

Chapter V BUDGET EXECUTION

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Chapter V BUDGET EXECUTION

Section 1 - Summary of Process

A. General

Budget execution is the process by which the financial resources made available to an agency are directed and controlled toward achieving the purposes and objects for which budgets were approved. The process involves compliance with both legal and administrative requirements.

OMB Circular A-11 provides detailed instructions on all aspects of budget execution. The information presented in this Handbook is designed to supplement and clarify the instructions contained in Circular A-11.

The General Accounting Office publication, Principles of Federal Appropriations Law, (July 1991) is a comprehensive reference regarding the basic principles of appropriation law. It discusses the statutes and regulations governing appropriations matters and references significant decisions rendered by the Comptroller General and the courts. Each operating unit budget office should have a copy of this document available for reference.

Principles of Federal Appropriations Law discusses the use of budgetary resources in terms of availability as to purpose, time and amount. According to this concept, the legality of an expenditure depends on three things:

- the purpose of the expenditure must be proper;
- the obligation must occur within the time limits applicable to the appropriation; and
- the obligation must be within the amounts Congress has established.

Proper budget execution requires compliance with these three principles. The instructions contained in Circular A-11 and this chapter of the Handbook, if properly followed, will assure that budget execution in the Department of Commerce meets required standards.

B. Legal Framework

31 U.S.C. 1301 and 1341 provide the basic legal framework for budget execution. The text of these sections are included in Chapter II, Section 1.B. of this Handbook.

Section 1301 provides that "appropriations shall be applied only to the objects for which the appropriations were made." A single appropriation account may provide funds for numerous programs and activities, thus providing an agency considerable discretion in spending the money. Nevertheless, agency spending is usually guided by:

- the justifications presented to the Appropriations Committees; and
- the enacted appropriations bill and accompanying reports. (See Section 9 of this chapter on

Congressional Directives).

Section 1301 also states that an appropriation in a regular, annual appropriation law remains available only for that fiscal year unless the act "expressly provides that it is available after the fiscal year covered by the law in which it appears" or the appropriation is for rivers and harbors, lighthouses, public buildings or the pay of the Navy and Marine Corps.

Section 1341 prohibits obligation or expenditure in excess of the amount appropriated and the incurring of obligations in advance of appropriations, except as "authorized by law".

C. Steps in Budget Execution

1. Financial Plans

The agency's financial plan is the first phase of budget execution. The President's Budget is the framework of the initial financial plan and should be internally updated through the various phases of Congressional action leading to enactment. The Office of Budget requires that bureaus submit financial plans based on recommended Conference Committee action two weeks after Senate action on the appropriation bill is completed. Section 8 of this chapter of the Handbook discusses requirements for financial plans submitted to the Office of Budget. Per Section 120.21 of OMB Circular A-11, financial plans must accompany all apportionment and reapportionment requests to OMB.

2. Apportionments and Reapportionments

Except in a few cases as provided by law, funds contained in appropriations legislation and other funds, (including reimbursements, recoveries of prior year funds, and carryover funds) may not be obligated until they are apportioned. See Section 120 of Circular A-11 for additional information on exceptions. Apportionment requests prepared by agencies are not valid until OMB approves the apportionment. Usually, the signature of the appropriate OMB official constitutes approval. Exceptions are:

- a.** emergencies involving the safety of human life or the protection of property for which OMB may provide telephone approval of apportionments under Section 120.35 of OMB Circular A-11; and
- b.** adjustments not requiring submission of a reapportionment request and which are considered to be "automatically apportioned" as provided under Section 120.36 of the Circular.

Agencies then allot the apportioned funds among their operating units or other administrative subdivisions. When the level of funds provided changes, (supplemental appropriations, extensions of continuing resolutions, enactment of full year appropriations, etc.), agencies must prepare reapportionment requests and receive OMB approval before the funds may be obligated.

Section 3 of this chapter of the Handbook and Part IV: Instructions on Budget Execution of

Circular A-11 provide instructions for apportionments and reappropriations.

3. Reports on Budget Execution

Accounting officers prepare and certify reports on budget execution. In the Department of Commerce, the Office of Budget is responsible for reviewing these reports and forwarding copies to OMB and Congress in accordance with specified reporting requirements. Section 4 of this chapter of the Handbook and Part 4, II of Circular A-11 provide instructions for preparation and use of budget execution reports.

4. Other Requirements

All operating units in the Department of Commerce prepare outlay plans and reports and respond to Congressional Directives. If an account includes a deferral or a rescission proposal, operating units prepare a variety of additional material. Reprogrammings require another set of information. These subjects are covered in other sections of this chapter of the Handbook. The Handbook instructions include extensive references to the requirements included in Circular A-11.

Chapter V BUDGET EXECUTION

Section 2 - Roles and Responsibilities

A. Government-wide Roles

The Federal Government has a decentralized financial management apparatus. Major government-wide roles are played by Congress, the Office of Management and Budget, the Treasury Department, and the General Accounting Office. In addition, agencies have broad responsibility for resource management.

