

Lesson 16

CIVIL WORKS PROGRAM
DEVELOPMENT AND EXECUTION COURSE
LESSON NUMBER 16

6. CIVIL WORKS PROGRAM EXECUTION

TOPIC:

- b. Distribution of Funding
- (1) Accounts
 - (2) Glossary of Funding Terms
 - (3) Players
 - (4) Anti-Deficiency Act
 - (5) Distribution of Funding to USACE
 - (6) Allotments by CERM
 - (7) Work Allowances by CECW-I
 - (8) VTC Process for Adds
 - (9) Earmarks Issue
 - (10) Continuing Resolution Acts

TIME ALLOTTED: 1 1/4 hours, including time for questions and answers

HANDOUTS:

Slide Presentation
Apportionments
Category – Class – Subclass Codes
Sample Work Allowance Table (C / IWTF)
Executive Order on Earmarks
FY 2007 Year-Long CRA
FY 2008 CRA
OMB Automatic Apportionment under FY 2008 CRA
HQUSACE Guidance on FY 2008 CRA

REFERENCES:

OMB Circular A-11
ER 11-2-201, Funding, Work Allowances, and Reprogramming
(being updated)
Thomas (Library of Congress) web site, <http://thomas.loc.gov/>
PID web site, <http://www.usace.army.mil/cw/cecwb/>

DISTRIBUTION OF FUNDING

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Acquisition and Distribution of Funding

- Accounts
- Glossary of Funding Terms
- Players
- Anti-Deficiency Act
- Distribution of Funding to USACE
- Allotments by CERM
- Work Allowances by CECW-I
- VTC Process for Adds
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Accounts

- Accounts Receiving Annual Appropriations
 - 96 X 3112 Mississippi River and Tributaries
 - 96 X 3121 Investigations
 - 96 X 3122 Construction
 - 96 X 3123 Operation and Maintenance
 - 96 X 3124 Expenses
 - 96 X 3125 Flood Control and Coastal Emergencies
 - 96 X 3126 Regulatory Program
 - 96 X 3130 Formerly Utilized Sites Remedial Action Program
 - 96 2008 3132 Office of Assistant Secretary of the Army (Civil Works) (one year money)

Accounts (Continued)

- Permanent Appropriation Accounts
 - 96 X 8333 Coastal Wetlands Trust Fund
 - 96 X 5125 Maintenance and Operation of Dams
 - 3 Small Permanent Appropriations
- Trust Funds
 - 96 X 8861 Inland Waterways Trust Fund (to Construction)
 - 96 X 8863 Harbor Maintenance Trust Fund (to Construction, O&M)
 - Sources of Funds are Dedicated Taxes
 - Funding in Other Accounts Is Derived from Trust Funds
 - Subject to Appropriations in Most Cases
- Contributed Funds (Cost Sharing)
- Bonneville Power Administration
- Revolving Fund
 - Breaks even thru billings
 - Funds PRIP – Project Replacement and Improvement Program

Glossary of Funding Terms

- Funding = obligation authority = budget authority (BA). Types of BA include appropriations, borrowing authority, contract authority, and spending authority from offsetting collections
- Appropriation = provision of funding through a law
- Deferral = formal, temporary withholding of funding -- requested by President and goes into effect if no Congressional action
- Rescission = cancellation of appropriated funding – may be requested by President; may apply to CY or prior year approp.
- Apportionment = distribution of funding by OMB to various time periods or programs or objects
- Allotment = distribution of apportionment (to districts and SFOAs)
- Treasury Warrant = authority to withdraw funds from Treasury
- Obligation = promise to pay
- Expenditure = earnings including both billed (payable) and unbilled (accrued)
- Outlay = disbursement = liquidation of obligation = funds

Players

- Office of Management and Budget
- Department of the Treasury
- Resource Management Directorate
- CW PID Account Managers
- Business Line Managers
- Remaining Item Proponents/Managers
- RITS
- MSCs and SFOAs
- Districts

Anti-Deficiency Act

- Determinants of Legal Availability of Funding
 - Purpose
 - “Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law” 31 USC 1301
 - From Act, legislative history, budget, Comptroller General
 - Time – 2 year, 1 year (ASA), no year (all other CW)
 - Amount – at appropriation, apportionment, and agency allotment (FAD) level (Not WA level)
- Augmentation of Funds
 - Violates purpose and amount
- Applies to Reimbursable Work, Too
 - Limits Travel with the Money
 - No Authority to Work Beyond Terms of MIPR / IAG
- Applies to Revolving Fund

ADA -- Examples

- Change in account – in budget, not in budget
- Splitting OMA/Expenses
- PED and Construction
- Earmark in Law
- Statutory CAP
- Inland Waterways Trust Fund
- Over-obligation during CRA
- FCC E transfer for emergency
- Continuing contracts

Distribution of Funding to USACE

- Apportionment / Reapportionment by OMB
 - Carry-in by Sep 10 -- 100% 1st quarter
 - Anticipated Collections (from Reimbursable, Trust Funds) by Sep 10 -- 35 / 25 / 25 / 15 quarterly
 - New Funding within 30 days -- 35 / 25 / 25 / 15 quarterly
 - May be waived for trust funds, permanent appropriations, revolving funds, and temporary CRAs
 - Trust Funds Are Apportioned; Payable = Receivable; Actual Payable ≤ Balance; Monitoring Required
- Direct Funding -- Warrant by Treasury
- “Reimbursable” Funding -- MIPR or Interagency Agreement

Work Allowances by CECW-I

- Amount – Practice Thus Far
 - Line Items from Conference or Joint Explanatory Statement
 - Conference Amount
 - Reduction for Anticipated Savings and Slippage, if any (pro rata per sec. 503, P.L. 102-377)
 - Rescission within Same Act (rescission from prior Act is a separate action)
 - Amount Withheld
 - Projects within Line Items – CAP, DSS, DMDF, FPMS, PAS, “Paybacks,” O&M Pots – Incremental Allocations
- Form
 - Name
 - CWIS / AMSCO / PWI
 - Category, Class, and Subclass (CCS) per ER 37-2-10, App. 20-I
 - Amount
 - District / Division

Allotments by CERM

- Direct Funding
 - PBAS – Program and Budget Allocation System
 - FAD – Funding Authorization Document
 - Issued to Districts and SFOAs
 - Amount for each is “rollup” of work allowances
 - Districts Allot Funding from FAD to Projects in CEFMS (Create Funding Register) in Accordance with Work Allowances – CEFMS should match P2
- “Reimbursable” Funding
 - Upon acceptance, PR&C is an obligation for the customer and an authorization to obligate for USACE
 - Loaded into CEFMS Also

VTC Process for Addds

- **Applicability**
 - Earmarks That Are Questionable or Inconsistent WRT Policy and Have Unresolved Issues
 - Construction New Starts
 - WRDA-type General Provisions (except simple stuff)
- **Purpose: Present Facts, Decide on Implementation Plan**
- **Process**
 - Coordination of MSC Table
 - Coordination of Draft Fact Sheets
 - VTC for Fact Sheets with Issues Not Resolved at Staff Level

Earmarks Issue

- Act versus Report
- Ceilings, Floors, Both, Neither
- OMB Definitions – adds, add-ons, carve-outs
- Veto Threat (must reduce 50 percent)
- Executive Order to Agencies To Ignore Report Language and Post Written Requests

Year Long CRA, FY 2007 (P.L. 110-5)

- CRA Provisions
 - Sections 101 & 111 & 20301 -- Level = Regular FY 2006 plus ½ of Pay Raise, but specified for Construction and Expenses
 - Sections 101 & 112 & 20303-20308 -- Same conditions as previous Act, except for “earmarks” and “provisos”
 - Section 105 – Funds only projects or activities funded in FY 2006 through an allocation or reprogramming
 - Section 20302 -- Section 902 waiver for 1 year
- USACE Work Plan
 - Modeled after Section 113 requirement
 - Funding decision rules used, especially for Construction, e.g. budgeted work, continuing contracts, paybacks that could be used, orderly shutdown of unbudgetable
 - Line item breakouts of 4 traditional accounts

FY 2008 CRA (P.L. 110-92)

- CRA -- Temporary Appropriations, Often Extended, to Avoid Funding Gap
 - Section 101 -- Continue “Rate for Operations”
 - Section 101 -- Same conditions as previous Act
 - Sections 101 & 104 – Funds only projects and activities funded in FY 2006 (or CAP projects funded in FY 2007) through an allocation or reprogramming
 - Section 108 -- Time limit for apportionment waived
 - Section 112 -- Acceleration to avoid furloughs
- Automatic Apportionment by OMB (Bulletin 07-05)
 - Annualized amount (previous year) excluding non-recurring (Supplemental) funding
 - Lower of percentage of year covered by CRA, or historical seasonal rate of obligations as percentage of annual obligations (period of record 1994-present)
 - Pro-rata to avoid furloughs in Regulatory and Expenses
- Distribution by USACE – “Paper FADs” without work allowances

CRA Guidance

- Authority and conditions continued from previous FY
- Allotments to projects usually limited to lesser of House or Senate amounts to minimize reconciliation problems
- Allotments within project-based remaining items require concurrence of Program Manager
- Reconciliations are MSC responsibility

BACKUP MATERIALS

- Sample Apportionments
- Category – Class – Subclass Codes
- Sample Work Allowance Table
- Executive Order on Earmarks
- FY 2008 CRA
- OMB Automatic Apportionment under FY 2008 CRA
- FY 2007 Year-Long CRA

