

Fiscal Laws and Reprogramming

Introduction

Introduction

Introduction to Fiscal Laws and Reprogramming

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Approximate Length: 50 minutes

Welcome to the Fiscal Laws and Reprogramming Lesson. This lesson presents information to familiarize you with the basic provisions of the Misappropriation Act, the Antideficiency Act, and the Bona Fide Need Rule. This lesson also describes the various types of reprogramming actions used by DoD. The following topics are part of this lesson:

- Fiscal Laws
- Reprogramming
- Lesson Summary

Located throughout and at the end of these lessons are Knowledge Reviews, which are not graded but enable you to measure your comprehension of the lesson material.

Learning Objectives

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By completing this lesson, you should be able to:

- Identify violations of the Misappropriation Act, the Antideficiency Act, and the Bona Fide Need Rule.
- Recognize the various categories of reprogrammings, including the approval authorities and the types of reprogramming actions covered by each category.
- Identify the threshold amounts and level of control for each appropriation category for below-threshold reprogramming.

This page completes the Lesson Overview. Select a lesson from the Table of Contents to continue.

Fiscal Laws

Fiscal Laws

Introduction to Fiscal Laws

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Program and business financial managers should be careful to comply with applicable laws in executing funds.

The three major legal provisions that concern funds execution are the:

- Misappropriation Act
- Antideficiency Act
- Bona Fide Need Rule

Each of these laws will be discussed on the following pages, along with examples of violations of each.

Misappropriation Act

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The Misappropriation Act is also known as the Purpose Statute.

Section 1301 of Title 31, U.S. Code requires that funds appropriated by Congress be used only for the programs and purposes for which the appropriation was made. The purpose of the law is to preserve Congress' power of the purse. The comptroller is responsible for how funds are used (certify "color"), but the Program Manager or other managers cannot intentionally mislead the comptroller.

Examples of Misappropriation Act violations are located on the following three pages.

Misappropriation Violation Examples (1 of 3)
Page 3 of 15



A General requested MILCON funds to build a runway/helicopter pad on base. This request was denied, so the General ordered that O&M funds be used to build multiple "sidewalks" side by side, effectively forming a helicopter pad.

When this violation of the Misappropriation Act was discovered, the General was "retired early."

Misappropriation Violation Examples (2 of 3)
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Another example of a possible violation of the Misappropriation Act involves use of funds for product improvement. For example, development of a product improvement that enhances the system's performance is supposed to be funded with RDT&E funds. However, there may be differences in interpretation between the Program Manager and higher authority as to exactly what constitutes performance enhancement, which can lead to disagreements as to how to properly fund the product improvement.

It is a good idea to check with higher authority/Comptroller prior to obligating funds for a system modification to ensure there is no problem with possible misappropriation of funds. It is also a good idea to get the opinion in writing if it is a gray area.

Misappropriation Violation Examples (3 of 3)

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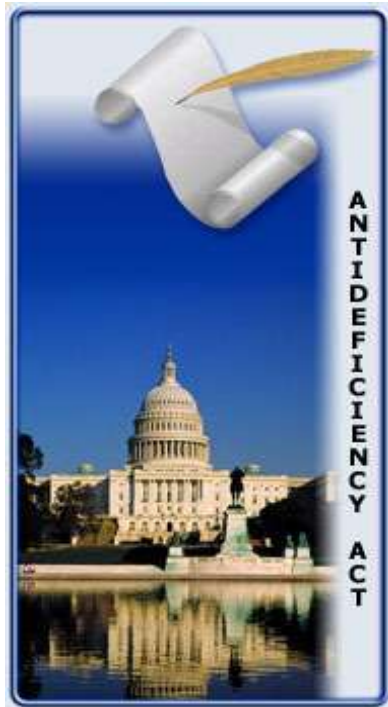


A common violation of the Misappropriation Act occurs when local activities use O&M appropriations to acquire computer systems whose total cost exceeds the investment/expense threshold. These systems should be acquired using procurement appropriations.

Splitting an equipment purchase to avoid having to use procurement funds is also considered a violation of the Misappropriation Act.

Antideficiency Act (ADA)

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Sections 1341 and 1517 of Title 31, U.S. Code state that executive agencies and their subordinates cannot obligate more money than is made available to them in an appropriation or in a formal subdivision of funds (allocation, allotment, suballotment, or other formal designation of a limitation). They also may not make obligations that exceed the amount permitted by agency action/regulation. Nor can they obligate money in advance of receiving an appropriation or allotment. Simply stated, they cannot spend more budget authority than they get and they cannot spend it before they get it.

The law also requires the head of each agency to establish an administrative control system that ensures obligations are kept within appropriated levels and enables the agency to fix responsibility for violations. Unintentional violations can result in reassignment or suspension without pay. Intentional violations can result in a fine and imprisonment. Responsibility for Antideficiency Act violations is usually fixed at the highest level that knew about or should have known about the violation.

