



G A O

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United States General Accounting Office
Washington, DC 20548

B-300373

December 20, 2002

The Honorable C.W. Bill Young
Chairman

The Honorable David R. Obey
Ranking Minority Member
Committee on Appropriations
House of Representatives

The Honorable Robert C. Byrd
Chairman

The Honorable Ted Stevens
Ranking Minority Member
Committee on Appropriations
United States Senate

**Subject: Continuing Resolution Mandate to Identify Accounts for Which
Apportionments Differ From the Current Rate**

Section 134 (d)(2) of the Fiscal Year 2003 Continuing Resolution, as amended by Public Law 107-240, required the Comptroller General to identify executive branch accounts for which apportionments made from funds appropriated or authority granted by the joint resolution provide for a rate of operations that differs from the current rate.

Current rate is defined by the continuing resolution as having the same meaning given to the term by Office of Management and Budget Bulletin No. 01-10, *i.e.*, the net amount enacted in FY 2002 (plus supplementals and minus rescissions), plus unobligated balances carried forward from FY 2001 (if any), minus unobligated balance at the end of FY 2002 (if any). This amount is multiplied by the lower of: the percentage of the year covered by the continuing resolution (the prorata rate), or the historical seasonal rate of obligations for the period of the year covered by the continuing resolution (the seasonal rate). Furthermore, the continuing resolution directs that any unobligated balances carried over from Public Law 107-38 (except funds transferred by division B of Public Law 107-117) and specific nonrecurring/one-time spending items not be included in the "current rate" calculation.

On December 10, 2002, we briefed your offices on the results of our work. This report transmits the materials that formed the basis for that briefing.

Results in Brief

Of the one hundred twenty accounts we reviewed, we found the following:

- Only one account, the salaries and expenses (S&E) account of the National Science Foundation (NSF), was not apportioned in accordance with the continuing resolution. NSF used a prorated current rate of 14.94 percent (based on compensable days) instead of 14.52 percent (53/365). NSF advised that this was necessary to permit them to meet payroll. The Office of Management and Budget (OMB) advised us that NSF did not request a written higher apportionment for its S&E account. After discussions with GAO, NSF informed us that it has now reapportioned continuing resolution funding (October 1 to January 11) based on calendar days.
- For six accounts OMB provided a written higher apportionment (two of the accounts were apportioned at higher than the seasonal rate but lower than the prorata rate).
- For most of the other accounts the apportionments were on a prorata basis, i.e., 14.52 percent (53/365 days).
- Six accounts used a lower seasonal rate.
- For seven accounts the current rate is inapplicable for various reasons (see Appendix I of enclosure). For example, for the Department of Housing and Urban Development, Public & Indian Housing Programs, Housing Certificate Fund, HUD advised that it is using available FY 2001 unobligated balances. Therefore, it stated that no apportionment of FY 2003 budget authority is necessary.

Appendix I of the enclosure contains lists of the accounts selected for review, accounts for which the current rate is not applicable, accounts that had seasonal apportionment, and accounts that received a written apportionment from OMB. You also requested a list of all accounts that had one-time expenditures as listed in OMB Bulletin 02-06. We will provide these separately.

Scope and Methodology

As agreed with your staff, we selected a sample of accounts to examine. First, we excluded accounts in the legislative and judicial branches as outside the scope of the section's coverage. In addition, we excluded accounts covered by an enacted appropriation (the Department of Defense and the Military Construction Appropriations Acts) and the appropriation for the District of Columbia. We then

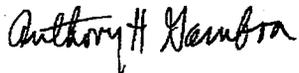
drew a sample of the largest discretionary accounts under each subcommittee for each agency. This yielded a sample that included all twenty-four Chief Financial Officer agencies. Committee staff added other accounts of particular interest. This yielded one hundred twenty accounts in thirty-one agencies.

We requested documents, interviewed knowledgeable officials, compared the agencies' math with our math, and followed up any differences with agency officials. Generally, the officials provided technical clarifications that resolved or explained the differences.

Supplemental appropriations, one-time spending items, and historical seasonal rates were not independently verified. We performed our work on this assignment from October to December 2002. Since we received information directly from the agencies and discussed any differences directly with agency staff, we did not seek written comments. A detailed description of our methodology is included in the enclosure.