Congress has enacted a number of laws governing financial management, such as the Federal Managers' Financial Integrity Act of 1982. Congress exercises oversight over Federal programs and agencies and often requests audits and evaluations from the General Accounting Office and other organizations.

The Office of Management and Budget apportions appropriated funds to agencies, monitors agency expenditures and performance, and issues regulations on various financial management activities.

Agencies have responsibility for executing the budget and managing their resources. They maintain systems of internal control and report to Congress and others on their financial operations.

The Treasury Department is responsible for cash and debt management, and maintaining central appropriation and fund accounts. It issues government-wide financial reports during and after each fiscal year.

The General Accounting Office establishes accounting standards and principles, approves agency accounting systems, reviews Federal programs, and audits the financial statements of government corporations.

Exhibit V2A is a table summarizing government-wide responsibilities.

B. Department of Commerce

Departmental responsibilities for the execution of the budget are maintained through:

- issuing policies, standards and criteria;
- reviewing apportionments and approving bureau financial and staffing plans; and
- evaluating bureau activity through reports, audits and special analyses.

Departmental responsibilities are exercised primarily through the Office of Budget, which is responsible for:

- providing technical assistance to bureaus in preparing financial and staffing plans and apportionments;
- analyzing program and financial plans and apportionments for conformance to justifications as presented to OMB and the Congress, as adjusted for Congressional action and subsequent developments;
- reviewing and approving financial plans;
- reviewing and forwarding apportionment requests to OMB for approval;
- analyzing reports on the status of financial plans with respect to variances from the plan, and assessing the need for reprogramming;
- preparing and distributing consolidated plans and reports on the financial management of the Department;
- maintaining liaison with OMB and the Appropriations Committees;
- coordinating the interpretation of objects and purposes for which appropriations are made; and
- clearing and sending reprogramming notifications.

C. Operating units

1. Heads of Operating Units

Heads of operating units are responsible for:

- developing systems and procedures consistent with the requirements of this Handbook;
- providing financial and program data upon which financial plans and reports and other requirements can be met;
- assuring that operations are maintained within the limits of approved financial plans and apportionments and other legal and administrative requirements;
- providing prior notification to the Appropriations Committees, through the Chief Financial Officer/Assistant Secretary for Administration (hereafter, Assistant Secretary) and the Director, Office of Budget, of reprogramming actions; and
- obtaining proper clearances prior to proceeding with reprogramming actions.

In accordance with the Antideficiency Act (31 U.S.C. 1514), each operating unit must have in place an effective system for the administrative control of funds. Under an effective system, responsibility for over-obligations and over-expenditures is fixed through written delegations of authority indicating how authority is delegated, with a clear explanation of how the funds are to flow from the appropriation level down to the lowest practical administrative level.

The administrative funds control system should be differentiated from the accounting system, but fully integrated with it. It should be consistent with legally prescribed accounting procedures including: complete, accurate and timely record keeping; a clearly defined method to ensure that funds are available prior to obligations; periodic reconciliation of records; and year-end review and analysis of transactions. Violations of the Antideficiency Act are subject to administrative and legal penalties.

2. Operating Unit Budget Officers

Budget Officers are responsible for:

- preparing and submitting on a timely basis the financial plans and reports, apportionment requests, reprogrammings and other information and reports outlined in this chapter of the Handbook; and
- maintaining liaison with the Office of Budget on the resolution of problems.

3. Accounting Officers

Accounting Officers are responsible for preparing, certifying and forwarding the Reports on Budget Execution to the Office of Budget on a timely basis.

Department accounting systems are designed to provide the financial data needed in the execution of the budget. The Office of Budget participates in defining accounting requirements for the Department's financial systems. Operating and staff offices should continuously review accounting systems to determine if revisions are needed in financial reporting in order to meet requirements of program and operating management, at both the operating unit and Department level, or to accommodate changes in budget and program classifications.

Chapter V BUDGET EXECUTION

Section 3 - Apportionments

A. General

OMB Circular A-11 provides detailed instructions on preparing apportionments and is included in its entirety at the end of this chapter. Part IV covers all accounts except credit programs, which are covered in Part V. The material here supplements and clarifies the instructions contained in Part IV.

The purpose of apportionment is to prevent agencies from incurring obligations at a rate which would require the appropriation of additional funds for the fiscal year in progress. A single apportionment is made for an entire appropriation or fund account and is prepared on the Apportionment and Reapportionment Schedule (S.F. 132). A copy of this form is included as Exhibit V3A. Section 121 of Circular A-11 contains detailed explanations of the line entries on the form.

B. Legal Basis for Apportionment

The legal basis for apportionment is contained at 31 U.S.C. 1512 (see Chapter II, Section 1). The statute provides that the apportionment:

- will be made to achieve the most effective and economical use of resources; and
- may be made by time periods (Category A) and/or activities, projects, etc., (Category B).

Requests for Category B apportionments must be submitted by letter to the Director, Office of Budget and approved by OMB prior to submitting the initial apportionment.

