



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF NATIONAL DRUG CONTROL POLICY
Washington, D.C. 20503

ONDCP Circular: Budget Execution

September 9, 2021

TO: THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

FROM: REGINA M. LABELLE, ACTING DIRECTOR 

SUBJECT: BUDGET EXECUTION

1. **Purpose.** This circular provides guidance to National Drug Control Program agencies on ONDCP's authorities related to the execution of the National Drug Control Budget. This includes information and procedures related to reprogramming requests, the transfer of drug control funds between accounts, Fund Control Notices, and the establishment of financial plans.
2. **Rescission.** This circular rescinds and replaces the ONDCP Circular, *Budget Execution*, dated October 22, 2019.
3. **Authority.** *The Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act of 2018* (P.L. 115-271, dated October 24, 2018) provides the authority for ONDCP's oversight of the National Drug Control Program. In relevant part, this law has been codified at 21 U.S.C. §§1701 *et seq.*
4. **Definitions.** As used in this circular, -
 - a. **Financial Plan** means the detailed presentation of the agency/bureau's operating budget that is used to manage the execution of appropriated funds for the current fiscal year.
 - b. **Reprogramming or Transfer** means any change to an agency's or bureau's financial plan that requires Congressional notification.
 - c. **Fund Control Notice** means an apportionment of agency or bureau funds that directs drug control spending on particular projects or activities to ensure compliance with ONDCP guidance.
 - d. **Other key terms** related to the National Drug Control Program and its associated budget are defined in Section 4 of the ONDCP Circular, *Budget Formulation*, dated September 9, 2021. These terms include: *National Drug Control Program, National Drug Control Program agency, Bureau, Drug Methodology, Drug Control Functions, and Budget Decision Units.*

5. **Coverage.** The provisions of this circular apply to all National Drug Control Program agencies in the Executive Branch as defined by ONDCP Circular, Budget Formulation, dated September 9, 2021, Section 4.b. Further, an agency (or bureau, office, independent agency, board, division, commission, subdivision, unit, or other component thereof) not designated by the Director as a National Drug Control Program Agency shall be presumptively considered so designated pursuant to 21 U.S.C. § 1701(11) whenever a reprogramming or transfer of funding would affect a material change in support for the National Drug Control Program pursuant to 21 U.S.C. § 1701(10). Such reprogramming or transfer actions would be subject to reporting under this circular.
6. **Financial Plans.** All funding included in the National Drug Control Budget must be closely associated with account-level detail in the Budget of the President and program level detail included in the agency or bureau financial system(s). Linking the drug budget with the operating budget of each agency and bureau provides policy officials with the information they need to ensure that agency and bureau operating budgets support the implementation of the policies and priorities of the *National Drug Control Strategy*. Knowing drug control funding levels based on Federal appropriations during the year of execution assists ONDCP and agency and bureau policy officials in making more informed resource allocation decisions as part of the budget formulation process. ONDCP requires that all bureaus submit a financial plan for review and approval consistent with the guidance outlined below.
 - a. **Requirements:** ONDCP does not have a prescribed format for the reporting of financial plans by agencies or bureaus. Covered agency or bureau financial plans must include, at a minimum, the following information:
 - (1) **Funding Tables by Decision Unit and Function.** For the year of budget execution, each agency or bureau shall submit a financial plan that identifies drug control funding by budget decision unit and by drug control function at a level of detail similar to that in *ONDCP Circular: Budget Formulation, Attachment B*. This table shall display funding for the budget execution year at the President's Request level and the appropriated funding level as represented by the approved agency or bureau operating plan.
 - (2) **Program-Level Funding.** ONDCP requires agencies/bureaus to report program-level funding. Program-level funding shall be displayed on a table showing funding by budget decision unit and by program (as defined in *ONDCP Circular: Budget Formulation, Section 4.g.*).
 - (3) **Account Structure Relationship.** ONDCP requires that drug control funding levels be captured in the agency/bureau financial system(s) of record. Therefore, wherever practical, budget decision units reported under this section of the circular should be consistent with the account structure in the agency or bureau financial system(s) and the account structure reported in the appropriations report for the agency or bureau.

(4) **Methodology.** Each financial plan shall identify the methodology for reporting drug control funding by budget decision unit and drug control function. The agency or bureau shall indicate whether the methodology has been approved by ONDCP. If the decision units reported to ONDCP differ from the account structure reported in either the agency or bureau financial system(s) or in the appropriations report for the agency or bureau, then a description of the relationship between the budget decision unit reporting to ONDCP and the account structure reported in the agency or bureau financial system(s) and the appropriations report shall be provided. Each such description shall include a justification as to why it would be burdensome to report funding to ONDCP by budget decision unit using the same account structure as reported in the agency or bureau financial system(s).

b. **Due Dates.** Agency/bureau financial plans shall be submitted to ONDCP for review and approval not later than 45 days after appropriations for the agency/bureau are enacted.