This work was done under the direction of Susan A. Poling, Associate General Counsel, and Susan Irving, Director for Federal Budget Analysis, Strategic Issues. If you or your staff have any questions on the matters discussed in this report, you may contact them at 202-512-5644 or 202-512-9142. Major contributors to this report were Carlos Diz, Denise Fantone, Jacqueline Nowicki, Hannah Laufe, and Alice Feldesman.

Sincerely yours,



Anthony H. Gamboa
General Counsel

Enclosure

Continuing Resolution Current Rate Report

House & Senate Appropriations
Committees

Continuing Resolution (CR) Mandate: Requirement

Section 134(2) of the Fiscal Year 2003 Continuing Resolution, Public Law 107-229, as amended by Public Law 107-240, requires the Comptroller General to identify executive branch accounts for which apportionments made from funds appropriated or authority granted by the joint resolution provide for a rate of operations that differs from the current rate, within the meaning of sections 101 and 105, and report findings to the Committees on Appropriations.

Scope: Account Coverage

- We excluded accounts covered by enacted appropriations [Military Construction and Department of Defense]; D.C., Legislative & Judicial Branches.
- We drew a sample of largest discretionary accounts under each subcommittee for each agency; included all 24 CFO agencies plus others.
- Appropriations Committee staff added other accounts of particular interest.
- Results: 120 accounts in 31 agencies. [see Appendix I for list].

Results: What we found

- Only one account, the salaries and expenses account of the National Science Foundation (NSF), was not apportioned in accordance with the continuing resolution. NSF used a prorated current rate of 14.94% based on compensable days instead of 14.52% (53/365). NSF advised us that this was necessary to permit them to meet payroll. OMB advised us that NSF did not request a written higher apportionment for its S&E account but would have provided one if necessary to permit NSF to meet payroll. After discussions with GAO, NSF informed us that it has now reapportioned continuing resolution funding (October 1 to January 11) based on calendar days.
- For six accounts OMB provided a written higher apportionment (two of the accounts were apportioned at higher than the seasonal rate but lower than the prorata rate).
- For most of the other accounts the apportionments were calculated on a prorata basis, i.e., 14.52% (53/365 days).

Results: What we found (cont'd)

- Six accounts used a seasonal rate for their automatic apportionments (see Appendix I).
- For seven accounts the current rate appeared not to be applicable for various reasons, e.g., Housing and Urban Development [using 2001 unobligated balances; no 2003 continuing resolution apportionment necessary], civil service retirement & disability fund [administrative funds transferred to S&E account and apportioned there] (see Appendix I for complete list of these accounts).

Methodology: Process

- Sent letter to each department/agency head describing mandate, listing accounts to be covered, requesting point of contact for each account, documents, and the agency's "CR math"-- i.e., how agency computed its current rate.
- Conducted structured phone interview with agency contact for each account.
- Since we received information directly from the agencies and discussed any differences directly with agency staff, we did not seek written comments.

Methodology cont'd

- GAO staff analyzed documents submitted & independently calculated the current rate for each account. This calculation was compared to the CR math provided by agency. Also examined interviews to check for consistency.
- Made follow-up phone calls to agencies to clarify any differences in CR math between agency documents and GAO calculations.

Agency Cooperation

- Agencies were largely cooperative. For a few it took more effort and persistence to obtain information:
 - GSA, USDA & Transportation required repeated requests & persistent follow up to get documents & CR math.
 - AID sent documents but knowledgeable staff were unavailable in a timely manner.

Limitations

Given the way Continuing Resolutions work, particularly this fiscal year's CR, there are limitations in this methodology:

- Agencies provided SF 132s for unobligated balances carried over from FY '02 to '03 but no documentation for what agencies describe as current actual unobligated balances.
- Unless an agency is requesting a variance, the OMB Bulletin authorizes an automatic apportionment in lieu of an approved SF 132.
- Supplementals, one-time spending items, and historical seasonal rates were not independently verified.
- Across-the-board rescissions of administrative and travel funds were not independently verified.

Results: CR Math

- Where there was a difference between GAO document review and agency CR math, GAO called to obtain an understanding of the difference
 - Note: difference of \$1 million or less was considered de minimus.
 - In general, professional budget staff in agencies were familiar with rules.

CR Math: Typical Differences

- Differences between GAO document review and agency math were found most frequently in these categories:
 - Calculation of estimated unobligated balances carried over from FY '01 into '02.
 - Calculation of estimated unobligated balances carried over from FY '02 into '03.
 - Executive branch-wide rescissions made in fiscal year 2002 specified by agencies.
- Missing documents not transmitted in first response to GAO request for documents often contained clarifying information.

