

FREQUENTLY ASKED QUESTIONS ON IMPLEMENTATION OF FY 2009 CONTINUING RESOLUTION ACT

(1) Question: Does the FY 2008 “baseline” for a PPA keep changing under the CRA?

Answer: No. As stated in the CRA guidance: “The baseline amount for each PPA as of 30 September 2008 (including supplemental funds allocated in FY 2008) will be used in the CRA period for determining the reprogramming limits under the CRA, and will not be recalculated to include FY 2009 CRA obligation authority.”

(2) Question: If a PPA did not receive an amount in the FY 2008 Joint Explanatory Statement tables or the FY 2008 Energy and Water Development Appropriations Act (E&WDAA), but did receive funds made available in FY 2008 pursuant to a supplemental appropriation act (e.g., Pub. L. 110-252, P.L. 110-329) either in law or through an allocation, is the PPA considered to have “received an appropriation” with respect to subsections Section 101(a)(6), (7), and (8) of the FY 2008 E&WDA Act?

Answer: Yes. Absent statutory language to the contrary, amounts made available in supplemental appropriation acts that provide additional amounts for appropriation accounts are available as if appropriated in the annual appropriation act. Consequently, a PPA that received funds in FY 2008 made available by funds appropriated in an FY 2008 supplemental appropriations act “received an appropriation” for purposes of Section 101(a)(6), (7), and (8) of the FY 2008 E&WDA Act.

(3) Question: If a PPA did not receive an amount in the FY 2008 Joint Explanatory Statement tables or the FY 2008 Energy and Water Development Appropriations Act (E&WDAA), but did receive funds made available in FY 2008 pursuant to a Supplemental appropriation (e.g., Pub. L. 110-252, P.L. 110-329) either in law or through an allocation, were funds for that PPA considered to have been “made available” for that PPA for purposes of Section 101 of the FY 2009 Continuing Resolution (FY 2009 CRA) such that funds made available in the FY 2009 CRA could be allocated to that PPA?

Answer: Yes. Absent statutory language to the contrary, amounts made available in supplemental appropriation acts that provide “an additional amount” for appropriation accounts are available as if appropriated in the annual appropriation act. Thus, Civil Works funds appropriated for an additional amount to an appropriation account in an FY 2008 supplemental appropriations act supplement the FY 2008 E&WDAA and thus are made available through that Act for purposes of Section 101 of the FY 2009 CRA. PPAs that received funds in FY 2008 only through an FY 2008 supplemental appropriations act are eligible to receive funds made available through the FY 2009 CRA.

(4) Question: Does the 'rate of operations' in Section 101 of the FY 2009 CRA include amounts made available in FY 2008 Supplemental Appropriations Acts?

Answer: No. Section 102 of the FY 2009 Continuing Resolution (Division A, PL 110-329) directs agencies not to include funds appropriated for emergency requirements in supplemental appropriations acts in FY 2008 in their 'rate of operations.' Civil Works funds appropriated in supplemental appropriations acts were all appropriated as emergency requirements.