FY 2008 Apportionment
 Funds provided by Public Law N/A

Line No	Line Split	Bureau/Account Title / Cat B Stub / Line Split	Previous Approved	Prior Approved Footnote	Agency Request	Agency Footnote	OMB Action	OMB Footnote	Memo Obligations
		Account: Investigations (202-00-3121) TAFS: 95-3121 / X							
BEA	DISC	BEA Category							
RptCat	NO	Reporting Categories							
Adj/Auth	NO	Adjustment Authority provided							
		BUDGETARY RESOURCES							
		Unobligated balance:							
1A		Unob Bal: Brought forward, October 1 (+ or -)			94,866,616		94,866,616		
1B		Unob Bal: Adjustment to SOY balance brought forward, October 1 (+ or -)							
		Recoveries of prior year unpaid obligations:							
2A		Recoveries of prior year unpaid obligations, Actual							
2B		Recoveries of prior year unpaid obligations, Anticipated							
		Budget authority \ Appropriation:							
3A1		BA: Appropriation, Actual							
3A2		BA: Appropriation, Anticipated							
3B		BA: Borrowing authority							
3C		BA: Contract authority							
		Budget authority \ Spending authority from offsetting collections (gross):							
		Earned:							
3D1A		BA: Offsetting Collections - Earned, Collected							
3D1B		BA: Offsetting Collections - Earned, Change in receivables from Fed so							
		Change in unfilled customer orders (+ or -):							
3D2A		BA: Change in unfilled customer orders - Advance received							
3D2B		BA: Change in unfilled customer orders - Without advance from Fed so							
3D3		BA: Offsetting collections - Anticipated			10,000,000		10,000,000		
3D4		BA: Offsetting Collections - Previously unavailable							
		Expenditure transfers from trust funds:							
3D5A		BA: Expenditure transfers from trust funds - Collected							
3D5B		BA: Expenditure transfers from trust funds - Change in receivables							
3D5C		BA: Expenditure transfers from trust funds - Anticipated							
		Nonexpenditure transfers, net:							
4A		Nonexpenditure transfers, net: Actual transfers, BA							
4B		Nonexpenditure transfers, net: Anticipated transfers, BA							
4C	01	Nonexpenditure transfers, net: Actual transfers, unob balances							
4C	02	Nonexpenditure transfers, net: Actual transfers, unob balances							
4D		Nonexpenditure transfers, net: Anticipated transfers, unob balances							
5		Temporarily not available pursuant to Public Law ____ (-)							
		Permanently not available:							
6A		Permanently not available: Cancellations of expired or no-year accounts							
6B	A	Permanently not available: Enacted reductions (-)							
6C		Permanently not available: Capital transfer and redemption of debt (-)							
6D		Permanently not available: Other authority withdrawn (-)							
6E		Permanently not available: Pursuant to Public Law ____ (-)							
6F		Permanently not available: Anticipated for rest of year (-)							
7		Total budgetary resources	0		104,866,616		104,866,616		
		APPLICATION OF BUDGETARY RESOURCES							
		Apportioned:							
8A1		First quarter			98,366,616		98,366,616		
8A2		Second quarter			2,500,000		2,500,000		
8A3		Third quarter			2,500,000		2,500,000		
8A4		Fourth quarter			1,500,000		1,500,000		
8C		Apportioned for future fiscal years							
9		Budgetary Resources: Withheld pending rescission (pursuant to 2 U.S.C.)							
10		Budgetary Resources: Deferred							
11		Budgetary Resources: Unapportioned balance of revolving fund							
12		Total budgetary resources	0		104,866,616		104,866,616		

Submitted _____ Date _____
 Approved *[Signature]* Date 9/25/07

SF 132 APPORTIONMENT AND REAPPORTIONMENT SCHEDULE

FY 2008 Apportionment
Funds provided by HR 2764

Line No	Line Split	Bureau/ Account Title / Cat B Stub / Line Split	Previous Approved	Prev Approved Footnote	Agency Request	Agency Footnote	OMB Action	OMB Footnote	Memo Obligations
		Account: Investigations (202-00-3121) TAFS: 96-3121 /X							
BEA RptCat AdjAuth	DISC NO NO	BEA Category Reporting Categories Adjustment Authority provided							
		BUDGETARY RESOURCES							
		Unobligated balance:							
1A		Unob Bal: Brought forward, October 1 (+ or -)	109,649,324		109,649,324		109,649,324		
1B		Unob Bal: Adjustment to SOY balance brought forward, October 1 (+ or -)							
		Recoveries of prior year unpaid obligations:							
2A		Recoveries of prior year unpaid obligations, Actual							
2B		Recoveries of prior year unpaid obligations, Anticipated							
		Budget authority \ Appropriation:							
3A1		BA: Appropriation, Actual	167,161,000		167,261,000		167,261,000		
3A2		BA: Appropriation, Anticipated							
3B		BA: Borrowing authority							
3C		BA: Contract authority							
		Budget authority \ Spending authority from offsetting collections (gross):							
		Earned:							
3D1A		BA: Offsetting Collections - Earned, Collected							
3D1B		BA: Offsetting Collections - Earned, Change in receivables from Fed sou							
		Change in unfilled customer orders (+ or -):							
3D2A		BA: Change in unfilled customer orders - Advance received							
3D2B		BA: Change in unfilled customer orders - Without advance from Fed sou							
3D3		BA: Offsetting collections - Anticipated	10,000,000		10,000,000		10,000,000		
3D4		BA: Offsetting Collections - Previously unavailable							
		Expenditure transfers from trust funds:							
3D5A		BA: Expenditure transfers from trust funds - Collected							
3D5B		BA: Expenditure transfers from trust funds - Change in receivables							
3D5C		BA: Expenditure transfers from trust funds - Anticipated							
		Nonexpenditure transfers, net:							
4A		Nonexpenditure transfers, net: Actual transfers, BA							
4B		Nonexpenditure transfers, net: Anticipated transfers, BA							
4C	01	Nonexpenditure transfers, net: Actual transfers, unob balances							
4C	02	Nonexpenditure transfers, net: Actual transfers, unob balances							
4D		Nonexpenditure transfers, net: Anticipated transfers, unob balances							
5		Temporarily not available pursuant to Public Law ____ (-)							
		Permanently not available:							
6A		Permanently not available: Cancellations of expired or no-year accounts							
6B	A	Permanently not available: Enacted reductions (-)			-100,000		-100,000		
6C		Permanently not available: Capital transfer and redemption of debt (-)							
6D		Permanently not available: Other authority withdrawn (-)							
6E		Permanently not available: Pursuant to Public Law ____ (-)							
6F		Permanently not available: Anticipated for rest of year (-)							
7		Total budgetary resources	286,810,324		286,810,324		286,810,324		
		APPLICATION OF BUDGETARY RESOURCES							
		Apportioned:							
8A1		First quarter	98,366,616		98,366,616		98,366,616		
8A2		Second quarter	111,666,225		111,666,225		111,666,225		
8A3		Third quarter	47,985,927		47,985,927		47,985,927		
8A4		Fourth quarter	28,791,556		28,791,556		28,791,556		
8C		Apportioned for future fiscal years							
9		Budgetary Resources: Withheld pending rescission (pursuant to 2 U.S.C							
10		Budgetary Resources: Deferred							
11		Budgetary Resources: Unapportioned balance of revolving fund							
12		Total budgetary resources	286,810,324		286,810,324		286,810,324		

Submitted _____ Date _____

Approved *[Signature]* Date 1/25/08

**TABLE 3
CODES**

1. PHASE CODES

CODE	PHASE	DEFINITION/APPLICATION	APPROS.
R	Reconnaissance	For studies in Reconnaissance phase	I
F	Feasibility	For studies in Feasibility phase and Continuing Authority Projects	I, C or O&M
P	Preconstruction Engineering and Design	For projects in PED phase	I
C	Construction	For projects in Construction phase	C
CR	Replacements	For Replacements projects in Construction (Principal facility component that enables production of project outputs e.g. replacement of failing lock, recapitalizing or upgrading facilities)	C
CS	Construction for dam safety assurance, seepage, static instability	For all projects in Construction phase for dam safety assurance, seepage and static instability	C
CM	Monitoring	Post-construction environmental monitoring for ecosystem restoration and environmental mitigation and post construction monitoring associated with other activities such as beach nourishment which occurs after construction is physically complete prior to fiscal completion.	I, C
FW	Watershed Feasibility	Feasibility Study in a Watershed Context. A multipurpose/multiobjective study of problems and purposed in a watershed that is expected to result in a recommendation for authorization of a water resources project implemented by the Corps. It may also result in an array of recommendations for actions to be pursued by others. Cost sharing is 50/50.	I, C
WA	Watershed Assessments (Section 729)	Watershed Assessment. A study that meets the criteria of Section 729 of WRDA 86 resulting in a Watershed Management Plan that identifies a broad array of possible actions, is expected to result in implementation by others, and is not dependent on the authorization of a project for Corps implementation. Cost sharing is 75% Federal/25% non-Federal.	I, C
DI	Design and	For Continuing Authority Projects in the Design	C or

	Implementation	and Implementation Phase	O&M
SS	Study for dam safety assurance, seepage, static instability leading to construction	For study activities specifically pertaining to dam safety assurance, seepage and static instability	C
DC	Deficiency Correction	For those deficiency correction items that migrated from Construction to O&M	C or O&M
O	Operations	For operations activities in O&M	O&M
M	Maintenance (regular, not major or rehab)	For regular normal maintenance activities in O&M	O&M
MM	Major Maintenance	For major maintenance activities in O&M	O&M
MR	Rehabilitation	For Rehabilitation projects in O&M (Restore or ensure continuation of project functions or outputs)	O&M
OJ	Operation Joint Activities	For joint operations activities at O&M multipurpose hydropower projects (Cat/Class 300) authorized for multiple purposes	O&M
MJ	Maintenance Joint Activities	For joint maintenance activities at O&M multipurpose hydropower project (Cat/Class 300) authorized for multiple purposes	O&M
MB	Maintenance Joint Activities (Other)	Maintenance Joint Items Requesting 100% Appropriated Funds	O&M
OB	Maintenance Operation Activities (Other)	Operation Joint Items Requesting 100% Appropriated Funds	O&M
DS	Federal Sand + Sec 111	For those Federal sand and Section 111 items that migrated from Construction to O&M in FY 07	O&M
DF	Dredged Material Disposal Facility (DMDF)	For all Dredged Material Disposal Facilities, formerly included in Construction, to be listed as individual line items	O&M
BO	Biological Opinion (legal requirement)	For those Biological Opinion items that migrated from Construction to O&M in FY 07	O&M
BD	Beneficial Use of Dredged Material + Sec 204	For those beneficial use and Section 204 items that migrated from Construction to O&M in FY 07	O&M
MT	Mitigation	For those non-endangered species biological mitigation items that migrated from Construction to O&M in FY 07	O&M
XA	FUSRAP PA/SI	For FUSRAP PA/SI Phase	FUSRAP
XB	FUSRAP RI-ROD	For FUSRAP RI-ROD Phase	FUSRAP
XC	FUSRAP RA	For FUSRAP RA Phase	FUSRAP

