



# Colors of Money



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# The Permanent Laws (31 U.S.C)

Purpose Statute [Title 31, US Code, Sec 1301]

Purpose or Color

Bona Fide Need Rule [Title 31, US Code, Sec 1502 ]

Time or Year

Anti-deficiency Act [Title 31, US Code, S 1341,1517 ]

Amount



# Purpose

## Purpose Statute

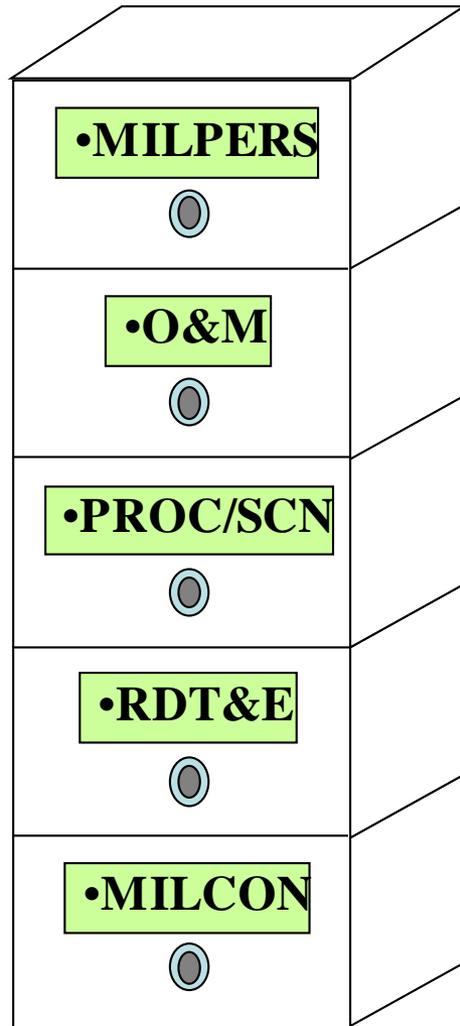
31 U.S. Code, Sec 1301

**Requires funds to be used only for the purposes and programs for which the appropriation was made.**

- **Can not spend appropriated funds outside the definition of that appropriation**
- **Money is legally available only for the purpose for which it was appropriated.**

• **Not sure? Read the DD 1414 and your program's justification materials, e.g., budget documents in the PRESBUD.**

# Purpose: The Colors of Money



## •Military Personnel (MILPERS)

- Active & Reserve Forces

## •Operation & Maintenance (O&M)

- Active & Reserve Forces
- (civilian salaries, supplies, spares, fuels, travel, etc...)
- Environmental Restoration
- Former Soviet Union Threat Reduction
- Overseas Humanitarian, Disaster, & Civic Aid

## •Procurement

- Aircraft
- Missiles
- Weapons
- Weapons & Tracked Combat Vehicles
- Ammunition
- Other Procurement
- Shipbuilding & Conversion
- Marine Corps
- Defense wide procurement
- National Guard & Reserves

## •Research, Development, Test & Evaluation (RDT&E)

- Army
- Navy
- Air Force
- Other Defense

## •Military Construction (MILCON)

- Facilities
- Family Housing
- Base Realignment & Closure (BRAC)

## •Other

- Defense Health Program
- Chemical Agents & Munitions Destruction
- Drug Interdiction & Counter-Drug Activities
- Joint Improvised Explosive Device Defeat Fund
- Rapid Acquisition Fund
- Office of the Inspector General



# Does the amount make a difference?

## Procurement

- **Production Labor/Hardware, Initial Spares, AIS E/SW  $\geq$  \$250K**

- **AIS E/SW = Automated Information System Equipment/Software; O&M = Operation and Maintenance**
- **RDT&E = Research, Development, Test & Evaluation; SCN = Shipbuilding and Conversion, Navy**



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## O&M

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## Milcon

- **Major Construction Projects  $\geq$ \$1M**

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- Be mindful that the Financial Management Regulation (FMR) advises in favor of the RDT&E appropriation if doubt exists whether it or another appropriation is properly chargeable (FMR Vol 2a 010213 B).
- Once the election of an appropriation is made, the agency must continue to use that appropriation until the end of the current fiscal year.
  - That election of funds is binding even if the agency runs out of funds.
  - If the agency wants to change appropriations for the next fiscal year, it must notify Congress of its intent.

