
USNRC Regulation for the Administrative Control of Funds

Approved December 22, 1998

1. **Purpose.** The purpose of this regulation is to establish an administrative control of funds system as required by 31 U.S.C. 1514. The regulation prescribes procedures to be followed in the execution of the Nuclear Regulatory Commission (NRC) budget and describes basic funds control principles and concepts. This regulation:
 - a. Establishes policy with regard to the administrative control of funds.
 - b. Prescribes a system for positive administrative control of funds designed to restrict obligations and expenditures against each appropriation or fund account to amounts available.
 - c. Enables the Chairman to determine responsibility for an overobligation and overdisbursement of an appropriation, statutory limitation, apportionment, reappportionment, allotment, and other administrative subdivisions, as well as violations of limitations imposed by NRC.
 - d. Provides procedures for dealing with violations of the Antideficiency Act, as well as administrative violations of limitations imposed by the agency, including reporting requirements.

2. **Authority.** These procedures and policies are issued pursuant to the following provisions of law and regulations pertaining to the administrative control of funds:
 - a. Title 31 of the United States Code (U.S.C.), "Money and Finance,"
 - (1) Sections 1341-1342, 1349-1351, and 1511-1519 (portions of the Antideficiency Act, as amended).
 - (2) Sections 1101, 1104-1108, and 3324 (portions of the Budget and Accounting Act, 1921, as amended).
 - (3) Sections 1501-1502 (part of section 1311 of the Supplemental Appropriations Act of 1950).
 - (4) Sections 1112, 1531, 3511-3512, and 3524 (portions of the Budget and Accounting Procedures Act of 1950).

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- b. Title X or Pub. L. No.93-344, found at 2 U.S.C. 681-688 (the Congressional Budget and Impoundment Control Act of 1974).
 - c. The Federal Managers' Financial Integrity Act of 1982, Pub. L. 97-255.
 - d. Office of Management and Budget (OMB) Circular No. A-34, Revised, "Instructions on Budget Execution," [guidance now found in OMB Circular No. A-11, "Preparation, Submission, and Execution of the Budget." OMB Circular A-34 has been replaced by OMB Circular A-11] and related OMB guidelines.
 - e. NRC Management Directive and Handbook 4.2, "Administrative Control of Funds."
 - f. Other pertinent agency directives.
3. **Applicability and Scope.** The provisions of this regulation apply to all appropriations and funds controlled by NRC and must be followed by all NRC offices. The system of administrative control of funds was approved by the Office of Management and Budget on December 22, 1998 as required by 31 U.S.C. 1514 and supersedes NRC's regulation for the Administrative Control of Funds approved on July 1, 1994.
 4. **Definitions, Terminology and Concepts.** All definitions, terminology, and concepts in the OMB circular No. A-34, Revised, [guidance now found in OMB Circular A-11] apply. The following terms are defined:
 - a. **Appropriation.** Statutory authority that allows Federal agencies to incur obligations and to make payments out of the Treasury for specific purposes. An appropriation usually follows enactment of authorizing legislation.
 - b. **Apportionment.** A distribution made by OMB of amounts available for obligation in an appropriation or fund account into amounts available for specified time periods, activities, projects, objects or combinations thereof. The apportioned amount limits the obligations that may be incurred.
 - c. **Reapportionment.** A revision approved by OMB of a previous apportionment for an appropriation or fund account. This approved revision would ordinarily cover the same period, project, or activity covered in the original apportionment.
 - d. **Allotment.** Authority delegated by the head or other authorized employee of the agency to agency employees to incur obligations within a specified amount, pursuant to OMB.

apportionment or reapportionment action or other statutory authority making funds available for obligation.

- e. **Administrative Division or Subdivision of Funds.** Any division or subdivision of an appropriation or fund by an official having administrative control over such appropriation or fund.
- f. **Agency Limitation.** For fund control purposes, an agency limitation is any administrative division or subdivision of funds made by agency officials that restricts the use of Federal government funds.
- g. **Advice of Allowance and Financial Plan (AAFP).** The AAFP is a distribution of funds below the allotment level. The form is divided into two sections:
 - (1) ***Advice of Allowances.*** The advice of allowances provides authority from the allottee to the authorized allowance holder to incur obligations and make expenditures within specified amounts, pursuant to amounts allotted to the allottee.
 - (2) ***Financial Plan.*** The financial plan includes annual allocations of funds to allowance holders in accordance with the NRC Budget and legislation that authorizes and appropriates funding for the agency.

