



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

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OMB BULLETIN NO. 10-03

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Apportionment of the Continuing Resolution(s) for Fiscal Year 2011

1. Purpose and Background. H.R. 3081 will provide continuing appropriations for the period October 1, 2010 through December 3, 2010. I am automatically apportioning amounts provided by this continuing resolution (CR) as specified in section 2. This Bulletin supplements instructions for apportionment of CRs in OMB Circular No. A-11, [section 123](#), and applies to this CR and any extensions of this CR.

2. Automatic Apportionments. The attachment to this Bulletin 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 3, 2010 (and any extensions of that period) multiply the annualized amount provided by the CR by the lower of:

- the percentage of the year covered by the CR (e.g., for H.R. 3081 use 17.53 percent), or
- the historical seasonal rate of obligations for the period of the year covered by the CR.

Section 101 of the CR specifies which amounts funded in the following appropriations acts will be included in the CR calculation: the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (P.L. 111-80); Division A of the Department of Defense Appropriations Act, 2010 (division A of P.L. 111-118); the Energy and Water Development and Related Agencies Appropriations Act, 2010 (P.L. 111-85); the Department of Homeland Security Appropriations Act, 2010 (P.L. 111-83); the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 (division A of P.L. 111-88); the Legislative Branch Appropriations Act, 2010 (division A of P.L. 111-68); and the Consolidated Appropriations Act, 2010 (P.L. 111-117).


Please note that only the following supplemental appropriations are assumed to recur: Section 601 of chapter 6 of title I of the Supplemental Appropriations Act, 2010 (P.L. 111-212) allowing for a transfer to the Immigration Emergency Fund in the Department of Homeland Security; Chapter 3 of title I of the Supplemental Appropriations Act, 2010 (P.L. 111-212) for the Department of Defense, except for appropriations under Operation and Maintenance related to Haiti's earthquake and for the Port of Guam, and not exceeding a rate for operations of \$29,387,401,000 that is allocated to each appropriation account, budget activity, activity group, and subactivity group, and to each program, project, and, activity within each appropriation

account in the same proportions as such appropriations for fiscal year 2010; Section 102(c) of chapter 1 of title I of the Supplemental Appropriations Act, 2010 (P.L. 111-212) for guaranteed loans in the Rural Housing Insurance Fund; the appropriation for the U.S. Patent and Trademark Office in the United States Patent and Trademark Office Supplemental Appropriations Act, 2010 (P.L. 111-224); the Department of Homeland Security Appropriations Act, 2010 (P.L. 111-83) for Coast Guard Operating Expenses that were designated as being for overseas deployments and other activities pursuant to S. Con. Res. 13; Division B of the Consolidated Appropriations Act, 2010 (P.L. 111-117) for the Federal Bureau of Investigation Salaries and Expenses and Title IV of Division E of the Act for Military Construction Overseas Contingency Operations that were designated as being for overseas deployments and other activities pursuant to S. Con. Res. 13; and Title IX of Division A of the Department of Defense Appropriations Act, 2010 (P.L. 111-118) for Overseas Contingency Operations for Fiscal Year 2010 that were designated as being for overseas deployments and other activities pursuant to S. Con. Res. 13. All other appropriations provided in supplemental acts cannot be included when calculating the annualized amounts provided by the CR. Under an automatic apportionment, all of the footnotes and conditions placed on the prior year apportionment remain in effect. The CR provides that FY 2010 terms and conditions apply.

3. Programs with Zero Funding Excluded from Automatic Apportionment. 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, this automatic apportionment does not apply to that account. The agency may submit a written apportionment request to OMB to request funds for the account during the period of the CR, if needed. This restrictive funding action is to ensure that the agency does not impinge on the final funding prerogatives of Congress.

4. Written Apportionments. If an agency seeks an amount for a program that is different from the total amount automatically apportioned, you must request a written apportionment from OMB. Only a very limited number of written apportionment requests are expected to be granted. Every request must be accompanied by a written justification that includes the legal basis for the exception apportionment. Once a written apportionment is approved, the terms and conditions of the automatic apportionment bulletin cease to apply to the extent changed by the written apportionment.

5. Spending Plans. For accounts for which OMB required spending plans—or clearance of spending plans requested by the Congress—in 2010, agencies should work with their RMO to determine which accounts will require updated spending plans under the FY 2011 CR apportionment. For those accounts, the automatic apportionment will make funds available 10 days after submission of those spending plans to OMB.