When additional resources become available, an apportionable account is reapportioned. (See subsection I.3. for exceptions.)

C. Apportionable Accounts

With few exceptions, all accounts must be apportioned. Section 120 of Part IV of Circular A-11 lists exceptions to apportionment requirements. The major exceptions are non-revolving intra-governmental funds and funds considered by the President to be confidential in nature.

D. Annual List of Accounts

Section 120 of Circular A-11 requires that the Department submit a list of all accounts to OMB by August 1st of each year. The list breaks out all accounts as follows:

- apportionable;
- fully exempt from apportionment; and
- whole accounts automatically apportioned.

If necessary, the Department updates the list after appropriations have been enacted.

E. Deficiency or Supplemental Apportionments

A deficiency or supplemental apportionment may be requested under the provisions of 31 U.S.C. 1515 (see Chapter II, Section 1) to fund:

- mandatory pay raises;
- laws passes by Congress after the budget estimates were submitted; and
- an emergency involving the safety of human life, protection of property or the immediate welfare of individuals when an existing appropriation is insufficient to fund amounts required by law.

A footnote and statement identical to the examples included in section 120.38 of Circular A-11 must be included with all requests for Deficiency or Supplemental Apportionments.

F. Amounts Proposed for Rescission or Deferral

Section 112 of OMB Circular A-11 provides detailed guidance on the reporting and treatment of rescission and deferral proposals. Amounts withheld for rescission or deferral are not apportioned. OMB must transmit special messages notifying Congress of all proposed rescissions or deferrals. (These special messages are discussed in Section 5 of this chapter of the Handbook.) Amounts withheld are reflected on lines 9 and 10 of the Apportionment and Reapportionment Schedule. Section 112 explains reapportionment procedures following Congressional action or inaction on rescission proposals and deferrals.

A reapportionment request to release funds proposed for rescission must be sent to OMB prior to the expiration of the 45 days of continuous session during which Congress must pass legislation in order for a rescission to take effect. If Congress disapproves a deferral reflected on an apportionment, the reapportionment request releasing the funds must be submitted to OMB not later than one day following the enactment of the disapproving legislation.

G. Relationship to Financial Plans

Section 120 Circular A-11 requires that apportionments be based on financial plans. Therefore, each request for apportionment or reapportionment must be accompanied by a financial plan supporting the request. The only exception to this requirement is initial apportionments where available funds are severely limited. Operating unit budget officers should obtain prior approval from the Office of Budget to submit initial apportionments without accompanying financial plans. Section 8 of this chapter discusses the Department's requirements for Financial Plans and Reports.

Amounts apportioned in the first quarter should include a reasonable amount for contingencies. Details should be shown on the financial plan.

H. Schedule

Operating units prepare apportionment requests per the schedule included as Exhibit V3D and send the original and two copies to the Office of Budget for review. One copy (not the original) is initialed by the budget officer to indicate accuracy and conformance to requirements. The checklists provided as Exhibit V3B and V3C should be used to assure that requests are properly prepared. After review, the Office of Budget forwards the original and one copy to OMB for action. OMB returns the original, including any differences between the request and OMB action, to the Office of Budget by the date specified for that type of apportionment. The Office of Budget conforms its copy to reflect OMB action and sends the original to the operating unit budget officer, who forwards the original to the appropriate accounting officer. Except as provided by law, funds may not be obligated in the absence of an approved apportionment.

I. Standard Apportionment Procedures

1. Initial Apportionments

The OMB due dates for initial apportionments are as follows:

a. August 21st

- All accounts where at least a portion of resources become available for obligation without Congressional action. Such resources include unobligated balances for multi-year and no-year accounts, recoveries, deferrals and reimbursements.
- If an appropriation has been enacted, all accounts where all budgetary resources

result from current action by Congress.

b. 10 calendar days after enactment

- Accounts where all budgetary resources after enactment result from current action by Congress and an appropriation was not enacted in time to meet the August 21st date.

Most Department of Commerce accounts have budgetary resources independent of Congressional action and are thus subject to the August 21st initial apportionment date.

Narrative explanations of the assumptions used in developing estimates accompany these apportionments. Estimates for unobligated balances carried forward and anticipated recoveries are based on past experience and anticipated obligation rates (Actuals will be apportioned later). Anticipated reimbursements are listed by source in a footnote, either on the back of the form or on a separate attachment. Narrative explanations and the original and two copies of schedules are submitted to the Office of Budget by the date specified by the Office of Budget. OMB must act by September 10th on initial apportionments submitted by August 21st. Initial apportionments for accounts with resources resulting solely from current Congressional action must be acted on within 30 calendar days of the approval of the appropriation or September 10th, whichever is later. Exhibit V3B should be used as a checklist in preparing initial apportionments.

