

VOLUME V – BUDGET EXECUTION

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SECTION 49 – SUMMARY OF PROCESS

A. General

- 1) Budget execution is the process by which the financial resources made available to an agency are directed and controlled toward achieving the purposes and objects for which budgets were approved. The process involves compliance with both legal and administrative requirements.
- 2) [OMB Circular A-11](#) provides detailed instructions on all aspects of budget execution. The information presented in this *Handbook* is designed to supplement and clarify the instructions contained in [OMB Circular A-11](#).
- 3) The General Accounting Office publication, *Principles of Federal Appropriations Law*, (<http://www.gao.gov/legal.htm>) is a comprehensive reference regarding the basic fundamentals of appropriation law. It discusses the statutes and regulations governing appropriations matters and references significant decisions rendered by the Comptroller General and the courts. It also the use of budgetary resources in terms of availability as to purpose, time and amount. According to this concept, the legality of an expenditure is largely determined by the following criteria:
 - i) the purpose of the expenditure must be proper;
 - ii) the obligation must occur within the time limits applicable to the appropriation; and
 - iii) the obligation must be within the amounts Congress has established.
- 4) Proper budget execution requires compliance with these three principles. The instructions contained in [OMB Circular A-11](#) and this volume of the *Handbook*, if properly followed, will assure that budget execution in the Department of Commerce meets required standards.

B. Legal Framework

- 1) 31 U.S.C. 1301 and 1341 provide the basic legal framework for budget execution. The texts of these sections are included in Volume II of this *Handbook*.
- 2) Section 1301 provides that "appropriations shall be applied only to the objects for which the appropriations were made." A single appropriation account may provide funds for numerous programs and activities, thus providing an agency considerable discretion in spending the money. Nevertheless, agency spending is usually guided by:
 - i) the justifications presented to the appropriations committees; and

- ii) the enacted appropriation bill and accompanying reports. (See Section 59 of this *Handbook* on congressional directives).
- 3) Section 1301 also states that an appropriation in a regular, annual appropriation law remains available only for that fiscal year unless the act "expressly provides that it is available after the fiscal year covered by the law in which it appears" or the appropriation is for rivers and harbors, lighthouses, public buildings or the pay of the Navy and Marine Corps.
- 4) Section 1341 prohibits obligation or expenditure in excess of the amount appropriated and the incurring of obligations in advance of appropriations, except as "authorized by law".

C. Steps in Budget Execution

1) Financial Plans

- i) The agency's financial plan is the first phase of budget execution. The President's Budget is the framework of the initial financial plan and should be internally updated through the various phases of congressional action leading to enactment. OB requires operating units to submit financial plans two weeks after Senate action on the appropriation bill. Final financial plans are due one week after enactment of the bill. Section 58 of this *Handbook* discusses requirements for financial plans submitted to OB. Per [section 120.22 of OMB Circular A-11](#), apportionments/reapportionment requests must be based on financial plans. These plans must also be transmitted with the requests.

2) Apportionments and Reapportionments

- i) Except in a few cases as provided by law, funds contained in appropriations legislation and other funds, (including reimbursements, recoveries of prior year funds, and carryover funds) may not be obligated until they are apportioned. See [section 120.7 of OMB Circular A-11](#) for additional information on exceptions. Apportionment requests prepared by agencies are not valid until OMB approves the apportionment. Usually, the signature of the appropriate OMB official constitutes approval. Agencies then allot the apportioned funds among their operating units or other administrative subdivisions.
- ii) When the level of funds changes (supplemental appropriations, extensions of continuing resolutions, enactment of full year appropriations, etc.), agencies must prepare reapportionment requests and receive OMB approval before obligating the funds.
- iii) Section 51 of this *Handbook* provides more specific information on

apportionments.

3) Reports on Budget Execution

- i) On a quarterly basis, accounting officers prepare and certify an SF 133 Report on Budget Execution and Budgetary Resources for each open Treasury appropriation fund symbol (TAFS). [Section 130 of OMB Circular A-11](#) and Section 53 of this *Handbook* provide instructions for preparation and use of budget execution reports.

4) Other Requirements

- i) For deferral or rescission proposals, there exist procedures for operating units on the preparation of appropriate materials. All operating units in the Department of Commerce estimate and monitor outlays and FTEs. Operating units must meet requirements on the advance notification to Congress on the acquisition or disposal of capital assets and on other congressional directives. Reprogramming and transfer actions follow established processes. These subjects are covered in other sections of this volume of the *Handbook*.

SECTION 50 – ROLES AND RESPONSIBILITIES

A. Government-wide Roles

- 1) The Federal Government has a decentralized financial management apparatus. Major Government-wide roles are played by Congress, the Office of Management and Budget, the Treasury Department, and the General Accounting Office. In addition, agencies have broad responsibility for resource management.
- 2) Congress has enacted a number of laws governing financial management, such as the Federal Managers' Financial Integrity Act of 1982. Congress exercises oversight over Federal programs and agencies and often requests audits and evaluations from the General Accounting Office and other organizations.
- 3) The Office of Management and Budget apportions funds to agencies, monitors agency expenditures and performance, and issues regulations on various financial management activities.
- 4) Agencies have responsibility for executing the budget and managing their resources. They maintain systems of internal control and report to Congress and others on their financial operations.
- 5) The Treasury Department is responsible for cash and debt management, and maintaining central appropriation and fund accounts. It issues Government-wide financial reports during and after each fiscal year.
- 6) The General Accounting Office establishes accounting standards and principles, approves agency accounting systems, reviews Federal programs, and audits the financial statements of Government corporations.
- 7) Exhibit V2A is a table summarizing Government-wide responsibilities.