# Purpose



- **Congress has “Power of the Purse”**

“No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law....”

- The Constitution of the United States, Article I, Section 9, clause 7

- **Purpose Statute:**

“Appropriations shall be applied only to the objects for which the appropriations were made...”

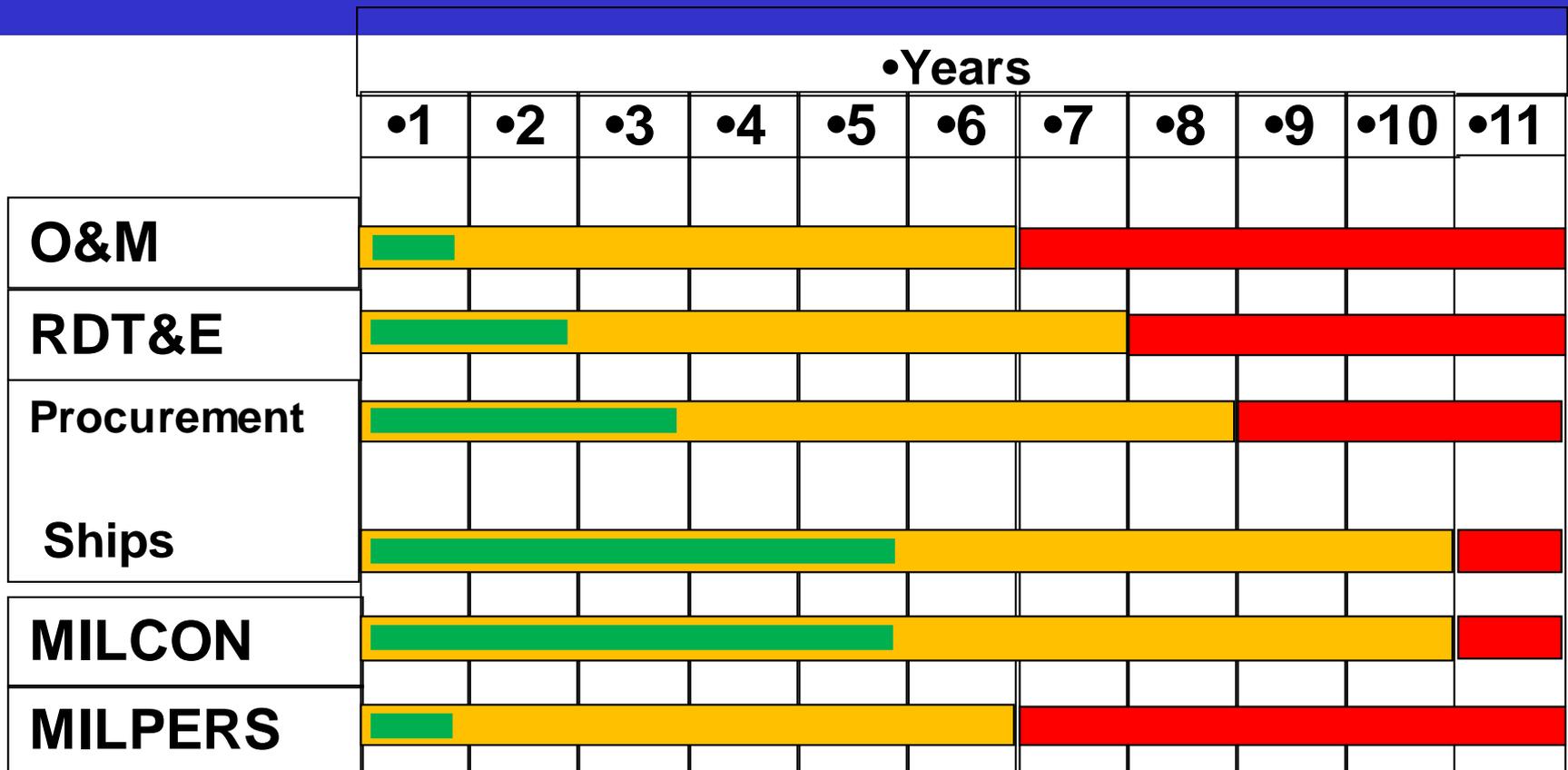
- 31 USC § 1301(a)



# Purpose

- “Necessary expense” doctrine - law can’t specify every need
  - While an agency has reasonable discretion in determining how to carry out the objects of the appropriation – however, that discretion is not unfettered.

