



Continuing Resolutions: CRs in a Nutshell

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In General: Continuing Resolutions

What is a CR?

“An appropriation act that provides budget authority for federal agencies, specific activities, or both to continue in operation when Congress and the President have not completed action on the regular appropriation acts by the beginning of the fiscal year.” (GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP (Washington, D.C.: September 2005), at 35–36)

Content of a CR:

1. General provisions that apply to all appropriations covered by the CR; and
2. Anomalies that apply to single accounts and typically deviate from some of the general provisions

General Provisions

Scope: Section 101

Which Bills specified and the funding level (rate for operations):

“...the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated ... for the several departments agencies, corporations, and other organizational units of Government for fiscal year XXXX, and for other purposes, namely:

“Sec. 101 (a) Such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year XXXX and under the authority and conditions provided in such Acts, for continuing projects or activities...that are not otherwise specifically provided for in this Act, that were conducted in fiscal year XXXX, and for which appropriations, funds, or other authority were made available in the following appropriations Acts...”

Extent and Manner: Section 103

“Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.”

Termination Date: Section 106

“Unless otherwise provided for in this Act or in the applicable appropriations Act for fiscal year XXXX, appropriations and funds made available and authority granted pursuant to this Act shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this Act; (2) the enactment into law of the applicable appropriations Act for fiscal year XXXX without any provision for such project or activity; or (3) [date].”



General Provisions: Accounting



Coverage of CR Obligations: Section 105

“Appropriations made and authority granted pursuant to this Act shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this Act.”

Adjustment of Accounts: Section 107

“Expenditures made pursuant to this Act shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.”



General Provisions: Execution



No New Starts: Section 104

“Except as otherwise provided in section 102, no appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year XXXX.”

Limited Funding Actions: Section 108

“Appropriations made and funds made available by or authority granted pursuant to this Act may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31.”

Limitation for High Initial Rate of Distribution: Section 109

“Notwithstanding any other provision of this Act, except section 106, for those programs that would otherwise have high initial rates of operation or complete distribution of appropriations at the beginning of fiscal year XXXX because of distributions of funding to States, foreign countries, grantees, or others, such high initial rates of operation or complete distribution shall not be made, and no grants shall be awarded for such programs funded by this Act that would impinge on final funding prerogatives.”

Apportionment Timing: Section 110

“This Act shall be implemented so that only the most limited funding action of that permitted in the Act shall be taken in order to provide for continuation of projects and activities..”

Furlough Restriction: Section 112

“Amounts made available under section 101 for civilian personnel compensation and benefits in each department and agency may be apportioned up to the rate for operations necessary to avoid furloughs within such department or agency, consistent with the applicable appropriations Act for fiscal year XXXX, except that such authority provided under this section shall not be used until after the department or agency has taken all necessary actions to reduce or defer non-personnel-related administrative expenses.”

CR Anomalies

What if the agency cannot operate under the typical CR parameters?

- Last year's funding level
 - may or may not include supplemental funding
- Last year's authority
 - No new starts
 - Is that authority expiring?



The agency proposes a CR anomaly for legislative consideration

CR Anomalies Funding Anomalies

Problem: An agency cannot operate under last year's funding level for the period of the CR

Solution: Provide a different funding level for the period of the CR

Example:

“SEC. 121. Notwithstanding section 101, amounts are provided for “Department of Commerce – Bureau of the Census – Periodic Censuses and Programs” at a rate for operations of \$7,065,707,000.” (FY 2010 CR, Pub. L. No. 111-68)

CR Anomalies

Program Anomalies

Problem: An agency did not have authority to operate a program last year or the authority to operate the way it would wish to this year.

Solution: Provide authority to operate the program during the period of the CR.

Example:

“SEC. 157. (a) Amounts provided by section 101 for “Department of Health and Human Services – Office of the Secretary – General Departmental Management” are also available for the purpose of funding the National Commission on Children and Disasters authorized under title VI of division G of Public Law 110-161 (the “title VI Commission”).” (FY 2009 CR, Pub. L. No. 110-329)

CR Anomalies

Authorization Anomalies

Problem: An agency's authorization will expire during the period of the CR.*

Solution: Provide authority to operate the program during the period of the CR (i.e., notwithstanding the expiration).