B. Department of Commerce

- 1) Departmental responsibilities for the execution of the budget are maintained through:
 - i) issuing policies, standards and criteria;
 - ii) reviewing apportionments and approving bureau financial and FTE plans; and
 - iii) evaluating bureau activity through reports, audits and special analyses.
- 2) Departmental responsibilities are exercised primarily through the Office of Budget, which is responsible for:

- i) providing technical assistance to bureaus in preparing financial and FTE plans and apportionments;
- ii) analyzing program and financial plans and apportionments for conformance to justifications as presented to OMB and the Congress, as adjusted for congressional action and subsequent developments;
- iii) reviewing and approving financial plans;
- iv) reviewing and forwarding apportionment requests to OMB for approval;
- v) analyzing reports on the status of financial plans with respect to variances from the plan, and assessing the need for reprogramming;
- vi) preparing and distributing consolidated plans and reports on the financial management of the Department;
- vii) maintaining liaison with OMB and the appropriations committees;
- viii) coordinating the interpretation of objects and purposes for which appropriations are made; and
- ix) clearing and sending reprogramming notifications.

C. Operating Units

1) Heads of Operating Units

- i) Heads of operating units are responsible for:
 - (a) developing systems and procedures consistent with the requirements of this *Handbook*;
 - (b) providing financial and program data upon which financial plans and reports and other requirements can be met;
 - (c) assuring that operations are maintained within the limits of approved financial plans and apportionments and other legal and administrative requirements;
 - (d) providing prior notification to the appropriations committees, through the Chief Financial Officer/Assistant Secretary for Administration (hereafter, Assistant Secretary) and the Director, Office of Budget, of reprogramming actions; and

- (e) obtaining proper clearances prior to proceeding with reprogramming actions.
 - ii) In accordance with the Antideficiency Act (31 U.S.C. 1514), each operating unit must have in place an effective system for the administrative control of funds. Under an effective system, responsibility for over-obligations and over-expenditures is fixed through written delegations of authority indicating how authority is delegated, with a clear explanation of how the funds are to flow from the appropriation level down to the lowest practical administrative level.
 - iii) The administrative funds control system should be differentiated from the accounting system, but fully integrated with it. It should be consistent with legally prescribed accounting procedures including: complete, accurate and timely record keeping; a clearly defined method to ensure that funds are available prior to obligations; periodic reconciliation of records; and year-end review and analysis of transactions. Violations of the Antideficiency Act are subject to administrative and legal penalties.
- 2) Operating Unit Budget Officers
- i) Budget Officers are responsible for:
 - (a) preparing and submitting on a timely basis the financial plans and reports, apportionment requests, reprogrammings and other information and reports outlined in this volume of the *Handbook*; and
 - (b) maintaining liaison with the Office of Budget on the resolution of problems.
- 3) Accounting Officers
- i) Accounting Officers are responsible for preparing, certifying and submitting the Reports on Budget Execution electronically through the Treasury's Federal Agencies' Centralized Trial-balance System II (FACTSII). A hard copy should also be provided to the Budget Coordination and Reports Division (BCRD).
 - ii) The Office of Budget participates in defining accounting requirements for the Department's financial systems. Operating and staff offices should continuously review accounting systems to determine if revisions are needed in financial reporting in order to meet requirements of program and operating management, at both the operating unit and Departmental level, or to accommodate changes in budget and program classifications.

SECTION 51 - APPORTIONMENTS

A. General

- 1) Sections 120 and 121 of [OMB Circular A-11](#) provide detailed instructions on preparing apportionments. The material here supplements those instructions and provides Departmental processes. [Section 185 of OMB Circular A-11](#) provides more specific guidance for credit programs.
- 2) The purpose of apportionments is to prevent agencies from incurring obligations at a rate which would require the appropriation of additional funds for the fiscal year in progress. A single apportionment is made for an entire appropriation or fund account and is prepared on the Apportionment and Reapportionment Schedule (SF 132). A copy of this form is included as Exhibit V3A. [Section 121 of the A-11](#) contains detailed explanations of the line entries on the form.

B. Legal Basis for Apportionment

- 1) The legal basis for apportionment is contained at 31 U.S.C. 1512 (see Volume II). The statute provides that the apportionment:
 - i) will be made to achieve the most effective and economical use of resources; and
 - ii) may be made by time periods (Category A) and/or activities, projects, etc., (Category B).
- 2) When additional resources become available, an apportionable account is reapportioned. Amounts must be apportioned prior to obligations being occurred.

C. Apportionable Accounts

- 1) With few exceptions, all accounts must be apportioned. [Section 120.7 of OMB Circular A-11](#) lists exceptions to apportionment requirements. The majority of the exceptions are exemptions pursuant to 31 U.S.C.1516.

D. Deficiency or Supplemental Apportionments

- 1) A deficiency or supplemental apportionment may be requested under the provisions of 31 U.S.C. 1515 (see Volume II) to fund:
 - i) mandatory pay raises;
 - ii) laws passed by Congress after the budget estimates were submitted; or

iii) an emergency involving the safety of human life, protection of property or the immediate welfare of individuals when an existing appropriation is insufficient to fund amounts required by law.

2) A footnote and statement identical to the examples included in [section 120.41 of OMB Circular A-11](#) must be included with all requests for deficiency or supplemental apportionments.