Antideficiency Act Violation Examples (1 of 2)

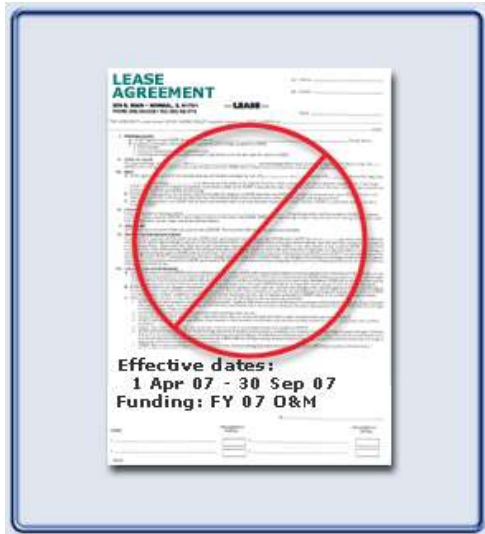
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- An activity received a formal subdivision of funds in the amount of \$1 million but made obligations amounting to \$1.25 million. Exceeding the formal subdivision of funds violated the Antideficiency Act.
 - An activity used O&M funds to purchase computer equipment that should have been purchased with Other Procurement funds, violating the Misappropriation Act. To correct this Misappropriation violation, the activity's fundholder would be required to deobligate the O&M funds and obligate Other Procurement funds instead. At the time the purchase was made, however, the activity's fundholder had no Other Procurement funds. This is considered an Antideficiency Act violation since correction of the erroneous obligation resulted in a breach of a formal subdivision of funds.
-

Antideficiency Act Violation Examples (2 of 2)

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In September 2006, an activity entered into a lease that did not begin until the following fiscal year, FY 2007. They planned on using FY 2007 funds. This violated the Antideficiency Act because it obligated the Federal Government to a contract for the payment of money before the correct appropriation to be charged was available.

Bona Fide Need Rule

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Section 1502(a) of Title 31, U.S. Code requires that appropriated funds be used only to obtain:

- Goods for which a bona fide need arises during the period of the appropriation's availability for obligation.
- Services which are performed during the period of the appropriation's availability for obligation. In other words, activities may only use funds available for obligation at the time the need arises.

The definition of when a bona fide need arises depends on the government's requirements and the nature of the product or service to be acquired. Three situations where questions commonly arise concerning application of the Bona Fide Need Rule involve supply items, service contracts, and multiple-year appropriations.

Bona Fide Need Rule - Supply Items

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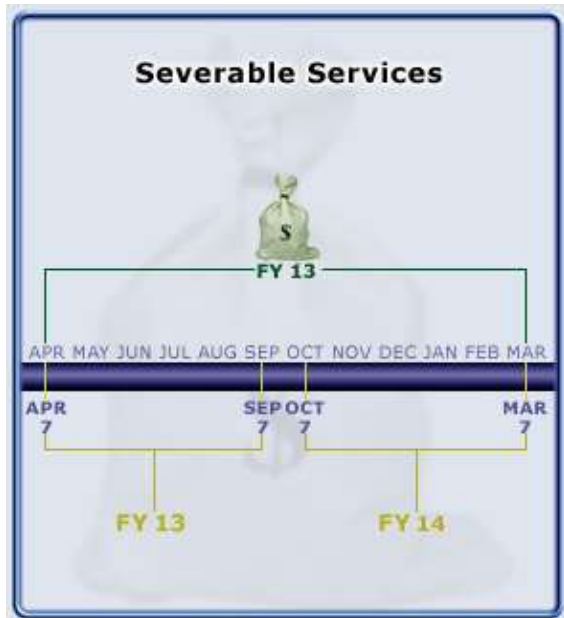


Generally, bona fide need is determined by when the government actually requires the supplies being acquired. Supply needs of a future year are the bona fide need of the year in which they are required, unless an exception applies.

- **Lead-time exception:** Agencies are permitted to consider normal production lead-time in determining bona fide need for an acquisition. For example, if the normal lead-time for an item is 30 days, the government may obligate FY 11 funds for an item required on or before 30 Oct 11.
 - **Stock level exception:** Agencies may use current year funds to replace stock consumed in the current fiscal year, even though the replacement stock will not be used until the following fiscal year. However, fiscal-year-end stockpiling of supplies in excess of normal usage requirements is prohibited.
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Bona Fide Need Rule - Service Contracts

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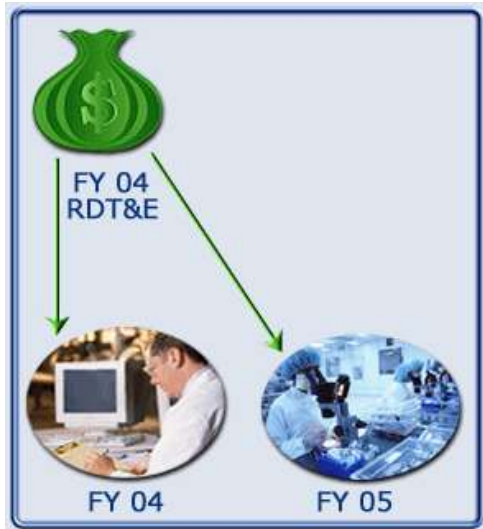


Generally, services are the bona fide need of the fiscal year in which they are performed. Thus, service contracts may not normally cross fiscal years. However, several exceptions exist to this general rule.

- **Nonseverable services exception.** If the services produce a single or unified outcome, product, or report, the services are nonseverable and the government may fund the entire effort with dollars available for obligation at the time the contract is executed, and the contract execution may cross fiscal years.
 - **Statutory exceptions.** Section 2410a of Title 10, U.S. Code permits DoD to award and fully fund any severable service contract up to 12 months in duration at any time during a fiscal year.
-

Bona Fide Need Rule - Multi-year Appropriations

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Appropriations which are available for more than one year (such as RDT&E, Procurement, and MILCON) may be used to finance goods or services for which a bona fide need exists during any year of the appropriation's availability.

For example, FY 12 RDT&E funds are available during both FY 12 and FY 13 and may therefore be used for bona fide needs arising in FY 13.