Each allowance holder is responsible for ensuring compliance with the funding limitations specified in the current AAFP. Exceeding AAFP restrictions does not necessarily result in a violation of the Antideficiency Act. Exceeding AAFP restrictions is a violation of NRC's administrative control of funds policies and procedures. AAFPs are intended as a means of meeting operational needs rather than an apportionment control device.

5. **Responsibilities and Functions of Individuals.**

- a. The Chairman of the Nuclear Regulatory Commission is responsible for prescribing a system for the administrative control of funds available to the NRC consistent with accounting procedures prescribed under law.
- b. The Chief Financial Officer (CFO) of the NRC is authorized and directed to discharge all financial management activities and functions, which includes the responsibility for the administrative control of the NRC's funds. The CFO is the agency official responsible for:

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- (1) Approving and submitting requests to OMB for apportionment and reappropriation of appropriated funds available to the NRC.
 - (2) Issuing allotments to the Director, Division of Planning, Budget and Analysis (DPBA) [now Budget Director]. This includes ensuring that amounts allotted are within the amount apportioned by OMB or otherwise authorized by law.
 - (3) Investigating possible Antideficiency Act violations, as well as violations of agency limitations that are not violations of the Act. This includes ensuring that designated officials are charged with individual responsibility for any overobligation or any expenditure in excess of allotments and allowances.

c. **The Director, DPBA [now Budget Director], is responsible for:**

- (1) Administering the NRC budget execution and resource management process.
- (2) Maintaining a system of allowances to include designating officials to be responsible for subdivision of funds below the allotment level (allowances) and the control of obligations within the limitations specified therein.
- (3) Issuing AAFPs to those officials who have been delegated authority to obligate and expend funds within the amounts specified on the AAFP.
- (4) Reviewing AAFP change requests submitted by NRC allowance holders to assess the impacts of such requests on the approved NRC Budget and the reprogramming thresholds; and referring other proposed changes to the CFO along with appropriate recommendations for action.
- (5) Maintaining record apportionments and allotments issued to ensure that the total of the allotments will not exceed amounts available or otherwise violate the terms of the approved apportionment.
- (6) Assuming supervisory authority and fiduciary responsibility for allotments issued, including the legal responsibilities in accordance with the provisions of the Antideficiency Act to ensure that allotment limitations are not exceeded.

d. **NRC Allowance Holders are responsible for:**

- (1) Restricting obligations to the cumulative amount of funds made available on

AAFPs. This includes formally certifying that there are sufficient funds available in the current AAFP to enter into obligations.

- (2) Complying with Federal law to include provisions of the Antideficiency Act, and NRC funds control policies and procedures.

e. **The Director, Division of Accounting and Finance (DAF) [now the Controller], is responsible for:**

- (1) Maintaining the agency accounting system for the administrative control of funds.
- (2) Accounting for and reporting on the status of NRC funds.

6. **Actions Prohibited.**

- a. **General.** Each obligation or expenditure which exceeds amounts available must be examined to determine responsibility for causing a fund violation. Actions which subsequently relieve the unfavorable financial condition do not negate the fact that violation has occurred.
- b. **Statutory Prohibitions.**

An officer or employee of the NRC may not:

- (1) Make or authorize an expenditure from or create or authorize an obligation against an appropriation or fund in excess of the amount available in the account. (31 U.S.C. 1341(a))
- (2) Involve the NRC in a contract or other obligation for the payment of money for any purpose in advance of appropriations made for such purpose, unless such contract or obligation is authorized by law. (31 U.S.C. 1341 (a))
- (3) Accept voluntary services for the United States or employ personal services in excess of that authorized by law, except in cases of an emergency involving the safety of human life or the protection of property. As used above, the term "emergencies involving the safety of human life or the protection of property" does

not include ongoing, regular functions of the government, the suspension of which would not imminently threaten the safety of human life or the protection of property. (31 U.S.C. 1342)

(4) Authorize or create an obligation or make an expenditure in excess of an apportionment or reapportionment. This includes adjustments that cause obligations in expired accounts that have not been merged to exceed the apportionment for the year in which such obligations were incurred. (31 U.S.C. 1517 (a))

(5) Authorize or create an obligation or make an expenditure in excess of the amount permitted by the prescribed and approved agency fund control system. (31 U.S.C. 1517 (a))

c. ***Overobligations or Overexpenditure of Other Administrative Subdivisions of Funds.***

Incurring obligations or expenditures in excess of amounts specified on NRC AAFP's is a violation of NRC's administrative control of funds regulations and is a violation of the Antideficiency Act only when it causes an overobligation or overexpenditure of an allotment, apportionment, or appropriation unless otherwise specified by law.