But ...

Question: Is the authorization a “Term and Condition” of last year's funding?

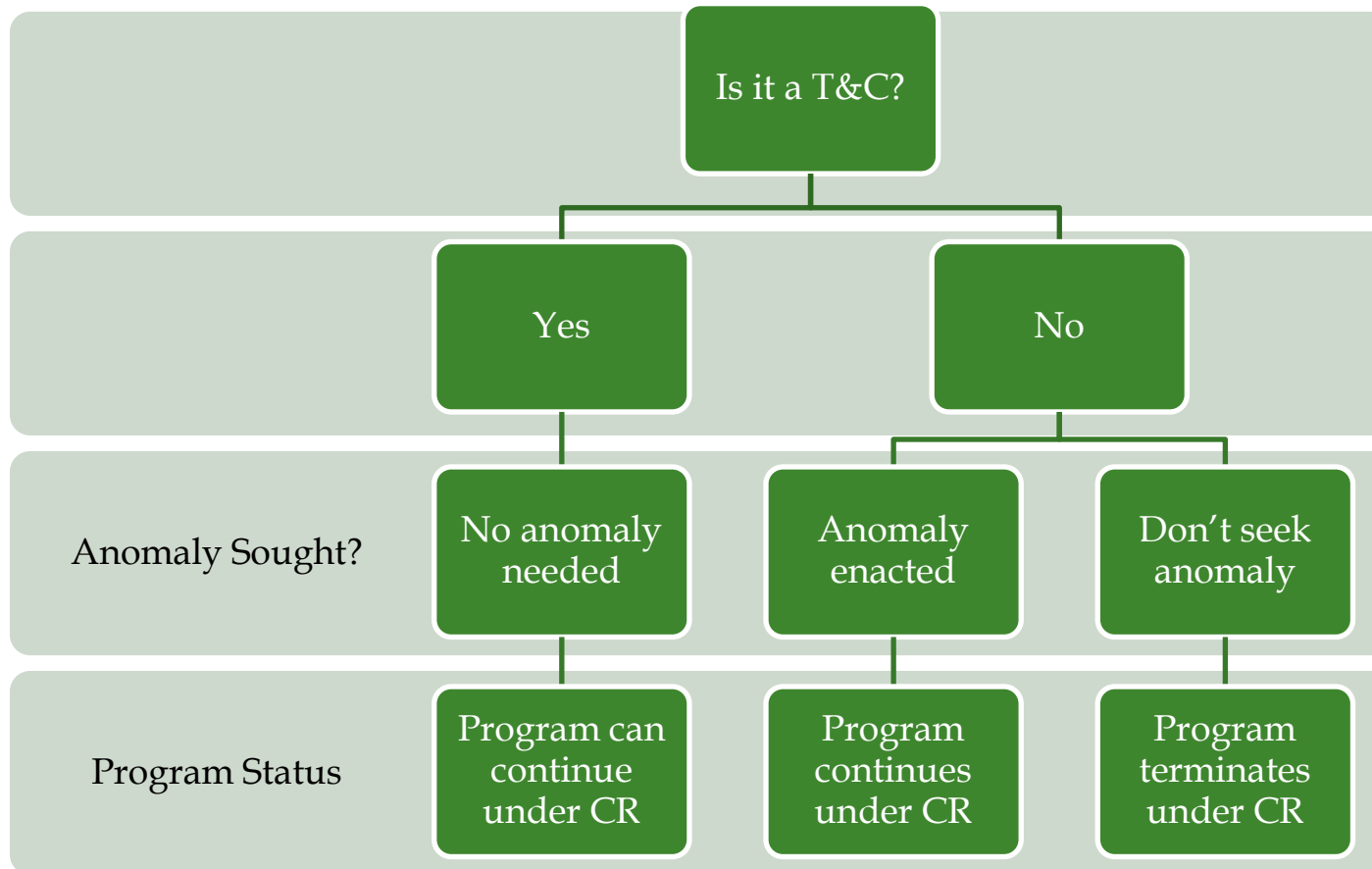
** Includes those authorization provisions typically included in appropriations acts as well those authorization provisions typically included in authorization acts.*

CR Anomalies

Authorization Anomalies (cont.)

