

SECTION 20 -- APPORTIONMENT/REAPPORTIONMENT PROCESS

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Summary of Changes

Material formerly in sections 30, 31, and 39.1 is now included in this section and is reordered.
Adds a definition of apportionment. (Section 20.1)

Bolds the text that states that all accounts must be apportioned. (Section 20.5)

Clarifies the difference between category A and category B apportionments. (Section 20.8)

20.1 What is an apportionment?

An apportionment is a plan, approved by OMB, to spend resources provided by law. The law providing the resources may be a permanent law (mandatory appropriations), one of the 13 annual appropriations acts, a supplemental appropriations act, or a continuing resolution.

Reapportionments are made when you need to make changes to the previously approved apportionment. For example, you should request a reapportionment when approved apportionments are no longer appropriate or applicable because the amounts available for obligation have changed or unforeseen events have occurred.

Pursuant to the Impoundment Control Act, apportionments may also set aside all or a portion of the amounts available for obligation. Amounts *deferred* through the apportionment process are those portions of the total amounts available for obligation that are specifically set aside as temporarily not available until released by OMB. Amounts withheld pending *rescission* are those portions that are set aside pending the enactment of legislation canceling the authority to obligate such funds. For further information on deferrals and rescissions, see sections 60 and 61.

20.2 What is the purpose of the apportionment process?

The purpose of the apportionment process is to centralize the Administration approval of agency spending plans to:

- Prevent agencies from obligating funds in a manner that would require deficiency or supplemental appropriations. In certain specified instances (see section 21.18), OMB may approve apportionments and reapportionments that indicate the necessity for a deficiency or supplemental appropriation. However, these instances must be reported to Congress.
- Achieve the most effective and economical use of amounts made available.

Apportionments also may reflect any legal limitations imposed by Congress.

20.3 What types of resources are apportioned by OMB?

OMB apportions budgetary resources (such as budget authority), non-budgetary resources (such as foreign currency, as described in section 21.19), and non-financial resources (such as full-time equivalent employment (FTE) as discussed in section 21.5)

20.4 Are all apportionments based on authority to incur obligations?

No.

OMB, at its option, may apportion accounts on whatever basis will provide effective controls. OMB usually apportions the budgetary resources of an account based on the authority to incur obligations. However, OMB may apportion budgetary resources on a pre-obligation basis, such as "administrative commitments," which are made before obligations are incurred. However, you should continue to include obligations in the FACTS II system. In addition, include in a footnote the amount of "administrative commitments" against the amount shown on the apportionment.

20.5 What accounts are apportioned?

All accounts will be apportioned, using the SF 132 (see section 22.1), including special foreign currency program appropriation accounts, unless OMB determines otherwise and informs you (or has informed you) in writing, except those listed in section 20.6. The following types of funds will be apportioned:

- All credit program, financing, and liquidating accounts;
- Trust funds;
- Intra-governmental revolving funds;
- Receipts made available by law for industrial and power operations; and
- Grants to the States under titles I, IV, X, XIV, XVI, XIX, or XX of the Social Security Act or under any other public assistance title in such Act.

20.6 What accounts are not apportioned?

The following types of accounts are exempt from apportionment:

- Accounts specifically exempted from apportionment by 31 U.S.C. 1511(b) or other laws.
- Accounts for which budgetary resources:
 - ▶ Are available only for transfer to other accounts (for example, Payments to social security trust funds),
 - ▶ Have expired for obligational purposes, or
 - ▶ Have been fully obligated before the beginning of the fiscal year.
- Accounts that the Director of OMB has exempted from apportionment pursuant to 31 U.S.C. 1516, unless the agency is notified that particular accounts will be apportioned:
 - ▶ Management funds;
 - ▶ Payment of claims, judgments, refunds, and drawbacks;

- ▶ Payment under private relief acts and other laws that require payment to a designated payee in the total amount provided in such acts;
- ▶ Foreign currency (FT) fund accounts;
- ▶ Interest on, or retirement of, the public debt; and
- ▶ Items the President has determined to be of a confidential nature for apportionment and budget execution purposes.

20.7 Are apportionments always at the Treasury fund account level?

Normally, yes. OMB normally makes apportionments and reapportionments at the level of the appropriation or fund account maintained by the Treasury. When more than one annual, multiple-year, or no-year appropriation is enacted under the same account title, you should request separate apportionments for each appropriation. However, OMB may decide to approve apportionments and reapportionments at other levels, such as by groups of accounts, activities, projects, or objects. In that case, you should identify all the Treasury fund symbols covered by the apportionment in the appropriate box of the SF 132. See exhibits 22E and 22F.

20.8 What categories does OMB use to apportion funds?

OMB usually distributes budgetary resources in an account or fund by specific time periods, activities, projects, objects or a combination of these categories. Apportionments by fiscal quarters are classified as category A apportionments. All other apportionments are classified as category B apportionments. OMB may also apportion funds under both category A and category B in the same account (see exhibit 22B).

20.9 Will OMB apportion funds for periods longer than one fiscal year?

Yes. OMB will apportion no-year accounts and available multiple-year accounts beyond the current fiscal year where financial requirements are known in advance, provided that an apportionment is made at the beginning of each fiscal year in accordance with section 20.13.

