

## SECTION 60 -- THE RESCISSION AND DEFERRAL PROCESS

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**Summary of Changes**

Includes material formerly in sections 11, 37 and 38.

Corrects discrepancy regarding apportionment action following enactment of rescissions.  
(Section 60.13)

**60.1 What is an impoundment?**

*Impoundment* means any executive action or inaction that withholds, delays, or precludes the obligation or expenditure of budget authority. There are two types of impoundments:

- *Rescission* means enacted legislation that cancels budget authority previously provided by law, prior to the time when the authority would otherwise expire. See section 61.1 for detailed instructions on rescission proposals by the President.
- *Deferral* means any executive action or inaction that temporarily withholds, delays, or effectively precludes the obligation or expenditure of budgetary resources with the intent of using the funds before they expire. Deferrals are generally effected through the apportionment process. "Agency deferrals" are those initiated and effected by the agency itself and not reflected in the apportionments. See section 60.3 for instructions on reports to Congress.

## **60.2 When are funds deferred or proposed for rescission withheld from obligation?**

**Rescissions.** Generally, amounts proposed for rescission will be withheld during the time proposals are being considered by the Congress. This may be accomplished through apportionment action or through agency withholding action. When approved by OMB, funds may be proposed for rescission without being withheld.

For amounts withheld through the apportionment process, see section 61.2 for instructions on completing the SF 132 and SF 133 reports for enacted and proposed rescissions. (For timing of apportionment actions, see sections 21.9, 21.15, 60.14, and 60.15.)

**Deferrals.** OMB may approve apportionments that reflect available budgetary resources temporarily withheld from obligation through the apportionment process. OMB may take such deferral action on its own initiative or at the request of an agency. You may also defer available resources (i.e., agency deferrals), but these deferrals are not reflected in the apportionment process. Do *not* defer funds without prior approval of OMB.

## **60.3 What materials are sent to Congress?**

The law requires the President to transmit the following materials to the Congress:

- Special messages;
- Supplementary messages, whenever any information contained in a previous special message is revised; and
- Cumulative reports listing the status, as of the first day of the month, of all deferrals and rescission proposals previously included in special messages. The cumulative reports are to be transmitted to Congress by the 10th day of each month.

Instructions on reporting procedures are provided in section 61.1.

## **60.4 When do I need to submit material to OMB?**

For deferrals and proposed rescissions withheld through the apportionment process:

- Submit the required materials when the corresponding apportionment or reapportionment requests are made to OMB, or
- If OMB suggests changes in or initiates rescission proposals or deferrals, furnish requested materials expeditiously on a time schedule determined by OMB.

For agency deferrals, submit the required materials immediately after OMB approves a proposal to withhold funds.

Submit a supplementary report to OMB, including a revised rescission proposal report and proposed rescission language, or deferral report, as appropriate, whenever you submit a reapportionment request changing the amount of the rescission proposal or increasing the amount of the deferral, or making any substantial changes to information contained in a previous report.

OMB will report reductions in amounts deferred in cumulative reports based on approved apportionments. Contact OMB no later than the first day of the following month to report the release of all or portions of agency deferrals.

**60.5 What materials do I submit for inclusion in a special message for a rescission proposal?**

Submit an original and two copies of the following materials to OMB for each rescission proposal:

- A proposed rescission report (see exhibit 61A);
- Proposed rescission language (see exhibit 61A); and
- An apportionment request (SF 132) that reflects the amount withheld pending rescission on line 9 of the SF 132 (see exhibit 61B).

For proposed rescissions that are transmitted on the same day (or shortly thereafter) as the Budget, verify that amounts on the rescission report agree with the amounts printed in the budget *Appendix*. If accounts with amounts proposed for rescission are combined (or merged) with other accounts in the *Appendix*, the budgetary resources on the rescission report will agree with the combined (or merged) account in the *Appendix*, even if some of the combined accounts have no proposed rescission. Express all amounts in dollars (per the latest SF 132s).

**60.6 What materials do I submit for inclusion in a special message for a deferral?**

Submit an original and two copies of the following materials to OMB for each deferral:

- A deferral report (see exhibit 61C); and
- An apportionment request (SF 132) that reflects the amount deferred on line 10 of the SF 132 (see exhibit 61D).

For deferrals that are transmitted on the same day (or shortly thereafter) as the budget, verify that amounts on the deferral report agree with the amounts printed in the *Appendix*. If accounts with amounts deferred are combined (or merged) with other accounts in the *Appendix*, the budgetary resources on the deferral report will agree with the combined (or merged) account in the *Appendix*, even if some of the combined accounts have no deferral. Express all amounts in dollars (per the latest SF 132s).