Terms and Conditions

Terms and Conditions (T&C) - why does it matter?

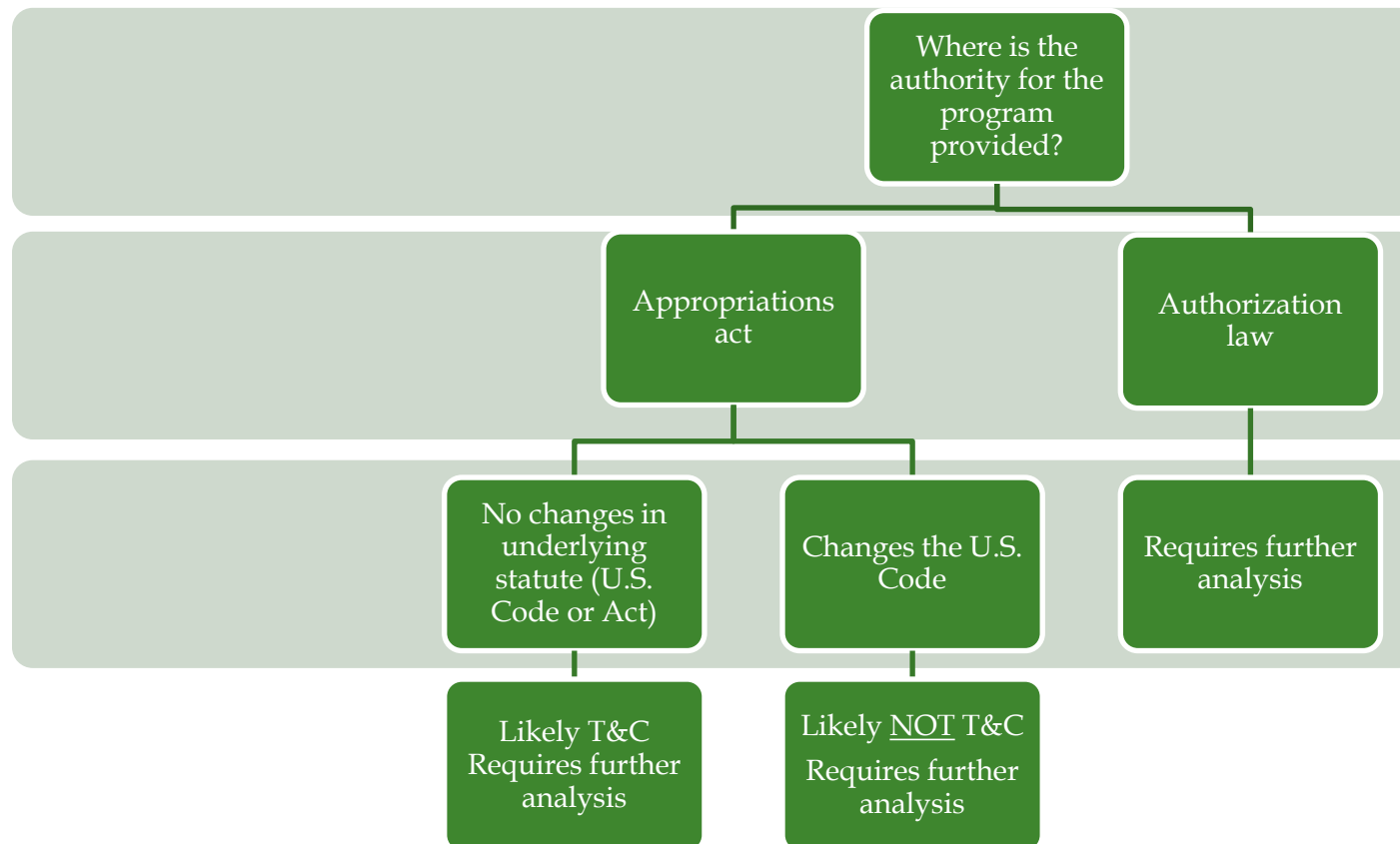


CR Anomalies

Authorization Anomalies (cont.)

