

VA Financial Policies and Procedures
Guidelines to Avoid Augmenting an Appropriation

CHAPTER 7D

0701 OVERVIEW	2
0702 POLICIES	2
0703 AUTHORITY AND REFERENCES	3
0704 ROLES AND RESPONSIBILITIES	4
0705 PROCEDURES	4
0706 DEFINITIONS.....	10
0707 RESCISSIONS.....	11
0708 QUESTIONS	11

0701 OVERVIEW

Appropriated funds are made available for obligations and expenditures by means of an appropriation act and the subsequent administrative actions that release appropriations to the spending agencies. In addition, the authority to deliver goods or perform services for a fee is authorized by means of an appropriation act, i.e., the Supply Fund and the Franchise Fund. Within the appropriation act, there is authority provided for spending and receiving funds as well as for the type of services VA can provide.

- Appropriated funds may be used only for their intended purposes ([31U.S.C.1301\(d\)](#)).
- Unless authorized by law, an agency may not keep monies it receives from outside sources but must deposit them into the Treasury ([31 U.S.C. 3302\(b\)](#), Miscellaneous Receipts Statute).
- It is improper to expend appropriated funds unless the expenditures have been authorized by Congress.
- It is against the nature of appropriation law to presume that an expenditure, a collection or a right to collect a fee for a service is proper just because there is no prohibition by Congress.

An agency may not augment its appropriation from, or transfer funds to, sources external to the appropriation per se without specific statutory authority. The rule against augmentation is derived primarily from the “[purpose statute](#)” and the “[miscellaneous receipts statute](#).” The objective of the rule is to prevent a Federal agency from undercutting the Congressional power of the purse by circuitously exceeding the amount that Congress has appropriated for a specific activity.

An agency must deposit into the General Fund of the Treasury any funds it receives from sources outside of the agency, unless the receipt constitutes an authorized repayment or unless the agency has statutory authority to retain the funds for credit to its own appropriations.

0702 POLICIES

070201 VA may not charge fees for services unless there is specific statutory authority to do so.

070202 VA may not make a presumption that it is proper to charge a fee for service simply because there is no prohibition stated in the appropriation language. For example, VA may not charge vendors a service fee for check tracing and copying unless there is expressed legal authority to do so.

070203 VA may not deposit monies into its appropriations unless there is specific statutory authority to do so. For example, VA may not deposit into its appropriation

interest payments received from vendors or employees without statutory authority to receive interest payments from outside sources.

070204 VA may not transfer funds between appropriations unless there is specific authority to do so.

070205 Violation of these rules will result in an illegal augmentation of VA's appropriation.

070206 VA's Office of General Counsel will be formally notified for timely consultation on all augmentation of appropriations considered to have a basis in statutory authority (such as provisions in relevant Consolidated Appropriations Acts). Sections under the aforementioned Division I, Title II part of Public Law 101-161 note conditions where statutory authority supports certain rescissions and transfers of funds after formal notification to Congress for consideration.

0703 AUTHORITY AND REFERENCES

070301 [5 U.S.C. 3111, Acceptance of Volunteer Service](#)

070302 [5 U.S.C. 5515, Crediting Amounts Received for Jury or Witness Service](#)

070303 [18 U.S.C. 209, Salary of Government Officials and Employees Payable only by United States](#)

070304 [31 U.S.C. 1301\(a\), Application](#)

070305 [31 U.S.C. 1342, Limitation on Volunteer Services](#)

070306 [31 U.S.C. 1532, Withdrawal and Credit](#)

070307 [31 U.S.C. 3302\(b\), Custodians of Money](#)

070308 [38 U.S.C. 513, Contracts and Personal Services](#)

070309 [38 U.S.C. 1729\(a\), Recovery by the United States of the Cost of Certain Care and Services](#)

070310 [38 U.S.C. 2406, Acquisition of Lands](#)

070311 [38 U.S.C. 2407, Authority to Accept and Maintain Suitable Memorials](#)

070312 [38 U.S.C. 7801, Purpose of Veteran's Canteen Service](#)

070313 [38 U.S.C. 7808, Service to be Independent Unit](#)

070314 [38 U.S.C. 8101\(3\), Definitions](#)

070315 [38 U.S.C. 8103\(a\)\(2\), Authority to Construct and Alter and to Acquire Sites for Medical Facilities](#)

