

## SECTION 123—APPORTIONMENTS UNDER CONTINUING RESOLUTIONS

### Table of Contents

- 123.1 What is a continuing resolution (CR)?
- 123.2 How do I determine the rate for operations under a short-term CR?
- 123.3 How do I determine the amount automatically apportioned during a short-term CR by the Bulletin?
- 123.4 How does the Bulletin automatically apportion funding during a short-term CR?
- 123.5 How can anomalies impact funding for a TAFS during a short-term CR?
- 123.6 Am I required to submit an account-specific apportionment request while I am funded by a short-term CR?
- 123.7 How do recurring rescissions impact the rate for operations of a TAFS under a short-term CR?
- 123.8 Do recurring changes in mandatory programs impact the rate for operations under a short-term CR?
- 123.9 How is transfer authority applied during a short-term CR?
- 123.10 How is spending authority from offsetting collections or offsetting receipts that is provided in annual appropriation Acts apportioned during a short-term CR?
- 123.11 How are appropriated entitlement or other mandatory payments and activities under the Food and Nutrition Act of 2008 apportioned during a short-term CR?
- 123.12 Are earmarks or programs, projects, and activities (PPAs) in a TAFS apportioned on a pro-rata basis by the Bulletin during a short-term CR?
- 123.13 What is apportioned during a short-term CR to a TAFS that receives no funding in the House or Senate bill?
- 123.14 Do the amounts provided as a rate for operations remain available after a short-term CR expires?
- 123.15 Do short-term CRs limit the purposes for which funds may be obligated?
- 123.16 When may I request that OMB issue an exception apportionment during a short-term CR?
- 123.17 If I am funded by a short-term CR and have received an account-specific apportionment, will I have to submit account-specific reapportionment requests for each extension of the CR?
- 123.18 Are my credit programs funded under a short-term CR?
- 123.19 Do I have to request a warrant from Treasury for funds provided by a short-term CR?
- 123.20 Do I need to request a reapportionment after my full-year appropriation is enacted?
- 123.21 Will my full-year enacted appropriations cover obligations made during the CR?
- 123.22 What if the full-year enacted appropriations subsequently provided less budget authority than obligations incurred under the short-term CR?
- 123.23 What happens to my apportioned, unobligated short-term CR funding if the short-term CR is followed by a lapse in appropriations?

### Summary of Changes

Incorporates routine guidance from the OMB CR Bulletin (throughout section).

Provides guidance and an example for how to calculate the rate for operations of a TAFS during a CR (section [123.2](#)).

Provides guidance and an example for how to calculate a TAFS' amount automatically apportioned by the CR Bulletin (section [123.3](#)).

Explains CR anomalies and how they impact funding during a CR (section [123.5](#)).

Discusses recurring rescissions and how they impact the rate for operations of a TAFS during a CR (section [123.7](#)).

Explains when CHIMPs impact the rate for operations of a TAFS during a CR (section [123.8](#)).

Clarifies how mandated and permissive transfer authorities are applied to TAFS during a CR (section [123.9](#)).

Adds a new section on how appropriated entitlements and mandatory payments are apportioned during a CR (section [123.11](#)).

Deletes Exhibit 123 and incorporates the example previously included in the Exhibit into credit program guidance (section [123.18](#)).

### 123.1 What is a continuing resolution (CR)?

Continuing resolutions (CRs) are joint resolutions that provide continuing appropriations for part of a fiscal year or for a full fiscal year. A CR that covers only a part of a fiscal year is referred to as a "short-term" CR, and a CR that covers a full fiscal year is referred to as a "full-year" CR. A CR is often enacted when the Congress has not yet passed new appropriations bills by October 1 or when the President has vetoed congressionally passed appropriations bills. Because of the nature of a short-term CR, you should operate at a minimal level until after your regular fiscal year appropriations is enacted.

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

- The phrase in section 101 of the CR usually refers to the total appropriation for the account (i.e., 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).
- The phrase *also* refers to the specific activity (e.g., programs, projects, or activities) in order to determine whether the activity is a prohibited new start or not. In other words, when determining whether an activity was authorized to be carried out but was not executed or was carried out in the preceding year.

Usually, CRs do not provide specific dollar amounts in the legislative language for each Treasury Appropriation Fund Symbol (TAFS). Rather, they provide formulas for calculating the amounts appropriated for continuing projects and activities during the period of the CR. For more information on calculating these amounts, see section [123.2](#).

