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Compliance Report Required by the Budget Enforcement Act of 1990

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Comptroller General
of the United States

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January 13, 1995

The President
The President of the Senate
The Speaker of the House of Representatives

As required by the Budget Enforcement Act of 1990,[1] which amended the Balanced Budget and Emergency Deficit Control Act of 1985, we hereby submit our compliance report covering reports issued by the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) during the session of the Congress ending December 1, 1994. We are required to issue this compliance report 45 days after the end of a session of the Congress.

In our opinion, the OMB and CBO reports substantially complied with the act. Although these issues do not, in our judgment, represent compliance issues, we discuss in appendix II some implementation issues related to differences in cost estimates in appropriations acts and the dissimilar budget treatment for the Federal Crop Insurance Reform Act. OMB and CBO estimates for outlays from appropriations acts varied because they used (1) different approaches to scoring emergency and contingent emergency appropriations and (2) different assumptions about the timing of outlays. The differences in cost estimates were due primarily to different methodological and technical assumptions by OMB and CBO about the programs involved. OMB and CBO cost estimates were similar for the newly created Violent Crime Reduction Trust Fund. We described the different approaches OMB and CBO used to estimate the costs of the Federal Crop Insurance Reform Act of 1994 because it was the only pay-as-you-go (PAYGO) legislation with a significant outlay variance.

To determine compliance with the Budget Enforcement Act, we reviewed OMB and CBO reports issued under the act to determine if they reflected all of the act's requirements. We interviewed cognizant OMB and CBO officials to obtain explanations for differences between reports. Background information on the various reports required by the act and details concerning our objectives, scope, and methodology are in appendix I.

Copies of this report are being provided to the Director of the Office of Management and Budget, the Director of the Congressional Budget Office,

[1]The Budget Enforcement Act of 1990, as amended by the Omnibus Budget Reconciliation Act of 1993, is referred to in this report as BEA.

and the Members of the Congress. Copies will be made available to other interested parties on request.

This report was prepared under the direction of Susan Irving, Associate Director, Budget Issues, who may be reached at (202) 512-9142 if you or your staffs have any questions. Major contributors to this report are listed in appendix III.

Charles A. Bowsher
Comptroller General
of the United States

Contents

Abbreviations

BEA	Budget Enforcement Act of 1990, as amended
CBO	Congressional Budget Office
CCC	Commodity Credit Corporation
EPA	Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FHA	Federal Housing Administration
GNMA	Government National Mortgage Association
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
OBRA 90	Omnibus Budget Reconciliation Act of 1990
OBRA 93	Omnibus Budget Reconciliation Act of 1993
OMB	Office of Management and Budget
PAYGO	pay-as-you-go
VA	Department of Veterans Affairs

Background and Objectives, Scope, and Methodology

Background

The Budget Enforcement Act of 1990 (BEA) changed the deficit reduction process by establishing three major budgetary points of control—dollar limits on discretionary spending, a pay-as-you-go (PAYGO)[1] requirement for direct spending[2] and receipts legislation, and adjustable maximum deficit targets for fiscal years 1991 through 1995. For fiscal years 1991 through 1993, discretionary spending was divided into three categories—defense, domestic, and international—but it was consolidated into a single discretionary category for fiscal years 1994 and 1995. The act requires OMB and CBO to issue Preview, Update, and Final Sequestration reports at specified times during the year. Each report is to include (1) a discretionary sequestration report, (2) a pay-as-you-go sequestration report, and (3) a deficit sequestration report. These topics correspond to the three major points of control established by the act. The Omnibus Budget Reconciliation Act of 1993 (OBRA 93) extended the discretionary and PAYGO provisions through fiscal year 1998 but did not extend the sequestration provision for enforcing deficit targets beyond fiscal year 1995.

In their final sequestration reports, both CBO and OMB calculate whether a sequester is necessary. However, as stipulated in BEA, the OMB report is the sole basis for determining whether any end-of-session sequestration is required. If OMB determines that a sequester is required, the President must issue an order implementing it. For fiscal year 1995, neither CBO's report, issued December 9, 1994, nor OMB's report, issued December 16, 1994, called for a sequestration.

