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ADS Chapter 634

Administrative Control of Funds

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ADS 634 - Administrative Control of Funds

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*An asterisk indicates that the adjacent material is new or substantively revised.

ADS 634 – Administrative Control of Funds

634.1 OVERVIEW

Effective Date: 05/30/2008

The U.S. Government requires Federal agencies to establish an effective funds control system to prevent overspending and to ensure compliance with various laws that are enacted to control and guide the formulation and implementation of federal fiscal policy (see **634.4.1, External Mandatory References**). These laws play an important role in the budget process and set forth the rules and restrictions governing Federal obligations and spending.

This chapter describes the policy directives and required procedures for the administrative control of funds at USAID. It also describes the penalties for violating these policy directives and required procedures and the requirements for reporting these violations. These provisions apply to all organizational units and funds under the jurisdiction of the Agency.

*634.2 PRIMARY RESPONSIBILITIES

Effective Date: 12/15/2008

a. The Bureau for Management, Office of the Chief Financial Officer (M/CFO)

- (1) Establishes and maintains a system of funds control in accordance with Federal law and Office of Management and Budget (OMB) guidance;
- (2) Develops and prescribes accounting systems that provide prompt and accurate recording in the official accounts of all financial transactions that have an effect on apportionment or other subdivision of funds;
- (3) Investigates and reports any alleged statutory and/or administrative funds control violations. Depending on the results of necessary investigations, the CFO may be required to recommend disciplinary actions against the cited individuals, modify procedures, etc.; and
- *(4) Obtains the Office of General Counsel's concurrence on statutory violations before reporting those violations to the President and OMB.

*b. The Director, Bureau for Management, Chief Financial Officer, Financial Policy and Support (M/CFO/FPS)

- (1) Receives reports of any alleged statutory and/or administrative funds control violations.
- (2) Reviews the information in the alleged violation report, determines the appropriate course of action, conducts the necessary investigation, and advises the CFO of the results of the investigation.

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- c. The Bureau for Management, Office of the Chief Financial Officer, Central Accounting and Reporting Division (M/CFO/CAR)**
 - (1) Requests apportionments or reapportionments in accordance with budgetary plans approved by the Administrator.
 - (2) Reports to OMB on the use of apportionments and reapportionments.

- *d. The Office of the Director of Foreign Assistance, Coordinator for Resource and Appropriation (F/R&A)**
 - *(1)** Issues Operating Year Budgets to USAID organizational units for program funds in accordance with budgetary levels and programs approved by the Administrator and allots funding consistent with approved levels.
 - (2) Clears requests for apportionments and reapportionments.

- *e. The Bureau for Management, Office of Management Policy, Budget, and Performance (M/MPBP)**
 - (1) Issues Operating Year Budgets for Operating Expenses to USAID organizational units in accordance with budgetary levels approved by the Administrator and allows funding consistent with approved levels.
 - (2) Clears requests for operating expense apportionments and reapportionments.

- f. Each Organizational Unit in USAID/Washington Receiving an Allotment of Funds (Allottee)** issues budget allowances to operating units within their organizations, restricting the allowances to the amounts available in such allotments.

- g. Each Organizational Unit Receiving an Allowance of Funds (Allowee)**
 - (1) Issues sub-allowances, restricting sub-allowances to amounts available in the allowances and
 - (2) Ensures that commitments do not exceed funding provided in the allowances or sub-allowances.

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h. Obligating Officials

- (1) Ensure that the required funds are available before obligating funds, and that obligating documents reflect the applicable appropriation account and Phoenix budget fund code.
- (2) Ensure that obligations are valid in accordance with the policy directives and required procedures described in [ADS 621 Obligations](#).

i. The Office of the Inspector General (OIG) conducts investigations on the circumstances surrounding violations, as requested by the CFO.

***634.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES**

Effective Date: 12/15/2008

634.3.1 Financial Documentation Responsibilities

Effective Date: 05/30/2008

Financial documentation is any documentation that impacts on or results in financial activity. It is not limited to documentation within the Controllers' or Chief Financial Officer (CFO) operations, but includes any source material causing or resulting in a financial transaction. Cognizant Technical Officers (CTOs), Loans/Grants Officers, Program Area Operating Officials, etc., are responsible for retaining financial documentation and ensuring its availability for audit.