E. Amounts Proposed for Rescission or Deferral

1) [Section 112 of OMB Circular A-11](#) provides detailed guidance on the reporting and treatment of rescission and deferral proposals. Amounts withheld for rescission or deferral are not apportioned. OMB must transmit special messages notifying Congress of all proposed rescissions or deferrals. These special messages are discussed in section 54 of this *Handbook*. Amounts withheld are reflected on lines 9 and 10 of the Apportionment and Reapportionment Schedule. [Sections 112.15 and 112.16 of OMB Circular A-11](#) explain reapportionment procedures following congressional action or inaction on rescission proposals and deferrals.

2) A reapportionment request to release funds proposed for rescission must be sent to OMB prior to the expiration of the 45 days of continuous session during which Congress must pass legislation in order for a rescission to take effect. If Congress disapproves a deferral reflected on an apportionment, the reapportionment request releasing the funds must be submitted to OMB not later than one day following the enactment of the disapproving legislation.

F. Relationship to Financial Plans

1) Section 120.22 of the A-11 requires that apportionments be based on financial plans. Each request for apportionment or reapportionment must be accompanied by a financial plan supporting the request. The only exception to this requirement is initial apportionments when available funds are severely limited. Operating unit budget officers should obtain prior approval from the Office of Budget to submit initial apportionments without accompanying financial plans. Section 58 discusses the Department's requirements for financial plans and reports.

G. Schedule

1) Operating units prepare apportionment requests per the schedule included as Exhibit V3D and submit them to the Office of Budget via OMB's web-based system. The checklists provided as Exhibits V3B and V3C should be used to assure that requests are properly prepared. After review, the Office of Budget transmits the apportionments to OMB for action. OMB returns the original, including any differences between the request and OMB action, to the Office of Budget. The Office of Budget sends the original to the

operating unit's budget officer, who forwards the original to the appropriate accounting officer. Except as provided by law, funds may not be obligated in the absence of an approved apportionment.

H. Standard Apportionment Procedures

1) Initial Apportionments

- i) The OMB due dates for initial apportionments are as follows:
- ii) August 21st for all accounts where at least a portion of resources becomes available for obligation without congressional action. Such resources include unobligated balances for multi-year and no-year accounts, recoveries, deferrals and reimbursements. If an appropriation has been enacted, all accounts where all budgetary resources result from current action by Congress are also due by this date. Most Department of Commerce accounts have budgetary resources independent of congressional action and are thus subject to the August 21st initial apportionment date.
- iii) No later than 10 calendar days after enactment for all accounts where budgetary resources result from current action by Congress and an appropriation was not enacted in time to meet the August 21st date.
- iv) Narrative explanations of the assumptions used in developing estimates accompany these apportionments. Estimates for unobligated balances carried forward and anticipated recoveries are based on past experience and anticipated obligation rates. Actual unobligated balances will be apportioned when final obligation data from the previous year is reported. Anticipated reimbursements are listed by source in a footnote. Narrative explanations and apportionments are transmitted to the Office of Budget by the date specified in annual guidance. OMB must act by September 10th on initial apportionments submitted by August 21. Initial apportionments for accounts with resources resulting solely from current congressional action must be acted on within 30 calendar days of the approval of the appropriation or September 10th, whichever is later.

2) Apportionments under Continuing Resolutions

- i) In order to avoid agency closures during the absence of enacted full-year appropriations, Congress enacts short-term continuing resolutions (CR) to maintain current Government operations. Guidance on apportioning amounts available under a CR is provided in section 52 of this *Handbook*.

3) Reapportionments

- i) A reapportionment request is submitted to OMB as soon as a change in a previous apportionment becomes necessary due to a change in available resources, with certain exceptions as described below. If the change is the result of approval of legislation providing budget authority after the initial apportionment was made, the request is due to OMB within 10 calendar days of enactment. In other cases (i.e., significant change in reimbursements or recoveries), the request must be made in sufficient time to allow action by OMB before the revised amounts are needed for obligation. Operating units having reapportionment requests requiring signature prior to the end of a quarter, should transmit such requests before the 15th of the last month in the quarter. It is recommended that, if possible, requests be submitted at least one month before funds are needed. Apportionment action for a specified time period may not be changed after the end of the period. Unobligated balances of amounts previously apportioned are available for obligation in later periods within the fiscal year unless specified by OMB. All reapportionment requests must be accompanied by current financial plans and narrative explanations.

4) Automatic Apportionments

- i) [Section 120.38 of OMB Circular A-11](#) authorizes agencies to adjust amounts apportioned without submitting a reapportionment request:
 - (a) Adjustments in actual unobligated balances brought forward (line 1A) up to \$400,000 or two percent of the total budgetary resources, whichever is lower.
 - (b) Amounts of budget authority transfers (line 4A) or balances transferred (line 4C), up to \$400,000 or two percent of the amount of total budgetary resources, whichever is lower.
 - (c) Amounts of indefinite budget authority (line 3A2), spending authority from offsetting collections (line 3D), or recoveries (line 2A) that are realized above or below anticipated amounts, up to \$400,000 or two percent of the amount of total budgetary resources.
- ii) In such cases, operating units should submit requests for pen and ink changes to BCRD on the most recently approved apportionment. BCRD will return the approved apportionments to the budget officer who should then provide a copy to the servicing accounting office. The authority for the automatic apportionment should be cited on the form.
- iii) Exhibit V3B (initial apportionment), V3C (reapportionment), or V3D (credit apportionment) should be used as a checklist in preparing reapportionment requests.

I. Allocation of Apportioned Amounts

- 1) After an agency receives an approved apportionment, it allocates the money among its administrative units, projects, activities, etc. The amount allocated cannot exceed the apportionment. Allocations exceeding apportionments are a violation of the Antideficiency Act.

