

CHAPTER 3. PROCESSING COMMITMENTS, OBLIGATIONS AND EXPENDITURES

PURPOSE. This chapter establishes policy and prescribes requirements for the commitment, obligation, and expenditure phases of the Department’s overall administrative control of funds process, in accordance with statutory requirements, guidelines established by the OMB, GAO, and the Secretary of the Treasury. It is intended to accomplish the following:

Establish Departmental policy for a two-step funds control process that requires the verification of the availability of funds both prior to making any internal commitment of funds and prior to incurring any legal obligation to expend funds;

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Prescribe a process to restrict obligations and expenditures to the authorized amounts available, to prevent violations of the Antideficiency Act, as well as violations of other administrative subdivision of funds that are not violations of the Antideficiency Act, per se;

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Establish, in accordance with recent HUD appropriation Acts, that for purposes of funds control and determination of whether a violation exists under the Anti-deficiency Act (31 U.S.C. 1341), the point of obligation shall be the executed agreement or contract, except with respect to insurance and guarantee programs, certain types of S&E funding and incremental funding that is authorized under an executed agreement or contract and this point of obligation shall be designated in the approved funds control plans; and

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Enable the CFO to identify the person or persons responsible for any commitment, obligation or expenditure exceeding the amount available in the appropriation or fund account.

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DEFINITION OF COMMITMENT. The “commitment” of funds sets aside funds for anticipated needs, to assure the availability of funds before entering into a legally binding obligation that will require an expenditure of funds. Essentially, a “commitment” is the earmarking of funds that will be used in the future for the purchase of goods or services, the award of grants or subsidies, or other authorized purposes. As pre-obligations, commitments are internal actions that are not legally binding. However, for administrative control of funds purposes, commitments are treated as reductions in available budgetary resources. Throughout this handbook, except as noted below, the term “commitment” is used to describe the pre-obligation of funds and includes, and replaces, the term “reservation” previously used in some HUD programs. The use of the term “commitment” in the administrative control of funds process is consistent with the U.S. Government Standard General Ledger.

NOTE: The term “commitment” is also used with reference to a loan guarantee commitment and a mortgage-backed securities commitment, which differ from an administrative control of funds commitment. A loan guarantee commitment is a legally binding agreement to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement and, as such, is recorded and reported against the guaranteed loan level apportionment in a guaranteed loan financing account. A mortgage-backed securities commitment commits GNMA to guarantee a certain dollar amount of mortgage-backed securities. GNMA

mortgage-backed security commitment authority is recorded and reported against the amount authorized by statute.

GENERAL POLICY ON COMMITMENTS. HUD's administrative control of funds policy requires the processing and recording of commitments for all HUD funding activity, unless the CFO approves an exemption from this policy. The commitment of funds (previously called the reservation of funds in some HUD programs) is an internal administrative accounting procedure to validate and assure the availability of funds prior to entering into a legally binding obligation that requires an expenditure of HUD funds. All commitments of funds shall be for the purpose authorized by law, within amounts authorized, executed before the end of the period of availability of the appropriation, and supported by documentary evidence approved by a duly authorized official. Commitments will be processed and approved on standard forms established by the CFO. This process significantly reduces HUD's risk of an Antideficiency Act violation.

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COMMITMENT POLICY EXEMPTIONS. An allotment holder may request the CFO to exempt an activity from the requirement for a commitment of funds stage in their funding process. The request must be in writing with a full justification, including an explanation of any other compensating controls over the funds. In deciding whether or not to exempt the activity, the CFO will consider: the nature of the activity and HUD's budgetary authority; the cost of establishing and maintaining the commitment control; and the risk of an Antideficiency Act violation in the applicable account without the commitment process. A blanket exemption to this commitment policy is made in accordance with procurement procedures that allow for simplified acquisitions and delivery orders against established government contracts (usually issued by the General Services Administration), up to \$100,000 in value, to be obligated in the Small Purchase System (SPS) without prior funds commitment.

NOTE: For a limited set of payment types, validation of the availability of funds is performed at the same time as obligation and expenditure (e.g., local travel, bankcard transactions, and telephone bills). Where such limited exceptions exist, they must be defined in the allotment holder's funds control plan and procedures must be set up to check for the availability of funds prior to payment. This is normally an automated systems control feature, but may be performed manually where necessary. In addition, prompt recording of the expenditure is required to avoid exceeding total available funds. The need and availability of funds for such activities must be closely monitored and managed to avoid over spending in the authorized account.

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PROCESSING COMMITMENTS. The CFO will prescribe the standard form(s) to be used for committing funds. Unless otherwise approved by the CFO, the form HUD-718, "Funds Commitment," will be used for approving all commitments of funds (see Appendix No. 7). The commitment form must contain the authorized approval signatures stipulated in the Allotment Holder's funds control plan before the requested funds can be committed. The commitment form must also include a funds availability certification. Staff must be sure to use the current 05/2004 version of the form HUD-718, which includes the verification certification in block 7. The commitment form will also cite the fund symbol, source of funds, budget fiscal year, program code, budget organization code, cost organization, budget object code, and unique sequentially numbered identifier for each commitment. When a machine readable file is used to

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request the commitment of funds for multiple actions at a time, a signed paper copy of the commitment form, with summary level information associated with the automated file, should be converted to electronic form and forwarded with the machine readable file to approve continued processing. Commitments shall be promptly recorded, coincident with the occurrence of the events from which they originate. Commitments must be recorded against an approved and applicable allotment to allow for the proper future obligation of these funds. Any external communications referring to a commitment of funds or other pre-obligation processes should clearly distinguish these preliminary events from the intended actual point of obligation discussed in Sections 3-10 through 3-27, below.