2. Automatic Apportionments

OMB does not usually require submission of a Request for Apportionment or Reapportionment when Congress enacts a short term Continuing Resolution. The Continuing Resolution usually specifies a rate at which obligations may be made; i.e., "the lower of the current rate or the rate contained in the House passed version of the appropriation bill." In these cases, OMB sends a Bulletin (i.e., OMB Bulletin CY-1) on how to determine the appropriate rate. The Office of Budget will notify operating units of the OMB guidance as soon as possible. The bulletin may include criteria for approval of automatic apportionments. For accounts which meet the criteria, the apportionments do not have to be submitted to OMB unless requested by OMB examiners. The Office of Budget determines which of the department's accounts meet the criteria for automatic apportionment. The appropriate amounts are "automatically apportioned" if so stipulated in the bulletin. When full-year funding is enacted, the subsequent reapportionment will reflect the automatically apportioned amounts in the "Amount on latest S.F. 132" column.

Guidance on automatic apportionments varies from year to year and operating unit budget officers should follow current guidance from OMB and the Office of Budget.

3. Reapportionments

A Reapportionment request is submitted to OMB as soon as a change in a previous apportionment becomes necessary due to a change in available resources, with certain exceptions as described below. If the change is the result of approval of legislation providing budget authority after the initial apportionment was made, the request is due to OMB within 10 calendar days of enactment. In other cases (i.e., significant change in reimbursements or recoveries), the request must be made in sufficient time to allow action by OMB before the revised amounts are needed for obligation. It is recommended that, if possible, requests be submitted at least a month before the funds are needed. Apportionment action for a specified time period may not be changed after the end of the period. Unobligated balances of amounts previously apportioned are available for obligation in later periods within the fiscal year unless specified by OMB. All reapportionment requests must be accompanied by current financial plans and narrative explanations.

The following changes do not require reapportionment:

- Adjustments in actual unobligated balances, budget authority adjustments or balances transferred, of less than \$200,000 or 1% of the total budgetary resources, whichever is lower, can be added to or subtracted from the amount apportioned for the period in progress when the adjustment is made.
- Amounts of indefinite budget authority, reimbursements, or recoveries that are realized above or below anticipated amounts, up to \$200,000 or 1% of total budgetary resources, whichever is lower, will be added to or subtracted from the last time period.

In such cases, pen and ink changes should be made on the latest approved apportionment, adding or subtracting from the apportionment for the last quarter. As with all automatic apportionments, copies should be sent to the Office of Budget and the servicing accounting office. The authority for the automatic apportionment should be cited on the form.

Exhibit V3C should be used as a checklist in preparing reapportionment requests.

J. Allocation of Apportioned Amounts

After an agency receives an approved apportionment, it allocates the money among its administrative units, projects, activities, etc. The amount allocated cannot exceed the apportionment. Allocations exceeding apportionments are a violation of the Antideficiency Act.

Chapter V BUDGET EXECUTION

Section 4 - Reports on Budget Execution

A. General

Part IV, II, Section 130 of OMB Circular A-11 provides detailed instructions on preparing the Report on Budget Execution (S.F. 133) for most accounts, including credit programs. The material here supplements the instructions in OMB Circular A-11.

Agencies may substitute computer-produced reports in lieu of the S.F. 133 if advance approval is obtained from OMB. Agencies are encouraged to request the use of substitute reports whenever such reports would increase economy or efficiency. However, all such reports must conform to the format of the S.F. 133, be of the same size, shape, and quality, and use normal punctuation in dollar amounts. A copy of the S.F. 133 is included as Exhibit V4A of this Handbook.

B. Reporting Procedures

The S.F. 133 is prepared by the accounting officer for each operating unit and signed by an officer designated by the head of the agency. The original and three copies are sent to the Office of Budget in accordance with reporting periods specified by OMB. The Office of Budget requires monthly reports. The reports are due on the 15th of the following month in order to meet the 20th of the month due date. The initial fourth quarter reports are preliminary. Amended reports (designated as "FINAL" at the top center of the form) are submitted to OMB no later than November 30th in all cases where the balances on the preliminary report differ from those reported to Treasury for inclusion in the annual Treasury Annual Report Index. The originals of the quarterly and final S.F. 133 are sent to OMB; copies are sent to the House and Senate Appropriations Committees.

C. Coverage

The S.F. 133 (or approved substitute) is required for each open account, whether or not the account is apportioned. Expired accounts are included on the same form as the unexpired account(s) carrying the same appropriation title.

Unless OMB determines otherwise, the first column of the S.F. 133 provides information on unexpired accounts in the appropriation; the second column reflects the status of expired accounts; the third column combines the amounts in columns one and two.

The entries on the "Budgetary Resources" portion of the S.F. 133 (lines 1-7) correspond to lines 1-7 of the latest approved apportionment. The second part of the form, "Status of Budgetary Resources", shows the extent to which available resources have been obligated. The final section of the form shows the relationship between obligations and outlays. Section 130 of OMB Circular A-11 provides detailed explanations of line entries.

D. Verification of Data

Agency budget officers compare the budgetary resources, obligations, and balances data with the latest approved apportionment, and the obligations and disbursements with the obligations and outlays reported on the Financial Plans (See Section 8 of this chapter of the Handbook for a discussion of actions to take when actuals vary significantly from plan). The Office of Budget performs a similar check and advises agency budget officers of any discrepancies in the reports or evidence of violation of the Antideficiency Act.

