

**SECTION 33—ESTIMATES RELATED TO SPECIFIC TYPES OF PROGRAMS AND  
EXPENDITURES**

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**Summary of Changes**

Includes Administration policy on subsidies for Medicare Part D eligible individuals for qualified prescription drug coverage (section [33.7](#)).

**33.1 Construction, leases of capital assets, and acquisition of real property.**

Agencies are required to submit certain types of leases and other unique, non-routine financing proposals to OMB for review of the scoring impact. See [Appendix B](#) for specific requirements.

(a) *Construction of Federal facilities.*

If you are proposing construction of Federal facilities, you must:

- Comply with [Executive Order No. 12088](#) for pollution control standards;
- Include the amounts required to ensure that existing facilities provide safe and healthful workplaces for Federal employees consistent with the standards promulgated under section 19 of the [Occupational Safety and Health Act of 1970](#), the provisions of [Executive Order No. 12196](#), and the related Safety and Health Provisions for Federal Employees of the Secretary of Labor (29 CFR, Chapter XVII, Part 1960);
- Comply with requirements of the Architectural Barriers Act of 1968 to eliminate structural barriers impeding the mobility of individuals with disabilities;
- Have reviewed the GSA inventory of Federal laboratories and indicate the reasons you want to acquire new space instead of using existing laboratories that have sufficient space available, according to the GSA inventory; and
- Comply with [Executive Order Nos. 11988](#) and [11990](#) if you are proposing to use sites located in floodplains or wetlands.

(b) *Construction of federally-owned housing.*

If you are proposing to construct federally-owned housing, make sure you:

- Do not include estimated funding for construction of housing for civilian employees, except where necessary to maintain continuity and efficiency of service and where private capital cannot be found; and
- Meet the requirements in [OMB Circular No. A-45](#) for service or protection, or lack of available housing.

(c) *Construction in the District of Columbia.*

You must consult the Commission of Fine Arts regarding plans for the construction of buildings and other structures in the District of Columbia that may affect in any important way the appearance of the city, and other questions involving artistic considerations with which the Federal Government is concerned.

(d) *Acquisition of land in the National Capital Area.*

You must consult with the National Capital Planning Commission in advance regarding proposed developments and projects or commitments for the acquisition of land in the National Capital area, in accordance with [40 U.S.C. 8723\(a\)](#) (see <http://www.ncpc.gov>).

(e) *Leasing capital assets.*

If you propose to lease capital assets rather than purchase them, you should check the requirements in [OMB Circular No. A-94](#). For additional information, see [Appendix B](#).

(f) *Real property acquisition.*

If you plan to acquire real property, you must:

- Include estimates consistent with the policies of [Executive Order No. 13327](#) in your budget submission, and
- Make sure that estimates for acquisition of real property under contract are consistent with obligations reported in object class 32 (see section [83.7](#)).

### 33.2 Hospital costs.

If you are developing estimates for hospital costs:

- Use data based on the use of resources allocated by diagnosis-related groups and compare these data with payment rates of other payers using similar groupings;
- Indicate whether or not capital and depreciation costs are contained, and describe the cost allocation method underlying the data; and
- Identify the amount of reimbursement collected from third parties and Federal agencies if you provide hospital care on a reimbursable basis.

If you provide estimates for inpatient care facilities and medical care services, make sure they are consistent with [Executive Order No. 12372](#).

### 33.3 Advisory committees and interagency groups.

If you have advisory committees and interagency groups:

- Reflect the results of the committee reviews required by [Executive Order No. 12838](#), which requires agencies to reduce the number and cost of non-statutory advisory committees;
- Use the ceilings established by [OMB Circular No. A-135](#); and
- Separately identify the costs of advisory committees established by statute that you are proposing for termination.

You are prohibited from financing interagency groups (including boards (except Federal Executive Boards), commissions, councils, committees, and similar groups) by contributions from member agencies' appropriations by a Government-wide general provision unless such financing is specifically authorized by statute. Therefore, you must propose financing for such groups in the budget in one of the following forms:

- Appropriations specifically for the interagency group.
- Specific language authorizing interagency funding.

### 33.4 Radio spectrum-dependent communications-electronics systems.

Consistent with the Executive Memorandum issued by the President on November 30, 2004, agencies should consider the economic value of radio spectrum used in major telecommunication, broadcast, radar, and similar systems when developing economic and budget justifications for procurement of these systems. The extent of economic and budget analysis required will depend upon the nature and value of the systems and spectrum involved, and agencies should work with their OMB contacts to ensure a proper level of analysis is conducted.