7. **Penalties.**

a. ***Statutory Penalties.***

(1) The law provides that any officer or employee of the United States who violates the prohibition of sections 1341(a), 1342, or 1517(a) of the Title 31 of the United States Code shall be subject to appropriate administrative discipline. Administrative discipline may consist of a letter of reprimand or censure for the official personnel record of the officer or employee; an unsatisfactory performance rating; transfer to another position; a suspension from duty without pay; or a removal from office.

(2) Any person who knowingly and willfully violates these prohibitions shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.

b. ***Penalties for Other Administrative Subdivisions of Funds.***

Depending on the severity of the violation, disciplinary or performance-based action as

described in paragraph 7.a.(1) above may be taken against allowance holders or other employees where amounts certified as available for obligation or expenditure exceed the amounts available in agency AAFFPs. Should such actions cause an Antideficiency Act violation, paragraph 7.a.(1) shall apply.

8. **Reporting Requirements.** Any individual with knowledge of a possible violation of the Antideficiency Act, or of this regulation, has the responsibility for reporting the alleged violation to the CFO immediately upon discovery. The amount of an Antideficiency Act violation is not a factor in determining whether a report must be submitted. All violations must be reported. Specific instructions for reporting such violations are contained in Part II, Section 22, of OMB Circular A-34, Revised [guidance now found in section 145 of OMB Circular No. A-11].
- a. The CFO is responsible for investigating possible violations, preparing a report, and recommending proper corrective action.
 - b. Initial reports on apparent violations must be forwarded to the CFO. The CFO is responsible for reporting such violations to the Chairman, directing the proper corrective action, and taking disciplinary steps where warranted.
 - c. The Chairman is responsible for reporting to the President, through the Director of OMB, and to the Congress all pertinent facts relating to the violation together with a statement of action taken, as required by Part II, Section 22, of OMB Circular No. A-34, Revised [guidance now found in section 145 of OMB Circular No. A-11].
 - d. Overobligations of AAFFP line items, which do not cause an Antideficiency Act violation, shall be reported to the Director, DPBA [now Budget Director]. Such violations do not require external reporting to OMB, Congress, or the President.
9. **Relationship of Accounting and Funds Control Systems.** Part II, Section 21, of OMB Circular No A-34, Revised, [guidance now found in Section 150 of OMB Circular No A-11] specifies the criteria for an adequate system of administrative control of funds to comply with the requirements of the Antideficiency Act, as amended, and it provides that the funds control system be fully supported by the accounting system.
- a. The NRC accounting system shall be designed to assist responsible officials in restricting obligations and expenditures to amounts available in the appropriation, apportionment, and allotment. The system shall provide timely disclosure of:

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- (1) Total obligations and expenditures incurred to date, and total budgetary resources available for obligations with each apportionment, allotment, or other administrative subdivisions;
 - (2) Restrictions contained in appropriation acts or other statutes, along with total obligations and expenditures incurred to date against such restrictions; status of estimated reimbursement, including order received, amounts earned, and amounts collected to date;
 - (3) The authorization or creation of obligations or expenditures that exceed apportionments and allotments.
- b. The NRC accounting system should provide for a system of financial accounts and records necessary to assure that obligations and expenditures can be reconciled to amounts appropriated, apportioned, allotted, and allocated. Accounting reports should display cumulative obligations and remaining unobligated balance by appropriation and allotment, and cumulative obligations by budget activity and object class. The accounting reports shall be periodically reconciled with actual apportionment, allotment, and obligation documents and any other pertinent financial records.
- c. Failure to record an obligation in the agency's official accounting system, or delaying such a recording, cannot prevent a violation of the Antideficiency Act.
10. **Apportionments.** The Director, DPBA, [now Budget Director] is responsible for preparing requests for apportionments and reapportionments of NRC's budgetary resources using Standard Form (SF) 132, "Apportionment and Reapportionment Schedule," upon enactment of relevant appropriation acts and as often as necessary thereafter. The CFO will approve the SF 132 request and submit such requests to OMB for approval in accordance with Part III of OMB Circular No. A-34, Revised [guidance now found at section 121 of OMB Circular No. A-11]. The OMB-approved SF 132 constitutes the authority of obligate funds in accordance with provisions contained in the apportionment schedule. The amounts apportioned by OMB as indicated on the SF 132 are limitations on the amount made available for obligation pursuant to section 1512 of Title 31 U.S.C. NRC Management Directive and Handbook 4.2, "Administrative Control of Funds," is the agency directive that covers apportionment of funds, supplemental appropriations, reprogramming and transfers between accounts. Specific requirements for apportionments and reapportionments are contained in Part III of OMB Circular No. A-34, Revised [guidance now found in section 145 of OMB Circular No. A-11].