In addition, as soon as practicable after the Congress completes action on any appropriation involving discretionary spending, CBO is required to report to OMB the estimated amount of new budget authority and outlays provided by the legislation. Five days after an appropriation is enacted, OMB must report its estimates for these amounts, using the same economic and technical assumptions underlying the administration's most recent budget submission. It also must include the CBO estimates and an explanation of any differences between the two sets of estimates. OMB and CBO have requirements similar to those described above to report their estimates for any direct spending or receipts legislation.

[1]The Budget Enforcement Act, as amended, requires that any legislation that increases direct spending or decreases receipts be deficit neutral (that is, not increase the deficit) in the aggregate within any fiscal year from fiscal year 1992 through fiscal year 1998.

[2]Direct spending (commonly referred to as mandatory spending) means entitlement authority, the food stamp program, and any budget authority provided by law other than in appropriations acts.

Furthermore, CBO and OMB must issue Within-Session Sequestration Reports 10 and 15 days, respectively, after enactment of any appropriation that causes the spending limits for the year in progress to be exceeded if this appropriation is enacted after the Congress adjourns to end a session for that budget year but before July 1 of that fiscal year. On the same day that the OMB report is issued, the President must issue an order implementing any sequestrations set forth in that OMB report.

The Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) established the Violent Crime Reduction Trust Fund. The act provided that specified amounts of budget authority shall be transferred to the trust fund from the general fund in each fiscal year from 1995 through 2000. The act provided that appropriations from the trust fund are not to be counted in determining compliance with the discretionary spending limits of BEA. Thus, the act established a special category of discretionary spending. Discretionary budget authority and spending limits now are divided into two parts: (1) general purpose appropriations and (2) the crime trust fund. The crime trust fund is subject to sequestration if estimated outlays from the fund exceed annual spending limits specified in the act.

Objectives, Scope, and Methodology

The objective of our review was to determine whether the OMB and CBO reports complied with the requirements of BEA. To accomplish this, we reviewed the OMB and CBO Preview, Update, and Final Sequestration reports to determine if they complied with all of the technical requirements specified in BEA, such as (1) estimates of the discretionary spending limits, (2) explanations of any adjustments to the limits, (3) estimates of the amount of net deficit increase or decrease, (4) estimates of the maximum deficit amount, and (5) in the event of a sequester, the sequestration percentages necessary to achieve the required reduction.

We reviewed BEA, its accompanying Joint Statement of Managers, OBRA 90, and OBRA 93. We also reviewed the pertinent appropriations acts and their related Conference Reports. We examined the OMB and CBO reports on the 13 regular appropriations acts, the supplemental appropriations acts passed in 1994, and the 80 pay-as-you-go reports on direct spending and receipts legislation enacted by the Congress and signed by the President before the date of OMB's Final Sequestration Report. We compared each OMB and CBO report and obtained explanations for differences of $500 million or more in total bill estimates for the appropriation and PAYGO reports. We compared estimates for the discretionary spending limits, the maximum deficit amounts, and the adjustments to the spending limits and the maximum deficit amounts in the Preview, Update, and Final Sequestration reports. We examined differences in CBO's and OMB's approaches to (1) estimating the costs of emergency and contingent emergency appropriations and (2) spendout rates for certain programs and how these differences affected scoring of appropriations acts and pay-as-you-go legislation.

During the course of our work, we interviewed OMB and CBO officials. Our work was conducted in Washington, D.C., from July 1994 through January 1995.

Implementation Issues

We identified several implementation issues related to difficulties in estimating cost and differences in program assumptions used by OMB and CBO, as discussed below. This appendix is divided into three main parts. The first two sections deal with scoring of the 13 appropriations acts. In the first section, we describe differences between OMB and CBO cost estimates for general purpose appropriations and then, in the second section, we discuss estimates of budget authority and outlays for the Violent Crime Reduction Trust Fund. In the final section, we describe a PAYGO issue—OMB's and CBO's dissimilar scoring of the Federal Crop Insurance Reform Act.

