Financial Policy

Volume II

Appropriations, Funds and Related Information

Chapter 7D

Guidelines to Avoid Augmenting an Appropriation

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0701 Overview .............................................................................................................. 2
0702 Revisions ............................................................................................................. 2
0703 Definitions ............................................................................................................ 2
0704 Roles and Responsibilities .................................................................................. 3
0705 Policies................................................................................................................ 4
  070501 General Policies ........................................................................................ 4
  070502 Miscellaneous Receipts Statute .................................................................. 5
  070503 Disposition of Money Received from Contract ........................................ 6
  070504 Disposition of Money Recovered for Loss or Damage to VA’s Property and Other Torts ................................................................. 6
  070505 Disposition of Money Received as Fees, Commissions, Setoff, Fines, and Penalties ........................................................................................................ 7
  070506 Gifts and Donations to VA and VA Employees ........................................... 9
0706 Authorities and References ................................................................................ 9
0707 Rescissions ......................................................................................................... 11
0708 Questions............................................................................................................ 12
0701 Overview

This chapter establishes the Department of Veterans Affairs (VA) financial policies regarding guidelines to avoid augmenting an appropriation. Congress establishes maximum spending levels for federal programs by appropriating funds. Spending beyond the appropriated level without statutory authorization could be a violation of the Antideficiency Act (ADA) and other major statutes as discussed in the General Policies that follow. VA will abide by appropriation laws and related statutes, and will not circumvent spending limitations by augmenting its appropriations.

Key points covered in this chapter:

- VA will only utilize appropriated funds for the program/objects authorized by the appropriation;
- VA will obligate and expend funds only after they are apportioned by the Office of Management and Budget (OMB);
- VA will deposit any funds it receives from outside sources to the appropriate General Fund Receipt Account unless the receipt constitutes an authorized repayment/refund to an unexpired fund or VA has the statutory authority to retain the funds; and
- VA will not presume the receipt or distribution of funds is proper just because there is no prohibition by Congress.
- VA will comply with the “necessary expense” rule.

0702 Revisions

<table>
<thead>
<tr>
<th>Section</th>
<th>Revision</th>
<th>Office</th>
<th>Reason for Change</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
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<td>OFP (047G)</td>
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<td>1005 Policies</td>
<td>Updated policy statements</td>
<td>OFP (047G)</td>
<td>Properly reflect VA’s current guidelines to avoid augmenting an appropriation</td>
<td>February 2020</td>
</tr>
</tbody>
</table>

0703 Definitions

Augmentation of an Appropriation – An unauthorized increase in the amount of authority given to federal agencies to incur obligations and to make payments from Treasury funds.
General Fund Receipt Account (GFRA) – A receipt account credited with all funds from collections that are not identified by law for another account for a specific purpose. These collections are presented in the President’s Budget of the United States Government as either governmental (budget) receipts or offsetting receipts. These include taxes, customs duties, and miscellaneous receipts. There are numerous General Fund Receipt Accounts that are described in the Federal Account Symbols and Titles (FAST) Book.

Interdepartmental Waiver Doctrine – A concept that property of the various agencies is not the property of separate entities but rather of the U.S. Government as a single entity, and there can be no reimbursement by the U.S. Government for damages to or loss of its own property.

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. Liquidated damages must not be intended to punish, must be intentionally referenced in a given contract, and must apply to anticipated future damages that would be unquantifiable at the time of contract.

Necessary Expense Rule – Established by the U.S. Government Accountability Office (GAO) Comptroller General decisions and in accordance with the type of funds used to pay for expenses. This rule may be applied when expenditures are neither expressly authorized nor prohibited in a given appropriation but may be permissible only if reasonably necessary or incident to the proper execution of an authorized purpose or function of VA, are not otherwise illegal, or are not otherwise addressed specifically in another appropriation law.

Refund – A return of funds previously disbursed as a result of an overpayment, return of an advance, adjustments, or recovery of erroneous disbursements.

0704 Roles and Responsibilities

Under Secretaries, Assistant Secretaries, Other Key Officials, and Chief Financial Officers are responsible for ensuring funds are used only for the purposes authorized by Congress.

Office of Budget (OB) is responsible for creating the apportionment requests for the department and submitting those apportionment requests to the Office of Management and Budget (OMB).

Office of General Counsel (OGC) is responsible for providing legal advice to safeguard VA against committing or being involved in an unauthorized augmentation of agency funds, to include advising whether an augmentation is allowable based upon
statutory authority (such as provisions in Appropriations Acts and title 38, United States Code).