For short-term CRs, the annual OMB CR Bulletin ("Bulletin") automatically apportions a pro-rata share of funding available for most TAFSs. For more information on how the Bulletin apportions funding and how much is apportioned, see sections [123.3](#) and [123.4](#). There are some instances where TAFS will not receive an automatic apportionment pursuant to the Bulletin and an account-specific apportionment is

required during the short-term CR. Some of those instances are mentioned throughout this section and will be specifically addressed in the Bulletin.

The Bulletin is generally released after the enactment of an initial short-term CR and will contain any specific information regarding the execution of that year's CR. This section of the Circular provides general conceptual information on the apportionment and execution of short-term CRs. The Bulletin should be regarded as the official apportionment of CR funds and will refer to this section and section [120](#) of this Circular as necessary.

Amounts appropriated in a full-year CR are apportioned using the same processes that are used for full-year appropriations Acts. OMB does not typically issue a Bulletin for full-year CRs. Occasionally, short-term CRs will include provisions that provide a full-year appropriation for a specific TAFS. Such full-year appropriations are not automatically apportioned by the Bulletin and are not subject to the calculations discussed below.

### **123.2 How do I determine the rate for operations under a short-term CR?**

Short-term CRs routinely provide a formula for determining the rate for operations either in section 101 or in subsequent sections of the bill that may provide a particular rate for a program or account (anomaly). For over a decade, section 101 of short-term CRs has provided the same process for calculating the rate for operations formula and lists the previous fiscal year's appropriations Acts that are continued under the CR. In addition, section 101 sometimes includes an across-the-board (ATB) increase or reduction to the rate for operations. This section of the Circular provides guidance that assumes that future short-term CRs will continue with this structure; however, the annual Bulletin will specify the official formula based on each CR's legislative text.

"Rate for operations" is defined as the annualized level of resources that are available only through the period of time covered by a short-term CR. The terms *rate for operations* and *annualized level* are often used interchangeably. For consistency purposes, this section of the Circular uses "rate for operations."

The rate for operations must be calculated at the TAFS level. The rate for operations is provided to the TAFS with the period of availability in the appropriations Acts referenced in section 101, but updated to start in the fiscal year for which the CR applies. For example, annual funds appropriated in the FY 2020 appropriations Act for TAFS 012-3456/2020 result in a rate for operations in an annual TAFS for FY 2021 in a FY 2021 CR (i.e., 012-3456/2021). Follow the steps below to calculate the rate for operations for each applicable TAFS under section 101 of the CR:

- a) Take the full-year amount enacted in the appropriations Acts specified in section 101, including obligation limitations.
- b) Subtract any recurring account-specific rescissions, followed by agency-specific and then bill-wide reductions, if any, enacted in the appropriations Acts specified in section 101.
- c) Add or subtract non-expenditure transfers mandated by the appropriations Acts referenced in section 101. See section [123.9](#) for the definition of mandated transfers.
- d) Add or subtract any ATB increase or reduction specified in section 101 (if any).

For example, TAFS 012-3456/2020 was appropriated \$100 million in the FY 2020 appropriations Act referenced in section 101 of the 2021 CR. The appropriations Act referenced in section 101 also included a recurring rescission of \$50 million and directed that \$30 million shall be transferred to TAFS 012-

1234/2020. Assuming section 101 does not include an ATB increase or reduction, here's how the 2021 CR rate for operations for TAFS 012-3456/2021 would be calculated following the steps above.

- a) \$100 million (FY 2020 amount provided in Act referenced in section 101 of the CR)
- b) Subtract \$50 million (recurring rescission) = \$50 million
- c) Subtract \$30 million (mandated transfer to other TAFS) = \$20 million

Using this example, the rate for operations would be \$20 million, which would be reflected on line 1100 of the apportionment and/or any Treasury reporting (SF 133, etc.) for TAFS 012-3456/2021. For Treasury reporting and apportionment purposes, the rate for operations as provided by section 101 is reflected as a single number on line 1100, and any rescissions, mandated transfers, or ATB increases or decreases that are factored into the rate for operations as specified above are not identified on lines separate from 1100.

See section [123.5](#) for the rate for operations for enacted CR anomalies.

See section [123.7](#) for more information on recurring account-specific rescissions.

### **123.3 How do I determine the amount automatically apportioned during a short-term CR by the Bulletin?**

For a short-term CR, OMB usually issues a Bulletin to automatically apportion funds. This automatic apportionment applies to most TAFS, but not all. For particular TAFS, OMB may require a separate account-specific apportionment.

Note that you may not obligate funds under a short-term 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.