Basic financial documentation retention rules follow:

- If an action results in a financial transaction, it must be documented;
- Source documentation must be readily available for audit (by either the Office of the Inspector General (OIG) or a responsible audit entity);
- The general rule of thumb for retention of financial documents is seven years; however, retention times may vary, so please refer to retention by document type in [ADS 502, The USAID Records Management Program](#). The specific financial Records Disposition Schedules are located in the Mandatory Reference Section of **ADS 502** under Records Disposition Schedule, USAID/W, Chapter 15, Fiscal Management Records and Records Disposition Schedule, USAID, Chapter 35, Financial Management Records. See also the National Archives and Records Administration (NARA) General Records Schedules, GRS 6, Accountable Officers' Account Records and GRS 7, Expenditure Accounting Records.

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634.3.2 General Standards for Funds Control

Effective Date: 05/30/2008

The administrative control of funds at USAID must satisfy the requirements set forth in [OMB Circular A-11, Preparation, Submission and Execution of the Budget](#), and USAID policy directives for the effective management of funds (see [ADS 621](#), [ADS 601](#), [ADS 602](#), and [ADS 603](#)). The following requirements must be met:

- a. Funds must be obligated and expended solely for the purposes for which they were appropriated, except as otherwise provided by law;
- b. Funds must be available and committed before being obligated;
- c. Obligations and expenditures may not be authorized or incurred in excess of available funds or in excess of any legal or administrative limitations;
- d. Obligation of funds must be within the available time limit of the appropriation.
- e. Only valid obligations may be recorded in the accounting records, and all obligations incurred must be recorded accurately and promptly;
- f. Outstanding obligations must be reviewed periodically to verify that they are needed for ongoing requirements; and
- g. The forward funding of activities must be consistent with Agency standards and guidelines.

***634.3.3 Funds Availability**

Effective Date: 12/15/2008

Several actions must occur before USAID and its operating units receive funding to implement program and administrative activities. First, Congress must pass an appropriation act for the fiscal year, which begins on October 1st, before any funds become available. If Congress does not enact an appropriation by the beginning of the fiscal year, they may pass a continuing resolution to prevent a government shutdown due to a lack of funds. A continuing resolution is usually temporary in nature and specifies the time frame during which the Federal Government may incur obligations, as well as the maximum amount or rate of obligations.

*An appropriation is a form of budgetary authority. It is an act of Congress that provides legal authority for the Agency to incur obligations and to make payments from the Department of the Treasury (Treasury) for specified purposes. The Federal Government categorizes appropriations by the manner in which the funds become available. The funds' period of availability can be one-year, multiple-year, or no-year. Funds appropriated for one year become available for budgetary distribution on October 1st or whenever the President signs the appropriation bill. These funds are available for

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obligation until September 30th of the following calendar year. Multiple-year funds expire after two or more years, while no-year funds are available until spent and do not have expiration dates. Funds that are not obligated during their period of availability expire and are no longer available for incurring new obligations.

*USAID's annual appropriations act contains a provision that funds appropriated for the purposes identified in Section 511 or 611 (formerly Section 517) remain available for an additional four years from the date on which the availability of the funds would otherwise have expired, provided that the funds are initially obligated by the end of the original period of availability. USAID appropriated funds that are obligated within the initial period of availability will be available for four additional years beyond the initial period of availability for: (1) expenditures of the obligated amounts; (2) de-obligation when funds are no longer needed; and (3) on-going requirements such as re-obligations (see [Reobligation Policy in ADS 621](#)). After the additional four years of availability, the funds are then subject to the "M account" legislation ([31 U.S.C. 1552](#)) which allows the funds to remain available only for expenditure and upward adjustments for another five years. After five years, the account is cancelled by Treasury, thus preventing any further transactions of any type to take place in that account. The Section 511 authority must be renewed annually, unless otherwise specified in the appropriations act.

***634.3.3.1 Treasury Warrant**

Effective Date: 12/15/2008

*Once the President signs an appropriation bill, Treasury issues a warrant approved by the Comptroller General of the United States, which, in effect, establishes the "**bank account**." Funds paid out of Treasury must be accounted for by charging them to an appropriation provided by or derived from an appropriation act. Treasury issues an appropriation warrant that establishes, by appropriation account, the specific amounts Congress has appropriated that USAID can use to incur obligations.

The appropriation warrant provides the Treasury Account Fund Symbols (TAFS) that must be used to identify all transactions against the account. TAFS are a group of numbers or a combination of numbers and letters that identifies the agency responsible for the account, the period of availability, and the specific fund classification of the appropriation.

*M/CFO/CAR, M/MPBP, and the Office of the Director of Foreign Assistance, Coordinator for Resource and Appropriation (F/R&A) must ensure that they make funds available to organizational units consistent with the accounts and amounts specified in the appropriation warrant. In addition, USAID's systems and funds control procedures must ensure that obligating and expenditure documents reflect complete and accurate TAFS that are consistent with the specific purposes contained in the appropriations act.