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REVERSING COMMITMENTS AT FISCAL YEAR-END. Commitments that are recorded and remained unobligated at fiscal year-end are automatically reversed prior to the fiscal year-end closing process and become part of the unobligated carryover balance that needs to be brought forward on the SF-132, "Apportionment/Reapportionment Schedule" requests for the new fiscal year. Valid commitments for unexpired multi-year and no-year funds must be reestablished against the new fiscal year apportionment. The OCFO will notify allotment holders of commitment levels reversed at year-end for inclusion in their apportionment requests. Upon receipt of sufficient apportionments to cover the carryover activity, the OCFO will automatically reestablish the commitments and notify the applicable allotment holder(s). If commitment amounts have not been obligated at the end of the FY and they are available for expiring annual or multi-year funds, they are no longer valid commitments and therefore, become part of the unobligated balance in the expired account. This unobligated balance is available only for upward adjustments of previously recorded obligations, where the correct amount of the valid obligation was not previously fully recognized. In this case, upward adjustments can be made in the respective expired accounts for a period of five years after the year of expiration.

ROLES AND RESPONSIBILITIES. Each allotment holder is responsible for designating the Funds Control Officer authorized to oversee the proper processing of requests for the commitment of funds. The Funds Control Officer will be identified in the allotment holder's funds control plan (see Chapter 4), along with the process for requesting, approving, recording and reporting on commitments. The Funds Control Officer will usually be the Budget Officer for the allotment holder's organization. The allotment holder's designated Funds Control Officer is responsible for assuring that current, complete and accurate records of available funds are maintained for all funding activities for which they are responsible. The funds control plan shall designate a Funds Verification Official who is responsible for determining the propriety of each requested commitment, and the availability of funds for each commitment, before the commitment is approved and then recorded in the applicable funds control system or log. The Funds Verification Official should reject any commitment request that is not properly approved, or for which there is any question about compliance with the legal limits of HUD's budgetary authority. The Funds Control Officer will also assure that regular reports on the levels of committed and uncommitted authorized funds are disseminated to HUD managers with responsibility for the activity.

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COMMITMENT NUMBERING AND CONTROL. For control purposes, a unique sequentially numbered identification number must be assigned to each commitment, and this

commitment reference number should be associated with any subsequent obligation. Unless exempted by the CFO, the commitment coding structure should conform to the structure established for recording commitments and obligations in HUDCAPS or its subsidiary systems (e.g., Program Accounting System (PAS)), to provide consistency across the Department and foster further future systems integration efforts. For procurement actions, the HUD Procurement System (HPS) generates commitment numbers to be used for each commitment. For Simplified Acquisition actions, the Small Purchase System (SPS) generates commitment numbers for each action.

MONITORING FUNDS AVAILABILITY AND NEED. Any commitment made should be immediately captured in a central system or control log for each allotment or suballotment that provides current and accessible data for the use of responsible managers, to enable them to either curtail activity or request authorization of additional funds when commitment levels approach authorized funding limits. Close monitoring and management of commitment levels and authorized funding limits is required to ensure adequate funds control and avoid incurring an obligation that could result in an Antideficiency Act violation.

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DEFINITION OF OBLIGATION. An obligation is a binding agreement that will require an outlay or expenditure of funds, immediately or in the future. Examples of HUD obligations generally include purchase orders, contracts, task orders, interagency agreements and grant awards. Modifications of these actions can also represent obligations requiring an expenditure of funds (see related section 3-12).

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GENERAL POLICY ON OBLIGATIONS. All obligations of budgetary resources shall be for the purpose authorized by law, within amounts authorized, executed before the end of the period of availability of the appropriation, and supported by documentary evidence that is in writing and approved by a duly authorized official. Obligations should be limited to bona fide needs during a given period, and should comply with applicable laws and regulations. An obligation may not be authorized before enactment of the applicable appropriation and the issuance of an apportionment and an allotment, unless otherwise provided by law. Each obligation should be recorded in the appropriate accounts as it is incurred, in the appropriate source year accounts. Obligations should never exceed available funds, and should reference and be verified against a prior commitment of funds in order to assure that sufficient funds are available, unless exempted from the funds commitment stage by the CFO.

INCURRING OBLIGATIONS. Care must be taken to properly establish the legally binding point of obligation in a manner that protects the interests of the government and assures compliance with the limits of HUD's authority on its budgetary resources, including any requirements that may be specified in statute or regulation. Allotment holders should request the assistance of the Office of General Counsel and the OCFO's Appropriations Law Staff to review the legal sufficiency of the proposed point of obligation for funded activities, including the proper sequencing of signatures on the obligating documents. Recent HUD appropriation acts have provided that the point of obligation shall be the executed agreement or contract, except with respect to insurance and guarantee programs, certain types of salaries and expenses funding and incremental funding that is authorized under an executed agreement or contract and the point of obligation shall be designated in the applicable funds control plan. The Office of General

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Counsel and the OCFO's ALS should also be asked to review the form and content of any proposed pre-obligation communications on pending award processes, such as award notification letters prior to signing a grant agreement, to assure such communications will not prematurely obligate the government before all terms and conditions have been agreed to by HUD and the other party. Allotment holders and HUD staff are cautioned to avoid any communication that would improperly imply an obligation of funds prior to the intended point of obligation approved in the applicable funds control plan (see related sections 4-2, 4-3, and Appendix No. 9 of this handbook, as well as guidance within GAO's Principles of Federal Appropriations Law.) (see related section 3-10).

