

**VOLUME II – LAWS AND REGULATIONS**

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## **SECTION 4 – STATUTORY CITATIONS AND EXCERPTS**

### A. Statutory Citations

#### 1) [The Constitution of the United States, Article I](#)

- i) The "power of the purse" is a legislative power. The Constitution lists the power to lay and collect taxes (section 8) as one of the powers of the Congress and provides that funds may be drawn from the Treasury only pursuant to appropriations made by law (section 9). Neither the Constitution nor the procedures subsequently developed by the House and Senate provided for a budget system.

#### 2) [The Budget and Accounting Act of 1921 \(P.L. 67-13; 42 Stat. 20\) \(June 10, 1921\)](#)

- i) This Act established an executive budget process; it did not directly alter the procedures by which the Congress makes revenue and spending decisions. The President was required to submit budget recommendations to the Congress each year, and the Bureau of the Budget (renamed the Office of Management and Budget (OMB) in 1970) was created to aid in carrying out the budgetary responsibilities. The 1921 Act also established the General Accounting Office (GAO) as the principal auditing arm of the Federal Government. The Budget and Accounting Act of 1921, as amended, remains the statutory basis for the Presidential budget system.

#### 3) [The Congressional Budget and Impoundment Control Act of 1974, \(P.L. 93-344; 88 Stat. 297\) \(July 12, 1974\)](#)

- i) This Act established a congressional budget process centered on a "concurrent resolution on the budget", scheduled for adoption prior to legislative consideration of revenue or spending bills. The central purpose of the process established by the Act is to coordinate the various revenue and spending decisions which are made in separate tax, appropriation, and legislative measures. To assist the Congress in making budget decisions, the 1974 Budget Act established the Congressional Budget Office (CBO). During the years that the congressional budget process has been in operation, its procedures have been adapted by the Congress to changing circumstances.

#### 4) [Balanced Budget and Emergency Deficit Control Act of 1985, \(P.L. 99-177; 99 Stat. 1037\) \(December 12, 1985\)](#)

- i) This Act is commonly referred to as the Gramm-Rudman-Hollings Act. Following a decade of experience with the 1974 Budget Act, the Congress enacted this legislation to make a number of changes to the budget process. These laws are codified at 2 U.S.C. SS601, et. seq., and SS901, et. seq. Gramm-Rudman-Hollings

was supplemented and extended by enactment of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987. (P.L. 100-119; 101 Stat. 754) (September 29, 1987), the Budget Reconciliation Act of 1990 (P.L. 101-508, Title XIII; 104 Stat. 1388-608) (November 5, 1990), and most recently, the Budget Enforcement Act of 1997 (P.L. 105 -33, Title X; 111 Stat.667) (August 5, 1997).

5) [Title 31, U.S. Code - Money and Finance](#)

- i) This legislation codifies and consolidates laws applicable to the budget process, e.g., the budget system, budgetary and fiscal information, appropriations, apportionments and accounting, including the requirements of the Anti-deficiency Act which prohibit the obligation or expenditure of funds in excess of amounts appropriated by law.

6) [The Government Performance and Results Act of 1993, \(P.L. 103-62; 107 Stat. 285, August 3, 1993\)](#)

- i) This Act, commonly referred to as GPRA or the Results Act, requires that Federal agencies develop and implement an accountability system based on performance measurement, including setting goals and objectives and measuring progress toward achieving them. To this end, agencies must provide strategic plans, annual performance plans, and annual program performance reports to show what is being accomplished with their budgetary resources.

7) The Federal Credit Reform Act of 1990, (P.L. 101-508; 104 Stat. 1388-609, November 5, 1990)

- i) This Act instituted reforms in Federal credit programs that changed the budgetary measurement of direct and guaranteed loan costs. The intent of this Act is to ensure that the cost of Federal loan programs is measured as accurately as possible so that these costs can be taken into account in making budgetary decisions.

8) [Section 15 \(Basic Budget Laws\) of OMB Circular No. A-11](#)

- i) This section provides a good summary of the primary laws that govern the federal budget cycle ([http://www.whitehouse.gov/omb/circulars/a11/current\\_year/s15.pdf](http://www.whitehouse.gov/omb/circulars/a11/current_year/s15.pdf)).

B. [Excerpts from Title 31 U.S.C., Subtitle II, Chapter 11 – The Budget and Fiscal, Budget, and Program Information](#)

- 1) The following excerpts from Title 31 are particularly relevant for budget formulation and execution.
- 2) [Section 1104 - Budget and appropriations authority of the President](#)

“(a) The President shall prepare budgets of the United States Government under section 1105 of this title and proposed deficiency and supplemental appropriations under section 1107 of this title. To the extent practicable, the President shall use uniform terms in stating the purposes and conditions of appropriations.

(b) Except as provided in this chapter, the President shall prescribe the contents and order of statements in the budget on expenditures and estimated expenditures and statements on proposed appropriations and information submitted with the budget and proposed appropriations. The President shall include with the budget and proposed appropriations information on personnel and other objects of expenditure in the way that information was included in the budget for fiscal year 1950. However, the requirement that information be included in the budget in that way may be waived or changed by joint action of the Committees on Appropriations of both Houses of Congress. This subsection does not limit the authority of a committee of the Congress to request information in a form it prescribes.

(c) When the President makes a basic change in the form of the budget, the President shall submit with the budget information showing where items in the budget for the prior fiscal year are contained in the present budget. However, the President may change the functional categories in the budget only in consultation with the Committees on Appropriations and on the Budget of both Houses of Congress. Committees of the House of Representatives and Senate shall receive prompt notification of all such changes.

(d) The President shall develop programs and prescribe regulations to improve the compilation, analysis, publication, and dissemination of statistical information by executive agencies. The President shall carry out this subsection through the Administrator for the Office of Information and Regulatory Affairs in the Office of Management and Budget.

(e) Under regulations prescribed by the President, each agency shall provide information required by the President in carrying out this chapter. The President has access to, and may inspect, records of an agency to obtain information.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1104, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1104](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1104).