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*634.3.3.2 Apportionment and Reapportionment of Funds

Effective Date: 12/15/2008

The Office of Management and Budget (OMB) must apportion funds to the Agency to make appropriated funds available for obligation and expenditure. Apportionments divide amounts available for obligation either by specific time periods (category “A” apportionments), activities (category “B” apportionments), or a combination of the two. For example, the apportionment of Operating Expense funds is normally by quarter and apportionments for Development Assistance funds are normally for the entire year and both are classified as category A. An example of a category B apportionment is Economic Support Funds, which are normally apportioned by specific amount and/or by country.

Category C apportionments are classified as “Apportionments on hold” because **no funds may be obligated or expended for Category C apportionments**. Category C apportionments usually result in additional information being requested by Congress before making the funds available. Obligations and expenditures of Category C apportionments without the proper OMB approval will result in an Anti-Deficiency Act violation.

*Because apportionments expire at the end of each fiscal year, reapportionments (the reauthorization of previously apportioned budget authority) are required to carry forward unobligated no-year or multi-year funds from one fiscal year to the next. Reapportionments are also made when changes to the previously approved apportionment are needed. USAID’s accounting procedures must provide for limitations placed on apportioned amounts, see [OMB Circular A-11 Guidance](#).

*M/CFO/CAR requests apportionments or reapportionments in consultation with M/MPBP, F/R&A, and regional and pillar bureaus. M/CFO/CAR must submit a [Standard Form-132, Apportionment and Reapportionment Schedule](#), to OMB to initiate the request. Upon approval of apportionment requests, F/R&A and M/MPBP issues allotments to each Bureau/Independent Office (B/IO) organizational unit.

*634.3.3.3 Allotment of Funds

Effective Date: 12/15/2008

*Allotments authorize B/IO operating units to incur obligations or sub-allow the funds to Missions or other regional activities for a specified amount and purpose. USAID only issues allotments at the B/IO levels, except when specifically authorized by the CFO (for example, under emergencies or allotments of donated funds when the donor has specified a target sector). The following restrictions apply to allotments:

- The sum of allotment amounts USAID issues must not exceed the apportionment.
- *USAID must issue allotments that are fixed in amount and may only be changed by authorized individuals in F/R&A or M/MPBP.

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- *USAID must satisfy Congressional restrictions contained in the appropriation acts, including, but not limited to, Congressional notification requirements.
- Allotments must be consistent with budgetary levels and programs that the Administrator has approved.

***634.3.3.4 Allowance and Sub-allowance of Funds**

Effective Date: 12/15/2008

*B/IOs receiving allotments distribute the funds to lower levels by allowing the funds to specific organizational units within the B/IO. These units must issue sub-allowances to the program element level or sub-program lower organizational levels. Allowance and sub-allowance of funds to lower levels enables the B/IO to better manage or control funding. The number of sub-allowances is left to the discretion of the responsible manager in each organization, but generally must be consistent with the Foreign Assistance Framework (FACTS).

The following restrictions apply to allowances and sub-allowances:

- The sum of amounts B/IOs allow and sub-allow to lower level units must not exceed the total amount provided in the B/IO allotment.
- The amount B/IOs allow and sub-allow by appropriation account must be consistent with the Phoenix budget fund code in the allotment.
- Allowances and sub-allowances must be fixed in amount and only authorized individuals may change them.
- USAID must honor Congressional restrictions contained in appropriation acts.
- Allowances and sub-allowances must be consistent with Administrator-approved budgetary levels and programs.

634.3.3.5 Impoundments and Rescission of Funds

Effective Date: 05/30/2008

An impoundment is any action or inaction by an officer or employee of the Federal Government that withholds, delays, or precludes the obligation or expenditure of budget authority. An impoundment either defers budget authority in anticipation of a rescission (cancellation) or temporarily holds budget authority in abeyance (**see A Glossary of Terms Used in the Federal Budget Process (GAO and the Congressional Budget and Impoundment Control Act of 1974, P.L. 93-344)**).