Spectrum should generally not be considered a free resource, but rather should be considered to have value and be included, to the extent practical, in economic analyses of alternative systems. In some cases greater investments in systems would reduce spectrum needs (e.g., purchase of radios that use less bandwidth than less expensive models); in other cases the desired service can be met with other forms of supply (e.g., private wireless services or use of land lines). In addition to considering cost minimizing strategies, agencies are encouraged to consider whether the investment would provide net benefits.

Spectrum valuations may be estimated based on recent prices of similar bands in spectrum auctions, or through other estimation methods.<sup>1</sup> The Commerce Department's National Telecommunications and Information Administration (NTIA), which is responsible for allocating spectrum across Federal users, may also review these analyses in making spectrum assignments.

*Spectrum certification.* You must obtain a certification by the NTIA, Department of Commerce that the radio frequency required can be made available before you submit estimates for the development or

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<sup>1</sup> Sensitivity analysis—showing the costs of choosing an alternative that requires less (or more) spectrum—may also provide useful information. For example, a sensitivity analysis might indicate that one option costs \$10 million more, but uses 5 MHz less bandwidth, nationwide, in the 900 MHz range. Even with "conservative" estimated values, the 5 MHz in spectrum savings would likely be worth an additional \$10 million in investment, as it conserves spectrum.

procurement of major radio spectrum-dependent communication-electronics systems (including all systems employing space satellite techniques).

### 33.5 Spectrum Relocation Fund.

*Relocation or modification of systems subject to Commercial Spectrum Enhancement Act.* For agencies that are affected by the reallocation of certain frequencies from Federal to private sector use, the Commercial Spectrum Enhancement Act (CSEA, P.L. 108–494) streamlines the process for funding the relocation or modification of systems. Auction receipts from the sale of eligible frequencies (defined in P.L. 108–494 as: a) the 216–220 megahertz (MHz) band, the 1432–1435 MHz band, the 1710–1755 MHz band, and the 2385–2390 MHz band; and b) certain other frequencies reallocated from Federal use to non-Federal use after January 1, 2003) will be deposited into the Spectrum Relocation Fund, and these funds will be used to facilitate Federal agencies' relocation.

The Federal Communications Commission (FCC) concluded an auction in September 2006 for licenses in the 1710–1755 MHz band, and agencies' relocation cost estimates were submitted to the Congress in February 2007. Initial transfers of approved amounts were made in March 2007 for agencies to commence relocation activities. Spectrum relocation funds have no-year authority, though agencies are expected to adhere to the timeframes approved by OMB, as indicated in the February 2007 Congressional notification. In accordance with section 120, these funds must be apportioned at least annually prior to obligation, unless specifically exempted. Agencies that receive funds from the Spectrum Relocation Fund will report their expenditures to OMB, concurrent with input into an annual report to the Congress to be submitted by the National Telecommunications and Information Administration (NTIA) of the Department of Commerce. Further guidance will be forthcoming on reporting requirements.

If potential cost over-runs or delays become apparent in any spectrum relocation project, OMB and NTIA should be notified in order to facilitate further review. Under the terms of the CSEA, agencies may receive more than one transfer from the Spectrum Relocation Fund, subject to prior review and approval by OMB, in consultation with NTIA. If the subsequent transfer or transfers exceed 10 percent of the original transfer, OMB will notify Congress and the Government Accountability Office, in accordance with the requirements of the CSEA. If transferred amounts exceed actual relocation costs, excess amounts will be returned to the Spectrum Relocation Fund immediately after NTIA has notified the FCC that the agency's relocation is complete.

As pertains to the remaining frequency bands to which the CSEA applies, the FCC will notify NTIA no later than 18 months prior to the auction of eligible frequencies. Upon such notification, CSEA relocation processes will commence consistent with the Act, as with the implementation of the 1710–1755 MHz band.

### 33.6 Taxes and tax expenditures.

Reflect full and explicit consideration of the resources made available by the Federal Government through tax expenditures and other tax incentives. *Tax expenditures* are attributable to provisions of the Federal income tax laws that allow a special exclusion, exemption, or deduction from gross income or that provide a special credit, rate of tax, or deferral of tax ([2 U.S.C. 622](#)). Tax expenditures include subsidies provided through the income tax system.

