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## APPENDIX B -- CHECKLIST FOR FUND CONTROL REGULATIONS

The following items must be included in the fund control regulations submitted for OMB approval.

### 1. Statement of purpose.

At a minimum, the regulation should state broadly that its purpose is to prescribe procedures to be followed in the execution of the budget and articulate basic fund control principles and concepts.

Moreover, the regulation should state that it:

- Establishes policy with regard to the administrative control of funds.
- Prescribes a system for positive administrative control of funds designed to restrict obligations and expenditures (disbursements) against each appropriation or fund account to the amount available therein.
- Enables the agency head to determine responsibility for overobligation and overdisbursement of appropriations, apportionments, statutory limitations, allotments, suballotments, and other administrative subdivisions, as well as violations of limitations imposed by the agency.
- Provides procedures for dealing with violations of the Antideficiency Act as well as violations of limitations imposed by the agency, including reporting requirements.

### 2. Authority.

At a minimum the regulation should list the following:

A. Money and Finance. Title 31, United States Code:

- Sections 1341-1342, 1349-1351, 1511-1519 (part of the Antideficiency Act, as amended).
  - Sections 1101, 1104-1108, 3324 (part of the Budget and Accounting Act, 1921, as amended).
  - Sections 1501-1502 (part of section 1311 of the Supplemental Appropriations Act of 1950).
  - Sections 1112, 1531, 3511-3512, 3524 (part of the Budget and Accounting Procedures Act of 1950).
2. Title X of P.L. 93-344, found at 2 U.S.C. 681-688.
  3. OMB Circular No. A-34, "Instructions on Budget Execution," and related OMB guidelines.
  4. Other pertinent laws governing the agency's funds and appropriate agency internal regulations, if any.

### **3. Scope.**

The regulation should state that all organizations, appropriations, and funds are subject to the provisions of the regulation. If there are any exemptions, they must be clearly specified in the regulation. All exemptions are subject to the prior approval of OMB.

### **4. Definitions, terminology, and concepts.**

The agency regulation should have a section that specifies that the definitions, terminology, and concepts in OMB Circular No. A-34 apply. Agencies may restrict this to terms that are peculiar to, or have special meaning within, the agency, except that definition of the following terms should be included and should be identical to those included in Part I of OMB Circular No. A-34: apportionment, allotment, suballotment, administrative division or subdivision of funds, and agency limitations.

To the extent that OMB Circular No. A-34 or Treasury regulations do not provide a definition for a technical term, the section should include a definition for the term that the agency is proposing to use in the regulation.

### **5. Responsibility and functions of individuals.**

The agency regulation should describe by title or position those individuals within the agency charged with fund control responsibilities. At a minimum it should provide:

- A listing of the positions, including descriptions of the fund control responsibilities of each.
- An explanation of the responsibilities of each position with regard to investigating, reporting, and following up on Antideficiency Act violations, as well as violations of agency limitations that are not violations of the Antideficiency Act.

### **6. Actions prohibited.**

See section 22.2 of OMB Circular No. A-34 for general guidance. As a minimum the following should be included:

- *Violations of the Antideficiency Act.* A listing of all the basic actions prohibited by sections 1341, 1342, and 1517(a) of Title 31, U.S. Code (part of the Antideficiency Act), as they are interpreted and applied within the agency.
- *Violations of limitations that do not per se violate the Antideficiency Act.* A list and brief descriptions of all the agency's imposed restrictions including a statement describing the conditions under which violations of such restrictions constitute violations of the Antideficiency Act.

### **7. Penalties.**

The regulation should describe all criminal penalties, as well as any additional disciplinary measures imposed by the agency, for violations of the Antideficiency Act. In addition, penalties for violations of agency limitations and requirements that the agency does not consider subject to provisions of the Antideficiency Act should be provided.

The law provides that any officer or employee of the United States who violates the prohibitions of 31 U.S.C. 1341(a), 1342, or 1517(a) shall be subject to appropriate administrative discipline. Administrative discipline may consist of:

- Letter of reprimand or censure for the official personnel record of the officer or employee.
- Unsatisfactory performance rating.
- Transfer to another position.
- Suspension from duty without pay.
- Removal from office.

In addition, any person who knowingly and willfully violates these prohibitions shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.

### **8. Reporting requirements.**

At a minimum, the regulation should prescribe procedures for reporting apparent violations to responsible agency officials and to the President and the Congress. All violations must be reported immediately upon discovery. Antideficiency Act violations must be reported to the President, through OMB, in the form of a letter, signed by the head of the agency and to the Congress, as required by Part II of OMB Circular No. A-34.