A rescission is the permanent cancellation and withdrawal of budget authority enacted by legislation that cancels previously enacted authority before the authority would

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otherwise lapse. The President or a member of Congress may propose rescissions. When a rescission occurs, Treasury issues an appropriation warrant reducing the funding available to the Agency. F/R&A determines the rescission distribution within the Phoenix budget fund code by the appropriation spending authority being rescinded. Rescissions cancel budget authority at the appropriation level. For fully apportioned appropriation accounts, unobligated budget authority must be rolled up by M/CFO/CAR to the appropriation level when necessary from the apportionments, allotments, or unobligated balances. M/CFO/CAR submits a [Standard Form 132, Apportionment and Reapportionment Schedule](#) to OMB to reduce the funding apportioned to the Agency. This action may result in a reduction in allotments to B/IOs and a reduction in funds allowed and sub-allowed to lower level operating units.

***634.3.4 Commitment and Obligation of Funds**

Effective Date: 12/15/2008

*The allowance of funds authorizes lower level operating units to incur obligations. As an internal control mechanism to preclude over-obligation, operating units must ensure that they commit funds into the Agency integrated, core financial management system (**Phoenix**) before they incur obligations. A commitment is an administrative reservation of funds in anticipation of an obligation, see [ADS 621, Obligations](#).

*Obligating officials must also ensure that USAID commits the funds prior to an obligation and that obligations are valid, in accordance with policies outlined in **ADS 621**. In limited cases, such as recording obligations for salary expenses, USAID may simultaneously obligate or commit funds or obligate funds without a prior commitment. Obligating officials must contact M/CFO/CAR if they have questions regarding the need to commit funds before obligation.

***634.3.5 Funds Control Violations**

Effective Date: 12/15/2008

*Funds control violations may be either statutory or administrative in nature. A violation of the Anti-Deficiency Act constitutes a statutory violation that may result in disciplinary and/or criminal penalties. An administrative violation results from actions in violation of Agency funds control policy directives and required procedures below the apportionment level. USAID handles the penalties for such violations on a case-by-case basis.

***634.3.5.1 Anti-Deficiency Act Violations**

Effective Date: 12/15/2008

Congress enacted the Anti-Deficiency Act to prevent the obligation of Government funds that are not available. Violations of the Anti-Deficiency Act occur when the following circumstances exist:

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a. For Appropriated Funds:

- (1) **Over-obligation or over-expenditure of an appropriation or fund** – An officer or employee authorizes an expenditure from or creates or authorizes an obligation against any appropriation or fund in excess of the amount available in the account.
- (2) **Contract or obligation in advance of an appropriation** – An officer or employee involves the Agency in a contract or other obligation for payment of money for any purpose in advance of appropriations made for such a purpose, unless otherwise authorized by law.
- (3) **Acceptance of voluntary service** – An officer or employee accepts voluntary services for the Agency or employs personal services in excess of what is authorized by law, except in cases of an emergency involving the safety of human life or the protection of property.
- (4) **Over-obligation or over-expenditure of an apportionment or reapportionment** – An officer or employee authorizes or creates an obligation or makes an expenditure in excess of an apportionment or reapportionment. This includes adjustments that cause obligations in expired accounts to exceed the apportionment for the year in which such obligations were incurred.
- (5) **Over-obligation or over-expenditure of an allotment** – An officer or employee authorizes or creates an obligation or makes an expenditure in excess of the amount permitted by an allotment.
- (6) **Over-obligation or over-expenditure of an earmark** – An officer or employee authorizes or creates an obligation or makes an expenditure in excess of a legislated earmark.

***b. For Federal Credit Programs**

*Budget execution for Federal Credit Programs is outlined in OMB Circular A-11 Part 5 Section 185. In addition to the Anti-Deficiency Act (ADA) violations described in **634.3.5.1.a** above, credit programs have additional ADA reporting requirements as outlined in [OMB Circular A-11](#) and are as follows:

- * (1) **Over-obligation or over-expenditure of amounts appropriated for subsidy costs** – An officer or employee has made or authorized a direct loan obligation or loan guarantee commitment that requires a subsidy cost obligation or expenditure in excess of amounts appropriated and/or apportioned for such purposes. This includes subsidy cost

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obligations or expenditures made for the purpose of modifying direct loans or loan guarantees.

***(2) Over-obligation or over-expenditure of the credit level supportable by the enacted subsidy** – An officer or employee has made or authorized a direct loan obligation or loan guarantee commitment that causes the program to exceed the level specified in law (for loan guarantees this is known as Guaranteed Loan Level or GLL). This includes, for example, obligations or expenditures that exceed a limitation on direct loan obligations or guaranteed loan commitments. An obligation may cause the program to exceed the credit level even when the underlying subsidy cost is negative.

***(3) Over-obligation or over-expenditure of the amount appropriated for Federal Credit-related administrative expenses** – An officer or employee has made or authorized an expenditure or created or authorized an obligation that is in excess of the amount appropriated for credit administrative expenses.