070316 [38 U.S.C. 8104\(e\), Congressional Approval of Certain Medical Facility Acquisitions](#)

070317 [38 U.S.C. 8301, Authority to Accept Gifts, Devises and Bequests](#)

070318 [Principles of Federal Appropriations Law, Third Edition, February 2006](#)

070319 [Public Law 108-447, The Consolidated Appropriations Act 2005, Division I, Title I: Department of Veterans Affairs](#)

070320 [Public Law 110-161, The Consolidated Appropriations Act 2008, Division I, Title II: Department of Veterans Affairs](#)

070321 [U.S. Government Accountability Office \(GAO\) Special Publication 05-734SP: A Glossary of Terms Used in the Federal Budget Process, September 2005](#)

0704 ROLES AND RESPONSIBILITIES

070401 The Assistant Secretary for Management/Chief Financial Officer (CFO), as required by the Chief Financial Officers Act of 1990 and 38 U.S.C. 309, oversees all financial management activities relating to the Department's programs and operations. Specific responsibilities include the direction, management and provision of policy guidance and oversight of VA's financial management personnel, activities and operations. The CFO establishes financial policy, systems and operating procedures for all VA financial entities and provides guidance on all aspects of financial management.

070402 Under Secretaries, Assistant Secretaries, Chief Financial Officers, Fiscal Officers, Chief Accountants, and other key officials are responsible for ensuring compliance with the policies and procedures set forth in this chapter.

0705 PROCEDURES

070501 VA will credit refunds¹ for erroneous payments, overpayments or advance payments to the appropriation initially charged with the related expenditure, whether current or expired. The funds will remain available for further obligation within the time and purpose limits of the appropriation. On the other hand, if the appropriation has expired (but has not yet been closed), thus negating any further obligations, the repayment must be credited to the expired account. Once an appropriation account has

¹Refer to Volume II, Chapter F, Rebates and Refunds, for more detail.

been closed, however, refunds must be deposited as miscellaneous receipts regardless of how they would have been treated prior to closing ([Principles of Federal Appropriation Law, Volume II, page 6-174](#), Chapter 6.E.2.(2)). Any amounts that exceed the correct refund amount must be deposited as miscellaneous receipts ([B-230250, 69 Comp. Gen. 260, 1990](#)).

070502 VA will retain recovered excess reprourement costs to fund replacement contracts. The replacement contract must be coextensive with the original contract, that is, it may procure only those goods or services that would have been provided under the breached contract. Any recovered excess reprourement costs that are not necessary or used for such a replacement contract must still be deposited into Treasury as miscellaneous receipts. A replacement contract is a new contract the agency enters into to satisfy a continuing bona fide need for the goods or services covered by the original contract. Such a contract must be of substantially the same size and scope as the original contract and should be executed “without undue delay” after the original contract is terminated ([B-210160, 62 Comp. Gen. 678, 1983](#)).

070503 VA will credit liquidated damages to the appropriation originally charged. Liquidated damages credited to an expired appropriation may not subsequently be used for work that is not part of a legitimate replacement contract ([B-242274, 1991](#)).

070504 When VA receives custody of cash or negotiable instruments that are intended to be delivered to the rightful owner, VA will deposit cash or negotiable instruments into a deposit account until disbursement, for example, private funds held in a trust capacity or VA acting in a fiduciary capacity for Personal Funds of Patient. These funds are not available for agency use and need not be deposited into the Treasury as a miscellaneous receipt ([Principles of Federal Appropriations Law, Volume II, page 9-27](#), Chapter 9.B.3.c.).

070505 VA will deposit a recovery or collection, under the Federal Medical Care Recovery Act, into VA’s Medical Care Collections Fund, to the extent that such recovery or collection is based on medical care or services furnished under chapter 17 of title 38, United States Code. The Veterans Reconciliation Act of 1997 created this exception to the Miscellaneous Receipts Act ([38 U.S.C. 1729\(a\)\(1\)](#) and [Public Law 108-447, section 115](#), December 8, 2004).

070506 VA will credit “rebates”² to its accounts when there is statutory authority to do so or when they meet the criteria of refunds, that is, they represent adjustments to previous expenditures from those accounts and thus serve to make the account whole ([Principles of Federal Appropriations Law, Volume II, page 6-190](#), Chapter 6.E.2.b.(3)).

