



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

THE DIRECTOR

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OMB BULLETIN NO. 14-01

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Apportionment of the Continuing Resolution(s) for Fiscal Year 2014

1. Purpose and Background. H.R. 2775 will provide continuing appropriations for the period of October 1, 2013 through January 15, 2014. I am automatically apportioning this continuing resolution (CR) as specified in section 3 of this Bulletin for amounts provided by section 101 of the CR, as well as for amounts for any section that replaces the rate for operations provided by section 101 with a legislative anomaly that specifies an alternate rate for operations (“anomaly”). This Bulletin supplements instructions for apportionment of CRs in OMB Circular No. A-11, sections 120 and 123.

2. Amounts Provided. Section 101(a) of H.R. 2775 provides such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year (FY) 2013 and under the authority and conditions provided in such Acts, for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in H.R. 2775, that were conducted in FY 2013, and for which appropriations, funds, or other authority were made available in Divisions A (except section 735) through F of the Consolidated and Further Continuing Appropriations Act, 2013 (Public Law 113-6).

Section 101(b) of H.R. 2775 provides that the rate for operations provided by 101(a) for each account shall be calculated to reflect the full amount of any reduction required in fiscal year 2013 pursuant to the following:

- Any provision of division G of Public Law 113-6, including section 3004; and
- The Presidential sequestration order dated March 1, 2013, except as attributable to budget authority made available by the following:
 - Sections 140(b) or 141(b) of the Continuing Appropriations Resolution, 2013 (Public Law 112-175); or
 - The Disaster Relief Appropriations Act, 2013 (Public Law 113-2).

3. Automatic Apportionments. Attachment A contains more detailed instructions on calculating the annualized amount provided by the CR. In order to calculate the amount automatically apportioned through the period ending January 15, 2014, (and any extensions thereof) multiply

the annualized amount provided by the CR in section 101 (or in an anomaly) by the percentage of the year (pro-rata) covered by the CR (e.g., for H.R. 2775 use 29.32 percent).

Unless determined otherwise by your RMO, all automatically apportioned CR funds are apportioned as Category B (lump sum), regardless of quarterly restrictions (i.e., amounts on Category A) imposed in last year's apportionments. Limitations on programs (i.e., other Category Bs) and footnotes included in last year's apportionments remain in effect under the CR.

4. Accounts with Zero Funding Excluded from Automatic Apportionment. As has been the case in recent CR Bulletins, including FY 2013, this automatic apportionment does not apply to accounts for which either the House or Senate has reported or passed a bill that provides no funding for that account at the time the CR is enacted or extended. Reported bills are those that have been filed by the full House or Senate Appropriations Committee for floor action. The agency may submit a written apportionment to OMB to request funds for such an account during the period of the CR, if needed.

5. Programs under Section 111. Funds for appropriated entitlements and other mandatories and activities under the Food and Nutrition Act of 2008, as defined in item 12 of Attachment A, are automatically apportioned amounts as needed to carry out programs at a rate to maintain program levels under current law, i.e., at the FY 2014 level less any applicable 2014 sequestration pursuant to section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA). This automatic apportionment does not, however, apply to programs with more complex funding structures. Agencies should contact their RMO representatives to determine if their account is automatically apportioned or if a written apportionment is required.

With regard to the associated discretionary administrative expenses for those programs, section 111 does not apply. The associated discretionary administrative expenses are automatically apportioned at the pro-rata level based on FY 2013 annualized levels in section 101.

6. Credit Limitations. If there was an enacted credit limitation (i.e., a limitation on loan principal or commitment level) in an account in FY 2013, then the automatic apportionment is the pro-rata share of the credit limitation or the budget authority (i.e., for subsidy cost), whichever is less. To calculate amounts available, see exhibit 123 of OMB Circular No. A-11.

7. Written Apportionments for Amounts Provided by Section 101 and Anomalies. If an agency seeks an amount for an account (under section 101 or an anomaly) that is more than the amount automatically apportioned by this Bulletin, a written apportionment must be requested from OMB. These are referred to as "exception apportionments." Each of these requests must be accompanied by a written justification that includes the legal basis for the exception apportionment. OMB expects to grant these written apportionment requests in only extraordinary circumstances.

