

SECTION 123—APPORTIONMENTS UNDER CONTINUING RESOLUTIONS

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123.1 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 the 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 operate at a minimal level until after your regular fiscal year appropriations is enacted.

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

Usually, CRs do not appropriate specific sums of money. Rather, they provide "formulas" for calculating the amounts available for continuing programs at minimal levels. This formula is applied by OMB in apportioning funds under the CR. Once the CR is enacted, OMB usually issues a bulletin to automatically apportion funds available under the CR. This automatic apportionment applies to most accounts, but not all. For particular accounts, OMB provides a separate written apportionment.

CRs provide funds for projects and activities. The phrase *projects and activities* has two meanings:

1. The phrase usually refers to the total appropriation for the account (the amount calculated by the formula) rather than to specific activities (when determining which Government programs are covered by the CR and the rate for operations limit).
2. The phrase *sometimes* refers 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. Keep in mind that the amount available under a CR is the product of negotiations among the various factions in the Congress and the Administration. As a result, the formula provided in each CR will likely differ from the formula in previous CRs. For example, the formulas provided by the CRs for the past five years have been different. Click [here](#) for the formula provided by those CRs as well more detailed guidance on how to execute the CR:

- [FY 2016 CR](#) (OMB Bulletin 15-03)
- [FY 2015 CR](#) (OMB Bulletin 14-03)
- [FY 2014 CR](#) (OMB Bulletin 14-01)
- [FY 2013 CR](#) (OMB Bulletin 12-02)
- [FY 2012 CR](#) (OMB Bulletin 11-01)

Note that you may not obligate funds under the CR that would impinge on final funding prerogatives of the Congress. CRs usually include provisions directing agencies to execute programs using the most limited funding actions permitted in order to provide for continuing projects and activities. Agencies are also directed by the CR to not execute programs that would otherwise have high initial rates of operation or complete distribution of appropriations at the beginning of the year because of distribution of funds to States, foreign countries, grantees, or others.

123.3 What do I do if my account receives no funding in the House or Senate bill?

If either the House or Senate has reported out of committee or passed an appropriations bill that provides no funding for an account (as opposed to merely providing no funding for a project, program or activity within an account) at the time the CR is enacted, the CR automatic apportionment does not apply to that account, even if that account received funding during the prior year. You must submit a written apportionment request to OMB if you want to request funds for the account during the period of the CR. You must also submit justification for any such request. This restrictive funding action is to ensure that the agency does not impinge on final funding prerogatives of the Congress.

123.4 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 specified by the CR, it can last any period of time (e.g., 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 relatively few cases, CRs have been in effect through the end of the fiscal year. In such cases, regular appropriations (full-year CR) language replaces the formula in the short-term CR, and you must submit a reapportionment request for the full-year appropriations (see section [123.11](#)). For example, in FY 2011, 11 of the 12 regular annual appropriations bills were not enacted. Instead, all the appropriations normally provided in those bills were provided in one joint resolution making consolidated appropriations. Consolidated appropriations are also referred to as omnibus appropriations acts.

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

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

123.6 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. Links to the OMB bulletins that apportioned the CRs during the last five fiscal years are provided in section [123.2](#).

123.7 When may I ask OMB to issue a written exception apportionment?

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

A written exception apportionment may be requested on the following bases:

- **Seasonality.** This will be considered only if the program experiences regular and predictable changes in the rate of obligations throughout the year due to programmatic requirements, using historical data from SF 133s or OMB approved SF 132s. For example, a history of apportionment shows that the Low-Income Home Energy Assistance Program has an established pattern of a higher rate of obligations in the first and second quarters of the fiscal year, when the temperatures are colder. Another example is funding for the protection of Presidential candidates and increased security at inaugurations every four years. Seasonality apportionment requests will not be approved simply because an agency prefers to sign full-year contracts at the beginning of the fiscal year, or if doing so would be business as usual under a full-year enacted appropriation.
- **Safety of Human Life or Protection of Federal Property.** Cases where the obligations could legally be incurred under the Antideficiency Act during a Government-wide lapse of appropriations.
- **Annualizing a New Program.** Cases where a new program began late in the previous fiscal year and the partial year funding level for the previous year would not fund a full year's rate for operations this year.