11. **Allotments.**

a. **Function and Purpose.** NRC funds shall be formally allotted as a means for establishing, within appropriation limitations established by Congress and funds apportioned by OMB, the amounts available for obligation and expenditure. The allotment shall be established and maintained in such a manner as to assure compliance with all limitations, including those of the Antideficiency Act, as amended. Only the CFO is authorized to approve changes to the allotment structure.

b. **Allotment Procedures.** Allotments will be issued by the CFO to the agency allottee using formal document(s). At a minimum, the advice of allotments shall include:

- (1) Amount available for obligation
- (2) Funding Source (e.g. appropriation, reimbursement, etc.)
- (3) Time period of availability
- (4) Position title of allottee
- (5) Other agency limitations
- (6) Justification for changes in allotments. (In some cases, changes will cause the need for a reapportionment or reprogramming.)

There may be an instance where it is necessary to use a more rapid means of communication such as a telephone or E-mail.

c. **Control Level.** Allotments should be made at the highest practical level consistent with effective and efficient management and control. Amounts allotted may not exceed the amount apportioned by OMB or amounts appropriated by Congress. Allotments are subject to provisions of the Antideficiency Act.

d. **Restrictions.** Advice of allotments shall indicate such limitations as to amounts and purpose as may be necessary to ensure compliance with limitations as established in apportionments by OMB and under appropriations enacted by Congress.

- (1) The sum of allotment amounts issued shall not exceed the apportionment or amount appropriated by Congress.
- (2) Allotments or other administrative subdivisions shall be fixed in amounts and changed only when authorized by the authority who issued the subdivision initially.

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- (3) Congressional restrictions contained in appropriation acts shall be covered.
 - (4) Allotments may include other administrative limitations as may be appropriate to give effect to budget determinations.
 - (5) Responsibility for obligations or expenditures against an allotment resulting from an unauthorized procurement or act rests with the person performing the unauthorized procurement or act.

12. Anticipated Amounts and Reimbursable Work.

- a. Apportionments may include amounts of budgetary resources that are anticipated and others that arise from reimbursable work. The amount apportioned for any appropriation or fund account that includes anticipated amounts shall not be allotted unless there is a reasonable assurance that such items will be collected and deposited to the credit of the NRC appropriation or fund that incurred the obligation. This inclusion of anticipated amounts in determining the amounts available for apportionment does not authorize an agency to obligate or make expenditures in excess of the total amount available for obligation.
- b. If the total availability of allotments includes estimated resources, the amounts must be adjusted from time to time for significant changes in these orders so that allotments and related allowances, obligations, and expenditures are restricted to the amounts which will actually be available. NRC officials receiving allotments and allowances containing reimbursements or anticipated amounts will maintain constant and careful oversight to ensure that anticipated appropriate fund adjustments shall be made and other appropriate action, including reapportionment shall be taken. The system and administrative control should, therefore, be designed to keep obligations and expenditures from exceeding apportionments and allotments, or from exceeding budgetary resources available for obligation, whichever is smaller. Specific requirements for anticipated amounts and reimbursable work are contained in Sections 11.2 and 21.4 of OMB Circular No. A-34, Revised [guidance now found in sections 20 and 121 of OMB Circular No. A-11.]

13. Deficiency Apportionments.

- a. Apportionments that anticipate the need for deficiency appropriation of a supplemental appropriation under 31 U.S.C. 1515, will be specifically identified on the apportionment request (SF 132) and submitted to OMB for approval.
- b. To qualify as a deficiency apportionment, the request must be required by:
 - (1) laws enacted subsequent to the transmittal to Congress of the annual budget for the year;
 - (2) emergencies involving human life, the protection of property, or the immediate welfare

of the individuals; or

- (3) specific authorization by law.
- c. The approval of a deficiency apportionment by OMB and its transmittal to Congress merely advises the Congress that funds appropriated to date are being obligated to 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.