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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 29, 2006

THE DIRECTOR

BULLETIN NO. 06-04

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Apportionment of the Continuing Resolution(s) for Fiscal Year 2007

1. Purpose and Background. Division B of H.R. 5631 will provide continuing appropriations for the period October 1 through November 17, 2006. I am automatically apportioning amounts provided by this continuing resolution (CR) as specified in section 2. This Bulletin supplements instructions for apportionment of CRs in OMB Circular No. A-11, section 123, and applies to this CR and any extensions of this CR.

2. Automatic Apportionments. See the attachment to this Bulletin for more detailed instructions on calculating the annualized amount provided by the CR. In order to calculate the amount automatically apportioned through the period ending November 17th (and any extensions of that period) multiply the annualized amount provided by the CR by the lower of:

- the percentage of the year covered by the CR (e.g., for H.R. 5631 use 13.15 percent), or
- the historical seasonal rate of obligations for the period of the year covered by the CR.

With regard to the treatment of FY 2006 supplementals, Sec. 110 of the CR requires that the resolution be implemented so that only the most limited funding action permitted in the CR is taken. The Administration has interpreted this section to mandate that agencies in general spend at a minimum level, so as not to infringe upon the prerogative of Congress to set full-year funding levels. Funding apportioned under the CR excludes one-time, non-recurring projects and activities that were funded by FY 2006 supplementals. Recurring and ongoing projects and activities funded by FY 2006 supplementals may be factored in to the "not to exceed current rate" formula if pre-approved by your OMB representative with budget responsibility for the account.

Under an automatic apportionment, all of the footnotes and conditions placed on the prior year apportionment remain in effect. The CR provides that FY 2006 terms and conditions apply.

3. Written Apportionments. If an agency seeks an amount for a program which is different from the total amount automatically apportioned, you must request a written apportionment from OMB. Only a limited number of written apportionment requests are expected to be granted. Every request must be accompanied by a written justification that includes the legal basis for the exception to the automatic apportionment. Once a written apportionment is approved, the terms and conditions of the automatic apportionment bulletin cease to apply to the extent changed by the written apportionment.

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4. CR Extensions. For accounts where automatic apportionments are in effect, an extension of the CR is automatically apportioned. For accounts with written apportionments, you must request a written reapportionment for each extension of the CR.


Rob Portman

Attachment

Calculating the Amount Made Available by the Continuing Resolution (CR) and the Automatic Apportionment

1. **What is the annualized, full-year amount provided by the continuing resolution (CR)?**

The rate (amount) provided by the CR means one of the three annual amounts:

- The annual amount in the appropriations act for FY 2007 as passed by the House by October 1, 2006.
- The annual amount in the appropriations act for FY 2007 as passed by the Senate by October 1, 2006.
- Annual amount representing the not to exceed the current rate (see below).

Not to exceed current rate:

- take the full year amount enacted in the FY 2006 regular appropriations acts (i.e., regular appropriations net of any reductions, including across-the-board reductions);
- add only the recurring, ongoing supplemental FY 2006 appropriations amounts (pre-approved by the OMB representative with budget responsibility for the account);
- add transfers mandated by law;
- add the discretionary unobligated balance (including those balances from recurring, on-going supplemental projects) *carried forward* to FY 2006 start-of-year (SOY), if any; and
- subtract the discretionary unobligated balance (including those balances from recurring, on-going supplemental projects) *at the end* of FY 2006 end of year (EOY), if any.

2. **What is the amount of the automatic apportionment under a CR?**

Calculate the amount automatically apportioned (whole dollars) through the period ending November 17, 2006, (and any extensions of that period) by multiplying the **annualized amount provided by the CR** by the lower of:

- the **percentage of the year** covered by the CR (rounded to the nearest hundredth) (for a seven-week CR, use 48 days/365 days=13.15%); or
- the **historical seasonal rate** of obligations for the period of the year covered by the CR.

3. **Which of the annual amounts do I use?**

If	Then
A. Both the House and Senate have passed the bill by October 1, 2006, and if:	
1. There is no amount in both bills	Discontinue the project or activity.
2. There is an amount in only one bill	Continue at the lower of the amount in the one bill <u>or</u> not to exceed the current rate.
3. The amounts in both bills are the same	Continue at the lower of the House- and Senate-passed <u>or</u> not to exceed the current rate.
4. The amounts in both bills are different	Continue at the lower of the House-passed, the Senate-passed, <u>or</u> not to exceed the current rate.
B. Only the House has passed the bill by October 1, 2006, and if:	
1. No amount is included in the House bill but was funded in FY 2006	Continue at the not to exceed the current rate.
2. There is an amount in the House bill	Continue at the lower of the House-passed <u>or</u> not to exceed the current rate.
C. Neither the House nor the Senate has passed the bill by October 1, 2006:	Continue at the not to exceed the current rate.

4. **Which estimates of FY 2006 (EOY) unobligated balances should agencies use in the calculation?**

Agencies are required to use current estimates of FY 2006 (EOY) unobligated balances as follows:

- FY 2006 SOY unobligated balances: Use the amount shown on the most recent FY 2006 apportionment/reapportionment. This would be shown on line 1A ("Unobligated balance: brought forward, October 1 (actual)") of the SF 132/letter apportionment (not the amount shown in the most recent President's Budget).
- FY 2006 EOY unobligated balances: Again, you must use the most recently approved apportionment. For the majority of the accounts, this should be the FY 2007 initial apportionment.
- You may request OMB to apportion revised estimates of unobligated balances, SOY FY 2007, and if apportioned in writing by OMB, you may then use the revised amounts to calculate the amount available under the CR.

5. **How should the phrase "project or activity" be applied in determining the CR level?**

In the context of determining the rate for operations under the CR, OMB has interpreted the term "project or activity" to refer to the total appropriation, that is, the account level. GAO's view has been consistent with OMB's (see page 8-24 of the Principles of Federal Appropriations Laws, Third Edition, Volume II, issued by GAO).

6. **How should mandatory appropriations and balances be treated?**

A continuing resolution is an appropriations bill. As such, it normally does not affect mandatory appropriations provided in substantive or authorizing legislation. Therefore, for accounts with a mix of discretionary and mandatory appropriations, take the mandatory component out before calculating the amount provided by the CR. This includes both the budget authority and mandatory unobligated balances.

7. **Are entitlement and other mandatory payments whose budget authority was provided in Appropriations Acts for fiscal year 2006 continued at the FY 2006 level or FY 2007 program level?**

Sec. 114(a) of H.R. 5631 allows entitlements and other mandatory payments whose BA was provided in Appropriations Acts for FY 2006 to continue at the "rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2006, etc." In other words, these programs can operate at the FY 2007 program level.

8. **How will section 126 of H.R. 5631 regarding civilian personnel compensation and benefits be apportioned by OMB?**

Section 126 allows OMB limited authority to mitigate furloughs. It does not provide additional total budget authority for the fiscal year (i.e., agency spending during the CR will be charged against their eventual full-year appropriation, even if that appropriation is in the form of a full-year CR). Rather, it allows OMB to apportion the BA at a greater rate than the daily rate. OMB will be applying this authority in the most restrictive fashion. You must be pre-approved by your OMB representative with budget responsibility for the account before requesting a written apportionment from OMB. OMB will require written documentation that the following pre-condition has been satisfied by the agency: *"except that....such authority provided under this section shall not be used until after the department or agency has taken all necessary actions to reduce or defer non-personnel-related administrative expenses."*