When you plan to obligate amounts appropriated in a no-year or multi-year account over more than one fiscal year, you may propose to apportion funds planned for obligation after the current fiscal year into a subsequent fiscal year. Include on line 1 of the SF 132 the full amount appropriated and available for obligation in the current fiscal year, including amounts planned for obligation in subsequent fiscal years. Include planned obligations for the current year in line 8 of the SF 132 under either Category A (by quarter) or Category B (by program). Include the amount planned for obligation after the current fiscal year under Category B and identify the fiscal year in the stub.

OMB will *not* apportion annual accounts and the last year of multiple-year accounts for periods longer than one fiscal year.

20.10 How do I display funds that are not currently needed?

Funds that are not currently needed may be displayed on the apportionment form as deferred, withheld pending rescission, or as an unapportioned balance of a revolving fund (see section 60.2 for further information on amounts not apportioned).

If your apportionment or reapportionment request contains a proposed rescission or deferral, you must submit a rescission or deferral report that outlines the reasons for and the effects of the proposed action. (See section 61.1 for instructions on how to prepare these reports.)

20.11 How do I request changes in the level or time periods of an apportionment?

You may request changes in the level or time periods covered by apportionments. OMB will consider apportioning funds for time periods other than calendar quarters or at levels other than the appropriation account whenever such periods or levels are more representative of program activities or will facilitate their execution.

Submit your proposed changes in a letter to OMB before you submit the initial apportionment schedule for the year. Exceptions may be made if special situations arise during the year.

20.12 Do unobligated resources apportioned in earlier time periods of the same fiscal year remain available?

Yes. Whenever budgetary resources are apportioned for time periods of less than a fiscal year (for example, fiscal quarters), any apportioned, but unobligated balances at the end of any period will remain available for obligation through the remainder of the current fiscal year without reapportionment, unless otherwise specified on the apportionment form.

20.13 Must I request that funds apportioned in one fiscal year be apportioned in the next fiscal year if the funds were not obligated and remain available?

Yes. When budgetary resources remain available beyond the end of a fiscal year, you must request a new apportionment action for the upcoming fiscal year for all accounts subject to apportionment, unless OMB determines otherwise. Budgetary resources apportioned for the upcoming fiscal year will include only estimated or actual unobligated balances brought forward. (That is, unrealized indefinite budget authority, transfers, reimbursements, and recoveries that were anticipated on the most recently approved apportionment form for the current year, as shown on the final SF 133 for the previous year, will not be apportioned.)

20.14 What is the status of previously approved apportionments when a new apportionment is approved, either in the same or a subsequent fiscal year?

New apportionment action for a fiscal year is independent of all apportionment actions of the previous year. Subsequent reapportionment action, including that necessitated by the enactment of legislation providing additional budget authority, will supersede previous apportionment action taken during the year and will cover all transactions from the beginning of the fiscal year. The last approved apportionment for a fiscal year will cover all transactions for that fiscal year.

20.15 What is the status of an apportionment that has been approved before the beginning of a fiscal year for a program covered by a continuing resolution?

When balances are apportioned prior to the beginning of a fiscal year but are supplemented by funds provided under a continuing resolution, the automatic apportionment approved by OMB, via an OMB Bulletin, will cover only the new amounts provided by the continuing resolution. The earlier apportionment will cover amounts not provided by the continuing resolution or available before the congressional action on the continuing resolution.

20.16 What transactions will be covered by apportionments approved after a continuing resolution has been replaced by an enacted appropriation?

A reapportionment approved after the enactment of an account's regular source of budget authority will cover all transactions from the beginning of the year, including those obligations incurred under the continuing resolution. Similarly, when OMB exempts balances from apportionment pending enactment of an account's regular source of budget authority, initial apportionment action for the new fiscal year will cover all transactions from the beginning of the year (for example, obligations incurred under any available unobligated balances as well as under authority provided by a continuing resolution).

20.17 Can I use an apportionment to resolve legal issues about the availability of funds?

No. The apportionment of funds should not be used as a means of resolving any question dealing with the legality of using funds for the purpose for which they are apportioned. Any question as to the legality of using funds for a particular purpose must be resolved through legal channels.

20.18 How does OMB indicate its approval or disapproval of comments on the apportionment?

Apportionment action by OMB implies approval of, or concurrence with, any comments inserted on the form by the agency. OMB specifically will note its disapproval of any such comments on the approved apportionment.

20.19 Who is responsible for preparing the apportionment request for allocation (transfer appropriation) accounts?

The agency administering the parent appropriation will submit a consolidated SF 132 that encompasses the parent account and all allocations. (Receiving agencies will not prepare an SF 132 for allocation accounts unless required by OMB.) The agency administering the parent account will indicate to the receiving agency what portion of the consolidated apportionment is transferred to the allocation account. Obligations incurred for the program as a whole are limited by the approved apportionments. In addition, the agency administering the parent account may suballot the amount, by time periods (akin to category A apportionments) or by activities or projects (akin to category B apportionments) to the receiving agency. Receiving agencies will be responsible for keeping obligations within the amount so specified; for example, the amount transferred to the allocation account or the suballotment, as appropriate.

20.20 Must I include a footnote regarding the one percent apportionment requirement to cover obligations in the canceled phase?

Yes. Unless otherwise informed by OMB, footnote each apportionment containing appropriations realized, as follows: "Pursuant to 31 U.S.C. 1553(b), not to exceed one percent of the total appropriations for this account is apportioned for the purpose of paying legitimate obligations related to canceled appropriations."