(For information on materials required for supplementary messages, see section 60.9 and exhibit 61E.)

**60.7 What narrative information do I need to include with rescission or deferral reports?**

Include information in the rescission or deferral reports specifying:

- The amount proposed for rescission or deferred;
- The affected account and specific project or governmental functions involved;
- The reasons why the amount should be rescinded or deferred;
- The estimated fiscal, economic, and budgetary effects of the rescission proposal or deferral;
- The effect of the rescission proposal or deferral on the objects, purposes, and programs for which the amount was provided, to the maximum extent practicable; and
- Any other relevant facts, circumstances, and considerations.

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Also specify in the deferral report the period of time the budget authority is to be deferred (that is, for part of the fiscal year or for the full fiscal year) and any legal authority invoked to justify the deferral in addition to the Impoundment Control Act (2 U.S.C. 684).

Additional examples of deferral reports and apportionment requests are included as exhibits, as follows:

Type of Exhibit	Description	Exhibit No.
Apportionment request	For deferral overturned by Congress	61G
Apportionment request	For congressionally-initiated deferral	61H

The information you provide and that is incorporated into special messages constitutes formal notification to the Congress of rescission proposals and deferrals. As such, rescission and deferral reports that you prepare should set forth a brief description of the program, a justification that presents the reasons for the rescission proposal or deferral in a logical, clear and concise fashion, a persuasive argument in support of each rescission proposal or deferral, and any other relevant information. Specifically address the estimated program and outlay effects.

For instructions on preparation of rescission and deferral reports, see section 61.1

### **60.8 What am I required to do when a previously reported deferral or rescission proposal changes?**

You are required to prepare a supplementary report whenever the purpose of the rescission proposal or deferral has not changed, and

- The amount of the proposed rescission changes;
- The amount of the deferral increases; or
- Other substantial changes made to the previous report.

When the purpose of a deferral changes, OMB may determine that a new deferral report is required instead of a supplementary report.

Do *not* prepare a supplementary report when the amount of a deferral decreases. OMB reports reductions in deferrals to the Congress in monthly cumulative reports based on approved apportionments. When all or portions of agency deferrals (deferrals not withheld through the apportionment process) are released, contact your OMB representative no later than the first day of the following month so that OMB can report these deferrals in cumulative reports.

### **60.9 What information is required for the supplementary report?**

The supplementary report should specify:

- The amount of the initial proposed rescission or deferral reported in a special message or, when revised reports have been made previously, the amount of the latest revision;
- The amount currently being deferred or proposed for rescission;
- The amount of the increase in the deferral or change in proposed rescission; and
- The reason for the change. (See exhibit 61E for the format of supplementary reports.)

Whenever you revise information on a rescission proposal or deferral previously included in a special message, submit an original and two copies of:

- A supplementary report explaining the change (see the first page of exhibit 61E for a supplementary report for a deferral);
- The corresponding revised rescission or deferral report (see the second page of exhibit 61E for a revised deferral report);
- In the case of rescissions, revised proposed rescission language; and
- In some cases, a reapportionment request (see exhibit 61F).

(NOTE: Insert an asterisk (\*) before revisions to information (e.g., amounts withheld or explanations) contained in rescission or deferral reports. Footnote the report "\* Revised from previous report.")

The supplementary report, the revised rescission or deferral report, and revised rescission language will be included in a special message from the President to the Congress.

#### **60.10 What are the responsibilities of OMB in preparing special messages?**

OMB will compile and transmit the special and supplementary messages to the Congress and to the Comptroller General. After the special and supplementary messages are transmitted to the Congress and GAO, they are printed as House and Senate documents and in the Federal Register.

#### **60.11 What should I do to help OMB prepare cumulative reports?**

Notify OMB on the first day of each month when all or portions of agency deferrals (deferrals not withheld through the apportionment process) are released. After the cumulative reports are transmitted to the Congress and GAO, they are printed as House and Senate documents and in the Federal Register.

#### **60.12 What are my responsibilities after a deferral is reported to Congress?**

Review all deferrals periodically so that amounts deferred for only part of the year may be released in time to be used prudently before the year ends.

Each June, you should review deferrals of funds expiring at the end of the year. If you are unsure whether funds are needed or could be prudently used, or if you are told that a determination has been made that such amounts should not be used before the funds expire, propose a rescission *before* the beginning of the fourth fiscal quarter. Only in exceptional cases will OMB approve proposed rescissions of annual funds during the fourth quarter. OMB must approve all proposed rescissions.

