

THE DIRECTOR

September 30, 2015

OMB BULLETIN NO. 15-03

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Apportionment of the Continuing Resolution(s) for Fiscal Year 2016

1. <u>Purpose and Background</u>. H.R. 719 will provide continuing appropriations for the period October 1, 2015, through December 11, 2015. As of October 1, 2015, I am automatically apportioning this continuing resolution (CR) as specified in section 3 of this Bulletin for amounts provided by section 101, 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. <u>Amounts Provided</u>. Section 101(a) of H.R. 719 provides such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year (FY) 2015 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. 719, that were conducted in FY 2015, and for which appropriations, funds, or other authority were made available in Divisions A through K of the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235, excluding the following: section 743 and title VIII of division A; title X of division C; title VI of division G; and title IX of division J); the Department of Homeland Security Appropriations Act, 2015 (Public Law 114-4); and section 11 of the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235).

Section 101(b) of H.R. 719 reduces the rate for operations provided by section 101(a) for each account by 0.2108 percent (see Attachment A, item 3 for additional information).

3. <u>Automatic Apportionments</u>. 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 December 11, 2015, (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. 719 use 19.67 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. During the period of the CR, section 115 applies the 0.2108 percent reduction specified in section 101(b) to FY 2016 discretionary advance appropriations enacted in a prior-year bill that become available on October 1, 2015. This automatic apportionment does not apply to those accounts. Your RMO will apportion those accounts separately.

4. <u>Accounts with Zero Funding Excluded from Automatic Apportionment</u>. As has been the case in recent CR Bulletins, including FY 2015, 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, this automatic apportionment does not apply to that account. 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 the account during the period of the CR, if needed.

5. <u>Programs under Section 111</u>. Funds for appropriated entitlements and other mandatories and activities under the Food and Nutrition Act of 2008, as defined in item 10 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 2016 level less any applicable 2016 sequestration pursuant to section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA). This automatic apportionment does <u>not</u>, 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 <u>not</u> apply. The associated discretionary administrative expenses are automatically apportioned at the pro-rata level based on FY 2015 annualized levels in section 101.

6. <u>Credit Limitations</u>. If there is an enacted credit limitation (i.e., a limitation on loan principal or commitment level) in FY 2015, 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. <u>Written Apportionments for Amounts Provided by Section 101 and Anomalies</u>. If an agency seeks an amount for an account that is more than the amount automatically apportioned under section 101 or an anomaly, 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 (see section 123.7 of OMB Circular No. A-11). OMB expects to grant these written apportionment requests only in 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.

Shaun Donovan Director

Attachment(s)

Attachment A: Continuing Resolution Frequently Asked Questions

Attachment B: Non-CHIMP Cancellations Recurring in a 2016 Continuing Resolution

Attachment C: Changes in Mandatory Programs Recurring in a 2016 Continuing Resolution

Attachment A

Continuing Resolution Frequently Asked Questions

1. What is the rate for operations provided by the section 101 of the Continuing Resolution (CR)?

To calculate the FY 2016 CR rate for operations (annualized level):

- a) take the full year amount enacted in the appropriations acts making funds available for FY 2015 (i.e., FY 2015 enacted appropriations <u>net</u> of any account-specific rescissions followed by agency-specific reductions, if any), including obligation limitations. Attachment B identifies those recurring account- and agency-specific rescissions in excess of \$500,000. Any recurring rescissions identified that are less than \$500,000 should be factored in, as well;
- b) subtract bill-wide reductions, if any;
- c) add or subtract transfers mandated by law (only "shall transfer," not "may transfer" or "shall transfer up to" language); and
- d) reduce the calculated total level by 0.2108 percent. *Item 3 provides further instructions*.

2. What is the rate for operations when the CR provides a rate for operations other than what would have been provided by section 101 (i.e., an "anomaly")?

To calculate the FY 2016 CR rate for operations (annualized level) for an anomaly:

- a) take the full-year amount specified in the anomaly;
- b) subtract any recurring account-specific rescissions followed by agency-specific, if any. Attachment B identifies those recurring account- and agency-specific rescissions in excess of \$500,000. Any recurring rescission identified that are less than \$500,000 should be factored in, as well;
- c) add or subtract transfers mandated by law (only "shall transfer," not "may transfer" or "shall transfer up to" language).

3. What funding levels are excluded from the 0.2108 percent reduction in section 101(b)?

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

- amounts designated under subsection (a) of section 114 (designated Overseas Contingency Operations/Global War on Terrorism and disaster relief);
- amounts made available by section 101(a) by reference to the second paragraph under the heading "Social Security Administration—Limitation on Administrative Expenses" in division G of Public Law 113-235;
- amounts made available by section 101(a) by reference to the paragraph under the heading "Centers for Medicare and Medicaid Services—Health Care Fraud and Abuse Control Account" in division G of Public Law 113-235; and
- anomalies that replace the rate for operations provided by section 101 with an alternate rate for operations or that provide an additional rate for operations or appropriation than provided by section 101.