Any individual with knowledge of a possible violation has the responsibility to report it. The regulation should specify to whom notification is to be given.

Subsequent actions taken to correct the cause of a violation do not eliminate that violation -- it is still required to be reported.

### **9. Relationship of accounting and fund control systems.**

Agency fund control systems must be fully supported by agency accounting systems.

The accounting system should provide for (a) recording all financial transactions affecting apportionments, reapportionments, allotments, agency restrictions, financial plans, program operating plans, obligations and expenditures, as well as anticipated, earned, and collected reimbursements, and (b) preparing and reconciling financial reports that display cumulative obligations, and the remaining unobligated balance, by appropriation and allotment, and cumulative obligations by budget activity and object class.

### **10. Apportionment.**

Agency procedures for requesting apportionment of funds are normally contained in other directives or manuals. However, the following should be included as part of the fund control regulation:

1. Briefly describe the agency's procedures for requesting the apportionment of funds. List position(s) and organizations responsible for such action.

2. Cite the basic internal agency directives covering the apportionment of funds. At the agency's option, general guidance covering apportionment action in connection with the following may be included:
  - Supplementals.
  - Reprogramming.
  - Transfer between accounts.
  - Deficiency apportionments.
3. Also discuss agency administrative control of funds policies that apply specifically to revolving funds, management funds, and trust funds, including those that are not apportioned. If there are any such funds which are not subject to the basic provisions of this regulation (note section 3), the procedures used to control them should be described in a separate section.

#### **11. Allotments and suballotments.**

The regulations should contain a general policy statement that allotments and suballotments will be established at the highest practical level, and each operating unit shall be financed from not more than one subdivision for each appropriation or fund (the Antideficiency Act establishes these objectives). In addition, this section should specify the criteria under which the allotment structure may be changed, and identify who has authority to approve such changes. It should again be emphasized that allotments and suballotments are subject to the provisions of the Antideficiency Act.

Taking into account these requirements, the section on allotments and suballotments should include the following:

A. Function and purpose of allotments and suballotments;

2. Restrictions:

- The sum of allotment amounts issued shall not exceed the apportionment.
- The sum of suballotment amounts issued shall not exceed the allotment amount.
- Allotments or other administrative subdivisions shall be fixed in amount and changed only when authorized by the authority who issued the subdivision initially.
- Congressional restrictions contained in appropriation acts shall be covered.
- Include other restrictions which the agency may want with respect to administrative subdivisions.

Part II should be used as a guide. However, it does not preclude an agency from establishing more stringent requirements for the allotment of reimbursements and other receipts.

C. Allotment procedures.

- Allotments and suballotments should be made using formal documents.
- These procedures should identify the officers authorized to issue allotments and suballotments and the officers and employees authorized to reduce them.

II At a minimum the following items should be documented:

- Amount available.
- Funding source (e.g., appropriations, reimbursements).
- Time period of availability.
- The position title of the official responsible and other agency limitations.
- Justification for changes in allotments. (In some cases, changes in allotments will cause the need for a reapportionment, which requires OMB approval.)

**12. Anticipated amounts and reimbursable work.**

Apportionments may include amounts of budgetary resources that are anticipated and others that arise from reimbursable work.

The regulations should incorporate the treatment of budgetary resources prescribed in sections 11.2 and 21.4 of OMB Circular No. A-34. Moreover, the regulations should include a requirement that all officials who receive allotments containing reimbursements or anticipated amounts will maintain constant and careful oversight to ensure that these are realized or earned as planned. If actual earnings or amounts realized are less than anticipated, appropriate funding adjustments shall be made and other appropriate action, including reapportionment, be taken.

**13. Deficiency apportionments.**

As a minimum the regulation should state: Apportionments that anticipate the need for a deficiency appropriation or a supplemental under 31 U.S.C. 1515, will be specifically identified on the apportionment request (SF 132).

To qualify as a deficiency apportionment, the request must be required by (1) laws enacted subsequent to the transmittal to Congress of the annual budget for the year, (2) emergencies involving human life, the protection of property, or the immediate welfare of individuals, or (3) specifically authorized by law.

The approval of a deficiency apportionment by OMB and its transmittal to Congress merely advises the Congress that funds appropriated to date are being obligated at a more rapid rate than previously anticipated. This notification does not guarantee that the Congress will approve any part of any associated supplemental requests and does not authorize the use of any amounts not yet provided.