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Calculating the Amount Made Available by the Continuing Resolution (CR) and the Automatic Apportionment

1. What is the annualized, full-year amount provided by the continuing resolution (CR)?

The FY 2010 level:

- take the full year amount enacted in the appropriations acts making funds available for FY 2010 (i.e., FY 2010 enacted appropriations net of any rescissions);
- add only the supplemental appropriations amounts from: Section 601 of chapter 6 of title I of the Supplemental Appropriations Act, 2010 (P.L. 111-212) allowing for a transfer to the Immigration Emergency Fund in the Department of Homeland Security; Chapter 3 of title I of the Supplemental Appropriations Act, 2010 (P.L. 111-212) for the Department of Defense, except for appropriations under Operation and Maintenance related to Haiti's earthquake and for the Port of Guam, and not exceeding a rate for operations of \$29,387,401,000 that is allocated to each appropriation account, budget activity, activity group, and subactivity group, and to each program, project, and activity within each appropriation account in the same proportions as such appropriations for fiscal year 2010; Section 102(c) of chapter 1 of title I of the Supplemental Appropriations Act, 2010 (P.L. 111-212) for guaranteed loans in the rural housing insurance fund; the appropriations for U.S. Patent Trademark Office in the United States Patent and Trademark Office Supplemental Appropriations Act, 2010 (P.L. 111-224); Department of Homeland Security Appropriations Act, 2010 (P.L. 111-83) for Coast Guard Operating Expenses that were designated as being for overseas deployments and other activities pursuant to S. Con. Res. 13; Division B of the Consolidated Appropriations Act, 2010 (P.L. 111-117) for the Federal Bureau of Investigation Salaries and Expenses and Title IV of Division E of the Act for Military Construction Overseas Contingency Operations that were designated as being for overseas deployments and other activities pursuant to S. Con. Res. 13; and Title IX of Division A of the Department of Defense Appropriations Act, 2010 (P.L. 111-118) for Overseas Contingency Operations for Fiscal Year 2010 that were designated as being for overseas deployments and other activities pursuant to S. Con. Res. 13; and
- add or subtract transfers mandated by law (only "shall transfer," not "may transfer").

2. What is the amount of the automatic apportionment under a CR?

Calculate the amount automatically apportioned (whole dollars) through the period ending December 3, 2010 (and any extensions of that period) by multiplying the **annualized amount provided by the CR** by the lower of:

- the **percentage of the year** covered by the CR (rounded to the nearest hundredth for H.R. 3081, use $64 \text{ days} / 365 \text{ days} = 17.53 \text{ percent}$); or

- the **historical seasonal rate** of obligations for the period of the year covered by the CR (see exhibit 123 of OMB Circular No. A-11).

3. **How should the phrase "project or activity" be applied in determining the CR level?**

In the context of determining the rate for operations under the CR, OMB has interpreted the term "project or activity" to refer to the total appropriation, that is, the OMB budget account level. GAO's view has been consistent with OMB's (see page 8-24 of the [Principles of Federal Appropriations Laws, Third Edition, Volume II](#), issued by GAO).

4. **How should mandatory appropriations be treated?**

A continuing resolution is an appropriations bill. As such, it normally does not affect mandatory appropriations provided in substantive or authorizing legislation. Therefore, for accounts with a mix of discretionary and mandatory appropriations, the mandatory budget authority component that is enacted in substantive or authorizing legislation should be taken out before calculating the amount provided by the CR. Changes in and limitations on mandatory programs that were enacted in 2010 Appropriations Acts are assumed to continue during the duration of the CR under the terms and conditions provided in such Acts.

5. **Are entitlement and other mandatory payments whose budget authority (BA) was provided in Appropriations Acts for fiscal year 2010 continued at the FY 2010 level or FY 2011 program level?**

Section 111 of H.R. 3081 allows entitlements and other mandatory payments whose BA was provided in Appropriations Acts for FY 2010 to continue at the "rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2010...". In other words, these programs can operate at the FY 2011 program level. However, the appropriated administrative expenses associated with these programs must be based on the FY 2010 levels.

6. **How will section 112 of H.R. 3081 regarding civilian personnel compensation and benefits be apportioned by OMB?**

[Section 112](#) allows OMB limited authority to mitigate furloughs. It does not provide additional total budget authority for the fiscal year. Rather, it allows OMB to apportion the BA at a greater rate than the daily rate. OMB will be applying this authority in the most restrictive fashion. You must be pre-approved by your OMB representative with budget responsibility for the account before requesting a written apportionment from OMB. 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. What should my agency do if either the House or the Senate bill has not provided funding?

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, the CR automatic apportionment does not apply to the account. Instead, you must submit a written apportionment request to OMB if you want to request funds for the account during the period of the CR. OMB will apportion funds in such a manner as not to impinge on the final funding prerogatives of Congress. Please consult your OMB representative with additional questions.