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

The amount automatically apportioned (whole dollars) through the period ending December 11, 2015 (and any CR extensions of that period) is calculated by multiplying the **rate for operations provided by the CR** (see items number 1 and 2) by the **percentage of the year** covered by the CR (rounded to the nearest <u>hundredth</u>). For H.R. 719, use 72 days/366 days = 19.67 percent.

5. 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. However, changes in and limitations on mandatory programs that were enacted in FY 2015 Appropriations Acts and rescissions of balances of prior-year BA or advance appropriations 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 rescissions (for those in excess of \$500,000) in prior-year discretionary balances and advance appropriations, as well as changes in mandatory programs. Furthermore, during the period of

the CR, section 115 applies the 0.2108 percent reduction specified in section 101(b) to FY 2016 discretionary advance appropriations.

6. How will section 112 of H.R. 719 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."*

7. 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 2016 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 <u>IF</u> the final enacted level of appropriations is equal to or greater than the FY 2016 short-term CR (H.R. 719) annualized level. This guidance supplements instructions in OMB Circular No. A-11, section 120.41. If the final enacted FY 2016 appropriation is lower than the FY 2016 short-term CR annualized level, then Circular No. A-11, section 120.41 applies.

8. 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 <u>not</u> 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 items 1 and 2, 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.

9. If a program, project or activity (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 <u>account</u>. 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.

10. In section 111, what are "appropriated entitlements and other mandatories 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 (<u>Report 105-217</u>), or accounts with legislatively enacted directed scoring making otherwise discretionary appropriations mandatory.

ATTACHMENT B: Non-CHIMP¹ Cancellations Recurring in a 2016 Continuing Resolution

(budget authority in millions of dollars)

Appropriations Bill:	FY 2015 Enacted	2016 CR
Cancellations/Rescissions of Unobligated Balances:		
Agriculture and Rural Development:		
USDA, Buildings and Facilities	-2	-2
USDA, Public Law 480 Title I Ocean Freight Differential Grants	-2	
USDA, Public Law 480 Title I Direct Credit and Food for Progress Program	-13	
Total, Agriculture and Rural Development	-17	-2
Commerce, Justice, Science:		
DOC, Franchise Fund	-3	
DOC, Economic Development Assistance Programs	-5	-5
DOJ, Tactical Law Enforcement Wireless Communications	-2	
DOJ, Detention Trustee	-23	
DOJ, Working Capital Fund	-99	-99
DOJ, Salaries and Expenses, General Legal Activities	-10	-10
DOJ, Salaries and Expenses, Antitrust Division	-6	-6
DOJ, Salaries and Expenses, United States Attorneys	-9	-9
DOJ, Federal Prisoner Detention	-188	-188
DOJ, Salaries and Expenses [Bureau of Alcohol, Tobacco, Firearms]	-3	-3
DOJ, Research, Evaluation, and Statistics	-6	-6
DOJ, State and Local Law Enforcement Assistance	-63	-63
DOJ, Juvenile Justice Programs	-13	-13
DOJ, Community Oriented Policing Services	-40	-24
DOJ, Violence against Women Prevention and Prosecution Programs		-16
Total, Commerce, Justice, Science	-486	-442
Defense:	10	40
DOD, Procurement, Defense-wide	-12	-12
DOD, Procurement, Marine Corps	-40	
DOD, Aircraft Procurement, Navy	-244	-197
DOD, Weapons Procurement, Navy	-63	-63
DOD, Other Procurement, Navy	-2	-2
DOD, Aircraft Procurement, Army.	-48	-30
DOD, Procurement of Weapons and Tracked Combat Vehicles, Army	-5	
DOD, Other Procurement, Army	-311	-214
DOD, Aircraft Procurement, Air Force	-148	-83
DOD, Missile Procurement, Air Force	-171	-157
DOD, Research, Development, Test, and Evaluation, Navy	-142	
DOD, Research, Development, Test and Evaluation, Army	-5	
DOD, Research, Development, Test, and Evaluation, Air Force		
Total, Defense	-1,228	-758
Energy and Water Development:		
DOE-NNSA, Weapons Activities	-51	-51
DOE-NNSA, Weapons Activities DOE-NNSA, Defense Nuclear Nonproliferation	-26	-26
DOE-NNSA, Defense Nuclear Nonpromeration DOE-NNSA, Naval Reactors	-20 -5	-20 -5
	-5 -1	-5
DOE, Other Defense Activities	-1 -21	
DOE, Defense Environmental Cleanup		-21
DOE, Fossil Energy Research and Development	-10	-10
DOE, Science	-3	-3
DOE, Clean Coal Technology	-7	