However, while this is legal, individual DoD Component comptrollers may be more restrictive, only allowing multiple-year appropriations to be used to finance those bona fide needs that arise during the first year of the appropriation's availability.

Bona Fide Need Rule Violation Examples

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- To use up excess end-of-year O&M funds, an agency purchased supplies exceeding the amount required to maintain a stock level consistent with normal usage.
 - A contract awarded in FY 11 was funded with FY 11 RDT&E funds. Early in FY 12, it was discovered that a within-scope cost overrun required a modification of the contract to add funding. Since all of the activity's FY 11 RDT&E funds had been obligated, FY 12 RDT&E funds were used to increase the funds obligated on the contract. This violated the Bona Fide Need Rule since the cost overrun was related to a bona fide need of FY 11, which is outside the availability period of the FY 12 RDT&E funds. FY 11 RDT&E funds should have been sought from other activities to meet this requirement.
-

Knowledge Review

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The following Knowledge Review is a multiple choice question. Only one answer is correct; select the best answer and feedback will immediately appear.

A contract for a research and development project was awarded using funds from a Procurement appropriation. This action did not cause any formal subdivision of the Procurement appropriation to be exceeded. This action most likely:

- a. Did not violate any fiscal laws.**
- b. Violated the Bona Fide Need Rule.**
- c. Violated the Antideficiency Act.**
- d. Violated the Misappropriation Act.**

Correct!

Awarding the R&D project contract using Procurement funds most likely violated the Misappropriation Act, since the contract should have been funded with an RDT&E appropriation. The Antideficiency Act was not violated here because no formal subdivision of funds was exceeded.

Knowledge Review

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The following Knowledge Review is a multiple choice question. Only one answer is correct; select the best answer and feedback will immediately appear.

\$15,000 of year-end "fallout" money from the O&M appropriation becomes available to your program office one week before the end of the fiscal year. You use these funds to buy a year's worth of office supplies even though you already have a normal stock level of six months' worth of supplies on-hand. Assuming that your office supplies are ordinarily financed with O&M funds, this action most likely:

- a. Did not violate any fiscal laws.**
- b. Violated the Bona Fide Need Rule.**
- c. Violated the Antideficiency Act.**

After you have completed the following question, select another topic from the Table of Contents to continue, as this page completes the topic.

Correct!

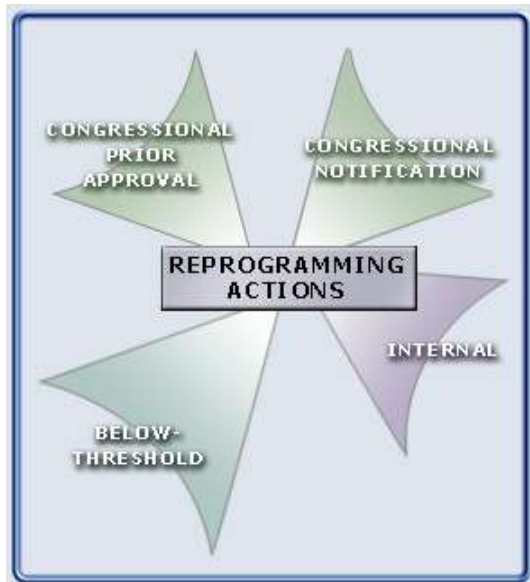
This action most likely violated the Bona Fide Need Rule. Supply needs of a future year are the bona fide need of the year in which they are required, unless an exception applies. In this case, however, there is no applicable exception.

Reprogramming

Reprogramming

Categories of Reprogramming Overview

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Reprogramming is the use of funds for purposes other than those contemplated by the Congress at the time originally appropriated. These actions do not represent requests for additional funds from the Congress. Rather, they normally involve the reapplication of resources within the budget authority already appropriated.

Funds can only be reprogrammed within the same fiscal year, never between fiscal years. Reprogramming guidance is based on agreements between DoD and Congress and is contained in the [DoD Financial Management Regulation \(DoD 7000.14-R\), Volume 3, Chapter 6](#).

There are four types of reprogramming actions: Congressional prior approval, Congressional notification, internal and below threshold.

Congressional Prior Approval Reprogramming (1 of 4)

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Congressional prior approval reprogramming applies to actions:

- Requesting procurement quantity increases for major end items.
 - Affecting matters of special interest to one or more committees, regardless of the dollar amount.
 - Involving use of the Secretary of Defense's general transfer authority (that is, movement of funds **between** appropriation accounts).
 - Exceeding the amounts specified for below-threshold reprogrammings **within** an appropriation account.
 - Involving new starts meeting certain dollar thresholds.
 - Terminating programs or projects meeting certain dollar thresholds.
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Congressional Prior Approval Reprogramming (2 of 4)

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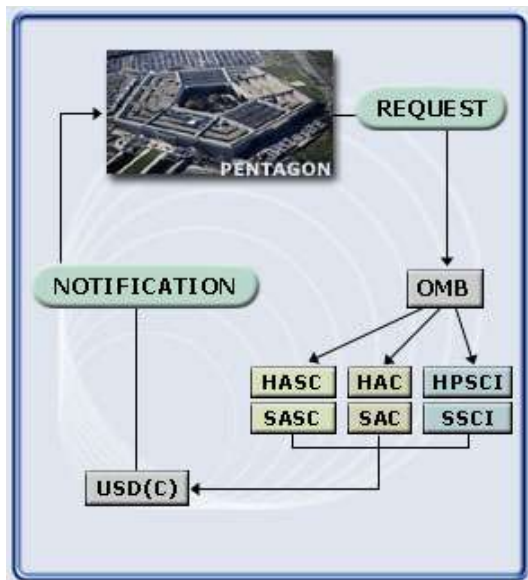


DoD submits requests for prior approval reprogrammings on DD Form 1415-1. This form details the reason for the reprogramming request, the "sources" of the funds to be reprogrammed and the "increases," or destinations for the reprogrammed funds. DoD may only prepare a prior approval reprogramming action that moves funds to higher priority items than those for which the funds were originally appropriated. DoD may not request reprogramming to fund an item for which funding has been denied by Congress.

