

# COMMUNITY SERVICES BLOCK GRANT

Q&A on...

Carryover



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# CAPLAW

Community Action Program Legal Services, Inc.

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September 2014

# Introduction

The federal Community Services Block Grant (CSBG) funds local Community Action Agencies (CAAs) to perform a variety of activities designed to reduce poverty, revitalize low-income communities, and empower low-income families and individuals to become self-sufficient. The following Q&A is intended to assist state CSBG lead agencies and CSBG eligible entities in better understanding CSBG *carryover* requirements. Certain terms in this Q&A which may require additional explanation are in orange italics the first time they are used to indicate that they are discussed in greater detail in the glossary section at the end of this document. In this Q&A, the terms *eligible entity* and *CAA* are used interchangeably.

This Q&A is intended to provide practical guidance based on relevant laws, but is not authorized or approved by the federal Office of Community Services (OCS), the office within the U.S. Department of Health and Human Services (HHS) that administers the block grant, and does not constitute legal advice. Relevant sections of laws referenced in this guidance are located at the end of this document.

## 1. May a CAA carry over CSBG funds and for how long?

Yes. Currently a CAA is permitted to carry over into the next fiscal year any remaining CSBG funds that have been distributed to it by a state for the current fiscal year. The 2014 federal Consolidated Appropriations Act (Appropriations Act) specifically states:

*That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an **eligible entity** as provided under the CSBG Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes.*

This language not only expands the amount that a CAA may carry over to 100% of unused funds but also encompasses discretionary funds (the 10% that may be used by the state for specific purposes outlined in the CSBG Act) as well as funds the CAA receives as part of its proportional share of the 90% of the state's CSBG funds that the state is required to pass through to CAAs (90% Funds). Moreover, the CSBG Terms and Conditions applicable to grants from OCS to the states generally require states to follow the carryover requirements in the most current *federal appropriations act*. See, for example, [Appendix A, CSBG Terms and Conditions Grant Awards FY 2012](#) with relevant language highlighted in yellow. Thus, for any CAA, CSBG funds from the current grant period that have been distributed to the CAA should remain with the CAA and be carried over into the next grant period.

## 2. I thought that a CAA could only carry over up to 20% of its CSBG funds, is this correct?

The current appropriations language takes precedence over the carryover language in the federal CSBG Act which only permits a CAA to carry over up to 20% of CSBG funds distributed to it by the state for that fiscal year. Moreover, this section of the federal CSBG Act applies only to the 90% Funds whereas the appropriations act language does not make this distinction. Therefore, currently, under the appropriations act, both discretionary funds and 90% Funds may be carried over into the next fiscal year.

**"The current appropriations language takes precedence over the carryover language in the federal CSBG Act.."**

### 3. Does this mean that a CAA's ability to carry over CSBG funds could change with each new federal appropriations act?

Yes. A CAA will need to check the language in each new federal appropriations act to determine what percentage of its CSBG funds it will be permitted to carry over into the next fiscal year. However, note that language similar to what is in the 2014 federal Consolidated Appropriations Act has been included in prior appropriations acts every year for at least the past 10 years.

“...check the language in each... appropriations act to determine what percentage of CSBG funds... will be permitted to carry over...”

### 4. How would a continuing resolution affect a CAA's ability to carry over CSBG funds?

Generally, a *continuing resolution* will refer back to the most recent appropriations act and maintain funding at the same levels set forth in the appropriations act. A continuing resolution typically applies to funds appropriated under it the same requirements and restrictions, including CSBG carryover provisions, that applied to funds appropriated under the appropriations act. For example, CSBG appropriations for FY2013 were authorized via a continuing resolution that maintained funding for the CSBG program at the FY2012 levels and under the same terms set forth in the Consolidated Appropriations Act of 2012 until March 27, 2013. See [Appendix B, Sections 101 and 106 of Joint Resolution](#) with relevant language highlighted in yellow.

### 5. If a CAA is unable to spend funds carried over from a prior fiscal year, can it carry them over for a second time?

Currently, no. The 2014 Consolidated Appropriations Act states that the unexpended funds shall remain with the CAA into the next fiscal year and does not permit the funds to remain for an indefinite period of time. Moreover, the section of the CSBG Terms and Conditions that addresses carryover specifically states that “those funds must be fully expended and services provided on or before” the end of the next fiscal year.

