

CHAPTER 2.
ESSENTIALS FOR RECORDING OBLIGATIONS

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2-01 PURPOSE.

This chapter prescribes the criteria for establishing and recording obligations by the National Oceanic and Atmospheric Administration (NOAA) and its cross-serviced agencies. It supplements Department of Commerce (DOC) Accounting Principles and Standards Handbook, Chapter 7, *Administrative Control of Funds*, and NOAA Administrative Order 203-34, *Certification of Obligations*. Chapter 15 of the NOAA Finance Handbook, *Cost and Obligation Adjustments*, provides procedures for correcting erroneously recorded cost or obligation data and/or to process deobligation requests so that accurate information will be reflected in the accounting system and reports.

2-02 SCOPE.

This policy is applicable to all components of NOAA/cross-serviced agencies to which funds are available.

The Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator is responsible for the management of allotted and apportioned funds within NOAA. The line of delegation ends at the Financial Management Center (FMC) level. Budget Execution issues a Fund Availability Table via e-mail and the FMCs have the responsibility for management of funds (allowances) to which obligations are posted and for tasks to which costs are charged. For information about remaining balances at any time during the fiscal year, an FMC may refer to a Quick Report within the Commerce Business System (CBS), “Budget Execution Funds Balance Table.”

2-03 AUTHORITY.

1. The Anti-deficiency Act (31 U.S.C. 1341), as amended, which requires that obligations shall not exceed amounts appropriated.
2. Section 1311 of Supplemental Appropriation Act, 1955 (Public Law 663, 83d Congress; 31 U.S.C. 1501), as amended, which sets forth the supporting documentary evidence required when recording obligations.
3. Title 31 U.S.C., Section 1517, *Prohibited Obligations and Expenditure*, as amended, which limits obligations to the amount of an apportionment.
4. The Federal Acquisition Regulations (FAR), which codifies uniform policies and procedures for acquisition by all executive agencies.
5. Office of Management and Budget (OMB) Circular A-11, Part 4, which contains instructions relating to apportionments and reports on budget execution.
6. Principles of Federal Appropriations Law, Third Edition, which serves as a detailed fiscal law guide covering those areas of law in which the Comptroller General renders decisions.

2-04 POLICY.

RECORDING OBLIGATIONS:

Whether appropriated funds are legally available for obligation depends on three things:

1. the purpose of the obligation or expenditure must be authorized;
2. the obligation must occur within the time limits applicable to the appropriation; and
3. the obligation and expenditure must be within the amounts Congress has established.

Thus, there are three elements to the concept of availability: purpose, time, and amount. All three must be observed for the obligation to be legal. Further guidance regarding the availability of appropriations is provided in the Government Accountability Office's *Principles of Federal Appropriations Law*, chapters 4 through 6 (at <http://www.gao.gov/legal/red-book/overview>).

An obligation is a legally binding agreement that will result in outlays, immediately or in the future. When you place an order, sign a contract, award a grant, purchase a service, or take other actions that require NOAA to make payments, you incur an obligation. It is a violation of the Antideficiency Act to involve NOAA in a contract or obligation for payment of money before an appropriation is made, unless authorized by law. This means you can only incur an obligation against budget authority in a Treasury account that belongs to NOAA. It is also a violation of the

Antideficiency Act to incur an obligation in an amount greater than the amount available in the Treasury account that is available. This means that the account must have budget authority sufficient to cover the total of such obligations at the time the obligation is incurred. In addition, you must be able to support the amounts reported by documentary evidence as required by 31 U.S.C. 1501 (at <http://uscode.house.gov/>), and you are required to maintain certifications and records showing that the amounts have been obligated. Below is additional guidance on recording obligations for the different types of goods and services.

1. Personnel compensation and benefits:

For personnel compensation and benefits the issue is usually the timing of the obligation and not the amount of the obligation. The amount is prescribed by laws that cover the civil service and the uniformed service and determined by well-established personnel procedures. As for the timing of the obligation, the amounts generally are recorded as obligations as the amounts are earned during the reporting pay period, with the following exceptions:

- Severance pay: the obligation should be recorded at the time it is paid on a pay period by pay period basis.
- Authorized reimbursable expenses estimated to be paid to employees for real estate, temporary subsistence, and other expenses incident to relocation at the request of the Government: the obligation should be recorded at the time the individual travel orders are approved.
- Cash awards that do not become part of the employee's basic rate of pay, allowances for uniforms and quarters, and subsidies for commuting costs: the obligation should be recorded at the time when payable to the employee.
- Unemployment compensation payments to the Department of Labor for former Federal employees: the obligation should be recorded at the time when the agency receives the bills rendered by Labor.
- Annual leave: the obligation should be recorded at the time when it becomes due and payable as terminal leave or taken in lieu of a lump sum payment.
- Funded annual leave: when you transfer a person from a revolving fund to another revolving fund, you obligate the employee's share of funded annual leave and you pay it to the fund to which the employee is transferred. When you transfer a person from a revolving fund to a non-revolving fund, you obligate the employee's portion of the funded annual leave and pay miscellaneous receipts in the general fund of the Treasury.

