

# Department of the Interior Departmental Manual

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**Effective Date:** 11/27/91

**Series:** Budget

**Part 328:** Administrative Control of Funds

**Chapter 2:** Deferrals and Rescissions - Statute, Responsibilities

**Originating Office:** Office of Budget

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This chapter has been given a new release number.* No text changes were made.
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## 328 DM 2

**2.1 Purpose.** The purpose of these instructions is to ensure that the provisions of Title X of P.L. 93-344, the Congressional Budget and Impoundment Control Act of 1974 (the Act) are carried out uniformly throughout the Department and to provide instructions for the preparation of special and supplementary messages on proposed rescissions and on deferrals pursuant to sections 1012, 1013, and 1014(c) of the Act.

**2.2 Scope.** The instructions in this Part apply to the head of each bureau and office, and any other office receiving funds, allotments, apportionments, etc., subject to the Antideficiency Act (31 U.S.C. 1514 and 1517).

**2.3 Statutory Requirements.** The Act prescribed new guidelines and procedures for the establishment of reserves and other withholdings. Title II of P.L. 100-119 codified the Supreme Court decision in *INS v. Chadha* limiting deferral authority and clarified Congressional intent regarding rescission authority.

A. Reserves. Under section 1002 of the Act, reserves may be established "solely to provide for contingencies, or to effect savings." Thus, the Antideficiency Act no longer provides authority to establish reserves as a result of "other developments subsequent to the date on which such appropriation was made available." Sections 1012 and 1013, however, do provide authority for withholding funds for non-Antideficiency Act reasons. Restraints on obligations for any reason -- Antideficiency Act, policy, or other -- must be reported to the Congress in special messages as proposed rescissions or as deferrals, pursuant to sections 1012 and 1013, respectively.

B. Rescissions.

(1) Section 1012 requires the President to transmit a special message to the Congress proposing a rescission whenever:

(a) the President determines that all or part of any budget authority will not be required to carry out the full objectives or scope of programs for which it is provided,

(b) the President determines that budget authority should be rescinded for fiscal policy or other reasons (for example, to terminate low priority programs), or

(c) all or part of any budget authority limited to a fiscal year (i.e., annual appropriations or budget authority for the last year of multiple-year appropriations) is to be reserved for the entire fiscal year.

(2) Affirmative action by the Congress in the form of consideration of an enacted recession bill must be completed to recind funds. During its consideration of the President's proposals, the Congress may adjust amounts proposed for rescission. If both Houses have not completed action on the bill within 45 legislative days of continuous session, funds proposed for rescission must be made available for obligation.

(3) Section 1012(b) of the Act, as amended by P.L. 100-119, prohibits proposing the rescission of funds a second time when the previous proposal was not approved by the Congress and the funds were made available for obligation.

C. Deferrals. Under section 1013 of the Act, the President is required to report to the Congress in a special message, any Executive action or inaction that withholds, delays, or effectively precludes the obligation or expenditure of budget authority provided for projects or activities. Deferrals will be permissible only to (1) provide for contingencies under the Antideficiency Act; (2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or (3) as specifically provided by law. Deferrals may be overturned only by an act of Congress. Section 1013 contains no provision that allows the Congress to adjust amounts deferred by the Executive Branch, nor does it place any time limitations on Congressional action disapproving a reported deferral. If, however, no action is taken by the Congress, the deferral may remain in effect until the end of the fiscal year, unless the special message indicates that an earlier release is planned. For annual accounts and the last year of availability of multiple-year accounts, however, funds may be deferred only for part of the year. As the fourth quarter approaches, bureaus and offices should review all deferrals, particularly for their annual accounts and the last year of availability of multiple-year accounts to assure that amounts deferred for only part of the year will be released in time to be used prudently before the year ends. If a determination is made that such amounts should not be used, a rescission will be proposed prior to the beginning of the fourth fiscal quarter. Only in exceptional cases will rescissions be proposed during the fourth quarter. All proposed rescissions must be approved by the Office of Management and Budget.

D. Additional Reports. Section 1014 of the Act requires the President to transmit supplementary messages to the Congress whenever any information contained in a special message is revised. It also requires that a cumulative report on all deferrals and proposed rescissions previously included in special messages be submitted to the Congress by the tenth day of each month.

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