Requests involving use of general transfer authority must be approved by OMB prior to transmittal to Congress.

Congressional Prior Approval Reprogramming (3 of 4)

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All prior approval reprogramming requests are submitted to the House and Senate Armed Services Committees (HASC and SASC), the House and Senate Appropriations Committees (HAC and SAC), and, if intelligence assets are involved, the House and Senate Select Committees on Intelligence (HPSCI and SSCI). The congressional committees must each provide approval in letter format for the sources and increases requested in the prior approval reprogramming request.

The committees may disapprove specific increases or sources requested or change the amount allowed for a requested increase or source. USD(Comptroller) reviews all of the committee responses and implements the most restrictive committee action for each proposed source, increase, and amount. The DoD Components are then notified of the results of the prior approval reprogramming request via memorandum.

Long Description

Flow chart depicting the congressional prior approval reprogramming process. Requests are submitted by the DoD Components to OMB, and then on to the House and Senate Armed Services Committees (HASC and SASC), the House and Senate Appropriations Committees (HAC and SAC), and, if intelligence assets are involved, the House and Senate Select Committees on Intelligence (HPSCI and SSCI). USD(Comptroller) reviews all of the

committee responses and implements the most restrictive committee action. DoD Components are then notified via memorandum.

Congressional Prior Approval Reprogramming (4 of 4)

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Most prior approval reprogramming requests are consolidated by each service/defense agency for submission as part of the annual DoD "omnibus" reprogramming submission. However, in urgent cases, DoD may forward an individual prior approval reprogramming request addressing a specific requirement outside of the omnibus request. The omnibus reprogramming request must be sent to Congress by the 1st of May, with responses received in July or August.

Select the following hyperlinks to access prior approval reprogramming requests. Note: the following document links are in the Adobe Acrobat format.

[Individual Request](#)

[Omnibus Request](#)

Long Description

A timeline is shown running from March to August. In the timeline, the Components (in March) are shown sending inputs to the Pentagon (in April). Next, the Pentagon is shown sending Omnibus to Congress (in May), Congress is shown sending a response to the Pentagon (in July), and finally, the Pentagon is shown sending implementation guidance to the Components (in August).

Congressional Notification

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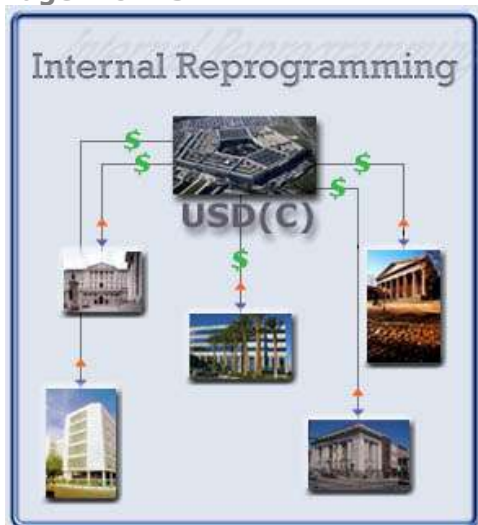
Congressional Notification Reprogramming applies to:

- New programs or line items that do not otherwise require prior approval action (usually due to dollar threshold)
- Termination of program under below threshold reprogramming amounts, as long as the procurement line item or program element is not eliminated.

A letter notification to the Congressional Authorization and Appropriation Committees is required. The component may implement the reprogramming action 30 days after the appropriate committees receive the notification, unless an objection is received from any one of the committees.

Internal Reprogramming (1 of 3)

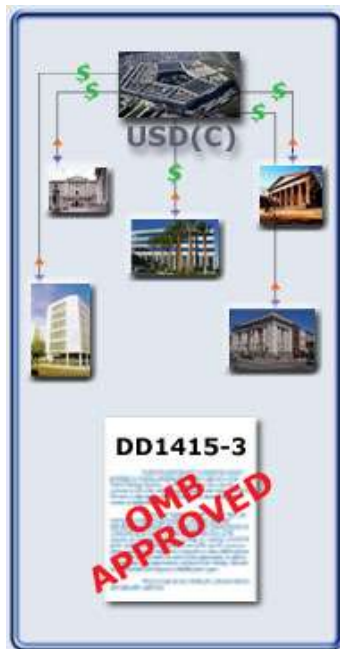
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Internal reprogramming is requested on DD Form 1415-3 and is approved by the USD(C). Internal reprogramming creates an audit trail and documents actions that do not change the purposes and amounts of funds justified in the budget presentations to the Congress or of funds that Congress has added to programs during the enactment process.

Internal Reprogramming (2 of 3)

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Funds may be internally reprogrammed to reclassify them for proper execution in a different line item or appropriation than that in which they were originally appropriated.

For example, if Congress added \$1 million to the RDT&E, Army account for a particular effort but the effort should really be funded in the RDT&E, Defense-Wide account, DoD may transfer \$1 million from the Army account to the Defense-Wide account via internal reprogramming.