Conversely, an RMO or an agency may determine that an amount for a program should be less than the amount automatically apportioned to ensure that an agency does not impinge on the final funding prerogatives of the Congress and to encourage prudent financial management and execution of mission. In these cases, a written apportionment will also be required.

Agencies do not need to request a new written apportionment for each extension of the CR (unless otherwise required by your RMO). Instead, in the case of accounts that receive a written apportionment at any time during the CR period, the automatic apportionment will apply to such accounts under any subsequent extensions of the CR, provided that the total amount apportioned during the CR period does not exceed the total annualized level of the CR. However, any footnotes on the written apportionment continue to apply to the accounts, when subsequently operating under the automatic apportionment.

The requirements described in this section are not intended to address the written apportionments for accounts with zero funding. That requirement is described in section 4 above.



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Director

Attachment(s)

Attachment A: Continuing Resolution Frequently Asked Questions

Attachment B: Non-CHIMP Cancellations Recurring in a 2014 Continuing Resolution

Attachment C: Changes in Mandatory Programs Recurring in a 2014 Continuing Resolution

Continuing Resolution Frequently Asked Questions

1. What is the rate for operations provided by the continuing resolution (CR)?

To calculate the FY 2014 CR rate for operations (annualized level):

- take the full year amount enacted in the appropriations acts making funds available for FY 2013 (i.e., FY 2013 enacted appropriations net of any account specific rescissions and bill rescissions). *Attachment B identifies the recurring account specific rescissions/reductions and item 2 provides further instructions on bill rescissions;*
- add or subtract transfers mandated by law (only "shall transfer," not "may transfer" or "shall transfer up to" language);
- reduce the calculated total level by the amount of the across-the-board reductions required in fiscal year 2013 by sections 3001 and 3004 of Division G of the Consolidated and Further Continuing Appropriations Act, 2013. *Item 3 provides further instructions;*
- reduce the calculated total level by the sequester amount required in fiscal year 2013 by the Presidential sequestration order dated March 1, 2013. *Item 4 provides further instructions.*

2. What funding levels must apply the FY 2012 0.16 percent ATB reduction (section 436, Public Law 112-74) and the FY 2012 0.189 percent ATB reduction (section 527, Public Law 112-74) to the calculation of the FY 2014 CR rate for operations?

The 0.16 percent ATB reduction in section 436 of division E of Public Law 112-74 only applies to funding levels in titles I through IV of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2012. Further, the 0.16 percent ATB only applies to the first dollar amount in the paragraph under the heading "Bureau of Indian Affairs, Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians" and the distribution of the reduction under that heading shall otherwise be at the discretion of the Secretary of the Interior.

The 0.189 percent ATB reduction in section 527 of division F of Public Law 112-74 only applies to funding levels in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2012. The 0.189 percent ATB does not apply to discretionary authority appropriated for the Federal Pell Grants program under the heading "Department of Education, Student Financial Assistance."

Anomalies from Public Law 113-6 and H.R. 2775 are exempt from applying the 0.16 percent and the 0.189 percent ATB reduction.

3. Section 101(b)(1)

(a) In determining the FY 2014 CR rate for operations, how is the section 101(b)(1) reduction (to reflect the across-the-board reductions from sections 3001 and 3004 of Division G of the Consolidated and Further Continuing Appropriations Act, 2013) calculated?

The reduction to the rate for operations required by section 101(b)(1) should equal the discretionary reduction amount included in the report on Reductions Required in Division G of the Consolidated and Further Continuing Appropriations Act, FY 2013 transmitted to the Congress on April 25, 2013. If the actual reduction in FY 2013 was dependent on the amount of offsetting collections received by the budget account, however, the FY 2014 rate for operations should be reduced by the actual reduction taken for FY 2013.