SECTION 52 – CONTINUING RESOLUTIONS

A. General

- 1) In order to avoid agency closures during the absence of enacted full-year appropriations, Congress enacts short-term continuing resolutions (CR) to maintain on-going Government operations. These short-term appropriations provide amounts available for obligation only during the period specified by the CR or until a full-year appropriation is enacted, whichever is sooner.
- 2) Normally, CRs specify annualized rates at which obligations may be made, rather than definite amounts by account. These annualized rates could be the lower of the current rate or the rate contained in the House-passed version of the appropriation bill. Recently, the annualized rate has been simply the current level, i.e., the amount appropriated for the prior year.
- 3) Traditionally, CRs provide funds for “continuing projects or activities”. 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).

B. Automatic Apportionments under Continuing Resolutions

- 1) While the annualized levels are established in law by the CR, OMB provides guidance in annual bulletins on the amounts to be made available during the length of the CR. Guidance on automatic apportionments varies from year to year and operating units should follow current guidance from OMB and the Office of Budget. An example of an OMB bulletin on CRs may be found at <http://www.whitehouse.gov/omb/bulletins/fy2006/b06-04.pdf>. The Office of Budget will notify operating units of the OMB guidance upon receipt.
- 2) These bulletins provide detailed instructions on calculating the annualized amounts provided by the CR. These bulletins act as the mechanism for OMB to automatically apportion amounts made available during the CR. For accounts which meet the criteria set in the bulletins, the written apportionments do not have to be submitted to OMB unless requested by OMB examiners.
- 3) The amount automatically apportioned by OMB is generally the lower of:
 - i) the percentage of the year covered by the CR (fixed rate), or
 - ii) the historical seasonal rate of obligations for the period of the year covered by the CR

- 4) Appendix V11 provides the format for computing the two rates and the amount automatically apportioned. Operating units will prepare these worksheets for each account appropriated funds in the prior year and forward them to the Office of Budget within one week after enactment of the CR.

C. Exceptions to Automatic Apportionments

- 1) If the amounts automatically apportioned by OMB are insufficient to sustain current operations at minimal levels, operating units may request exceptions to the automatic apportionment for additional funds. A request for additional funds to be apportioned would be supported to avoid furloughs. Exceptions to cover contractual costs would be considered if the result would be detrimental to the program. Only a limited number of written apportionment requests are approved by OMB, therefore, operating units must submit supportable facts to the Office of Budget proving that while all appropriate actions to reduce costs have been taken, a funding shortfall still exists. Operating units must be able to demonstrate that all necessary actions to reduce or defer other expenses have been taken prior to submitting a request for additional funds.
- 2) Supporting documentation to be provided should include the following:
 - i) specific impacts if the request is not approved;
 - ii) financial plans by object class at the automatically approved rate and the requested higher rate;
 - iii) estimates of additional costs which would be incurred due to delayed actions caused by the lower funding level;
 - iv) descriptions of activities reduced in response to the restricted spending; and
 - v) daily rate of essential operations.

Additional requirements will be identified based on the nature of the account.

- 3) Until the apportionment for the higher level is approved, the operating unit must limit spending to remain within the funding level provided by the automatic apportionment.

D. Operations during a Continuing Resolution

- 1) As CRs are temporary appropriations, the final funding levels for the fiscal year are unknown. During congressional action, levels in pending bills may be reduced or across-the-board rescissions may be added. Therefore, during CRs, operating units should function at minimal levels until the regular appropriation is enacted.

E. Anomalies in the Continuing Resolution

- 1) There may be instances in which funds made available under standard CR provisions would have detrimental and irreparable impacts to specific programs. For example, it is imperative that the Bureau of the Census receive sufficient funds for meeting the Constitutional mandate of taking a decennial census. In cases such as these, OMB and Congress may consider including anomalies to the CRs.
- 2) When Congress announces that a CR will be passed pending final action on the annual appropriations bills, which could possibly be communicated in August or early September, OMB will request agencies to identify those programs requiring special consideration. Traditionally, OMB and the Congress include anomalies only in dire situations. The Office of Budget will contact operating units for the Department's response to OMB on the need for anomalies. Appendix V12 provides the format for requesting anomalies.

SECTION 53 – REPORTS ON BUDGET EXECUTION

A. General

- 1) [Section 130 of OMB Circular A-11](#) provides detailed instructions on preparing the SF 133 Report on Budget Execution and Budgetary Resources. The material here supplements the instructions in [OMB Circular A-11](#). [Section 185 of OMB Circular A-11](#) provides more specific guidance for credit programs.

B. Reporting Procedures

- 1) The SF 133 is prepared on a quarterly basis by the accounting officer for each operating unit and signed by an officer designated by the head of the agency. The operating units submit the SF 133 budget execution information electronically through FACTS II. A hard copy is provided to BCRD.

C. Coverage

- 1) The SF 133 (or approved substitute) is required for each open account, whether or not the account is apportioned. Expired accounts are included on the same form as the unexpired account(s) carrying the same appropriation title.
- 2) The entries on the "Budgetary Resources" portion of the SF 133 (lines 1-7) correspond to lines 1-7 of the latest approved apportionment. The second part of the form, "Status of Budgetary Resources", shows the extent to which available resources have been obligated. The final section of the form shows the relationship between obligations and outlays. [Section 130 of OMB Circular A-11](#) provides detailed explanations of line entries.

D. Verification of Data

- 1) Agency budget officers compare the budgetary resources, obligations, and balances data to the latest approved apportionment. It is recommended that a comparison of the SF 133 and SF 132 data prior to the finalization of the SF 133 be made to ensure apportioned limitations are not exceeded. If limitations are exceeded, appropriate financial transactions can then be made prior to the release of the final SF 133. Exhibit V5C provides a spreadsheet format for this comparison.