### 3) [Section 1105 - Budget contents and submission to Congress](#)

“(a) On or after the first Monday in January but not later than the first Monday in February of each year, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget

message and summary and supporting information. The President shall include in each budget the following:

- (1) information on activities and functions of the Government.
- (2) when practicable, information on costs and achievements of Government programs.
- (3) other desirable classifications of information.
- (4) a reconciliation of the summary information on expenditures with proposed appropriations.
- (5) except as provided in subsection (b) of this section, estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year.
- (6) estimated receipts of the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year under—
  - (A) laws in effect when the budget is submitted; and
  - (B) proposals in the budget to increase revenues.
- (7) appropriations, expenditures, and receipts of the Government in the prior fiscal year.
- (8) estimated expenditures and receipts, and appropriations and proposed appropriations, of the Government for the current fiscal year.
- (9) balanced statements of the—
  - (A) condition of the Treasury at the end of the prior fiscal year;
  - (B) estimated condition of the Treasury at the end of the current fiscal year;and
  - (C) estimated condition of the Treasury at the end of the fiscal year for which the budget is submitted if financial proposals in the budget are adopted.
- (10) essential information about the debt of the Government.

(11) other financial information the President decides is desirable to explain in practicable detail the financial condition of the Government.

(12) for each proposal in the budget for legislation that would establish or expand a Government activity or function, a table showing—

(A) the amount proposed in the budget for appropriation and for expenditure because of the proposal in the fiscal year for which the budget is submitted; and

(B) the estimated appropriation required because of the proposal for each of the 4 fiscal years after that year that the proposal will be in effect.

(13) an allowance for additional estimated expenditures and proposed appropriations for the fiscal year for which the budget is submitted.

(14) an allowance for unanticipated uncontrollable expenditures for that year.

(15) a separate statement on each of the items referred to in section 301(a)(1)-(5) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(1)-(5)).

(16) the level of tax expenditures under existing law in the tax expenditures budget (as defined in section 3(a)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 622(a)(3)) for the fiscal year for which the budget is submitted, considering projected economic factors and changes in the existing levels based on proposals in the budget.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1104(a)-(a)(16), January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1105](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1105).

- i) Subsections (a)(17)-(33) provide further details on specific information requirements. Subsection (b) discusses budget requests for the legislative and judicial branches.

“(b) Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch to be included in each budget under subsection (a) (5) of this section shall be submitted to the President before October 16 of each year and included in the budget by the President without change.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1104(b), January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1105](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1105).

“(c) The President shall recommend in the budget appropriate action to meet an

estimated deficiency when the estimated receipts for the fiscal year for which the budget is submitted (under laws in effect when the budget is submitted) and the estimated amounts in the Treasury at the end of the current fiscal year available for expenditure in the fiscal year for which the budget is submitted, are less than the estimated expenditures for that year. The President shall make recommendations required by the public interest when the estimated receipts and estimated amounts in the Treasury are more than the estimated expenditures.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1104(c), January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1105](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1105).

- ii) Requirements for information on capital investment (subsection (e)) and compliance with maximum deficit amounts (subsection (f)) were added by the Balanced Budget and Emergency Deficit Control Act of 1985 (G-R-H I) and amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (G-R-H II).

4) [Section 1106 - Supplemental budget estimates and changes](#)

“(a) Before July 16 of each year, the President shall submit to Congress a supplemental summary of the budget for the fiscal year for which the budget is submitted under section 1105(a) of this title. The summary shall include—

(1) for that fiscal year—

(A) substantial changes in or reappraisals of estimates of expenditures and receipts;

(B) substantial obligations imposed on the budget after its submission;

(C) current information on matters referred to in section 1105(a)(8) and (9)(B) and (C) of this title; and

(D) additional information the President decides is advisable to provide Congress with complete and current information about the budget and current estimates of the functions, obligations, requirements, and financial condition of the United States Government;

(2) for the 4 fiscal years following the fiscal year for which the budget is submitted, information on estimated expenditures for programs authorized to continue in future years, or that are considered mandatory, under law; and

(3) for future fiscal years, information on estimated expenditures of balances carried over from the fiscal year for which the budget is submitted.

(b) Before July 16 of each year, the President shall submit to Congress a statement of changes in budget authority requested, estimated budget outlays, and estimated receipts for the fiscal year for which the budget is submitted (including prior changes proposed for the executive branch of the Government) that the President decides are necessary and appropriate based on current information. The statement shall include the effect of those changes on the information submitted under section 1105(a)(1)-(14) and (b) of this title and shall include supporting information as practicable. The statement submitted before July 16 may be included in the information submitted under subsection (a)(1) of this section.

(c) Subsection (f) of section 1105 shall apply to revisions and supplemental summaries submitted under this section to the same extent that such subsection applies to the budget submitted under section 1105(a) to which such revisions and summaries relate.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1106, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1106](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1106).

5) [Section 1107 - Deficiency and supplemental appropriations](#)

“The President may submit to Congress proposed deficiency and supplemental appropriations the President decides are necessary because of laws enacted after the submission of the budget or that are in the public interest. The President shall include the reasons for the submission of the proposed appropriations and the reasons the proposed appropriations were not included in the budget. When the total proposed appropriations would have required the President to make a recommendation under section 1105(c) of this title if they had been included in the budget, the President shall make a recommendation under that section.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1107, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1107](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1107).

6) [Section 1108 - Preparation and submission of appropriations requests to the President](#)

“(a) In this section (except subsections (b)(1) and (e)), “agency” means a department, agency, or instrumentality of the United States Government.

(b)(1) The head of each agency shall prepare and submit to the President each appropriation request for the agency. The request shall be prepared and submitted in the form prescribed by the President under this chapter and by the date established by the President. When the head of an agency does not submit a request by that date, the President shall prepare the request for the agency to be included in the budget or



changes in the budget or as deficiency and supplemental appropriations. The President may change agency appropriation requests. Agency appropriation requests shall be developed from cost-based budgets in the way and at times prescribed by the President. The head of the agency shall use the cost-based budget to administer the agency and to divide appropriations or amounts.

(2) An officer or employee of an agency in the executive branch may submit to the President or Congress a request for legislation authorizing deficiency or supplemental appropriations for the agency only with the approval of the head of the agency.

(c) The head of an agency shall include with an appropriation request submitted to the President a report that the statement of obligations submitted with the request contains obligations consistent with section 1501 of this title. The head of the agency shall support the report with a certification of the consistency and shall support the certification with records showing that the amounts have been obligated. The head of the agency shall designate officials to make the certifications, and those officials may not delegate the duty to make the certifications. The certifications and records shall be kept in the agency—

(1) in a form that makes audits and reconciliations easy; and

(2) for a period necessary to carry out audits and reconciliations.

(d) To the extent practicable, the head of an agency shall—

(1) provide information supporting the agency's budget request for its missions by function and subfunction (including the mission of each organizational unit of the agency); and

(2) relate the agency's programs to its missions.

(e) Except as provided in subsection (f) of this section, an officer or employee of an agency (as defined in section 1101 of this title) may submit to Congress or a committee of Congress an appropriations estimate or request, a request for an increase in that estimate or request, or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress.