Differences in OMB and CBO Outlay Estimates for General Purpose Appropriations in Appropriations Acts

There were significant differences between OMB and CBO estimates of general purpose outlays for fiscal year 1995 appropriations acts. As shown in table II.1, the net difference totaled about $3.2 billion based on OMB's and CBO's Final Sequestration reports. This compares to estimates of outlays in the fiscal year 1994 appropriations for which the net difference was $3.4 billion. However, this year, these differences were slightly more concentrated. They exceeded $100 million for 8 of the 13 appropriations acts, 2 fewer than the prior year. OMB and CBO estimates of budget authority did not differ significantly. In 1994, three appropriations acts differed by more than $1.5 billion in outlays. There were fewer such large differences this year. Estimate differences attributable to spendout rates and program assumptions varied greatly for only one act—the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies (VA/HUD) Appropriations Act. This $912 million difference accounted for 106 percent of the net difference for all appropriations acts.[1]

[1]As table II.1 shows, there were both positive and negative differences between OMB and CBO cost estimates, which resulted in a lower (net) difference. The $912 million positive variation in OMB and CBO cost estimates for the VA/HUD Appropriations Act exceeds 100 percent because it is partially offset by negative differences attributable to other appropriations acts.

Table II.1: Comparison of OMB and CBO Scoring of General Purpose Appropriations in Fiscal Year 1995 Appropriations Acts

Dollars in millions

	Outlays				
				Differences attributed to:	
Appropriations act	OMB	CBO	Difference[a]	Emergency & contingency	Spendout & assumptions
Agriculture	15,224	14,955	269	255	14
Commerce	24,726[b]	24,541[b]	185	319	–134
Defense	250,737	250,681	56	196	–140
District of Columbia	712	714	–2	0	–2
Energy/Water	20,664	20,884	–220	35	–255
Foreign Operations	13,681	13,768	–87	0	–87
Interior	14,017	14,240	–223	–103	–120
Labor/HHS[c]/Education	69,949[b]	70,406[b]	–457	–470	13
Legislative Branch	2,419	2,380	39	0	39
Military Construction	8,520	8,525	–5	0	–5
Transportation	37,026	36,513	513	779	–266
Treasury/Postal	12,138[b]	12,408[b]	–270	0	–270
VA[d]/HUD[e]/Independent Agencies	76,417	73,023	3,394	2,482	912
Total Enacted	**546,230**	**543,038**	**3,192**	**3,493**	**–301**

[a]A positive number means that OMB's estimate was higher than CBO's.

[b]Excludes Crime Trust Fund.

[c]Department of Health and Human Services.

[d]Department of Veterans Affairs.

[e]Department of Housing and Urban Development.

OMB and CBO outlay estimates differed for two main reasons: (1) treatment of emergency and contingent emergency appropriations and (2) assumptions about the timing of outlays (also called the spendout rate).

OMB and CBO Scoring of Emergency and Contingent Emergency Appropriations Differs

OMB and CBO have different estimates of the budget authority and outlays related to emergency and contingent emergency appropriations. CBO scores budget authority for emergency appropriations when the appropriation is enacted. OMB scores emergency appropriations only when the President has designated the funds for release. As a result of this difference in timing, CBO attributed more budget authority and outlays to the emergency appropriations and less to the release of contingent funds than did OMB. Table II.1 shows that estimates of the outlays from emergency and contingent emergency appropriations represented 109 percent of the $3,192 million difference[2] between OMB and CBO scoring.

Different Assumptions About the Timing of Outlays and Program Characteristics Caused Estimating Variations

The Congress appropriates budget authority to programs as a statement of policy. The rate at which budget authority becomes outlays is called the spendout rate and it varies across the budget.[3] To estimate the outlays that would result from any legislation, including appropriations acts, OMB and CBO must estimate spendout rates for the various parts of the act. These estimates are determined through a variety of techniques—from a simple analysis of outlay histories to complex computer models involving multiple program assumptions and outlay data.[4]

OMB and CBO made different assumptions about how quickly appropriations would be spent. We examined the reasons for outlay estimate variations for the VA/HUD Appropriations Act because it was the only appropriations act with a total net estimating difference exceeding $500 million. We also reviewed outlay differences greater than $150 million, which we identified from OMB and CBO scorekeeping reports for all appropriations acts.

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies

OMB's estimate of fiscal year 1995 outlays for the VA/HUD Appropriations Act was about $912 million higher than CBO's. As shown in table II.2, this was largely due to differences in outlays for seven programs.

[2]As table II.1 shows, the $3,493 million difference in scoring emergencies and contingent emergencies is partially offset by $301 million from dissimilar spendout and program assumptions. Therefore, scoring differences attributable to emergency and contingent emergency appropriations exceeds 100 percent of the total.

[3]For example, budget authority for salaries and expenses generally is "outlayed" in the fiscal year for which it was appropriated. In contrast, construction appropriations generally are spent more slowly. Therefore, the spendout rate for salaries and expenses would be expected to be closer to 100 percent than would the spendout rate for construction.