070507 VA will deposit recoveries of amounts, paid under fraudulent contracts, to the credit of the appropriation charged with the payments until the appropriation account is closed, since these recoveries constitute “refunds.” Once the account is closed, the

²Refer to Volume II, Chapter 7F, Rebates and Refunds, for more detail.

recoveries will be deposited to the General Fund of the Treasury to the credit of the appropriate receipt account ([B-257905, 1995](#)).

070508 Income derived from the installation and operation of vending machines on Government-owned or controlled property is generally for deposit as miscellaneous receipts. However, under the Randolph-Sheppard Act, if an employee association with administrative approval makes a contractual arrangement with the vendor, the employee group may retain 50 percent of the income, as long as the other 50 percent is given to the state agency for the blind ([B-238937, March 22, 1991](#)). VA's Veterans Canteen Service operates most vending facilities at VA medical centers ([38 U.S.C. Section 7801-7808](#)). The proceeds from Randolph-Sheppard vending facilities in VA facilities are not VA monies.

070509 Statutory Exceptions to the Miscellaneous Receipts Statute. Some examples of the statutes that Congress has enacted that expressly authorize VA to retain funds received from a non-congressional source include:

A. Economy Act, [31 U.S.C. 1535](#), authorizes interagency orders. The ordering agency must reimburse the performing agency for the costs of supplying the goods or services ([Principles of Federal Appropriations Law, Volume II, page 6-202, Chapter 6.E.2.e](#)).

B. Revolving Funds. Revolving funds are management tools that provide working capital for the operation of certain activities. The receiving activity must reimburse the funds for the costs of goods or services when provided ([38 U.S.C. 8121](#)).

C. Disposition of other unclaimed property. Any unclaimed property found on the premises under the control of the Department will be stored and may be sold, used, destroyed or otherwise disposed of. If undisposed of, it may be reclaimed by the owner, upon payment of reasonable storage charges. If sold, the net proceeds will be credited to the General Post Fund ([38 U.S.C. 8504](#)).

070510 The Secretary has authority under [38 U.S.C. 8301](#) to accept gifts and donations, both monetary and non-monetary. The gifts and donations may be real property or personal property, and they may be testamentary (made by will) or inter vivos (made by persons who are still living). Monetary gifts accepted under Section 8301 must be deposited in the General Post Fund. See the Secretary's "Renewal of Delegation of Authority for Acceptance of Gifts under Public Law 102-86," dated September 10, 2005. Gifts or donations for the purpose of acquiring, constructing or altering VA medical facilities, including leased facilities, cannot be accepted under Section 8301. The Secretary may accept them under [38 U.S.C. 8103\(a\)\(2\)](#) and [8104](#). The term "medical facility" is broadly defined in [38 U.S.C. 8101\(3\)](#). The Secretary also has authority to accept certain gifts for the benefit of national cemeteries. See [38 U.S.C. 2406-2407](#).

070511 A Federal traveler who receives a promotional item (such as frequent flyer miles, upgrades or access to carrier clubs or facilities) as a result of using travel or

transportation services obtained at Federal Government expense may retain those items for personal use if the item is obtained under the same terms as those offered to the general public and at no additional cost to the Government. (The Federal Travel Regulations address promotional items in [41 C.F.R. Part 301-53.2](#)).

070512 VA cannot transfer funds between appropriations without specific statutory authority. An unauthorized transfer is an improper augmentation to the receiving appropriation ([31 U.S.C. 1532](#)).

070513 VA cannot retain Government funds received from another source unless there is statutory authority ([31 U.S.C. 3302\(b\)](#)).

070514 Funds recovered by VA for damages to Government property, unrelated to performance required by the contract, must be deposited as miscellaneous receipts ([B-226553, 67 Comp. Gen. 129, 1987](#)). When a private party damages Government property and agrees to replace the damaged property “in kind” or make payment directly for its repair to the Government’s satisfaction, there are no funds received for the use of the Government that are required by 31 U.S.C. section 3302(b) to be promptly deposited in the Treasury ([67 Comp. Gen 510](#)).

070515 Nonreimbursable Details

A. The Comptroller General has held that nonreimbursable agency details of personnel to other agencies are generally unallowable ([B-211373, Comp. Gen March 20, 1985](#)).