Terms and Conditions (cont.)

How do we determine if it is a term and condition?



OMB's automatic apportionment of short-term CRs:



DEPUTY DIRECTOR
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WASHINGTON, D.C. 20503

September 30, 2011

OMB BULLETIN NO. 11-01

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Apportionment of the Continuing Resolution(s) for Fiscal Year 2012

1. Purpose and Background. H.R. 2017 will provide continuing appropriations for the period October 1, 2011 through, October 4, 2011. I am automatically apportioning amounts provided by this continuing resolution (CR) as specified in section 3. This Bulletin supplements instructions for apportionment of CRs in OMB Circular No. A-11, sections 120 and 123, and applies to this CR and any extensions of this CR.

2. Amounts Provided. Section 101 of H.R. 2017 provides such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year 2011 and under the authority and conditions provided in such Acts, for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in H.R. 2017, that were conducted in fiscal year 2011, and for which appropriations, funds, or other authority were made available in the following appropriation Acts: the Department of Defense Appropriations Act, 2011 (division A of Public Law 112-10), and the Full-Year Continuing Appropriations Act, 2011 (division B of Public Law 112-10).

Section 101(b) reduces the rate for operations provided by section 101 by 1.503 percent (see Attachment A for details).

Furthermore, Section 117 provides that notwithstanding Section 101 funds made available in title IX of division A of Public Law 112-10 for "Overseas Contingency Operations" shall be available at a rate for operations not to exceed the rate permitted by H.R. 2219 (112th Congress) as passed by the House of Representatives on July 8, 2011.

3. Automatic Apportionments. Attachment A contains more detailed instructions on calculating the annualized amount provided by the CR. In order to calculate the amount automatically apportioned through the period ending October 4, 2011 (and any extensions thereof) multiply the annualized amount provided by the CR by the lower of:

- the percentage of the year (pro-rata) covered by the CR (e.g., for H.R. 2017 use 1.09 percent), or
- the historical seasonal rate of obligations for the period of the year covered by the CR.

OMB's automatic apportionment of short-term CRs:

Unless determined otherwise by your RMO, all automatically apportioned CR funds are apportioned as Category B (lump sum), regardless of quarterly restrictions (i.e., amounts on Category A) imposed in last year's apportionment. Limitations on programs (i.e., other Category Bs) and footnotes included in last year's apportionment remain in effect under the CR.

Section 115 applies the 1.503 percent reduction specified in section 101(b) to FY 2012 discretionary advance appropriations enacted in a prior year bill that become available on October 1st. This automatic apportionment does not apply to those accounts. Your RMO will apportion those accounts separately.

4. Accounts with Zero Funding Excluded from Automatic Apportionment (this section does not apply to the first CR through October 4th; applies to any extensions of the CR). As was the case under the CR Bulletins for FY 2010 and FY 2011, if either the House or Senate has reported or passed a bill that provides no funding for an account at the time the CR is extended, this automatic apportionment does not apply to that account. (Reported bills are those that have been filed by the full House or Senate Appropriations Committee for floor action.) The agency may submit a written apportionment request to OMB to request funds for the account during the period of the CR, if needed. This restrictive funding action is to ensure that the agency does not impinge on the final funding prerogatives of the Congress.

5. Programs under Section 111. Funds for appropriated entitlements and other mandatory payments, and activities under the Food and Nutrition Act of 2008, are automatically apportioned amounts as needed to carry out programs at a rate to maintain program levels under current law, i.e., at the FY 2012 level. However, this automatic apportionment does not apply to programs with more complex funding structures. Agencies should contact their RMO representatives to determine if their account is automatically apportioned or if a written apportionment is required.

With regard to the associated administrative expenses for those programs, section 111 does not apply. The associated administrative expenses are automatically apportioned at the pro-rata level based on FY 2011 annualized levels (section 101, including the 1.503 percent reduction in 101(b)).