2. CATEGORY, CLASS, SUBCLASS CODES

a. INVESTIGATIONS

Activity	Category, Class, Subclass Code	Guidance Provided in Subannex Number		Division Response (Yes or No)
	I	MR&T		
Navigation Studies	110			
Navigation - Reconnaissance	111	111	A-1	Yes
Navigation - Feasibility	112	112	A-1	Yes
Flood Damage Prevention Studies	120			
Flood Damage Prevention - Reconnaissance	121	113	A-1	Yes
Flood Damage Prevention - Feasibility	122	114	A-1	Yes
Shoreline Protection Studies	130			
Shoreline Protection - Reconnaissance	131		A-1	Yes
Shoreline Protection - Feasibility	132		A-1	Yes
Special Studies	140			
Special - Reconnaissance	141	115	A-1	Yes
Special - Feasibility	142	116	A-1	Yes
Ecosystem Restoration Studies		-TBD		
Ecosystem Restoration-Reconnaissance	143		A-1	Yes
Ecosystem Restoration Feasibility	144		A-1	Yes
Watershed/Comprehensive Studies	150			
Watershed/Comprehensive - Reconnaissance	151	117	A-1	Yes
Watershed/Comprehensive - Feasibility	152	118	A-1	Yes
Special Investigations	171			Yes
FERC Licensing Activities	172			Yes
Interagency Water Resources Development	173			Yes
Inventory of Dams	174		NA	No
National Estuary Program	175			Yes
North American Waterfowl Management Program	176			Yes
National Marine Fisheries Program	177			Yes
Interagency and International Support	178			Yes
Coordination w/ Other Water Resources Agencies	181			Yes
Water Quality Management	184		NA	No
Coastal Zone Management	185		NA	No

a. INVESTIGATIONS (continued)

Activity	Category, Class, Subclass Code	Guidance Provided in Subannex Number		Division Response (Yes or No)
	I	MR&T		
Planning Assistance to States	186			Yes
National Wild & Scenic Rivers System	187	NA	No	
Technical and Engineering Assistance on Shore and Streambank Erosion (Sec 55)	188	119	NA	No
Legislative Phase I Studies (FDP)	194	132	A-2	Yes
Collection and Study of Basic Data	NA	120	NA	No
Stream Gaging	210		NA	No
Precipitation Studies	220		NA	No
International Waters Studies	240			Yes
Flood Plain Management Services	250			Yes
Hydrologic Studies	260			Yes
Scientific and Technical Information Centers	270		NA	No
Coastal Field Data Collection	280		NA	No
Transportation Systems	291		NA	No
Environmental Data Studies	292		NA	No
Flood Damage Data	295		NA	No
Automated Information Systems Support	294		NA	No
Research and Development	300		NA	No
	500		NA	No
Preconstruction Engineering and Design				
Projects not yet Authorized for Construction	400	140	A-2	Yes
Ecosystem Restoration Projects	410			
Navigation Channels and Harbors	421	141		
Navigation Locks and Dams	422			
Watershed/Comprehensive Projects	430			
Shoreline Protection	440			
Flood Control, Local Protection	451	142		
Flood Control Reservoirs	452			
Multiple Purpose Power	460			
Projects Authorized for Construction	600	160	A-2	Yes
Ecosystem Restoration Projects	610			
Navigation Channels and Harbors	621	161		
Navigation Locks and Dams	622			
Watershed/Comprehensive Projects	630			
Shoreline Protection	640			

a. INVESTIGATIONS (continued)

Activity	Category, Class, Subclass Code	Guidance Provided in Subannex Number	Division Response (Yes or No)
	I	MR&T	
Flood Control, Local Protection	651	162	
Flood Control Reservoirs	652		
Multiple Purpose Power	660		

CECW Programmed Investigations items

Special Investigations	171		
Gulf of Mexico Program	171		
Pacific Northwest Forest Case Study	171		
Chesapeake Bay Program	171		
FERC Licensing Activities	172		
Interagency Water Resources Development (includes American Heritage Rivers Navigators and Coastal America)	173		
National Estuary Program	175		
North American Waterfowl Management	176		
Interagency and International Support includes Dutch MOA	178		
Coordination with Other Water Resources Agencies	181		
CalFed	181		
Lake Tahoe Federal Interagency Partnership	181		
Planning Assistance to States	186		
International Waters Studies	240		
Flood Plain Management Services	250		
Hydrologic Studies	260		

Activities associated with these codes are programmed by CECW. Assume your work allowance remain at or about the same level as PY-2 through PY + 9.

b. CONSTRUCTION

Activity	Category, Class, Subclass Code	Guidance Provided in Subannex Number
Navigation		
Channels and Harbors		
Projects Specifically Authorized by Congress	211	B-2
Dredged Material Disposal Facilities Program	212	See Annex C
Projects Not Specifically Authorized by Congress (Section 107, 1960 Act and Modifications)	216	G-3
Debris Removal	217	Program not active
Locks and Dams	220	B-2
Mitigation of Shore Damages Attributable to Navigation Projects (Section 111, 1968 Act)		
Projects Specifically Authorized by Congress	231	See Annex C
Projects Not Specifically Authorized by Congress	232	G-3
Dam Safety Assurance Navigation (Construction)	240	B-2
Dam Safety Assurance Navigation (Study)	241	B-2
Shore Protection		
Projects Specifically Authorized by Congress		
Sacrificial Features Only	411	B-2
Structural and Sacrificial Features	412	B-2
Projects Not Specifically Authorized by Congress (Section 103, 1962 Act and Modifications)	420	G-3
Flood Control		
Local Protection		
Projects Specifically Authorized by Congress	511	B-2

b. CONSTRUCTION (continued)

Activity	Category, Class, Subclass Code	Guidance Provided in Subannex Number
Projects Not Specifically Authorized by Congress (Section 205, 1948 Act and Modifications)	516	G-3
Emergency Streambank and Shoreline Protection (Section 14, 1946 Act and Modifications)	517	G-3
Snagging and Clearing (Section 208 1954 Act and Modifications)	518	G-3
Reservoirs	520	B-2
Urban Stormwater Management		
Projects Specifically Authorized by Congress	531	B-2
Projects Not Specifically Authorized by Congress (Section 205, 1948 Act and Modifications)	532	G-3
Dam Safety Assurance Flood Control (Construction)	540	B-2
Dam Safety Assurance Flood Control (Study)	541	B-2
Multiple Purpose Power	600	B-2
Dam Safety Assurance Multi-Purpose (Construction)	640	B-2
Dam Safety Assurance Multi-Purpose (Study)	641	B-2
Miscellaneous		
Project Modifications for Improvement of the Environment (Section 1135, 1986 Act)		
Specifically Funded	721	B-2
Not Specifically Funded	722	G-3
Projects Not Previously Programmed for Construction Aquatic Ecosystem Restoration	732	G-3

b. CONSTRUCTION (continued)

Activity	Category, Class, Subclass Code	Guidance Provided in Subannex Number
Aquatic Plant Control	740	No field request
Employee Compensation Fund (Payments to Department of Labor)	750	No field request
Wetlands Restoration and Enhancement Demonstration Program (Section 307 (d), 1990 Act)		
Specifically Funded	761	Program not active
Not Specifically Funded	762	No field request
Ecosystem Restoration	771	B-2
Environmental Infrastructure	772	B-2
Shoreline Erosion Control Demonstration	780	No field request
Beneficial Uses of Dredged Material		
Specifically Funded	791	See Annex C
Not Specifically Funded	792	G-3
Major Rehabilitation (Including Replacements, Seepage Control, and Stability)*		
Seepage Control/Stability Study	801	B-2
Navigation		
Channels and Harbors	813	B-2
Locks and Dams	814	B-2
Flood Control		
Local Protection Projects Specifically Authorized by Congress	816	B-2
Reservoirs	817	B-2
Multiple Purpose Power	818	B-2

*For programming of rehabilitations, see Annex C

c. OPERATION & MAINTENANCE

Activity	Category, Class, Subclass Code		Guidance Provided in Subannex Number
	O&M	MRT	
Navigation	100	410	
Channels and Harbors	110		
Locks and Dams	120		
Flood Control	200	420	
Reservoirs	210		
Local Protection Projects	816		
Channel Improvements, Inspections and Miscellaneous Maintenance	220		
Multiple Purpose Power	300		
Protection of Navigation	400		

d. EXPENSES

Activity	Category, Class, Subclass Code	Guidance Provided in Subannex Number
Headquarters, US Army Corps of Engineers	800	D-2
Major Subordinate Commands	800	D-2
Humphreys Engineer Center Support Activity	800	D-2
Humphreys Engineer Center Support Activity to HQ	800	D-2
Engineer Research and Development Center	800	D-2
Institute for Water Resources	800	D-2
USACE Finance Center	800	D-2

e. PLANT, REVOLVING FUND (Plant Replacement and Improvement Program (PRIP))

Category/Subcategory Title	Category/Subcategory Code
Leasehold Improvements	LH
Land	00
Buildings	05
Structures	10
Aircraft	20
Dredges	30
Other Floating Plant	40
Total Mobile Land Plant	50
Passenger Vehicles (Suspended)	5V
Other Mobile Land Plant	5X
Total Fixed Land Plant	60
Communications Equipment	6C
Other Fixed Land Plant	6X
Tools, Office Furniture, and Equipment	70
Software	80
Total Automatic Data Processing Hardware	90
Computers and Peripherals	9A
Computer Aided Design and Drafting	9D
Water Control Data Systems	9W

F. REGULATORY

Activity	Category, Class, Subclass Code	Guidance Provided in Subannex Number
Permit Evaluation	100	VII-3
Enforcement and Resolution	210	VII-3
Studies	300	VII-3
Other Regulations	400	VII-3
Environmental Impact Statement	500	VII-3
Administrative Appeals	600	VII-3
Compliance: Authorized activities and mitigation	800	VII-3