The last Bulletin that provided detailed guidance on how to execute the FY 2020 short-term CR can be found here:

[OMB Bulletin No. 19-04 \(FY 2020 CR\)](#)

Typically the Bulletin will not automatically apportion the full rate for operations for a TAFS. For instance, the Bulletin usually apportions the "pro-rata share" of the rate for operations through the period of the CR or any extension thereof. The pro-rata share is usually calculated by multiplying the rate for operations by the percentage of the year covered by the CR.

Using the example in section [123.2](#), the pro-rata share automatically apportioned to TAFS 012-3456/2021 for a CR ending December 15 would be calculated as follows:

\$20 million (rate for operations) x 20.82 percent (76 days/365 days (use 366 for a leap year))  
= \$4.164 million

If a full-year appropriations Act (including a full-year CR) is enacted before the CR period is over (e.g., December 10), the amounts automatically apportioned by the Bulletin are unaffected (see section [120.41](#)).

It may be determined that a TAFS should be apportioned less than the amount automatically apportioned by the Bulletin to ensure that an agency does not impinge upon the final funding prerogatives of the Congress. In these cases, an account-specific apportionment (section [120.2](#)) approved by OMB is required.

#### **123.4 How does the Bulletin automatically apportion funding during a short-term CR?**

The Bulletin automatically apportions the pro-rata share as a lump-sum amount on a Category B line. To get the lump-sum amount apportioned automatically to a Category A line, you need to receive concurrence from your RMO. If your RMO concurs, the pro-rata share automatically apportioned would only be reflected in the quarter in which the CR is enacted and/or extended and would not spread over quarters. If you would prefer to spread the automatically apportioned amount among more than one Category B line, you must request an account-specific apportionment from your RMO as soon as possible.

#### **123.5 How can anomalies impact funding for a TAFS during a short-term CR?**

Because the CR usually provides the funding levels and authorities enacted in the previous fiscal year, there may be cases where a program requires additional funding or different authorities to maintain operations during the CR. In these cases, a short-term CR may include a separate legislative provision addressing funding or authorities for a specific TAFS, an "anomaly". CR anomalies can impact a program in a number of different ways including, but not limited to, changing the rate for operations to provide additional funding, allowing more than the pro-rata share to be apportioned during the period of the CR ("spend-faster" anomalies), adding an authority not carried forward in section 101 of the CR, or removing or modifying an authority carried forward in section 101 of the CR. This section will focus on anomalies that change the rate for operations and spend-faster anomalies.

- a) *Anomalies that change the rate for operations.* This type of an anomaly may be required if the rate for operations provided by section 101 for a TAFS is not sustainable for the period of the CR. In order to increase the rate for operations of the TAFS above what is provided by section 101, additional authority is required. Using the example in section [123.2](#), an anomaly that would provide a higher than \$20 million rate for operations is below.

Sec. XXX. Notwithstanding section 101, amounts are provided for "Account 1234" at a rate for operations of \$150,000,000.

The example language replaces the \$100 million that is provided by section 101 of the CR with \$150 million. Based on the anomaly language, the new rate for operations would be calculated using the steps below. Note that all provisos and other authorities that applied to that funding under section 101, including recurring rescissions and transfers, continue to apply to the rate for operations provided by the anomaly unless specific legislative language is included in the anomaly to alter that authority.

- a) Take the full-year amount specified in the anomaly
- b) Subtract any recurring account-specific rescissions followed by agency-specific rescission and then bill-wide reductions, if any, as included in appropriations Acts referenced in section 101
- c) Add or subtract transfers mandated by the appropriations Acts referenced in section 101.

Here's how the 2021 rate for operations for TAFS 12-3456/2021 with the enacted anomaly would be calculated following the steps above:

- a) \$150 million (enacted amount in anomaly)
- b) Subtract \$50 million (recurring rescission) = \$100 million
- c) Subtract \$30 million (mandated transfer to other TAFS) = \$70 million.

The rate for operations would be \$70 million under the FY 2021 CR, which would be reflected on line 1100 of the apportionment and/or any Treasury reporting (e.g., SF 133). The pro-rata share automatically apportioned by the Bulletin would be calculated using the \$70 million.

b) *Spend-faster Anomalies.* Sometimes it may not be necessary for a TAFS to receive a higher rate for operations, but the TAFS may need more funding apportioned than the pro-rata share automatically apportioned by the Bulletin. This could be for a number of reasons, including, but not limited to, higher obligations anticipated during the expected period of the CR. Below is example anomaly language that would allow TAFS 012-3456/2021 to be apportioned more than the pro-rata share automatically apportioned.