Chapter V BUDGET EXECUTION

Section 5 Rescissions and Deferrals

A. General

Congress established reporting requirements for rescissions and deferrals in the Congressional Budget and Impoundment Control Act of 1974. The Balanced Budget and Emergency Deficit Control Act changed deferral procedures to reflect Supreme Court Decisions regarding vetoes by one House of Congress and overruling deferrals made for policy reasons. Section 112 of OMB Circular A-11 provides guidance on: preparing special and supplementary messages on rescission and deferral proposals; the establishment of reserves; and preparing apportionment requests for deferrals and rescission proposals. Section 3 of this chapter of the Handbook discusses apportionment of deferrals and rescission proposals. The guidance here supplements the A-11 instructions on special messages and reserves.

B. Rescissions

A rescission is enacted legislation which cancels previously enacted budget authority before the authority would otherwise lapse. A rescission may be proposed by the President or a Member of Congress. A rescission proposed by the President must be approved by both Houses of Congress within 45 days of continuous session in order to take effect.

C. Deferrals

A deferral is any action or inaction by an officer or employee of the United States Government that temporarily withholds, delays, or effectively precludes the obligation or expenditure of budget authority. A deferral occurs unless both Houses of Congress pass a resolution disapproving the deferral.

D. Reserves

Reserves may be established under 31 U.S.C. 1512 solely to:

- provide for contingencies; or
- effect savings made possible through changes in requirements or greater efficiency of operations.

E. Cases Requiring Special Messages

The President must transmit a special message to Congress whenever he proposes a rescission or funds are deferred.

A rescission message is required whenever the President determines that:

- all or part of any budget authority will not be required to carry out the full objectives of the program;
- all or part of any budget authority limited to a fiscal year is to be reserved from obligation for the entire fiscal year; or
- budget authority should be rescinded for fiscal policy or other reasons.

A deferral message is required whenever funds provided for a specific purpose or project are deferred. Agencies must report all amounts deferred, whether or not the deferral is reflected on an apportionment. If an agency has made a policy decision to obligate apportioned funds at a slower pace than that intended by Congress, it is a reportable deferral.

F. Contents of Special and Supplementary Messages and Reports

Bureaus submit an original and four copies of the materials discussed in Sections 112 of Circular A-11 to the Office of Budget. Materials are prepared in the formats shown in Circular A-11. Exhibits 112A-112H provide guidance for special types of rescissions and deferrals.

Each special message contains the information listed in Section 112.7 of Circular A-11. If information contained in a special message changes, bureaus submit an original and four copies of the information on supplementary messages discussed in Section 112.9.

OMB prepares reports on the status of all rescissions and deferrals. Generally, OMB can complete these reports without further assistance from the Department. However, bureaus should notify the Office of Budget if all or portions of agency deferrals are released.

G. Reviewing Deferrals

Bureaus should review all deferrals periodically so that amounts deferred for part of the year may be released in time to be used before the end of the year. Deferrals of funds which expire at the end of the year should be reviewed in sufficient time to determine if a rescission should be proposed before the beginning of the fourth quarter. A fourth quarter rescission of expiring funds is proposed only in exceptional cases.

Chapter V BUDGET EXECUTION

Section 6 - Monitoring Federal Outlays

A. General

The purpose of outlay monitoring is to reduce the Government's interest costs. Realistic outlay estimates enable Treasury to borrow only amounts actually needed to finance Government activities.

OMB Circular A-11, Section 135 provides instructions on monitoring Federal outlays. The Department of Commerce must prepare monthly plans and submit periodic reports and revisions. The information provided here provides Department-specific guidance for complying with the OMB requirements.

B. Reporting Requirements

Bureaus submit outlay plans and reports for each account to the Office of Budget five (5) days before the OMB due date. An initial plan and three updates are required annually as outlined in Section 135.9 of Circular A-11. The Office of Budget provides budget officers with a format for the initial outlay plan and all required updates. Exhibit V6A shows the format for the initial plan. Formats for updates are similar to the Exhibit, but include actual cumulative data for a given period of the current year and, for the last two updates, estimates for a portion of the budget year.

Outlay estimates are based on the best current estimate of the amount to be spent by month. The totals are consistent with the President's budget as amended by Congress. In cases where Congressional amendment of the budget is not complete, but some actions are almost certain to occur (e.g., both the Senate and House bills have made the same amendment to the President's budget, but the conference report has not yet been acted upon), bureaus should discuss the situation with the Office of Budget prior to preparing a revised outlay plan. The monthly breakdown of the totals reflects a realistic assessment of recent trends and the past history of outlay patterns for each account. A statement explaining the assumptions used and any unusual or special circumstances accompanies each outlay plan.