SECTION 54 – RESCISSIONS AND DEFERRALS

A. General

- 1) Congress established reporting requirements for rescissions and deferrals in the Congressional Budget and Impoundment Control Act of 1974. The Balanced Budget and Emergency Deficit Control Act changed deferral procedures to reflect Supreme Court Decisions regarding vetoes by one house of Congress and overruling deferrals made for policy reasons. [Section 112 of OMB Circular A-11](#) provides guidance on: preparing special and supplementary messages on rescission and deferral proposals; the establishment of reserves; and preparing apportionment requests for deferrals and rescission proposals. Section 51 of this *Handbook* discusses apportionment of deferrals and rescission proposals. The guidance supplements [OMB Circular A-11](#) instructions on special messages and reserves.

B. Impoundments

- 1) The term impoundment refers to any Executive action or inaction that withholds or precludes the obligation or expenditure of budget authority. The two types of impoundments are rescissions and deferrals. Per Title X of the Congressional Budget and Impoundment Control Act, proposals of such actions require the President to transmit a special message to the Congress.

C. Rescissions

- 1) A rescission is enacted legislation which cancels previously enacted budget authority before the authority would otherwise lapse. A rescission may be proposed by the President or a member of Congress. A rescission proposed by the President must be approved by both houses of Congress within 45 days of continuous session in order to take effect.

D. Deferrals

- 1) A deferral is any action or inaction by an officer or employee of the United States Government that temporarily withholds, delays, or effectively precludes the obligation or expenditure of budget authority. Funds deferred are intended to be obligated before their expiration. A deferral occurs unless both houses of Congress pass a resolution disapproving the deferral.

E. Cancellations

- 1) In contrast, a cancellation refers to a proposal by the President to reduce enacted budget authority before the authority would otherwise lapse that is not subject to Title X of the Congressional Budget and Impoundment Control Act. Such funds cannot be withheld

from obligation pending congressional action on the proposal.

F. Reserves

- 1) Reserves may be established under 31 U.S.C. 1512 solely to:
 - i) provide for contingencies; or
 - ii) achieve savings made possible through changes in requirements or greater efficiency of operations.

G. Cases Requiring Special Messages

- 1) The President must transmit a special message to Congress to propose a rescission or deferral.
- 2) A rescission message is required whenever the President determines that:
 - i) all or part of any budget authority will not be required to carry out the full objectives of the program;
 - ii) all or part of any budget authority limited to a fiscal year is to be reserved from obligation for the entire fiscal year; or
 - iii) budget authority should be rescinded for fiscal policy or other reasons.
- 3) A deferral message is required whenever funds provided for a specific purpose or project is deferred. Agencies must report all amounts deferred, whether or not the deferral is reflected on an apportionment. If an agency has made a policy decision to obligate apportioned funds at a slower pace than that intended by Congress, it is a reportable deferral.

H. Contents of Special and Supplementary Messages and Reports

- 1) Operating units submit electronically the materials discussed in [section 112 of OMB Circular A-11](#) to the Office of Budget. Materials are prepared in the formats shown in [OMB Circular A-11. Exhibits 112A-112D of OMB Circular A-11](#) provide guidance for special types of rescissions and deferrals.
- 2) Each special message contains the information listed in [section 112.7 of OMB Circular A-11](#).
- 3) OMB prepares reports on the status of all rescissions and deferrals. Generally, OMB can complete these reports without further assistance from the Department. However,

operating units should notify the Office of Budget if all or portions of agency deferrals are released.

I. Reviewing Deferrals

- 1) Bureaus should review all deferrals periodically so that amounts deferred for part of the year may be released in time to be used before the end of the year. Deferrals of funds which expire at the end of the year should be reviewed in sufficient time to determine if a rescission should be proposed before the beginning of the fourth quarter. A fourth quarter rescission of expiring funds is proposed only in exceptional cases.

SECTION 55 – REPORTING AND MONITORING FEDERAL OUTLAYS

A. General

- 1) The purpose of outlay reporting and monitoring is to reduce the Government's interest costs. Reliable outlay estimates enable Treasury to borrow only amounts actually needed to finance Government activities.
- 2) Outlays are “payment[s] to liquidate an obligation (other than the repayment to the Treasury of debt principal)” and are “a measure of Government spending” ([section 20.6 of OMB Circular A-11](#)). [Section 20.6 of the A-11](#) provides detailed information on outlays in addition to documenting disbursements that are not considered outlays.
- 3) [Section 135 of the A-11](#) provides instructions on monitoring Federal outlays. The Department of Commerce must prepare monthly plans and submit periodic reports and revisions to OMB and the Department of Treasury. The information provided in this chapter provides Department-specific guidance for complying with OMB requirements.
- 4) OMB has developed a web-based application for the electronic submission of outlays by the Departments. Access to the web-based application is limited to Office of Budget users and does not directly impact the operating units. However, the Office of Budget revised the process for the reporting of outlays by the operating units. The revised process is discussed below.

B. Reporting Requirements

- 1) Operating units submit outlay plans and reports for each account to the Office of Budget for 20CY and 20BY. Operating unit submissions are due approximately five days before the OMB and Treasury due date. Due dates will be communicated to the operating units via e-mail. An initial plan and three updates are required annually as outlined in [section 135.9 of OMB Circular A-11](#). The Office of Budget provides budget officers with a format for the initial outlay plan and all required updates via email. Appendix A of this volume shows the format for the plan.
- 2) Outlay estimates are based on the current estimate of the amount to be disbursed in the fiscal year. The totals are consistent with the President's budget until appropriations are enacted and/or actual prior year data is known. In cases where congressional action is not complete, but some actions are almost certain to occur (e.g., both the House and Senate bills have made the same mark-ups, but the conference report has not yet been acted upon), operating units should discuss the basis of the outlay estimates with the Office of Budget prior to preparing a revised outlay plan. The monthly estimates of the totals reflect a realistic assessment of upcoming events, recent trends, and past history of outlay patterns for each account. A statement explaining the assumptions used and any unusual or special circumstances accompanies each outlay plan.