2. Contractual services and supplies:

Services and supplies that are purchased by contract are recorded as obligations at the time there is a binding agreement, which is usually when the contract is signed. As a

general rule, the amount of the obligation is the maximum liability to the Federal Government. The maximum liability to the Government is normally limited by the terms of the contract (e.g., cancellation clauses). The following provides the nuances of contracts with certain characteristics.

- Contracts with a maximum price: the amount obligated is the maximum price and should be recorded at the time the contract is signed. When there is documentary evidence that the price has been reduced, a downward adjustment of the obligation (i.e. deobligation) should be made.
- Letters of intent and letter contracts: normally, no amount is obligated at the time the letter is signed. However, if the letters constitute binding agreements under which the contractor is authorized to proceed, the amount obligated should be the maximum amount indicated in the letter that the contractor is authorized to incur to cover expenses prior to the execution of a definitive contract and should be recorded when the letter is signed.
- Contracts for variable quantities: normally, no amount is obligated at the time the contract is signed. However, the contracts are usually followed by purchase orders that do obligate the Government. For purchase orders the amount obligated should be the amount of actual orders and should be recorded when the order is issued.
- Orders where a law requires that you place orders with another Federal Government account: the amount obligated should be the amount of the order and should be recorded when the order is issued.
- Voluntary orders with other Federal Government accounts: the amount obligated should be the amount of the order and should be recorded when the order is issued.
- If the order is for common-use standard stock item the supplier has on hand or on order at published prices: the amount obligated should be the amount of the order and should be recorded at the time that you issue the order to the supplier.
- If the order is for stock items other than the above: the amount obligated should be the amount of the order and should be recorded at the time you receive a formal notification that the items are on hand or on order.
- If the order involves execution of a specific contract: the amount obligated should be the amount of the order and should be recorded at the time the supplying agency notifies you that it has entered into the contract.

3. Intragovernmental services and supplies/Interagency agreements:

- Obligations are incurred and recorded by NOAA for services when they are rendered by the providing Federal department/agency, regardless of when funds transfer occurs from NOAA to the providing Federal department/agency. For example, obligations by NOAA for GSA rental payments are incurred in the year in which the premises are occupied by NOAA, whether or not a bill has been rendered to NOAA by GSA.
- Obligations are incurred and recorded by NOAA for supplies when the order is placed with the providing Federal department/agency, regardless of when funds transfer occurs from NOAA to the providing Federal department/agency.

4. Land and structures:

Contracts for lands and structures generally follow the same rules as for contracts specified above with the following exception.

- Condemnation proceedings: the amount obligated should be the estimated amount for the price of the land, adjusted to the amount of the payment to be held in escrow where there is a declaration of taking. The obligation should be recorded when you ask the Attorney General to start condemnation proceedings.

5. Capital Leases and Lease - Purchase:

The amount obligated should be the present value of the lease payments, discounted using the Treasury interest rate used in calculating the budget authority provided for the purchase, and should be recorded when the contract is signed. In addition, the amount obligated should include the imputed interest costs (that is, the financing costs Treasury would have incurred if it had issued the debt to acquire the asset) and should be recorded during the lease period. OMB Circular A-11 and the ADA require that agencies have sufficient budgetary resources up front to cover the present value of the remaining lease payments discounted using Treasury interest rates (e.g. full funding).

6. Grants and fixed charges:

Discretionary grants will be obligated after the amounts are determined administratively and recorded at the time the grant award is signed. The grant award is normally the documentary evidence that the grant has been awarded. Letters of credit are issued after the grant awards are made and generally are not obligating documents.

For grants and fixed charges with formulas in law that automatically fix the amount of the charges, record the amount determined by the formula or, if there is an appropriation, then record the amount appropriated, whichever is smaller. The obligation is reported at the time the grantee is awarded the grant and is liquidated when the payment is made to the grantee. To the extent that a grant awarded in a previous year is no longer valid, you will record a recovery of prior year obligations. The exceptions follow:

- Grants or fixed charges in lieu of taxes: the amount obligated should be the amount appropriated and should be recorded when the taxes are due.

- Interest: the amount obligated should be the amount owed and should be recorded when the interest is payable.
- Dividends: the amount obligated should be the amount declared and should be recorded when the dividend is declared.