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POINT OF OBLIGATION LIST/MATRIX. The Office of the Chief Financial Officer shall maintain a list called the Point of Obligation Matrix that identifies the point of obligation and the allotment holder for specified funded activities. The matrix is based on the point of obligation identified in each funds control plan. It is posted at hud@work on the OCFO web site. To the extent that program offices need to change a point of obligation for a program, the change must be submitted to OCFO for review and approval and, if approved, the change must be made to the funds control plan and the matrix simultaneously.

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3-14. RECORDING OBLIGATIONS. All obligations must be promptly recorded in the applicable funds control system when incurred and must reference any previously recorded commitment of funds for the obligation. For procurement and simplified acquisition actions, the HPS and SPS generated Accounting and Appropriation Data Forms must be included as part of the procurement package to be submitted to the CFO Accounting Center in Fort Worth, Texas. Obligations must be recorded against an approved budget with required classification elements. Obligations should never exceed available funds. Anyone discovering that an obligation has incurred in excess of available funds shall inform the OCFO immediately, so that appropriate action may be taken to avoid or appropriately address a violation of the Antideficiency Act.

When the amount of an obligation is not known at the time it is incurred, the best possible estimate shall be used to record the obligation. Where an estimate is used, the basis for the estimate and the computation must be documented and approved by a duly authorized official. Appropriate adjustments must be made when events permit a more accurate estimate of the amount of the obligation and when the actual obligation is determined.

The principles used in determining which fiscal year's appropriation is to be charged with obligations for any period within the fiscal year will also be used at the end of the fiscal year.

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3-15. OBLIGATING FUNDS FOR INDEFINITE QUANTITY CONTRACTS. HUD must properly obligate the required minimum purchase amount upon execution of any indefinite quantity contract. It is not sufficient to obligate funds after the subsequent issuance of a task order, since the obligation occurred at the time an indefinite quantity contract was executed. Under current regulations, an indefinite quantity contract must include a minimum purchase requirement that must be more than nominal (48 C.F.R. 16.50(a)). According to the GAO appropriations law guidance, any required minimum

purchase amount must be obligated when the contract is executed. Subsequent obligations occur as work orders or delivery orders are placed, and after the initial orders have fulfilled the minimum, are chargeable to the fiscal year in which the order is placed.

OBLIGATIONAL PERIOD. Section 1501(d) of the Supplemental Appropriation Act of 1955 (Title 31, United States Code (USC), Section 1107) provides that the nature of an appropriation or fund determines its period of obligational availability:

One-year accounts are available for incurring obligations only during a specified fiscal year;

Multiple-year accounts are available for the specified multiple-year period;

No-year accounts are available indefinitely;

At the end of a fiscal year, unobligated balances in accounts carried forward may not be obligated in the following fiscal year without a new apportionment and allotment of funds;

HUD maintains separate obligated and unobligated balances within an expired account until that account is cancelled at the end of the fifth year; and

Expired funds that are five years old are cancelled at September 30. Prior to year-end, a detailed report of these funds is sent to program managers. This is to notify program managers that any unexpended amounts under an expired account at the end of the year will be cancelled.

Following the enactment of appropriations for HUD each fiscal year, the OCFO will prepare a chart that identifies the obligation periods applicable to HUD and HUD recipients that are imposed by statute or regulation on the obligation and expenditure of appropriated funds. The chart will be used to validate or update HUD's funds control plans, with notification of any required changes to applicable allotment holders.

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DETERMINATION OF NEED. It is not a requisite that the delivery of goods or the rendering of services be completed within the fiscal year in which funds were obligated. However, obligations recorded should represent a bona fide need for the full period of the contract or for the fiscal year in which the contract is in effect. The determination of what constitutes a bona fide need for the full period of the contract or for the fiscal year depends in large measure upon the facts and circumstances of the particular case. The term "bona fide need" recognizes the necessity of providing for the orderly flow of goods or services and avoiding the unnecessary obligations of funds.

An obligation for a fiscal year relates to:

Goods or services for which a contract or purchase order or other obligation document is issued in the current fiscal year and for which there is an actual need in that fiscal year; or

A contract entered into during the fiscal year when lead-time or an advance of funds is required in order to have the goods or services available when needed in a subsequent year.

Generally, contracts or purchase orders for goods and services shall be obligated in the fiscal year in which the bona fide need arises or for the replacement of stock used in that fiscal year. When materials or supplies are not obtainable on the open market for use at the time need is determined, a contract for such materials or supplies may be considered a bona fide need of the fiscal year in which the contract is made, provided that the time intervening between contracting and delivery is necessary for producing, processing, or fabricating the materials or supplies. The amount of the obligations under contracts of this type will vary under different conditions. If such a contract is for the needs of the current year only, the full amount of the contract shall be obligated at the time the contract is executed. If such a contract is entered into to provide a continuing supply needed by HUD for over a number of years, they should be obligated at the time the contract is executed and only for the needs of the current fiscal year: needs of each successive fiscal year for which the contract is renewed by execution of HUD's option should be obligated against funds of each such fiscal year (20 C.G. 572, 20 C.G. 868, 33 C.G. 90, 37 C.G. 155). However, multiyear contracts may be authorized under special circumstances and in accordance with 41 U.S.C. § 254c. Comptroller General (C.G.) Decision B-277165 (January 10, 2000). Obligations for rent, utilities, materials, and supplies should generally not exceed one fiscal year in duration (37 C.G. 155, 159).

