

## General Policies

### Summary of Changes

- Agencies are reminded of the OMB Circular No. A–25 requirement for a biennial review of user charges for agency programs (section 12.5(e)).
- Agencies are required to budget for the costs of storing and servicing their temporary and inactive records and to reimburse the National Archives and Records Administration for these costs (section 12.5(x)).
- Budget-related materials subject to OMB clearance include accountability reports and other financial management documents, when budget or policy issues are addressed (section 12.9(b)).

### 12.1. Basis for agency proposals.

Agency proposals should result from a comprehensive system that integrates analysis, planning, evaluation, and budgeting and reflects:

- the policies of the President;
- consideration of appropriate roles for Federal, State, and local governments, as well as the private sector, in conducting the activity covered;
- missions, goals, and objectives of the agency, as required by 31 U.S.C. 1105; and
- implementation of the President’s policies on management improvement.

State and local officials should be involved in the development of policy and budget priorities and programs having significant State and local impact.

Budget estimates should reflect the judgment of the agency head regarding the scope, content, performance, and quality of programs and activities that are being proposed to meet the agency’s goals and objectives and be consistent with agency strategic plans and annual performance plans.

Budget estimates should reflect adequate support for accomplishment of approved plans for management improvement in the areas of management integrity and controls, credit and cash management, financial systems, and financial reporting.

In addition, agencies should consider the effect that demographic, economic, or other changes may have on their program levels beyond the BY and be prepared to discuss the impact that program levels and changes in methods of program delivery, including advances in technology, will have on program operations and administration.

### 12.2. Coverage of the estimates.

(a) **Presidential policy estimates for CY and BY.**—The *regular annual estimates* must reflect completely all requirements anticipated at the time of budget submission for:

- continuing activities, including those for which additional authorizing legislation is required for the budget year;
- authorized activities that are proposed for the budget year; and
- amounts necessary to meet specific financial liabilities imposed by law.

Estimates should also reflect decreases for activities proposed for termination.

No supplemental estimate of appropriations or upward amendment of the estimates will be considered later, unless it is due to circumstances that were unforeseen at the time the annual estimates were submitted or due to subsequent action by Congress (see section 61).

**Legislative proposals.**—If, in addition to the regular appropriations request, it appears probable that proposals for new legislation may require a further budget request or result in a change in revenues or outlays, a tentative forecast of the estimate will be set forth separately in the agency’s budget submission. Such proposals must be consistent with items appearing in the agency’s legislative program, as required by OMB Circular No. A–19.

**Amounts for supplemental appropriations** required in the current year to meet unforeseen contingencies in programmatic costs will be set forth separately in the agency’s budget submission (see section 32.8).

Supplemental requests for the current year normally will be transmitted to Congress with the budget. However, each case will be decided separately after submission of agency budget estimates (see section 15.3). OMB representatives will inform agencies which supplementals will be transmitted with the budget, so agencies can submit the necessary information.

(b) **Presidential policy outyear estimates.**—Policy estimates for the nine years following the budget year (BY+1 through BY+9) enable the President to evaluate the long-term consequences of proposed program or tax policy initiatives and to make decisions in that context. (Baseline estimates, described in

section 23, provide a basis against which alternatives, including Presidential policy estimates, can be assessed.)

Outyear policy estimates will be consistent with the general policies and information required for the budget year and will indicate the degree to which specific policy decisions made for the budget year or any subsequent year affect budget authority, outlay, and receipt outyear levels. Estimates of budget authority, outlays, and receipts for BY+1 through BY+9 should take into consideration changes in spending trends, economic assumptions, and other actions or events. (See section 12.3(a) regarding economic assumptions.)

**Growth in agency workload** generally will be assumed to be offset by productivity increases so that related employment should not increase. Personnel currently funded will be utilized to the maximum extent in staffing new programs and expansions of existing programs. Reduced personnel levels should be planned where workload is stable.

**Federal payroll** cost estimates should assume pay rate increases at the agency and account level as specified in section 13.2(b)(1). In addition, the following three categories of budget accounts should reflect the effects of civilian and military pay raises using the pay raise assumptions specified for these accounts in the Mid-Session Review:

- Governmental receipt accounts containing federal employee contributions to federal employee retirement;
- offsetting receipt accounts (employer share, employee retirement) containing employing agency contributions to federal employee retirement; and
- general fund contributions to the federal employee retirement.

Major agencies with accounts in these categories include DOD, State, Treasury, and OPM.

**Benefit payment** estimates should be as follows:

- Unemployment insurance benefit* estimates should be consistent with the aggregate unemployment rate assumptions supplied by OMB.
- Medicare and Medicaid* program estimates should be based on the Department of Health and Human Services forecasts and the latest actual information available. Assumptions on medical care prices related to the consumer price index, utilization rates, number of beneficiaries, and other factors affecting the estimates will be developed jointly by the agency and OMB.

—*Other benefit payment* program estimates (including old-age, survivors, and disability insurance (OASDI); railroad retirement; civilian and uniformed services retirement; supplemental security income; and veterans' compensation, pensions, and readjustment benefits) should be calculated by multiplying the expected number of beneficiaries in each future year by average benefit payments per beneficiary for each future year. The average payments should take into account changes in the earnings base, as applicable, on which the benefit is computed, unless existing law or Administration-supported legislation provides otherwise. When existing or proposed legislation provides for automatic cost-of-living adjustments, the result should be further multiplied by a cost-of-living or other adjustment factor to be supplied by OMB.