C. Timing of Submissions

1. October 1st - Initial Plan

The initial plan includes data for the final month of the year in progress and monthly estimates for the fiscal year beginning October 1st. Generally, the totals for the upcoming year reflect the 20CY column of the 20BY budget currently pending at OMB and the estimate for September should agree with the last update. In any case, the Office of Budget will provide guidance on the totals which should be used in the initial plan.

2. One week after Budget Transmittal to Congress - 1st Update

The first update includes actuals through December and the plan for the balance of the year. Differences in totals from the initial plan may be due to changes in prior year balances, amendments to the Current Year included in the President's Budget, revised outlay rates included in the President's Budget, pay raise supplementals, etc. The Office of Budget usually provides bureaus with recent Treasury accounting reports with the request for the first update so that bureaus can incorporate information on balances from the past year. Monthly outlay patterns may change from the initial plan due to more realistic assessments of spending patterns and trends.

3. May - Update

The second outlay update is scheduled for May and includes actual data through March and monthly estimates from October through September of the Budget Year.

4. July - Final Update

The timing of the final update is based on the date of the Mid-session review. 31 U.S.C. 1106 (See Chapter II, Section 1B) requires that the Mid-session Review be submitted to Congress by July 16th. This final update shows cumulative totals through May and estimates for the balance of the current year and the budget year. The final update may incorporate changes in totals and/or monthly breakouts resulting from completed or "almost certain" Congressional action as discussed above.

Chapter V BUDGET EXECUTION

Section 7 - Reprogrammings

A. Procedure for Reprogramming Notification Requests

Purpose: To clarify how to submit a reprogramming request to the Department of Commerce, OMB, and Congress.

A reprogramming request package consists of:

- A signed memorandum / letter from the bureau head (or deputy) to DOC CFO/ASA briefly highlighting the request. No request will be processed by the Department without a signed hard copy of this letter by the bureau head. (Sample Memorandum: Exhibit V7A)
- A letter to Deputy Associate Director, Housing, Treasury and Commerce Division, Office of Management and Budget (OMB). This letter requests OMB clearance to transmit a notification to Congress of the Department's intention to reorganize the affected operating units. The reprogramming has to be cleared by OMB before letters to the Hill are signed. (Sample Letter: Exhibit V7B)
- A draft letter to the Chairmen and Ranking Minority Members of Senate and House Committees on Appropriations. (Sample Letter: Exhibit V7C)
- Notification of Proposed Changes (Sample Notification: Exhibit V7D)
- Accompanying backup material, tables, charts, lists, maps.
- Current and Proposed Organization Charts in cases of reorganization.

All materials, with the exception of the signed memorandum from the bureau head to the DOC CFO/ASA, must be provided electronically to the programmatic budget analyst for the bureau in the Office of the Secretary / Office of Budget. All reprogramming letters addressed to OMB and Congress are signed by the DOC CFO/ASA for the Department of Commerce, and are on the DOC CFO/ASA letterhead.

B. Criteria for Reprogramming Notifications

Purpose: To clarify when a reprogramming or transfer notification to Congress is necessary.

Definitions of terms for Reprogramming Purposes:

- Reprogramming: Shifting funds within an appropriation or fund account to use for different purposes than those contemplated at the time of appropriation (for example, obligating budgetary resources for a program, project or activity different from the one originally planned).

- Transfer: A reprogramming which shifts funds between appropriations.
- Program, Project or Activity (PPA): As shown by the Program and Financing Schedule in the Budget Appendix submitted to Congress; or as provided in the House, Senate and Conference Reports.
- Notification of Reprogramming (or Transfer): A letter and attachment to the House and Senate Appropriations Committees informing Congress of Commerce's intent to reprogram or transfer funds as required by General Provisions Section 605 (General Provisions: Exhibit V7E) and Sections 204 and 205 of our Appropriations Act (Appropriations Act: Exhibit V7F).
- Relocation: A office or organization move that has a significant impact on the organization, mission, customers, or employees affected.

1. Strictly Legal Criteria for When a Reprogramming Notification is Required:

- Regardless of funding amount, notification is required when these criteria apply:
 - Creates a new program.
 - Eliminates a PPA.
 - Adds funds for a particular project or activity that has been denied or restricted by Congress.
 - Relocates an office or employees.
 - Reorganizes offices, programs, or activities.
 - Contracts out or privatize functions or activities currently performed by Federal employees.
- If the reprogramming exceeds \$750,000 or 10% of the appropriation, the following criteria apply in addition to those set forth above:
 - Augments an existing PPA.
 - Reduces by 10% either funding for a PPA or personnel.
 - Results from savings from reduction in personnel which would change an existing PPA.

2. Additional Policy Criteria for Notification of Reprogramming:

- In addition to the above legal criteria, the Department of Commerce policy is to provide a reprogramming notification in the following circumstances:
 - When the reorganization could be deemed sensitive by the Appropriations Committee staff or if the move could be deemed of interest to Appropriations members or committee staff, regardless of funding level. [Example: moving an office that has a high level of Congressional oversight.] Changing, especially increasing, the number of political positions in an agency.
 - When a relocation, opening or closing would affect a member's district. Moving an

office from one district to another; closing an office in a member's district (especially if not opening another);

- When Federal employees would be affected by a Reduction-in-Force (RIF).
- When Federal employees would be relocated, including moves within commuting areas.
- When an Agency changes its name, mission, or organizational structure.