Amounts for rent, travel, training and household moves scheduled to begin in the next fiscal year should normally not be obligated during the current fiscal year, nor should contracts for housekeeping and facility maintenance services of HUD operational facilities when the services are to be performed in the next fiscal year.

HUD's year-end training obligation policy, as a general rule is:

Current Year funds may be used only for training that is scheduled to occur in the current year. The bona fide need for the training must exist in the current fiscal year for an obligation to occur with current year funds. For example, FY 2005 funds cannot be used for any FY 2006 training.

Exceptions to this general rule:

Prepayment of tuition: Current year funds can be used for a course that starts during the current fiscal year and continues into next fiscal year. For example, a college level class where the semester begins in September and ends in December.

An obligation was made for a class that was scheduled during the current fiscal year and the vendor cancelled the class and rescheduled the class for the next fiscal year. Since the bona fide need existed during the current year and the obligation was valid, unforeseen delays, which cause delivery or performance to extend into the following fiscal year will not invalidate the obligation.

The purpose and scope of the original obligation cannot change once the period of obligation has ended.

If a vendor requires payment not later than September 30 of the current year for essential training that begins in early October of the following year, current year funds can be used. The training must be critical to the performance of the employee's job and no similar training can be available within an acceptable timeframe within the next fiscal year. Any proposed training fitting this exception must be submitted to the OCFO Budget office for review and approval.

For program funds, obligations shall be recorded in the fiscal year in which the act that makes the contract or agreement binding takes place, as long as there is a bona fide intent that performance under the contract will commence in the near future without unnecessary delay, even though the first act of performance may not take place until the succeeding fiscal year. To be considered valid obligation documents, such contracts or agreements must not restrict the contractor or grantee from incurring expenses except where the expenses would violate requirements that funds be spent only to carry out purposes of the program, within budget restrictions, and not in excess of the contract amount.

Grant and loan (program) funds, when obligated for a particular project, shall provide obligational authority to the grantee or borrower to cover the estimated costs of the authorized project. Such funds shall not be available for other projects nor for purposes other than those contemplated and agreed upon in the obligating document.

If the scope of a contract, grant agreement, or loan agreement is expanded as to area of performance and/or total amount after the close of the year in which the contract or agreement was originally obligated, such added amounts must be obligated against the current fiscal year appropriation (37 C.G. 861). However, overruns of estimated obligations without a change in scope may be obligated against the year in which the original contract was obligated. On expired appropriations, however, such overruns are limited to the amounts of appropriations previously withdrawn (or lapsed) to the Treasury. Any expansion of a grant agreement governing funds awarded competitively must be in compliance with the requirements of the Notice of Funding Availability (NOFA) under which the funds were awarded and the HUD Reform Act, as applicable. Any expansion of a contract must be in compliance with HUD's Acquisition Regulations and policies and procedures of HUD's Contract Management Review Board, as applicable.

Interest penalties for late payment of vouchers and invoices subject to the Prompt Payment Act (P.L. 97-177, as amended) shall be obligated against the current year of the appropriation or fund against which the goods or services giving rise to the voucher/invoice was initially obligated.

DOCUMENTARY EVIDENCE FOR RECORDING OBLIGATIONS. Amounts shall only be recorded as obligations against the applicable appropriation, fund, or statutory authority when supported by sufficient documentary evidence that a legally binding

obligation has been established. Obligations should not be recorded until the obligating documents have been properly signed and dated in the correct sequence, as specified in the applicable funds control plan. All required actions to make the document a legally binding obligation must be completed within the period of availability for obligation of the funds being used. The recording of obligation process must be clearly identified in the applicable funds control plan. For example, if in the funds control plan, the process for recording obligations includes using a machine readable file, submitted to the

CFO/Financial Systems Maintenance to record obligation of funds for multiple actions at a time, a signed paper copy of a certification for obligations letter, signed by the allotment holder or designee, as described in the funds control plan must be attached to the file of obligations to process before that file is processed. The program areas and the CFO will maintain current funds control plans. Any processing requests that deviate from the points of obligation and funds control plan must be approved through written authorization from both the allotment holder and the issuer of the allotment.

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PROMPT RECORDING. Original obligations shall be recorded promptly after receipt of authorizing documents in the accounting office. Any changes in recorded obligations shall be recorded promptly upon receipt in the accounting office of a signed document that authorizes the change. Any change in the contract, purchase order, grant, cooperative agreement, or other obligating instrument, which will alter the scope and/or increase the amount of the obligation, shall not be made until the availability of funds is ascertained in the same manner as for an original obligation. Before processing requests to decrease or cancel existing obligations, the accounting office shall determine that the unliquidated amount remaining from the original obligation is equal to or greater than the amount to be deobligated.

It is essential that all obligating documents are promptly forwarded to the accounting office for recording, especially at yearly closeout so that these obligations can be processed in the accounting system no later than September 30.