(f) The Interstate Commerce Commission shall submit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the President or the Office of Management and Budget. An officer of an agency may not impose conditions on or impair communication by the Commission with Congress, or a committee or member of Congress, about the information.

(g) Amounts available under law are available for field examinations of appropriation estimates. The use of the amounts is subject only to regulations prescribed by the appropriate standing committees of Congress.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1108, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1108](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1108).

7) [Section 1109 - Current programs and activities estimates](#)

“(a) On or before the first Monday after January 3 of each year (on or before February 5 in 1986), the President shall submit to both Houses of Congress the estimated budget outlays and proposed budget authority that would be included in the budget for the following fiscal year if programs and activities of the United States Government were carried on during that year at the same level as the current fiscal year without a change in policy. The President shall state the estimated budget outlays and proposed budget authority by function and subfunction under the classifications in the budget summary table under the heading “Budget Authority and Outlays by Function and Agency”, by major programs in each function, and by agency. The President also shall include a statement of the economic and program assumptions on which those budget outlays and budget authority are based, including inflation, real economic growth, and unemployment rates, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated budget outlays and proposed budget authority and submit an economic evaluation of the budget outlays and budget authority to the Committees on the Budget of both Houses before March 1 of each year.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1109, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1109](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1109).

8) [Section 1110 - Year-ahead request for authorizing legislation](#)

A request to enact legislation authorizing new budget authority to continue a program or activity for a fiscal year shall be submitted to Congress before May 16 of the year before the year in which the fiscal year begins. If a new program or activity will continue for more than one year, the request must be submitted for at least the first and 2d fiscal years.

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1110, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1110](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1110).

9) [Section 1111 - Improving economy and efficiency](#)

“To improve economy and efficiency in the United States Government, the President shall—

(1) make a study of each agency to decide, and may send Congress recommendations, on changes that should be made in—

(A) the organization, activities, and business methods of agencies;

(B) agency appropriations;

(C) the assignment of particular activities to particular services; and

(D) regrouping of services; and

(2) evaluate and develop improved plans for the organization, coordination, and management of the executive branch of the Government.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1111, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1111](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1111).

10) [Section 1112 - Fiscal, budget, and program information](#)

“(a) In this section, “agency” means a department, agency, or instrumentality of the United States Government except a mixed-ownership Government corporation.

(b) In cooperation with the Comptroller General, the Secretary of the Treasury and the Director of the Office of Management and Budget shall establish and maintain standard data processing and information systems for fiscal, budget, and program information for use by agencies to meet the needs of the Government, and to the extent practicable, of State and local governments.

(c) The Comptroller General—

(1) in cooperation with the Secretary, the Director of the Office of Management and Budget, and the Director of the Congressional Budget Office, shall establish, maintain, and publish standard terms and classifications for fiscal, budget, and program information of the Government, including information on fiscal policy, receipts, expenditures, programs, projects, activities, and functions;

(2) when advisable, shall report to Congress on those terms and classifications, and recommend legislation necessary to promote the establishment, maintenance, and

use of standard terms and classifications by the executive branch of the Government;  
and

(3) in carrying out this subsection, shall give particular consideration to the needs of the Committees on Appropriations and on the Budget of both Houses of Congress, the Committee on Ways and Means of the House, the Committee on Finance of the Senate, and the Congressional Budget Office.

(d) Agencies shall use the standard terms and classifications published under subsection (c)(1) of this section in providing fiscal, budget, and program information to Congress.

(e) In consultation with the President, the head of each executive agency shall take actions necessary to achieve to the extent possible—

(1) consistency in budget and accounting classifications;

(2) synchronization between those classifications and organizational structure;  
and

(3) information by organizational unit on performance and program costs to support budget justifications.

(f) In cooperation with the Director of the Congressional Budget Office, the Comptroller General, and appropriate representatives of State and local governments, the Director of the Office of Management and Budget (to the extent practicable) shall provide State and local governments with fiscal, budget, and program information necessary for accurate and timely determination by those governments of the impact on their budgets of assistance of the United States Government.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1112, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1112](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1112).

#### 11) [Section 1113 - Congressional information](#)

“(a)(1) When requested by a committee of Congress having jurisdiction over receipts or appropriations, the President shall provide the committee with assistance and information.

(2) When requested by a committee of Congress, additional information related to the amount of an appropriation originally requested by an Office of Inspector General shall be submitted to the committee.

(b) When requested by a committee of Congress, by the Comptroller General, or by the Director of the Congressional Budget Office, the Secretary of the Treasury, the

Director of the Office of Management and Budget, and the head of each executive agency shall—

(1) provide information on the location and kind of available fiscal, budget, and program information;

(2) to the extent practicable, prepare summary tables of that fiscal, budget, and program information and related information the committee, the Comptroller General, or the Director of the Congressional Budget Office considers necessary; and

(3) provide a program evaluation carried out or commissioned by an executive agency.

(c) In cooperation with the Director of the Congressional Budget Office, the Secretary, and the Director of the Office of Management and Budget, the Comptroller General shall—

(1) establish and maintain a current directory of sources of, and information systems for, fiscal, budget, and program information and a brief description of the contents of each source and system;

(2) when requested, provide assistance to committees of Congress and members of Congress in obtaining information from the sources in the directory; and

(3) when requested, provide assistance to committees and, to the extent practicable, to members of Congress in evaluating the information obtained from the sources in the directory.

(d) To the extent they consider necessary, the Comptroller General and the Director of the Congressional Budget Office individually or jointly shall establish and maintain a file of information to meet recurring needs of Congress for fiscal, budget, and program information to carry out this section and sections 717 and 1112 of this title. The file shall include information on budget requests, congressional authorizations to obligate and expend, apportionment and reserve actions, and obligations and expenditures. The Comptroller General and the Director shall maintain the file and an index to the file so that it is easier for the committees and agencies of Congress to use the file and index through data processing and communications techniques.

(e)(1) The Comptroller General shall—

(A) carry out a continuing program to identify the needs of committees and members of Congress for fiscal, budget, and program information to carry out this section and section 1112 of this title;

(B) assist committees of Congress in developing their information needs;

(C) monitor recurring reporting requirements of Congress and committees; and

(D) make recommendations to Congress and committees for changes and improvements in those reporting requirements to meet information needs identified by the Comptroller General, to improve their usefulness to congressional users, and to eliminate unnecessary reporting.

