SECTION 15—BASIC BUDGET LAWS

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15.1 What laws govern the budget cycle?

The Federal budget cycle can be divided into three distinct phases that are generally sequential and yet intertwined. The first phase, which culminates in the transmittal of the President's budget proposals to the Congress, is called the budget formulation phase. In the next phase, the Congress acts upon laws that together constitute the enacted budget. Once the laws have been enacted, executive agencies carry out the laws in the budget execution phase. The Federal budget cycle is governed mainly by the following six laws, which we describe below:

- Budget and Accounting Act.
- Congressional Budget Act.
- Antideficiency Act.
- Impoundment Control Act.
- Government Performance and Results Act.
- Federal Credit Reform Act.

15.2 Why is the Budget and Accounting Act important?

Before this law, which was enacted in 1921, there was no annual centralized budgeting in the Executive Branch. Federal Government agencies usually sent budget requests independently to congressional committees with no coordination of the various requests in formulating the Federal Government's budget. The Budget and Accounting Act required the President to coordinate the budget requests for all Government agencies and to send a comprehensive budget to the Congress. It created the Bureau of the Budget, now the Office of Management and Budget (OMB), to help the President implement these requirements. It also required the President to include certain information in the budget. The Congress has amended the requirements many times and has codified them as Chapter 11, Title 31, U.S. Code. These are some of the requirements:

- "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...." The provision goes on to list about thirty items, such as expenditures and receipts for the past year through the fourth year following the budget year, information on debt, financial information, and information on employment levels.

- "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."

- "Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch...shall be submitted to the President before October 16 of each year and included in the budget by the President without change."

15.3 How does the Congress enact the budget and what laws govern the process?

The Congress does not enact a budget, as such. Instead, the budget is enacted through several different types of legislation:

- The Congress is first scheduled to adopt a concurrent resolution that sets forth the total budget outlays (spending) and budget receipts for the upcoming fiscal year.

- Next, legislation authorizing changes in programs and in taxes is scheduled to be enacted consistent with the budget resolution.

- Finally, the Congress is scheduled to enact appropriations in 13 regular appropriations bills for the up-coming fiscal year

Before the Congressional Budget Act (CBA), there was no annual centralized budgeting in the legislative branch. Each of the 13 regular annual appropriations bills was acted on separately by the Congress and changes in taxes were authorized in another process. In addition, there was no established process to add up the total receipts and total spending in all the bills to reach the Federal Government's bottom line, whether it was a surplus or a deficit.

The CBA established the concurrent resolution on the budget, also known as the budget resolution, the House and Senate Budget Committees, the Congressional Budget Office, and procedures for relating individual appropriation actions to the budget totals. Also, the CBA defines some key budget terms, such as budget authority, that are used in all phases of the President's budget formulation process and the congressional budget process.

The CBA was amended extensively by a series of laws that prescribed rules and procedures (including "sequestration") designed to constrain spending and receipts legislation. The latest was the Budget Enforcement Act (BEA) which was first enacted in 1990. The most recent version of the BEA constrained legislation enacted through 2002 that would increase spending or decrease receipts. It applied to appropriations acts and other laws, so it affected almost every aspect of budgeting. Key enforcement provisions of the BEA, including the discretionary caps, expired at the end of 2002.

The BEA divided spending into two types—discretionary and mandatory—and applied different rules to each. Section 20.9 explains these rules.

15.4 What laws govern the budget execution process when funds are actually spent?

Chapters 13, 15, and 33 of Title 31, United States Code, govern the process of budget execution. Among these, the major laws are the Antideficiency Act, the Impoundment Control Act, the provisions known as the Economy Act which are found in section 1535, the provisions that govern the closing of accounts which are found in sections 1551 through 1555; and provisions of the "Miscellaneous Receipts Act," which is found in section 3302.

The Antideficiency Act requires OMB to apportion the accounts and to monitor spending; prohibits agencies from spending more than the amounts appropriated or apportioned, whichever is lower; requires that agencies control their spending; and provides penalties for overspending.

Specifically, agencies may not:

- Purchase services and merchandise *before* appropriations are enacted and accounts are apportioned;
- Enter into contracts that *exceed* the appropriation for the year or the amount apportioned by OMB, whichever is lower; or
- Pay bills when there is *no cash* in the appropriation or fund account.

The head of each agency is required to establish, by regulation, a system of administrative control of funds that:

- Restricts *both* obligation and expenditure (outlays or disbursements) from each account to the *lower of* the amount apportioned by OMB or the amount available for obligation and/or expenditure.
- Enables the head of the agency to identify the person(s) responsible for violating the Act.

There are administrative and criminal *penalties* for violating the Antideficiency Act. Also, the agency head is required to report any violations to the President, through the OMB Director, and to the Congress. See section 145 for instructions on reporting violations.

The Impoundment Control Act, which was enacted in 1974, requires that the President notify Congress whenever the Executive Branch withholds, delays, or precludes the obligation or expenditure of budget authority. There are two types of impoundments: the temporary *deferral* of funds and *rescission proposals* to permanently cancel spending**.** The Act also prescribes the rules that must be followed whenever the executive branch impounds funds**.** See section 112 for instructions on reporting deferrals and rescission proposals and the rules that must be followed.

15.5 What does the Government Performance and Results Act of 1993 require?

This law emphasizes managing for results—emphasizing what a program accomplishes and how well the accomplishments match with the program's purpose and objectives. It requires agencies to prepare strategic plans, annual performance plans, and annual performance reports. Part 6 of this Circular addresses the requirements of this law.

15.6 What do I need to know about the Federal Credit Reform Act of 1990?

This law governs Federal credit programs—ones that make direct loans and loan guarantees. The Act prescribes a special budget treatment for direct loans and loan guarantees that measures their subsidy cost, rather than their cash flows. For most credit programs, Congress must provide budget authority equal to the subsidy cost in annual appropriations acts before the program can make direct loans or loan guarantees. Section 185 of this Circular addresses the requirements of this law, which was enacted as an amendment of Title V of the Congressional Budget Act of 1974.