PROHIBITION AGAINST WITHHOLDING OBLIGATIONS. No employee of the Department shall withhold the recording of a known obligation, even if such recording will cause the allotment or other budget limitation to be exceeded. All valid obligations shall be recorded and supported with the required documentation. However, when a recorded obligation exceeds budget authority, the CFO must be notified immediately to further assess and act on this occurrence. Estimated obligations are unavoidable in some cases. Some instances will be encountered where the amount of an obligation as established must later be changed and must be amended through the appropriate approval process. There may be some instances where valid obligations not recorded are uncovered after the period in which they should have been recorded and when such instances occur they must be reported to the CFO.

ESTIMATING AMOUNTS OF OBLIGATIONS. In those cases where the precise amounts of obligations are not known at the time they are incurred, the best available estimates of the amounts that will subsequently be paid shall be used. Such estimates shall be converted to actual amounts as soon as the precise information is known.

CHANGES IN RECORDED AMOUNTS OF OBLIGATIONS. Balances reported as of the close of a fiscal year shall contain all obligations that are properly chargeable to the appropriation, fund or statutory authority. For expiring appropriations, any increases made after the close of the fiscal year in the amount recorded for an obligation are reviewed for supporting documentary evidence as required by Section 1501 of the Supplemental Appropriations Act of 1950. If revisions to estimated obligations and changes to obligations have been made in a timely manner throughout the fiscal year, changes made after the end of the fiscal year should be relatively minor and should not result in cumulative obligations significantly in excess of the September 30 certified amounts. See Section 3-26 for procedures required when making year-end changes in recorded amounts of obligations.

ADJUSTMENTS TO OBLIGATIONS. Increases and decreases in obligations must be recorded as they occur, using the appropriate obligating document, in order to ensure that obligations do not exceed the authorized limitation and to ensure the validity of recorded obligations at the end of the fiscal year. In addition, the continuing need for obligations should be confirmed and, as necessary, made current during the annual review of obligations.

ANNUAL REVIEW OF UNLIQUIDATED OBLIGATIONS. The OCFO will coordinate a review and confirmation of unliquidated obligations for both program and administrative funds. The unliquidated obligation review will be conducted as of May 31 of each year.

1. Identification of unliquidated obligations for review. Particular attention must be given to unliquidated obligations whose status has not changed for six months or more, to ensure that they are still valid outstanding obligations. The OCFO will at that time identify such unchanged obligations to the designated Funds Control Officer for each allotment holder. The CFO will at that time also designate a threshold amount of obligations that must be examined in more detail.

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2. Deadline for certification. The CFO will establish a date by which each allotment holder shall provide to the CFO a written certification of obligations that were open as of May 31. When responses are not received by the designated date, the OCFO shall notify the allotment holder not responding. If responses are still not provided, the Deputy Secretary shall contact the allotment holder whose responses remain delinquent.

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3. Requirements for certification of obligations open as of May 31. Allotment holders must provide the CFO with written certification of obligations open as of May 31. (Appendix No. 9 contains a sample format of certification by program or administrative personnel to their allotment holder and sample formats of certifications by allotment holders to the CFO, for program obligations and for administrative obligations.) For those obligations in excess of the threshold established each year by the CFO, program or administrative personnel will certify to the allotment holder (generally their Assistant Secretary or equivalent) that his/her office has reviewed the underlying support to determine the validity of the obligations. The certifications to allotment holders must identify for deobligation all invalid obligations for Headquarters and for Field Offices as follows:

For program amounts to be deobligated, in full accordance with program requirements, attach the listings required to deobligate the amounts (showing code D); and

For administrative amounts to be deobligated, either process the deobligations or, in situations where the administrative personnel could not deobligate the invalid obligations, attach the listings (showing code D) required to deobligate the amounts.

Reduction and reinstatement of certain obligations. When obligations are reduced as of September 30 to meet Section 1501 requirements (e.g., bills of lading), it will be necessary to reinstate as of October 1, against the new appropriation or the reduced portion of the obligations, if the travel and transportation is still scheduled to take place.

Support for audits. The workpapers and records supporting annual reviews and any adjustments of unliquidated obligations for Section 1501 purposes shall be retained in such form as to facilitate an audit.

Other review efforts. Review of programs or activities not covered in the OCFO's annual review of unliquidated obligation balances should be accomplished and recapture processes defined in the allotment holder's funds control plan to assure the continuing need for obligated funds. Such processes should also cover older and small balances.

ADJUSTMENTS TO CONSTRUCTION PROGRAM COMMITMENTS. Particular attention must be paid to the continuous review of the validity of commitments in HUD construction related programs (e.g., Public Housing, Section 202 and Section 811) that have not reached the contract/agreement stage. Such commitments in HUD's accounting records are for specific projects for which a contract has not been executed to obligate all or a part of those funds. Continuous review is needed to determine whether a project is still viable and whether the commitment should be modified or cancelled. The program staff, as part of their continuous routine program monitoring process, must furnish the proper documentation to the applicable accounting office so that commitments that have progressed to the contract/agreement stage are promptly and properly reflected as obligations on the accounting records.