Sec. XXX. Amounts made available by section 101 for "Account 1234" may be apportioned up to the rate for operations necessary to maintain activities x, y, and z.

With this language enacted, TAFS 012-3456/2021 would still receive a rate for operations of \$20 million (see section [123.2](#)), but the TAFS may receive an account-specific apportionment during the period of the CR for an amount greater than the amount automatically apportioned (\$4.164 million) as long as the rate for operations is not exceeded.

For example, instead of basing the pro-rata share calculation on 76 days for a CR starting October 1 and ending December 15, this type of anomaly could allow the TAFS to be apportioned a pro-rata share based on 90 days for a CR of the same duration. Accordingly, the amount apportioned for TAFS 012-3456/2021 pursuant to the spend-faster anomaly for a CR starting October 1 and ending December 15 could be calculated as follows:

\$20 million (rate for operations) x **24.66** percent (90 days/365 days (use 366 for a leap year))  
= **\$4.932** million

An account-specific apportionment must be approved by OMB before the agency may obligate at a rate higher than the pro-rata share automatically apportioned by the Bulletin pursuant to the authority provided by a spend-faster anomaly. Using the example above, the Bulletin would apportion TAFS 12-3456/2021 \$4.164 million unless and until an account-specific apportionment is approved by OMB.

Absent an enacted spend-faster anomaly, if a TAFS requires an amount that exceeds the amount automatically apportioned by the Bulletin, an exception apportionment must be requested by the agency and approved by OMB. For more information on exception apportionments, see section [123.16](#).

**123.6 Am I required to submit an account-specific apportionment request while I am funded by a short-term CR?**

Generally, no. OMB will typically issue a Bulletin to automatically apportion amounts made available by a CR and may provide additional guidance on the types of account-specific apportionments that may be required and other specific CR execution issues.

### 123.7 How do recurring rescissions impact the rate for operations of a TAFS under a short-term CR?

Rescissions or cancellations of discretionary prior-year balances that were included in the prior-year appropriation Acts specified in section 101 of a short-term CR continue during the CR period and are factored into the rate for operations calculation as shown in section [123.2](#). OMB typically includes an attachment to the Bulletin that lists rescissions or cancellations enacted in the previous fiscal year that impact the current CR. The attachment also usually includes the level at which such rescissions recur to provide the amount to use when calculating the rate for operations. For example, Attachment B of the [FY 2020 Bulletin](#) lists rescissions by TAFS, categorizes each recurring rescission by how it should be applied during the CR, and also indicates which rescissions do not recur and should not be factored into the rate for operations.

As indicated in the FY 2020 Bulletin Attachment B, some recurring rescissions will be applied to new budget authority provided by section 101 of the CR based on the way the appropriations language directing the rescission is written. If the rescission language is broad enough to be applied to the budget authority provided by section 101 of the CR, it will be factored into the rate for operations. If the rescission language is more restrictive and can only apply to prior-year discretionary balances in a TAFS that does not receive a rate for operations under section 101 of the CR, an account-specific apportionment by OMB is required to preclude these balances from obligation during the period of the CR.

The only exception to this account-specific apportionment rule for recurring rescissions of prior-year balances is if language is enacted in the CR to allow Treasury Account Symbols (TAS) that have this type of rescission to effectuate it as a reduction in the rate for operations of the current applicable TAFS. "Current applicable TAFS" refers to any of the TAFS within a TAS for which a rate for operations is provided by section 101 of the CR. For FY 2020, this authority was provided in section 115 of the first CR (P.L. 116-59). With this authority, recurring rescissions of prior-year balances can be factored into the rate for operations calculation of the current applicable TAFS and will be automatically apportioned by the Bulletin, unless otherwise directed. Additional details and specific instructions on recurring rescissions will be included in the Bulletin.

### 123.8 Do recurring changes in mandatory programs impact the rate for operations under a short-term CR?

Changes in mandatory programs (CHIMPs) that continue as terms and conditions under section 101 of the CR and result in the reduction of mandatory funding (rescissions/cancellations, mandated transfers to other TAFS, obligation delays, etc.) are not factored into the rate for operations. An account-specific apportionment is required during the period of the CR to preclude applicable resources from obligation. Reductions of this kind are typically included in an attachment to the Bulletin. For example, the reductions were included in Attachment C of the [FY 2020 Bulletin](#).

CHIMPs that continue as terms and conditions under section 101 of the CR and do not result in a reduction of mandatory funding (e.g., appropriations for or mandated transfers to mandatory programs) are factored into the rate for operations calculation for those TAFS and are automatically apportioned by the Bulletin.