The rate for operations of budget accounts that contain a discretionary advance appropriation for FY 2014 and that also receive a rate for operations by section 101(a) should be reduced by the full amount of the reduction taken pursuant to sections 3001 and 3004 in FY 2013, including the amount of the reduction attributable to the advance appropriation. If the account *only* receives an advance appropriation and no additional amount under the CR, then it is excluded from the reduction. See subsection (b), below.

For budget accounts that contain contract authority subject to an obligation limitation, reduce the obligation limitation by the amount contained in the April 25th report. (The contract authority level is not provided by section 101(a), and is therefore not reduced).

(b) What amounts are excluded from the reduction requirement in section 101(b)(1)?

The following are not reduced by section 101(b)(1):

- appropriations that are not provided as a rate for operations by section 101. This includes discretionary advance appropriations enacted in FY 2013 or prior years that become available on October 1, 2013. See subsection (a) above; and
- anomalies.

(c) Must the reduction in section 101(b)(1) be taken at the PPA level?

No. The reduction to the rate for operations is by budget account, not program, project, or activity (PPA).

4. Section 101(b)(2)

(a) In determining the FY 2014 CR rate for operations, how is the section 101(b)(2) reduction (to reflect the March 1, 2013, Presidential sequestration order) calculated?

Budget accounts with a rate for operations provided by section 101(a) that also contained sequestrable budgetary resources from discretionary appropriations pursuant to the March 1, 2013 Presidential sequestration order (“sequestration order”) – including sequestrable spending authority from offsetting collections – require a reduction under 101(b)(2).

The reduction to the rate for operations required by section 101(b)(2) equals the total dollar amount of budgetary resources from discretionary appropriations sequestered in FY 2013 by the sequestration order. The sequestration amount is adjusted for “savings achieved” pursuant to section 253(f)(2) of BBEDCA. The adjustment for “savings achieved” affects a small number of accounts and occurs only when the enacted full-year appropriation in Public Law 113-6 was less than the annualized amount in the part-year CR minus the sequestration amount specified in the OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013.

If the rate for operations provided by section 101(a) for a budget account is less than the sequester amount, then the rate for operations for that budget account will be reduced to zero.

The rate for operations of budget accounts that contain a discretionary advance appropriation for FY 2014 and that also receive a rate for operations by section 101(a) should be reduced by the full amount of the reduction taken pursuant to the sequestration, including the amount of the reduction attributable to the advance appropriation.

(b) What amounts are excluded from the reductions in section 101(b)(2)?

The following are not reduced by section 101(b)(2):

- appropriations that are not provided as a rate for operations by section 101. This includes discretionary advance appropriations enacted in FY 2013 or prior years that become available on October 1, 2013, even if the account had sequestrable budgetary resources in 2013. See subsection (a) above;
- anomalies; and
- the portion of the sequestration amount attributable to budget authority made available by:
 - sections 140(b) and 141(b) of the Continuing Appropriations Resolution, 2013 (Public Law 112-175) for the Wildland Fire Management accounts in the Departments of the Interior and Agriculture; and
 - the Disaster Relief Appropriations Act, 2013 (Public Law 113-2) for Hurricane Sandy relief.

(For example, if the basis for the calculation of the 2013 sequestration for an account included \$1 billion in discretionary appropriations provided by section 101 of Public Law 112-175 and an additional \$2 billion was provided in Public Law 113-2, the sequestration amount resulting from the \$2 billion

appropriation, which in most cases will simply be 5.0% of that appropriation, would not be included in the reduction for that account.)

(c) Must the reduction in section 101(b)(2) be taken at the PPA level?

No. The reduction to the rate for operations is applied at the budget account level, not the PPA level.

(d) Must the reduction in section 101(b)(2) be applied separately to base and cap adjusted funds?

No. The allocation of the reduction to the rate for operations between base appropriations and amounts designated for Overseas Contingency Operations (OCO)/Global War on Terrorism (GWOT) pursuant to section 251(b)(2)(A) of BBEDCA or designated by the Congress as being for Disaster Relief pursuant to section 251(b)(2)(D) of BBEDCA is not specified.