7. **Reprogramming Requests.** No National Drug Control Program agency, in accordance with 21 U.S.C. § 1703(c)(4)(A), “shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds in an amount exceeding \$5,000,000 or 10 percent of a specific program or account that is included in the National Drug Control Program budget unless the request has been approved by the Director. If the Director has not responded to a request for reprogramming subject to this subparagraph within 30 days after receiving notice of the request having been made, the request shall be deemed approved by the Director under this subparagraph and forwarded to Congress.”

a. **Reporting Requirements:** The agency/bureau Chief Financial Officer shall submit a letter requesting ONDCP approval prior to submitting the reprogramming or transfer notification to Congress for any reprogramming or transfer that meets the reporting threshold under this section of the circular. The letter, including any necessary enclosures, shall meet the following reporting requirements:

(1) **Revised Financial Plan:** As referenced here, a financial plan is the detailed presentation of the agency or bureau’s budget that has been presented to the Congress. The reprogramming or transfer request to ONDCP shall include a presentation showing all resultant changes in funding levels in budget decision units, or changes in the programs, projects and activities within budget decision units.

(2) **Explanation of Changes:** The request shall provide a narrative explanation of the proposed changes to the financial plan and shall specifically highlight the impact of the reprogramming or transfer on the ability of the agency/bureau to implement the programs, policies, and activities of the National Drug Control Program.

(3) **Effect on Future Fiscal Years:** The reprogramming or transfer proposal shall also discuss how the proposed changes to the financial plan in the current fiscal year will affect agency resource levels for the highlighted budget decisions units, as well as programs, projects and activities, in future fiscal years.

- (4) **Draft Notification to Congress:** The material provided to ONDCP for review shall include the draft letter notifying Congress of the proposed changes.
- b. **ONDCP Action:** After review of the material provided by the agency under Section 7.a., the Director's determination under this Section will be communicated in writing to the responsible agency official.
- c. **Agency Appeals:** Pursuant to 21 U.S.C. § 1703(c)(4)(B), an agency head may appeal to the President for the reconsideration of the Director's disapproval of a reprogramming or transfer request under Section 7.b. of this circular.
- 8. ONDCP Transfer Authority.** The Director of National Drug Control Policy may transfer funds made available to a National Drug Control Program agency for National Drug Control Strategy programs and activities to another account within the agency or to another National Drug Control Program agency (21 U.S.C. § 1703(d)(8)). Such accounts are defined in the most recently published *National Drug Control Strategy: Budget and Performance Summary, National Drug Control Program Agencies*. ONDCP's transfer authority is subject to the following conditions:
- a. **Limitation:** The authority to make such transfers may be limited in an annual appropriations act or other provision of law (21 U.S.C. § 1703(d)(8)(A)).
- b. **Agency Concurrence:** This authority may only be exercised with the concurrence of the head of each affected agency (21 U.S.C. § 1703(d)(8)(B)).
- c. **Transfer Limit:** In the case of an interagency transfer, the total amount of transfers in a fiscal year may not exceed three (3) percent of the total amount of funds made available for National Drug Control Strategy programs and activities to the agency from which those funds are to be transferred (21 U.S.C. § 1703(d)(8)(C)).
- d. **Authorized Programs:** Funds transferred to an agency may only be used to increase funding for programs or activities that have been authorized by law (21 U.S.C. § 1703(d)(8)(D)).
- e. **Reports to Congress:** The Director of National Drug Control Policy shall submit to the appropriate congressional committees and any other applicable committees of jurisdiction, a reprogramming or transfer request in advance of any transfer under 21 U.S.C. § 1703(d)(8) in accordance with the regulations of the affected agency (21 U.S.C. § 1703(d)(8)(E)(i)). The Director shall also submit an annual report to the appropriate congressional committees describing the effect of all such transfers during the 12-month period preceding the date on which the report is submitted (21 U.S.C. § 1703(d)(8)(E)(ii)).
- 9. Fund Control Notices.** The Director of National Drug Control Policy may direct the obligation of all or part of an amount appropriated to a National Drug Control Program agency through a Fund Control Notice (21 U.S.C. § 1703(f)). The decision to issue a Fund

Control Notice to an agency will be made periodically by the Director. Funds subject to a Fund Control Notice are those included in the National Drug Control Budget, as defined in the most recently published *National Drug Control Strategy: Budget and Performance Summary, National Drug Control Program Agencies*.

a. **Control Categories:** Pursuant to 21 U.S.C. § 1703(f) –

“A fund control notice may direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated by –

- (A) months, fiscal year quarters, or other time periods; and
- (B) activities, functions, projects, or object classes.”

b. **Responsible Agency Officials:** A Fund Control Notice shall be issued in writing to the Chief Financial Officer, or comparable senior financial executive, of the affected agency or bureau. This official is responsible for ensuring compliance with this ONDCP guidance.

c. **Prohibited Actions:** An officer or employee of a National Drug Control Program agency shall not make or authorize an expenditure or obligation contrary to a Fund Control Notice (21 U.S.C. § 1703(f)(2)).

d. **Violations:** If an officer or employee of a National Drug Control Program agency violates the terms of a Fund Control Notice, the head of the agency, in consultation with ONDCP, may subject the officer or employee to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office (21 U.S.C. § 1703(f)(3)).

e. **Restrictions:** ONDCP will not issue a Fund Control Notice that directs a National Drug Control Program agency account to be obligated, modified, or altered in any manner contrary, in whole or in part, to a specific appropriation or statute (21 U.S.C. § 1703(f)(5)).

10. **Coordination with the Office of Management and Budget (OMB).** In implementing the authorities enumerated in this circular, ONDCP will closely coordinate its actions with OMB. This will avoid potential conflicts in guidance and will ensure full compliance with all Federal laws governing budget execution.

11. **ONDCP Point of Contact.** The point of contact for all matters referenced in this circular is the Performance Budget Coordinator at performancebudgetcoordinator@ondcp.eop.gov.