***(4) Obligation or expenditure of the expired unobligated balance of the subsidy, except to correct mathematical or data input errors in calculating subsidy amounts** – An officer or employee has made or authorized an expenditure or created or authorized an obligation, including a commitment, against unobligated subsidy balances after the period of obligational authority has expired. Corrections of mathematical or data input errors up to the amount of the expired unobligated subsidy balances are not violations. Corrections of these errors in excess of the amount of the expired unobligated subsidy balances are violations.

***(5) Over-obligation or over-expenditure of apportioned borrowing authority in a credit financing account** – An Officer or employee has made or authorized an expenditure or created or authorized an obligation that is in excess of the apportioned borrowing authority in a credit program financing account.

c. For Closed and Expired Accounts:

(1) Obligations and expenditures or adjustments to obligations and expenditures exceed the original appropriations – An officer or employee makes or authorizes an expenditure from, or creates or authorizes an obligation against, any appropriation or fund account in excess of the amount available in the original appropriation or fund account.

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(2) **Obligations or expenditures in closed accounts** – An officer or employee makes or authorizes an expenditure from, or creates or authorizes an obligation against, an account that was closed.

(3) **Obligations and expenditures or adjustments to obligations and expenditures that exceed the amount apportioned or allotted** – An officer or employee makes or authorizes an expenditure from, or creates or authorizes an obligation against, any appropriation or fund account in excess of the amount apportioned or allotted to the original appropriation or fund account.

(See also, [OMB Circular A-11](#))

***634.3.5.2 Agency Administrative Funds Control Violations**

Effective Date: 12/15/2008

A violation of the Agency's administrative funds control limitations does not violate the Anti-Deficiency Act unless it results in the circumstances indicated in **634.3.5.1**. However, such violations are contrary to USAID policy directives and required procedures for controlling appropriations and funds. An administrative violation occurs in the following circumstances:

- a. Over-obligation or over-expenditure of a budget allowance;
- b. Obligations or expenditures in excess of an operational year budget (OYB);
- *c. Obligations incurred prior to the commitment of funds, except for recording salary expenses; and
- d. Failure to record an obligation in the Phoenix accounting system.

***634.3.5.3 Investigation of Funds Control Violations**

Effective Date: 12/15/2008

*Any individual with knowledge of a potential funds control violation or knowledge of any proposed action that may lead to a funds control violation, either statutory or administrative, must contact the Director, M/CFO/FPS immediately. The Director M/CFO/FPS will appoint individuals to conduct an inquiry of the circumstances, if warranted. This initial inquiry will determine whether a violation has occurred, the type of violation (statutory or administrative), and the responsible individual. A potential funds control violation that has indications of fraud will be immediately reported to the OIG.

*Upon receipt of the initial report substantiating an administrative funds control violation, the Director M/CFO/FPS will document the finding and determine whether a violation should be immediately reported to the CFO and the AA/M. The Director, M/CFO/FPS

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will also submit a quarterly report of all confirmed violations through the CFO to the AA/M. The AA/M will notify the Administrator and/or B/IOs as necessary.

*If the initial inquiry determines that any conditions identified constitutes a Anti-Deficiency Act (ADA) violation, the Director M/CFO/FPS must prepare a report for the CFO for submission to the Administrator and notify the OIG of the findings, indicating the name and position of the officer or employee responsible for the account, and all the available facts and circumstances surrounding the ADA. The report must be cleared by the Assistant General Counsel for Legislation and Policy. The CFO must notify the Administrator and the OIG of the alleged violation as soon as possible.

The OIG reviews the circumstances surrounding the alleged violations, and as appropriate, conducts an investigation or audit. Based on a review of the information received from the CFO and/or results of an investigation by the OIG audit staff, when appropriate, the OIG provides a complete report on the alleged violation with recommendations to the CFO.

***634.3.5.4 Reporting on Funds Control Violations**

Effective Date: 12/15/2008

a. Anti-Deficiency Act Violations

[31 U.S.C. 1517](#) and [OMB Circular A-11](#) require that a violation of the Anti-Deficiency Act be reported by the Administrator to the President through the Director of OMB and to the Congress. On the same day that USAID sends the report to the President and the Congress, a copy of the report must also be transmitted to the Comptroller General. USAID sends the report either:

Electronically in PDF format to:

AntideficiencyActReports@gao.gov (the GAO will confirm receipt by e-mail), or

In paper copy to:

Comptroller General of the United States
U.S. Government Accountability Office
Antideficiency Act Reports
Room 7165
441 G Street, NW
Washington, DC 20548.