6. Credit Limitations. If there is an enacted credit limitation (i.e., a limitation on loan principal or commitment level) in FY 2011, then the automatic apportionment is the pro-rata share of the credit limitation or the budget authority (i.e., for subsidy cost), whichever is less. To calculate amounts available, see exhibit 123B of OMB Circular No. A-11.

7. Written Apportionments. If an agency seeks an amount for a program that is different from the total amount automatically apportioned, you must request a written apportionment from OMB. OMB expects to grant only a very limited number of written apportionment requests. Every request must be accompanied by a written justification that includes the legal basis for the exception apportionment. In a change to past practice, agencies no longer need to request a new written apportionment for each extension of the CR (unless otherwise required by your RMO). Instead, in the case of accounts that receive a written apportionment at any time during the CR period, the automatic apportionment will apply to such accounts under any subsequent extensions of the CR, provided that the total amount apportioned during the CR period does not exceed the total annualized level of the CR. However, any footnotes on the written

OMB's automatic apportionment of short-term CRs:

apportionment continue to apply to the accounts, when subsequently operating under the automatic apportionment.

8. Spending Plans. For accounts for which OMB required spending plans in FY 2011, or clearance of spending plans requested by the Congress, agencies should work with their RMO to determine which accounts will require updated spending plans under the FY 2012 CR apportionment. For those accounts, the automatic apportionment will make funds available 10 days after submission of those spending plans to OMB.



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Attachment(s)

Attachment A: Continuing Resolution Frequently Asked Questions

Attachment B: Non-CHIMP Cancellations Recurring in a 2012 Continuing Resolution

Attachment C: Changes in Mandatory Programs Recurring in a 2012 Continuing Resolution

Common CR questions received by both OMB/Treasury:

- What's the difference between a short term and a long term CR?
- What are exception apportionments?
- Are nonexpenditure transfers covered under a CR?
- Are reprogrammings allowed under a CR?

Common CR questions received by both OMB/Treasury:

- Will an appropriation warrant be processed during a CR?
- What types of appropriation warrants are processed during a CR?
- What should be reported in FACTS II?
- When is a CR recorded?

FMS' Appropriation Warrant process during a short-term CR:

Short-term CR:

- Generally no Appropriation Warrants are processed
 - Exceptions include direct appropriations with the CR legislation

Example:

“SEC. 134. Notwithstanding any other provision of this Act, for payment in equal shares to the children and grandchildren of Robert C. Byrd, \$193,400 is appropriated.”

FMS' Appropriation Warrant process during a full-year CR:

Full-year CR:

- Appropriation Warrants are processed and issued based on the annualized level of funding

Note:

Determination of the annualized level of funding is coordinated between FMS, OMB and Federal Program Agencies

FMS' Appropriation Warrant process during a full-year CR:

Federal Program Agencies must submit to FMS the following:

- The legislative authority (Public Law)
- Account symbols for the current FY and the amount for each account
- A contact personal for additional information
- The appropriate official's signature (the person authorized to request an appropriation under a continuing resolution)

Common CR questions received by both OMB/Treasury:

What USSGL account is used to record a CR?

Account Number: 1090

Account Title: Fund Balance With Treasury Under a
Continuing Resolution

Normal Balance: Debit

Definition: The amount equal to the funding provided under a continuing resolution and apportioned in accordance with Office of Management and Budget's automatic apportionment bulletin. The balance in this account will adjust to zero when the U.S. Department of the Treasury's Financial Management Service processes a warrant and must adjust to zero by yearend.