### 12.3. Basis for estimates.

(a) **Economic assumptions.**—Estimates will be consistent with the economic assumptions provided by OMB. This policy applies to all budget materials including those for the outyear policy and baseline estimates (see sections 12.2(b) and 23). The specific guidance below applies to outyear policy estimates.

(1) *Effect of inflation.*—The policy of permitting *consideration* of price changes for goods and services as a factor in developing estimates does *not* necessarily mean that an allowance for the full rate of anticipated inflation should be included automatically in agency requests.

For mandatory programs, estimates must reflect the full inflation rate where such an allowance is required by law and a decision is not made to propose less than is required. For discretionary programs, estimates may include an allowance for less than the full rate of anticipated inflation or even no allowance for inflation. In many cases, there will be trade-offs between budgeting increases for inflation versus other increases for programmatic purposes. Unless OMB determines otherwise, it is expected that agency budget requests to OMB will be within the budget planning guidance levels provided to them, regardless of the effect of inflation.

If the economic assumptions are revised shortly before final budget decisions are made, these revisions will not usually result in changes to the previous budget guidance on agency totals.

Pay raises will be reflected in agency estimates of personal services costs, rather than in governmentwide allowances (see section 13.2(b)(1)).

(2) *Justification materials.*—Each agency is required to identify in its justification materials the anticipated price level changes reflected in the financial resources required to finance each program level.

(b) **Unit cost information.**—Estimates will be based upon the most economical and efficient manner of carrying on the work of each agency. For this purpose, unit (average) cost information should be developed to permit cost comparison and analysis to determine whether program costs are minimal. Where possible, costs should be separated into fixed and variable components so that marginal costs can be derived in addition to unit costs. Such information will also provide a credible base for projections of future costs and the need for budgetary resources. Upon request, agencies will provide both unit cost and marginal cost information in the manner specified by OMB representatives.

(c) **Federal credit programs.**—Agencies will ensure that estimates for all direct and guaranteed lending programs are prepared in accordance with OMB requirements (see sections 31.5, 33, OMB Circular No. A-129, and the OMB credit subsidy model and user's guide). As specified in OMB Circular No. A-129, the Federal Financing Bank (FFB) generally finances guarantees of timely payment of 100 percent of loan principal and interest against all risk. Such loan guarantees create the equivalent of Federal direct loans that are financed by borrowing from the Treasury under the authority of the Federal Credit Reform Act of 1990 (FCRA). These guarantees are treated as direct loans for budget purposes. Accordingly, proposed legislation to create a new, or renew an existing, credit program that does not require substantial risk sharing will provide for direct loans in lieu of loan guarantees.

(d) **Government perquisites.**—Agencies will ensure that estimates reflect Administration policy to limit the use of government vehicles, government aircraft, first class air travel, executive dining facilities, and conferences, in accordance with Presidential memorandum, dated February 10, 1993.

(e) **Full-time equivalent (FTE) employment.**—Estimates will be consistent all applicable laws and will represent an effective and efficient use of resources to meet program requirements. (See section 15.2(a)(5) for additional information).

(f) **Advisory committees.**—Agencies will ensure that estimates reflect the results of the committee reviews required by Executive Order No. 12838, dated February 10, 1993, which required agencies to reduce the number and cost of non-statutory advisory committees. The reduction required by the Executive Order and the agency advisory committee ceilings established by OMB Circular No. A-135, remains in effect; agency estimates should reflect the continued reduced number and cost of advisory committees in their budget planning. The costs of advisory committees established by statute that are being proposed for termination will be identified separately.

(g) **Performance indicators, performance goals, and management improvement.**—Agencies will ensure that estimates reflect full consideration of the Administration's commitment to improve program performance, management integrity and controls, program delivery, and financial management.

(1) *Performance indicators and performance goals.*—Agencies will ensure that their estimates reflect the use of program performance indicators and performance goals in the manner specified by OMB representatives and consistent with agency strategic plans and annual performance plans (see section 15.2 and Part 2 of this Circular).

(2) *Information systems.*—Agencies will ensure that estimates reflect the Administration's commitment to information technology planning that directly supports agency strategic missions by forming strong linkages between planning and budget formulation and execution, consistent with the Clinger Cohen Act of 1996 (see also Part 3 of this Circular, where applicable).

(3) *Financial systems.*—Agencies will ensure that their estimates reflect plans to achieve a single, agency-wide, integrated financial management system and CFO plan initiatives. The scope of agency financial systems activities will include:—core financial systems, as described in the JFMIP Core Financial System Requirements Document; and—financial and mixed systems critical to effective agency-wide financial management, financial reporting, or financial control.

Submission requirements for agency financial management systems are described in sections 15.4, 40, and 42.

(h) **Customer service.**—Agencies will ensure that estimates reflect fully the Administration's commitment to providing the highest quality service possible

to the American people. As indicated in Executive Order 12862, it is the Administration's goal to make all aspects of the executive branch's management practices and operations equal to or better than the best service in the private sector.