(2) Before September 2 of each year, the Comptroller General shall report to Congress on—

(A) the needs identified under paragraph (1)(A) of this subsection;

(B) the relationship of those needs to existing reporting requirements;

(C) the extent to which reporting by the executive branch of the United States Government currently meets the identified needs;

(D) the changes to standard classifications necessary to meet congressional needs;

(E) activities, progress, and results of the program of the Comptroller General under paragraph (1)(B)-(D) of this subsection; and

(F) progress of the executive branch in the prior year.

(3) Before March 2 of each year, the Director of the Office of Management and Budget and the Secretary shall report to Congress on plans for meeting the needs identified under paragraph (1)(A) of this subsection, including—

(A) plans for carrying out changes to classifications to meet information needs of Congress;

(B) the status of information systems in the prior year; and

(C) the use of standard classifications.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1113, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1113](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1113).

## 12) [Section 1115 - Performance plans](#)

“(a) In carrying out the provisions of section 1105(a)(28), the Director of the Office of Management and Budget shall require each agency to prepare an annual performance plan covering each program activity set forth in the budget of such agency. Such plan shall—

(1) establish performance goals to define the level of performance to be achieved by a program activity;

(2) express such goals in an objective, quantifiable, and measurable form unless authorized to be in an alternative form under subsection (b);

(3) provide a description of how the performance goals and objectives are to be achieved, including the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives[;]

(4) establish performance indicators to be used in measuring or assessing the relevant outputs, service levels, and outcomes of each program activity;

(5) provide a basis for comparing actual program results with the established performance goals; and

(6) describe the means to be used to verify and validate measured values.

(b) If an agency, in consultation with the Director of the Office of Management and Budget, determines that it is not feasible to express the performance goals for a particular program activity in an objective, quantifiable, and measurable form, the Director of the Office of Management and Budget may authorize an alternative form. Such alternative form shall—

(1) include separate descriptive statements of—

(A)(i) a minimally effective program, and

(ii) a successful program, or

(B) such alternative as authorized by the Director of the Office of Management and Budget, with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity's performance meets the criteria of the description; or

(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

(c) For the purpose of complying with this section, an agency may aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation for the agency.

(d) An agency may submit with its annual performance plan an appendix covering any portion of the plan that—

(1) is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

(2) is properly classified pursuant to such Executive order.

(e) The functions and activities of this section shall be considered to be inherently Governmental functions. The drafting of performance plans under this section shall be performed only by Federal employees.

(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).

(g) For purposes of this section and sections 1116 through 1119, and sections 9703 and 9704 the term

(1) “agency” has the same meaning as such term is defined under section 306(f) of title 5;

(2) “outcome measure” means an assessment of the results of a program activity compared to its intended purpose;

(3) “output measure” means the tabulation, calculation, or recording of activity or effort and can be expressed in a quantitative or qualitative manner;

(4) “performance goal” means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate;

(5) “performance indicator” means a particular value or characteristic used to measure output or outcome;

(6) “program activity” means a specific activity or project as listed in the program and financing schedules of the annual budget of the United States Government; and

(7) “program evaluation” means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Federal programs achieve intended objectives.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1115, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1115](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1115).

### 13) [Section 1116 - Program performance reports](#)

“(a) Not later than 150 days after the end of an agency's fiscal year, the head of each agency shall prepare and submit to the President and the Congress, a report on program performance for the previous fiscal year.

(b)(1) Each program performance report shall set forth the performance indicators established in the agency performance plan under section 1115, along with the actual



program performance achieved compared with the performance goals expressed in the plan for that fiscal year.

(2) If performance goals are specified in an alternative form under section 1115(b), the results of such program shall be described in relation to such specifications, including whether the performance failed to meet the criteria of a minimally effective or successful program.

(c) The report for fiscal year 2000 shall include actual results for the preceding fiscal year, the report for fiscal year 2001 shall include actual results for the two preceding fiscal years, and the report for fiscal year 2002 and all subsequent reports shall include actual results for the three preceding fiscal years.

(d) Each report shall—

(1) review the success of achieving the performance goals of the fiscal year;

(2) evaluate the performance plan for the current fiscal year relative to the performance achieved toward the performance goals in the fiscal year covered by the report;

(3) explain and describe, where a performance goal has not been met (including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 1115(b)(1)(A)(ii) or a corresponding level of achievement if another alternative form is used)—

(A) why the goal was not met;

(B) those plans and schedules for achieving the established performance goal; and

(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended;

(4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703 of this title;

(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and

(6) include the summary findings of those program evaluations completed during the fiscal year covered by the report.

(e)(1) Except as provided in paragraph

(2), each program performance report shall contain an assessment by the agency head of the completeness and reliability of the performance data included in the report. The assessment shall describe any material inadequacies in the completeness

and reliability of the performance data, and the actions the agency can take and is taking to resolve such inadequacies. (2) If a program performance report is incorporated into a report submitted under section 3516, the requirements of section 3516(e) shall apply in lieu of paragraph (1).

(f) The functions and activities of this section shall be considered to be inherently Governmental functions. The drafting of program performance reports under this section shall be performed only by Federal employees.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1116, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1116](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1116).

C. Excerpts from Title 31 U.S.C., Subtitle II, Chapter 13 – Appropriations

1) Section 1301 - Application

“(a) Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

(b) The reappropriation and diversion of the unexpended balance of an appropriation for a purpose other than that for which the appropriation originally was made shall be construed and accounted for as a new appropriation. The unexpended balance shall be reduced by the amount to be diverted.

(c) An appropriation in a regular, annual appropriation law may be construed to be permanent or available continuously only if the appropriation—

(1) is for rivers and harbors, lighthouses, public buildings, or the pay of the Navy and Marine Corps; or

(2) expressly provides that it is available after the fiscal year covered by the law in which it appears.

(d) A law may be construed to make an appropriation out of the Treasury or to authorize making a contract for the payment of money in excess of an appropriation only if the law specifically states that an appropriation is made or that such a contract may be made.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1301, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1301](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1301).

2) Section 1341 - Limitations on expending and obligating amounts

“(a)(1) An officer or employee of the United States Government or of the District of Columbia government may not—

(A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation;

(B) involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law;

(C) make or authorize an expenditure or obligation of funds required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; or

(D) involve either government in a contract or obligation for the payment of money required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.”

(2) This subsection does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government.

(b) An article to be used by an executive department in the District of Columbia that could be bought out of an appropriation made to a regular contingent fund of the department may not be bought out of another amount available for obligation.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1341, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1341](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1341).