3) Key points regarding the outlay updates are:

- i) All relevant data is contained within one workbook that will be provided to the operating units via e-mail approximately two or three weeks prior to the OMB submission date. This includes the Monthly Treasury Statement (MTS) reports and the 20CY and 20BY outlay estimate sheets. Updates by the operating units must be done by using the workbook in accordance with instructions provided in the “Instructions” tab of the workbook.
- ii) The prior months with actual data will be linked to the MTS reports in the outlay workbook by the Office of Budget. These data will be visible to the operating units in the “MTS Reports” and “MTS Reports Totals” tabs of the workbook, but cannot be changed.
- iii) Certain cells within the workbook are password protected to prevent breaks in the linkages between the MTS reports and the 20CY and 20BY reports and to prevent corruption of the formulas.
- iv) The outlay total (e.g., outlay control) operating units are expected to reflect in their submissions are provided in the workbook. A delta column is provided to assist the operating unit in updating their monthly estimates. Generally, operating units should not submit their updates to the Office of Budget until the delta column equals 0. In cases where the operating unit has reason to change the estimates from the control provided by the Office of Budget, an explanation must be provided in the workbook justifying the delta.
- v) Operating units are strongly encouraged to follow the steps outlined in the “Guidance” tab of the workbook and to refrain from modifying the structure of the workbook.
- vi) In developing monthly estimates, operating units should take into consideration:
 - (a) months with three paydays, and
 - (b) months that have spendouts of large contracts and disbursements of grant funds.

C. Timing of Submissions

1) October 1st - Initial Plan

- i) The initial plan includes data for the monthly estimates of the fiscal year beginning October 1st. Generally, the totals for the upcoming year reflect the 20CY as reported in the 20BY President’s Budget *Appendix* or as amended in mid-session review.

2) Early to mid-January - 1st Update

- i) The first update includes actual data through December and the plan for the balance of 20CY. Monthly estimates for 20BY are also required. Differences in totals from the initial plan may be due to changes in prior year balances, congressional action on 20CY, revised outlay rates included in the President's Budget, or enacted supplementals, etc. Monthly outlay patterns may change from the initial plan due to more realistic assessments of spending patterns and trends.

3) Early to mid-April - Update

- i) The second outlay update includes actual data through March and monthly estimates from April through September 20CY. Monthly estimates for 20BY are also required.

4) July - Final Update

- i) The timing of the final update is based on the date of the mid-session review. 31 U.S.C. 1106 (see Volume II) requires that the mid-session review be submitted to Congress by July 16th. This final update shows cumulative totals through May and estimates for the balance of the current year. Monthly estimates for 20BY are also required.

SECTION 56 – CAPITAL ASSETS

- A. The general provisions of the annual appropriations act traditionally include the following requirement: “That the Secretary of Commerce shall notify the Committees on Appropriations at least 15 days in advance of the acquisition or disposal of any capital asset (including land, structures and equipment) not specifically provided for in this Act or any other law appropriating funds for the Department of Commerce.”
- 1) Under the Department of Commerce financial management policy, the reporting threshold value below which personal property is not considered a capital asset is \$200,000 for NOAA and \$25,000 for the remaining operating units within the Department. There is no threshold for real property which is always considered a capital asset.
- B. In preparing for the acquisition or disposal of a capital asset, operating units should provide the Office of Budget details of the transaction and any information relevant in determining if the transaction has been specifically provided for in law. The operating unit’s budget officer will review the transaction and either prepare a congressional notification pursuant to the general provision (which will go through Departmental and OMB clearances) or seek Office of Budget concurrence that the transaction does not require notification. Note that this process is in addition to, not in lieu of, any other required Departmental clearances, e.g., approval by the Department for a major construction project is necessary before notifying Congress of land acquisition to further that project.
- 1) Once a notification has been submitted to the appropriations committees, the bureau may acquire or dispose of the asset after 15 calendar days have passed unless an objection is received. It is not the Department’s policy to wait for an affirmative response (unlike reprogrammings).

SECTION 57 – REPROGRAMMINGS/TRANSFERS

A. General

- 1) Operating units should prepare notification packages immediately upon realizing the necessity of moving funds within an account and between accounts. Only under emergency conditions will consideration be given to requests forwarded during the last quarter of the fiscal year. Exhibits V7E and F have the most recent reprogramming and transfer general provisions

B. Definitions of Terms for Reprogramming Purposes

- 1) Reprogramming - Shifting funds within an appropriation or fund account to use for different purposes than those contemplated at the time of appropriation. An example would be obligating budgetary resources for a program, project, or activity different from the one originally planned.
- 2) Transfer - Shifting funds between appropriation accounts to cover shortfalls or unforeseen events.
- 3) Program, Project, or Activity (PPA) - Programmatic detail of the appropriation account as shown in the Program and Financing Schedule in the President's Budget *Appendix* or as provided in the House, Senate and conference reports accompanying the appropriation act.
- 4) Notification of Reprogramming (or Transfer) - A letter and attachment to the House and Senate Appropriations Committees informing Congress of Commerce's intent to reprogram or transfer funds as required by the general provisions in the annual appropriation act.
- 5) Relocation - An office or organization move that has a significant impact on the organization, mission, customers, or employees affected.