In developing estimates, full consideration should be given to enhancement of customer service both to Federal and non-Federal clients, based on information obtained from customer service surveys and other sources. Estimates should also reflect implementation of customer service plans, including training and information collection needed to achieve customer service standards.

**(i) Equal opportunity.**—Agencies will ensure that estimates reflect fully the Administration's commitment to programs designed to ensure or promote equal opportunity regardless of race, color, religion, national origin, sex, disability, or age. These civil rights activities include implementation of statutes or regulations requiring fair housing, nondiscrimination in federally assisted or conducted programs, equal credit opportunity, full voting rights, civil and Constitutional rights, and equal employment opportunity (including nondiscrimination by Federal agencies). They also include efforts to increase Federal contracting and subcontracting opportunities for minorities, women, and disadvantaged entrepreneurs.

**(j) Multi-year appropriations.**—When developing estimates, agencies should consider whether it is appropriate to request appropriations with multi-year availability, particularly for buildings, equipment, and other types of fixed capital assets, including major ADP and telecommunications systems, with long acquisition cycles. Where multi-year appropriations requests are appropriate, the period of availability should match the expected length of the acquisition cycle.

**(k) Full funding.**—Requests for acquisition of capital assets will provide full funding up front or propose advance appropriations to cover the full costs of the project. Specifically, requests for procurement programs will provide for full funding of the entire cost. In addition, requests for construction programs will provide for full funding of the complete cost of construction. Estimates should not be submitted for construction funds for major construction projects, unless planning will reach a point by the end of the current year that will ensure that a contract for construction could be awarded during the budget year. (See section 12.5(v) on leases of capital assets and lease-purchases.) Agencies are reminded that

Administration policy and the Antideficiency Act require them to have sufficient budget authority or other budgetary resources to cover the full amount of unconditional obligations under any contract. (See Part 3 of this Circular for guidance on budget submissions for capital asset acquisitions. For guidance on principles and techniques of planning, budgeting, procurement, and management of capital assets, see the supplement to this Circular, the *Capital Programming Guide*, which is published separately.)

**(1) Taxes and tax expenditures.**—Agencies will ensure that their requests for budgetary resources include full and explicit consideration of the resources being made available by the Federal Government through tax expenditures and other tax incentives.

(1) *Definition.*—Tax expenditures are defined as revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability (2 U.S.C. 622). They include subsidies provided through the income tax system.

(2) *Justification materials.*—After consultation with the Office of Tax Analysis, Department of the Treasury, proposals for new or modified taxes or tax expenditures will be submitted to OMB with the views of the Office of Tax Analysis and a justification of:

- the nature and extent of the problem addressed by the proposal;
- the reason a subsidy is needed;
- the non-tax alternatives; and
- the reason a tax change is preferable to the non-tax alternatives.

In addition, agencies may be required to justify the continuation or reenactment of existing taxes and tax expenditures in the program areas for which they have primary responsibility. Such justifications will reflect consultation with the Office of Tax Analysis and should contain the information described above.

In general, tax expenditures will be subject to the same degree of performance evaluation as spending and regulatory programs. Tax expenditures often complement or substitute for agencies' spending or regulatory programs, and the resources and incentives provided through tax expenditures can be substantial. Agencies are encouraged to work with the Office of Tax Analysis, which has lead responsibility for tax policy and analysis of tax expenditures,

to develop data and methods to evaluate the effects of tax expenditures, which affect (or are directed at the same goals as) their programs. Agencies should be prepared to furnish, upon request, problem analyses, estimates of economic effects, and other materials that will provide explicit quantitative information on the relationship of existing or proposed tax expenditures to proposed budget expenditures. (For guidance on inclusion of tax expenditure data in annual performance plans, see Part 2 of this Circular.)

**(m) Performance of commercial activities.**—Agency estimates of savings will reflect the probable results generated by cost comparisons or other performance conversions authorized by OMB Circular No. A-76 and its Revised Supplemental Handbook (March 1996). For budget estimates for activities that assume additional FTE or dollar resources to provide a product or service, agencies shall submit a full justification, including a possible recompetition, waiver justification, or determination of workload increase, as appropriate. To the extent possible, additional resources for in-house performance of a commercial activity should be offset by savings from other efforts to reduce costs, including savings from conducting cost comparisons on other existing in-house activities, reinvention savings, or attrition.

Requests for in-house government resources to begin, expand, or enlarge, a government operated activity; to convert a contracted activity to in-house performance; or for one agency to provide new or expanded services to another agency on a reimbursable basis, must be justified in advance in accordance with the requirements of the Revised Supplemental Handbook.

Except as specifically exempted, all commercial activities are subject to the cost comparison requirements of the Circular No. A-76 and its Supplemental Handbook. This includes the purchase and use of government aircraft and motor vehicle fleets.

**(n) Use of MAX electronic network.**—For the purpose of cost distribution as specified in OMB Circular No. A-130, OMB is the user of MAX. Accordingly, agencies are not required to pay for use of the MAX electronic network required by this Circular.

#### 12.4. Required consultations.

Certain proposals require coordination, as described below, before budget estimates are submitted to OMB.