D. [Excerpts from Title 31 U.S.C., Subtitle II, Chapter 15 – Appropriation Accounting – Subchapter II - Apportionment](#)

1) [Section 1512 – Apportionment and Reserves](#)

“(a) Except as provided in this subchapter, an appropriation available for obligation for a definite period shall be apportioned to prevent obligation or expenditure at a rate that would indicate a necessity for a deficiency or supplemental appropriation for the period. An appropriation for an indefinite period and authority to make obligations by contract before appropriations shall be apportioned to achieve the most effective and economical use. An apportionment may be reapportioned under this section.

(b)(1) An appropriation subject to apportionment is apportioned by—

(A) months, calendar quarters, operating seasons, or other time periods;

(B) activities, functions, projects, or objects; or

(C) a combination of the ways referred to in clauses (A) and (B) of this paragraph.

(2) The official designated in section 1513 of this title to make apportionments shall apportion an appropriation under paragraph (1) of this subsection as the official considers appropriate. Except as specified by the official, an amount apportioned is available for obligation under the terms of the appropriation on a cumulative basis unless reapportioned.

(c)(1) In apportioning or reapportioning an appropriation, a reserve may be established only—

(A) to provide for contingencies;

(B) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

(C) as specifically provided by law.

(2) A reserve established under this subsection may be changed as necessary to carry out the scope and objectives of the appropriation concerned. When an official designated in section 1513 of this title to make apportionments decides that an amount reserved will not be required to carry out the objectives and scope of the appropriation concerned, the official shall recommend the rescission of the amount in the way provided in chapter 11 of this title for appropriation requests. Reserves established under this section shall be reported to Congress as provided in the Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.).

(d) An apportionment or a reapportionment shall be reviewed at least 4 times a year by the official designated in section 1513 of this title to make apportionments.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1512, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1512](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1512).

## 2) [Section 1513 - Officials controlling apportionments](#)

“(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government that is required to be apportioned under section 1512 of this title shall apportion the appropriation in writing. An appropriation shall be apportioned not later than the later of the following:

(1) 30 days before the beginning of the fiscal year for which the appropriation is available; or

(2) 30 days after the date of enactment of the law by which the appropriation is made available.

(b)(1) The President shall apportion in writing an appropriation available to an executive agency (except the Commission) that is required to be apportioned under section 1512 of this title. The head of each executive agency to which the appropriation is available shall submit to the President information required for the apportionment in the form and the way and at the time specified by the President. The information shall be submitted not later than the later of the following:

(A) 40 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 15 days after the date of enactment of the law by which the appropriation is made available.

(2) The President shall notify the head of the executive agency of the action taken in apportioning the appropriation under paragraph (1) of this subsection not later than the later of the following:

(A) 20 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 30 days after the date of enactment of the law by which the appropriation is made available.

(c) By the first day of each fiscal year, the head of each executive department of the United States Government shall apportion among the major organizational units of the department the maximum amount to be expended by each unit during the fiscal year out of each contingent fund appropriated for the entire year for the department. Each amount may be changed during the fiscal year only by written direction of the head of the department. The direction shall state the reasons for the change.

(d) An appropriation apportioned under this subchapter may be divided and subdivided administratively within the limits of the apportionment.

(e) This section does not affect the initiation and operation of agricultural price support programs.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1513, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1513](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1513).

3) [Section 1514 - Administrative division of apportionments](#)

“(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government, and, subject to the approval of the President, the head of each executive agency (except the Commission) shall prescribe by regulation a system of administrative control not inconsistent with accounting procedures prescribed under law. The system shall be designed to—

(1) restrict obligations or expenditures from each appropriation to the amount of apportionments or reappropriations of the appropriation; and

(2) enable the official or the head of the executive agency to fix responsibility for an obligation or expenditure exceeding an apportionment or reappropriation.

(b) To have a simplified system for administratively dividing appropriations, the head of each executive agency (except the Commission) shall work toward the objective of financing each operating unit, at the highest practical level, from not more than one administrative division for each appropriation affecting the unit.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1514, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1514](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1514).

4) [Section 1515 - Authorized apportionments necessitating deficiency or supplemental appropriations](#)

“(a) An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates the need for a deficiency or supplemental appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees (including prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5) and to retired and active military personnel.

(b)(1) Except as provided in subsection (a) of this section, an official may make, and the head of an executive agency may request, an apportionment under section 1512 of this title that would indicate a necessity for a deficiency or supplemental appropriation only when the official or agency head decides that the action is required because of—

(A) a law enacted after submission to Congress of the estimates for an appropriation that requires an expenditure beyond administrative control; or

(B) an emergency involving the safety of human life, the protection of property, or the immediate welfare of individuals when an appropriation that would allow the United States Government to pay, or contribute to, amounts required to be paid to individuals in specific amounts fixed by law or under formulas prescribed by law, is insufficient.

(2) If an official making an apportionment decides that an apportionment would indicate a necessity for a deficiency or supplemental appropriation, the official shall submit immediately a detailed report of the facts to Congress. The report shall be referred to in submitting a proposed deficiency or supplemental appropriation.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1515, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1515](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1515).

5) [Section 1516 - Exemptions](#)

“An official designated in section 1513 of this title to make apportionments may exempt from apportionment—

(1) a trust fund or working fund if an expenditure from the fund has no significant effect on the financial operations of the United States Government;

(2) a working capital fund or a revolving fund established for intragovernmental operations;

(3) receipts from industrial and power operations available under law; and

(4) appropriations made specifically for—

(A) interest on, or retirement of, the public debt;

(B) payment of claims, judgments, refunds, and drawbacks;

(C) items the President decides are of a confidential nature;

(D) payment under a law requiring payment of the total amount of the appropriation to a designated payee; and

(E) grants to the States under the Social Security Act (42 U.S.C. 301 et seq.).”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1516, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1516](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1516).

6) [Section 1517 - Prohibited obligations and expenditures](#)

“(a) An officer or employee of the United States Government or of the District of Columbia government may not make or authorize an expenditure or obligation exceeding—

(1) an apportionment; or

(2) the amount permitted by regulations prescribed under section 1514(a) of this title.

(b) If an officer or employee of an executive agency or of the District of Columbia government violates subsection (a) of this section, the head of the executive agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken. A copy of each report shall also be transmitted to the Comptroller General on the same date the report is transmitted to the President and Congress.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1517, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1517](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1517).

7) [Section 1518 - Adverse personnel actions](#)

“An officer or employee of the United States Government or of the District of Columbia government violating section 1517(a) of this title shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1518, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1518](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1518).

8) [Section 1519 - Criminal penalty](#)

“An officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating section 1517(a) of this title shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.”