If amounts actually becoming available are less than previously anticipated for indefinite budget authority, transfers, reimbursements, or recoveries, normally you will deduct the difference from amounts apportioned. Do not deduct the difference from amounts deferred or otherwise unapportioned unless a specific provision is made for a different treatment on the approved apportionment form, or unless reapportionment action is taken. Whenever it is determined that a deferred amount will not be required to carry out the purposes of the appropriation or other authority, you must recommend a rescission as required by law (31 U.S.C. 1512 and 2 U.S.C. 683).

**60.13 What apportionment action is required when a rescission is enacted?**

If Congress completes action on a Presidential rescission proposal within the 45-day period prescribed by law and rescinds the exact amount proposed by the President (and the amount is being withheld on line 9), reapportionment action is *not* required to reflect the reduction in budget authority. Adjust the SF 132 to reflect the enacted rescission on line 6B (and remove it from line 9) *only* if reapportionment action is requested for other reasons.

In all other circumstances involving congressional rescission of amounts initially proposed for rescission by the President, submit reapportionment requests to OMB promptly upon completion of congressional action. (This includes instances when the Congress rescinds an amount different from that proposed by the President within the prescribed 45 days or rescinds all or any portion of the amount proposed by the President subsequent to the expiration of the prescribed 45 days of continuous session.) In all cases, follow congressional action on proposed rescissions affecting your programs or activities to ensure accurate and timely reapportionment action.

Congressionally-initiated rescissions may occur as the result of the reconciliation process established by the Congressional Budget Act (2 U.S.C. 641) or due to changing priorities or economic conditions during the year. Submit reapportionment requests after final congressional approval in such cases and ensure that obligations do not exceed reduced appropriations. When congressionally-initiated rescissions take place, adjust apportionments in the following ways:

- Where initial apportionment action has not been completed before rescission action is taken and sufficient time exists to revise the apportionment request (within 30 days after the date of enactment of the appropriation bill), you or OMB will make appropriate changes to the SF 132.
- When there is insufficient time to adjust the initial SF 132, submit a reapportionment request within five calendar days after the date of enactment of the rescission.

**60.14 What apportionment action is required when a rescission is not enacted?**

According to law, funds withheld pending rescission must be released following expiration of the prescribed 45 days of continuous session without completion of action on the proposed rescission by both Houses of Congress.

When funds must be released because of congressional inaction on proposed rescissions, submit reapportionment requests reflecting the release of the affected amounts to OMB before the end of the prescribed 45 days, as determined by OMB. If the Congress is in session, the 45-day period begins the first day after Congress receives a special message. If the Congress is not in session at the time of the transmittal of a special message, the 45-day period begins the first day the Congress convenes. If the second session of a Congress adjourns *sine die* before the expiration of the 45 days, the special message is considered retransmitted on the first day of the succeeding Congress and the 45-day period begins the following day. If either House recesses during a session for more than three days to a day certain, the number of days in recess is excluded from the counting period. OMB, in consultation with the General Accounting Office, will determine the day for the release of each proposed rescission and will notify agencies when funds should be released.

**60.15 What apportionment action is required when a deferral is disapproved?**

When Congress enacts legislation to disapprove an Executive deferral, you must take prompt action to ensure the release of the affected amounts. If funds have been deferred through the apportionment process, submit a reapportionment request to OMB, reflecting release of amounts previously deferred not later than the day following enactment of the legislation.

**60.16 How do I treat proposals to lower limitations on trust or revolving funds?**

Statutory limitations on the availability of trust or revolving funds are a mechanism to control funds that would otherwise be available for obligation under broad authority. The limitations are generally not the source of authority to incur obligations; rather, they place a ceiling on the use of a portion of the obligational authority by limiting the amount that can be obligated or committed for a specific purpose. Generally, amounts in trust or revolving funds do not expire.

A proposal to lower a statutory limitation on funds that do not expire, by itself, will not result in a rescission. Even when the Congress enacts the lower limitation, the funds will continue to be available for other purposes in the same account.

In the rare case when the intent is to restrict the use of such funds permanently, the proposal must be modified, usually by proposing to amend the authorizing legislation.

If the intent is to lower the limitation and withhold such funds temporarily, the funds may be deferred through the apportionment process. To withhold the funds through the apportionment process requires that the trust or revolving fund be apportioned. Include the difference between the limitation and the proposed lower amount on line 10, "Deferred," of the apportionment for the trust or revolving fund.

Only careful programmatic and legal analyses of the account, the limitation, and the basic legislation authorizing the program will permit you to determine whether appropriations language to reduce the limitation is also required.