**(a) Tax expenditures.**—Agencies are required to consult with the Office of Tax Analysis, Department of the Treasury, prior to submission of budget estimates to OMB and to reflect the views of that office in their justification materials (see section 12.3(l)(2)).

**(b) Public works in the National Capital area.**—Estimates for construction of public works in the National Capital area will be submitted only after the agency has consulted with the National Capital Planning Commission in the preparation of plans and programs.

**(c) Public works in the District of Columbia.**—Estimates for plans and construction of buildings and other structures in the District of Columbia that may affect in any important way the appearance of the city, and other questions involving artistic considerations with which the Federal Government is concerned, will be submitted only after consultation with the Commission of Fine Arts.

**(d) Construction of nuclear reactors.**—Estimates for construction of nuclear research and test reactors will be submitted only after a letter setting forth the recommendations of the Department of Energy has been obtained.

**(e) Communications-electronics systems.**—Estimates for the development or procurement of major communication-electronics systems (including all systems employing space satellite techniques) will be submitted only after certification by the National Telecommunications and Information Administration, Department of Commerce, that the radio frequency required for such systems is available.

**(f) Compliance and cost estimates for pollution control.**—Pursuant to Executive Order 12088, “Federal Compliance With Pollution Control Standards,” agencies will submit, after consultation with the Environmental Protection Agency, an annual plan with cost estimates for the control of environmental pollution.

**(g) Use of foreign currencies.**—Where applicable, agencies should refer to Department of Treasury and Department of State guidelines on the use of foreign currencies. Detailed instructions are set forth in the Treasury Financial Manual (chapters 3200 and 9000) and the Foreign Affairs Manual (Volume 4, Chapter 360). In addition, guidance on excess and near excess foreign currencies is periodically issued by OMB. Agencies should consult with the Department of Treasury, International Trade Office, the Department of State’s Office of Financial Operations, Banking and Foreign Currency staff,

or their OMB representative on questions not addressed by these instructions.

### 12.5. Estimates relating to specific objects of expenditure.

(a) **Hospital care.**—In developing estimates for hospital costs, data based on the use of resources allocated by *diagnosis-related groups* are the most desirable. Such data should be compared with payment rates of other payers using similar groupings. Care should be taken to clearly indicate whether or not capital and depreciation costs are contained. The estimates should be accompanied by a description of the cost allocation method underlying the data.

The amount of reimbursement collected from third parties as well as other Federal agencies should be identified when an agency provides hospital care on a reimbursable basis. The estimates of reimbursements and other income from charges for such care shall be based on such per diem rates as may be established by the agencies specifically authorized to establish such rates for the particular class of patient and type of care involved, unless different rates or charges are established by or pursuant to a specific requirement of law.

(b) **Motor vehicles.**—Estimates for motor vehicles will be consistent with the policies and guidance cited below.

(1) **Alternative-fueled vehicles.**—Estimates will reflect the Administration's commitment to comply with the requirements of the Energy Policy Act of 1992 (EP Act), which mandates that, subject to some conditions and exemptions, 75 percent of vehicles acquired by Federal agencies in FY 1999 and subsequent years should be alternative-fueled vehicles (AFVs). As specified in Executive Order No. 13031 and OMB Memorandum M-97-04, agencies are reminded to incorporate plans for acquiring AFVs in their vehicle ordering plans for the current, budget, and future years. Agencies are required to report annually on compliance with sections 303 and 304 of the EP Act and provide AFV acquisition data for PY–BY with agency initial budget submissions. Further instructions on this requirement will be issued separately.

(2) **Other requirements.**—Estimates for sedans and station wagons shall be based on the requirements of GSA's Federal Property Management Regulations and Federal Standard No. 122. Estimates will not exceed price limitations in effect for the current year plus the estimated cost of

additional systems and equipment justified to GSA, unless otherwise provided by law. Provisions for replacement of motor vehicles and related equipment will be made in accordance with GSA replacement standards and in accordance with Presidential memoranda, dated February 10, 1993.

(c) **Real property.**—Agency estimates for the acquisition of real property will be included in the agency's budget submission. Estimates for acquisition of real property under contract will be consistent with obligations reported in object class 32. These estimates will be consistent with the policies set forth by the Administrator of GSA, as provided by Executive Order No. 12512.

(d) **Design and construction of Federal facilities.**—Estimates for Federal facilities will be prepared, as described below.

(1) **Pollution control standards compliance.**—Estimates of design and construction costs at Federal facilities will be in accord with Executive Order 12088, which requires compliance with pollution control standards.

(2) **Safe workplaces.**—Estimates for the design and construction of Federal facilities and buildings, capital investment, and the purchase of equipment will include amounts required to ensure that existing facilities provide safe and healthful workplaces for Federal employees consistent with the standards promulgated under section 19 of the Occupational Safety and Health Act of 1970, the provisions of Executive Order No. 12196, and the related Safety and Health Provisions for Federal Employees of the Secretary of Labor (29 CFR, Chapter XVII, Part 1960).

(3) **Structural barriers in Federal buildings.**—Agencies will ensure that estimates for construction and renovation of Federal facilities and buildings reflect full consideration of the need to eliminate structural barriers impeding the mobility of individuals with disabilities, consistent with the Architectural Barriers Act of 1968.