“The Budget and Fiscal, Budget, and Program Information” 31 U.S.C. 1519, January 3, 2006, Available from: GPO Access, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+31USC1519](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+31USC1519).



## **SECTION 5 – ADMINISTRATIVE RULES AND REGULATIONS**

A. The following documents provide guidance on rules for the preparation and execution of budgets in the Federal Government.

B. OMB Circulars and GAO Documents

1) OMB Circular A-11

i) This document is issued annually by the Office of Management and Budget. It provides detailed instructions and guidance on the preparation, submission and execution of agency annual budgets and associated materials. OMB Circulars may be found online at <http://www.whitehouse.gov/omb/circulars/index.html>.

2) OMB Circular A-19

i) This circular outlines procedures for the coordination and clearance by the Office of Management and Budget (OMB) of agency recommendations on proposed, pending, and enrolled legislation. It also includes instructions on the timing and preparation of agency legislative programs. This circular has particular relevance for the preparation and submission to Congress of legislative proposals authorizing the enactment of additional appropriations or providing new budget authority outside of appropriations acts.

3) Other selected OMB Circulars

i) A-25, User Charges; A-76, Performance of Commercial Activities; A-127, Financial Management Systems; and A-129, Managing Federal Credit Programs. All of these circulars impact the requests for resources and should be reviewed during the budget formulation and execution process.

4) Principles of Federal Appropriations Law

i) This document organizes the principal rulings of the GAO in the appropriation field. It serves as a helpful reference on issues of obligating funds regarding the availability of appropriations with respect to purpose, time and amount. This document may be found online at <http://www.gao.gov/special.pubs/d04261sp.pdf>.

C. Annual Reports and Documents

1) The following reports are issued annually:

i) The Budget of the United States Government is transmitted by the President to the Congress in February of each year. The President's Budget consists of several

volumes that present the financial proposal for the budget year including the Budget, the Appendix, the Analytical Perspectives, and Historical Tables.

- ii) The Congressional Budget Office prepares an Analysis of the President's Budgetary Proposals based on its own economic assumptions and estimating techniques.
  - iii) The Mid-Session Review, as required by Section 1106 of Title 31, is transmitted by the President to the Congress in July of each year. This is a supplemental update of the President's Budget transmitted earlier in the year and contains revised estimates of the budget deficit, receipts, outlays, and budget authority.
- 2) These annual documents are available from the U.S. Government Printing Office or online at:
- i) <http://www.budget.gov/budget>
  - ii) <http://www.cbo.gov>.

**SECTION 6 – HOUSE AND SENATE AUTHORIZATION AND APPROPRIATION  
RULES**

A. Each Congress adopts internal rules governing their proceedings. The congressional rules governing authorizations and appropriations are included in this section, along with explanations of their impact. The Congress may, and often does, suspend or waive a rule. The rules of the 110<sup>th</sup> Congress may be found online at:

- 1) <http://clerk.house.gov/legislative/rules110/>
- 2) <http://rules.senate.gov/senaterules/>.

B. Authorization Rules

1) House of Representatives

i) [House Rule XXI: Restrictions on Certain Bills](#)

(a) [Clause 2 – General Appropriation Bills and Amendments](#)

“2. (a)(1) An appropriation may not be reported in a general appropriation bill, and may not be in order as an amendment thereto, for an expenditure not previously authorized by law, except to continue appropriations for public works and objects that are already in progress.

(a)(2) A reappropriation of unexpended balances of appropriations may not be reported in a general appropriation bill, and may not be in order as an amendment thereto, except to continue appropriations for public works and objects that are already in progress. This subparagraph does not apply to transfers of unexpended balances within the department or agency for which they were originally appropriated that are reported by the Committee on Appropriations.

(b) A provision changing existing law may not be reported in a general appropriation bill, including a provision making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation, except germane provisions that retrench expenditures by the reduction of amounts of money covered by the bill (which may include those recommended to the Committee on Appropriations by direction of a legislative committee having jurisdiction over the subject matter) and except rescissions of appropriations contained in appropriation Acts.

(c) An amendment to a general appropriation bill shall not be in order if changing existing law, including an amendment making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation. Except as provided in paragraph

(d), an amendment proposing a limitation not specifically contained or authorized in existing law for the period of the limitation shall not be in order during

consideration of a general appropriation bill.

(d) After a general appropriation bill has been read for amendment, a motion that the Committee of the Whole House on the state of the Union rise and report the bill to the House with such amendments as may have been adopted shall, if offered by the Majority Leader or a designee, have precedence over motions to amend the bill. If such a motion to rise and report is rejected or not offered, amendments proposing limitations not specifically contained or authorized in existing law for the period of the limitation or proposing germane amendments that retrench expenditures by reductions of amounts of money covered by the bill may be considered.

(e) A provision other than an appropriation designated an emergency under section 251(b)(2) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act, a rescission of budget authority, or a reduction in direct spending or an amount for a designated emergency may not be reported in an appropriation bill or joint resolution containing an emergency designation under section 251(b)(2) or section 252(e) of such Act and may not be in order as an amendment thereto.

(f) During the reading of an appropriation bill for amendment in the Committee of the Whole House on the state of the Union, it shall be in order to consider en bloc amendments proposing only to transfer appropriations among objects in the bill without increasing the levels of budget authority or outlays in the bill. When considered en bloc under this paragraph, such amendments may amend portions of the bill not yet read for amendment (following disposition of any points of order against such portions) and is not subject to a demand for division of the question in the House or in the Committee of the Whole.”

United States. Cong. House of Representatives. Office of the Clerk. Rules of The House of Representatives of The United States. 110th Cong., 2nd sess.  
<http://clerk.house.gov/legislative/rules110/rule21.html>.

(b) Clause 4 – Appropriations on Legislative Bills

“4. A bill or joint resolution carrying an appropriation may not be reported by a committee not having jurisdiction to report appropriations, and an amendment proposing an appropriation shall not be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A point of order against an appropriation in such a bill, joint resolution, or amendment thereto may be raised at any time during pendency of that measure for amendment.”

United States. Cong. House of Representatives. Office of the Clerk. Rules of The House of Representatives of The United States. 110th Cong., 2nd sess.  
<http://clerk.house.gov/legislative/rules110/rule21.html>.

- i) House rules do not expressly require authorizations; they bar unauthorized appropriations. Under the rules, before the House can consider most appropriations

measures, the purposes for which the money is to be provided have to be authorized in law.

