

SECTION 24 -- APPORTIONMENTS UNDER CONTINUING RESOLUTIONS

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Summary of Changes

Includes material formerly in section 32.1.

24.1 What is a continuing resolution?

Continuing resolutions (also known as "CRs") are joint resolutions that provide continuing appropriations for a fiscal year. CRs are enacted when Congress has not yet passed new appropriations bills and a program's appropriations are about to or have expired, or when the President has vetoed congressionally passed appropriations bills. Because of the nature of CRs, you should focus on the questions: "What can I delay doing until after I receive my regular appropriation?" and "What are my minimal level requirements?"

24.2 How do I determine the amount available for obligation under a continuing resolution?

Usually, CRs don't appropriate specific sums of money. Rather, they provide "formulas" for calculating the amounts available for continuing programs at minimal levels. In addition, CRs provide funds for projects and activities. The term *projects and activities* has two meanings:

- The term usually refers to the total appropriation rather than to specific activities (when determining which government programs are covered by the CR and the rate for operations limit).
- The term may refer to the specific activity (when determining whether an activity was authorized or carried out in the preceding year).

You should carefully review each CR to determine the formula provided by the CR. As an illustration, in most past years the formula used to calculate the annual rate has been 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 (prior fiscal year) rates, except where an item is included in only one version, the pertinent project or activity will be continued at the lower of the current (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 (prior fiscal year) rates, except 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 will be continued at a rate of operations not to exceed the current (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.

24.3 Do the amounts made available for obligation remain available after a continuing resolution expires?

No. CRs make amounts available for obligation only until a time specified by the CR or until the enactment of regular fiscal year appropriations, whichever is sooner. A CR normally provides temporary funding as a stop-gap measure. A CR could be set to last any period of time, as specified by the CR (one day, a few days, a few weeks, or a month). It is generally understood that the normal appropriations process will eventually produce appropriation acts to replace or terminate the CR. In exceptional cases, CRs have been in effect for a whole fiscal year.

24.4 Does the continuing resolution limit the purposes for which funds may be obligated?

Normally, a CR makes amounts available subject to the same terms and conditions that are specified in the enacted appropriations acts for the prior fiscal year. The CR may also establish additional terms and conditions. Normally, you are not permitted to start new projects or activities or to terminate existing projects or activities.

24.5 Am I required to submit an apportionment request while I am funded by a continuing resolution?

Normally, no. OMB will issue a bulletin to automatically apportion amounts made available by CRs that expire before the end of the fiscal year. You may request written apportionments if you deem amounts automatically apportioned to be inadequate or if either you or OMB deem a written apportionment to be necessary.

- *Automatic apportionment.* Under the automatic apportionment of a CR via an OMB Bulletin, usually the amount available during the period covered by the CR is the lesser 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.

Calculate the pro-rated level by multiplying the annualized appropriation (the lowest of the House, Senate (if any), or current rate) by the number of days the CR is in effect and divide that number by 365 (carried to three decimal places). For example, if the CR is in effect through October 21st, 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 (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 lesser of the prorated or the seasonal rate.

Example: Using the example of a CR in effect through October 21st, 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. If the normal pattern of obligation is constant throughout the year,

then you should prorate the obligational authority. 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 less than \$5,800, then the lesser amount is apportioned.

- *Written reapportionment.* Where the rate of obligation is affected by seasonality and the normal pattern of obligation exceeds the pro-rated level calculated by using the lowest of the House, Senate (if any), or current levels, you may request reapportionment to reflect the seasonality of obligation. Forward a written request for reapportionment with adequate justification 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. Submit a written reapportionment request to OMB if you wish to modify such footnotes and conditions.

24.6 Are my credit programs funded under a continuing resolution?

Yes. CRs generally make budgetary resources available to support the costs (appropriations for subsidy cost amounts) associated with direct and guaranteed loan activities that were conducted in the prior fiscal year. The limitations on credit activity levels also are subject to the terms and conditions specified in the prior fiscal year appropriations act(s).

24.7 Do I need to request a reapportionment after my regular appropriation is enacted?

Yes. If a regular appropriations bill is enacted, seek a reapportionment to reflect the enacted appropriation within ten days of the enactment (even if the period covered by the CR has not expired). The total amount subject to reapportionment will equal the total amount made available for the fiscal year in the regular appropriation. Refer to the sections on apportionment under regular appropriations for instructions.

24.8 Will my regular appropriations cover obligations made during the continuing resolution?

Yes. Certain obligations incurred under a continuing resolution 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 under the CR, you must reduce obligations to the maximum extent possible. For example, goods and services ordered but not yet received will be canceled.