

SECTION 22—COMMUNICATIONS WITH THE CONGRESS AND THE PUBLIC AND
CLEARANCE REQUIREMENTS

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Summary of Changes

Adds reference to the "Eliminate Useless Reports Act of 2024" which requires agencies to include a list of outdated or duplicative reporting requirements in annual budget justifications (section [22.6\(b\)](#)).

Removes reference to the Evidence Act, M-13-13, Federal Data Strategy 5 (Identify Priority Data Assets for Agency Open Data Plans), and Action 6 (Publish and Update Data Inventories) (section [22.6\(b\)](#)).

22.1 Confidentiality of budget deliberations.

The nature and amounts of the President's decisions and the underlying materials are confidential. Do not release the President's decisions outside of your agency until the Budget is transmitted to the Congress. The materials underlying those decisions should be appropriately marked to ensure proper safeguards, handling, and dissemination and may not be released at any time, except in accordance with this section. In addition, outyear discretionary data is considered pre-decisional and may not be released without prior OMB approval. (For additional information on the confidentiality and controlled unclassified information (CUI) markings of pre-decisional budget information, please consult [OMB Memorandum, M-01-17](#) of April 25, 2001 and [CUI Registry's Category for Budget](#).)

Presidential decisions on current and budget year estimates (other than forecasts of items that will be transmitted formally later), 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 justified by your agency. Do not release agency justifications provided to OMB and any agency future year plans or long-range estimates to anyone outside the Executive Branch, except in accordance with this section.

Section [51.16](#) confirms and clarifies the application of this section to pre-decisional, deliberative budget information relating to the Inspectors General.

22.2 Congressional testimony and communications.

The Executive Branch communications that led to the President's budgetary decisions will not be disclosed either by the agencies or by those who have prepared the Budget. In addition, agency justifications provided 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 this section.

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When furnishing information on appropriations and budgetary matters, you (and your agency representatives) must be aware of the following limitation on communications:

"...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\(e\)](#)).

You must also be aware of restrictions on communications to influence legislation that are not conducted through proper official channels ([18 U.S.C. 1913](#)).

After formal transmittal of the Budget, an amendment, or a supplemental appropriations request, the following policies apply when testifying before any congressional committee or communicating with Members of the Congress:

- Witnesses will give frank and complete answers to all questions.
- Witnesses will avoid volunteering personal opinions that reflect positions inconsistent with the President's program or appropriation request.
- If statutory provisions exist for the direct submission of the agency budget request to the Congress, OMB may provide you additional materials supporting the President's Budget request that you will forward to the Congress with the agency testimony. Witnesses will be prepared to explain the agency submission, the request in the President's Budget, and any justification material.
- When responding to specific questions on program and appropriations requests, witnesses will not provide the agency's request to OMB or plans for the use of appropriations that exceed the President's request. Typically, witnesses are responsible for one or a few programs, whereas the President is responsible for all the needs of the Federal Government. Where appropriate, witnesses will explain this difference in perspective and that it is therefore not appropriate for them to support appropriations above the President's request.
- When asked to provide a written response that involves a statement of opinion on program and appropriations requests, witnesses will provide a reply through the agency head.
- Do not let your communications be perceived as an "appropriations estimate or request ... or an increase in that estimate or request" ([31 U.S.C. 1108](#)). You are expected to support the President's budgetary decisions and seek adjustments to those decisions only through established procedures if your agency head determines such action is necessary.

22.3 Clearance of budget materials for the Congress and the media.

Policy consistency between the President's Budget and the budget-related materials prepared for the Congress and the media is essential. To ensure this consistency, you are required to submit budget-related materials to OMB for clearance prior to transmittal to congressional committees, individual Members of the Congress or their staff, or the media. Unless a specific exemption is approved by OMB, materials subject to OMB clearance include:

- All budget justifications and budget-related oversight materials;
- Testimony before and letters to congressional committees;

- Written responses to congressional inquiries or other materials for the record;
- Reports to committees and subcommittees (e.g., studies, assessments, materials with budget implications) that are required by statute or requested by report language;
- Capability statements;
- Appeals letters;
- Reprogramming requests and Congressional Notifications;
- Administrative actions affecting mandatory spending (see section [31.1](#));
- Related cost information;
- Financial management documents addressing budget and policy issues (e.g., certain accountability reports, transmittal documents for audited financial statements, or spend plans); and
- Proposed press releases relating to the President's Budget.

Provide this information to OMB as far in advance as feasible and no less than five working days in advance of transmittal to congressional committees, individual Members of the Congress or their staff, or the media to allow adequate review time. Performance and Accountability Reports must be provided 10 days in advance unless a shorter period is approved by OMB. OMB review of reprogramming requests may take longer in some circumstances (e.g., if the request has not been coordinated or if supporting materials have not been provided concurrently). In exceptional circumstances, where the response time is very short, agencies may request oral clearance or make other arrangements for expedited review. Immediately after the Budget transmittal and after subsequent transmittals, agencies will provide OMB with a schedule of anticipated congressional reviews that require agency oral and written participation. Agencies will revise this schedule as appropriate, and immediately notify OMB of any changes.

Address any questions you have about this subsection to the OMB representatives whom you normally consult on budget-related matters.

22.4 Clearance of changes to the President's Budget.

If you want to propose changes to the President's Budget (e.g., appropriations language, limitations, balance sheets required by the Government Corporation Control Act, or dollar amounts), you must follow the confidentiality and clearance guidance provided in this section and submit a written request as described in section [110.3](#). OMB will notify you whether a formal transmittal of the change will be made.