# Appropriation Life - *Time*



█ • **Current Period**: Available for new obligations, obligation adjustments, expenditures, & outlays

█ • **Expired Period**: Available for obligation adjustments, expenditures, & outlays

█ • **Cancelled**: Unavailable for obligations, obligation adjustments, expenditures, & outlays

⚙️ • **Line of Accounting is maintained from current period through the expired period**



# Violations

- **What if I'm not sure it would be a violation?**
- **When would/could it happen?**
- **What happens when it does?**
- **What happens if I can't fix it?**



# How do I find what I don't know?

- **Always start with your Comptroller**
- **Contracting Officer**
- **Office of Counsel**
- **Comp. Gen Decisions**
  - <http://www.gao.gov/legal/appropriations-law-decisions/search>
  - **GAO Red Book** (*Principles of Federal Appropriations Law*)
    - <http://www.gao.gov/legal/red-book/overview>



# A New Question?

Budget and Accounting Act of 1921: Directed to investigate the receipt, disbursement, and application of public funds . . .”

**Comptroller General will provide advance decisions.**

Talk to your comptroller

# The BIG rule!

“It's easier to ask forgiveness than it is to get permission.”

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**It is not better to  
ask for forgiveness  
- ASK FIRST.**



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# Specific Violations

Owner	31 USC #	Amount	Issue	Remedial Action
DISA	1341	\$1,923,460	No MILCON available so DISA split construction into 5 increments to keep pieces below \$750K threshold for minor construction (10 U.S.C. § 2805). Funded with O&M and DWCF	5 days without pay, letter of caution, 2 already retired
USMC	1517	\$4,090,625	Used O&M (vice Procurement, MC) for IT	Counseled, letters of caution, retired
USMC	1301, 1517	\$810,981	Used Procurement, MC rather than MILCON	2 letters of caution and one relieved of duties as Supervisory Eng Tech
Army	1341	\$32,144,000	AMC used OMA instead of MILCOM for major MILCON without congressional approval or enough MILCOM money. Discovered during DOD IG audit.	3 "memorandums of concern"



# So what happens to me?

- **Administrative**

- An officer or employee who violates . . . "shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office

- **Penal**

- An officer or employee who "knowingly and willfully" violates any of the three provisions cited above "shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both
- The agency head "shall report immediately to the President (Via OMB) and Congress all relevant facts and a statement of actions taken
- Simultaneous report to the Comptroller General (Head of GAO)



# Why does it happen?

- **Lack of or weak training**
- **Lack of/weak/ignored internal controls**
- **Lack of familiarity with current Appropriation and Authorization Acts**
- **Willful ignorance (turning a blind eye)**
- **Unwilling to stand tall**
- **Exceeding scope**
- **MILCON  $\geq$  \$1M with O&M**
- **Investments with O&M  $\geq$  \$250K**
- **Not familiar with GAO Red Book, Chapter 4**



# How to prevent it

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# Additional Resources

- CLB 011 Budget Policy
  - [http://icatalog.dau.mil/onlinecatalog/courses.aspx?crs\\_id=289](http://icatalog.dau.mil/onlinecatalog/courses.aspx?crs_id=289)
- BCF 110 Fundamentals of Business Financial Management
  - [http://icatalog.dau.mil/onlinecatalog/courses.aspx?crs\\_id=2089](http://icatalog.dau.mil/onlinecatalog/courses.aspx?crs_id=2089)
- Financial Management Regulation (FMR), Volumes 2A and 2B
  - <http://comptroller.defense.gov/FMR/fmrvolumes.aspx>