One-Time Exclusions

There were several instances in which agencies excluded one-time, non-recurring items from their CR math calculations. These one-time exclusions were not independently verified. GAO will provide a list to the Appropriation Committees separately.

Appendix I: Account Information

- Accounts selected for review
- Accounts for which current rate calculation is inapplicable
- Accounts for which seasonal apportionment was used
- Accounts which received written apportionment from OMB

Appendix I: Original List of Accounts

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Department/Agency	Bureau	Account
Interior	NPS	Operation of the national park system
Interior Interior	Office of Special Trustee for USGS	Office of Special Trustee for American Surveys, investigations, & research
Justice	FBI	Salaries and expenses
Justice	Federal Prison System	Salaries and expenses
Justice	INS	Immigration enforcement
Justice Justice	Legal Activities and U.S. Marshals	Salaries and expenses, U.S. Attorneys
Justice	Office of Justice Programs	State & Local Law Enforcement Assistance -Local law enforcement block grants
Justice		Community Oriented Policing Services – Public safety & community policing grants
Justice		Justice Assistance
Labor	Departmental management	Salaries and expenses
Labor	ETA	Training & employment services

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Department/Agency	Bureau	Account
Energy		Fossil energy research & development
HHS	FDA	Salaries and expenses
HHS	CDC	Disease control, research & training
HHS	Agency for Health Care, Research & Quality	Health care, research & quality
HHS	Administration on Aging	Aging services programs
HHS	NIH	Buildings & Facilities
HHS	NIH	NIAID
HHS	ACF	Children & families services programs
HHS		Low income home energy assistance
HHS	HRSA	Health resources & services
HHS	Departmental Management	Public health & social services –emergency fund
HUD	Public & Indian Housing Programs	Housing certificate fund
HUD		Public housing operating fund
HUD	Community Planning & Development	Community development block grants
HUD		Homeless assistance grants
Interior	Bureau of Reclamation	Water & related resources
Interior		Central Valley project restoration fund
Interior	BIA	Operation of Indian programs

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Department/Agency	Bureau	Account
USDA	Food & Nutrition Service	Special supplemental nutrition program for women, infants, & children (WIC)
USDA	Agricultural Research Service	Salaries and expenses
USDA	Farm Service Agency	Salaries and expenses
USDA		Agricultural credit insurance fund program
USDA	Animal & Plant Health Inspection	Salaries and expenses
USDA	Natural Resources Conservation	Conservation operations
USDA	Rural Housing Service	Rural housing insurance fund program
USDA	Foreign Assistance Programs	Public Law 480 Title II grants
USDA	Forest Service	Wildland fire management
USDA	Forest Service	National forest system
USDA	Forest Service	Capital improvement & maintenance
Commerce		Procurement, acquisition & construction
Commerce		Operations, research and facilities
Commerce	Bureau of the Census -	Periodic censuses and programs
Commerce	International Trade Administration	Operations & administration
Education	Office of Student Financial Assistance	Student financial assistance
Education	Office of Elementary & Secondary Education	Impact Aid
Education	Departmental Management	Program administration
Energy	NNSA	Weapons activities
Energy	Environmental & Other Defense	Defense environmental restoration & waste
Energy	Energy Programs	Science
Energy	Energy Programs	Energy conservation

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Department/Agency	Bureau	Account
Labor		Community service employment for older Americans
Labor	OSHA	Salaries and expenses
State	Administration of Foreign Affairs	Diplomatic & consular programs
State		Embassy security construction
State	International Organizations & Conferences	Contributions to international organizations
State	Other	International narcotics control & law enforcement
State		Nonproliferation, antiterrorism, demining, and related programs
State		International organizations and programs
State		Andean Counter Drug Initiative
State		Migration and Refugee Assistance
Transportation	Maritime Administration	Operations & training
Transportation		
Transportation		Title XI Loans
Transportation	FAA	Trust fund share of FAA operations
Transportation		Facilities & equipment
Transportation		Grants-in-aid for airports