Posting Logic for recording a CR:

Example:

- Annualized level of appropriation 100,000
- CR available for obligation 5,000

4119 Other Appropriations Realized	100,000
4450 Unapportioned Authority	
100,000	

1090 FBWT under a Continuing Resolution	5,000**
3101 Unexpended Approp – Approp Rcvd	5,000**

** Record amount available from CR

Posting Logic for recording a CR:

Record Authority Temporarily Unavailable

4450 Other Appropriations Realized	95,000	
4395 Authority Unavailable Pursuant to Public Law	95,000	

Record Payment

4802 Undelivered Orders – Obligations, Unpaid	1,000	
4902 Delivered Orders – Obligations, Paid		1,000
6100 Operating Expenses	1,000	
1010 Fund Balance with Treasury		1,000
3107 Unexpended Appropriations Used	1,000	
5700 Expended Appropriations		1,000

Posting Logic for recording a CR:

Appropriation Enacted

Adjust USSGL account 1090 to zero

4395 Authority Unavailable Pursuant to Public Law	95,000	
4450 Other Appropriations Realized	95,000	
1010 Fund Balance with Treasury	100,000**	
1090 FBWT under a Continuing Resolution		5,000
3101 Unexpended Approp. – Approp. Rcvd		95,000**

Adjust based on amount received in appropriation act.

Common CR questions received by both OMB/Treasury:

- During a CR, should an anticipated appropriation be recorded?
- Do continuing resolutions apply to special or trust fund?

Common CR questions received by both OMB/Treasury:

- If an agency continues to operate a program based on the previous year's budget authority but there's no funding for the program when the legislation is signed is the federal government and/or agency responsible for the obligations made?
 - If so, what are the procedures for liquidating the obligations?
 - ✓ *OMB Circular A-11, section 123.13*



CR resources:

OMB Circular A-11, Section 123 and Section 120 Exhibits F, G, and H

Appropriations Provided by a Continuing Resolution Scenario

http://www.fms.treas.gov/ussgl/approved_scenarios/continuing_resolution_october_2005.pdf

Treasury Financial Manual, Volume I, Part 2, Chapter 2000, subsection 2025.20.

GAO Redbook Volume II, Chapter 8

Appendix

Appendix

History of Continuing Resolutions

The following History of Continuing Resolutions was compiled from GAO reports GAO-09-8799 and GAO-06-382SP, and Congressional Research Service report CRS RL30343

Appendix

History of Continuing Resolutions: Overview

- CRs date from at least the late 1870s and have been part of the regular appropriations process for more than 50 years.
- With the exception of three fiscal years (FY 1989, FY 1995, FY 1997), at least one CR has been enacted each fiscal year since 1955.¹
- Over the past 35 years the nature, scope, and durations of CRs has expanded.
- From the early 1970s - 1987, CRs expanded from interim funding measures (brief) to providing funding in lieu of appropriations bill through the end of the fiscal year.
- In some cases these measures included the full text of regular appropriations bills and/or substantive legislation.
- CRs are attractive vehicles for substantive legislation because they are considered must-pass legislation.
- Since 1988 CRs have tended to be interim funding measures with less substantive legislation.²

1 Congress enacted two FY 1977 CRs but these acts did not temporarily fund any FY 1977 regular appropriations bills because all the bills became law on or before the start of the new fiscal year.

2 Since 1988, there have been only three full-year CRs. An FY 1992 CR provided full-year funding for one regular appropriations bill, an FY 2007 full-year measure continued funding for nine of the 11 regular bills, and an FY 2011 full-year CR funded 11 of the 12 regular bills.

Appendix

History of Continuing Resolutions: Statistics and Trivia

- From 1962-1981, 85 percent of the appropriations bills for Federal agencies were enacted after the start of the fiscal year and thus required CRs.
- For 24 of the 28 FYs between FY 1977 and FY 2004, Congress did not complete action on a majority of the 13 regular appropriations by the start of the fiscal year.
 - In eight of those years they did not finish any of the bills by the start of the new year.
- For FY 1978-FY 1988, Congress enacted a full-year CR each year.
- Twenty-one CRs were enacted for FY 2001.
- In 1995, significant budgetary conflict over spending priorities occurred between Congress and the Administration, within Congress, and within the political parties as well.
 - Due in part to these differences, there were two partial Government shutdowns in the winter of 1995-1996; the first lasted for five days and the second, for 21 days.
 - Instead of resolving the FY 1996 conflicts in the form of one or more CRs, Congress created an omnibus measure for FY 1996.