

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON 25, D. C.

Released

DIGEST - I
Cont

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JAN 26 1960

CIVIL ACCOUNTING AND
AUDITING DIVISION

B-141839-03

May 2, 1960

The Comptroller General

In our review of cost-plus-fixed-fee research contracts awarded by the National Institutes of Health (NIH), we have noted certain practices which might possibly be in violation of section 3678 of the Revised Statutes (31 U.S.C. 628).

We have noted that when services under a research contract overlap two fiscal years NIH obligates the appropriation for the fiscal year in which the contract is made for the full amount of the contract. Extensions are made with and without providing additional funds. If less than the amount obligated is expended during the contract period, contracts are extended and the remaining balance is expended. When additional funds are provided NIH obligates the appropriation for the fiscal year in which the amendment is made. NIH charges contract payments to the earliest appropriation obligated until the payments equal the amount obligated and thereafter to the next appropriation obligated. (See attached schedules on obligation of funds for contracts 1907 and 1892.)

We request that the Office of General Counsel review the attachments and advise us concerning the legal aspects of these practices and any action to be taken.

John P. Abbadessa

John P. Abbadessa
Deputy Director

Attachments - 4

- Copy of contract 1892 and amendments awarded by NIH to Stanford Research Institute
- Copy of contract 1907 and amendments awarded by NIH to Southern Research Institute
- Schedule of NIH obligations and payments under contract 1892 and amendments
- Schedule of NIH obligations and payments under contract 1907 and amendments

B-141839-O.M.

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Indorsement

MAY 2 1960

Director, Civil Accounting and Auditing Division

Returned. Examination of the contracts accompanying your submission discloses that they were made with the Stanford Research Institute and the Southern Research Institute during the fiscal year 1958 for the performance by the Institutes, through use of its facilities, personnel and professional proficiency, of specific cancer research programs with payment on a cost-plus-a-fixed-fee basis. The services rendered under the contracts are for an entire job and must be considered as falling within the category of nonpersonal services as to which the general rule, with respect to obligating a fiscal year appropriation by such contracts, is that amounts payable thereunder are to be charged to the appropriation current at the time the contracts were entered into, even though the period of performance may extend beyond the fiscal year until the object thereof is accomplished. See 23 Comp. Gen. 370; 24 id. 195; 196; 26 id. 468; B-117126-O.M., July 9, 1954.

The amendment of the subject contracts in fiscal years 1959 and 1960 to provide for continuation and/or expansion of the research work, at additional cost, created obligations chargeable to the 1959 or 1960 appropriations which obligations were additional to the liability originally incurred under the 1958 appropriation. See 37 Comp. Gen. 861, 863. Thus, the obligation and expenditure availability of the 1958, 1959 and 1960 appropriations are independent of each other, as if separate contracts were executed for the research work. That being so, expenditures chargeable against the 1958 obligation must be on account of the research work called for by that obligation and may be made to the full amount thereof regardless of the concurrent availability of the 1959 and 1960 obligations.

Accordingly, you are advised that the practice of the National Institutes of Health in respect of incurring appropriation obligations and expenditures as evidenced by the subject research contracts, if in conformity with the views expressed herein, would not appear to violate the provisions of section 3678, Revised Statutes, 31 U. S. C. 628, or any other fiscal statute of which we are aware.

JOSEPH CAMPBELL

~~Assistant~~ Comptroller General
of the United States

Attachments

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MAY 2 1960

APPROPRIATIONS
Fiscal year
Availability beyond
Contracts
Amendments

APPROPRIATIONS
Health Education and Welfare
National Institutes of Health
Contracts

These appropriations are for an entire fiscal year and must be covered as a whole within the category of nonpersonal services as to which the general rule, with respect to obligating a fiscal year appropriation by such contracts, is that amounts payable thereunder are to be obligated to the appropriation current at the time the contracts were entered into, even though the period of performance may extend beyond the fiscal year in which the obligation is recognized. See H. Rept. 1000, 86th Cong., 1st Sess., July 2, 1959.

The amount of the subject contracts in fiscal years 1959 and 1960 to provide for continuation and/or expansion of the research work at additional cost, created obligations chargeable to the 1959 or 1960 appropriations which obligations were additional to the liability originally incurred under the 1958 appropriation. See H. Rept. 881, 85th Cong., 1st Sess., July 2, 1957, and H. Rept. 1000, 86th Cong., 1st Sess., July 2, 1959. These obligations and expenditures are independent of each other, as it respects contracts were executed for the research work. That being so, expenditures chargeable against the 1958 obligation must be an account of the research work called for by that obligation and may be made to the full amount thereof, regardless of the amount available in the 1959 and 1960 obligations.

Accordingly, you are advised that the question of the National Institutes of Health in respect of incurring appropriation obligations and expenditures as evidenced by the subject research contracts, in conformity with the views expressed herein, would not appear to violate the provisions of section 552, Revised Statutes, U. S. C. 552, or any other financial statute of which we are aware.

JOSEPH CAMPBELL

Special Counsel General
of the United States

Attachment