For more information on CHIMPs, see section [20.3](#).

### 123.9 How is transfer authority applied during a short-term CR?

Non-expenditure mandated transfers in the appropriations Acts referenced in section 101 are factored into the rate for operations of both the giving and receiving TAFSs. Therefore, agencies do not have to

execute the non-expenditure transfer, report transfers in GTAS, or reflect these transfers separately in account-specific apportionments, except as a preclusion for items discussed below.

For the purposes of calculating a rate for operations under a short-term CR, a mandated transfer is defined as one in which the legislative transfer authority provided in the prior fiscal year appropriations Acts referenced in section 101 provides a specific dollar amount to be transferred and does not provide any flexibility for the agency to change that dollar amount or to choose the giving and receiving TAFSS involved in the transfer. Only mandated transfers that were executed as non-expenditure transfers in the previous fiscal year factor into the rate for operations calculation.

If the giving TAFS does not have a rate for operations under section 101 an account-specific apportionment is required during the period of the CR to preclude the applicable resources from obligation. Section [123.8](#) discussed the account-specific apportionment required if the giving TAFS is mandatory. If the giving TAFS is discretionary and does not have a rate for operations, a similar account-specific apportionment is required.

Not all mandated transfers in the previous fiscal year's appropriations Act use the language "shall transfer". For instance, the appropriations language could instead call for funds to be derived from a specific source other than the general fund of the Treasury. If such authority was executed as a non-expenditure transfer the previous fiscal year, then it is considered a mandated transfer for purposes of calculating the rate for operations. Two such examples are listed below:

"For necessary expenses of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, \$250,000,000, to be derived by transfer from the Postal Service Fund and expended as authorized by section 603(b)(3) of the Postal Accountability and Enhancement Act (Public Law 109-535)."

"For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, \$42,982,000, to be derived from the Deposit Insurance Fund, or, only when appropriate, the FSLIC Resolution Fund."

Mandated transfers that were executed as expenditure transfers in the previous fiscal years are not used to calculate the rate for operations of the giving and receiving TAFSS. Instead, the giving TAFS retains the rate for operations and should execute the expenditure transfer from amounts apportioned to them during the period of the CR.

Permissive transfer authority does not factor into a rate for operations. For purposes of calculating a rate for operations under a short-term CR, permissive transfer authority is defined as legislative transfer authority that provides flexibility in the amount transferred and/or the giving and receiving TAFS involved in the transfer. Below are some examples of transfer authority that is considered permissive for purposes of calculating the rate for operations:

"of which not to exceed \$9,000,000 may be transferred to the Working Capital Fund:"

"up to 2 percent of funds made available for grant or reimbursement programs under such headings shall be transferred..."

"Provided further, That any such amounts from the fund that the Attorney General determines are necessary to pay, first, for the costs of processing and tracking civil and criminal debt collection litigation activities, and thereafter for financial systems and for debt-collection-related personnel, administrative, and litigation expenses, in fiscal year 2020 and thereafter, shall be transferred to other appropriations accounts in the Department of Justice for paying the costs of such activities,



and shall be in addition to any amounts otherwise made available for such purposes in those appropriations accounts:"

In addition, any transfer authority provided in legislation outside of the appropriations Acts referenced in section 101 (i.e., authorized transfer authority) does not factor into the rate for operations.

An agency may utilize permissive or authorized transfer authority from within the amounts apportioned to it during the CR. The agency would need to request an account-specific apportionment for both the giving and receiving TAFSs in order to obligate against the transferred resources.

If an agency is executing general transfer authority that has a percentage limit on the amount that can be given or received (e.g., not more than five percent may be transferred or not more than ten percent may be received), that percentage limitation is calculated against the rate for operations of the applicable TAFS. However, as stated above, the actual amounts that may be transferred are limited to the amounts apportioned to the giving TAFS.

In some cases, permissive transfer authority is provided to move funding between TAFSs within the same TAS. For example, for a TAS that has a \$10 million appropriation with a one-year period of availability (POA) and a permissive carve-out ("up to," "not more than," or "not to exceed") of \$2 million with a multi-year POA, the rate for operations for the account would be \$10 million in the one-year TAFS. The agency would then have to execute a non-expenditure transfer to the multi-year POA to move amounts from within the amounts apportioned in the one-year TAFS for the period of the CR. The agency may transfer up to the \$2 million statutory cap, as long as that amount is within the amounts apportioned. The agency would need to request an account-specific apportionment for both the giving and receiving TAFSs in order to obligate against the transferred resources. See section 120.41 for similar guidance for automatic apportionment authority for the full-year enacted appropriation.