You must consult with the Office of Tax Analysis, Department of the Treasury on all proposals for new taxes or modifications of existing taxes whether or not the modification results in a tax expenditure. After consulting with the Office of Tax Analysis submit a justification of the proposal to OMB. The justification should include the views of the Office of Tax Analysis and address the following items:

- The nature and extent of the problem addressed by the proposal.

- The reason a subsidy is needed.
- The non-tax alternatives.
- The reason a tax change is preferable to the non-tax alternatives.

In addition, you should be prepared to submit justifications for continuing or reenacting existing taxes and tax expenditures in the program areas for which you have primary responsibility. Such justifications will contain the information described above.

In general, tax expenditures are subject to the same degree of performance evaluation as spending and regulatory programs. Tax expenditures often complement or substitute for agencies' spending or regulatory programs, and the resources and incentives provided through tax expenditures can be substantial. Work with the Office of Tax Analysis, which has lead responsibility for tax policy and analysis of tax expenditures, to develop data and methods to evaluate the effects of tax expenditures that affect (or are directed at the same goals as) your programs. You should be prepared to furnish, upon request, problem analyses, estimates of economic effects, and other materials that will provide explicit quantitative information on the relationship of existing or proposed tax expenditures to proposed budget expenditures. See [Part 6](#) for guidance on inclusion of tax expenditure data in annual performance plans.

### 33.7 Miscellaneous policies and requirements.

Develop your budget estimates consistent with the following laws, rules, and policies:

#### MISCELLANEOUS REQUIREMENTS

Type of program or expenditure	Policies and requirements
Activities covered by the Coastal Barrier Resources Act	Do not include any new Federal expenditures or financial assistance prohibited by the <a href="#">Coastal Barrier Resources Act</a> (Public Law 97–348).
Foreign currencies	Refer to guidelines in the <a href="#">Treasury Financial Manual</a> (Vol. 1, Part 2, chapter 3200 and Vol. 1, Part 4, chapter 9000) and the <a href="#">Department of State Foreign Affairs Manual</a> (Volume 4, chapter 360).
Remedial environmental projects at Federal facilities	Follow the policies in Executive Order No. 12088.
Mail	Include sufficient amounts for official use of United States mail, package delivery, and/or private carrier service, including postage due. Assume maximum use of available postage discounts.
Records storage	Include sufficient amounts for the costs of storing and servicing temporary and inactive records.
Space and related requirements	Include payments for space, structures and facilities, land, and building service provided by GSA and others.
Systems acquisitions	Follow the guidance in the <a href="#">Capital Programming Guide, Title V of the Federal Acquisition Streamlining Act of 1994</a> , and the <a href="#">Clinger Cohen Act of 1996</a> . Ensure that electronic and information technology acquisitions meet the requirements of section 508 of the Rehabilitation Act of 1973 and allow individuals with disabilities access to and use of data.
Travel	Minimize official travel. Reflect the allowances authorized under the Federal Travel Regulations issued

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Type of program or expenditure	Policies and requirements
	by GSA or comparable regulations issued by the Department of Defense for travel of military personnel and by the Department of State for foreign service personnel.
Tort claims	Do not include amounts for payment of tort claims unless a substantial volume of claims is presented regularly.
Water and sewer payments to the District of Columbia	Include amounts for payment for water and sewer services.
Construction of nuclear reactors	Obtain a letter from the Department of Energy setting forth its recommendations before submitting estimates.
Contractor claims	Include amounts for reimbursement of the Claims and judgment fund for the full amount paid from the fund on behalf of the agency during the past year.
Subsidies for Medicare Part D eligible individuals for qualified prescription drug coverage	<p>Do not assume that agency prescription drug costs for the agency's retirees and/or dependents will be reduced by the Part D program. Federal entities will not receive subsidies for Part D eligible individuals for qualified prescription drug coverage through the Retiree Drug Subsidy (RDS) and Federal entities will not administer—or have a third party administer—a Prescription Drug Plan or Medicare Advantage Prescription Drug Plan for their retirees and/or their dependents.</p> <p>Administration policy is that Federal Government entities should not receive the Medicare Part D drug subsidies because this would result in the Medicare Trust Fund cross-subsidizing other Federal programs. The primary rationale for creating the Part D RDS was to encourage employers and unions to continue to provide prescription drug coverage to their Medicare eligible retirees and their qualified dependents after the implementation of the Part D Program. These subsidies are not needed for Federal Government entities because the Federal Government intends to continue providing prescription drug coverage for its retirees and their qualified dependents.</p>