ATTACHMENT B: Non-CHIMP¹ Cancellations Recurring in a 2016 Continuing Resolution

(budget authority in millions of dollars)

ppropriations Bill:	FY 2015 Enacted	2016 CR
Energy and Water Development (continued):		
DOE, Nuclear Energy	-80	-40
DOE, Energy Efficiency and Renewable Energy	-23	-22
DOE, Northeast Home Heating Oil Reserve	-6	-6
DOE, Construction, Rehabilitation, Oper. & Maint., Western Area Power Admin.	-2	-2
DOE, Departmental Administration	-1	-1
Corps of Engineers, Investigations	-5	-2
Corps of Engineers, Construction	-21	-26
Corps of Engineers, Operations and Maintenance		
Total, Energy and Water Development	-264	-216
Homeland Security:		
DHS, Departmental Operations	-1	-1
DHS, Analysis and Operations	-1	-1
DHS, Salaries and Expenses [United States Secret Service]	-1	-1
DHS, Federal Air Marshals	-1	
DHS, Aviation Security	-202	-3
DHS, Immigration and Customs Enforcement	-2	-2
DHS, Customs and Border Protection	-2	
DHS, Construction, Customs and Border Protection	-10	-10
DHS, Border Security Fencing, Infrastructure, and Technology	-5	-5
DHS, Air and Marine Interdiction, Operations, Maintenance, and Procurement	-8	8-
DHS, Operating Expenses [United States Coast Guard]	-3	-3
DHS, Acquisition, Construction, and Improvements (U.S. Coast Guard)	-63	-61
DHS, Infrastructure Protection and Information Security	-1	-1
DHS, Disaster Relief Fund	-375	-375
DHS, National Pre-disaster Mitigation Fund	-24	-24
DHS, Research, Development, Acquisitions and Operations	-18	-18
DHS, FEMA Salaries and Expenses	-1	-1
DHS, Federal Law Enforcement Training Center	-1	-1
Total, Homeland Security	-719	-515
Interior and Environment:		
EPA, State and Tribal Assistance Grants	-40	-40
Military Construction and Veterans Affairs:	05	
DOD, North Atlantic Treaty Organization Security Investment Program	-25	-25
DOD, Military Construction, Navy and Marine Corps	-26	-26
DOD, Military Construction, Army	-50	-50
DOD, Military Construction, Air Force.	-41	-41
DOD, Homeowners Assistance Fund	-64	-64
VA, DOD-VA Health Care Sharing Incentive Fund	-15	-15
Total, Military Construction, Veterans Affairs	-221	-221
State and Foreign Operations:		
Export-Import Bank Loans Program Account	-30	-30

ATTACHMENT B: Non-CHIMP¹ Cancellations Recurring in a 2016 Continuing Resolution

(budget authority in millions of dollars)

Appropriations Bill:	FY 2015 Enacted	2016 CR
Transportation and Housing and Urban Development:		
Transportation, Capital Investment Grants	-121	-121
HUD, Drug Elimination Grants	-1	
HUD, Housing Certificate Fund	-26	-15
HUD, Brownfields Redevelopment	-3	
HUD, FHA-general and Special Risk Program Account	-10	-6
Total, Transportation and Housing	-161	-142
Subtotal, Cancellations/Rescissions of Unobligated Balances	-3,166	-2,366
Cancellations/Rescissions of New Budget Authority:		
Military Construction and Veterans Affairs:		
VA, General Operating Expenses, Veterans Benefits Administration	-2	-2
VA, Information Technology Systems.	-1	-1
Total, Military Construction, Veterans Affairs	-3	-3
Cancellations/Rescissions of Advance Appropriations:		
Military Construction and Veterans Affairs:		
VA, Medical Support and Compliance (reappropriation) ²	-100	-100
VA, Medical Services (reappropriation) ²	-1,400	-1,400
VA, Medical Facilities (reappropriation) ²	-250	-250
VA, Medical Support and Compliance (Section 233)	-6	-6
VA, Medical Services (Section 233)	-29	-29
VA, Medical Facilities (Section 233)	-2	-2
	-1,787	-1,787
TOTAL, Cancellations/Rescissions of Base Appropriations	-4,956	-4,156
Cancellations/Rescissions of Overseas Contingency Operations Funding: ³		
Defense:		
DOD, Afghanistan Security Forces Fund	-764	
DOD, Aircraft Procurement, Army	-464	-108
DOD, Other Procurement, Army	-8	
Total, Defense	-1,236	-108
Crand Total All Cancellations/Passissions	6 402	4 264

¹ Excludes offsets that are the result of cancelling or blocking spending from mandatory programs. See Attachment C this information.