If the review described in **634.3.5.3** determines that a violation of the Anti-Deficiency Act has occurred, the CFO prepares a letter to the President for the Administrator's signature. The CFO copies the OIG on the letters sent to the President and OMB. The CFO must provide the letter immediately after a violation becomes known. The letter must provide the following information, in the sequence outlined below.

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Letter to the President:

- (1) The title and Treasury symbol (including the fiscal year) of the appropriation or fund account, the amount involved for each violation, and the date on which the violation occurred.
- (2) The name and position of the officer(s) or employee(s) responsible for the violation.
- (3) All facts pertaining to the violation, including the type of violation (for example, over-obligation of an appropriation, over-obligation of an apportionment, over-obligation of an allotment), the primary reason or cause, any statement from the responsible officer(s) or employees(s) with respect to any circumstances believed to be extenuating, and any relevant report by the Agency's Inspector General and/or General Counsel.
- (4) A statement of the administrative discipline USAID imposed and any further action(s) taken with respect to the officer(s) or employee(s) involved in the violation.
- (5) In the case when an officer or employee is suspected of willfully and knowingly violating the Anti-Deficiency Act, confirm that all information has been submitted to the Department of Justice for determination of whether further action is needed.
- (6) A statement regarding the adequacy of the system of administrative control prescribed by the Administrator and approved by OMB, if such approval has been granted. If the Administrator determines a need for changes in regulations, such proposals will be submitted.
- (7) A statement of any additional action to be taken by, or at the direction of, the Administrator, including any new safeguards implemented to prevent recurrence of the same type of violation.
- (8) If another agency is involved, a statement concerning the steps taken to coordinate the report with the other agency.

Transmittal to the Director of OMB:

- (1) The U.S.C. Title 31 code section under which the violation occurred.
- (2) The dollar amount of the violation, and a request that the transmittal be forwarded to the President.
- (3) A statement on whether the Agency received a clean audit opinion during the fiscal year(s) in which the violation occurred.

The Assistant General Counsel for Legislation and Policy must clear the letter reporting the violation. USAID forwards an original and three copies to the President through the Director of OMB. An identical letter is sent to the Speaker of the House and the President of the Senate. A [Sample Letter to the President](#) is provided in **634.5**.

USAID must submit reports to the President and Congress on violations reported by the General Accountability Office in connection with audits and investigations. In these cases, the report to the President indicates whether the Agency agrees that a violation occurred. And, if so, includes an explanation as to why the violation was not discovered and previously reported by the Agency. If the Agency does not agree that a violation has occurred, the report to the President and the Congress explains the Agency's position.

Whenever OMB determines that a violation of the Anti-Deficiency Act may have occurred, OMB may request that USAID undertake or conduct an investigation or audit. In such cases, the Administrator submits a report describing the results of the investigation or audit to OMB. If the report indicates that no violation of the Anti-Deficiency Act has occurred, the Administrator must inform OMB and forward to OMB a copy of the report. If the report indicates that a violation of the Anti-Deficiency Act has occurred, the procedures outlined in this section must be followed. The CFO ensures that the investigation or audit report is provided to the Administrator for forwarding to OMB.

***b. Administrative Violation**

*Upon receipt of a report that a potential administrative funds control violation may have occurred, the Director, M/CFO/FPS must have the circumstances investigated, if warranted, and then reported as outlined in **634.3.5.3**, Investigation of Funds Control Violations. For actual violations that present a significant and material issue, the report must include the following:

- (1) The name and position of the officer or employee responsible for the violation;
- (2) The title and symbol of the appropriation or fund account;
- (3) The amount involved; and
- (4) All facts pertaining to the violation, including the dates on which the violation occurred, and any statement by the responsible officer or employee with respect to circumstances that he or she believes may be extenuating.

*An asterisk indicates that the adjacent material is new or substantively revised.

***634.3.5.5 Penalties for Funds Control Violations**

Effective Date: 12/15/2008

***a. Anti-Deficiency Act (ADA)**

*Based on the outcome of the investigation of an ADA funds control violation, an appropriate penalty, taking into consideration the seriousness of the event and the willfulness and intent of the responsible individual, is assessed by the Administrator. The CFO and AA/M proposes a disciplinary action for review by the Office of Human Resources (HR) and referral to the Administrator for a final decision as appropriate.