“...Act states that the unexpected funds shall remain with the CAA into the next fiscal year and does not permit the funds to remain for an indefinite period of time.”

### 6. Do any restrictions exist regarding how a CAA uses carryover funds?

No, as long as the funds are used for CSBG program purposes consistent with the Community Action plan submitted by the CAA to the state. The 2014 Consolidated Appropriations Act requires CAAs to use carryover funds for expenditures that are consistent with the CSBG program purposes. These purposes are set forth in section 9901 of the federal CSBG Act and require CAAs to use such funds for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient. Some states may require CAAs to submit a detailed expenditure plan which demonstrates how a CAA will spend down carryover funds in the new fiscal year.

## 7. Could a state's actions prohibiting a CAA from carrying over unexpended funds from the prior fiscal year be considered an effective reduction of CSBG funding?

Yes. A state is required by the federal CSBG Act to give an assurance in its state plan that it will not reduce a CAA's funding below the proportional share of the 90% Funds it received in the previous fiscal year unless, after providing notice and an opportunity for a hearing on the record, the state determines that cause exists for such reduction. The state also gives the assurance that it will permit the CAA to appeal to OCS a determination by the state to reduce its funding.<sup>1</sup> The federal CSBG Act defines the "cause" a state must find to reduce a CAA's funding as either a change in the proportional share of funding pursuant to a statewide redistribution of funds or as a failure of the CAA to comply with a state plan, standard or requirement. A state's unwillingness to allow a CAA to carry over a permitted amount of unexpended funds would reduce the proportional share of funding it received in the prior year and is not included in the definition of "cause" for which a state may reduce such funding.

## 8. What if a state refuses to allow a CAA to carry over the permitted amount of unexpended funds from the prior fiscal year?

"If a CAA believes the state is not complying with the federal statutory requirements for carryover, it should consider meeting with the state..."

If a CAA believes the state is not complying with the federal statutory requirements for carryover, it should consider meeting with the state to discuss the current requirements and explore the reasoning behind the state's actions. After such a meeting, the CAA should consider sending a follow-up letter to the state in which it reiterates the discussion and references or includes the relevant provisions of federal law. The CAA may also consider sending a copy of the letter to OCS.

If the state is not responsive to the CAA's concerns, the CAA may file a complaint with OCS. HHS federal block grant regulations applicable to the CSBG program allow recipients of CSBG funding to file a complaint alleging that the state has failed to use its allotment of CSBG funds in accordance with the federal CSBG Act or the certification and assurances made by the state pursuant to the federal CSBG Act.

Complaints must be submitted in writing to the Director of the Office of Community Services (OCS) and must:

- Identify the provision of the act, assurance or certification that was allegedly violated,
- Specify the basis for the violations charged, and
- Include all relevant information known to the person submitting the complaint.

OCS is required to promptly provide a copy of any complaint to the state. The state has 60 days to respond to the complaint and may request additional time if necessary. OCS will conduct an investigation of the complaint where appropriate and provide a written response to the complaint within 180 days of receiving it. If a final resolution is not obtainable within the 180 days, OCS's response will set forth reasons why additional time is required to resolve the matter.<sup>2</sup>

1 42 U.S.C. § 9915(b)(8); OCS IM 116.

2 See 45 C.F.R. § 96.50; Office of Community Services (OCS) Information Memorandum (IM) 116.

## 9. Our CAA is paid on reimbursement basis, we are close to year end and we have yet to receive all of the funds for the current year, are we entitled to those funds?

Yes, if the funds are part of the CAA's proportionate share of the 90% Funds and the state has not followed the proper reduction in funding process specified in the federal CSBG Act. A state is required by the federal CSBG Act to give an assurance in its state plan that it will not reduce a CAA's funding below the proportional share of the 90% Funds the CAA received in the previous fiscal year unless, after providing notice and an opportunity for a hearing on the record, the state determines that cause exists for the reduction. The state also gives the assurance that it will permit a CAA to appeal to OCS a determination by the state to reduce the CAA's funding.<sup>3</sup> The federal CSBG Act defines the "cause" a state must find to reduce a CAA's funding either as a change in the proportional share of funding pursuant to a statewide redistribution of funds or as a failure of the CAA to comply with its CSBG agreement with the state or the state CSBG plan or a state requirement.