² This rescission recurs pursuant to section 146 of the Continuing Appropriations Resolution, 2016.

³ These are enacted or proposed cancellations/rescissions of funding that were designated as Overseas Contingency Operations or as Emergency requirements pursuant to Section 251(b)(2)(A) of BBEDCA, as amended.

ATTACHMENT C: Changes in Mandatory Programs Recurring in a 2016 Continuing Resolution

(Budget authority in millions of dollars)

ppropriations Subcommittee:	FY 2015 Enacted ¹	2016 CR
Agriculture and Rural Development:		
USDA, Funds for Strengthening Markets, Income, and Supply (Section 32)	-121	-203
USDA, Agriculture Disaster Relief Fund (ELAP)	-125	
USDA, Watershed Rehabilitation Program	-81	
USDA, Farm Security and Rural Investment Programs	-174	-229
USDA, Energy Assistance Payments	-8	
USDA, Rural Economic Development Grants (Cushion of Credit)	-179	-179
USDA, Biorefinery Assistance Program Account	-16	-126
USDA, Child Nutrition Programs (Obligation Delay)		-122
Total, Agriculture and Rural Development	-826	-859
Commerce, Justice, and Science:		
DOC, NOAA, Promote and Develop Fishery Products Transfer	-116	-116
DOJ, Assets Forfeiture Fund	-193	-193
DOJ, Crime Victims Fund (Obligation Delay)	-9,692	-11,151
DHS, Citizenship and Immigration Services Transfer	-4	-4
Total, Commerce, Justice, and Science	-10,005	-11,464
Energy and Water Development:		
DOI, Bureau of Reclamation Loan Program Account	-1	
Financial Services:	700	700
Treasury, Forfeiture Fund	-769	-769
FDIC, Deposit Insurance Fund Transfer to the OIG.	-35	-35
Postal Service Fund, Transfers to the OIG & Postal Regulatory Commission (PRC)	-259	-259
Postal Service Fund, Discretionary Offsetting Collections for Transfers to the OIG & PRC	+259	+259
Securities and Exchange Commission Reserve Fund Total, Financial Services	-25 -829	-25 -829
	-025	-023
Homeland Security: Treasury, Forfeiture Fund	-175	-175
-	110	
Interior and Environment:		
USDA, Forest Service Permanent Appropriations	-17	-16
DOI, NPS, Land Acquisition and State Assistance	-28	-28
DOI, Compact for Free Association	+13	+13
Total, Interior and Environment	-32	-31
Labor, HHS, and Education:	10	
Commerce, CensusRemoval of Appropriation	-10	
Commerce, CensusTransfer from Contingency Fund	+10	+10
HHS, Children's Health Insurance Fund, CHIPRA Performance Bonus	-1,745	-81
HHS, Children's Health Insurance Fund, CHIP National Allotment ²	-4,549	-4,549
HHS, Child Enrollment Contingency Fund ²		-1,664
HHS, Transfer to Independent Payment Advisory Board (HI/SMI)	-10	-10
HHS, Prevention and Public Health Fund Transfers	-926	-926
HHS, CDC Transfer from Prevention and Public Health Fund	+886	+886
HHS, SAMHSA Transfer from Prevention and Public Health Fund	+12	+12
HHS, Aging and Disabilities Services Transfer from Prevention and Public Health Fund	+28	+28
HHS, Welfare ResearchRemoval of Appropriation	-15	
HHS, Welfare ResearchTransfer from Contingency Fund	+15	+15
HHS, Contingency FundReduction in Appropriation	-4	
HHS, Contingency Fund Transfers to Census and Welfare Research	-25	-25
Education, Student Financial Assistance	+1	

ATTACHMENT C: Changes in Mandatory Programs Recurring in a 2016 Continuing Resolution

(Budget authority in millions of dollars)

oppropriations Subcommittee:	FY 2015 Enacted ¹	2016 CR
Military Construction and Veterans Affairs:		
Compensation and Pensions	+40	
State and Foreign Operations:		
Vietnam Education Foundation, Vietnam Debt Repayment Fund	+4	
Transportation and Housing and Urban Development:		
Transportation, FAA Pop-up Contract Authority - Cancellation of 2014 Balance	-130	
Transportation, FAA Pop-up Contract Authority in 2015	+130	
Transportation, FAA Pop-up Contract Authority - Cancellation of 2015 Amount	-130	
Total, Transportation and Housing and Urban Development	-130	
TOTAL, Changes to Mandatory Programs (CHIMPs)	-18,286	-19,662

¹ All FY 2015 CHIMPs have been rebased as mandatory and are not included in any FY 2015 Enacted levels. They are only displayed for comparison purposes.

² This CHIMP recurs pursuant to section 141 of the Continuing Appropriations Resolution, 2016.