C. Criteria for Transfer Notification

In addition to guidance provided under Section 204 all transfers under these provisions must go through the Office of Budget for reapportionment. Transfers over \$500,000 require Congressional notification. Transfers under this amount may also require notice, depending on its political sensitivity.

Other Issues:

- Contact the Office of Budget if you have a question regarding the need for a reprogramming or transfer notification.
- Although there have been exceptions, the Department's policy has been not to implement a reprogramming or transfer if one or both of the House and Senate Appropriations Subcommittees object.

Chapter V BUDGET EXECUTION

Section 8 - Financial Plans and Reports

A. General Requirements

All Operating Units in the Department of Commerce are responsible for maintaining detailed internal financial and staffing plans and submitting summary plans and reports to the Office of Budget.

The requirements outlined in this section are intended to ensure Departmental compliance with legal and administrative requirements. 31 U.S.C. 1514 requires that each agency have a system of administrative control of funds. Section 120 of OMB Circular A-11 requires that all requests for apportionment or reapportionment be supported by financial plans. Section 120.25 of the Circular requires monitoring of Federal employment and submission of an FTE and staffing plan.

The primary purposes of financial plans are to:

- ensure that obligations are made in accordance with plans presented in the budget justifications and items included in the enacted appropriation bill;
- assist in determining to what extent items included in Committee reports but not specified in bill language should be funded;
- assess the need for Congressional notification of reprogramming actions;
- assist in managing and controlling the obligation of funds so as to avoid a deficiency;
- identify the timing of unusual events; e.g., a major procurement or staffing increase resulting from a new program effort; and
- assess the effects of continuing resolutions or program reductions.

B. Detailed Internal Financial and Staffing Plans

Operating units are responsible for maintaining detailed financial and staffing plans which reflect monthly obligations and FTE usage by program, project and activity. For purposes of financial plans and reprogrammings (see Section 7 of this chapter), a program, project or activity is defined as the most specific budget item identified in any of the following:

- the Program and Financing Schedule in the President's annual budget appendix;
- the enacted appropriation bill; and
- House, Senate or Conference reports and explanatory statements on the appropriation bill.

The level of detail which meets the definition of a program, project or activity varies among operating units and may change with each annual appropriation act. When the enacted appropriation bill and Committee reports do not specify otherwise, a program, project or activity is equivalent to the line item detail presented in the Congressional justifications. In cases where Congress has included bill or report language listing specific projects the operating unit is expected to fund, the items included in the detailed internal financial plans are more specific.

Operating units are responsible for developing procedures for preparing and monitoring detailed financial and staffing plans. Preliminary detailed financial and staffing plans should be developed when the budget justifications are sent to Congress and amended, as necessary, through each step of the appropriation process. In this way, final detailed and summary plans reflecting the enacted appropriation can be prepared promptly at the beginning of the fiscal year.

C. Summary Plans and Reports sent to the Department

Summary financial and staffing plans and reports are sent to the Office of Budget per the following schedule:

- Preliminary summary financial and staffing plans are due two weeks after Senate action on the Appropriation bill.
- Final summary financial and staffing plans are due one week after enactment.
- Plans reflecting reprogramming actions subject to Congressional notification requirements (see Section 7 of this chapter) accompany the reprogramming materials sent to the Office of Budget and forwarded by the Office of Budget to OMB and Congress.
- Reports covering the first quarter are due on January 20th.
- Monthly reports are due on the 20th of the following month for each month in the second through fourth quarters.
- The final end-of-year report is due on October 20th.

All reports will reflect changes due to all reprogramming actions, including reprogrammings which do not require prior Congressional notification.

In addition, all requests for reapportionment will be accompanied by revised financial plans. Interim financial and staffing plans may be required if a short-term Continuing Resolution is enacted in lieu of an appropriation act. The Office of Budget will notify operating units whenever such interim plans are required.

It is recommended that operating units prepare summary plans concurrently with the preliminary detailed plans discussed above. In so doing, operating units will find it easier to comply with the Office of Budget requirements regarding allocation of House and Senate allowances as discussed in Chapter IV, Section 2 of this Handbook.

D. Specific Information Required for Plans

1. Information Required of all Operating Units

Three types of financial plans are required for each account. One staffing plan is required for each operating unit.

a. Financial Plans

The three financial plans required of all operating units are:

- monthly totals by account; and
- monthly by subactivity as shown in the Congressional budget “Summary of Resource Requirements” (salmon sheet).

The Office of Budget prepares formats as shown in Exhibits V8A and V8B for each operating unit and provides an electronic copy containing applicable stub entries to each operating unit budget officer. Operating units may use a different electronic format if prior approval is received from the Office of Budget. Each account, including reimbursements, must be shown separately. Specific guidance on each of the plans follows:

Monthly totals:

Planned obligations for each account are shown. The cumulative figure for each quarter and the annual total match, as applicable, the Recommended Conference Action or the enacted bill plus any amounts available on the initial 20CY apportionment.