(4) **Scientific laboratory facilities.**—Submissions that propose additional or replacement *scientific laboratory facilities* should be accompanied by evidence that the agency has reviewed the GSA inventory of Federal laboratories. The agency request should reflect the precise reasons for acquiring new space instead of using existing laboratories having sufficient space available, as reported in the GSA inventory.

(e) **User fees.**—Agencies are reminded that section 8(e) of OMB Circular No. A-25 requires at least a biennial review of user charges for agency programs. Agencies should ensure that estimates are developed in accordance with the full cost recovery policy for user fees set forth in that circular. Under the circular, user fees normally should recover the full cost of providing goods or services to the public. The exception to this rule is when the Government provides goods or services under business-type conditions; in such cases, the user fee should be set at the market price.

In determining full cost recovery, user fee estimates should reflect retirement costs related to provision of the goods or services. For the Civil service retirement system, costs should be estimated at 17.2 percent of base pay; costs related to the Federal employees' retirement system should be estimated as specified in section 12.5(i).

(f) **Construction in flood plains.**—As required by Executive Order Nos. 11988 and 11990, estimates for the construction of *buildings, structures, roads, or other facilities*, whether financed directly by Federal funds or through grant, loan, or mortgage insurance programs, should be based upon land utilization plans that preclude the uneconomic, hazardous, or unnecessary use of flood plains or wetlands. Agencies will indicate in their requests whether the proposed activities will be located in a flood plain or wetland and, if so, whether the activities are in accordance with the Executive Orders.

(g) **Major systems acquisitions.**—Agencies should develop their estimates for acquisition of major systems, including information technology systems, consistent with guidance in the *Capital Programming Guide*, the requirements of Title V of the Federal Acquisition Streamlining Act of 1994 (FASA), and the Clinger Cohen Act of 1996 (ITMRA). Estimates should reflect the Administration's commitment to thorough capital planning to define requirements and establish realistic cost, schedule, and performance goals for new acquisitions. Where appropriate, and in accordance with Federal Acquisition Regulations, estimates for major information systems should reflect projects as narrow in scope and brief in duration as practical in order to reduce risk, promote flexibility and interoperability, increase accountability, and better match mission need with current technology and market conditions. (See Part 3 of this Circular for reporting requirements related to FASA and the Clinger Cohen Act, where applicable.)

(h) **Federal Employee Compensation Act.**—For budget accounts subject to appropriations action, the budget year estimates will include the amount billed by the Employment Standards Administration of the Department of Labor for benefits paid on their behalf in the past year under the Federal Employee Compensation Act. (For accounts not subject to appropriations action, agencies pay the bill in the current year.)

(i) **Federal employee retirement.**—Agency budget estimates should reflect retirement costs for Federal employees under the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS). Basic pay, as used below, is defined at 5 U.S.C. 8331(3).

For CSRS, the agency cost is 8.51 percent of basic pay through 2002, except for law enforcement officers, firefighters, certain judges, congressional staff, and members of Congress, as noted in 5 U.S.C. 8334(a).

For FERS, the agency cost is comprised of the costs for the FERS basic benefit, social security, and the thrift savings plan (TSP). The agency cost for the FERS basic benefit is 10.7 percent of basic pay, except for law enforcement officers, firefighters, air traffic controllers, certain CIA employees, congressional employees, and Members of Congress. To obtain the agency cost for these employees, agencies should refer to the *Federal Register* of April 18, 1997 and reduce the normal cost percentage provided in the *Federal Register* 1.3 percent. TSP estimates should be based on the agency's actual experience and should be between one and five percent of the FERS basic payroll.

(j) **Unemployment compensation.**—In general, agencies should not budget for the costs of unemployment compensation for former Federal civilian and military personnel. The congressional intent is that such unemployment compensation be paid from appropriations available to the employing agencies. These reimbursements will be absorbed by the liable agencies when they are required to be paid. For agencies that do not employ large numbers of temporary employees or other personnel expected to lead to significant unemployment compensation claims, the estimates for the current and budget year will contain no special provision for the costs of reimbursing the unemployment trust fund for such payments.

Agencies that employ large numbers of temporary employees to meet part-year workload may request approval from OMB to budget for unemployment

compensation costs of their temporary employees. OMB will consider such requests from agencies that demonstrate they have in operation a sound administrative control system for unemployment compensation claims.

**(k) Space and related requirements.**—Agency estimates will include payments required for space, structures and facilities, land, and building services provided by GSA and by others. In addition, supporting materials indicating the total amounts for these charges to be paid to GSA and the basis for distributing these amounts by appropriation will be provided to OMB, if agency rental payments exceed \$5 million in PY, CY or BY (see section 15.6). Where agencies are experiencing employment reductions, corresponding reductions in space requirements and associated costs should be planned.

**(l) Tort claims.**—Estimates will not include amounts for payment of tort claims, except where there is a substantial volume of claims presented regularly.