MSC	Dist	EROC	Appn	CCS	CWIS	Study/Project Name	State	FY08 Pres Budget	FY08 House	FY08 Senate	FY08 Conf	HOLD	FY08 IWA
MVD	MVR	B5	CG	814	88928	LOCK AND DAM 11, MISSISSIPPI RIVER, IA (MAJOR REHAB)	IA	0	6,300	5,000	2,570.5	1,533.5	1,037.0
MVD	MVR	B5	CG	814	74250	LOCK AND DAM 19, MISSISSIPPI RIVER, IA (MAJOR REHAB)	IA	0	698	698	723.5	497.5	226.0
MVD	MVS	B3	CG	814	76193	LOCK AND DAM 24, MISSISSIPPI RIVER, IL & MO (MAJOR REHAB)	IL	0	340	340	154.0	0.0	154.0
MVD	MVS	B3	CG	814	76347	LOCKS NO. 27, MISSISSIPPI RIVER, ILLINOIS (MAJOR REHAB)	IL	0	7,542	7,542	3,418.5	1,322.0	2,096.5
MVD	MVR	B5	CG	814	76134	ILLINOIS WATERWAY, LOCKPORT LOCK AND DAM, IL (REPLACEMENT)	IL	20,445	30,400	20,445	20,118.0	0.0	20,118.0
LRD	LRL	H2	CG	220	10228	OLMSTED LOCKS AND DAM, OHIO RIVER, IL & KY	IL	104,000	104,000	94,000	51,168.0	18,320.0	32,848.0
LRD	LRL	H2	CG	814	10690	MARKLAND LOCKS & DAM - MAJOR REHAB	KY	6,720	7,800	7,000	3,360.0	2,310.0	1,050.0
LRD	LRL	H2	CG	220	10358	MCALPINE LOCKS AND DAM, OHIO RIVER, KY & IN	KY	45,000	45,000	41,000	22,140.0	7,740.0	14,400.0
LRD	LRN	H3	CG	220	12047	KENTUCKY LOCK AND DAM, TENNESSEE RIVER, KY	KY	52,000	52,000	47,000	25,584.0	7,720.0	17,864.0
MVD	MVP	B6	CG	814	76200	LOCK AND DAM 3, MISSISSIPPI RIVER, MN (MAJOR REHAB)	MN	0	0	2,250	493.0	323.0	170.0
LRD	LRP	H4	CG	814	71458	EMSWORTH L&D, OHIO RIVER, PA (STATIC INSTABILITY CORRECTION)	PA	43,000	43,000	43,000	3,478.0	0.0	3,758.0
LRD	LRP	H4	CG	220	10286	LOCKS AND DAMS 2, 3 AND 4, MONONGAHELA RIVER, PA	PA	69,175	70,300	65,300	34,587.5	16,887.5	17,700.0
LRD	LRN	H3	CG	220	13524	CHICKAMAUGA LOCK, TENNESSEE RIVER, TN	TN	35,200	35,200	35,200	17,318.5	7,824.5	9,494.0
LRD	LRH	H1	CG	220	10292	MARMET LOCK, KANAWHA RIVER, WV	WV	25,000	25,000	30,000	14,760.0	5,260.0	9,500.0
LRD	LRH	H1	CG	220	6310	ROBERT C BYRD LOCKS AND DAM, OHIO RIVER, WV & OH	WV	1,000	1,000	1,000	452.5	0.0	452.5
						TOTAL					200,326.0		130,868.0
MVD	MVR	B5	GP	300	88928	LOCK AND DAM 11, MISSISSIPPI RIVER, IA (MAJOR REHAB)	IA	0	0	0	2,570.5	1,533.5	1,037.0
MVD	MVR	B5	GP	300	74250	LOCK AND DAM 19, MISSISSIPPI RIVER, IA (MAJOR REHAB)	IA	0	698	698	723.5	497.5	226.0
MVD	MVS	B3	GP	300	76193	LOCK AND DAM 24, MISSISSIPPI RIVER, IL & MO (MAJOR REHAB)	IL	0	340	340	154.0	0.0	154.0
MVD	MVS	B3	GP	300	76347	LOCKS NO. 27, MISSISSIPPI RIVER, ILLINOIS (MAJOR REHAB)	IL	0	7,542	7,542	3,418.5	1,322.0	2,096.5
LRD	LRL	H2	GP	300	10228	OLMSTED LOCKS AND DAM, OHIO RIVER, IL & KY	IL	0	0	0	51,168.0	18,320.0	32,848.0
LRD	LRL	H2	GP	300	18840	JOHN T MYERS LOCKS AND DAM, IN & KY	IN	0	2,000	0	984.0	0.0	984.0
LRD	LRL	H2	GP	300	10690	MARKLAND LOCKS & DAM - MAJOR REHAB	KY	0	0	0	3,360.0	2,310.0	1,050.0
LRD	LRL	H2	GP	300	10358	MCALPINE LOCKS AND DAM, OHIO RIVER, KY & IN	KY	0	0	0	22,140.0	7,740.0	14,400.0
LRD	LRN	H3	GP	300	12047	KENTUCKY LOCK AND DAM, TENNESSEE RIVER, KY	KY	0	0	0	25,584.0	7,720.0	17,864.0
MVD	MVP	B6	GP	300	76200	LOCK AND DAM 3, MISSISSIPPI RIVER, MN (MAJOR REHAB)	MN	0	0	2,250	493.0	323.0	170.0
LRD	LRP	H4	GP	300	71458	EMSWORTH L&D, OHIO RIVER, PA (STATIC INSTABILITY CORRECTION)	PA	0	0	0	38,554.0	34,273.0	4,281.0
LRD	LRP	H4	GP	300	10286	LOCKS AND DAMS 2, 3 AND 4, MONONGAHELA RIVER, PA	PA	0	0	0	34,587.5	16,887.5	17,700.0
LRD	LRN	H3	GP	300	13524	CHICKAMAUGA LOCK, TENNESSEE RIVER, TN	TN	0	0	0	17,318.5	7,824.5	9,494.0
LRD	LRH	H1	GP	300	10292	MARMET LOCK, KANAWHA RIVER, WV	WV	0	0	0	14,760.0	5,260.0	9,500.0
LRD	LRH	H1	GP	300	6310	ROBERT C BYRD LOCKS AND DAM, OHIO RIVER, WV & OH	WV	0	0	0	452.5	0.0	452.5
						TOTAL					216,268.0		112,257.0

Executive Order: Protecting American Taxpayers From Government Spending on Wasteful Earmarks

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the Federal Government to be judicious in the expenditure of taxpayer dollars. To ensure the proper use of taxpayer funds that are appropriated for Government programs and purposes, it is necessary that the number and cost of earmarks be reduced, that their origin and purposes be transparent, and that they be included in the text of the bills voted upon by the Congress and presented to the President. For appropriations laws and other legislation enacted after the date of this order, executive agencies should not commit, obligate, or expend funds on the basis of earmarks included in any non-statutory source, including requests in reports of committees of the Congress or other congressional documents, or communications from or on behalf of Members of Congress, or any other non-statutory source, except when required by law or when an agency has itself determined a project, program, activity, grant, or other transaction to have merit under statutory criteria or other merit-based decisionmaking.

Sec. 2. Duties of Agency Heads. (a) With respect to all appropriations laws and other legislation enacted after the date of this order, the head of each agency shall take all necessary steps to ensure that:

(i) agency decisions to commit, obligate, or expend funds for any earmark are based on the text of laws, and in particular, are not based on language in any report of a committee of Congress, joint explanatory statement of a committee of conference of the Congress, statement of managers concerning a bill in the Congress, or any other non-statutory statement or indication of views of the Congress, or a House, committee, Member, officer, or staff thereof;

(ii) agency decisions to commit, obligate, or expend funds for any earmark are based on authorized, transparent, statutory criteria and merit-based decision making, in the manner set forth in section II of OMB Memorandum M-07-10, dated February 15, 2007, to the extent consistent with applicable law; and

(iii) no oral or written communications concerning earmarks shall supersede statutory criteria, competitive awards, or merit-based decisionmaking.

(b) An agency shall not consider the views of a House, committee, Member, officer, or staff of the Congress with respect to commitments, obligations, or expenditures to carry out any earmark unless such views are in writing, to facilitate consideration in accordance with section 2(a)(ii) above. All written communications from the Congress, or a House, committee, Member, officer, or staff thereof, recommending that funds be committed, obligated, or expended on any earmark shall be made publicly available on the Internet by the receiving agency, not later than 30 days after receipt of such

communication, unless otherwise specifically directed by the head of the agency, without delegation, after consultation with the Director of the Office of Management and Budget, to preserve appropriate confidentiality between the executive and legislative branches.

(c) Heads of agencies shall otherwise implement within their respective agencies the policy set forth in section 1 of this order, consistent with such instructions as the Director of the Office of Management and Budget may prescribe.

(d) The head of each agency shall upon request provide to the Director of the Office of Management and Budget information about earmarks and compliance with this order.

Sec. 3. Definitions. For purposes of this order:

(a) The term "agency" means an executive agency as defined in section 105 of title 5, United States Code, and the United States Postal Service and the Postal Regulatory Commission, but shall exclude the Government Accountability Office; and

(b) the term "earmark" means funds provided by the Congress for projects, programs, or grants where the purported congressional direction (whether in statutory text, report language, or other communication) circumvents otherwise applicable merit-based or competitive allocation processes, or specifies the location or recipient, or otherwise curtails the ability of the executive branch to manage its statutory and constitutional responsibilities pertaining to the funds allocation process.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an agency or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH

THE WHITE HOUSE,

January 29, 2008.

H.J.RES.20

Revised Continuing Appropriations Resolution, 2007 (Enrolled as Agreed to or Passed by Both House and Senate)

DIVISION B--CONTINUING APPROPRIATIONS RESOLUTION, 2007

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 2007, and for other purposes, namely:

TITLE I--FULL-YEAR CONTINUING APPROPRIATIONS

Sec. 101. (a) Such amounts as may be necessary, at the level specified in subsection (c) and under the authority and conditions provided in the applicable appropriations Act for fiscal year 2006, for projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise provided for 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, 2006.
- (2) The Energy and Water Development Appropriations Act, 2006.
- (3) The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006.
- (4) The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006.
- (5) The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006.
- (6) The Legislative Branch Appropriations Act, 2006.
- (7) The Military Quality of Life and Veterans Affairs Appropriations Act, 2006.
- (8) The Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006.
- (9) The Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006.

(b) For purposes of this division, the term 'level' means an amount.

(c) The level referred to in subsection (a) shall be the amounts appropriated in the appropriations Acts referred to in such subsection, including transfers and obligation limitations, except that--

- (1) such level shall not include any amount designated as an emergency requirement, or to be for overseas contingency operations,

pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006; and (2) such level shall be calculated without regard to any rescission or cancellation of funds or contract authority, other than--

(A) the 1 percent government-wide rescission made by section 3801 of division B of Public Law 109-148;

(B) the 0.476 percent across-the-board rescission made by section 439 of Public Law 109-54, relating to the Department of the Interior, environment, and related agencies; and

(C) the 0.28 percent across-the-board rescission made by section 638 of Public Law 109-108, relating to Science, State, Justice, Commerce, and related agencies.