A specific reduction to the rate for operations is prescribed by section 114(b) of H.R. 2775 for the program integrity cap adjustment for Continuing Disability Reviews and Redeterminations permitted by section 251(b)(2)(B) of BBEDCA.

5. What is the automatic apportionment for amounts provided by section 101 and anomalies?

The amount automatically apportioned (whole dollars) through the period ending January 15, 2014 (and any CR extensions of that period) is calculated by multiplying the **annualized level provided by the CR** (see item number 1) by the **percentage of the year** covered by the CR (rounded to the nearest hundredth). For H.R. 2775, use 107 days/365 days = 29.32 percent. Section 118 of H.R. 2775 clarifies that the time period covered by the joint resolution shall be considered to have begun on October 1, 2013. Therefore, the period covered by the automatic apportionment in this Bulletin will be October 1, 2013 through January 15, 2014.

6. How should the phrase "projects or activities" be applied in determining the CR level?

In the context of determining the rate for operations under the CR, OMB has interpreted the phrase "projects or activities" in section 101 to refer to the total appropriation, that is, the account (Treasury Appropriations Fund Symbol (TAFS) level). The Government Accountability Office's (GAO's) view has been consistent with OMB's (see pages 8-24 of the Principles of Federal Appropriations Law, Third Edition, Volume II, issued by GAO).

7. How should discretionary advance appropriations, mandatory appropriations, public enterprise and other revolving funds, reimbursements, and balances of prior year budget authority (BA) be treated?

A continuing resolution continues the prior-year discretionary appropriations, and thus it normally does not affect discretionary advance appropriations, mandatory appropriations provided in substantive or authorizing legislation, public enterprise and other revolving funds, reimbursements, or mandatory or discretionary balances of prior year BA. Therefore, for accounts with a mix of discretionary and mandatory appropriations, the mandatory BA component that is enacted in substantive or authorizing legislation should be taken out before calculating the amount provided by the CR.

In addition, discretionary advance appropriations, public enterprise and other revolving funds, reimbursements, and balances of prior year discretionary BA should not be factored into the rate for operations. Changes in and limitations on mandatory programs that were enacted in FY 2013 Appropriations Acts and rescissions of balances of prior year BA are assumed to continue during the duration of the CR under the terms and conditions provided in such Acts. Attachments B and C list the recurring changes in prior year discretionary balance rescissions and in mandatory programs.

8. How will section 112 of H.R. 2775 regarding civilian personnel compensation and benefits be apportioned by OMB?

Section 112 allows limited authority to mitigate furloughs under the short-term CR. It does not provide additional total BA for the fiscal year; rather, it allows OMB to apportion the BA at a level above the daily rate (pro-rata share). OMB expects that there will be very few, if any, written apportionments pursuant to this authority. Before requesting a written apportionment from OMB, you must receive pre-approval from your RMO representative with budget responsibility for the account. In addition to any other standard justification materials, OMB will require written documentation that the following pre-condition from section 112 of the CR has been satisfied by the agency: *"except that such authority provided under this section shall not be used until after the department or agency has taken all necessary actions to reduce or defer non-personnel-related administrative expenses."*

9. If my account received a CR written apportionment, what amounts are available to my account once the full-year appropriation is enacted and until OMB approves my first apportionment for the fiscal year?

Once a full-year FY 2014 appropriation is enacted, accounts that received a CR written apportionment may continue at that CR apportioned rate until they receive their first written apportionment for the fiscal year only IF the final enacted level of appropriations is equal to or greater than the FY 2014 short-term CR (H.R. 2775) annualized level. This guidance supplements instructions in OMB Circular No. A-11, section 120.41. If the final enacted FY 2014 appropriation is lower than the FY 2014 short-term CR annualized level, then Circular No. A-11, section 120.41 applies.

10. Do I have to execute the recurring rescissions identified in Attachments B and C during the period covered by the short-term CR?