## 10. What options does a CAA have to receive funds while it contests a state's actions?

The federal CSBG Act prohibits a state from discontinuing present or future funding to a CAA until a review by OCS of the state's finding of cause has ended, if such a review was requested by the CAA.<sup>4</sup> Whenever a state reduces a CAA's funding prior to completion of the state hearing and OCS's review, OCS is authorized to provide direct financial assistance to the affected CAA.<sup>5</sup>

"The federal CSBG Act prohibits a state from discontinuing present or future funding to a CAA until a review by OCS of the state's finding of cause has ended..."

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<sup>3</sup> 42 U.S.C. § 9915(b)(8); OCS IM 116.

<sup>4</sup> 42 U.S.C. §§ 9908(b)(8), 9915(b); 45 C.F.R. § 96.92; OCS IM 116.

<sup>5</sup> 42 U.S.C. § 9915(c); OCS IM 116.

# Glossary

*Carryover* represents the unobligated funds of the grantee from a prior funding period that the funding source authorizes for use by the grantee to cover allowable costs in a current funding period.<sup>6</sup>

*Eligible entity or a Community Action Agency (CAA)* is an organization that is entitled under the federal CSBG Act to receive a portion of the 90% Funds from the state each year.<sup>7</sup> An eligible entity may be a nonprofit organization or a government entity and must generally have a tripartite board. As noted above, this Q&A uses the terms “eligible entity” and “Community Action Agency” interchangeably.”

*Federal appropriations act* is generally the yearly legislation through which Congress appropriates funds for federal programs. An appropriation is a congressional authorization that permits a federal agency to incur obligations and to make payments out of the U.S. Treasury for specified purposes.

*Continuing resolution* is a temporary appropriations act that will often result in very few changes to the existing appropriations act. With a few exceptions, continuing resolutions are intended to keep existing federal programs functioning after the expiration of previous budget authority and until regular appropriation acts can be enacted. Congress resorts to a continuing resolutions when there is no regular appropriation for a program or agency for a variety of reasons including the complexity of today’s government, disagreement in Congress as to language for the act, a lack of authorizing legislation, or a Presidential veto of an appropriations act passed by Congress.

This publication is part of the National T/TA Strategy for Promoting Exemplary Practices and Risk Mitigation for the Community Services Block Grant (CSBG) program and is presented free of charge to CSBG grantees. It was created by Community Action Program Legal Services, Inc. (CAPLAW) in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Cooperative Agreement – Grant Award Number 90ET0433. Any opinion, findings, and conclusions, or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Health and Human Services, Administration for Children and Families.

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6 See OMB Circular A-110, Appendix A, Subpart A.2(p). Note that under the Super Circular the term “carryover” is not used. Rather such funds are referred to as an “unobligated balance.” See 2 C.F.R. § 200.98. Like OMB Circular A-110, the Super Circular authorizes a federal agency to permit recipients to “carry forward” unobligated balances. See 2 C.F.R. § 200.308(d)(3).

7 42 U.S.C. § 9907.

# Appendices



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# Appendix A

## OFFICE OF COMMUNITY SERVICES

An Office of the Administration for Children & Families

### CSBG Terms and Conditions Grant Awards FY 2012

Published: June 27, 2012

Community Services Block Grants (CSBG)

Guidance, Policies, Procedures, Terms and Conditions

TERMS AND CONDITIONS

FISCAL YEAR 2012

October 1, 20011 – September 30, 2013

By acceptance of this award, the State, Tribe or Territory agrees to comply with the terms and conditions detailed below. Failure to comply with these terms and conditions may result in the loss of Federal funds and may be considered grounds for the suspension or termination of this grant.

This award is subject to the following terms, conditions and provisions:

#### PROGRAM STANDARDS

1. The provisions of Public Law 105-285, Title II – Community Services Block Grant Program, Subtitle B – Community Services Block Grant Program of

the Community Services Block Grant Act, the provision of the current approved Community Services Block Grant State plan, including all approved

amendments or revisions.