Sec. 102. 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. 103. Appropriations provided by this division that, in the applicable appropriations Act for fiscal year 2006, carried a multiple-year or no-year period of availability shall retain a comparable period of availability.

Sec. 104. Except as otherwise expressly provided in this division, the requirements, authorities, conditions, limitations, and other provisions of the appropriations Acts referred to in section 101(a) shall continue in effect through the date specified in section 106.

Sec. 105. 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 specifically prohibited during fiscal year 2006.

Sec. 106. Unless otherwise provided for in this division or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this division shall be available through September 30, 2007.

Sec. 107. Expenditures made pursuant to this division prior to the enactment of the Revised Continuing Appropriations Resolution, 2007, shall be charged to the applicable appropriation, fund, or authorization provided by this division (or the applicable regular appropriations Act for fiscal year 2007) as in effect following such enactment.

Sec. 108. Funds appropriated by this division may be obligated and expended notwithstanding section 10 of Public Law 91-672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

Sec. 109. With respect to any discretionary account for which advance appropriations were provided for fiscal year 2007 or 2008 in an appropriations Act for fiscal year 2006, the levels established by section 101 shall include advance appropriations in the same amount for fiscal year 2008 or 2009, respectively, with a comparable period of availability.

Sec. 110. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2006, and for activities under the Food Stamp Act of 1977, the levels established by section 101 shall be the amounts necessary to maintain program levels under current law.

(b) In addition to the amounts otherwise provided by section 101, the following amounts shall be available for the following accounts for advance payments for the first quarter of fiscal year 2008:

(1) `Department of Labor, Employment Standards Administration, Special Benefits for Disabled Coal Miners', for benefit payments under title IV of the Federal Mine Safety and Health Act of 1977, \$68,000,000, to remain available until expended.

(2) `Department of Health and Human Services, Centers for Medicare and Medicaid Services, Grants to States for Medicaid', for payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act, \$65,257,617,000, to remain available until expended.

(3) `Department of Health and Human Services, Administration for Children and Families, Payments to States for Child Support Enforcement and Family Support Programs', for payments to States or other non-Federal entities under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), \$1,000,000,000, to remain available until expended.

(4) `Department of Health and Human Services, Administration for Children and Families, Payments to States for Foster Care and Adoption Assistance', for payments to States or other non-Federal entities under title IV-E of the Social Security Act, \$1,810,000,000.

(5) `Social Security Administration, Supplemental Security Income Program', for benefit payments under title XVI of the Social Security Act, \$16,810,000,000, to remain available until expended.

Sec. 111. (a)(1) In addition to any amounts otherwise provided by this division, such sums as may be necessary are hereby appropriated to fund, for covered employees under a statutory pay system (as defined by section 5302 of title 5, United States Code), 50 percent of any increase in rates of pay which became effective under sections 5303 through 5304a of such title 5 in January 2007.

(2)(A) In addition to any amounts otherwise provided by this division, such sums as may be necessary are hereby appropriated to provide the amount which would be necessary to fund, for covered employees not described in paragraph (1), 50 percent of the cost of an increase in rates of pay,

calculated as if such employees were covered by paragraph (1) and as if such increase had been made on the first day of the first pay period beginning in January 2007 based on the rates that were in effect for such employees as of the day before such first day.

(B) Subparagraph (A) is intended only to provide funding for pay increases for covered employees not described in paragraph (1). Nothing in subparagraph (A) shall be considered to modify, supersede, or render inapplicable the provisions of law in accordance with which the size or timing of any pay increase actually provided with respect to such employees is determined.

(b) Appropriations under this section shall include funding for pay periods beginning on or after January 1, 2007, and the pay costs covered by this appropriation shall include 50 percent of the increases in agency contributions for employee benefits resulting from the pay increases described in subsection (a).

(c) For purposes of this section, the term 'covered employees' means employees whose pay is funded in whole or in part (including on a reimbursable basis) by any account for which funds are provided by this division (other than by chapters 2 and 11 of title II of this division) after October 4, 2006.

Sec. 112. Any language specifying an earmark in a committee report or statement of managers accompanying an appropriations Act for fiscal year 2006 shall have no legal effect with respect to funds appropriated by this division.

Sec. 113. Within 30 days of the enactment of this section, each of the following departments and agencies shall submit to the Committees on Appropriations of the House of Representatives and the Senate a spending, expenditure, or operating plan for fiscal year 2007 at a level of detail below the account level:

- (1) Department of Agriculture.
- (2) Department of Commerce, including the United States Patent and Trademark Office.
- (3) Department of Defense, with respect to military construction, family housing, the Department of Defense Base Closure accounts, and 'Defense Health Program'.
- (4) Department of Education.
- (5) Department of Energy.
- (6) Department of Health and Human Services.
- (7) Department of Housing and Urban Development.
- (8) Department of the Interior.
- (9) Department of Justice.
- (10) Department of Labor.
- (11) Department of State and United States Agency for International Development.
- (12) Department of Transportation.
- (13) Department of the Treasury.

- (14) Department of Veterans Affairs, including 'Construction, Major Projects'.
- (15) National Aeronautics and Space Administration.
- (16) National Science Foundation.
- (17) The Judiciary.
- (18) Office of National Drug Control Policy.
- (19) General Services Administration.
- (20) Office of Personnel Management.
- (21) National Archives and Records Administration.
- (22) Environmental Protection Agency.
- (23) Indian Health Service.
- (24) Smithsonian Institution.
- (25) Social Security Administration.
- (26) Corporation for National and Community Service.
- (27) Corporation for Public Broadcasting.
- (28) Food and Drug Administration.

Sec. 114. Within 15 days after the enactment of this section, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate--

- (1) a report specifying, by account, the amounts provided by this division for executive branch departments and agencies; and
- (2) a report specifying, by account, the amounts provided by section 111 for executive branch departments and agencies.

Sec. 115. Notwithstanding any other provision of this division and notwithstanding section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31), the percentage adjustment scheduled to take effect under such section for 2007 shall not take effect.

CHAPTER 3--ENERGY AND WATER DEVELOPMENT

Sec. 20301. Notwithstanding section 101, the level for each of the following accounts shall be as follows: 'Corps of Engineers, Construction', \$2,334,440,000; and 'Corps of Engineers, General Expenses', \$166,300,000.

Sec. 20302. The limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2280), shall not apply during fiscal year 2007 to any project that received funds provided in this division.

Sec. 20303. All of the provisos under the heading 'Corps of Engineers--Civil, Department of Army, Investigations' in Public Law 109-103 shall not apply to funds appropriated by this division.

Sec. 20304. All of the provisos under the heading `Corps of Engineers--Civil, Department of Army, Construction' in Public Law 109-103 shall not apply to funds appropriated by this division.

Sec. 20305. All of the provisos under the heading `Corps of Engineers--Civil, Department of Army, Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee' in Public Law 109-103 shall not apply to funds appropriated by this division.

Sec. 20306. All of the provisos under the heading `Corps of Engineers--Civil, Department of Army, Operation and Maintenance' in Public Law 109-103 shall not apply to funds appropriated by this division.

Sec. 20307. The last proviso under the heading `Corps of Engineers--Civil, Department of Army, General Expenses' in Public Law 109-103 shall not apply to funds appropriated by this division.

Sec. 20308. Section 135 of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103) shall not apply to funds appropriated by this division.

One Hundred Tenth Congress
of the
United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Thursday,
the fourth day of January, two thousand and seven*

Joint Resolution

Making continuing appropriations for the fiscal year 2008, 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 2008, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year 2007 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 2007, and for which appropriations, funds, or other authority were made available in the following appropriations Acts:

(1) The Department of Defense Appropriations Act, 2007 (division A of Public Law 109-289).

(2) The Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295).

(3) The Continuing Appropriations Resolution, 2007 (division B of Public Law 109-289, as amended by Public Law 110-5).

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 2007 or prior years; (2) the increase in production rates above those sustained with fiscal year 2007 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 2007.

(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.

(c) Notwithstanding this section, the Secretary of Defense may, following notification of the congressional defense committees, initiate projects or activities required to be undertaken for force protection purposes using funds available from the Iraq Freedom Fund.

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 2007.

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 2008, 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 2008 without any provision for such project or activity; or (3) November 16, 2007.

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 2008 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 2007, and for activities under the Food Stamp Act of 1977, 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 2007, 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 2007 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 agency may be apportioned up to the rate for operations necessary to avoid furloughs within such department or agency, consistent with the applicable appropriations Act for fiscal year 2007, except that such authority provided under this section shall not be used until after the department or agency has taken all necessary actions to reduce or defer non-personnel-related administrative expenses.

SEC. 113. Funds appropriated by this joint resolution may be obligated and expended notwithstanding section 10 of Public Law 91-672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 114. Notwithstanding section 20106 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109-289, as amended by Public Law 110-5), the Secretary of Agriculture is authorized to enter into or renew contracts under section 521(a)(2) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)) for 1 year.

SEC. 115. The authority provided by section 3a of the Act of March 3, 1927 (commonly known as the "Cotton Statistics and Estimates Act") (7 U.S.C. 473a) shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 116. The authority of the Secretary of Agriculture to carry out the adjusted gross income limitation contained in section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a) shall continue through the end of the period specified in subsection (e) of such section or the date specified in section 106(3) of this joint resolution, whichever occurs later.

SEC. 117. The provisions of title VIII of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108-447, division B) that apply during fiscal year 2007 shall continue to apply through the date specified in section 106(3) of this joint resolution.

SEC. 118. The authority provided by section 1202 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163) shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2008 or the date specified in section 106(3) of this joint resolution.

SEC. 119. The authority provided by section 1477(d) of title 10, United States Code, as amended by section 3306 of Public Law 110-28, shall continue in effect through the date of enactment of the National Defense Authorization Act for Fiscal Year 2008.

SEC. 120. The authority provided by section 1208 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375) shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2008 or the date specified in section 106(3) of this joint resolution.

SEC. 121. The authority provided by section 1022 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136), as amended by section 1022 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163), shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2008 or the date specified in section 106(3) of this joint resolution.