**(m) Travel.**—Every effort should be made to minimize official travel. Use of established sources for official travel, such as the General Services Administration's Travel Management Centers, negotiated hotel rates, city-pair airline contracts, etc., are encouraged. Estimates for travel will reflect application of the allowances authorized under the Federal Travel Regulations issued by GSA or under comparable regulations issued by the Department of Defense for travel of military personnel and by the Department of State for foreign service personnel. Estimates will also take into account changes in prices for travel by commercial modes.

**(n) Construction of federally-owned housing.**—Agencies should ensure that estimates for construction of family housing for civilian and military personnel (either rental housing or public quarters) are consistent with the following guidelines. These guidelines apply to construction of family housing (including conversions of structures for dwelling purposes), both within the continental United States and overseas, except for construction of military barracks. (OMB Circular No. A-45, "Policy Governing Charges for Rental Quarters and Related Facilities," provides additional guidance on standards applicable to construction of federally-owned housing.)

- (1) *General.*—Estimates should *not* include funding for construction of housing for civilian employees, except where necessary to maintain continuity and efficiency of service. In no case should estimates include funding for construction of family housing for civilian or military personnel

if private capital can be found to do the financing.

Unless OMB determines otherwise, estimates for construction of housing must be justified under one or more of the following conditions:

—Where the construction is for *public quarters* (i.e., where the law authorizes the provision of housing without charge, such as for military public quarters);

—Where construction is necessary to meet *requirements for service or protection*; or

—Where there is *lack of available housing*.

Where seasonal demands of the agency's program or remoteness of the station would make housing and transportation costs together unreasonably high, and where such conditions jeopardize the agency's ability to maintain a qualified staff, a request for an exception to these guidelines may be submitted to OMB.

- (2) *Requirements of service or protection.*—Construction of housing may be justified in cases where the agency head determines that necessary service cannot be rendered, or United States property cannot be adequately protected, unless certain employees are required to live in government quarters at the station. In such cases, the agency must demonstrate that requirements for service or protection cannot be met if personnel are permitted to live away from the station.

- (3) *Lack of available housing.*—Construction of housing may be justified at remote stations, at foreign service posts, or under other circumstances when the agency head determines that necessary service cannot otherwise be rendered. In such cases, the agency head's determination must be based on a supportable finding that the available supply—present and prospective—of government and private housing within reasonable commuting distance will not meet the necessary housing requirements. In determining the adequacy of the available supply, consideration must be given to any additional private housing that can reasonably be expected to be constructed or otherwise become available.

*Available housing* will usually include both housing for sale and for rent, except where rotation of personnel between stations occurs at intervals of approximately three years. In those cases, only rental housing should be considered available.

*Reasonable commuting distance* is, as a general rule, a distance requiring travel time of not



more than two hours per round trip by automobile or public transportation, or resulting in expenses per person of not more than \$5.00 per round trip by public transportation (except in metropolitan areas). Exceptions to this rule may be made by the agency for military necessity; for requirements of service or protection; or if justified on the basis that time and cost involved in commuting would create a hardship upon employees, that local commuting habits differ materially, or that public transportation is not readily available.

*Insufficiency or inadequacy of the housing supply* can be demonstrated by showing that one or more of the following conditions exist and are likely to be of extended duration:

- that housing cannot be located through realtors or advertisement;
- that the available housing is substandard by reasons of design, construction, or location;
- that, because of size, it is considerably more costly than employees can afford; or
- that employees subject to rotation cannot obtain leases permitting them to vacate on thirty days notice, at prevailing rental rates.

**(o) Inpatient care facilities and medical care services.**—Estimates for capital improvement of Federal inpatient care facilities and plans for provision of major new medical care services will reflect review by State and appropriate areawide agencies in accordance with Executive Order No. 12372.

**(p) Interagency and advisory committees.**

*Interagency groups* (including boards, councils, committees, and similar groups).—Financing interagency groups by contributions from member agencies' appropriations is prohibited by a government-wide general provision, unless such financing is specifically authorized by statute. Therefore, financing for such groups must be proposed in the budget in the form of:

- appropriations specifically for the interagency group; or
- specific language authorizing interagency funding.

*Advisory committees.*—Agencies will ensure that estimates reflect full consideration of the expenses of advisory committees. In this connection, each agency will be guided by the policies and provisions contained in GSA's Interim Rule on Federal Advisory Committee Management (*Federal Register*, Vol. 48, No. 83, April 28, 1983, p. 19326) and any related instructions (see section 12.3(f)).

**(q) United States mail.**—Estimates for official use of the United States mail, package delivery, and/or private carrier service will include a sufficient amount to pay postage due, in accordance with the Postal Service regulations, vendor requirements, and GSA government-wide mail management instructions in effect at the time estimates are prepared, and will take into consideration changes in program requirements. Estimates should assume maximum use of available postage discounts.

**(r) Coastal Barrier Resources Act.**—Estimates should not include any new Federal expenditures or financial assistance prohibited by the Coastal Barrier Resources Act (Public Law 97-348).

**(s) Water and sewer payments to the government of the District of Columbia.**—Estimates should include amounts for payment to the government of the District of Columbia for water and sewer services.

**(t) Remedial environmental projects.**—Estimates of the cost of the design, construction, management, operation, and maintenance of remedial environmental projects at Federal facilities should be consistent with policies set forth in Executive Order 12088.