#### ADMINISTRATIVE REQUIREMENTS

2. The following regulations from Title 45 of the Code of Federal Regulations (CFR):

**45 CFR Part 16** – Procedures of the Departmental Grant Appeals Board;

**45 CFR Part 30** – Claims Collection;

**45 CFR Part 73b** – Debarment and Suspension from Eligibility for Financial Assistance (Nonprocurement);

**45 CFR Part 80** - Nondiscrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services, Effectuation of Title VI of the Civil Rights Act of 1964;

**45 CFR Part 81** - Practice and Procedure for Hearings Under Part 80 of this Title;

**45 CFR Part 84** - Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance;

**45 CFR Part 86** – Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance;

**45 CFR Part 87** – Equal Treatment for Faith-Based Organizations;

**45 CFR Part 91** – Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance;

**45 CFR Part 93** – New Restrictions on Lobbying;

**45 CFR Part 96** – Block Grants;

**45 CFR Part 97** – Consolidation of Grants to the Insular Areas;

**45 CFR Part 100** – Intergovernmental Review of Department of Health and Human Services Programs and Activities.

3. The following Circulars from the Office of Management and Budget (OMB):

**OMB Circular A-133**, Audits of States, Local Governments, and Non-Profit Organizations and the **Single Audit Act of 1984**, as amended.

4. Direct Federal grants, sub-awards, or contracts under this program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this program. Regulations pertaining to the prohibition of Federal funds for inherently religious activities can be found on the HHS website at: <http://www.hhs.gov/partnerships/about/regulations> (<http://www.hhs.gov/partnerships/about/regulations>).

5. Federal grant funds provided under this award may not be used by the grantee or any sub-grantee to support lobbying activities to influence proposed or pending Federal or State legislation or appropriations. This prohibition is related to the use of Federal grant funds and is not intended to affect an individual's right or that of any organization, to petition Congress, or any other level of Government, through the use of other resources. (See 45 CFR Part 93.)

6. In accordance with Public Law 103-333, the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 1995," the following provisions are applicable to this grant award:

Section 507: "Purchase of American-Made Equipment and Products - It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made."

Section 508: "When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all States receiving Federal funds, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources."

7. In accordance with Part C of Public Law 103-227, the "PRO-KIDS Act of 1994," smoking may not be permitted in any portion of any indoor facility owned or regularly used for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs wither directly or through State or local governments. Federal programs include grants, cooperative agreements, loans and loan guarantees, and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions or facilities and used for inpatient drug and alcohol treatment.

The above language must be included in any subawards that contain provisions for children’s services and that all subgrantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1,000 per day.

8. This award is subject to the requirements listed in the enclosed terms and conditions. This award is subject to the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). For the full text of the award term, please see the Administration for Children and Families website. The use of Federal funds from this award constitutes the State’s acceptance of these terms and conditions.

9. In accordance with 2CFR Part 170, this program must adhere to Subaward and Executive Compensation reporting requirement of “the Transparency Act.” Under the Transparency Act, all subawards (as defined in 2 CFR Part 170) over \$25,000 must be reported, unless exempted. Please see the newly applicable Award Term for Federal Financial Accountability and Transparency Act (FFATA) at the Administration for Children and Families website.

## SUB-RECIPIENTS AND VENDORS UNDER GRANTS

### Sub-Recipients/Sub-Grantees and Vendors/Contractors

10. Sub-recipient/Sub-grantee and vendor determinations. States are required to determine recipient type when sub-granting or contracting using Federal funds. Recipient type includes sub-grantees/sub-recipients, vendors and contractors. OMB Circular A-133 establishes the standards for determining the difference between a sub-grantee and a vendor, based on the substance of the relationship with the State, rather than the form of the agreement.