B. Exceptions

1. The detail involves a matter similar to or related to matters ordinarily handled by the detailing agency and will aid the detailing agency’s mission ([B-230960, Comp. Gen. 334, April 11, 1988](#)).

2. The detail is for a brief period, entails minimal cost, and the agency cannot obtain the service by other means ([B-211373, 64 Comp. Gen. 370, 1985](#)).

070516 When one Federal agency damages the property of another agency, under the so-called “interdepartmental waiver doctrine,” the general rule is that funds available to the agency causing the damage may not be used to pay claims for damages by the agency whose property suffered the damage. The “interdepartmental waiver doctrine” does not apply where an agency has statutory authority to retain income derived from the use or sale of certain property. The governing legislation shows an intent for the particular program or activity to be self-sustaining. In such cases, the agency will recover amounts sufficient to cover loss or damage to property financed by the reimbursements or revolving fund, regardless of whether that damage is caused by another Federal agency or a private party, and deposit those funds into the revolving fund ([B-302962, June 10, 2005](#)).

070517 VA must deposit fees as miscellaneous receipts in the following instances:

- A. An honorarium paid to an employee for lecturing at a university in his/her capacity as an employee of the United States ([37 Comp. Gen. 29, 1957](#)).
- B. Fees collected from private individuals by Government employees for their services as notaries public ([16 Comp. Gen. 306, 1936](#)).

070518 Fees for Jury Duty and Witness Service³

A. VA will treat jury and witness fee payments, other than legitimate expense-related payments to the employees who provided the services, as appropriation reimbursements.

1. Jury Duty Fees. An employee whose compensation and leave are protected by law from reduction on account of jury duty is prohibited from receiving compensation for such service in any court of the United States for any period of jury duty for which the employee would have been in a pay status in his or her Federal position ([5 U.S.C. 5537](#)).

a. The prohibition against employees eligible for court leave receiving compensation for jury duty in addition to their regular compensation does not preclude allowing such employees to keep court-paid expenses, such as mileage payments, meals and lodging ([20 Comp. Gen 145](#)).

b. An employee who is in a nonpay status (e.g., Leave without Pay – LWOP) during a period of jury duty is entitled to keep the fees/salaries for each day's attendance in court and for the time necessarily occupied in going to and from court ([20 Comp. Gen. 276](#)).

c. An employee who performs jury duty on a nonworkday outside his or her regular tour of duty or on a holiday within the employee's basic tour of duty (provided that, had the employee not been on jury duty, he/she would have been excused from regular duties on the holiday), is entitled to keep the fees/salaries for such service ([37 Comp. Gen. 695](#)).

d. An employee who performs jury duty outside of work hours so that no court leave is involved is entitled to keep jury fees/salaries ([36 Comp. Gen. 378](#)). However, an employee who sits on a grand jury in the evening following a full day's work and who is granted court leave the following day to relieve any hardship, is entitled only to keep a pro rata portion of the grand jury fee to the extent that hours of actual service exceed hours of court leave granted ([B-70371, August 5, 1975](#)).

³Refer to VA Directive 5011, "Hours of Duty and Leave," dated January 26, 2006 and VA Handbook 5011/6, "Hours of Duty and Leave," dated April 15, 2002, for additional information on Court Leave.

e. When jury duty overlaps normal work hours, an employee is entitled to keep a proportionate part of the jury fee or salaries for each hour of jury duty performed outside of the hours of duty the employee otherwise worked or would have been required to work. Any jury duty fees and salaries payable to the employee will be based on the statutory jury duty fee, prorated over a standard 8-hour workday, i.e., one-eighth of the statutory fee for each hour of jury duty outside of the hours the employee worked or would have worked but for the jury duty. If a presiding judge at his or her own discretion authorizes a retroactive increase in jury fees for jurors in cases extending beyond a 30-day duration, the actual fee paid will be the basis for computing the employee's entitlement to compensation. In computing the excess hours of jury duty over the number of employee's working hours in a day, fractional hours will be rounded off, one-half hour or more being considered 1 hour. When the end of an employee's working day coincides with the beginning of jury duty, there is no necessity to prorate the fee. Any travel time between the duty station and the court is considered court leave ([55 Comp. Gen. 1264](#)).