7. Federal credit programs:

Obligations in Federal credit programs generally follow the same rules as for personnel compensation and benefits and contracts specified above with the following exceptions:

- For subsidies in direct loan program accounts: the amount obligated is the portion of the subsidy cost for the direct loan contract that you are signing. The obligation should be recorded when you sign the direct loan contract. That is, when you enter into a binding agreement to make a direct loan when specified conditions are fulfilled by the borrower.
- For subsidies in guaranteed loan program accounts: the amount obligated is the portion of the subsidy cost for the binding agreement to make a loan guarantee. The obligation should be recorded when you make the loan guarantee commitment. That is, when you enter into a binding agreement to make a loan guarantee when special conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

REUSE OF DEOBLIGATED FUNDS:

Deobligated funds may be reobligated within the period of availability of the appropriation. For example, annual appropriations may be reobligated in the fiscal year for which the funds were appropriated, while multi-year or no-year appropriated funds may be reobligated in the same or subsequent fiscal years. Deobligations occur for a variety of reasons. Examples are:

- Liquidation in amount less than amount of original obligation (E.g. cost underrun, NOAA called for less work than maximum provided under level-of effort contract).
- Cancellation of project or contract.
- Initial obligation determined to be invalid.
- Reduction of previously recorded estimate.
- Correction of bookkeeping errors or duplicate obligations.
- Required deobligation of appropriations obligated under an Economy Act agreement to the extent the performing agency has not incurred valid obligations under the agreement by the end of the fiscal year.

Funds deobligated within the original period of obligational availability are once again available for new obligations just as if they had never been obligated in the first place. Any new obligations are subject to the purpose, time, and amount restrictions governing the source appropriation. Funds deobligated after the expiration of the original period of obligational

availability are not available for new obligations. They may be retained as unobligated balances in the expired account until the account is closed, however, and are available for adjustments.

A proper and unliquidated obligation should not be deobligated unless there is some valid reason for doing so. Absent a valid reason, it is improper to deobligate funds solely to make them available for new obligations. To do so risks violating the Anti-deficiency Act. For example, where a government check issued in payment of some valid obligation cannot be promptly negotiated (if, for example, it is returned as undeliverable), it is improper to deobligate the funds and use them for new obligations.

Congress may occasionally by statute authorize an agency to reobligate deobligated funds after expiration of the original period of availability. This is called “deobligation-reobligation” (or “deob-reob”) authority. Such authority exists only when expressly granted by statute.

2-05 DEFINITIONS.

1. Obligation: a binding agreement that will result in outlays, immediately or in the future.
2. Deobligations: a cancellation or downward adjustment of a previously incurred obligation.
3. Anti-deficiency Act: In accordance with the Anti-deficiency Act (ADA), 31 U.S.C. 1341(a), no obligation may be authorized that exceeds the amount available in an appropriation. See the Department of Commerce Accounting Principles and Standards Handbook, Chapter 7, Section 6, for information on prohibited actions under the ADA.
4. Necessary Expense: For an expenditure to be justified, three tests must be met:
 - a. the expenditure must bear a logical relationship to the appropriation sought to be charged;
 - b. the expenditure must not be prohibited by law; and
 - c. the expenditure must not be otherwise provided for; that is, it must not be an item that falls within the scope of some other appropriation or statutory funding scheme.
5. Fund Availability: Appropriated funds are legally available only when:
 - a. the purpose of the obligation or expenditure is authorized;
 - b. the obligation occurs within the time limits applicable to the appropriation; and
 - c. the obligation and expenditure are within the amounts Congress has established.
6. Year-End Accruals: Costs for goods or services that will be received by September 30, but which NOAA will not pay by year-end, must be accrued. The Finance Office provides details in the “Final Year-End Instructions” at the end of each fiscal year.

7. Documentation: Amounts will be recorded as obligations against applicable appropriations or funds only when supported by documentary evidence (properly dated and bearing appropriate authorized signatures) of the following:
- a. a binding agreement between NOAA/cross serviced agencies and an agency or other parties that is
 - (1) in writing, in a way and form, and for a purpose authorized by law; and
 - (2) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be performed.
 - b. a valid loan agreement showing the amount and terms of repayment.
 - c. an order required by law to be placed with a Government Agency.
 - d. an order issued under a law authorizing purchases without advertising:
 - (3) when necessary because of a public exigency;
 - (4) for perishable subsistence supplies; or
 - (5) within specific monetary limits.
 - e. a grant or subsidy payable:
 - (6) from appropriations made for payment of, or contributions to, amounts required to be paid in specific amounts fixed by law or under formulas prescribed by law;
 - (7) under an agreement authorized by law; or
 - (8) under plans approved consistent with and authorized by law.
 - f. a liability that may result from pending litigation.
 - g. employment or services of persons or expenses of travel under law.
 - h. services provided by public utilities.
 - i. other legal liabilities of NOAA/cross-serviced agencies against an available appropriation or fund.

If a given transaction does not meet any of the criteria above, it is not a proper obligation and may not be recorded as one. Conversely, once one of the criteria is met, the transaction must be recorded as an obligation.

2-06 EFFECT ON OTHER ISSUANCES.

This Chapter supersedes Chapter 2 of the NOAA Finance Handbook, dated September 24, 2010 in its entirety.