0705 Policies

070501 General Policies

A. VA will avoid augmenting an appropriation without appropriate statutory authority. The concept of prohibiting the augmentation of appropriated funds is derived from several enactments. The following are the four major statutes, which are discussed in further detail in VA Financial Policy Volume II, Chapter 7, Various Appropriations Law Topics:

1. 31 U.S.C. § 1301(a), the “purpose” statute, restricts the use of appropriated funds to their intended purposes.

2. 31 U.S.C. § 1532, the “prohibition against transfers” statute, no amount available under law may be withdrawn and transferred from one appropriation account and credited to another without statutory authorization.

3. 31 U.S.C. § 3302(b), the “miscellaneous receipts” statute, requires an agency to deposit monies it receives from outside sources to a General Fund Receipt Account (GFRA).

4. 18 U.S.C. § 209, salary of government officials and employees payable only by United States, prohibits making payments to government officials or employees for the official duties from any source other than the U.S. Government.

B. VA will ensure that appropriated funds will be utilized only for the program/objects for which the appropriation is made.

C. VA will expend funds in accordance with authorization laws and appropriations from Congress, as apportioned by OMB.

D. VA will comply with the Necessary Expense rule for obligations and expenditures and will not presume an expenditure is proper just because there is no prohibition by Congress.

E. OGC will provide legal advice to safeguard VA against committing, or being involved in, an unauthorized augmentation of agency funds.

F. OGC will advise whether an augmentation is allowable based upon statutory authority (such as provisions in Appropriations Acts and title 38, United States Code).
G. VA will credit refunds received to the appropriation initially charged with the related expenditure, regardless of whether the appropriation is in a current or expired status. Refunds of expired appropriations are not available for new or current-year obligations. If an appropriation account has been closed in accordance with 31 U.S.C. § 1552(a) or 1555, the funds must be deposited as miscellaneous receipts into the GFRA.

070502 Receipt of Funds

A. VA will credit amounts refunded in accordance with the General Policies stated above.

B. Any refunded amount in excess of the correct refund amount must be deposited as miscellaneous receipts in the GFRA.

C. VA will comply with the “miscellaneous receipts” statute (31 U.S.C. § 3302(b)) and deposit monies received from outside sources to the GFRA when statutory authorities do not exist allowing VA to retain the funds. Some of the statutory authorities that exist allowing VA to retain funds are listed below:
   - 38 U.S.C. § 1729A – VA Medical Care Collections Fund;
   - 38 U.S.C. § 1971(e) – Veterans’ Benefits;
   - 38 U.S.C. § 8504 – Disposition of Other Unclaimed Property;
   - 42 U.S.C. § 8256 – Incentives for Agencies; and
   - 42 U.S.C. § 8287 – Authority to Enter into Contracts

D. VA will deposit monies received from authorized external sources identified below as miscellaneous receipts:
   - Proceeds from the vending facilities in VA (Randolph-Sheppard Act);
   - An honorarium paid to a VA employee for lecturing at a university in his/her capacity as an employee of the United States;
   - Fees collected from private individuals by VA employees for their services as notaries public;
   - Monies collected by VA as fines or penalties (19 U.S.C. § 527);
   - Transfer of excess property to a federal agency for agency use or the disposition of excess property (40 U.S.C. § 571); and
   - Funds recovered by VA for damages to government property, which are unrelated to performance required by the contract.
E. VA will deposit the funds it receives from outside sources as soon as practicable to the GFRA as guided by the “miscellaneous receipts” statute and related Treasury regulations.

070503 Disposition of Money Received from Contract

A. When VA receives a recovery from the original contractor for contract default or defective work. VA will retain the recovery amount to the extent necessary to:

1. fund the re-procurement or corrective measures, if VA has not yet incurred any additional expense or,

2. reimburse itself, if VA has incurred some expenses for re-procurement or corrective measures.

B. For certain breaches of contract VA may receive liquidated damages from a contractor, e.g., liquidated damages received for a delay in performance.

C. VA will not retain or use the liquidated damages to fund re-procurements that do not constitute "replacement contracts" for the contract that gave rise to the liquidated damages.

D. VA will forward liquidated damages not used for replacement contracts to the GFRA as "Miscellaneous Receipts."

E. VA will credit refunds received under a warranty clause to the appropriation originally charged under the contract if they are deemed as adjustments in the contract price.

F. VA will credit rebates or contract credits in the form of rebates, to its accounts when there is a statutory authority to do so or when they meet the criteria of a refund.

