

the estimated net present value of an outstanding direct loan or loan guarantee (except modifications within the terms of existing contracts or through other existing authorities) shall be counted as a change in the cost of that direct loan or loan guarantee. The calculation of such changes shall be based on the estimated present value of the direct loan or loan guarantee at the time of modification.”

Par. (5)(E). Pub. L. 105-33, §10117(a)(5), inserted “the cash flows of” after “similar maturity to”.

Par. (5)(F). Pub. L. 105-33, §10117(a)(6), added subpar. (F).

Pars. (9) to (11). Pub. L. 105-33, §10117(a)(7), added pars. (9) and (10) and redesignated former par. (9) as (11).

#### **§ 661b. OMB and CBO analysis, coordination, and review**

##### **(a) In general**

For the executive branch, the Director shall be responsible for coordinating the estimates required by this subchapter. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.

##### **(b) Delegation**

The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this subchapter.

##### **(c) Coordination with Congressional Budget Office**

In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

##### **(d) Improving cost estimates**

The Director and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance of direct loan and loan guarantee programs. They shall annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs. The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate the development and improvement of estimates of costs.

##### **(e) Historical credit program costs**

The Director shall review, to the extent possible, historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

##### **(f) Administrative costs**

The Director and the Director of the Congressional Budget Office shall each analyze and report to Congress on differences in long-term administrative costs for credit programs versus grant programs by January 31, 1992. Their reports shall recommend to Congress any changes, if necessary, in the treatment of administrative costs under credit reform accounting.

(Pub. L. 93-344, title V, §503, as added Pub. L. 101-508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388-611.)

#### **Editorial Notes**

##### **PRIOR PROVISIONS**

A prior section 503 of Pub. L. 93-344, title V, July 12, 1974, 88 Stat. 321, was classified to section 701 of former Title 31, prior to repeal and reenactment in section 1552(a) of Title 31, Money and Finance, by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31.

#### **§ 661c. Budgetary treatment**

##### **(a) President's budget**

Beginning with fiscal year 1992, the President's budget shall reflect the costs of direct loan and loan guarantee programs. The budget shall also include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request.

##### **(b) Appropriations required**

Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made for fiscal year 1992 and thereafter only to the extent that—

- (1) new budget authority to cover their costs is provided in advance in an appropriations Act;
- (2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program has been provided in advance in an appropriations Act; or
- (3) authority is otherwise provided in appropriation Acts.

##### **(c) Exemption for mandatory programs**

Subsections (b) and (e) shall not apply to a direct loan or loan guarantee program that—

- (1) constitutes an entitlement (such as the guaranteed student loan program or the veterans' home loan guaranty program); or
- (2) all existing credit programs of the Commodity Credit Corporation on November 5, 1990.

##### **(d) Budget accounting**

(1) The authority to incur new direct loan obligations, make new loan guarantee commitments, or modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) shall constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority shall constitute an obligation of the credit program account to pay to the financing account.

(2) The outlays resulting from new budget authority for the cost of direct loans or loan guarantees described in paragraph (1) shall be paid from the credit program account into the financing account and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.

(3) All collections and payments of the financing accounts shall be a means of financing.

##### **(e) Modifications**

An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee

commitment) shall not be modified in a manner that increases its costs unless budget authority for the additional cost has been provided in advance in an appropriations Act.

**(f) Reestimates**

When the estimated cost for a group of direct loans or loan guarantees for a given credit program made in a single fiscal year is reestimated in a subsequent year, the difference between the reestimated cost and the previous cost estimate shall be displayed as a distinct and separately identified subaccount in the credit program account as a change in program costs and a change in net interest. There is hereby provided permanent indefinite authority for these reestimates.

**(g) Administrative expenses**

All funding for an agency's administration of a direct loan or loan guarantee program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

(Pub. L. 93-344, title V, §504, as added Pub. L. 101-508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388-612; amended Pub. L. 105-33, title X, §10117(b), Aug. 5, 1997, 111 Stat. 693.)

**Editorial Notes**

**PRIOR PROVISIONS**

A prior section 504 of Pub. L. 93-344, title V, July 12, 1974, 88 Stat. 322, was classified to section 1020a of former Title 31, prior to repeal by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068.

**AMENDMENTS**

1997—Subsec. (b)(1). Pub. L. 105-33, §10117(b)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “appropriations of budget authority to cover their costs are made in advance;”.

Subsec. (b)(2). Pub. L. 105-33, §10117(b)(2), substituted “has been provided in advance in an appropriations Act” for “is enacted”.

Subsec. (c). Pub. L. 105-33, §10117(b)(3), substituted “Subsections (b) and (e)” for “Subsection (b)”.

Subsec. (d)(1). Pub. L. 105-33, §10117(b)(4), substituted “modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments)” for “directly or indirectly alter the costs of outstanding direct loans and loan guarantees”.

Subsec. (e). Pub. L. 105-33, §10117(b)(5), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “A direct loan obligation or loan guarantee commitment shall not be modified in a manner that increases its cost unless budget authority for the additional cost is appropriated, or is available out of existing appropriations or from other budgetary resources.”

**§ 661d. Authorizations**

**(a) Authorization of appropriations for costs**

There are authorized to be appropriated to each Federal agency authorized to make direct loan obligations or loan guarantee commitments, such sums as may be necessary to pay the cost associated with such direct loan obligations or loan guarantee commitments.

**(b) Authorization for financing accounts**

In order to implement the accounting required by this subchapter, the President is authorized to establish such non-budgetary accounts as may be appropriate.

**(c) Treasury transactions with financing accounts**

The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above, except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the “Bank”) pursuant to section 655(b) of this title) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 661a(5)(E) of this title. For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 655(b) of this title, any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 661a(5)(E) of this title) that the Bank charges to a private borrower pursuant to section 2285(c) of title 12 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 661a(5) of this title. All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 661c(g) of this title. This subsection shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991. The authorities described above shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program. All of the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31. Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds.

**(d) Authorization for liquidating accounts**

(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991, for—

(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

(B) disbursements of loans;

(C) default and other guarantee claim payments;

(D) interest supplement payments;

(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

(F) payments to financing accounts when required for modifications;