[4]See Budget Process: Issues Concerning the 1990 Reconciliation Act (GAO/AIMD-95-3, October 7, 1994) for additional information about OMB and CBO estimates.

Table II.2: Comparison of OMB and CBO Scoring of Outlays for the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year 1995

Dollars in millions

Program	Outlay difference[a]	Reason for difference
VA[b]—Medical Care	425	Spendout rates
HUD[c]—Home Block Grant	298	Spendout rates
EPA[d]—Water Infrastructure Financing	278	Spendout rates
GNMA[e]	253	Program assumptions
EPA[d]—Hazardous Substance Superfund	235	Spendout rates
FEMA[f]—Disaster Relief	–161	Spendout rates
HUD[c]—Subsidized Housing	–593	Program assumptions
Other programs	177	Other outlay differences
Total	**912**	

[a]A positive number means that OMB's estimate was higher than CBO's.

[b]Department of Veterans Affairs.

[c]Department of Housing and Urban Development.

[d]Environmental Protection Agency.

[e]Government National Mortgage Association.

[f]Federal Emergency Management Agency.

The largest single difference was for HUD's subsidized housing program. CBO's estimate was $593 million higher than OMB's. This difference occurred because CBO assumed that more housing units would receive rent subsidies than did OMB.

OMB's estimate for outlays from VA's Medical Care program was $425 million higher than CBO's because OMB assumed that outlays for purchases of medical equipment scheduled for 1994 would be delayed until 1995. A difference of $298 million for the HUD Home Block Grant program was due to OMB's assumption that management efforts, such as simplifying program requirements and more rapidly approving and targeting technical assistance, would accelerate spendout.

The OMB outlay estimate for EPA's Water Infrastructure Financing program was $278 million higher than CBO's because CBO gave greater weight to the recent slower spendout history. OMB and CBO have a continuing difference in approach[5] to the Government National Mortgage Association's credit program which causes OMB's outlay estimates to be $253 million higher than CBO's. OMB assumes that the program receipts will equal administrative and program subsidy costs because the program was designed to break even while CBO estimates higher receipt levels.

CBO's model for estimating outlays from the EPA Hazardous Substance Superfund assumed more construction activity (which typically has a slower spendout) than salaries and expenses. Thus, OMB's estimate was $235 million higher than CBO's. OMB's outlay estimate for the FEMA Disaster Relief program was $161 million lower than CBO's because OMB assumed a slower spendout of prior appropriations.

Spendout Differences Caused Most of the Larger Outlay Scoring Variations in Appropriations Acts

Differences in spendout rates accounted for 10 of the 13 outlay estimate differences greater than $150 million that we identified in appropriations acts using OMB and CBO scorekeeping reports.[6] These 10 programs or accounts, and the reasons for the divergent estimates, are shown in table II.3.

[5]See Budget Issues: Compliance Report Required by the Budget Enforcement Act of 1990 (GAO/AIMD-94-66, January 10, 1994) and Credit Reform: Appropriation of Negative Subsidy Receipts Raises Questions (GAO/AIMD-94-58, September 26, 1994).

[6]We also found two outlay variances greater than $150 million in the Emergency Supplemental Appropriations Act of 1994. These differences, of $471 million in the Federal Emergency Management Agency and –$176 million for Air Force Operations and Maintenance, were both attributable to different spendout assumptions used by OMB and CBO.

Table II.3: Comparison of Cost Estimate Differences Due to Different Assumptions About Spending Patterns in Fiscal Year 1995 Appropriations Acts

Dollars in millions

Program or account	Outlay difference[a]	Reason for difference
VA[b]—Medical Care	425	OMB factored in delays in 1994 purchases of medical equipment
HUD[c]—Home Block Grant	298	OMB assumed management efforts would accelerate spendout
EPA[d]—Water Infrastructure Financing	278	CBO weighted recent slower spendout history more heavily; OMB used past 8 years
EPA[d]—Hazardous Substance Superfund	235	CBO model assumed more construction, which has slower spendout
HHS[e]—Social Security Trust Fund Administration	224	OMB included outlays for administrative expenses; CBO did not
Education—Special Education	207	OMB estimated that outlays from prior appropriations would be slower than initially projected
FEMA[f]—Disaster Relief	–161	OMB used 3-year spendout; CBO used a 6-year rate. Program assumptions differed as well
Energy—General Science and Research	–162	OMB assumed a slower spendout based on Department of Energy projections
Foreign Military Financing Grants	–209	OMB estimated less fiscal year 1994 country-program outlays will be carried forward than did CBO
GSA[g] —Federal Buildings Fund	–233	OMB estimated less spending from prior appropriations for construction and repair

[a]A positive number means that OMB's estimate was higher than CBO's.