SEC. 122. The authority provided by section 1051a of title 10, United States Code, shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2008 or the date specified in section 106(3) of this joint resolution.

SEC. 123. (a) Notwithstanding any other provision of law or this joint resolution, and in addition to amounts otherwise made available by this joint resolution, there is appropriated \$5,200,000,000 for a "Mine Resistant Ambush Protected Vehicle Fund", to remain available until September 30, 2008.

(b) The funds provided by subsection (a) shall be available to the Secretary of Defense to continue technological research and development and upgrades, to procure Mine Resistant Ambush Protected vehicles and associated support equipment, and to sustain, transport, and field Mine Resistant Ambush Protected vehicles.

(c)(1) The Secretary of Defense shall transfer funds provided by subsection (a) to appropriations for operation and maintenance; procurement; and research, development, test and evaluation to accomplish the purposes specified in subsection (b). Such transferred funds shall be merged with and be available for the same purposes and for the same time period as the appropriation to which they are transferred.

(2) The transfer authority provided by this subsection shall be in addition to any other transfer authority available to the Department of Defense.

(3) The Secretary of Defense shall, not less than 5 days prior to making any transfer under this subsection, notify the congressional defense committees in writing of the details of the transfer.

(d) The amount provided by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SEC. 124. Section 14704 of title 40, United States Code, shall be applied by substituting the date specified in section 106(3) of this joint resolution for "October 1, 2007".

SEC. 125. Section 382N of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-13) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "October 1, 2007".

SEC. 126. Of the funds made available to the Department of Energy under this joint resolution, \$484,000 may be transferred to another agency for carrying out the provisions of division C of Public Law 108-324. Funds so transferred shall be refunded to the Department after passage of the regular appropriations Act for that agency.

SEC. 127. (a) In addition to the amounts otherwise provided under section 101, an additional amount is available under "General Services Administration—Operating Expenses Account", at a rate

for operations of \$4,340,000, for the costs of agency activities transferred to the Civilian Board of Contract Appeals pursuant to section 847 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163).

(b) For purposes of section 101, the rate for operations for each of the accounts from which funds were transferred in fiscal year 2007 pursuant to section 847(b) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 41 U.S.C. 607 note) is reduced by an amount equal to the annualized level of the funds transferred.

SEC. 128. Notwithstanding any other provision of this joint resolution, except section 106, the District of Columbia may expend local funds for programs and activities under the heading "District of Columbia Funds" for such programs and activities under title IV of H.R. 2829 (110th Congress), as passed by the House of Representatives, at the rate set forth under "District of Columbia Funds—Summary of Expenses" as included in the Fiscal Year 2008 Proposed Budget and Financial Plan submitted to the Congress by the District of Columbia on June 7, 2007, as amended on June 29, 2007.

SEC. 129. Section 403(f) of the Government Management Reform Act of 1994 (Public Law 103-356; 31 U.S.C. 501 note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "October 1, 2006".

SEC. 130. Section 204(e) of the Veterans Benefits Improvement Act of 2004 (Public Law 108-454; 38 U.S.C. 4301 note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2007".

SEC. 131. Any funds made available pursuant to section 101 for United States Customs and Border Protection may be obligated to support hiring, training, and equipping of new border patrol agents at a rate for operations not exceeding that necessary to sustain the numbers of new border patrol agents hired, trained, and equipped in the final quarter of fiscal year 2007. The Commissioner of United States Customs and Border Protection shall notify the Committees on Appropriations of the House of Representatives and the Senate on each use of the authority provided in this section.

SEC. 132. The Secretary of Homeland Security may continue, through the date specified in section 106(3) of this joint resolution, to obligate funds at the rate the Secretary determines necessary to maintain not more than the average monthly number of detention bed spaces in use during September 2007 at detention facilities operated or contracted by the Department of Homeland Security.

SEC. 133. During the period specified in section 106 of this joint resolution, section 517(b) of Public Law 109-295 shall not be in effect.

SEC. 134. Section 105(f)(1)(B)(ix) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)(ix)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "the end of fiscal year 2007".

SEC. 135. (a) Activities authorized by chapters 2, 3, 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) shall continue through the date specified in section 106(3) of this joint resolution.

(b) Notwithstanding any other provision of this joint resolution, except section 106, there is appropriated to carry out chapter 6

of title II of the Trade Act of 1974 (19 U.S.C. 2401 et seq.) \$5,000,000.

SEC. 136. (a) APPROPRIATION FOR CHIP PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of this joint resolution, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated for fiscal year 2008, \$5,000,000,000 for purposes of providing allotments to States, the District of Columbia, and commonwealths and territories under section 2104 of the Social Security Act (42 U.S.C. 1397dd), and, in addition, \$40,000,000 for the purpose of providing additional allotments under subsection (c)(4)(A) of such section.

(2) AVAILABILITY.—Funds made available from any allotment under subsection (b) shall not be available for obligation for child health assistance for items and services furnished after the termination date specified in section 106(3) of this joint resolution, or, if earlier, the date of the enactment of an Act that provides funding for fiscal year 2008 and for one or more subsequent fiscal years for the Children's Health Insurance Program under title XXI of the Social Security Act.

(b) ALLOTMENTS.—Notwithstanding any other provision of this joint resolution, the Secretary of Health and Human Services shall make allotments to States, the District of Columbia, and commonwealths and territories under section 2104 of the Social Security Act (42 U.S.C. 1397dd) from the amounts appropriated under subsection (a) for the entire fiscal year 2008.

(c) REDISTRIBUTION OF UNUSED FISCAL YEAR 2005 ALLOTMENTS TO STATES WITH ESTIMATED FUNDING SHORTFALLS FOR FISCAL YEAR 2008.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

“(i) REDISTRIBUTION OF UNUSED FISCAL YEAR 2005 ALLOTMENTS TO STATES WITH ESTIMATED FUNDING SHORTFALLS FOR FISCAL YEAR 2008.—

“(1) IN GENERAL.—Notwithstanding subsection (f) and subject to paragraphs (3) and (4), with respect to months beginning during fiscal year 2008, the Secretary shall provide for a redistribution under such subsection from the allotments for fiscal year 2005 under subsection (b) that are not expended by the end of fiscal year 2007, to a fiscal year 2008 shortfall State described in paragraph (2), such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for such State for the month.

“(2) FISCAL YEAR 2008 SHORTFALL STATE DESCRIBED.—A fiscal year 2008 shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on a monthly basis using the most recent data available to the Secretary as of such month, that the projected expenditures under such plan for such State for fiscal year 2008 will exceed the sum of—

“(A) the amount of the State's allotments for each of fiscal years 2006 and 2007 that was not expended by the end of fiscal year 2007; and

“(B) the amount of the State's allotment for fiscal year 2008.

“(3) FUNDS REDISTRIBUTED IN THE ORDER IN WHICH STATES REALIZE FUNDING SHORTFALLS.—The Secretary shall redistribute the amounts available for redistribution under paragraph (1) to fiscal year 2008 shortfall States described in paragraph (2) in the order in which such States realize monthly funding shortfalls under this title for fiscal year 2008. The Secretary shall only make redistributions under this subsection to the extent that there are unexpended fiscal year 2005 allotments under subsection (b) available for such redistributions.

“(4) PRORATION RULE.—If the amounts available for redistribution under paragraph (1) are less than the total amounts of the estimated shortfalls determined for the month under that paragraph, the amount computed under such paragraph for each fiscal year 2008 shortfall State for the month shall be reduced proportionally.

“(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2007, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

“(6) 1-YEAR AVAILABILITY; NO FURTHER REDISTRIBUTION.—Notwithstanding subsections (e) and (f), amounts redistributed to a State pursuant to this subsection for fiscal year 2008 shall only remain available for expenditure by the State through September 30, 2008, and any amounts of such redistributions that remain unexpended as of such date, shall not be subject to redistribution under subsection (f).”

(d) EXTENDING AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—Section 2105(g)(1)(A) of such Act (42 U.S.C. 1397ee) is amended by striking “or 2007” and inserting “2007, or 2008”.

(e) APPLICABILITY.—The amendments made by subsections (c) and (d) shall be in effect through the date specified in section 106(3) of this joint resolution or, if earlier, the date of the enactment of an Act that provides funding for fiscal year 2008 and for one or more subsequent fiscal years for the Children’s Health Insurance Program under title XXI of the Social Security Act.

SEC. 137. Notwithstanding any other provision of this joint resolution, there is appropriated for payment to Susan Thomas, widow of Craig Thomas, late a Senator from the State of Wyoming, \$165,200, and for payment to Karen L. Gillmor, widow of Paul E. Gillmor, late a Representative from the State of Ohio, \$165,200.

SEC. 138. The Secretary of Veterans Affairs shall carry out subparagraph (B) of section 1710(f)(2) of title 38, United States Code, and subparagraph (E) of section 1729(a)(2) of such title by substituting the date specified in section 106(3) of this joint resolution for the date specified in each such subparagraph.

SEC. 139. Notwithstanding section 101, amounts are provided for “Department of Defense Base Closure Account 2005” at a rate for operations of \$5,626,223,000.

SEC. 140. Notwithstanding any other provision of this joint resolution, except section 106, the Department of Veterans Affairs may expend funds for programs and activities under the heading “Information Technology Systems” for pay and associated cost for operations and maintenance associated staff.

SEC. 141. Notwithstanding any other provision of this joint resolution, except section 106, in addition to the amount made available for fiscal year 2008 to carry out section 3674 of title 38, United States Code, there is appropriated to carry out that section an additional amount equal to \$6,000,000 multiplied by the ratio of the number of days covered by this joint resolution to 366.

SEC. 142. Notwithstanding section 235(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(2)), the authority of subsections (a) through (c) of section 234 of such Act shall remain in effect through the date specified in section 106(3) of this joint resolution.

SEC. 143. Notwithstanding section 101, amounts are provided for “Department of State—Administration of Foreign Affairs—Diplomatic and Consular Programs” at a rate for operations of \$4,435,013,000, of which not less than \$778,449,000 shall be for worldwide security upgrades.

SEC. 144. The provisions of title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) shall continue in effect, notwithstanding section 209 of such Act, through the earlier of: (1) the date specified in section 106(3) of this joint resolution; or (2) the date of enactment of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.