### **123.10 How is spending authority from offsetting collections or offsetting receipts that is provided in annual appropriation Acts apportioned during a short-term CR?**

In order to determine how apportionment of spending authority from offsetting collections or offsetting receipts that is provided in annual appropriations Acts is effectuated under a CR, it is imperative to first determine if the authority is under the rate for operations formula or is a term and condition of the CR and therefore not funded within the rate for operations. In general, if the previous fiscal year's appropriations Act appropriated a specific dollar amount to an account – all or some of which would be derived from offsetting collections or offsetting receipts – then that dollar amount is a rate for operations. If the CR provides additional authority to spend what is collected (i.e., not a specific dollar amount), then such authority is a term and condition and not a rate for operation, so it requires a separate account-specific apportionment. In some cases, an agency may have a blanket apportionment to cover all spending authority provided as a term and condition of a short-term CR.

For example, in the following language below, the \$8.0 million is the rate for operations and therefore is pro-rated under the automatic apportionment provided by the Bulletin. However, the authority in the second proviso to spend additional funds collected above \$8.0 million is a term and condition. A separate account-specific apportionment is required to obligate pursuant to the authority provided in the second proviso.

"For necessary expenses to carry out section 3024 of the Solid Waste Disposal Act ([42 U.S.C. 6939g](#)), including the development, operation, maintenance, and upgrading of the hazardous waste electronic manifest system established by such section, \$8,000,000, to remain available until expended: Provided, That the sum herein appropriated from the general fund shall be reduced as offsetting collections under such section 3024 are received during fiscal year 2019,

which shall remain available until expended and be used for necessary expenses in this appropriation, so as to result in a final fiscal year 2019 appropriation from the general fund estimated at not more than \$0: Provided further, That to the extent such offsetting collections received in fiscal year 2019 exceed \$8,000,000, those excess amounts shall remain available until expended and be used for necessary expenses in this appropriation."

In the second example below, the authority to collect and spend fees does not specify a dollar amount and therefore not part of the rate for operations. This spending authority is not automatically apportioned by the Bulletin and therefore requires a separate account-specific apportionment.

"The Administrator of the Environmental Protection Agency is authorized to collect and obligate pesticide registration service fees in accordance with section 33 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by Public Law 112-177, the Pesticide Registration Improvement Extension Act of 2012."

### **123.11 How are appropriated entitlement or other mandatory payments and activities under the Food and Nutrition Act of 2008 apportioned during a short-term CR?**

Typically, the short-term CR contains a provision that states that for appropriated entitlements and other mandatory payments whose budget authority was provided in the previous fiscal year's appropriations Acts referenced in section 101, and for mandatory payments and activities under the Food and Nutrition Act of 2008, activities shall continue at the rate necessary to maintain program levels under current law and under the authority and conditions of the previous fiscal year's appropriations Act. In other words, these programs operate as normal. Additionally, the provision of the CR typically provides an additional 30 days of obligational authority and funding beyond the end date of the short-term CR, including any government shutdowns.

The Bulletin typically apportions such sums as are necessary to maintain program levels as specified above. These programs are not limited to a pro-rata share or to a funding total provided in the previous fiscal year's fiscal appropriations Acts referenced in section 101.

The programs provided this authority are within the accounts identified in the joint explanatory statement of managers accompanying the conference report on the Balanced Budget Act of 1977 ([House Report 105-217](#), see page 1014), or accounts with legislatively enacted directed scoring making otherwise discretionary appropriations mandatory.

### **123.12 Are earmarks or programs, projects, and activities (PPAs) in a TAFS apportioned on a pro-rata basis by the Bulletin during a short-term CR?**

No. The Bulletin automatically apportions the pro-rata share for each TAFS based on the rate for operations for the entire TAFS without regard to any earmarks or PPAs within the TAFS, and without a requirement that such earmarked amounts or PPAs also be pro-rated. Legislative earmark provisions continue as terms and conditions of the CR, and as such, they continue to remain in effect during the period of the CR. As in the case with other terms and conditions continuing in effect under a CR, agencies must comply with and not breach earmark provisions over the course of the fiscal year, including during the period of a CR.

### **123.13 What is apportioned during a short-term CR to a TAFS that 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 a whole TAFS (as opposed to merely providing no funding for a project, program or

activity within a TAFS) at the time the CR is enacted, that TAFS is automatically apportioned zero, even if that TAFS receives a rate for operations under section 101. An agency must submit an account-specific apportionment request to OMB if the agency wants funds apportioned for that TAFS during the period of the CR, including any extensions of the CR. Agencies must also submit a written justification for any such request. This restrictive funding action is to ensure that an agency does not impinge on final funding prerogatives of the Congress.

