



THE DIRECTOR

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TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

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SUBJECT: Apportionment of the Continuing Resolution(s) for Fiscal Year 2006

1. Purpose and Background. H.J. Res. 68 will provide continuing appropriations for the period October 1 through November 18, 2005. 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 18th (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 (for H.J. Res. 68 use 13.42 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 2005 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 in FY 2005. The "not to exceed current rate" may factor in FY 2005 recurring and ongoing supplemental projects and activities 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 2005 terms and conditions apply.

3. Written Apportionments. If an agency seeks an amount for a program that is different from the total amount automatically apportioned, you must request a written apportionment from OMB. Only a limited number of written apportionments are expected to be granted. Every request must be accompanied by a written justification including the legal basis for the exception 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.

Attachment

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

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

Calculate the amount automatically apportioned (whole dollars) through the period ending November 18, 2005, (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 49 days/365 days=13.42%); or
- the **historical seasonal rate** of obligations for the period of the year covered by the CR.

2. **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 2006 as passed by the House by October 1, 2005.
- The annual amount in the appropriations act for FY 2006 as passed by the Senate by October 1, 2005.
- The annual amount representing the rate of operations not to exceed the current rate (see below).

Not to exceed current rate:

- take the net amount enacted in FY 2005, i.e., add only the recurring, ongoing supplemental appropriations amounts pre-approved by the OMB representative with budget responsibility for the account, subtract any rescissions (e.g., across-the-board reductions), and add in transfers mandated by law;
- add the discretionary unobligated balance (including those balances from recurring, on-going supplemental projects) *carried forward* to FY 2005 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 2005 end of year (EOY), if any.

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

If	Then
A. Both the House and Senate have passed the bill by October 1, 2005, 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, 2005, and if:	
1. No amount is included in the House bill but was funded in FY 2005	Continue at 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.

4. **Which estimates of FY 2005 (EOY) unobligated balances should agencies use in the calculation?**

Agencies are required to use current estimates of FY 2005 (EOY) unobligated balances. You can adjust the unobligated balances with the following conditions:

- FY 2005 SOY unobligated balances: Use the amount shown on the most recent FY 2005 apportionment/reapportionment. This would be shown on line 2a ("Unobligated balance: brought forward, October 1 (actual)") of the SF 132/letter apportionment.
- FY 2005 EOY unobligated balances: Again, you must use the most recently approved apportionment. For the majority of the accounts, this should be the FY 2006 initial apportionment.
- You may request OMB to apportion the revised estimates of unobligated balances, SOY FY 2006, 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 8-17 of the Principles of Federal Appropriations Laws, Second 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 2005 continued at the FY 2005 level or FY 2006 program level?**

Sec. 114(a) of H.J. Res. 68 allows entitlements and other mandatory payments whose BA was provided in Appropriations Acts for FY 2005 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 2005, etc." In other words, these programs can operate at the FY 2006 program level.