SEC. 145. Funds made available under section 101 for the National Transportation Safety Board shall include amounts necessary to make lease payments due in fiscal year 2008 only, on an obligation incurred in 2001 under a capital lease.

SEC. 146. Notwithstanding the limitation in the first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)), the Secretary of Housing and Urban Development may, until the date specified in section 106(3) of this joint resolution, insure and may enter into commitments to insure mortgages under section 255 of the National Housing Act (12 U.S.C. 1715z–20(g)).

SEC. 147. Section 24(o) of the United States Housing Act of 1937 (42 U.S.C. 1437v(o)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for “September 30, 2007”.

SEC. 148. (a) Section 48103(4) of title 49, United States Code, shall be applied: (1) by substituting the amount specified in such section with an amount that equals \$3,675,000,000 multiplied by the ratio of the number of days covered by this joint resolution to 366; and (2) by substituting the fiscal year specified in such section with the period beginning October 1, 2007, through the date specified in section 106(3) of this joint resolution.

(b) Section 47104(c) of title 49, United States Code, shall be applied by substituting “2008” for “2007”.

(c) Nothing in this section shall affect the availability of any balances of contract authority provided under section 48103 of title 49, United States Code, for fiscal year 2007 and any prior fiscal year.

SEC. 149. (a) Sections 4081(d)(2)(B), 4261(j)(1)(A)(ii), 4271(d)(1)(A)(ii), 9502(d)(1), and 9502(f)(2) of the Internal Revenue Code of 1986 shall each be applied by substituting the date specified in section 106(3) of this joint resolution for “September 30, 2007” or “October 1, 2007”, as the case may be.

(b) Subparagraph (A) of section 9502(d)(1) of the Internal Revenue Code of 1986 is amended by inserting “or any joint resolution

making continuing appropriations for the fiscal year 2008” before the semicolon at the end.

SEC. 150. (a) Congress makes the following findings:

(1) General David H. Petraeus was confirmed by a unanimous vote of 81–0 in the Senate on January 26, 2007, to be the Commander of the Multi-National Forces—Iraq.

(2) General David H. Petraeus assumed command of the Multi-National Forces—Iraq on February 10, 2007.

(3) General David H. Petraeus previously served in Operation Iraqi Freedom as the Commander of the Multi-National Security Transition Command—Iraq, as the Commander of the NATO Training Mission—Iraq, and as Commander of the 101st Airborne Division (Air Assault) during the first year of combat operations in Iraq.

(4) General David H. Petraeus has received numerous awards and distinctions during his career, including the Defense Distinguished Service Medal, two awards of the Distinguished Service Medal, two awards of the Defense Superior Service Medal, four awards of the Legion of Merit, the Bronze Star Medal for valor, the State Department Superior Honor Award, the NATO Meritorious Service Medal, and the Gold Award of the Iraqi Order of the Date Palm.

(5) The leadership of the majority party in both the House of Representatives and the Senate implored the American people and Members of Congress early in January 2007 to listen to the generals on the ground.

(b) It is the sense of the Congress that the House of Representatives—

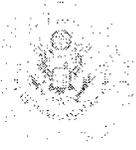
(1) recognizes the service of General David H. Petraeus, as well as all other members of the Armed Forces serving in good standing, in the defense of the United States and the personal sacrifices made by General Petraeus and his family, and other members of the Armed Forces and their families, to serve with distinction and honor;

(2) commits to judge the merits of the sworn testimony of General David H. Petraeus without prejudice or personal bias, including refraining from unwarranted personal attacks;

(3) condemns in the strongest possible terms the personal attacks made by the advocacy group MoveOn.org impugning the integrity and professionalism of General David H. Petraeus;

(4) honors all members of the Armed Forces and civilian personnel serving in harm’s way, as well as their families; and

(5) pledges to debate any supplemental funding request or any policy decisions regarding the war in Iraq with the solemn respect and the commitment to intellectual integrity



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

September 28, 2007

OMB BULLETIN NO. 07-05

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Apportionment of the Continuing Resolution(s) for Fiscal Year 2008

1. Purpose and Background. H.J. Res. 52 will provide continuing appropriations for the period October 1 through November 16, 2007. I am automatically apportioning amounts provided by this continuing resolution (CR) as specified in section 2. This Bulletin supplements instructions for apportionment of CRs in OMB Circular No. A-11, section 123, and applies to this CR and any extensions of this CR.

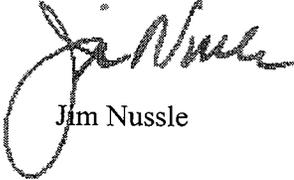
2. Automatic Apportionments. See the attachment to this Bulletin for more detailed instructions on calculating the annualized amount provided by the CR. In order to calculate the amount automatically apportioned through the period ending November 16th (and any extensions of that period); multiply the annualized amount provided by the CR by the lower of:

- the percentage of the year covered by the CR (e.g., for H.J. Res. 52 use 12.84 percent), or
- the historical seasonal rate of obligations for the period of the year covered by the CR.

With regard to the treatment of FY 2007 supplementals, section 110 of the CR requires that the resolution be implemented so that only the most limited funding action permitted in the CR is taken. The Administration has interpreted this section to mandate that agencies in general spend at a minimum level, so as not to infringe upon the prerogative of Congress to set full-year funding levels. Funding apportioned under the CR excludes one-time, non-recurring projects and activities that were funded by those FY 2007 supplementals cited in H.J. Res. 52. Recurring and ongoing projects and activities funded by FY 2007 supplementals in Public Laws 109-295, Division A of 109-289, and Division B of Public Law 109-289 (as amended by Public Law 110-5), may be factored in to the formula if pre-approved by your OMB representative with budget responsibility for the account (section 101 of H.J. Res. 52 specifically does not include supplemental appropriations enacted in P.L. 110-28).

Under an automatic apportionment, all of the footnotes and conditions placed on the prior year apportionment remain in effect. The CR provides that FY 2007 terms and conditions apply.

3. Written Apportionments. If an agency seeks an amount for a program which is different from the total amount automatically apportioned, you must request a written apportionment from OMB. Only a very limited number of written apportionment requests are expected to be granted. Every request must be accompanied by a written justification that includes the legal basis for the exception apportionment. Once a written apportionment is approved, the terms and conditions of the automatic apportionment bulletin cease to apply to the extent changed by the written apportionment.



Jim Nussle

Attachment



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CECW-I

24 SEP 2007

MEMORANDUM FOR: Commanders, Major Subordinate Commands and Districts

SUBJECT: Operations under a Continuing Resolution Act (CRA) – Civil Works Program

1. In anticipation of a CRA at the onset of Fiscal Year (FY) 2008, I am providing the enclosed detailed guidance on Civil Works operations.
2. I want to emphasize a few of the key elements in the guidance.
 - a. Until the specific CRA language is known, our management of the Civil Works appropriated program will continue to be conducted in accordance with guidance contained in the Public Law 109-103 FY 2006 Energy and Water Development Appropriations Act (E&WDAA), and the Joint Resolution for FY 2007. Therefore, only specifically authorized programs, projects, and activities (PPAs) that received funds in FY 2006 or Continuing Authorities Program (CAP) projects that received funds in FY 2006 or FY 2007, whether through an initial allocation or through a reprogramming, may receive CRA allotments in FY 2008.
 - b. No allotment will be made to a new start reconnaissance study, a new start construction project/separable element (including a new CAP project), any other new PPA, or a new CAP phase.
 - c. Reprogrammings remain subject to the restrictions in Section 101 of the FY 2006 E&WDAA. The baseline amounts established for each project in FY 2007 for determining the Army's reprogramming limit are still in effect, and reprogramming actions accomplished in FY 2007 are to be included in determining the cumulative amount of reprogramming.
 - d. Funds shall not be allotted in a manner that would require a later reprogramming.
3. There may be instances of uncertainty concerning your authorities during the CR period. These should be fully coordinated with your vertical team to assure that we continue to act corporately.
4. Upon passage of the CRA and further Administration guidance this guidance will be reviewed and adjusted accordingly.
5. My point of contact for CR activities is the Programs Integration Division Chief, Mr. Gary Loew.

FOR THE COMMANDER:

Attachment


DON T. RILEY
Major General, U.S. Army
Director of Civil Works

Programs Management
FISCAL YEAR 2008 DIRECT AND REIMBURSED PROGRAMS – CIVIL WORKS
CONTINUING RESOLUTION AUTHORITY

CECW-I

24 September 2007

Operational Guidance

1. Purpose. This guidance provides Corps of Engineers (Corps) program and project management policies and practices for Fiscal Year (FY) 2008 to ensure that execution of the FY 2008 Continuing Resolution Act (CRA) for the Civil Works Program is conducted in accordance with existing statutes, direction, and intent of the Administration and Congress. This document provides guidance and is not to be construed as an official legal opinion regarding any particular item in Act language or accompanying reports. It documents changes in Corps processes that must be incorporated into FY 2008 execution plans and acquisition strategies to ensure that implementation of programs, projects, and activities (PPAs) in FY 2008 complies with the legal restrictions and commitments made to Congress. This guidance is subject to change to reflect the FY 2008 Continuing Resolution Act and OMB's automatic apportionment instructions for FY 2008.

2. Applicability. This guidance applies to all HQUSACE elements, Major Subordinate Commands (MSCs) or Separate Field Operating Agencies (SFOAs) and district commands having Civil Works responsibilities. It is applicable to all Corps of Engineers Civil Works PPAs in all Civil Works Appropriations. District and Division offices shall inform CECW-I of any problems with the implementation of this guidance.

3. References.

a. ER 37-1-28, Financial Administration - Continuing Resolution Authority, para 5 & 6 (30 November 2001)

b. ER 37-2-10, Financial Administration - Accounting and Reporting - Civil Works Activities, para 6-10c (1) (1 April 1969, as amended).

c. EC 11-2-191, Execution of the Annual Civil Works Program, (19 Apr 07, as amended).

d. CECW-I memorandum, subject: Existing Continuing Contract Notification Letter, 13 Feb 06

e. CEPR-ZB memorandum, PARC Instruction Letter (PIL) 2006-05, Continuing Contracts and Incrementally Funded Contracts for Fiscal Year 2006, 22 Mar 06.

f. DoD Financial Management Regulation (FMR), Vol. 3 Chapter 2.

g. House Rep. No. 110-185, pt. 1 & pt. 2 (2007)

h. Senate Rep. No. 110-127 (2007).

i. CECW-CP Memorandum dated 30 March 2007, Subject: "Peer Review Process."