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Department/Agency	Bureau	Account
Transportation	Coast Guard	Operating expenses
Transportation		Acquisitions, construction, & improvements
Transportation	Office of the Secretary	Payments to air carriers
Transportation		Salaries and expenses
Transportation	Federal Highway Administration	Federal-aid highways (Ob limits)
Transportation	Federal Railroad Administration	Capital grants to National Railroad Passenger Corporation
Transportation	Federal Transit Administration	Capital Investment Grants
Transportation		Formula Grants
Transportation	RSPA Administration	Trust fund share of pipeline safety
Transportation	General Provisions	Surface transportation projects – Title III General Provisions § 330 of FY2002 Appropriation
Transportation	Federal Motor Carrier Safety Administration	Motor carrier safety -limitation on administrative expenses
Transportation		Border enforcement program
Transportation	Transportation Security Admin.	Salaries & Expenses
Treasury	IRS	Processing, assistance, & management

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Treasury	IRS	Tax law enforcement
Treasury	U.S. Customs Service-	Salaries and expenses -
VA	VHA	Medical care
VA	Departmental Administration	General operating expenses
VA	VHA	Medical and prosthetic research
AID	AID	Economic support fund
AID	AID	International Disaster Assistance
AID	AID	Child survival and disease programs
AID	AID	Sustainable development assistance programs
Corp. for National & Community Service	Corp. for National & Community Service 86	National & community service programs, operating expenses
Corporation for Public Broadcasting	Corporation for Public Broadcasting	Corporation for Public Broadcasting - digital program conversion
Corps of Engineers	Corps of Engineers	Construction, general
EPA	EPA	State & tribal assistance grants
EPA		Environmental programs & management
EPA		Hazardous substance superfund

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EXOP	Special Assistance to the President & the Official Residence of the Vice-Pres.	Salaries and expenses
EXOP		Operating expenses
EXOP	Office of Administration	Salaries and expenses
EXOP	OMB	Salaries and expenses
FEMA	FEMA	Disaster relief
FEMA		Emergency management planning & assistance
FEMA		Salaries and expenses
FCC	FCC	Salaries and expenses
GSA	Real Property Activities	Federal building fund
GSA	General Activities	Operating expenses
GSA		Policy & citizen services
NASA	NASA	Science, aeronautics & technology
NASA		Human space flight
NSF	NSF	Research & related activities
NSF		Education & human resources
NSF		Salaries and expenses
NRC	NRC	Salaries and expenses
NRC		
OPM	OPM	Salaries and expenses
OPM		Civil service retirement & disability fund
SBA	SBA	Salaries and expenses
SBA		Business loan program account

Appendix I: Original List of Accounts

Department/A gency	Bureau	Account
SEC	SEC	Salaries and expenses
SSA	SSA	Limitation on administrative expenses
DOD*	International Security Assistance	Foreign military financing program

Continuing Resolution Current Rate Report

House & Senate Appropriations
Committees

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Appendix I: Original List of Accounts

Continuing Resolution Current Rate
Report GAO-03-368R

Appendix I: Accounts for which current rate calculation is inapplicable

- Corporation for Public Broadcasting/Digital program conversion account: By letter dated November 13, 2002, CPB requested a waiver from OMB apportionment of its payment at the current rate and advised OMB that if it were to operate with a normal apportionment under the terms of the CR its efforts to meet a May deadline for its digital program conversion would be in serious jeopardy. It requested an apportionment of the fiscal year 2002 level of \$25 million. CPB was recently advised by telephone that OMB had apportioned only \$7 million.

Appendix I: Accounts for which current rate calculation is inapplicable

- Department of Transportation, Surface transportation projects – Title III General Provisions § 330 of FY2002 Appropriation: according to Transportation, no fiscal year 2003 appropriations are provided for these projects.
- HUD, Public & Indian Housing Programs/Housing certificate fund: HUD used available FY2001 unobligated balances. No apportionment of fiscal year 2003 budget authority necessary.
- HUD, Public & Indian Housing Programs/Public housing operating fund: HUD used available FY2001 unobligated balances. No apportionment of fiscal year 2003 budget authority necessary.

Appendix I: Accounts for which current rate calculation is inapplicable

- HUD, Community Planning & Development/Community development block grants: HUD used available FY2001 unobligated balances. No apportionment of fiscal year 2003 budget authority necessary.
- HUD, Community Planning & Development/Homeless assistance grants: HUD used available FY2001 unobligated balances. No apportionment of fiscal year 2003 budget authority necessary.
- Civil Service Retirement & Disability Fund: Since this is a trust fund, only the amount for administrative expenses is apportioned. This amount was transferred and is apportioned under OPM's Salaries and expenses account.

