

Apportionment of Amounts Appropriated under Continuing Resolutions

32.1. Apportionment of amounts appropriated under continuing resolutions.

(a) **Purpose.**—Joint resolutions that provide continuing appropriations for a fiscal year are called “continuing resolutions” (also known as “CRs”). CRs are enacted when a program’s appropriations have expired and Congress has not yet passed new appropriation bills, or when the President has vetoed congressionally passed appropriations bills.

(b) **Amount.**—Usually, CRs don’t appropriate specific sums of money. Rather, they provide “formulas” for continuing programs. Each CR should be carefully reviewed to determine the formula provided by the CR. As an illustration, in past years the formula was, as follows:

- When there are House- and Senate-passed versions of the regular appropriations act(s) as of October 1st.*—The amount available is the lowest of either the House, Senate, or the current year (prior fiscal year) rates, except that where an item is included in only one version, the pertinent project or activity shall be continued at the lower of the current year (prior fiscal year) rate or the rate permitted by the one House.
- When there is only the House-passed version as of October 1st.*—The amount available is the lower of the House or current year (prior fiscal year) rates, except that where an item is funded in applicable appropriations act(s) for the prior fiscal year and is not included in the House-passed version, the pertinent project or activity shall be continued at a rate of operations not exceeding the current year (prior fiscal year) rate.
- When there is no House-passed version as of October 1st.*—Funding for projects and activities is provided at the rate of operations included in the applicable appropriations act(s) for the prior fiscal year.
- Restriction on amounts available for civilian personnel compensation and benefits.*—Notwithstanding the three previous paragraphs, the amount available for civilian personnel compensation and benefits is no higher than the amount necessary to support the reduced personnel level ordered by the Federal Workforce Restructuring Act of 1994.

Questions regarding this restriction should be addressed to OMB.

(c) **Period of availability.**—A CR normally provides temporary funding as a stop-gap measure. A CR could

be set to last for a day, a few days, two weeks, a month, or any period of time, as specified by the CR. It’s generally understood that the normal appropriations process will eventually produce appropriations acts to replace or terminate the CR. In exceptional cases, CRs have been in effect for a whole fiscal year. Amounts made available by CRs are for the length of time specified by the CR or until the enactment of regular fiscal year appropriations, whichever is sooner.

(d) **Conditions.**—Normally, no new projects or activities or termination of existing projects or activities are permitted. Also, the amounts made available under CRs are normally subject to the same terms and conditions that are specified in the enacted appropriations acts for the prior fiscal year.

(e) **Apportionment.**—Normally, amounts made available by CRs that expire before the end of the fiscal year are automatically apportioned by an OMB bulletin. Agencies may request written apportionments if amounts automatically apportioned are deemed to be inadequate or if OMB or the agency deems a written apportionment to be necessary.

—*Automatic apportionment.*—Under the automatic apportionment of a CR under this section, usually the amount available during the period covered by the CR is the lower of either: (1) a pro-rated level to reflect a constant rate of obligation over the period of availability specified by the CR; or (2) the seasonal rate of obligation.

The *pro-rated level* is calculated by multiplying the annualized appropriation (e.g., the lowest of the House, Senate (if any), or current rate) by the number of days the CR is in effect divided by 365 (and carried to three decimal places). For example, if the CR is in effect through the 21st of October, the annualized appropriation will be multiplied by 5.8 percent (21/365).

To determine the *seasonal rate* of obligation, calculate the historical rate (percentage in tenths) of obligation for the period of the CR of either the prior fiscal year or an average of a number of prior years. Then multiply the historical rate (percentage in tenths) by the annualized appropriation (i.e., the lowest of the House, Senate (if any), or current rate) provided under the CR.

The amount automatically apportioned under the CR is usually the lower of the prorated or the seasonal rate.

Example: If the lowest of House, Senate (if any), and current rate for a program is \$100,000, the CR provides \$100,000 in annualized appropriations for the fiscal year, and the normal pattern of obligation is constant throughout the year, then the proration of obligational authority should be used. Of this amount, \$5,800 (.058 x \$100,000) would be automatically available for the first 21 days of the fiscal year. If, however, the seasonal rate of the 21 days yields an amount *lower* than \$5,800, then the lower amount is apportioned.

—*Written reapportionment.*—In cases where the rate of obligation is affected by seasonality and the normal pattern of obligation exceeds the prorated level calculated by using the lowest of the House, Senate (if any), or current levels, the agency may request reapportionment to reflect the seasonality of obligation. A written request for reapportionment with adequate justification should be forwarded to OMB *as soon as possible*.

—*Footnotes and conditions.*—All footnotes and other conditions placed on the latest prior fiscal year apportionments remain in effect under an automatic apportionment. Should an agency desire to seek a modification of such footnotes and conditions, a written reapportionment request should be submitted to OMB.

(f) Credit programs.—CRs generally make available budgetary resources to support the costs (appropria-

tions for subsidy amounts) associated with direct and guaranteed loan activities that were conducted in the prior fiscal year. The limitations on credit activity levels also remain, subject to the terms and conditions specified in the prior fiscal year appropriations act(s).

(g) Enactment of regular appropriations.—If, during the period covered by the CR, a regular appropriations bill is enacted, agencies will seek reapportionment to reflect the enacted appropriation. The total amount subject to reapportionment will equal the total amount made available for the fiscal year in the regular appropriation. At this point, agencies should refer to the following sections for instructions on apportionment under regular appropriations.

(h) Obligations incurred under a CR.—Under a continuing resolution, certain obligations remain valid even if an annual amount less than the amount obligated is subsequently appropriated. Specifically, the amounts provided under the continuing resolution are available for subsequent liquidation of the valid obligations incurred for goods and services while the continuing resolution was in effect. To comply with the legislative intent of the lower appropriation, agencies will reduce obligations in the most cost-effective way and to the maximum extent possible. For example, goods and services ordered but not yet received will be canceled.