



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

THE DIRECTOR

September 28, 2007

OMB BULLETIN NO. 07-05

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Apportionment of the Continuing Resolution(s) for Fiscal Year 2008

1. Purpose and Background. H.J. Res. 52 will provide continuing appropriations for the period October 1 through November 16, 2007. 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 16th (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.J. Res. 52 use 12.84 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 2007 supplementals, section 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 those FY 2007 supplementals cited in H.J. Res. 52. Recurring and ongoing projects and activities funded by FY 2007 supplementals in Public Laws 109-295, Division A of 109-289, and Division B of Public Law 109-289 (as amended by Public Law 110-5), may be factored in to the formula if pre-approved by your OMB representative with budget responsibility for the account (section 101 of H.J. Res. 52 specifically does not include supplemental appropriations enacted in P.L. 110-28).

Under an automatic apportionment, all of the footnotes and conditions placed on the prior year apportionment remain in effect. The CR provides that FY 2007 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 very 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 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.



Jim Nussle

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 FY 2007 level:

- take the full year amount enacted in the appropriations acts making funds available for FY 2007 (i.e., full-year appropriations net of any reductions, including across-the-board reductions);
- add only the recurring, ongoing supplemental FY 2007 appropriations amounts (pre-approved by the OMB representative with budget responsibility for the account) found in P.L. 109-289 (Division A), P.L. 109-295, P.L. 109-289 (Division B, as amended by P.L. 110-5);
- add or subtract transfers mandated by law (only "shall transfer", not "may transfer");

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

Calculate the amount automatically apportioned (whole dollars) through the period ending November 16, 2007, (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 7-week CR, use $47 \text{ days} / 366 \text{ days} = 12.84 \text{ percent}$); or
- the **historical seasonal rate** of obligations for the period of the year covered by the CR.

3. 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 budget 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).

4. How should mandatory appropriations 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, the mandatory budget authority component that is enacted in substantive or authorizing legislation should be taken out before calculating the amount provided by the CR. Changes in mandatory programs that were enacted in 2007 appropriations Acts are assumed to continue during the duration of the CR under the terms and conditions provided in such Acts.

5. **Are entitlement and other mandatory payments whose budget authority was provided in Appropriations Acts for fiscal year 2007 continued at the FY 2007 level or FY 2008 program level?**

Section 111 of H.J. Res. 52 allows entitlements and other mandatory payments whose BA was provided in Appropriations Acts for FY 2007 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 2007...". In other words, these programs can operate at the FY 2008 program level. However, the appropriated administrative expenses associated with these programs must be based on the FY 2007 levels.

6. **How will section 112 of H.J. Res. 52 regarding civilian personnel compensation and benefits be apportioned by OMB?**

Section 112 allows OMB limited authority to mitigate furloughs. It does not provide additional total budget authority for the fiscal year. 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 from section 112 of the CR 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."*