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 your agency must inform OMB promptly. Before your agency head decides to request restoration of a reduction, the reasons for the reduction, the circumstances under which it was made, and its significance to the President's program should be carefully considered.

22.5 Information available to the public.

Agency budget documents that are subject to the Freedom of Information Act (FOIA) may be exempt from mandatory release pursuant to [5 U.S.C. 552\(b\)\(5\)](#). Depending on the nature of the record requested, other

FOIA exemptions may apply. When deciding whether to withhold a budget document that is exempt from mandatory release, follow the [FOIA memorandum](#) issued by the President on January 21, 2009 and the [FOIA guidance](#) issued by the Attorney General on March 19, 2009. Any discretionary decision by an agency to disclose protected information should be made only after full and deliberate consideration of the institutional interests that could be implicated by disclosure, as well as after consultation with OMB. Agency heads are responsible for determining the propriety of record releases under FOIA.

Certain agencies headed by a collegial body are 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 ([5 U.S.C. 552b](#)). 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 Act, agencies must review those situations that involve budgetary information under the guidelines in the paragraph above and [5 U.S.C. 552b\(c\)](#). Such agencies are responsible for the propriety of determinations under these guidelines and provisions.

22.6 Congressional budget justifications.

Congressional budget justification materials must include or be structured as a performance plan submission (section [240](#)). In addition, agencies must include the additional information described below, as well as detailed descriptions of agencies' activities and proposals at the program, project, and activity level.

(a) Materials for performance plan submission to the Congress

Consult with your congressional representatives to agree on the performance plan format prior to submitting your congressional justification. Please also note the applicable public posting and notification requirements that apply to performance plans as detailed in section [22.6\(c\)](#). Your OMB representative should be included in those consultations as appropriate. Accordingly, your OMB representative should be provided with your proposed justification to the Congress with sufficient time for review.

(b) Materials to be included in congressional budget justifications

Consistent with [41 U.S.C. 1703\(h\)](#), identify funding levels requested for education and training of the acquisition workforce in your budget justifications to the Congress.

Consistent with [42 U.S.C. 8255](#), identify funds requested for energy conservation measures in your budget justifications to the Congress.

Consistent with Public Law 118-172, include a list of outdated or duplicative reporting requirements in your budget justifications to the Congress (see section [210](#)).

When developing reports such as congressional justifications, Agency Performance Plans (APP), or Agency Performance Reports (APRs) agencies should use the definitions found in the following sections of this Circular:

- Budget Definitions: Section [20.3](#)
- Standards and Definitions: Section [200](#)

Agencies are reminded of the reporting requirements of the Good Accounting Obligation in Government Act (Public Law 115-414). This Act requires agencies to include, in their congressional budget

justifications, reports on (1) public recommendations from the Government Accountability Office (GAO) including whether the recommendation has been deemed "open" or "closed, unimplemented" for a period of not less than one year preceding the date on which the annual budget justification is submitted; (2) public recommendations of the Office of Inspector General (OIG) of the agency that was published not less than one year before the date on which the annual budget justification is submitted, and for which no final action has been taken; and (3) the implementation status of each recommendation. For more detail on the specific information required, refer to Public Law 115-414. Information on outstanding GAO and OIG recommendations is available from agency OIGs or [oversight.gov](https://www.oversight.gov).

Provide the Congress with information to assess current and proposed capital projects that is consistent with the Administration's budget proposals, including: appropriate information on planning; budgeting, including the current or proposed use of incremental or full funding; acquisition; and management of the projects.

You must submit all budget justification materials to OMB for clearance before transmitting them to the Congress.

(c) Availability of congressional budget justifications

Consistent with the requirements in the Congressional Budget Justification Transparency Act (Public Law 117-40), agencies are reminded to make their full congressional budget justification materials, including their performance plan submission, available to the public and post the materials on the Internet at a vanity federal government URL. The vanity URL should contain "/CJ" following the public web address of the agency (e.g., agencyXYZ.gov/CJ). Materials should be posted at this address within two weeks after transmittal of those materials to the Congress. The release of these materials must be done in accordance with the requirements of this section and any relevant provisions of law. Materials will not be released if disclosure is prohibited by statute, the materials are classified or must be kept secret in the interest of national security or foreign policy, or the materials are otherwise exempt from release pursuant to [5 U.S.C. 552\(b\)](#).

Agencies should develop machine-readable (CSV, XML, TSV, or JSON) file(s) for the budget summary table(s) that normally accompany the congressional budget justification, including footnotes (please see section [200.4](#) for a definition of machine-readable format). Please work with your OMB representative on timelines and plans for preparing this machine-readable information.

OMB will collect the following information from every agency that submits congressional justification materials:

- *The date that congressional justification materials were first submitted to the Congress.* Where agencies submit several different sets of materials (e.g., for various bureaus), this would be the date that the first set of materials was made available to the Congress either in print or electronically.
- *The date that the congressional justification materials were first posted on a public-facing agency website.* Where agencies post several different sets of materials, this would be the date that the first set of materials was first available to the public on the agency website.
- *The web address (URL) which points to the current budget's congressional justification materials.* This web address can direct to a page that contains links to the congressional justification materials, or the web address can link directly to those materials. This web address should conform with the vanity URL requirements in this section. In cases where these

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requirements are not met, agencies should still provide a web address that points to congressional justification materials for the current budget.

Within one week after the release of the budget, OMB will provide a website for agencies to record the above data. Classified congressional justification materials should not be reported. In cases where OMB does not review an agency's congressional justification materials, those agencies are still responsible for providing the above information.

A list containing the above information will be made available on [USASpending.gov](https://www.usaspending.gov)