123.8 If I am funded by a short-term continuing resolution and have received a written apportionment, will I have to submit written reapportionment requests for each extension of the CR?

No. In the case of accounts that receive a written apportionment at any time during a short-term CR period, the automatic apportionment (via OMB bulletin) will apply to such accounts under any subsequent extensions of the CR, provided that the total amount apportioned during the short-term CR period does not exceed the annualized level of the CR. However, any footnotes on the written apportionment continue to apply to the account when subsequently operating under the automatic apportionment.

123.9 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. Normally, the CR allows you to make new direct loans and new commitments to guarantee loans within the limitations on credit activity levels and subject to the terms and conditions specified in the prior fiscal year appropriations act(s).

Please see section [185.24](#) for further information regarding the subsidy rates to be used for loans or loan guarantees at execution. See [Exhibit 123](#) for an example of how to calculate amounts available for credit programs under a CR.

123.10 Do I have to request a warrant from Treasury while operating under a continuing resolution?

Generally, no. Excluding a full-year CR, Treasury will not issue a warrant under a CR unless an agency explicitly requests one (see Treasury Financial Manual I TFM2–2000, section 2025.20). Exceptions may be made on a case by case basis if the CR extends beyond the second quarter of the fiscal year. Further Fiscal Service Treasury guidance may be found on the USSGL website (<http://www.fms.treas.gov/ussgl/index.html>).

123.11 Do I need to request a reapportionment after my full-year appropriation is enacted?

Yes. You must request a reapportionment **within 10 days** of the enactment of your full-year appropriations act, even if the period covered by the CR has not expired. In the Previous Approved column, include the amounts apportioned under the CR (including automatic apportionment amounts as provided by the OMB Director's Bulletin and section 120.41. See exhibit 120H). The total amount subject to reapportionment will equal the total amount made available for the fiscal year in the regular appropriation. Click below for further information on the following:

- Instructions on the apportionment process/format (see section [120](#))
- Detailed instructions for each line on the apportionment (see [appendix F](#))

Until OMB approves your first apportionment request for the fiscal year, and unless otherwise determined by your OMB representative, you will be under an automatic apportionment. See section [120.41](#) for the formula of the automatic apportionment.

OMB may apportion differently from the automatic apportionment authority provided by section [120.41](#) for those accounts that received exception apportionments under the short-term CR. See the OMB bulletin on the apportionment of the short-term CR for guidance and consult your OMB representative to determine at what level you are automatically apportioned.

123.12 Will my full-year enacted appropriations cover obligations made during the continuing resolution?

Yes. Normally your full-year enacted appropriations will cover all obligations made during the CR. However, there could be exceptions. See section [123.13](#) for an example of an exception.

123.13 What if the full-year enacted appropriations subsequently provided less budget authority than obligations incurred under the CR?

You must do everything possible to reduce the amount of your existing obligations so that the agency's obligations do not exceed the amounts provided in the full-year enacted appropriations. The agency must reduce obligations to the maximum extent possible—returning purchases received for a refund, canceling purchases of goods and services ordered but not yet received, and canceling grants.

For example, consider the following situation:

- (1) There was no indication that the Congress would enact a regular annual appropriation less than the amount available under the CR;
- (2) The amount obligated was available under the CR;

(3) The full-year enacted appropriation was subsequently less than the obligations incurred under the CR; and

(4) The agency reduced obligations to the maximum extent possible (e.g., returned purchases received for a refund, cancelled purchases of goods and services ordered but not yet received, canceled grants, and transferred funds to the extent possible to cover obligations made during the period of the CR).

