

APPENDIX H—CHECKLIST FOR FUND CONTROL REGULATIONS

Summary of Changes

Contains information previously included in Appendix B of A-34.

You must include the following items in the fund control regulations you submit to OMB for approval.

1. Statement of purpose. At a minimum, your regulations should state broadly that their purpose is to prescribe procedures to follow in budget execution and specify basic fund control principles and concepts.

Your regulations should state that they:

- Establish policy with regard to the administrative control of funds.
- Prescribe a system for positive administrative control of funds designed to restrict obligations and expenditures (disbursements) to the amount available in each appropriation or fund account.
- Restrict *both* obligations and expenditures from each appropriation or fund account to *the lower of* the amount of apportionments made by OMB or the amount available for obligation and/or expenditure in the appropriation or fund account.
- Enable the head of your agency to identify the person responsible for any obligation or expenditure exceeding the amount available in the appropriation or fund account, the OMB apportionment or reapportionment, the allotment or suballotments made by the agency, any statutory limitations, and any other administrative subdivision of funds made by the agency.
- Provide procedures for dealing with violations of the Antideficiency Act as well as violations of other administrative subdivision of funds that are not violations of the Antideficiency Act, per se.

2. Authority. At a minimum, you should list the following authorities in the regulations:

- Money and Finance. Title 31, United States Code:
 - ▶ Sections 1341-1342, 1349-1351, 1511-1519 (part of the Antideficiency Act, as amended).
 - ▶ Sections 1101, 1104-1108, 3324 (part of the Budget and Accounting Act, 1921, as amended).
 - ▶ Sections 1501-1502 (part of section 1311 of the Supplemental Appropriations Act of 1950).
 - ▶ Sections 1112, 1531, 3511-3512, 3524 (part of the Budget and Accounting Procedures Act of 1950).
- Title X of P. L. 93-344, found at 2 U.S.C. 681-688.
- Part 4 of OMB Circular No. A-11, "Instructions on Budget Execution," and related OMB guidelines.

- Other pertinent laws governing your agency's funds and appropriate agency internal regulations, if any.

3. Scope. The regulations should state that all organizations, appropriations, and funds are subject to the provisions contained in them. If you want to make any exemptions, OMB must first approve them. Clearly identify all approved exemptions in the regulations.

4. Definitions, terminology, and concepts. Your regulations should have a section that specifies that the definitions, terminology, and concepts in OMB Circular No. A-11 apply. You may restrict this to terms that are peculiar to, or have special meaning within, your agency, except that you should include the identical definition of the following terms found in OMB Circular No. A-11: apportionment, allotment, suballotment, administrative division or subdivision of funds, and agency limitations.

To the extent that OMB Circular No. A-11 or Treasury regulations do not provide a definition for a technical term, this section should include a definition for the term that your agency is proposing to use in the regulations.

5. Responsibility and functions of individuals. Your agency regulations should describe those individuals within the agency charged with fund control responsibilities by title or position. At a minimum, they should:

- List the positions and describe the fund control responsibilities of each.
- Explain each position's responsibilities with regard to investigating, reporting, and following up on Antideficiency Act violations, as well as violations of agency limitations that are not violations of the Antideficiency Act.

6. Actions prohibited. As a minimum, include the following:

- *Violations of the Antideficiency Act.* List all the basic actions prohibited by sections 1341, 1342, and 1517(a) of Title 31, U.S. Code (part of the Antideficiency Act), as they are interpreted and applied within your agency.
- *Violations of limitations that do not per se violate the Antideficiency Act.* List and briefly describe all your agency's imposed restrictions, including a statement describing the conditions under which violations of these restrictions also violate the Antideficiency Act.

7. Penalties. Describe all criminal penalties for violations of the Antideficiency Act, as well as any additional disciplinary measures your agency imposes. In addition, provide penalties for violations of agency limitations and requirements that your agency does not consider subject to provisions of the Antideficiency Act.

The law provides that any officer or employee of the United States who violates the prohibitions of 31 U.S.C. 1341(a), 1342, or 1517(a) will be subject to appropriate administrative discipline. Administrative discipline may consist of:

- Letter of reprimand or censure for the official personnel record of the officer or employee.
- Unsatisfactory performance rating.
- Transfer to another position.

- Suspension from duty without pay.
- Removal from office.

In addition, the law provides that any officer or employee of the United States who knowingly and willfully violates these prohibitions shall be fined not more than \$5,000, imprisoned for not more than two years, or both.

8. Reporting violations. At a minimum, your regulations should prescribe procedures for reporting apparent violations to responsible agency officials and to the President and Congress. All violations must be reported immediately upon discovery. Antideficiency Act violations must be reported by letter to the President, through OMB, signed by the head of the agency, and by letter to Congress.

Any individual who knows of a possible Antideficiency Act violation must report it. Specify who should be notified in your regulations.

Even though you take subsequent actions to correct the cause of a violation, it does not eliminate that violation, and you must still report it.