C. Preparation of Reprogram Packages

- 1) All materials, with the exception of the signed memorandum from the bureau head to the Department's CFO/ASA, must be provided electronically to the Office of Budget. All reprogramming letters addressed to OMB and Congress are signed by the Department's CFO/ASA on behalf of the Department of Commerce, and are on the DOC CFO/ASA letterhead.
- 2) A reprogramming request package consists of:

- i) A signed memorandum / letter from the bureau head (or deputy) to the Commerce CFO/ASA briefly highlighting the request. No request will be processed by the Department without a signed hard copy of this letter by the bureau head. (For a sample memorandum, see Exhibit V7A);
- ii) A letter to the Deputy Associate Director, Housing, Treasury and Commerce Division, Office of Management and Budget (OMB). This letter requests OMB clearance to transmit a notification to Congress of the Department's intention to reorganize the affected operating units. The reprogramming has to be cleared by OMB before letters to the Hill are signed. (Sample letter is shown on Exhibit V7B);
- iii) A draft letter to the chairmen and ranking members of Senate and House Committees on Appropriations (sample letter is shown on Exhibit V7C);
- iv) Notification of proposed changes (sample notification is shown on Exhibit V7D);
- v) Accompanying backup material, tables, charts, lists, maps supporting the notification; and
- vi) Current and proposed organization charts in cases of reorganizations.

D. Reprogrammings

1) Strictly Legal Criteria for When a Reprogramming Notification is Required

- i) Regardless of funding amount, notification is required when any action is proposed that:
 - (a) Creates new programs;
 - (b) Eliminates a PPA;
 - (c) Increases funds or personnel for a PPA for which funds have been denied or restricted by Congress;
 - (d) Relocates an office or employees;
 - (e) Reorganizes or renames offices, programs, or activities; or
 - (f) Contracts out or privatizes any functions or activities currently performed by Federal employees.

- ii) If the reprogramming exceeds \$500,000 or 10% of the PPA, whichever is less, notification is required when an action:
 - (a) Augments an existing PPA;
 - (b) Reduces by 10% either funding or numbers of personnel for an existing PPA or numbers of personnel;
 - (c) Results from savings, including a reduction in personnel (RIF), which would change an existing PPA.

2) Additional Policy Criteria for Notification of Reprogramming

- i) In addition to the above legal criteria, the Department of Commerce policy is to provide a reprogramming notification in the following circumstances:
 - (a) When the action could be deemed sensitive by the members of the appropriation committees or its staff, regardless of the funding level (examples include moving an office that has a high level of congressional oversight; or changing, especially increasing, the number of political positions in an agency);
 - (b) When a relocation, opening, or closing would affect a member's district. (examples include moving an office from one district to another; or closing an office in a member's district);
 - (c) When Federal employees would be affected by a RIF;
 - (d) When Federal employees would be relocated, including moves within commuting areas; and
 - (e) When an operating unit changes its name, mission, or organizational structure.

E. Transfers

- 1) Pursuant to the Commerce General Provision in the appropriation act, no more than 5% of any appropriation made available in the current fiscal year may be transferred between appropriations, but no appropriation may be increased by more than 10 percent. Per current statute, funds appropriated to the National Oceanic and Atmospheric Administration may not be transferred to other Department of Commerce operating units.
- 2) The 5% and 10% restrictions apply to activities, programs, and earmarks identified within appropriations.
- 3) The Commerce general provision also allows transfers to cover costs of the care and

protection of loan collateral or grant property. The funding sources of transfers for these explicit purposes include total budgetary resources available to the Department.

- 4) There are additional authorities in the general provisions covering all agencies within the Subcommittee and in the general provisions specific to Commerce which allow for transfers to cover costs resulting from, or to prevent, personnel actions taken in response to funding reductions included in the current appropriation act.
- 5) The same criteria described above for reprogramming notifications are applicable to transfers as well.

F. Other Issues

- 1) Operating units should contact the Office of Budget on questions related to the need for a reprogramming or transfer notification to the Hill.
- 2) Although there have been exceptions, the Department's policy has been not to implement a reprogramming or transfer if one or both the House and Senate Appropriations Committees object.

SECTION 58 – FINANCIAL PLANS AND REPORTS

A. General Requirements

- 1) All operating units in the Department of Commerce are responsible for maintaining detailed internal financial and FTE plans and submitting summary plans and reports to the Office of Budget. The requirements outlined in this section are intended to ensure Departmental compliance with legal and administrative requirements.
- 2) There is a requirement in 31 U.S.C. 1514 requiring each agency to have a system of administrative control of funds. [Section 120.22 of OMB Circular A-11](#) requires that all requests for apportionment or reappportionment be supported by financial plans. [Section 120.26 of OMB Circular A-11](#) notes that OMB may request submission of an FTE plan.
- 3) The primary purposes of financial plans are to:
 - i) ensure that obligations are made in accordance with plans presented in the budget justifications and items included in the enacted appropriation bill;
 - ii) assist in determining to what extent items included in committee reports but not specified in bill language should be funded;
 - iii) assess the need for congressional notification of reprogramming actions;
 - iv) assist in managing and controlling the obligation of funds so as to avoid a deficiency;
 - v) identify the timing of unusual events; e.g., a major procurement or staffing increase resulting from a new program effort; and
 - vi) assess the effects of continuing resolutions or program reductions.