Monthly subactivity:

The subactivity categories match those contained in the 20CY Congressional budget unless the operating unit has received supplementary guidance from the Office of Budget. Plans may include entries for administrative contingencies, which will help to reconcile these plans to operating budgets.

b. Staffing Plans

The staffing plan reflects FTE and staffing for the entire operating unit in one report. Exhibit V8D is a sample format. The Office of Budget updates the format annually to break out 20CY pay periods by month. On the initial plan submitted to the Office of Budget, the "Last Plan" line agrees with the 20CY President's Budget. Line 3a is the total of lines 1a and 2a; line 3b is the total of lines 1b and 2b, etc. The "Revised Plan" line reflects the Recommended Conference Action. If necessary, this line will later be revised to reflect enacted appropriations. The staffing plan submitted to OMB in the middle of the year (March 1st) includes any 20CY changes included in the President's 20BY Budget Request to Congress. When reports are made against the plan, actual data will agree with the S.F. 113A and 113G. Plans are accompanied by a narrative statement.

E. Requirements Specific to Operating Units

Many operating units will have additional plan and report requirements for major systems and projects and other detail. These requirements change annually and the Office of Budget provides specific guidance, including formats and specific types of information required.

F. Explanation of Variances

Variances of 10% or more in any subactivity are explained in detailed narrative explanations when reports are submitted. Any change in resources available and/or reprogrammings should be included on a revised financial plan showing actual obligations through the end of the prior month. Operating units are responsible for ensuring that all reports accurately reflect approved reapportionments and reprogrammings and are supported by their internal detailed financial and staffing plans.

Chapter V BUDGET EXECUTION

Section 9 - Congressional Directives

A. General

A Congressional Directive is any statement included in:

- the Reports by the House, Senate or Conference Appropriations Committees; or
- appropriations bill language;

which directs the Department or its bureaus to take action (or inaction) regarding its programs and/or operations. A Congressional Directive reflects legislative intent and should be taken seriously.

The Appropriations Committees require that the Department provide written responses to each directive in a format prescribed by the Committees. Generally, the Committees request that the responses be available for their use during the Appropriations hearings.

Bureaus prepare responses in accordance with the instructions and schedule provided by the Office of Budget in an annual memorandum to budget officers. To the extent possible, the Office of Budget attempts to include a list of all Congressional Directives applicable to the bureau with the memorandum. However, bureaus should also review Committee Reports and appropriations language to determine if any items should be deleted or new ones added to the list.

The Office of Budget reviews all responses and prepares written comments as necessary. Bureaus make the changes and send revised copies to the Office of Budget, who then forwards a set of responses to OMB for clearance. After OMB approval, the Office of Budget forwards the requested number of sets of responses to the Appropriations Committees.

B. Departmental Compliance Policy

Though Report Language is not legally binding, agency non-compliance with report language has sometimes resulted in Congress inserting similar or more restrictive language into the following year's appropriation act language. Bill language is law and thus, legally binding. A common sense approach also dictates that the Department make reasonable attempts to maintain good relations with the Appropriations Committees since the availability of budgetary resources needed to carry out our programs is dependent on their favorable action. Therefore, with few exceptions, the Department's policy is to comply with Congressional Directives unless compliance would be illegal or contradict Administration policy. The Department individually reviews all cases when an agency proposes non-compliance and the Administration has not indicated non-compliance through official communications. (i.e., deferral or rescission proposal).

OMB may direct that the Department direct non-compliance with particular Congressional Directives under certain circumstances, such as in FY 88 when the President submitted a list of "wasteful spending" items to Congress, but did not formally propose rescissions. The Office of Budget will advise bureaus of the steps to take if OMB issues a similar policy in the future.

C. Information Included in Response

Congressional Directives responses describe, in sufficient detail, the steps being taken to implement the item, including the scheduled date of implementation and any barriers to successful completion of the item. If the agency proposes noncompliance, the response should state the reasons for noncompliance, the actions which the agency plans to take and the steps needed to carry out the action.

D. Format

The format for Congressional Directives is included as Exhibit V9A. The language of the directives must be exactly as included in the report or the enacted appropriation bill except for obvious typographical errors. If an item is covered in more than one source and the language is identical, cite each source in a single report. If the language is not identical, but addresses the same topic, treat them as separate responses and note that the item is also addressed in another response, citing the title of the other response.

In many cases, language contained in the House or Senate bill or report differ from the Conference Report. If the Conference Report contradicts or amends the language in the House or Senate Report, a response is developed which addresses the language in the individual report or bill. The response should include language similar to: "The Conference Report included language on this subject which amended the amounts included in the House report. The amounts in the Conference report were..."

If language is in the report or bill of either House and not addressed in the Conference report or the enacted law, the agency should develop a response to the individual language and treat it in the same manner as matters addressed in the Conference Report.