G. VA will deposit recoveries paid under fraudulent contracts, to credit the appropriation initially charged with the payments, since these recoveries constitute "refunds;” however, if the appropriation account is closed, VA will deposit the funds in the GFRA.

070504 Disposition of Money Recovered for Loss or Damage to VA’s Property and Other Torts

A. VA will deposit amounts recovered for loss or damage to VA’s property to GFRA unless specifically authorized by statutory or non-statutory authority. While the recovery may be related to the expenditure for property repairs, it does not constitute a refund in the form of an adjustment of a previous disbursement that would qualify for crediting to VA’s accounts.
1. The recovery will include compensation paid by an insurance company for the
damage to VA's property, whether the payment is made to VA or the contractor;
and the recovered amount from common carriers for VA's property lost or
damaged in transit.

2. Recovery for loss or damage to the property of a VA Revolving Fund will be
credited to the Fund itself.

3. In the event a private party damages VA's property and agrees to replace the
damaged property "in-kind" or make payment directly for its repair to VA's
satisfaction, there are no funds received for the use of VA that are required to be
promptly deposited as miscellaneous receipts in the GFRA.

B. If VA's property is damaged by another federal agency under the "interdepartmental
waiver doctrine," funds available to the agency that caused the damage will not be
used to pay claims for damages by VA.

C. The "interdepartmental waiver doctrine" will not apply where VA has the statutory
authority to retain income derived from the use or sale of certain property. The
governing legislation shows an intent for the program/activity to be self-sustaining;
thus, the program/activity is financed through reimbursements or a Revolving Fund.
In such cases, VA 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.

D. VA will deposit recovered amounts resulting from tortious injury to persons as
miscellaneous receipts in the GFRA. However, the Federal Medical Care Recovery
Act provides a statutory exception that VA will retain the recovery to the extent the
collection or recovery is based on medical care or services furnished under chapter
17 of title 38, United States Code, and deposit it in the VA Medical Care Collections
Fund.

070505 Disposition of Money Received as Fees, Commissions, Setoff, Fines, and
Penalties

A. VA will not charge fees for services unless there is a specific statutory authority to do
so, and VA will not presume that it is proper to charge a fee for service simply
because there is no express statutory prohibition.

B. VA will deposit fees and commissions paid to VA or to VA's employees for activities
relating to official duties to GFRA under the general rule. For example, an
honorarium paid to a VA employee will be deposited as miscellaneous receipts.
Refer to VA Financial Policy, Volume II, Chapter 7B, Honoraria, for detailed
guidance. However, with statutory authority, VA will retain the fees and credit them
to the appropriations. The following document some examples:
1. VA will treat jury and witness service fees, other than legitimate expense-related payments to the employees who provided the services, as deposits to the appropriation in accordance with 5 U.S.C. § 5515.

2. VA will credit its appropriation for reimbursement of fees received for training provided in accordance with 42 U.S.C. § 4742 (a) and (b). However, VA will deposit the training fees it receives from private persons who attended its training programs as miscellaneous receipts unless VA has a statutory authority to the contrary.

3. VA will credit medical facility parking fees collected pursuant to 38 U.S.C. § 8109 to the Medical Care Collections Fund, to be transferred to the Medical Services account. When housed in GSA-leased space, VA may charge employees for parking at rates approved by GSA pursuant to 40 U.S.C. § 121 and a delegation from GSA. Fees collected are no-year funds and must be used by the VA to “operate, maintain, or repair the building or facility” and as further detailed in the GSA delegation document pertaining to the facility. VA Financial Policy, Volume II, Chapter 2E, Parking Garage Revenue, provides a detailed policy to guide accounting for parking fees.

4. Income derived from the installation and operation of vending machines on Government-owned or controlled property is generally for deposit in the GFRA as miscellaneous receipts. VA's Veterans Canteen Service operates most vending facilities at VA medical centers. The proceeds from the Randolph-Sheppard Act vending facilities in VA facilities are not VA’s monies.

C. VA will treat offsets the same as direct collections. There may be factual differences between collections by offsets and direct collections; however, the effect on the appropriation is the same.

1. If VA will retain a direct collection in a given situation, it will retain the offset; if VA will deposit a direct collection as miscellaneous receipts, the offset will also be a miscellaneous receipt.

2. A different type of "offset" occurs under the 38 U.S.C. 5596 – the Back Pay Act. If VA pays an employee back pay under this act, VA will simply pay the net amount. There is no requirement to transfer the amount of the deduction for outside earnings to miscellaneous receipts.