However, if subsequently either the House or Senate does take action during the short-term CR to either report out of committee or pass an appropriations bill that provides funding for an account the TAFS, then the TAFS would be under the automatic apportionment as provided by the Bulletin.

#### **123.14 Do the amounts provided as a rate for operations remain available after a short-term CR expires?**

It depends on the legislative action that follows the short-term CR or the absence of legislation that follows the CR (e.g., a lapse in appropriations). Generally, CRs make amounts available for obligation only until a time specified by the CR or until the enactment of regular fiscal year appropriations, whichever occurs first. A CR normally provides temporary funding and may specify 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, and it is also generally assumed that the full-year enacted level will be close to the level provided by the CR's rate for operations. Consult your RMO if your full-year enacted level is much lower than the amounts apportioned against the CR's rate for operations. If a full-year CR follows a short-term CR, agencies must submit a reapportionment request for the full-year appropriations (see section [123.20](#)).

This rule does not apply to unobligated funds from a rate for operations provided by a short-term CR if that CR is followed immediately by a lapse in appropriations (see sections [120.56](#), [123.23](#)).

#### **123.15 Do short-term CRs limit the purposes for which funds may be obligated?**

Generally, yes. A CR makes amounts available subject to the same terms and conditions specified in the enacted appropriations acts from the prior fiscal year unless otherwise stated in the statutory text. Normally, an agency is **not** permitted to start new PPAs for which authority did not exist in the previous fiscal year.

#### **123.16 When may I request that OMB issue an exception apportionment during a short-term CR?**

If an agency seeks an amount for a TAFS that is more than the pro-rata share automatically apportioned by the Bulletin, and the short-term CR does not provide that TAFS a spend-faster anomaly, then the agency may request an exception apportionment from OMB. Each request for an exception apportionment must be accompanied by a written justification that includes the legal basis for the request. OMB grants exception apportionment requests only in extraordinary circumstances. This is different from an account-specific apportionment for a spend-faster anomaly provided in the CR itself.

An exception apportionment may be requested on the following bases:

- *Seasonality.* This basis 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 account-specific apportionments. 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.

- *Annualizing a new program.* This basis involves situations where a new program began late in the previous fiscal year and the partial year funding level for the previous fiscal year would not be sufficient to fund a full year's rate for operations this year.
- *Safety of human life or protection of Federal property.* This basis involves situations where the obligations could legally be incurred under the Antideficiency Act during a Government-wide lapse of appropriations.

### **123.17 If I am funded by a short-term CR and have received an account-specific apportionment, will I have to submit account-specific reapportionment requests for each extension of the CR?**

No. In the case of TAFS that receive an account-specific apportionment at any time during a short-term CR period (exclusions noted below), the automatic apportionment provided by the Bulletin will apply to such TAFSS under any subsequent extensions of the CR, provided that the total amount apportioned during the short-term CR period does not exceed the rate for operations provided by the CR. However, any footnotes on the account-specific apportionment continue to apply to the TAFS when subsequently operating under the automatic apportionment.

Agencies must, however, submit account-specific apportionments for each extension of the CR for TAFS with zero-funding or utilizing a spend-faster anomaly. For TAFS with zero funding, account-specific apportionments must be submitted for each CR extension—there is no automatic apportionment. If an agency has already been apportioned a spend-faster anomaly or account-specific apportionment, then for subsequent extensions of the CR you will be only automatically apportioned an additional pro-rata share of the rate for operations. If an agency seeks to utilize the spend-faster CR anomaly for any CR extension, the agency must once again submit an account-specific apportionment.

A full-year CR is not considered an extension of a short-term CR. The Bulletin typically does not apportion additional funding for a full-year CR. If a full-year CR is enacted, an agency must request a reapportionment **within 10 calendar days** of the enactment of the full-year CR (see section [123.20](#)).

If an agency needs a reapportionment of carryover balances or any other budgetary resource not provided by the CR, after the Bulletin is in effect, and the agency's RMO does not require the agency to show the CR budgetary resources on the reapportionment, then the agency must footnote the reapportionment as follows ("A" footnote on line 6190 total budgetary resources):

"In addition to the amounts apportioned above, this account is also receiving funds pursuant to Public Law XXX-XXX as automatically apportioned via OMB Bulletin XX-XX."

If the CR is extended (e.g., a subsequent law amends the CR to extend the date of its applicability), then add "as amended" after "Public Law XXX-XXX" in the above footnote.