TERMINATION OF CONTRACTS AND AGREEMENTS. When HUD terminates a contract or agreement (for convenience or for cause, i.e., "default"), the pertinent obligation shall be decreased to an amount sufficient to meet the settlement costs included under the terms of the termination. For procurement contracts, contracting officers shall comply with the requirements of Federal Acquisition Regulation 49.105-2 concerning timely release of excess funds. For grants, the closeout procedures set forth in Handbook 2210.17, "Discretionary Grant and Cooperative Agreement Policies and Procedures," should be followed. The office executing the termination (e.g., the Office of the Chief Procurement Officer or applicable program grant office) shall promptly notify the OCFO and provide supporting documentation for an adjustment to unliquidated obligations resulting from the closeout process. Upon the normal termination of a contract or agreement, the cognizant or responsible office shall provide the appropriate accounting office with supporting documentation for an adjustment to unliquidated obligations remaining after the contract or agreement is closed out.

CUTOFF DATE FOR REVIEW AND ADJUSTMENT OF SEPTEMBER 30

OBLIGATIONS. The GAO regulations provide that (1) agencies are not restricted, for liquidation purposes, to the amounts certified and reported as September 30 obligations, but that such amounts should be as firm as possible, and (2) in determining amounts to be reported, agencies may establish a reasonable cutoff date subsequent to September 30 for completing a final review of obligations for Section 1501 certification purposes. The regulations also provide that payments made and reports of costs received during the period between September 30 and the cutoff date should be considered in determining valid obligations as of September 30. Therefore, no later than the close of business October 15, each year, each accounting office shall complete a final review and inventory of its September 30 obligations to determine that all known obligations are recorded and correctly stated and that each meets the requirements of Section 1501(a), P.L. 97-258, for valid September 30 obligations for certification purposes. An obligation that is indefinite as to amount shall be adjusted in the course of such final review to the soundest available estimate of the amount obligated as of September 30. Adjustments based on data received after October 15 will be reported as adjustments on the following year's reports. Material adjustments shall be properly noted. When obligations are reduced as of September 30 to meet Section 1501 requirements for supporting documentation (e.g., travel orders, change-of-station orders, training authorization, bills of lading), it will be necessary to reinstate as of October 1, against the new appropriation, the reduced portion of the obligations, if the travel and transportation is still scheduled to take place.

DEFINITIONS OF EXPENDITURES AND ADVANCES. For purposes of funds control, "expenditure" is the disbursement or payment of funds from an appropriation or other budgetary resource to liquidate an obligation. An "advance" is an amount paid prior to the receipt of goods or services and includes funds paid to a grant or other recipient prior to the incurrence or accrual of an actual expense that HUD is obligated to pay. Under HUD's grants payment policy, payments to grantees are not considered advances if the grantee requests the funds not more than three business days prior to the day on which HUD makes the disbursement.

GENERAL POLICY ON EXPENDITURES. HUD will not make or authorize expenditures in excess of an appropriation or apportionment in violation of the Antideficiency Act. Payment requests must properly reference a previously recorded obligation document to ensure payments do not exceed available authorized funds. The total of expenditures and advances under an agreement shall not exceed the total funds obligated under the agreement at any point in time. Advances must be reconciled to actual expenses, and any required adjustments to payments made prior to closing-out the agreement. The allotment holder and employees responsible for making payments must follow government-wide requirements governing payments and the guidelines and instructions issued for the applicable payment system. Those responsible for approvals of payments must ensure that payments do not exceed the unliquidated obligation balances of the specific appropriation involved. This requires that obligations be properly incurred and recorded before payments are made.

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Electronic Funds Transfer (EFT) is the much preferred method of disbursement throughout the Department for all program and administrative offices.

It is also the policy of HUD that:

Penalty interest payments pursuant to the Prompt Payment Act are charged, first, to the fiscal year, appropriation and apportionment (e.g., specific program) used when the obligation to pay interest was incurred, or, if undisbursed funds are not available for this purpose, to the current year funds available for the same appropriation and apportionment;

Interest penalties required by the Cash Management Improvement Act (CMIA) are to be minimized to the extent possible;

Reimbursements from other federal agencies for joint projects are considered to be earned, and eligible for collection, when the interagency agreement is signed and approved by both parties. However, the funds are allotted by HUD for usage only after collection. The collected resource remains unavailable for allotment and use until made available on the SF-132, "Apportionment/Reapportionment Schedule," as reimbursement;

Since payments made by credit card and third party draft payments are classified as outlays at the time the funds are paid from the Treasury, staff issuing the payments must insure that the proper appropriation fund account is charged and that the obligation establishing the need for the payment is expended or liquidated on a timely basis; and

Payments and collections between federal agencies are made through the Intergovernmental Payment and Collection System (IPAC). The allotment holder is responsible for the obligation of a payment that is being made or collected, for the program for which a payment is made or collection is received through the IPAC system and for providing the necessary information to the OCFO to ensure that the appropriate appropriation, program, and project is charged or credited.

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NOTE: For a limited set of transactions (e.g., local travel, telephone bills), validation of the availability of funds may be performed at the same time as obligation and expenditure, provided these exceptions are described and approved in the allotment holder's funds control plan, with procedures to monitor the availability of funds to avoid a violation of the Antideficiency Act. Monitoring the availability of funds is normally an automated systems control feature, but may be performed manually where necessary. In addition, prompt recording of the outlay, fully coded with accounting code information, is required to avoid exceeding available funds for these special types of transactions.