Even though this realignment of funds requires a change of appropriations, and general transfer authority must be used, prior congressional approval is not required. However, OMB approval must be obtained after signature of the DD 1415-3 by USD(C).

Internal Reprogramming (3 of 3)

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Funds may also be internally reprogrammed to or from transfer accounts. Transfer accounts established by Congress are appropriations that contain funds which are to be transferred to other appropriations for execution.

An example of a transfer account is the Environmental Restoration, Defense appropriation. The funds provided in this appropriation are internally reprogrammed to appropriate procurement, RDT&E, O&M or MILCON appropriations for use on environmental projects.

Such funds realignments are not considered to require general transfer authority.

Select the following hyperlink to access an [Internal Reprogramming Request](#)

Knowledge Review

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The following Knowledge Review allows for multiple correct answers. Select all of the answers that are correct, then select the Submit button and feedback will appear.

An internal reprogramming action:

- Must be approved by the Undersecretary of Defense (Comptroller).
- May be used to move funds to and from "transfer accounts" such as the Environmental Restoration, Army account.
- May only be used to increase or decrease appropriated amounts within certain thresholds.
- May be used to redirect funds to a different purpose than authorized or appropriated by Congress.

Correct!

An internal reprogramming action must be approved by the USD(C) and may be used to move funds to and from "transfer accounts" such as the Environmental Restoration, Army account shown in the example on the previous page.

Knowledge Review

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The following Knowledge Review is a multiple choice question. Only one answer is correct; select the best answer and feedback will immediately appear.

Due to unexpected problems in the development of an aircraft system, the Air Force needs to move \$20 million from this year's Aircraft Procurement, Air Force appropriation to this year's RDT&E, Air Force appropriation. This must be accomplished by:

- a. Below-threshold reprogramming
- b. Internal reprogramming.
- c. A rescission bill.
- d. Congressional prior approval reprogramming.

Correct!

This particular situation involves moving funds from one appropriation to another appropriation, neither of which is a transfer account. It also involves a change in purpose, so a Congressional prior approval reprogramming action is required.

Below-Threshold Reprogramming Amounts and Level of Control Overview

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Below-threshold reprogramming is approved by the individual services and defense agencies. This includes all actions that do not meet the criteria for prior approval, congressional notification or internal reprogramming.

The thresholds for below-threshold reprogramming are tied to specific levels of each appropriation's structure, as shown in this graphic. Every appropriation is broken down into several subdivisions, the number and type of which vary depending on the appropriation category. As a general rule, most appropriations are first broken down into **budget activities** that cover the major types of efforts encompassed by the appropriation, although MILCON is a notable exception.

Long Description

Appropriation Structure chart. Five columns showing structure of major appropriations used by DoD. First column shows RDT&E appropriations are subdivided into budget activities, which are subdivided into program elements, which in turn are subdivided into projects. The program element level is highlighted as the congressional level of control for RDT&E. Second column shows Procurement appropriations are subdivided into budget activities, which are subdivided into line items. The line item level is highlighted as the congressional level of control for Procurement. Third column shows O&M appropriations are subdivided into budget activities, which are subdivided into activity groups, which in turn are subdivided into sub-activity groups. The budget activity level is highlighted as the congressional level of control for O&M. Fourth column shows MILPERS appropriations are subdivided into budget activities, which are subdivided into budget sub-activities. The budget activity level is highlighted as the congressional level of control for MILPERS. The fifth column shows MILCON appropriations are subdivided into immediate subordinate accounts, which in turn are subdivided into projects. The project level is highlighted as the congressional level of control for MILCON.

RDT&E Appropriations Structure

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In the RDT&E appropriations, each budget activity (BA) is divided into program elements - the same ones used to track resources in the Future Years Defense Program. Each program element consists of one or more projects. Congress authorizes and appropriates funds for RDT&E efforts at the program element level; therefore, the threshold for below-threshold reprogramming of RDT&E funds will be defined at the program element level.

Example: In the RDT&E, Army appropriation, Budget Activity-2, Basic Research, includes Program Element 0602618A - Ballistics Technology, which includes 3 projects: H03 - Robotics Technology; H75 - Electric Gun Technology; and H80 - Ballistics Technology.

Procurement Appropriations Structure

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In the Procurement appropriations, each budget activity is divided into line items. Each line item encompasses a particular weapon system, or a grouping of small systems or spares. Congress authorizes and appropriates funds for Procurement efforts at the line item level.

Example: In the Procurement, Marine Corps appropriation, Budget Activity-4, Communications and Electronics Equipment, includes line items for Intelligence Support Equipment and Night Vision Equipment.

O&M Appropriations Structure

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O&M appropriation budget activities are divided into activity groups, which in turn are divided into sub-activity groups. Congress authorizes and appropriates funds for O&M at the budget activity level.

Example: In the O&M, Air Force appropriation, Budget Activity-1, Operating Forces, has three activity groups: Air Operations, Combat-Related Operations, and Space Operations. The Space Operations activity group consists of seven sub-activity groups: Launch Facilities; Launch Vehicles; Space Control Systems; Satellite Systems; Other Space Operations; Base Support; and Facilities Sustainment, Restoration & Modernization.

MILPERS Appropriations Structure

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Military Personnel (MILPERS) appropriation budget activities are divided into budget sub-activities. Congress authorizes and appropriates funds for MILPERS at the budget activity level.