- ii) The rule against unauthorized appropriations applies only to general appropriations bills. According to the precedents of the House, a continuing resolution (providing interim funding for agencies that have not received regular appropriations by the start of the fiscal year) is not deemed to be a general appropriation bill. Hence, unauthorized programs can be (and often are) funded in it.
- iii) A change in existing law is legislation and cannot, under the rules, be made in an appropriations bill.
- iv) The phrase concerning provisions which retrench expenditures is known as the "Holman Rule". This rule was devised in the 1870s. Members have seldom used the Holman Rule in recent decades, relying instead on limitation amendments.
- v) Rescissions in appropriations acts have the same effect as those made in rescission bills enacted pursuant to the Congressional Budget and Impoundment Control Act of 1974, but the procedures for their consideration differ somewhat.
- vi) Clause 4 bars appropriations in authorizing legislation. It is sometimes waived by the House, more likely for permanent than for annual appropriations.

## 2) Senate

### i) [Senate Rule XVI: Appropriations and Amendments to General Appropriations Bills](#)

#### (a) [Paragraph 2](#)

“2. The Committee on Appropriations shall not report an appropriation bill containing amendments to such bill proposing new or general legislation or any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law if such restriction is to take effect or cease to be effective upon the happening of a contingency, and if an appropriation bill is reported to the Senate containing amendments to such bill proposing new or general legislation or any such restriction, a point of order may be made against the bill, and if the point is sustained, the bill shall be recommitted to the Committee on Appropriations.”

United States. Cong. Senate. Committee on Rules & Administration.  
[Standing Rules of the Senate](#). 110th Cong., 2nd sess.  
<http://rules.senate.gov/senaterules/rule16.php>.

(a) Paragraph 4

“4. On a point of order made by any Senator, no amendment offered by any other Senator which proposes general legislation shall be received to any general appropriation bill, nor shall any amendment not germane or relevant to the subject matter contained in the bill be received; nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto; nor shall any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law be received if such restriction is to take effect or cease to be effective upon the happening of a contingency; and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate; and any such amendment or restriction to a general appropriation bill may be laid on the table without prejudice to the bill.”

United States. Cong. Senate. Committee on Rules & Administration.  
Standing Rules of the Senate. 110th Cong., 2nd sess.  
<http://rules.senate.gov/senaterules/rule16.php>.

- ii) The Senate, unlike the House, does not bar appropriations in authorizing legislation. Rule XVI bars unauthorized appropriations and legislation in appropriations bills but the practical effect of these prohibitions is limited by a number of exceptions.
- iii) The word "amendments" in this rule refers to any change made by the Senate (in committee or on the floor) to a House passed appropriations bill.
- iv) Absolute limitations are permitted, but not limitations whose effect depends on some contingency.
- v) The Senate can insert legislation into an appropriations bill if it is deemed germane to the House passed measure.
- vi) When a point of order is made that a provision is legislation in an appropriations bill, the Senate usually votes on whether the matter is germane.
- vii) If the Senate votes that the provision is germane, the point of order falls.

B. Appropriations Rules and Precedents

1) House of Representatives

- i) House Rule XIII: Calendars and Committee Reports

- (a) The Appropriations Committee is one of five House committees that have "leave to report at any time" on certain matters specified in clause 5 of House Rule XIII, "Privileged reports, generally." The ability to report at any time means that these committees can file their reports as privileged matters for consideration (even on measures not previously introduced and referred to the committee, and to call the measures up without the need for a special rule to give them privileged status (subject to the report layover limits specified in House rules)).
- (b) Under clause 5(a)(1) of House rule XIII, the privileged reporting status of the Appropriations Committee applies to "general appropriations bills" (meaning any of the 12 regular appropriations bills as well as any supplemental appropriations bills which are other than single purpose bills), and "joint resolutions continuing appropriations for a fiscal year after September 15 in the preceding fiscal year."
- (c) Such privileged reports must be filed from the floor of the House as opposed to non-privileged reports which are simply dropped in the hopper, while the House is in session (or by special leave or operation of a unanimous consent request to file the report when the House is not in session).

2) Senate

i) Senate Rule XVI: Appropriations and Amendments to General Appropriations Bills

(a) Paragraph 1

“1. On a point of order made by any Senator, no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law, or treaty stipulation, or act or resolution previously passed by the Senate during that session; or unless the same be moved by direction of the Committee on Appropriations or of a committee of the Senate having legislative jurisdiction of the subject matter, or proposed in pursuance of an estimate submitted in accordance with law.”

United States. Cong. Senate. Committee on Rules & Administration. Standing Rules of the Senate. 110th Cong., 2nd sess.  
<http://rules.senate.gov/senaterules/rule16.php>.

- (1) Paragraph 1 of Senate Rule XVI bars unauthorized appropriations, but the effect of this rule is limited by a number of exceptions. The Senate may

increase or add appropriations for an existing program or for one recommended in the President's Budget, for newly passed legislation, or upon the recommendation of the Appropriations Committee or any committee having legislative jurisdiction over the matter.

ii) Senate Precedents

- (a) An amendment legislative in character is in order on a general appropriation bill if it is germane to the language as passed by the House.
- (b) If the House of Representatives opens the door by incorporating legislation in a general appropriation bill, the Senate has an inherent right to amend such proposed legislation, "and to perfect that language," notwithstanding its rules.
- (c) When a point of order is made in the Senate that a provision is legislation in an appropriations bill, the Senate usually votes on whether the provision is germane to the House passed bill. If the matter is deemed to be germane, it may be considered, even if it is legislation.
- (d) The final paragraph explains why the Senate may consider germane legislation in an appropriation bill. If it were barred from considering germane legislation, the Senate would not be able to amend legislation in a House passed appropriation. Once the House has "opened the door" by legislating in an appropriations bill, the Senate may do so as well. Using the test of germaneness, the Senate has legislated even when the House provision had no legislation.