[b]Department of Veterans Affairs.

[c]Department of Housing and Urban Development.

[d]Environmental Protection Agency.

[e]Department of Health and Human Services.

[f]Federal Emergency Management Agency.

[g]General Services Administration.

We did not find a pattern to these differences—neither agency's estimates were consistently higher than the other's. OMB's estimates were higher than CBO's estimates six times; CBO's were higher four times.

Making outlay estimates often is difficult because it requires predicting a number of variables including the mix of activities and participation rates. In our report on the budget reconciliation process,[7] we concluded that OMB and CBO staff used the best available information and often complex methodologies. However, predicting the future is difficult and assumptions may reasonably differ. Thus, some differences between OMB and CBO estimates would be expected. The differences shown in table II.3 generally represented a small percentage of estimated total outlays for these programs. For example, the estimating differences for VA Medical Care and HUD Home Block Grant were less than 3 percent of estimated outlays for those programs. Estimating variances for the two EPA programs and FEMA disaster relief represented 11.4 percent, 15 percent, and 11 percent of estimated program outlays respectively.

OMB and CBO Estimates for the Violent Crime Reduction Trust Fund Were Similar

OMB and CBO estimates of the outlays for the Violent Crime Reduction Trust Fund were similar for fiscal year 1995. Table II.4 shows the appropriations of budget authority and the related outlay estimates from 1995 appropriations acts compared to the act's 1995 limits.

Table II.4: Fiscal Year 1995 Limits, Appropriations, and Outlays for the Violent Crime Reduction Trust Fund

Dollars in millions

		Outlays	
Appropriations act	**Budget authority**	**OMB**	**CBO**
Commerce	2,345	666	667
Labor	38	7	7
Treasury	39	30	28
Total Enacted	**2,422**	**703**	**702**
Limits on Trust Fund Spending	**2,423**	**703**	**703**

[7]See pages 16-19 of GAO/AIMD-95-3.

OMB and CBO staff reported that there is no need for a discretionary spending sequestration because outlays were estimated to be below the statutory limits.

OMB's and CBO's Views Differed on Scoring of the Federal Crop Insurance Reform Act

In each of the past 4 fiscal years, disaster assistance to farmers without federal crop insurance has been provided through ad hoc supplemental appropriations or emergency supplemental appropriations. The availability of this disaster assistance, at no cost to farmers, and the fact that farmers received the same payment whether they were insured or not were said to be disincentives to participation in the federal crop insurance program. The Federal Crop Insurance Reform Act of 1994 changed this by requiring farmers who enroll in Commodity Credit Corporation (CCC) programs or use the Farmers Home Administration's loan programs to obtain basic coverage under the crop insurance program. The act also eliminated the Secretary of Agriculture's discretion to provide disaster assistance through the CCC and the authorization for appropriated disaster assistance which had been used in recent years as the basis for disaster assistance supplementals. Participating acreage is expected to increase from 34 percent under the old program to 85 percent by 1999 because some farmers were required by the act to obtain insurance coverage and others are expected to realize that disaster assistance would no longer be provided if they were uninsured.

OMB staff said that the Secretary of Agriculture had statutory authority to provide disaster assistance to program crops and that, under BEA rules, this authority provided a basis for including disaster assistance for program crops in the direct spending baseline. OMB then scored savings associated with the reformed crop insurance program against this baseline. The baseline specified by the Budget Committees as the basis for the fiscal year 1995 budget resolution was consistent with OMB's estimate of the disaster assistance under existing authority.

CBO agreed that the Secretary of Agriculture had authority under then current law to provide disaster assistance for program crops, but CBO did not include any spending stemming from this authority in its baseline. CBO estimated zero spending from this authority because the authority has never been exercised to deal with previous disasters. If OMB had used a zero estimate in its baseline, the savings attributed to the repeal of the Secretary's disaster assistance authority would have been eliminated and the net costs of the legislation would have been higher.

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