**(u) Contractor claims.**—Estimates will include amounts for reimbursement of the Claims and judgment fund for the full amount paid from the fund on behalf of an agency for contractor claims during the past year under the Competition in Contracting Act.

**(v) Leases of capital assets.**—Agencies will ensure that leases of capital assets have been justified as preferable to direct government purchase and ownership, in accordance with the policies contained in OMB Circular No. A-94.

Lease-purchases and capital leases will be scored consistent with the scorekeeping rules developed under the Budget Enforcement Act of 1990, as revised pursuant to the Balanced Budget Act of 1997 (see Appendix A). For all lease-purchases and leases of capital assets, agencies must have sufficient budgetary resources upfront to cover the present value of the lease payments discounted using Treasury interest rates.

For lease-purchases in which the government assumes substantial risk, outlays will be reported over the period during which the contractor constructs, manufactures, or purchases the asset. For capital leases or lease-purchases in which the private sector retains substantial risk, outlays will be reported over the lease period, equal to the annual payments under the lease. The explicit or implicit obligation

of the Federal Government to make payments is the most important financial characteristic OMB will review to determine the level of risk involved. OMB will also consider other characteristics in evaluating the level of private sector risk in a project.

Detailed instructions on scorekeeping are included in Appendix B.

**(w) Federal Government aircraft.**—Estimates will reflect the policies on agency aircraft programs and the results of periodic reviews of these programs in accordance with OMB Circulars No. A-126 and A-76 (see sections 12.3 (d) and (m)).

**(x) Temporary and inactive records storage and accession service.**—Agencies should budget for the costs of storing and servicing their temporary and inactive records. Agencies will reimburse the National Archives and Records Administration for these costs through individually-executed interagency memoranda of agreements. The intent of this requirement is for agencies to become better and more responsible Federal records managers, and, as a result, avoid unnecessary retention of duplicate and inappropriate Federal records.

## 12.6. Estimates of collections and outlays.

**(a) Collections.**—Estimates of collections (see sections 14.1 and 14.2(d)) will be consistent with economic assumptions provided by OMB and will include amounts to be received under proposed legislation, separately identified, as well as under existing legislation.

Estimates of collections resulting from charges for government services and property should be based on policies set forth in OMB Circulars No. A-25, A-45, and A-130, as applicable.

*For offsetting and governmental receipts*, amounts reported will include all collections credited to the agency's receipt accounts and exclude collections credited to receipt accounts of other agencies (except amounts credited to certain Treasury Department accounts, as explained in section 15.10). Receipts will be reported on the basis of collections credited to receipt accounts during the year, plus or minus the adjustment of those collections. Amounts for the past year will agree with receipts reported to Treasury as shown on Treasury Financial Management Service Form 6655, Receipt Account Trial Balance. For indefinite appropriations of receipts, the amount of estimated collections generally will equal the related estimates of budget authority, except where amounts are precluded from obligation

by provisions of law, such as a limitation on obligations or a benefit formula (see section 14.2(b)).

Amounts for investment receipt accounts will be reported in accordance with the instructions in section 14.3. Earned discounts, sales premiums, and purchase premiums will be reported to the interest receipt account (usually, suffix .20).

**(b) Outlays.**—Agencies have primary responsibility for accurate outlay estimation. In estimating outlays, full account should be taken of time lags between the incurring of obligations and the receipt of, and payment for, goods and services. Estimates should take into consideration the viability of obligations (i.e., the likelihood that unliquidated obligations will have to be paid).

Care should be taken to make realistic estimates of outlays. Outlays are directly involved in determining the size of the deficit and thus in determining overall budget policy. Further, outlay estimation has taken on increasing importance under the Budget Enforcement Act. Outlay estimates should not be used as ceilings, but should represent the best estimate for a given level of program activity.

Methods for estimating outlays will be consistent with policies contained in OMB Circular No. A-34. Instructions on reporting requirements for outlay plans are included in OMB Circular No. A-34.

**(c) Consistency in spendout rates and outlays from prior year balances.**—Spendout rates (i.e., the amount of outlays from new budgetary resources made available in that year compared to the amount of such new budgetary resources, expressed as a percentage) and outlays resulting from balances of prior year budgetary resources for Presidential policy and baseline estimates generally should be consistent for each budget account. Outlays from prior year balances should be the same, except where policy proposals restrict or accelerate spending from balances.

If the spendout rates differ between Presidential policy and baseline estimates (e.g., due to a shift in programs within an account), agencies should be prepared to explain the differences.

## 12.7. Information on specific authorizing legislation.

Congress, congressional committees, the Congressional Budget Office (CBO), and the General Accounting Office (GAO) may request budgetary information related to authorizing legislation. Agencies should be prepared to furnish, upon request and to the extent practicable, information on authorizing

legislation by programs, budget functions and sub-functions, accounts, and organization and estimates (budget authority, obligations, and outlays) related to authorizations, enacted or currently before Congress, for the *current* and *prior fiscal years*, other than supplementals or rescissions for the current year, for each title and section of authorizing legislation. Information relating to prior and current years (other than supplementals or rescissions for the current year) may be supplied before the President's budget has been transmitted officially to Congress.