Anti-Deficiency Act violations may result in either disciplinary penalties, criminal penalties, or both. Administrative discipline may consist of:

- (1) A Letter of Reprimand;
- (2) An unsatisfactory performance rating;
- (3) Transfer to another position;
- (4) Suspension from duty without pay; and/or
- (5) Removal from office.

In addition to administrative discipline, individuals who knowingly and willfully violate the ADA are subject to a fine of no more than \$5,000, imprisonment for not more than two years, or both.

***b. Agency Administrative Funds Control Violations**

*Agency administrative violations are handled on a case-by-case basis, and the Administrator or his or her designee may decide the appropriate penalty, if warranted. The penalty, based on the degree of the violation and/or frequency, may range from a verbal warning or reprimand to dismissal.

***634.4 MANDATORY REFERENCES**

Effective Date: 12/15/2008

634.4.1 External Mandatory References

Effective Date: 09/27/2000

- a. [2 USC 683](#) (Rescission of Budget Authority) (Provides authority for ADS 634)
- b. [31 USC 1101](#) (Part of the Budget and Accounting Act, 1921, as amended) (Provides authority for ADS 634)

*An asterisk indicates that the adjacent material is new or substantively revised.

- c. [31 USC 1104](#) (Part of the Budget and Accounting Act, 1921, as amended) (Provides authority for ADS 634)
- d. [31 USC 1105](#) (Part of the Budget and Accounting Act, 1921, as amended) (Provides authority for ADS 634)
- e. [31 USC 1106](#) (Part of the Budget and Accounting Act, 1921, as amended) (Provides authority for ADS 634)
- f. [31 USC 1107](#) (Part of the Budget and Accounting Act, 1921, as amended) (Provides authority for ADS 634)
- g. [31 USC 1108](#) (Part of the Budget and Accounting Act, 1921, as amended) (Provides authority for ADS 634)
- h. [31 USC 1112](#) (Part of the Budget and Accounting Procedures Act of 1950) (Provides authority for ADS 634)
- i. [31 USC 1341](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)
- j. [31 USC 1342](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)
- k. [31 USC 1349](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)
- l. [31 USC 1350](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)
- m. [31 USC 1351](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)
- n. [31 USC 1501](#) (Part of section 1311 of the Supplemental Appropriations Act of 1950) (Provides authority for ADS 634)
- o. [31 USC 1502](#) (Part of section 1311 of the Supplemental Appropriations Act of 1950) (Provides authority for ADS 634)
- p. [31 USC 1511](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)
- q. [31 USC 1512](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)

*An asterisk indicates that the adjacent material is new or substantively revised.

- r. [31 USC 1513](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)
- s. [31 USC 1514](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)
- t. [31 USC 1515](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)
- u. [31 USC 1516](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)
- v. [31 USC 1517](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)
- w. [31 USC 1518](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)
- x. [31 USC 1519](#) (Part of the Anti-Deficiency Act, as amended) (Provides authority for ADS 634)
- y. [31 USC 1531](#) (Part of the Budget and Accounting Procedures Act of 1950) (Provides authority for ADS 634)
- z. [31 USC 1552](#) (Procedure for Appropriation Accounts Available for Definite Periods) (Provides authority for ADS 634)
- aa. [31 USC 1553](#) (Availability of Appropriation Accounts to Pay Obligations) (Provides authority for ADS 634)
- bb. [31 USC 3324](#) (Part of the Budget and Accounting Act, 1921, as amended) (Provides authority for ADS 634)
- cc. [OMB Circular A-11](#), Instructions on Budget Execution (Provides Authority for ADS 634)
- dd. [OMB Circular A-134, Financial Accounting Principles and Standards](#) (Provides authority for ADS 634)
- ee. [Standard Form - 132, Apportionment and Reapportionment Schedule](#)
- ff. [Treasury Financial Manual, Supplement 1, U.S. Government Standard General Ledger](#)

*An asterisk indicates that the adjacent material is new or substantively revised.

***634.4.2 Internal Mandatory References**

Effective Date: 12/15/2008

- a. [ADS 601, Funding Source Policy](#)
- b. [ADS 602, Forward Funding](#)
- c. [ADS 603, Forward Funding, Non-Program Funds](#)
- d. [ADS 621, Obligations](#)
- *e. [ADS 623, Financial Management of Credit Programs](#)

634.5 ADDITIONAL HELP

Effective Date: 07/12/2001

- a. [OMB Circular A-11, Part 4: Instructions on Budget Execution; Section 145: Requirements for Reporting Antideficiency Act Violations](#)
- b. [Federal Accounting Standards Advisory Board guidance.](#)