In this circumstance, it is expected that an agency will normally be able to reduce its CR-incurred obligations by a sufficient amount so that the agency's obligations during that fiscal year will not exceed the level of the full-year enacted appropriation (and, thus, all of these obligations will be charged to the full-year enacted appropriation). However, in a case in which an agency is not able (after having de-obligated funds to the maximum extent possible or used existing transfer authority to cover obligations made during the period of the CR) to reduce its CR-period obligations to the level of the full-year enacted appropriation, then the amount by which the full-year enacted appropriation has been exceeded will be charged to the CR.

If your full-year enacted appropriations provided less budget authority than the obligations you incurred under the CR, contact your OMB examiner and request an apportionment (if you are subject to apportionment) that specifically footnotes that all of the requirements of this section have been met. For any supplemental warrant, you should also provide to your Treasury Bureau of the Fiscal Service contact an OMB-approved apportionment stating that the conditions of section [123.13](#) have been met.

How to Calculate Amounts Available for Credit Programs under a Continuing Resolution

Under recent Continuing Resolutions (CRs), OMB automatically apportions credit programs as follows: “If there is an enacted credit limitation (i.e., limitation on loan principal or commitment level) in the prior year, 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.”

Section 185.24 further requires that in executing loans, agencies must use current subsidy rates equal to those calculated in the current President’s Budget.

This exhibit shows you how to calculate amounts available under the CR given the above automatic apportionment and requirements. As the CR formula is subject to change and OMB apportions according to the CR formula, refer to the latest OMB Bulletin on the CR for the current apportionment.

In the two examples below, the prior year enacted appropriations provides \$5 million in budget authority (BA) for subsidy costs and \$200 million in loan limitation for direct loans. The CR provides a pro-rata (daily) rate of 25.00%. Last year’s subsidy rate is 5.00%. The current subsidy rate differs in each example. The examples show that along with other factors, the current subsidy rate impacts the amounts available under the automatic apportionment for credit programs.

Last year’s enacted appropriations states “For the cost of direct loans, \$5,000,000, as authorized by 7 U.S.C. 999: ... Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$200,000,000.”

To determine the amounts available under the CR for Example 1, with a current subsidy rate of 8.00%:

Step 1 - Calculate the pro-rata share of last year’s enacted credit limitation: $25.00\% \times \$200 \text{ million} = \50 million . The pro-rata share of the credit limitation would support a loan level of \$50 million.

Step 2 - Calculate the pro-rata share of last year’s enacted budget authority (i.e., for the subsidy cost): $25.00\% \times \$5 \text{ million} = \$1.25 \text{ million in BA}$.

Step 2A - Calculate the loan level that \$1.25 million in BA would support:

- To calculate the loan level, take budget authority and divide by subsidy rate (BA/subsidy rate = loan level). Note that you must use the current subsidy rate and not last year’s subsidy rate.
- $\$1.25 \text{ million} / .0800 = \15.625 million . The pro-rata share of the budget authority would support a loan level of \$15.625 million.

Step 3 – Determine the lesser of the pro-rata share of the credit limitation or the budget authority:

- Compare the results of steps 1 and 2A.
- Since the pro-rata share of the budget authority provides for a lower loan level ($\$15.625 \text{ million} < \50 million), the pro-rata share of the budget authority is the amount automatically apportioned under the CR.
- Under the CR, this direct loans program may obligate up to \$1.25 million in budget authority for subsidy costs which may support a loan level of \$15.625 million.

<u>Example 1:</u>		Current subsidy rate = 8.00%		
		<u>Pro-rata share (25.00%)</u>	<u>Pro-rata loan level</u>	<u>Amounts available under CR</u>
Credit limitation	200,000,000	50,000,000	50,000,000	1,250,000 in BA for subsidy cost to support a loan level of 15,625,000
BA	5,000,000	1,250,000	15,625,000	
<u>Example 2:</u>		Current subsidy rate = 1.00%		
		<u>Pro-rata share (25.00%)</u>	<u>Pro-rata loan level</u>	<u>Amounts available under CR</u>
Credit limitation	200,000,000	50,000,000	50,000,000	50,000,000 loan level which requires 500,000 in BA for subsidy cost
BA	5,000,000	1,250,000	125,000,000	