D. VA will deposit monies collected as fines or penalties to GFRA as miscellaneous receipts.
070506 Gifts and Donations to VA and Supplementation of VA Employee Salaries

A. In general, an officer or employee of VA will not accept voluntary services for VA 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. § 1342).

B. VA is authorized to accept voluntary services in the following instances:

1. 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. § 7401(1) and (3).

2. Under 5 U.S.C. § 3111, VA will 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 an educational experience for the student.

B. 38 U.S.C. § 8301 authorized VA may accept gifts and donations. Gifts and donations can be monetary or non-monetary.

1. Monetary gifts accepted under Section 8301 must be deposited to VA’s trust fund, General Post Fund.

2. Donations over $20 million must receive Congressional approval. Donations may not be “unbundled” to defeat this limit.

C. VA will not accept gifts or donations to acquire, construct, or alter VA medical facilities, including leased facilities under 38 U.S.C § 8301. Instead, VA will accept them under 38 U.S.C. § 8103(a)(2) and 8104, subject to applicable Congressional authorization requirements.

D. VA will accept certain gifts for the benefit of national cemeteries in accordance with 38 U.S.C. § 2406 and 2407.

E. VA will prohibit contributions to the salary or expense of its employees because they constitute unauthorized augmentations, unless explicitly authorized by statute.

F. A VA employee, as a traveler who received a promotional item as a result of using travel or transportation services obtained at VA expense, will be allowed to retain the item 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 VA (41 CFR 301-53.2).

0706 Authorities and References

5 U.S.C. § 3111, Acceptance of Volunteer Service
5 U.S.C. § 5515, Crediting Amounts Received for Jury or Witness Service

5 U.S. C. § 5596, Back Pay Due to Unjustified Personnel Action

18 U.S.C. § 209, Salary of Government Officials and Employees Payable Only by United States

19 U.S.C. § 527, Sums Received from Fines and Other Receipts Covered into Treasury

20 U.S. C. § 107, Operation of Vending Facilities

31 U.S.C. § 1301(a), Application


31 U.S.C. § 1341, Limitations on Expenditure and Obligating Amounts

31 U.S.C. § 1342, Limitation on Volunteer Services

31 U.S.C. § 1532, Withdrawal and Credit

31 U.S.C. § 1535 – 1536, Economy Act


31 U.S.C. § 3302(b), Custodians of Money

38 U.S.C. § 513, Contracts and Personal Services

38 U.S.C. § 1729(a), Recovery by the United States of the Cost of Certain Care and Services

38 U.S.C. § 2406, Acquisition of Lands

38 U.S.C. § 2407, Authority to Accept and Maintain Suitable Memorials

38 U.S.C. § 7401, Appointments in Veterans Health Administration


38 U.S.C. § 7801, Purpose of Veterans Canteen Service

38 U.S.C. § 7808, Service to be Independent Unit
38 U.S.C. § 8101(3), Definitions

38 U.S.C. § 8103(a)(2), Authority to Construct and Alter and to Acquire Sites for Medical Facilities

38 U.S.C. § 8104(e), Congressional Approval of Certain Medical Facility Acquisitions

38 U.S.C. § 8109, Parking Facilities

38 U.S.C. § 8121, Revolving Supply Fund

38 U.S.C. § 8301, Authority to Accept Gifts, Devises and Bequests

38 U.S.C. § 8504, Disposition of Other Unclaimed Property

40 U.S.C. § 571, General Rules for Deposit and Use of Proceeds

42 U.S.C. § 4742, Admission to Federal Employee Training Programs

42 U.S.C. § 8256, Incentives for Agencies

42 U.S.C. § 8287, Authority to Enter into Contracts

41 CFR Part 301-53, Using Promotional Materials and Frequent Traveler Programs

Principles of Federal Appropriations Law, Volume II, Chapter 6 Part E, Augmentation of Appropriations

Public Law 115-269, Military Construction, Veterans Affairs, and Related Agencies Appropriation Bill, 2019 Title II, Department of Veterans Affairs


0707 Rescissions

Questions concerning these financial policies and procedures should be directed to the specific POC’s and formatted as follows using the group email.

- **VHA**: VHA 10A3A Accounting Policy (Outlook)
- **VHA**: VAFSC Nationwide Accounting (Outlook)
- **VBA**: VAVBAWAS/CO/FINREP (Outlook)
- **VBA**: VAVBAWAS/CO/OPERATIONS (Outlook)
- **NCA**: NCA Financial Policy Group (Outlook)
- **NCA**: NCA Budget Service (Outlook)
- **All Others**: OFP Accounting Policy (Outlook)