

(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

(F) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

(6) The term “credit program account” means the budget account into which an appropriation to cover the cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account.

(7) The term “financing account” means the non-budget account or accounts associated with each credit program account which holds balances, receives the cost payment from the credit program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

(8) The term “liquidating account” means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991.

These accounts shall be shown in the budget on a cash basis.

(9) The term “modification” means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

(10) The term “current” has the same meaning as in section 900(c)(9) of this title.

(11) The term “Director” means the Director of the Office of Management and Budget.

(Pub. L. 93-344, title V, §502, as added Pub. L. 101-508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388-610; amended Pub. L. 105-33, title X, §10117(a), Aug. 5, 1997, 111 Stat. 692.)

Editorial Notes

PRIOR PROVISIONS

A prior section 502 of Pub. L. 93-344, title V, July 12, 1974, 88 Stat. 321, was set out as a note under section 1020 of former Title 31, prior to repeal by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068.

AMENDMENTS

1997—Par. (1). Pub. L. 105-33, §10117(a)(1), inserted “and financing arrangements that defer payment for more than 90 days, including the sale of a government asset on credit terms” after “another lender”.

Par. (5)(A). Pub. L. 105-33, §10117(a)(2), inserted “or modification thereof” after “or loan guarantee”.

Par. (5)(B), (C). Pub. L. 105-33, §10117(a)(3), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which read as follows:

“(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following cash flows:

“(i) loan disbursements;

“(ii) repayments of principal; and

“(iii) payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties and other recoveries.

“(C) The cost of a loan guarantee shall be the net present value when a guaranteed loan is disbursed of the cash flow from—

“(i) estimated payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments, and

“(ii) the estimated payments to the Government including origination and other fees, penalties and recoveries.”

Par. (5)(D). Pub. L. 105-33, §10117(a)(4), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “Any Government action that alters 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