### **123.18 Are my credit programs funded under a short-term CR?**

Yes. Appropriations for subsidy cost amounts associated with direct and guaranteed loan activities that were conducted in the prior fiscal year are provided as a rate for operations in the same manner as other appropriations. Normally, the CR allows agencies 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). If there is an enacted credit limitation (i.e., a limitation on loan principal or commitment level) in the previous fiscal year, the automatic apportionment is the pro-rata share of the credit limitation or rate for operations, whichever is more restrictive.

In the two examples below, the appropriations Act specified in section 101 appropriates \$5 million for subsidy costs and \$200 million in loan limitation for direct loans. Assume the CR covers the first quarter of the fiscal year (92 days), which results in a pro-rata share of roughly 25%, and that the prior fiscal year’s subsidy rate was 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 apportioned by the Bulletin for credit programs.

To determine the amounts apportioned during a 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:  $25\% \times \$200 \text{ million} = \$50 \text{ million}$ . The pro-rata share of the credit limitation would support a loan level of \$50 million.

Step 2 – Calculate the pro-rata share of the subsidy appropriation:  $25\% \times \$5 \text{ million} = \$1.25 \text{ million}$ .

Step 2A – Calculate the loan level that \$1.25 million would support:

- To calculate the loan level, take budget authority and divide by the current subsidy rate (pro-rata share/subsidy rate = loan level).
- $\$1.25 \text{ million} / .0800 = \$15.625 \text{ million}$ . The pro-rata share 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 subsidy provides for a lower loan level (\$15.625 million < \$50 million), the pro-rata share of the subsidy is the amount automatically apportioned by the Bulletin.
- Under the CR, this direct loan program may obligate up to \$1.25 million for subsidy costs, which may support a loan level of \$15.625 million.

Example 1: Current subsidy rate = 8.00%		Pro-rata share (25%)	Pro-rata loan level	Amounts available under CR
Credit limitation	200,000,000	50,000,000	50,000,000	1,250,000 in subsidy to support a loan level of 15,625,000
BA	5,000,000	1,250,000	15,625,000	

Example 2: Current subsidy rate =		1.00%		
		Pro-rata share (25%)	Pro-rata loan level	Amounts available under CR
Credit limitation	200,000,000	50,000,000	50,000,000	50,000,000 loan level which requires
BA	5,000,000	1,250,000	125,000,000	500,000 in BA for subsidy cost

See section [185.24](#) for further information regarding the subsidy rates to be used for loans or loan guarantees at execution.

**123.19 Do I have to request a warrant from Treasury for funds provided by a short-term CR?**

Generally, no. Treasury will not issue a warrant under a short-term 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 short-term CR extends beyond the second quarter of the fiscal year. Further Fiscal Service Treasury guidance may be found on the USSGL website (<https://www.fiscal.treasury.gov/ussgl/resources-implementation.html#budgetary>).

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

Yes. You must request a reapportionment **within 10 calendar days** of the enactment of your full-year appropriations Act (including a full-year CR), even if the period covered by the CR has not expired. In the Previous Approved column, include the amounts apportioned under the short-term CR (including automatic apportionment amounts as provided by the Bulletin and section [120.41](#). See exhibit [120H](#) and section [120.61](#)). The total amount subject to reapportionment will equal the total amount made available for the fiscal year in the regular appropriation. See 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 as specified in section [120.41](#).

**123.21 Will my full-year enacted appropriations cover obligations made during the CR?**

Yes. Normally, your full-year enacted appropriations will cover all obligations made during the CR. However, there could be exceptions. See section [123.14](#) for an example of an exception.

Additionally, if the enacted full-year appropriations provides funds in a TAS that is a different period of availability (i.e., a different TAFS) than was provided under the short-term CR, see section [120.63](#).

**123.22 What if the full-year enacted appropriations subsequently provided less budget authority than obligations incurred under the short-term 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 [123.15](#) have been met.

**123.23 What happens to my apportioned, unobligated short-term CR funding if the short-term CR is followed by a lapse in appropriations?**

During a lapse in appropriations, any unobligated funding from a rate for operations that was provided by the CR and apportioned by OMB is not available for obligation. This includes unobligated funds from rate for operations for to multi-year and no-year TAFSs by the CR. This also includes any apportionments related to the authority provided as term and condition of the CR to be able to retain and spend collections.

If the short-term CR includes a provision that provides a full-year appropriation to a specific TAFS, amounts apportioned from that specific appropriation remain available during a lapse in appropriations.