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ROLES AND RESPONSIBILITIES REGARDING EXPENDITURES. The OCFO has overall responsibility for recording, monitoring, external reporting and estimating payments of funds as required by the Treasury Financial Manual and OMB Circulars. The OCFO is responsible for the specific monitoring and projections requirements of OMB Circular No. A-11, except for the separate identification, projection, and reporting of large amounts over \$50 million, which is the responsibility of the originating office. However, allotment holders, their

Funds Control Officer and other officials approved in their funds control plans to process obligations and expenditure requests, are required to monitor the status of obligations and expenditures to report inconsistencies and variances from normal outlay patterns. Payments include outlays, disbursements and advances. While causing the over-disbursement of an appropriation account is a violation of the Antideficiency Act, making payments in excess of unliquidated fund balances in an appropriation account can be an Antideficiency Act or administrative violation. OCFO is responsible for reviewing any disbursement procedures developed by the Assistant Secretaries or equivalents. OCFO will also periodically review the disbursement systems to ensure that the most effective mechanisms are in use. The CFO is responsible for payments made within the Department, including processing the EFT enrollment forms, payment rejections, inquiries on payment status, and reconciliation of payment data.

1. Allotment holders have overall responsibility for implementation of the above expenditure policy for the funds allotted to them. This includes developing and implementing appropriate procedures and designating Headquarters and/or Field Office personnel to examine and approve requests for expenditures of funds as part of their funds control plans.
2. Payment certifying or disbursing officers in HUD's accounting operations--within the OCFO, FHA, or GNMA--are responsible for reviewing and accepting the allotment holder's prepayment examination and approval processes, and any necessary systems or other controls over the subsequent processing of such payment requests, as the basis for certifying the funds for payment.

PREPAYMENT EXAMINATION, APPROVAL, AND CERTIFICATION OF PAYMENT DOCUMENTS. All basic vouchers, voucher schedules and invoices or bills used as vouchers must be approved and certified as legal, proper, and correct for payment by an authorized certifying or disbursement officer. The certification of a document attests to all administrative determinations having been made as required of an approving official. The certification of a voucher applies to all individual vouchers listed on the schedule. The responsibilities and liabilities of accountable officers are discussed in more detail in Chapter 9 of GAO's Principles of Federal Appropriations Law Manual. The disbursements shall be supported by basic payment documents, either hard copy or machine readable source records, which include purchase orders, contracts, receiving reports, invoices, bills, statements of accounts, etc., showing sufficient information to adequately account for the disbursements. The documents should link all supporting records and enable audit of the transactions and settlement with the Certifying or Disbursing Officers, as required by law.

The examination of the voucher shall be done to ensure:

The payment is permitted by law and complies with the terms of the applicable obligating documents;

The required administrative authorizations and approvals are obtained;

The payment is supported by basic payment request documents and/or other acceptable forms of support;

The amount of the payment and the name of the payee are correct;

The goods received or the service performed complies with the agreement;

The quantities, prices and calculations are accurate;

All cash, trade, quantity, or other discounts are taken and, if not, that the reason therefore is shown on the appropriate document;

All applicable deductions are made and credited to the proper account in the correct amount;

Proper payment arrangements are followed;

Appropriated funds are available for the time period, purpose and amount of the proposed payment;

Special Certificates, if required, are furnished; and

Duplicate payments are prevented.

Effective control over disbursements ordinarily requires the prepayment examination and approval of vouchers before they are certified for payment. However, permissible exceptions have been allowed under plans that combine elements of fast pay and statistical sampling of vouchers under \$2500.

PAYMENT PROCESSING. Payment requests must reference a previously established obligation document. Payment request documents that do not reference previous obligations or commitments must be researched immediately to assure that the Antideficiency Act is not violated (see Section 3-37, below) and to establish the proper accounting classification information prior to payment. Requests for payment should be processed and approved in accordance with the requirements of the funds control plan for the applicable funding source. Activities related to payment processing may be supported by other systems that lead up to the payment stage, such as systems used to record obligations and expenditures and to establish payables. Some program and administrative systems provide machine-readable summary schedule data to payment systems for processing. The payment system processes the actual payment, followed by recording in the standard general ledger. Adequate controls must be established to assure the integrity of any machine-readable payment request data, and any movement of the data from one system to another through actual disbursement and posting to the general ledger.

1. Vendor and miscellaneous payments - per the authority granted under the Federal Acquisition Regulations, all contractors shall be paid by EFT, unless a determination is made that it is not in the best interest of the Department to do so; or that payment by EFT adversely impacts the vendor. Such determinations shall be made on a case-by-case basis.

To minimize cash outlays the Department requires maximum use of the Government Small Purchase Card. Additionally, payments to other government agencies shall be made via the IPAC. In those rare instances in which the payee agency does not have access to IPAC, the payment shall be made by using the SF-1081, "Voucher and Schedule of Withdrawals and Credits."

2. Grants, subsidies and loans - all grant, subsidy and loan program payments shall be made by EFT.

3. Salary - direct deposit is the preferred method for salary and related payments (including bonuses and cash awards), and deductions (e.g., allotments, insurance, charitable contributions). Title IV of the Government Management Reform Act established that recipients of federal wage, salary, and retirement payments that begin to receive such payments on or after January 1, 1995, shall be paid by EFT.

4. Travel - the Department requires maximum use of the Government Travel Card. While direct deposit is the preferred method for travel related payments, the Government Travel Card should be used for travel advances.