Example: In the MILPERS, Navy appropriation, Budget Activity-4, Subsistence of Enlisted Personnel, is divided into two budget sub-activities:

- 4-A, Basic Allowance for Subsistence
 - 4-B, Subsistence in Kind
-

MILCON Appropriations Structure

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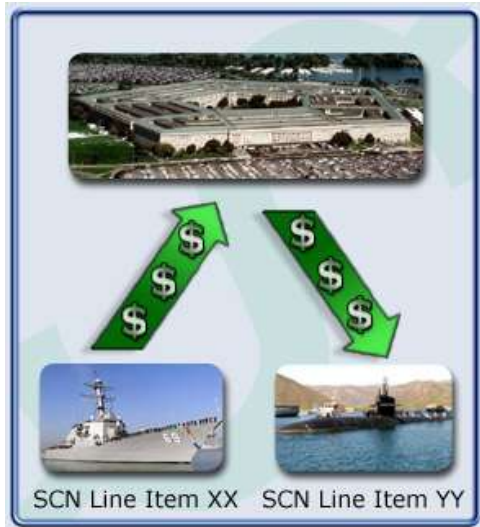


Military Construction appropriations are divided first into immediate subordinate accounts, then into specific projects. Congress authorizes and appropriates funds for MILCON at the project level.

Example: DoD's FY 2009 budget request included a project to replace fuel storage tanks at Kirtland Air Force Base, New Mexico to be funded in the Major Construction immediate subordinate account of the MILCON, Defense-Wide appropriation.

Below-Threshold Reprogramming (1 of 3)

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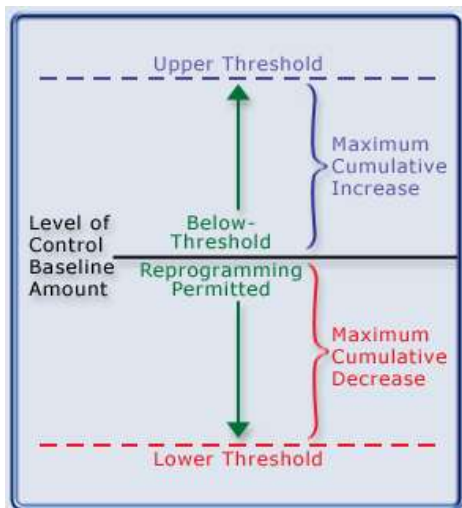


Below-threshold reprogramming only applies to the movement of funds **within** an appropriation between elements at the appropriation's level of control (for example, between line items within a Procurement appropriation such as FY 11 Shipbuilding and Conversion, Navy).

DoD may use below-threshold reprogramming to add funding to or remove funding from elements at the level of control, subject to certain limits established by Congress. These limits are established at the level of Congressional control for each appropriation. The limits are set to allow DoD some flexibility in managing programs, by moving funds to where they are most needed while maintaining congressional oversight of DoD spending. Any reprogramming action that would exceed these limits requires prior congressional approval.

Below-Threshold Reprogramming (2 of 3)

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Congress restricts below-threshold reprogramming by limiting the maximum **cumulative** funding increases and decreases relative to the level-of-control element's **baseline amount** (the amount appropriated by Congress).

The upper threshold is calculated by adding the baseline amount to the maximum cumulative increase permitted. The lower threshold is calculated by subtracting the maximum cumulative decrease permitted from the baseline amount.

Below-threshold reprogramming is permitted as long as the level-of-control element's funding remains within the band defined by the upper and lower thresholds. When a maximum increase or decrease is expressed in terms of a percentage, this percentage is also measured relative to the baseline amount. This concept is illustrated in the graphic at right.

Long Description

Limitations on below-threshold reprogramming. A solid horizontal line in the center of the graphic represents the level of control baseline amount. Parallel to, and above the baseline is a dashed line labeled Upper Threshold. The difference between the baseline and the upper threshold is labeled Maximum Cumulative Increase. Parallel to, and below the baseline is a dashed line labeled Lower Threshold. The difference between the baseline and the lower threshold is labeled Maximum Cumulative Decrease. A bi-directional arrow stretching between the upper and lower thresholds indicates the range over which below-threshold reprogramming is permitted.

Below-Threshold Reprogramming (3 of 3)

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APPRN	MAX INTO	MAX OUT	LVL OF CNTRL
RDT&E	Lesser of \$10 M or 20%	Lesser of \$10 M or 20%	PROGRAM ELEMENT
PROC	Lesser of \$20 M or 20%	Lesser of \$20 M or 20%	LINE ITEM
O & M	\$15 M	No Limit, unless specified	BUDGET ACTIVITY SOME BA 1 SUBACTIVITY LIMITATIONS ON DECREASES (OPERATING FORCES)
MILPERS	\$10 M	No Congressional Restriction	BUDGET ACTIVITY
MILCON	Lesser of \$2 M or 25%	No Congressional Restriction	PROJECT

This chart shows the Congressional limitations for below-threshold reprogramming. The limits are up to the amounts shown. For example, since the lesser of \$10 million or 20% of the baseline amount is the below-threshold reprogramming limit for an increase to an RDT&E program element, a maximum of \$9.99 million could actually be added. However, if

20% of the baseline amount (appropriated amount) in that RDT&E program element is \$8 million then only \$7.99 million could be added.

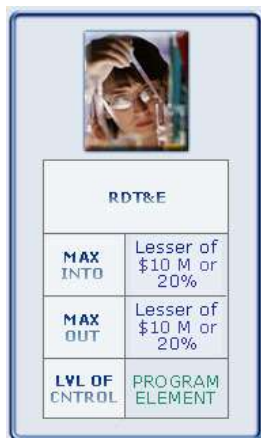
Select the following hyperlinks to access examples showing how these limitations are applied and determine the range in which below-threshold reprogramming is permitted.