A recipient is considered a *sub-grantee* and is subject to OMB Circular A-133 if it meets the following conditions:

- A. Determines who is eligible to receive what Federal financial assistance;
- B. Has its performance measured against whether the objectives of the Federal program are met;
- C. Has responsibility for programmatic decision making;
- D. Has responsibility for adherence to applicable Federal program compliance requirements;
- E. Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity;

A recipient is considered a *vendor* and is not subject to OMB Circular A-133 if it meets the following conditions:

- A. Provides the goods and services within normal business operations;
- B. Provides similar goods or services to many different purchasers;
- C. Operates in a competitive environment;
- D. Provides goods or services that are ancillary to the operation of the Federal program;
- E. Is not subject to compliance requirements of the Federal program.

11. No organization may participate in this project in any capacity or be a recipient of Federal funds designated for this project if the organization has been debarred or suspended or otherwise found to be ineligible for participation in Federal assistance programs under Executive Order 12549, “Debarment and Suspension.” (See 45 CFR 92.35.) States must include a similar term and/or condition for all sub-awards or contracts awarded under this program. Prior to issuing subawards or contracts under this grant, the state

must consult the ineligible parties list to ensure that organizations under funding consideration are not ineligible. The list is available on the Web at <http://www.epls.gov> (<http://www.epls.gov/>).

12. The State is responsible for monitoring grant, sub-grant/sub-recipient and contract supported activities to assure compliance with Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function and activity. (See 45 CFR 92.40.)

13. States are required to advise sub-grantees/sub-recipients of requirements imposed on them by Federal laws, regulations, and the provisions of grant agreements or contracts as well as any supplemental requirements imposed by the State. These include grant administrative requirements and cost principles according to recipient type. For example, nonprofit subrecipients are subject to the cost principles at OMB Circular A-122; educational institution subrecipients are subject to those at OMB Circular A-21; and commercial organization vendors or subcontractors are subject to the cost principles under 48 CFR Part 31.

14. States must ensure that sub-recipients and sub-grantees expending more than \$500,000 or more in Federal awards during the sub-recipient/subgrantee's fiscal year have an audit in compliance with the requirements of OMB Circular A-133.

## FINANCIAL AND PROGRAM PROGRESS REPORTING

15. If the grantee is on an accrual accounting system, services must be provided on or before September 30, 2013; and liquidated on or before December 29, 2013; and final report is due on or before December 29, 2013. If the grantee is on a cash accounting system, services must be expended on or before September 30, 2013 and final report is due on or before December 29, 2013. Your first annual report is due by December 30, 2012.

16. Grantees shall adhere to a provision of law under the Consolidated Appropriations Act of 2005 which requires that to the extent FY 2012 CSBG funds are distributed by a State to an eligible entity, and have not been expended by such eligible entity, they shall remain with such eligible entity for carryover and expenditure into the next fiscal year. If FY 2012 funds are carried forward by such eligible entity into FY 2013, those funds must be fully expended and services provided on or before September 30, 2013.

17. States are encouraged to submit their periodic financial reporting forms electronically, via the ACF On-Line Data Collection (OLDC) system.

States that elect to submit these reports in writing must send an original signature copy of Form SF-425 to:

Administration for Children and Families  
Division of Mandatory Grants  
370 L'Enfant Promenade, SW - 6th Floor East  
Washington, DC 20447

18. Program progress reports should be submitted to:

Office of Community Services  
Administration for Children and Families  
U.S. Department of Health and Human Services  
370 L'Enfant Promenade, SW – 5th Floor West  
Washington, DC 20447

## PAYMENT ARRANGEMENTS

19. Payments under this grant will be made through the Department of Health and Human Services' Payment Management System (PMS). The State must comply with requirements imposed by the PMS on-

line system. Please direct any questions concerning grant payments to the payment office at 1-877-614-5533.

**NOTE:** The U.S. Government Accountability Office (GAO) maintains FraudNET, a system for reporting allegations of fraud, waste and abuse under Federal grants and cooperative agreements. Reports are kept confidential; you need not provide your name. Information provided through the Internet web site is secure and all information is safeguarded against unauthorized disclosure.

To report the possible misuse of federal funds, the E-mail address is [fraudnet@gao.gov](mailto:fraudnet@gao.gov) ; the fax number is 202-512-3086 and the mailing address is

GAO FraudNET, 441 G Street N.W., Washington, D.C. 20548. When you submit allegations, please provide as much detailed information as possible.