4. Direct Program. Pending FY 2008 appropriations, apportionment, and issuance of work allowances and Funding Authorization Documents (FADs), the following guidance will govern funding of Civil Works direct discretionary PPAs during a Continuing Resolution (CR) period subject to revision following enactment of the actual CRA.

a. General. Resourcing under a CRA is intentionally constrained to marginal levels by law. The intent is to finance continuing operations at levels of obligation and expenditure that are not detrimental to Congressional prerogatives.

(1) HQUSACE anticipates that the Office of Management and Budget will automatically apportion funds for the CR period.

(2) Each MSC or SFOA will receive a fractional part of the amount automatically apportioned for each appropriation title. (See Attachment 1) initially, the fractional part for each appropriation title is based on the ratio of FY 2007 expenditures by the MSC or SFOA to total FY 2007 expenditures in that appropriation title, as adjusted to reflect HQ action on MSC funding requests.

(3) HQUSACE will allot CRA funding by appropriation title, to MSCs and SFOAs, by FAD.

(4) Each MSC is responsible for allotting CRA funding received from HQUSACE to districts, by appropriation title. MSCs' distributions to subordinate districts are formal allotments. Therefore, districts are accountable for Anti-Deficiency Act violations.

(5) Once FY 2008 appropriations are enacted by an Energy and Water Development Appropriations Act (E&WDAA) or a full-year CRA, normal work allowances and FADs will be issued. The work allowances and FADs will include funds already allotted for the FY under the CRA(s).

b. Management of Funds Available to PPAs Under the CRA.

(1) Definition of PPA. A program, project, or activity is an authorized water resources project, or an authorized environmental assistance program, or a water resources project study, or a project in a Continuing Authorities Program (CAP), or work that has received an allocation or sub-allocation in any Act or has been directed to be performed in any Act, or work that has received an allocation or sub-allocation within tables in any Statement of Managers / Conference Report for any fiscal year, or work that has received an allocation or sub-allocation within tables in any House Report or

Senate Report for any fiscal year if not superseded by the applicable Statement of Managers / Conference Report.

Note that each individual project within the CAP is a PPA. This is a change from FY 2007. However, Flood Plain Management Services, Planning Assistance to States, and the other Remaining Items are PPAs, not the individual projects or work items within these programs.

(2) Allotments of funds. MSC's/Districts and SFOAs have discretion to allot funds made available to them as needed to continue ongoing PPAs, subject to paragraph 2.(b)(3) below. When allotting funds to PPAs, funds may be allotted to projects disproportionately. That is, allotment may be made of a higher percentage of funds available under the CRA to a PPA with high funding requirements (e.g. award of a fully funded contract) during the CRA period and a smaller percentage of funds available under the CRA to PPAs that will have few funding needs during the CR period. In addition, unobligated balances from FY 2007 or prior years may be obligated on the PPAs that have the unobligated balances.

(3) Restrictions on Allotment and Obligation. Prior to allotting funds, the MSCs and SFOAs shall ensure the following:

(a) Only PPAs that received funds in FY 2006 and CAP PPAs that received funds in FY 2006 or 2007, whether through an initial allocation or through a reprogramming, are eligible to receive CR allotments in FY 2008. However, CAP PPAs that were initiated in FY 2006 or FY2007 and were not named in the Conference Report for FY 2001 through FY 2006 will not receive an allotment.

(b) Except in the case of CAP PPAs, the amount of CRA funds allotted to each eligible PPA may not exceed the lesser of the amount provided for the PPA in the House Report or the amount provided for the PPA in the Senate Report. If either the House Report or the Senate Report provide zero funds for a PPA, MSC's may not allot any CRA funds to that PPA without prior CECW-I approval.

(c) Obligations of FY 2008 CRA funds for each PPA employing a "true" continuing contract (EFARS Part 252.232-5001) or a "special" continuing contract published in the PARC Instruction Letter (PIL 2006-05) must be limited to expected earnings and associated in-house costs through the period of the CRA, and once an Energy and Water Development Appropriation is signed, pending apportionment, to expected earnings and associated in-house costs through the end of the month in which distribution of funding is anticipated.

"Congress has appropriated limited funds through a stop-gap Continuing Appropriations act. Accordingly, pending enactment of the FY 2008 Energy and Water Development Appropriations and subsequent apportionment, we must reserve funds for your contract on a limited basis. The amount reserved for your contract through [insert the appropriate date based on the last day of the

applicable CRA] is \$xxx,xxx,xxx. After enactment of the Energy and Water Development Appropriation and apportionment, we will advise in writing of the amount reserved for your contract."

Since CRA funding is limited, inclusion of the above paragraph in contracts awarded during the CRA period and ongoing contract notices under the continuing contract clauses is critical.

(d) When allotting funds to PPA's prosecuted by contracts that include the DFARS incremental funding clause at DFARS Part 252.232-7007, MSC's should plan allotments that meet the allotment schedule in subparagraph (i) of that clause to avoid funding shortfalls that would require termination of line items or the contract. If planned allotments would require termination of line items or the contract, contact CECW-I prior to the allotment of funds.

(e) Obligations for in-house labor on eligible PPAs must be limited to expected earnings during the period of the CRA, which may not coincide with the end of a pay period. Example: If the CRA period extends to 31 October 2007, commit/obligate 31 days worth of labor earnings, not 41 days (Pay Period ends on 10 Nov 2007).

(f) Any movement from one PPA to another of carryover funds, or of FY 2008 funds once allotted by an MSC, must comply with the reprogramming limitations in Section 101(a) of the FY 06 E&WDAA as implemented by EC 11-2-191. The baseline amounts established for each project in FY07 for determining the Army's reprogramming limit are still in effect, and will not be recalculated to include FY 2008 CRA obligation authority. Reprogramming actions accomplished in FY07 are to be included in determining the cumulative amount of reprogramming authority available to a PPA during the CRA.

(g) A new start is defined as a PPA that has not received a prior work allowance in the applicable account. No allotment will be made to any new start reconnaissance studies, new start construction projects, including new start separable elements of projects, or any other new start PPAs. Furthermore, new CAP phases will not receive an allotment, and, as stated earlier, CAP PPAs that were initiated in FY 2006 or FY2007 and were not named in the Conference report for FY 2001 through FY 2006 will not receive an allotment.

(h) In the event that the CRA or CRA extension lasts beyond the first quarter of FY 2008, obligations toward continuing contracts funded in part from the Inland Waterways Trust Fund must be limited to a quarterly basis, based on expected earnings for each quarter.

(i) MSCs and SFOAs should allot funds only where they can be used during the CR period, thereby avoiding any cause for reprogramming.

(c) The following activities will not be funded during the CRA period: improvements to existing EOC/Office facilities and/or equipment enhancements to include supplies, and other operational items for an Alternate EOC; new leases or contract initiatives; hiring for vacant/new positions unless specifically approved by CECW-HS.

(6) Questionable PPA Funding Requirements. An MSC should coordinate any questionable PPA funding requirements, including reprogramming, through its Regional Integration Team (RIT) to arrive at a corporate decision.

(7) Power Marketing Agencies (PMA) Funding. Specific power purpose funding provided by the Power Marketing Administration (Specific Power), when authorized, that are not part of the Federal appropriation may be 100% available, once apportioned.

c. Contract Approvals:

(1) In accordance with EC 11-2-191, the use of a special continuing contract clause requires advance approval of the ASA(CW), except that use of the special continuing contract clause for contracts funded under the O&M Account and that meet certain conditions require advance approval of the MSC Commander.

(2) In accordance with EC 11-2-191, incrementally funded contracts (contracts using the clauses at DFARS Part 252.232-7007 or at Attachment B of Reference 3.e.) can be approved for award by the District Commander. However, the ASA(CW) must approve the use of any incrementally funded contract that does not complete a useful increment or work or navigation reach with expected FY funding.

(3) In accordance with EC 11-2-191, award of an options contract may be approved by the District Commander as long the contract does not set an expectation of continued federal funding beyond FY 2008. However, if the scope of the base contract and/or the options are not independently useful and, instead, create an expectation of continued federal funding beyond FY 2008, the contract must be approved in advance by the ASA(CW).

(4) With respect to contract work on projects funded by the Inland Waterways Trust Fund (IWWTF), requirements that the ASA(CW) approve in advance the advertisement of any new contract, the award of any new option or delivery order, or the obligation on additional funds under any incrementally funded contract remain in effect.

5. Reimbursable Program. The following guidance will govern Civil Works reimbursed program activities in FY 2008.

a. Transfer appropriations under agency symbol 96 may be obligated to the extent that obligation and/or contract authority is available, unless otherwise advised by HQUSACE or the transferring agencies.

b. Reimbursable work may proceed to the extent that activities have received valid reimbursable orders from customers.

6. Post CRA Procedures.

a. After the President signs an appropriations act into law, OMB automatic apportionment terminates. Agencies must submit SF132 apportionment requests to OMB for approval. OMB approval may take as much as 30 days. Volume 3, chapter 2, section 020506 of the DoD Financial Management Regulation (FMR) extends automatic apportionment for all DoD activities during this 30-day hiatus to the extent obligations are "reasonable and customary for the time period." To insure that these criteria are met, HQUSACE will issue another 30-day increment of funding using the same formula and methodology as was used during the CRA.

b. HQUSACE program managers will prepare work allowances as soon as appropriations are passed and complete them to coincide with OMB apportionment approval. However, work allowances for the Inland Waterways Trust Fund (IWTF) and the corresponding Construction account work allowances for IWTF projects will be issued in increments on a quarterly basis. Accordingly, obligations to IWTF-funded continuing contracts should be quarterly.

c. HQUSACE will issue funding through PBAS based on approved work allowances. FADs issued via PBAS will reflect cumulative funding.

d. MSCs, Districts and SFOAs will adjust funding levels so as not to exceed the work allowance/FAD cumulative allotment for each PPA.

e. MSCs should assure that PPA schedules aligned with the final appropriation act and accompanying conference report are maintained in the P2 system. These schedules will be baselined and locked in the systems immediately following the issuance of work allowances..

7. Points of Contact. Questions regarding this guidance should be directed to Evelyn Specht, CERM-BC, 202.761.5903 for Resource Management matters, or Joseph Bittner, CECW-IP, 202.761.4130. for Program Integration matters.