B. Detailed Internal Financial and FTE Plans

- 1) Operating units are responsible for maintaining detailed financial and FTE plans which reflect monthly obligations and FTE usage by program, project, and activity. For purposes of financial plans, a program, project or activity is generally defined as the level reported in the program and financing schedule in the President's *Appendix* which should be consistent with the level reported on Exhibit 5 of the latest congressional justification. It may also be defined to include the most specific budget item identified in 1) the enacted appropriation bill and the 2) the level provided in the House, Senate or conference reports and explanatory statements on the appropriation bill.
- 2) The level of detail which meets the definition of a program, project, or activity varies

among operating units and may change with each annual appropriation act. In cases where Congress has included bill language listing specific projects the operating unit is expected to fund, the items included in the detailed internal financial plans are more specific.

- 3) Operating units are responsible for developing procedures for preparing and monitoring detailed financial and FTE plans. Preliminary detailed financial and FTE plans should be developed when the budget justifications are sent to Congress and amended, as necessary, through each step of the appropriation process. This will enable operating units to prepare promptly final detailed and summary plans reflecting the enacted appropriation.

C. Due Dates for Financial and FTE Plans and Reports

- 1) Summary financial and FTE plans and reports are forwarded to the Office of Budget per the following schedule:
 - i) Preliminary summary financial and staffing plans should be completed within two weeks after Senate action on the annual appropriation bill.
 - ii) Final summary financial and FTE plans are due one week after enactment and should be submitted with the operating unit's request for reapportionment.
 - iii) Reports covering the first quarter are due on January 16th.
 - iv) Monthly reports are due on the 16th of the following month for each month in the second through fourth quarters.
 - v) The final end-of-year reports are due on October 26th.
- 2) In addition, all requests for reapportionment will be accompanied by revised financial plans. Interim financial and FTE plans may be required if a long-term continuing resolution is enacted in lieu of an appropriation act. The Office of Budget will notify operating units if such interim plans are required.

D. Specific Information Required for Plans

- 1) Information Required of all Operating Units
 - i) Financial Plans
 - (a) The two financial plans required of all operating units are:
 - (1) monthly and cumulative totals summarized by account; and

- (2) monthly and cumulative totals at the program, project, and activity level as described earlier in this section. Additional detail may be requested as necessary to report funding plans and actuals for projects whose funds are specifically cited in the appropriation act or for emergency activities whose funds are made available in supplemental acts.
 - (b) Operating units should refer to Exhibits V8A and V8C for format purposes. Each operating unit provides an electronic copy containing applicable stub entries. Operating units may use a different electronic format if prior approval is received from the Office of Budget. Each appropriation account and fund type (such as direct, offsetting collections, etc.) is to be shown separately.
 - (c) The financial plans must support the category designations and quarterly distribution reported on the most recently apportionment.
- ii) FTE Plans
- (a) The FTE plans present the estimated usage for the entire operating unit in one report based on the funds available for the fiscal year. Exhibit V8D provides a sample format. The Office of Budget updates the format annually to break out 20CY pay periods by month. On the initial plan submitted to the Office of Budget, the "Last Plan" line agrees with the 20CY President's Budget. Line 3a is the total of lines 1a and 2a; line 3b is the total of lines 1b and 2b, etc. The "Revised Plan" line will reflect estimates based on actual funding levels made available for the fiscal year. When reports are made against the plans, actual data must agree with the Federal Civilian Employment SF-113A form and the Full-Time Equivalent/Work-Year Civilian Employment SF-113G form.

E. Explanation of Variances

- 1) Variances of 10% or more between planned and actual obligations and FTEs are explained in detailed narrative when reports are submitted.

SECTION 59 – CONGRESSIONAL DIRECTIVES

A. General

- 1) Specific directives or requests to agencies are often included in the House and Senate reports accompanying appropriation bills. These directives may require agencies to provide reports on the progress of specified activities or to provide additional information on identified topics. They indicate some of the areas of congressional concerns or interests within the agencies. Under normal circumstances, only requests included in both House and Senate reports or adopted by reference in the conference report will be subject to action. In the event that particularly sensitive or critical items are requested in either the House or Senate reports, the Office of Budget will confer with operating units to ensure that these reports are considered appropriately.
- 2) During the appropriations process, the Office of Budget maintains a list of all congressional directives by operating unit with the members' deadlines. Operating units should also review committee reports and appropriation language to determine if any items should be deleted or added to the list. Operating units prepare responses in accordance with the instructions and schedule provided by the Office of Budget.
- 3) The Office of Budget reviews all responses and prepares written comments as necessary. Bureaus make the changes and send revisions to the Office of Budget, who then forwards a set of responses to OMB for clearance. After OMB approval, the Office of Budget forwards the responses to the appropriations committees.

B. Departmental Compliance Policy

- 1) Though report language is not legally binding, agency non-compliance with report language has sometimes resulted in Congress inserting similar or more restrictive language into the following year's appropriation act. Bill language is law and, thus, legally binding. A common sense approach also dictates that the Department makes reasonable attempts to maintain good relations with the appropriations committees since the availability of budgetary resources needed to carry out programs is dependent on their favorable action. Therefore, with few exceptions, the Department's policy is to comply with congressional directives unless compliance would be illegal or contradict Administration policy.

C. Information Included in Response

- 1) Responses to congressional directives describe, in sufficient detail, the steps being taken to implement the item, including the scheduled date of implementation and any barriers to successful completion of the item. If the operating unit proposes noncompliance, the response should state the reasons; the actions which the agency plans to take; and the steps needed to carry out the action.

D. Format

- 1) The format for congressional directives is included as Exhibit V9A. The language of the directives must be exactly as included in the report or the enacted appropriation bill except for obvious typographical errors. If an item is covered in more than one source and the language is identical, cite each source in a single report. If the language is not identical, but addresses the same topic, treat them as separate responses and note that the item is also addressed in another response, citing the title of the other response.