No. No action is to be taken to execute the rescission amounts identified in Attachments B and C. Recurring rescission amounts are not returned to the Treasury and no negative warrant is issued during the duration of the CR. Instead, the recurring rescission amounts are factored into the rate for operations calculation, as specified in section 1, in order to determine your annualized level during the period covered by the short-term CR. The purpose of factoring the rescission amounts into the rate for operations is to ensure that the agency does not impinge on the final funding prerogatives of the Congress.

11. If a PPA within an account is zero-funded, is the PPA excluded from the automatic apportionment?

No. If either the House or Senate has reported or passed a bill that provides no funding for an account at the time the CR is enacted or extended, the automatic apportionment does not apply to that account. By contrast, if it is just a PPA within an account that is zero-funded by such a bill, the account still receives the automatic apportionment and the agency, at its discretion, may fund the PPA within the account total during the period of the CR.

12. In section 111, what are “appropriated entitlements and other mandatorics and activities under the Food and Nutrition Act of 2008”?

These programs include those accounts identified in the joint explanatory statement of managers accompanying the conference report on the Balanced Budget Act of 1997 (Report 105-217), or accounts with legislatively enacted directed scoring making otherwise discretionary appropriations mandatory.

13. How should agencies liquidate obligational authority that was used for necessary agency operations in the absence of fiscal year 2014 appropriations pursuant to OMB Bulletin No. 13-02?

Pursuant to sections 107 and 115(c) of H.R. 2775, an agency may use amounts made available by H.R. 2775 to liquidate obligational authority that, pursuant to Bulletin No. 13-02, was used in accordance with a contingency plan prepared under OMB Circular A-11, section 124 for carrying out necessary agency operations for which there had been a lapse in appropriations. In addition, to the extent that agencies charged such obligations (for which there had been a lapse in appropriations) against otherwise available appropriations (such as prior-year carryover funding), the agency may continue to charge such obligations against those accounts, or, instead, may charge such obligations against the funding in the applicable account provided by the CR (see 31 U.S.C. 1301).

14. Should amounts made available by the Pay Our Military Act (P. L. 113-39) be charged to H.R. 2775?

Pursuant to section 117 of H.R. 2775, expenditures made (i.e. obligations incurred) under Public Law 113-39 should be charged to the applicable appropriation, fund, or authorization

contained in H.R. 2775 and therefore are from within amounts automatically apportioned by this Bulletin.

Amounts made available by Public Law 113-39 that were used for Overseas Contingency Operations/Global War on Terrorism may be considered amounts that were so designated by the Congress and the President pursuant to section 114 of H.R. 2775.

15. Should amounts made available by the Honoring the Families of Fallen Soldiers Act (Public Law 113-44) be charged to H.R. 2775?

Pursuant to section 104 of Public Law 113-44, expenditures made (i.e. obligations incurred) under Public Law 113-44 should be charged to the applicable appropriation, fund, or authorization contained in H.R. 2775, and therefore are from within amounts automatically apportioned by this Bulletin.

Amounts made available by Public Law 113-44 that were used for Overseas Contingency Operations/Global War on Terrorism may be considered amounts that were so designated by the Congress and the President pursuant to section 114 of H.R. 2775.

16. What reimbursements may be made to States and other Federal grantees for amounts obligated for continuing to carry out a federal program during the lapse in appropriations?

a. Reimbursement for compensation and other expenses. Pursuant to section 116 of H.R. 2775, States and other Federal grantees must be reimbursed for amounts obligated during the lapse in appropriations if such amounts otherwise would have been paid by the Federal government. Employees of States or other grantees who were furloughed during the lapse in appropriation must also be reimbursed at their standard rate of compensation, but only in the amount that would have been advanced or reimbursed by the Federal Government had the lapse not occurred.

b. Interest. Section 116 of H.R. 2775 provides that States and other Federal grantees shall receive interest on the amount reimbursed. The amount of such interest must be calculated under 31 U.S.C. 6503(d). Section 6503(d) provides a permanent indefinite appropriation of interest on reimbursements to States. That section does not, however, provide an appropriation of interest on reimbursements to non-State grantees. Therefore, interest on reimbursements to non-State grantees should be calculated under 6503(d), but must be paid from within the agency's appropriation.