- [RDT&E](#)
- [Procurement](#)
- [O&M](#)
- [MILPERS](#)
- [MILCON](#)

Long Description

Chart illustrating the Congressional limitations for below-threshold reprogramming. For RDT&E, the maximum into and maximum out of are both the lesser of \$10 million or 20% of the baseline amount appropriated to a program element. The level of control for RDT&E is the program element. For Procurement, the maximum into and maximum out of are both the lesser of \$20 million or 20% of the baseline amount appropriated to a line item. The level of control for Procurement is the line item. For O&M, the maximum into is \$15 million, the maximum out has no limit unless specified, and the level of control is at the budget activity (Some BA 1 subactivity limitations on decreases (operating forces)). For MILPERS, the maximum into is \$10 million, the maximum out has no Congressional restriction, and the level of control is at the budget activity. Finally, for MILCON, the maximum into is the lesser of \$2 million or 25%, the maximum out has no Congressional restriction, and the level of control is at the project.

Below-Threshold Reprogramming Example - RDT&E



RDT&E	
MAX INTO	Lesser of \$10 M or 20%
MAX OUT	Lesser of \$10 M or 20%
LVL OF CNTRDL	PROGRAM ELEMENT

Suppose an RDT&E, Defense-Wide, program element (PE) was originally appropriated \$25 million (baseline). The upper limit for cumulative additions to this PE is \$30 million (baseline plus \$5 million). This is because \$5 million is the lesser of \$10 million or 20% of the baseline (20% of \$25 million is \$5 million). Likewise, the lower limit for cumulative reductions of this PE is \$20 million (baseline minus \$5 million). Any reprogramming action that would cause the PE funding to reach or exceed \$30 million or drop below \$20 million will require congressional prior approval.


Below-Threshold Reprogramming Example – Procurement



PROC	
MAX INTO	Lesser of \$20 M or 20%
MAX OUT	Lesser of \$20 M or 20%
LVL OF CNTRL	LINE ITEM

Suppose a Procurement appropriation (such as Aircraft Procurement, Air Force) line item was originally appropriated \$87 million (baseline). The upper limit for cumulative additions to this line item is \$104.4 million (baseline plus \$17.4 million). This is because \$17.4 million is the lesser of \$20 million or 20% of the baseline (20% of \$87 million is \$17.4 million). Likewise, the lower limit for cumulative reductions of this line item is \$69.6 million (baseline minus \$17.4 million). Any reprogramming action that would cause the line item funding to reach or exceed \$104.4 million or drop below \$69.6 million will require congressional prior approval.

Below-Threshold Reprogramming Example - O&M




O & M	
MAX INTO	\$15 M
MAX OUT	No Limit, unless specified
LVL OF CNTRL	BUDGET ACTIVITY, SOME BA 1 SUBACTIVITY LIMITATIONS ON DECREASES (OPERATING FORCES)

Suppose an O&M, Army, budget activity (not subject to special Congressional limits) was originally appropriated \$850 million (baseline). The upper limit for cumulative additions to this budget activity is \$865 million (baseline + \$15 million maximum increase for O&M). Any reprogramming action that would cause this budget activity's funding to reach or exceed

\$865 million will require congressional prior approval. There is no lower limit for cumulative reductions of this budget activity, however, removing a large sum from this budget activity would likely trigger a threshold breach when these funds are distributed to other budget activities.


Below-Threshold Reprogramming Example – MILPERS



MILPERS	
MAX INTO	\$10 M
MAX OUT	No Congressional Restriction
LVL OF CTRL	BUDGET ACTIVITY

Suppose a MILPERS, Marine Corps, budget activity was originally appropriated \$620 million (baseline). The upper limit for cumulative additions to this budget activity is \$630 million (baseline + \$10 million maximum increase for MILPERS). Any reprogramming action that would cause this budget activity's funding to reach or exceed \$630 million will require congressional prior approval. There is no lower limit for cumulative reductions of this budget activity, however, removing a large sum from this budget activity would likely trigger a threshold breach when these funds are distributed to other budget activities.

Below-Threshold Reprogramming Example – MILCON



MILCON	
MAX INTO	Lesser of \$2 M or 25%
MAX OUT	No Congressional Restriction
LVL OF CTRL	PROJECT

Suppose a MILCON, Navy, project was originally appropriated \$40 million (baseline). The upper limit for cumulative additions to this project is \$42 million (baseline + [lesser of \$2 million or \$10 million (25% of baseline) for MILCON]). Any reprogramming action that would cause this project's funding to reach or exceed \$42 million will require congressional prior approval. There is no lower limit for cumulative reductions of this project; however, removing a large sum from this project would likely trigger a threshold breach when these funds are distributed to other construction projects.

Knowledge Review

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The following Knowledge Review is a multiple choice question. Only one answer is correct; select the best answer and feedback will immediately appear.

Which of the following is true concerning a below-threshold reprogramming action in a Procurement appropriation?

- a. A program element receiving funds may be increased to an amount that is less than \$10 million above its baseline level.
- b. A line item receiving funds may be increased to an amount that is less than the smaller of the following: 1) \$20 million above its baseline level or 2) 20% above its baseline level.
- c. A budget activity receiving funds may be increased to an amount that is less than \$15 million above its baseline level.
- d. A project receiving funds may be increased to an amount that is less than \$2 million above its baseline level.

