrix
3. Talking Papers

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CONTINGENT LIABILITIES MATRIX

SPD/[illegible]:

FINANCIAL MGR:

PCO:

DATE:

CONTRACT NO:

1 Description	2 Contract Spec Provision Number	3 Fiscal Year and Approp	4 Maximum Govt Exposure (NTE)	5 Probable (Funds Have Been Committed)	6 Possible (Funds Should Not Be Committed)	7 Remote (Funds Should Not Be Committed)	8 Date of Commitment Document (Latest Revision)	9 Estimated Obligation Date	10 Other Agency Involvement	11 Focal Points
Award Fee										
Business Base										
Ceiling										
(Identify)										

TALKING PAPER

ON

FUNDS MANAGEMENT (CONTINGENT LIABILITY) POLICY

- Elimination of the “M” accounts requires us to manage our budgets with more discipline. Even if properly obligated, funds will cancel if not expended in the time allowed for the appropriation. This requires replacement with currently available funds and places tremendous risk on our budgets.

  -- Unforeseen contingent liabilities (CLs) must be paid from current funds if they are associated with canceled year funds.

  -- Anti-Deficiency Act (ADA) violations may result when appropriate funds are not available.

  -- Program/financial managers must use an innovative approach over the life cycle of funds-- pre-contract management, contract execution and contract closeout.

- Better up front planning in acquisitions will provide significant benefits. Acquisition strategy must match the funds life cycle.

- Effective active management of contract/program execution is necessary to identify, track, and manage existing CLs. Controlling CLs provides an excellent opportunity to minimize the need to use current year appropriations for canceled work and help reduce budget risk.

- The Air Force had upward obligations of over $1,025M in FY 93 and $471M in FY 94. Additionally, there were 55 potential ADA violations reported in FY 93 and 23 in FY 94. The other Services consistently have less than $1OOM in upward obligations each year and fewer ADA violations as well.

- To help future prevent ADA violations, Air Force financial and acquisition managers must do a better job identifying and reserving funds (establishing commitments) for CLs.

  -- AFR 170-8 defines CLs as events which may or may not become an actual liability depending on a future event and which require a commitment of funds to cover the additional obligations which may arise.

  -- AFR 170-13 states that CLs may or may not become an actual liability depending on a future event and may require a commitment of funds to cover the additional obligations which may arise.

S. Thigpen/SAF/FMBMC/695-4938/17 Jan 1996

-- There are two types of CLs: 1) "Known Unknowns" created by the contract such as award fee, economic price adjustment, incentive price revisions, and business base/idle facilities clauses, and 2) "Unknown Unknowns" such as claims and requests for equitable adjustment.

-- CLs are categorized in the Contengent Liabilities Matrix. CLs categorized as "probable" must be covered by a commitment of funds. Uniform commitment ractices must be followed.

--- Commitments of CLs are recorded against the applicable fiscal year and appropriation cited on the contract. On a contract basis, documentation of the estimated CL must be maintained and reviewed so that they fully depict the CL status for potential audit review and future financial or contract managers. These records must be maintained until the liability no longer exists.

--- Prevent CLs from exceeding budget availability by establishing commitments prior to funds expiration and maintaining, and adjusting as necessary, into the expired years until the obligation is posted. New commitments may be made to recognize CLs which progress to the "probable" category after funds expiration.

--- A commitment for a CL is changed to ab obligation at the point of determination that a legal liability has occurred and documentation is sufficiently definite and specific. Committed funds determined to be excess after an obligation is made, or determined to be unsupported during any periodic review, must be decommitted.

--- Identify and track CLs throughout the life of the contract and report them in program, financial management, and designated acquisition executive summary reviews. The Contingent Liabilities Matrix provides a format for information required to effectively track CLs. Selected information from this matrix is to be compiled and submitted by AFMC/FMA in the Upward Adjustment Projection Report to SAF/FMBMC on 1 Jun and 1 Dec each year with information copies to SAF/AQXR, SAF/AQCS, AF/LGSY, AF/LGSR and SAF/FMBI.

- Another approach to avoiding ADA violations is toimprove our business practices to reduce, or eliminate where possible, the "Known Unknowns."

-- An effective acquisition strategy must consider the entire life cycle of both the program's needs and funding availability and plan for sufficient funds to cover expected liabilities.

-- Consider CLs when determining the contract period of performance and select strategies that help reduce uncertainty and the need for CLs such as economic price adjustment or business base adjustment clauses).

-- When appropriate, select contract types that shift more risk from the Government to the contractor. The additional risk to the contractor could support higher weight assignments in computing profit objectives, resulting in higher profit/fee rates in negotiations.

- Once contracts are physically complete, program/financial personnel must work with other government agencies to expeditiously closeout contracts and implement the A.FMC/CC chartered process action team recommendations.

- In summary, the elimination of the “M” accounts has forced acquisition/financial managers to better manage the AirForce budget.

  -- This includes aggressive management through all phases of acquisition--planning, execution and closeout.

  -- When unable to avoid their use, Air Force acquisition/financial managers must improve the identification, recording, and tracking of the CLs.

- Questions should be addressed as follows: Ms. Sandra Thigpen, SAF/FMBMC, DSN 225-4938, for the audit; Mr. Bob Bemben, SAF/AQCP, DSN 225-0031, for the CL matrix; Maj John Lyle, SAF/AQCS, DSN 227-6400, for the policy.