f. An employee who is paid jury fees/salaries for periods of recess from a court, and returns to and performs the regular duties of his or her position, is entitled to keep the jury fees/salaries received for the period of time that he or she was on duty. If the amount of jury fees or salaries received by an employee exceeds the amount the employee would otherwise have been paid in his or her Federal position for the period of court leave, the employee is entitled to keep the amount that is in excess of his or her Federal compensation ([29 Comp. Gen. 302](#)).

g. Where a court provides a juror reimbursement of expenses at a fixed or varying rate, such monies are not considered jury fees or salaries. An employee is entitled to keep such monies as an expense allowance. Where an employee has inappropriately turned in expense money received from a court, he or she is entitled to a refund from the appropriation into which such monies were deposited ([B-183711, October 6, 1976](#)).

h. An employee who is not eligible for court leave, such as an intermittent, part-time or substitute employee without a regular work schedule, may keep any compensation for jury duty, including fees/salaries (e.g., per diem allowance) for each day's attendance in court.

2. Witness Service Fees. An employee who testifies on behalf of the United States or the Government of the District of Columbia is not paid witness fees, except that an employee on leave without pay for the entire period of witness service on behalf of the Federal Government may accept and retain witness fees ([10 Comp. Gen. 329](#)).

If an employee testifies in a nonofficial capacity on behalf of a private party in a proceeding to which the United States or the District of Columbia is not a party, the employee is entitled to keep the usual fees and expenses related to such service.

3. Travel Expenses. An employee who serves as a juror while on court leave is not entitled to be reimbursed by the Department for travel expenses. However, the

employee is not required to remit to the Department that part of the compensation received from the court to cover travel expenses where it is clear that a specific amount is received for travel expenses rather than for juror fees or salaries ([52 Comp. Gen. 325](#)). Absent evidence that a specific amount is intended as reimbursement for transportation expenses, the amount received as jury fees/salaries must be credited against compensation payable.

An employee who appears as a witness when such service is part of his or her official duty is entitled to travel expenses. Payments will be at rates and in amounts allowable for other purposes under law and regulation, except to the extent that travel expenses are paid to the employee by the court, authority or party that caused him or her to be summoned as a witness on behalf of a party other than the United States.

Refer to Appendix A for a summary of the various actions related to Employee Absences For Court-Related Services.

070519 Moneys collected as fines or penalties must be deposited in the Treasury as miscellaneous receipts ([B-281064, February 14, 2000](#)).

070520 An officer or employee of the United States Government may not accept voluntary services for the United States or employ services in excess of those authorized by law, except in cases of emergency involving the safety of human life or the protection of property ([31 U.S.C. 342](#)). Pursuant to [38 U.S.C. 513](#), VA may accept uncompensated services for necessary services as the Secretary may consider practicable. [38 U.S.C. 7405](#) provides further statutory authority to employ, without compensation, those persons listed in [38 U.S.C. 401\(1\) and \(3\)](#). Under [5 U.S.C. 3111](#), VA may accept volunteer services from students with the permission of the institution at which the student is enrolled as a part of an agency program established for the purpose of providing educational experience for the student.

0706 DEFINITIONS

070601 Augmentation of Appropriation. The unauthorized increase in the amount of authority given to Federal agencies to incur obligations and to make payments from Treasury for specified purposes.

070602 Excess Reprocurement Costs. The difference between the amount awarded under a contract and the amount of damages awarded for breach of the contract.

070603 Fraudulent Contract. An illegal formal agreement to provide services.

070604 Liquidated Damages. A specific amount of money stipulated in advance by the contracting parties as the measure of damages for certain breaches of the contract, such as failure to meet applicable performance deadlines.

070605 Rebate. Monetary or financial incentive offered to the Government as a return of part of the original purchase price for some service or merchandise (e.g., incentive offered by Government-wide commercial purchase card issuers to pay purchase card invoices early).

070606 Refund. Returns of advances, collections for overpayments, adjustments for previous amounts disbursed or recovery of erroneous disbursements from appropriations or fund accounts that are directly related to, and are reductions of, previously recorded payments from the accounts.

0707 RESCISSIONS

This chapter rescinds MP-4, Part V, Chapter 2, Section 2D.02 b(5), Appropriation Reimbursements.

0708 QUESTIONS

Questions concerning these financial policies and procedures should be directed as shown below:

VHA	VHA Accounting Policy (Outlook)
VBA	VAVBAWAS/CO/FINREP (Outlook)
All Others	OFP Accounting Policy (Outlook)