Correct!

For a below-threshold reprogramming action in a Procurement appropriation, a line item receiving funds may be increased to an amount that is less than the smaller of the following: 1) \$20 million above its baseline level or 2) 20% above its baseline level. Statement a. refers to RDT&E appropriation limits, Statement c. refers to O&M appropriation limits, and Statement d. refers to MILCON appropriation limits.

Knowledge Review

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The following Knowledge Review allows for multiple correct answers. Select all of the answers that are correct, then select the Submit button and feedback will appear. The Ultra Warehouse construction project's baseline (original appropriation by Congress) is \$50 million. Which of the following represents an amount to which this project's funding can be changed by a below-threshold reprogramming action?

- a. \$54 million.**
- b. \$51 million.**
- c. \$45 million.**
- d. \$62.5 million.**

Correct!

*This project is subject to the MILCON appropriation limits for below-threshold reprogramming. There are no limits regarding how far below the baseline the project's funding can be reduced. However, its funding can only be increased to less than \$2 million or 25% above its baseline level, **whichever is lower**. In this case, 25% of the project baseline is \$12.5 million, so the upper limit for additions to this project is **the lower of** \$52 million or \$62.5 million. Therefore, any project funding value less than \$52 million is a legitimate outcome for a below-threshold reprogramming action affecting this project.*

Knowledge Review

Page 23 of 23

After you have completed the following question, select another topic from the Table of Contents to continue, as this page completes the topic.

The following Knowledge Review is a multiple choice question. Only one answer is correct; select the best answer and feedback will immediately appear.

Most below-threshold reprogramming actions are approved by:

- a. Program Managers.**
- b. Undersecretary of Defense (Comptroller).**
- c. Congress.**

d. Individual DoD Components.

Correct!

Approval for below threshold reprogramming is at the individual component and defense agency level. This includes all actions that do not meet the criteria for prior approval or internal reprogramming.

Summary

Summary

Lesson Summary (1 of 5)

Page 1 of 5

Congratulations! You have completed the Fiscal Laws and Reprogramming Lesson. The following topics were presented in this lesson:

- The Misappropriation Act (Section 1301, Title 31, U.S. Code). Also known as the Purpose Statute, this law requires that funds be used only for the programs and purposes for which they were appropriated.
 - The Antideficiency Act (Sections 1341 and 1517, Title 31, U.S. Code). This law basically states that executive agencies and their subordinates cannot spend more budget authority than they get and they cannot spend budget authority before it is distributed to them.
 - Responsibility for Antideficiency Act violations is usually fixed at the highest level that knew about or should have known about the violation.
-

Lesson Summary (2 of 5)

Page 2 of 5

The following topics were also presented in this lesson:

- The Bona Fide Need Rule (Section 1502(a), Title 31, U.S. Code).
 - This law requires appropriated funds be used only to obtain:
 - Goods for which a bona fide need arises during the period of the appropriation's availability for obligation.
 - Services which are performed during the period of the appropriation's availability for obligation.
 - A number of exceptions to the Bona Fide Need Rule exist, including lead-time and stock level exceptions for supplies, exception for non-severable services, and statutory exceptions granted by Congress.
 - DoD Component policies may be more restrictive than the law, only allowing multi-year appropriations to be used to finance those needs that arise during the first year of the appropriation's availability.
-

Lesson Summary (3 of 5)

Page 3 of 5

The following topics were also presented in this lesson:

- Reprogramming. Reprogramming is the use of funds for purposes other than originally appropriated.

- DoD Financial Management Regulation (DoD 7000.14-R), Volume 3, Chapter 6 provides reprogramming guidance.
 - Funds can only be reprogrammed within the same fiscal year, not between fiscal years.
 - Congressional Prior Approval Reprogramming.
 - DoD must receive written approval from the Armed Services, Appropriations, and (if applicable) Intelligence committees prior to executing these actions:
 - Increasing procurement quantities for major end items.
 - Moving funds between appropriation accounts.
 - Exceeding the amounts specified for below-threshold reprogrammings within an appropriation account.
 - Initiating new starts meeting certain dollar thresholds.
 - Terminating programs or projects meeting certain dollar thresholds.
 - Prior approval reprogramming requests are normally aggregated and submitted as part of a single "Omnibus" package to Congress in May.
-

Lesson Summary (4 of 5)

Page 4 of 5

The following topic was also presented in this lesson:

- Congressional Notification applies to requests for new starts under the limits set for Congressional Prior Approval, and for terminating programs under the below threshold reprogramming limits as long as you are not eliminating a program element or line item.
-

Lesson Summary (5 of 5)

Page 5 of 5

Finally, the following topics were presented in this lesson:

- Internal Reprogramming. USD(C) may approve reprogramming actions that do not change the purposes and amounts of funds appropriated. Common internal reprogramming actions include:
 - Reclassification of funds due to inadvertent errors, such as funding a program in the wrong appropriation.
 - Moving funds to and from "transfer" accounts.
- Below-Threshold Reprogramming. This type of reprogramming only applies to the movement of funds within an appropriation between elements at the appropriation's level of control.

- Levels of control for the major DoD appropriation types are: RDT&E - Program Element; Procurement - Line Item; O&M and MILPERS - Budget Activity; MILCON - Project.
- The limitations on below-threshold reprogramming into or out of a level of control are based on the amount appropriated by Congress (baseline amount).
- Reprogramming actions that would cause these limitations to be exceeded must be submitted for prior congressional approval.

This page completes the lesson. Select a lesson from the Table of Contents to continue.