PROMPT PAYMENT. Specifies government policy for payments (5 CFR Part 1315) made to vendors against contracts. It states in part, that agencies must make payments on time, pay interest penalties when payments are late, and take discounts only when payments are made on or before the discount date and when it is advantageous to the government. Each head of an executive agency shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely disbursement of federal funds through cash, checks, electronic funds transfer, or any other means identified by the Secretary. Any charge assessed by the Secretary under this section, to the maximum extent practicable:

1. Shall be paid out of appropriations available for executive agency operations; and
2. Shall not be paid from amounts available for funding programs of an executive agency.

THE CASH MANAGEMENT IMPROVEMENT ACT (CMIA) requires the Department to make timely payments to States for all programs covered under the Act. Regulations implementing CMIA are at 31 CFR Part 205.

THE DEBT COLLECTION IMPROVEMENT ACT OF 1996 (DCIA) provided for access to taxpayer identification numbers and enhanced administrative offset and

salary-offset authorities. Other regulations affect payments made for travel, payroll, benefits, etc.

PENALTY INTEREST PAYMENT. Penalty interest payments pursuant to the Prompt Payment Act are charged first to the fiscal year appropriation and apportionment (i.e., specific program) used when the obligation to pay interest was incurred, or, if undisbursed funds are not available for the same appropriation and apportionment, penalty interest payments should be charged to the current year.

Section 3902(f) of the Prompt Payment Act states that the interest payment is charged to the fiscal year of the day after the invoice payment due date(which is the day the agency incurred the obligation to pay interest).

Interest penalties required by the CMIA are to be minimized to the extent possible. This requires particular attention to the timely obligation of all grants that are made to state entities so that states do not need to use their own funds to carry out programs while awaiting the obligation authorization allowing them to draw down federal funds.

REIMBURSEMENTS FROM OTHER FEDERAL AGENCIES. Reimbursements from other federal agencies for joint projects are considered to be earned, and eligible for collection, when the interagency agreement is signed and approved by both parties. Funds are apportioned and allotted only after collection. The resources will, therefore, be available for making jointly supported grant or contract award. Payments are collected between federal agencies and are made through IPAC. The program office responsible for the obligation for which a payment is being made or collected, or for the program for which a payment is made through the IPAC system, is responsible for providing the necessary information to the OCFO to ensure that the appropriate appropriation, program, and project is charged or credited.

DOCUMENTARY EVIDENCE FOR MAKING PAYMENTS. Obligations established and recorded against an appropriation, fund, or statutory authority shall be the basis for making payments, when payment requests are submitted in the form and content required by the terms and conditions of the applicable obligating documents and corresponding funds control plan.

METHOD OF DISBURSEMENT. Once expenditure request documents are approved and processed in the applicable HUD accounting system, payments are scheduled for disbursement by one of several disbursing models used to determine how the payments of funds actually occur. HUD's accounting systems support several Treasury disbursing models, through EFT using Automated Clearing House (ACH) transfers or the Treasury Financial Communication System (TFCS), or by printing and sending checks. Disbursement or payment is an expenditure using cash, check or electronic transfer. It also covers executed expenditure transfers to other federal agencies. Disbursements or payments include any advances and credit card and third party draft payments that have been made, as well as those expenditures that have been paid.

The Department's payment systems must provide for the efficient, effective, and timely transfer of funds. EFT is the much preferred method of disbursement throughout the Department and funds are to be disbursed by EFT, when cost-effective, practicable, and

consistent with current statutory authority. Cash payments and printed checks are the least desirable method of payment, to be avoided whenever possible, applying to all program and administrative offices within HUD. Upon written request, recipients may request waivers to this policy on a case-by-case basis.

AUTOMATED DISBURSEMENTS SUBSYSTEMS. Such systems record, monitor, and control all activities associated with the disbursement of funds. These activities include:

Disbursing funds by EFT or generating Treasury disbursement tapes;

Generating General Ledger entries; and

Reconciling all disbursements with Treasury's records.

Disbursement of funds occurs through the U.S. Department of Treasury. Automated disbursements create SF-1166 schedules and tapes that contain information about the amount of funds to be disbursed and who should receive the funds. The Department of Treasury uses the information on these schedules and tapes to disburse funds through EFT using ACH transfers or TFCS or by printing and sending checks.

MANUAL DISBURSEMENT PROCESS. The manual disbursement process is used when payments are processed outside of the Automated Payment System and later recorded. Electronic Certification System (ECS) and Federal Reserve FEDWIRE System payments are examples of manual disbursement processes. Responsible individuals must ensure that funds are available before making a manual payment and must enter the transaction into the appropriate accounting system immediately upon processing.

DIRECT PAYMENT AND DISBURSEMENT DOCUMENTS. Direct payment and disbursement documents are used for direct payment requests, which are entered directly into the accounting system without referencing a purchase order or obligation document. Direct payments may be manual payments or system generated payments. A local travel reimbursement request, SF 1164, or a Spot Award request is an example of a direct disbursement document.

DIRECT DEPOSIT. Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by EFT, unless another method has been determined by the Secretary of the Treasury to be appropriate. The head of each agency shall waive the requirements for a recipient of federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient, based on the following:

“Each recipient of federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated. The crediting of the amount of a payment to the appropriate account on the books of a financial

institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment.”

PAYMENT CONTROL PROCESS REVIEW. On a monthly basis, the OCFO, along with the respective Program Offices, will review financial reports to ensure that no Antideficiency Act violation has occurred. If a potential violation is disclosed, refer to Chapter 5.