## **SECTION 7 – POLICIES GOVERNING RELEASE OF BUDGETARY INFORMATION**

- A. Policies on the release of budgetary information are contained in [Circular A-11 \(Section 22\)](#). The Department of Commerce follows these guidelines in all communications regarding budgetary information.
- 1) [Section 22.2](#): Deals with agency communications with congressional committees.
  - 2) [Section 22.3](#): Discusses required clearances of budgetary material prior to release to the Congress or the media. Included in this section are guidelines regarding OMB clearance of inserts for the record and responses to questions from Members of Congress.
  - 3) [Section 22.4](#): Discusses restrictions on proposing changes to the President's Budget.
  - 4) [Section 22.5](#): Discusses information available to the public.
  - 5) The text of Section 22 is summarized below.
- B. Congressional Testimony and Communications
- 1) The nature and amounts of the President's decisions are confidential and will not be released until the budget is transmitted formally to Congress. The executive branch communications that have led to the budget will not be disclosed either by the agencies or by those who have prepared the budget. In addition, outyear discretionary data is considered pre-decisional and should not be released without prior OMB approval.
  - 2) In furnishing information on appropriations and budgetary matters, representatives of agencies should be aware of the limitations on such communications, including the limitation that:
  - 3) "...An officer or employee of an agency may submit to Congress or a committee of Congress an appropriations estimate or request, a request for an increase in that estimate or request, or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress." (31 U.S.C. 1108(e)).
  - 4) Furthermore, agency representatives should be aware of restrictions upon communications to influence legislation that are not conducted through proper channels (18 U.S.C. 1913).
  - 5) Following formal transmittal of the budget, an amendment, or a supplemental appropriation request, agency representatives will be guided by the following policies pertaining to budgetary matters when testifying before any congressional committee or communicating with Members of Congress. Witnesses will give frank and complete answers to all questions.

- 6) Witnesses will avoid volunteering personal opinions that reflect positions inconsistent with the program or appropriation request the President has transmitted to the Congress.
- 7) If statutory provisions exist for the direct submission of agency budget estimates to the Congress, OMB may provide agencies with additional materials supporting the President's Budget request to be forwarded by the agency to the Congress with agency testimony. Witnesses for such agencies will be prepared to explain the agency submission, the request in the President's Budget, and any justification material.
- 8) In responding to specific questions on program and appropriations requests, witnesses will refrain from providing plans for the use of appropriations that exceed the President's request. Witnesses typically bear responsibility for the conduct of one or a few programs, whereas the President must weigh carefully all of the needs of the Federal government while keeping in mind the revenues available to meet such needs. Where appropriate, witnesses should call attention to this difference in scope of responsibility in explaining why it is not proper for them to support efforts to raise appropriations above the amounts requested by the President.
- 9) Where there is a request for a written submission that will involve a statement of opinion relating to program and appropriations requests, witnesses will arrange for a reply to be provided through the head of the agency.
- 10) Agency representatives should be careful that their communications are not perceived to be an "appropriations estimate or request...or an increase in that estimate or request..." (31 U.S.C. 1108). Agency representatives are expected to support the President's budgetary decisions and seek adjustments to those decisions through established procedures for budget amendments or supplemental appropriations requests if the agency head determines such action to be necessary.

C. Clearance of Materials for the Congress and the Media

- 1) Policy consistency is essential among the formal documents of the President's Budget, and the various budget-related materials prepared by the agencies for the Congress and the media. Clearance of these agency materials by OMB helps achieve that consistency.
- 2) Agencies will submit to OMB, for clearance prior to transmittal to congressional committees or individual Members of Congress or their staff, all proposed budget justification materials. Agencies also will submit to OMB for clearance budget-related oversight materials.
- 3) This information, including initial budget justifications; testimony before and letters to congressional committees; written responses to congressional inquiries or other materials for the record; materials responding to committee and subcommittee reporting

requirements; capability statements; appeal letters; reprogramming requests; related cost information; and budget-related materials provided to other congressional committees, in response to their oversight activities, will be provided to OMB in such a manner as to allow OMB five working days to review the material. In exceptional circumstances where the response time to Congress is very short, agencies may request oral clearance of these materials or make other arrangements with their OMB representatives.

- 4) Agencies will provide OMB representatives, immediately after the transmittal of the budget, with a schedule of anticipated congressional reviews of budget materials that require agency oral and written participation. These schedules will be revised whenever appropriate. Schedules will also be submitted to OMB for anticipated reviews of subsequent transmittals of budget requests.
- 5) Agencies will also submit to OMB for clearance their proposed press releases relating to the President's Budget. Any questions about coverage of this section, timing, or scope of review should be discussed with the OMB representatives who are normally consulted on budget-related matters.

#### D. Clearance of Changes in the President's Budget

- 1) The prohibition against submissions by agencies to the Congress of estimates or requests for appropriations without the approval of the President or request of either House of Congress applies to changes in appropriations language and dollar amounts recommended in the budget. When an agency desires to propose such a change, a written request will be presented to OMB in accordance with [section 22.4 of Circular A-11](#).
- 2) When it is possible to reduce the amount of an appropriations request before action has been taken by the appropriations committee of either house, the head of the agency will inform OMB promptly. If significant changes are planned in the amount requested or the conditions pertaining to a program of the agency without changing proposed appropriations language contained in the budget on which the Congress has been requested to act, the agency will inform OMB. OMB will advise the agency as to whether or not a formal transmittal of the change will be made.
- 3) Any decision by an agency head to request restoration of a reduction should be carefully considered, taking into account the reasons for the reduction, the circumstances under which it was made, its significance from the standpoint of the President's program, and other relevant factors.

#### E. Information Available to the Public

- 1) An agency may disclose budgetary records of that agency, if otherwise appropriate, upon a request for such records pursuant to the Freedom of Information Act (FOIA) following the end of the fiscal year to which such information pertains. Although it is not possible

to determine merely by the generic category or records whether an agency would be authorized to withhold records requested under the FOIA in every instance, most budgetary documents of an agency that are subject to the FOIA should be exempt from mandatory release pursuant to the provisions of 5 U.S.C. 552(b)(3).

- 2) An agency should not release such records prior to the expiration of the fiscal year to which such records pertain. Depending upon the nature of the record requested, other exemptions to the FOIA may apply, or the release of records within 5 U.S.C. 552(b)(3) may be inappropriate even after the end of the fiscal year to which the records pertain. Agency heads will be held responsible for determining the propriety of release of records under the FOIA pertaining to budgetary matters.
- 3) Certain agencies headed by a collegial body may be required to hold their meetings open to public observation unless the agency properly determines that the matter to be discussed warrants the closing of those meetings for reasons enumerated in the Government in the Sunshine Act (Public Law 94-409). Some meetings covered by that Act may pertain to budgetary information discussed in this Circular. Although, as with the FOIA, it is not possible to determine merely by the generic category of such information whether such an agency would be authorized to close a particular meeting covered by the Government in the Sunshine Act, the premature disclosure of budgetary information may "be likely to significantly frustrate implementation of proposed agency action" (5 U.S.C. 552(c)(9)(B)). Furthermore, other exemptions from the open meeting requirements of the Act may apply. Such agencies will be held responsible for the propriety of determinations that would lead to the disclosure of this budgetary information.