Appendix I: Seasonal Rate Accounts

Commerce/NOAA, Procurement, acquisition & construction (9.4%)
Commerce/NOAA, Operations, research & facilities (7.9%)
Commerce/Census, Periodic censuses & programs (10.1%)
Labor/Departmental Management, Salaries & expenses (9.68%)
Labor/ ETA, Community Service Employment for Older Americans (0%)
Labor/ ETA, Training and employment services (0%)

Appendix I: Written Higher Apportionment from OMB

- VA/Medical Care: Based on pro-rata share plus apportionment of unobligated balances because account spends more in first quarter than other quarters
- Commerce/ITA, Operations & Administration: apportionments for various ITA components ranged from 7.6% to 12.7%; the higher apportionment was necessary because the rate of operations is above the seasonal rate but below the flat rate (pro-rata share), to cover increased personnel costs associated with FY 2002 hiring, travel, and International Cooperative Administrative Support (ICASS).
- State/Contributions to International Organization (67%).

Appendix I: Written Higher Apportionment from OMB (cont'd)

- USDA/Food & Nutrition Service, Women, Infants and Children Program (25.21%).
- USDA/Rural Housing Service, Rural housing insurance fund program account: (14.24%); the higher apportionment was necessary because the rate of operations is above the seasonal rate but below the flat rate (pro-rata share).
- HHS, Low Income Home Energy Assistance Program (38%).

Appendix I: Definitions, Legal Language

- What is current rate?
- OMB Bulletin 01-10
- GAO Current Rate Interpretations
- Formula for Current Rate

Appendix I: Definitions, Legal Language Definition of Current Rate

- Sec. 101 Appropriates “Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2002 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 2002, at a rate for operations not exceeding the current rate, and for which appropriations, funds, or other authority was made available” in the fiscal year 2002 appropriations acts.

Appendix I: Definitions, Legal Language Definition of Current Rate

Furthermore, section 105 of the CR defines “rate for operations not exceeding the current rate” as having the “meaning given such term (including supplemental appropriations and rescissions) in the attachment to Office of Management and Budget Bulletin No. 01-10 entitled ‘Apportionment of the Continuing Resolution(s) for Fiscal Year 2002’ and dated September 27, 2001, applied by substituting ‘FY 2002’ for ‘FY 2001’ each place it appears...”

Appendix I: Definitions, Legal Language Definition of Current Rate

This current rate “does not include any unobligated balance of funds appropriated in Public Law 107-38 and carried forward to fiscal year 2002, other than funds transferred by division B of Public Law 107-117.”

CR Reduces appropriations by one-time, non-recurring items listed in Attachment C, OMB Bulletin dated 10-04-02.

Appendix I: Definitions, Legal Language Definition of Current Rate - OMB Bulletin 01-10

- OMB Bulletin 01-10 instructs agencies that the rate of operations not exceeding the current rate, is to be calculated as follows:
 - take the net amount enacted in FY 2002, i.e., add any supplemental appropriations and subtract any rescissions;
 - add the unobligated balance carried forward to FY 2001 (if any), and
 - subtract the unobligated balance at the end of FY 2002 (if any).

Appendix I: Definitions, Legal Language Definition of Current Rate - OMB Bulletin 01-10

- The OMB Bulletin further instructs agencies to calculate the amount automatically apportioned through the specified period covered by the CR by multiplying the rate (amount) provided by the CR by the lower of:
 - the percentage of the year covered by the CR, or
 - the historical seasonal rate of obligations for the period of the year covered by the CR.
- If a program requires an amount different from the total amount automatically apportioned, an agency must request a written apportionment.

Appendix I: Definitions, Legal Language -- The Formula for Current Rate

Unobligated balances at the end of FY2001
Plus
Appropriations for FY2002
Plus
Supplementals for FY2002
(including the 2nd \$20b.—(tranche 3) of the 9/11Emergency Supp.)
Minus
Unobligated balances from the 1st \$20b.(tranches 1&2) of the 9/11 Emergency Supp.)
Minus
Rescissions in FY2002
Minus
One-Time Expenditures (per OMB list)
Minus
Unobligated balances that carry over from FY2002

Multiplied by either (1) 14.52% or (2) Seasonal rate