9. Accounting support for fund control systems. Your regulations must specify that the agency accounting system must fully support agency fund control systems. The accounting systems should provide for:

- Recording all financial transactions affecting: apportionments; reapportionments; allotments; agency restrictions; financial plans; program operating plans; obligations and expenditures; as well as anticipated, earned, and collected reimbursements.
- Preparing and reconciling financial reports that display cumulative obligations, and the remaining unobligated balance by appropriation and allotment, and cumulative obligations by budget activity and object class.

10. Apportionment procedures. Normally, you describe agency procedures for requesting apportionment of funds in other directives or manuals. However, you should include the following as part of the fund control regulations:

- Briefly describe your agency's procedures for requesting the apportionment of funds. List position(s) and organizations responsible for making the request.
- Cite the basic internal agency directives covering the apportionment of funds. At your option, you may include general guidance covering apportionment action in connection with the following:
 - ▶ Supplementals.
 - ▶ Reprogramming.
 - ▶ Transfer between accounts.
- Discuss agency administrative control of funds policies that apply specifically to revolving funds, management funds, and trust funds, including those that are not apportioned. If any of these funds are not subject to the basic provisions of this regulations (see above), describe the procedures used to control them in a separate section.

11. Policy on allotments and suballotments. Include the general policy that allotments and suballotments will be established at the highest practical level, and each operating unit will be financed from no more than one subdivision for each appropriation or fund (the Antideficiency Act establishes these objectives). Specify the criteria for changing the allotment structure, and identify who has authority to approve such changes. Emphasize that allotments and suballotments are subject to the provisions of the Antideficiency Act.

Include the following in the section on allotments and suballotments:

- Function and purpose of allotments and suballotments.
- Restrictions:
 - ▶ The sum of allotment amounts issued will not exceed the apportionment.
 - ▶ The sum of suballotment amounts issued will not exceed the allotment amount.
 - ▶ The amounts of allotments or other administrative subdivisions will be fixed and will be changed only when authorized by the authority who initially issued the subdivision.
 - ▶ Congressional restrictions contained in appropriation acts will be enforced.
 - ▶ Other restrictions which your agency may want with respect to administrative subdivisions. Use this Circular as a guide. However, you may establish more stringent requirements for the allotment of anticipated budgetary resources.
- Allotment procedures:
 - ▶ Make allotments and suballotments using formal documents.
 - ▶ Identify the officers authorized to issue allotments and suballotments as well as the officers and employees authorized to reduce them.
 - ▶ At a minimum, document the following:
 - A. Amount available.
 - B. Funding source (for example, appropriations, reimbursements).
 - C. Time period of availability.
 - D. The position title of the official responsible and other agency limitations.
 - E. Justification for changes in allotments. (In some cases, changes in allotments will create the need for a reapportionment, which requires OMB approval.)

12. Treatment of anticipated budgetary resources already enacted into law. Your agency’s fund control regulations should state that apportionments may include estimated amounts of “anticipated” budgetary resources that are the result of *laws already enacted*. This is done to reduce routine reapportionments of such amounts as they actually become available. These are presented on the SF 132 and SF 133 on the following lines:

- Line 1E, anticipated increases (+) in budget authority (including anticipated transfers of new budget authority) into the account and anticipated decreases (-) from the account;
- Line 2C, anticipated transfers of balances of budget authority into the account (+) and out of the account (-);
- Line 3C, anticipated orders without an advance and anticipated refunds (+);
- Line 3D2, anticipated transfers from trust funds into the account (+);
- Line 4B, anticipated recoveries of prior year obligations (+); and
- Line 6F, anticipated permanent reductions (-).

You may choose not to allot amounts *anticipated to increase* (+) the total budgetary resources, even though the amount has been apportioned, until the increase actually occurs.

Alternatively, you may choose to allot amounts *anticipated to increase* the total budgetary resources before the increase actually occurs. If you choose this alternative, then the fund control regulations must require that all officials or employees who receive allotments of anticipated increases in budgetary resources should maintain constant and careful oversight to insure that these amounts materialize before they incur obligations or expenditures against this type of allotment. The regulations must also require that if actual amounts are less than anticipated, the agency will make appropriate funding adjustments and take other appropriate actions including requesting a reapportionment.

The *anticipated decreases* (-) under current law do not become part of the amount of total budgetary resources available to be apportioned. Since the OMB apportionment will not include these amounts, these amounts must not be allotted.

13. Deficiency apportionments. At a minimum, the regulations should state:

- Apportionments that anticipate the need for a deficiency appropriation or a supplemental under 31 U.S.C. 1515 will be specifically identified on the apportionment request (SF 132).
- To qualify as a deficiency apportionment, the request must be required by:
 - ▶ Laws enacted subsequent to the transmittal of the annual budget for the year to Congress;
 - ▶ Emergencies involving human life, the protection of property, or the immediate welfare of individuals; or
 - ▶ Specific authorization by law.
- When OMB approves a deficiency apportionment and transmits it to Congress, OMB is merely notifying the Congress that funds appropriated to date are being obligated at a more rapid rate than previously anticipated. This notification does not guarantee that the Congress will approve any part of any associated supplemental requests and does not authorize the use of any amounts not yet provided.