Agencies should also be prepared to furnish, upon request, information for all years included in the President's budget relating to amounts authorized (budget authority, obligations, and outlays) and related information for specific provisions of legislation that authorize or are proposed to authorize each program or activity in its submissions with respect to the budget, baseline estimates, estimates related to new legislative proposals, and financial assistance to State and local governments. Agencies should furnish this information to congressional committees, CBO or GAO only *after* the basic document or proposals that the information requests are intended to amplify, have been transmitted officially to Congress.

### 12.8. Significance of Presidential decisions.

When the President has considered the estimates for the executive branch and made his decisions, each affected agency will be notified. The nature and amounts of the President's decisions are confidential and will not be released until the budget is transmitted to Congress.

Presidential decisions with respect to current year and budget year estimates (other than forecasts of items that will be transmitted formally later) represent the amounts recommended to Congress. These decisions, both in total and in detail, become the "proposed appropriations" as that term is used in the Budget and Accounting Act of 1921, as amended, and must be so justified by the respective agencies. Furthermore, agency justifications to OMB and any agency future year plans or long-range estimates will not be furnished to anyone outside the executive branch, except in accordance with section 12.9.

Agencies will be notified, at the time Presidential decisions on budget year estimates are made known, of the amount of any current year supplemental estimates to be requested in the budget. However,

the forecasts of supplemental items for later transmittal included in the budget are not commitments as to the amounts to be recommended formally to Congress later. The need for each such item will be reviewed again when the estimate is submitted formally by the agency. The amount to be requested will be determined at that time.

Upon receipt of the President's decisions, the agency head will exercise judgment as to the best and most appropriate distribution of those amounts that have been left flexible for consideration. Budget submissions will be revised promptly to bring them into accord with the actions of the President.

### 12.9. Responsibilities for disclosure with respect to the budget.

**(a) Agency testimony before and communications with Congress on budgetary matters.**—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 furnishing information on appropriations and budgetary matters, representatives of agencies should be aware of the limitations on such communications, including the limitation that:

"... 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)).

Furthermore, agency representatives should be aware of restrictions upon communications to influence legislation that are not conducted through proper official channels (18 U.S.C. 1913).

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:

- (1) Witnesses will give frank and complete answers to all questions.
- (2) Witnesses will avoid volunteering personal opinions that reflect positions inconsistent with the program or appropriation request the President has transmitted to Congress.

- (3) If statutory provisions exist for the direct submission of agency budget estimates to Congress, OMB may provide agencies with additional materials supporting the President's budget request to be forwarded by the agency to 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.
- (4) In responding to specific questions on program and appropriations requests, witnesses will refrain from providing the agency request to OMB as well as 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, and compare them against each other and against 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.
- (5) 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.
- (6) 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.

**(b) Clearance of budget-related materials for Congress and the media.**—Policy consistency is essential among the various sections of the President's budget, and the budget-related materials prepared by the agencies for Congress and the media. Agencies are responsible for ensuring that these budget-related materials are consistent with the President's budget and are submitted for clearance to OMB, unless a specific exemption from clearance is approved by OMB.

Agencies will submit all proposed budget justification materials to OMB for clearance prior to transmittal to congressional committees or individual Members of Congress or their staff. Agencies also will submit to OMB for clearance budget-related oversight materials.

Information subject to OMB clearance includes 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; appeals letters; reprogramming requests; related cost information; financial management documents when budget and policy issues are addressed (e.g., some accountability reports or transmittal documents for audited financial statements); and budget-related materials provided to congressional committees in response to their oversight activities. These materials will be provided to OMB in such a manner as to allow OMB five working days to review the material. *OMB review of reprogramming requests* may take longer than five working days under certain circumstances (e.g., if these requests have not been coordinated in advance with the OMB representative or if supporting materials have not been provided concurrently). 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 for expedited review.

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.

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.

**(c) Clearance of changes in the President's budget.**—The prohibition against submissions by agencies to 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 including changes in

the limitations or amounts recommended in the budget. When an agency desires to propose such changes, written requests will be presented to OMB in accordance with section 61.

If significant changes are planned in the amount requested or the scope and conditions pertaining to a program of the agency without changing proposed appropriations language contained in the budget on which 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. This procedure applies to appropriations requests, as well as to other estimates, e.g., business-type statements required by the Government Corporation Control Act.

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. 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.

**(d) Information available to the public.**—Although it is not possible to determine merely by the generic category of records whether an agency would be authorized to withhold records requested under the Freedom of Information Act (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)(5). Depending upon the nature of the record requested, other exemptions to the FOIA may apply, or the release of records may be inappropriate even after the end of the fiscal

year to which the records pertain. In deciding whether to withhold a budget document under applicable exemption, an agency should follow the memoranda on FOIA issued by the President and the Attorney General on October 4, 1993. Whether a document concerns a future, current, or past fiscal year will be a significant factor in deciding whether it should be withheld under FOIA Exemption 5. The release of a document is more likely to harm the budget process if it concerns a future fiscal year (or the current fiscal year) than if it concerns a past fiscal year. Agency heads will be held responsible for determining the propriety of releases of records under the FOIA pertaining to budgetary matters.

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 a proposed agency action" (5 U.S.C. 552b(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.