***634.6 DEFINITIONS**

Effective Date: 05/30/2008

The terms and definitions listed below have been incorporated into the ADS Glossary. See the [ADS Glossary](#) for all ADS terms and definitions.

agency limitation

Any administrative division or subdivision of funds made by an agency official that restricts the use of Federal Government funds. (OMB A-11) (Chapter 634)

allottee

The recipient of an allotment. (Chapter 634)

allotment

The authority delegated by the head or other authorized employee of an agency to agency employees to incur obligations within a specified amount, pursuant to Office of Management and Budget (OMB) apportionment or reappportionment action or other statutory authority making funds available for obligation. (OMB A-11) (Chapter 634)

allowance

The authority delegated to organizational units to incur obligations within a specified amount in accordance with an allotment of funds. (Chapter 634)

allowee

The recipient of a budget allowance. (Chapter 634)

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apportionment

The distribution made by the Office of Management and Budget (OMB) to agencies of amounts of budgetary resources available for obligation in an appropriation or fund account into amounts available for specified time periods, activities, projects, objectives, or combinations thereof. The amounts so apportioned limit the obligations that may be incurred by the agencies. (JFMIP)

Category A Apportionments

Apportionments that are made on a quarterly basis. (JFMIP)

Category B Apportionments

Apportionments made on a basis other than a quarterly basis. They are made by time periods other than quarterly (by activities, projects, or objects, or by a combination of activity and time period). (JFMIP) (Chapter 634)

Category C Apportionments

Apportionments that usually result in additional information being requested by the Congress before making the funds available. Obligations and expenditures of category C apportionments without the proper approval from OMB will result in an Anti-Deficiency Act violation.

appropriation

A budget authority provided by law that permits Federal agencies to incur obligations and to make payments out of the Treasury for specified purposes. (JFMIP) (Chapter 634)

appropriation account

Also known as an Allocation Account. An account established by the U.S. Treasury to show the amounts available and related transactions incident to accomplishing certain objectives and purposes as authorized by Congress. (Chapter 634)

appropriation limitation

A statutory restriction in an appropriation or other authorization of fund that establishes the maximum amount that may be used for specified purposes. (Chapter 634)

CFO

Chief Financial Officer

***commitment**

An administrative reservation of funds in anticipation of their obligation. (Chapter 634 and [621](#))

earmark

Funds provided by the Congress for projects or programs where the Congressional direction (in bill or report language) circumvents Executive Branch merit-based or competitive allocation processes, or specifies the location or recipient, or otherwise

*An asterisk indicates that the adjacent material is new or substantively revised.

curtail the ability of the Executive Branch to manage critical aspects of the funds allocation process.

expired appropriation

An appropriation that is no longer available to incur new obligations, although it may still be available for recording and/or payment of obligations properly incurred before the period of availability expired. (Chapter 634)

funds control

Management control over the use of fund authorizations to ensure that

- (1) Funds are used only for authorized purposes;
- (2) Funds are economically and efficiently used;
- (3) Fund availability is verified prior to obligations being made;
- (4) Obligations and expenditures do not exceed the amounts authorized; and
- (5) The obligation or expenditure of amounts authorized is not reserved or otherwise deferred without congressional knowledge and approval.
(Chapter 634)

multiple-year appropriation

An appropriation that is available for obligation for a definite period of time in excess of one fiscal year. (Chapter 634)

no-year appropriation

An appropriation that is available for obligation for an indefinite period of time. A no-year appropriation is usually identified by appropriation language such as “**to remain available until expended**” or “**without fiscal year limitation.**” (Chapter 634)

obligating official

USAID officials with the delegated authority to sign obligating documents. This includes the authority to negotiate, execute, amend, and administer agreements obligating USAID funds. (Chapters 603 and 634)

obligation manager

The individual with the responsibility for managing a specific obligation. This may be the cognizant technical officer, activity manager, program area operating official, executive officer, or others. (Chapters 603, 621)

one-year appropriation

An appropriation that is available for obligation during a specific fiscal year. Funds not obligated during the fiscal year expire at the end of the year. (Chapter 634)

*An asterisk indicates that the adjacent material is new or substantively revised.

operational year budget

Financial plans for the current fiscal year. (Chapter 634)

rescissions

Enacted legislation canceling budget authority previously provided by law, prior to the time when the authority would otherwise expire. (JFMIP) (Chapter 634)

statutory violations

Any transaction that results in creating obligations or making expenditures in excess of or before receipt of any appropriation, apportionment, reapportionment, or allotment. (Chapter 634)

sub-allowance

The distribution of funds to program areas or other levels below the allowance level.

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