# Appendix B



H. J. Res. 117

## One Hundred Twelfth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,  
the third day of January, two thousand and twelve*

### Joint Resolution

Making continuing appropriations for fiscal year 2013, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2013, and for other purposes, namely:

**SEC. 101. (a) Such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year 2012 and under the authority and conditions provided in such Acts, for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this joint resolution, that were conducted in fiscal year 2012, and for which appropriations, funds, or other authority were made available in the following appropriations Acts:**

(1) The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012 (division A of Public Law 112-55), except for the appropriations designated by the Congress as being for disaster relief in section 735 of such Act.

(2) The Commerce, Justice, Science, and Related Agencies Appropriations Act, 2012 (division B of Public Law 112-55), except for the appropriation designated by the Congress as being for disaster relief in the second paragraph under the heading "Department of Commerce—Economic Development Administration—Economic Development Assistance Programs" in such Act.

(3) The Department of Defense Appropriations Act, 2012 (division A of Public Law 112-74).

(4) The Energy and Water Development Appropriations Act, 2012 (division B of Public Law 112-74).

(5) The Financial Services and General Government Appropriations Act, 2012 (division C of Public Law 112-74).

(6) The Department of Homeland Security Appropriations Act, 2012 (division D of Public Law 112-74).

(7) The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2012 (division E of Public Law 112-74).

**(8) The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2012 (division F of Public Law 112-74).**

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(9) The Legislative Branch Appropriations Act, 2012 (division G of Public Law 112–74).

(10) The Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2012 (division H of Public Law 112–74).

(11) The Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012 (division I of Public Law 112–74).

(12) The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2012 (division C of Public Law 112–55), except for the appropriations designated by the Congress as being for disaster relief under the heading “Department of Transportation—Federal Highway Administration—Emergency Relief” and in the last proviso of section 239 of such Act.

(13) The Disaster Relief Appropriations Act, 2012 (Public Law 112–77), except for appropriations under the heading “Corps of Engineers-Civil”.

(b) Whenever an amount designated for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (in this section referred to as an “OCO/GWOT amount”) in an Act described in paragraph (3) or (10) of subsection (a) that would be made available for a project or activity is different from the amount requested in the President’s fiscal year 2013 budget request, the project or activity shall be continued at a rate for operations that would be permitted by, and such designation shall be applied to, the amount in the President’s fiscal year 2013 budget request.

(c) The rate for operations provided by subsection (a) is hereby increased by 0.612 percent. Such increase shall not apply to OCO/GWOT amounts or to amounts incorporated in this joint resolution by reference to the Disaster Relief Appropriations Act, 2012 (Public Law 112–77).

SEC. 102. (a) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for: (1) the new production of items not funded for production in fiscal year 2012 or prior years; (2) the increase in production rates above those sustained with fiscal year 2012 funds; or (3) the initiation, resumption, or continuation of any project, activity, operation, or organization (defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for any investment items defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item that includes a program element and subprogram element within an appropriation account) for which appropriations, funds, or other authority were not available during fiscal year 2012.

(b) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.

SEC. 104. Except as otherwise provided in section 102, no appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2012.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act for fiscal year 2013, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this joint resolution; (2) the enactment into law of the applicable appropriations Act for fiscal year 2013 without any provision for such project or activity; or (3) March 27, 2013.

SEC. 107. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. Appropriations made and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing in this joint resolution may be construed to waive any other provision of law governing the apportionment of funds.

SEC. 109. Notwithstanding any other provision of this joint resolution, except section 106, for those programs that would otherwise have high initial rates of operation or complete distribution of appropriations at the beginning of fiscal year 2013 because of distributions of funding to States, foreign countries, grantees, or others, such high initial rates of operation or complete distribution shall not be made, and no grants shall be awarded for such programs funded by this joint resolution that would impinge on final funding prerogatives.

SEC. 110. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 111. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2012, and for activities under the Food and Nutrition Act of 2008, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2012, to be continued through the date specified in section 106(3).

(b) Notwithstanding section 106, obligations for mandatory payments due on or about the first day of any month that begins after October 2012 but not later than 30 days after the date specified in section 106(3) may continue to be made, and funds shall be available for such payments.

SEC. 112. Amounts made available under section 101 for civilian personnel compensation and benefits in each department and

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