Why All These Rules?

A History of Budget and Accounting

Ed Martin
Why are there rules anyway?

- Article 1, section 9, clause 7 of the Constitution gives the legislative branch the “power of the purse”
  - “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and
  - a regular Statement and Account of Receipts and Expenditures of all public Money shall be published from time to time”
- The Constitution does not provide explicit instructions on how Congress should implement its appropriation power
- Congress does this in two ways:
  - Through annual appropriations
  - Through a series of laws enacted which establish rules
Why are there rules anyway?

- These statutes were passed to curb perceived abuses by the Executive branch.
- Much of federal fiscal law arises from the natural antithesis of executive flexibility and congressional control.
What are these rules?

- **Budget rules related to:**
  - Time
  - Purpose
  - Amount
  - Apportionment (Preventing Deficiencies)

- **Accounting rules related to:**
  - Who’s responsible
  - The relationship of accounting and budget
Budget Rules
1789 – First appropriation enacted “for the service of the present year” – establishing concept of an **annual appropriation**

Initially, appropriations were on a calendar year basis

1795 – Congress required unexpended balances be transferred to a “surplus fund” two years after expiration, limiting the agencies’ ability to spend funds
Purpose

• 1789 – 1792 - First appropriations in gross amounts
• In order to exert “power of the purse,” Congress began to make “specific appropriations” in 1792
• The executive branch complained about “lack of flexibility” – lumped funds together
• 1809 – Congress passed the “purpose statute” -- appropriations may be used only for their intended purposes
• This rule, codified at 31 USC §1301(a), remains in effect today
Amount

- Prior to 1820 - Federal agencies signed contracts without sufficient appropriations to pay for them
- 1820 – Congress passed the “Adequacy of Appropriations” Act
  - No contract could be made unless it is:
    - authorized by law or
    - under an appropriation “adequate to its fulfillment”
- This statute, codified at 41 USC §6301(a), remains in effect today
Time

- 1842 – Congress established the Federal fiscal year as July 1 – June 30
Prior to 1849 - Executive agencies sometimes collected money owed to the United States and used the funds to pay salaries and expenses.

1849 – Recognizing such “augmentation” violated the power of the purse, Congress passed the “Miscellaneous Receipts Statute.”

Unless authorized by law, an agency may not keep money received from sources other than congressional appropriations – it must be deposited in the Treasury.

This statute, codified at 31 USC §3302(b), remains in effect today.
The 1795 requirement to transfer unexpended funds to the “surplus fund” two years after expiration created problems for the Executive branch regarding contracts. 1853 – Treasury interpreted “unexpended” as “unobligated” to avoid the problem of requiring contracts to be fully paid within two years. 1854 – Attorney General opinions suggested allowing appropriations to be used on a FIFO basis, thereby getting around having to transfer funds to the surplus fund.
By the end of the Civil War, this FIFO interpretation by the Executive Branch resulted in huge sums remaining on the books.

This lack of time constraints on appropriations and improper use of unexpended balances led Congress to act.

1870 – Congress passed the *Bona Fide Needs* statute requiring that unexpended balances of appropriations made for a definite period of time be used only for expenses properly incurred during that time period.

This statute, codified at 31 USC 1502(a), is still in effect today.
1870 – the Navy Department obligated funds that were more than double available resources, thereby creating a “coercive deficiency”

1870 – Congress passed the original “Anti-Deficiency” Act prohibiting:

- spending in excess of appropriations
- involving the government in a contract for future payments in excess of appropriations

This statute, codified at 31 USC § 1341, is still in effect today
In the 1880s, Executive agencies asked employees to “volunteer” to perform overtime work, thereby creating a deficiency for Congress to fund. 1884 – Congress prohibited voluntary service in excess of that authorized by law. 1905 – Congress amended Anti-Deficiency Act, adding the prohibition on voluntary services. This is codified at 31 USC § 1342 and is still in effect today.
Apportionment (Preventing Deficiencies)

- Passage of the Anti-Deficiency Act in 1870 did not stop “coercive deficiencies”
- 1879 – Post Office entered into contracts that would exhaust appropriations by April
  - Postmaster General claimed contracts could be cancelled and not paid, but mail delivery would stop
  - Congress not pleased
Apportionment (Preventing Deficiencies)

1905 – Congress amended the Anti-Deficiency Act, adding an apportionment requirement:

- Prohibited spending funds at a rate that may require deficiency appropriations to complete the year.
- Since there was no government-wide budget office, agencies apportioned themselves; but Agency Heads could (and did) waive requirement.
- Amended version codified at 31 USC § 1512.
- Added penalties ($100, 1 month jail).
Apportonment (Preventing Deficiencies)

• 1906 – Congress again amended the Anti-Deficiency Act, tightening up the waiver authority
  • Waivers restricted to “extraordinary emergencies” or “unusual circumstance”
  • Congress had to be notified

• 1921 – Bureau of the Budget (BoB) created in Treasury by Budget and Accounting Act
  • BoB director issued regulation requiring notification of all apportionments and waivers of apportionment
  • Main objective of apportionment process: prevent deficiencies as required by statute
Apportionment (Preventing Deficiencies)

- 1933 – FDR issued Executive Order 6166 transferring apportionment function to the BoB
- 1936 – FDR issued Executive Order 8248 transferring the BoB to the Executive Office of the President
- By bringing the “power of the apportionment” into his office, the President compelled obedience to the Anti-Deficiency Act
  - FDR recognized that the apportionment could be used as a budget tool
Apportionment (Preventing Deficiencies)

1950 – Anti-Deficiency Act amended

- Gave BoB statutory authority over apportionments
- Made exceeding apportionment/allotment a violation
- Required agencies to have “systems of administrative control” that:
  - Restrict obligations to apportioned amounts
  - Enable head of agency to fix responsibility for creating obligations in excess of apportioned amounts
- Increased penalties ($5,000 fine, 2 years in prison)
- Codified at 31 USC § 1513, 1514, 1517 – still in effect
Prior to 1940s – The government was still following the 1795 requirement to transfer unexpended funds to the “surplus fund” two years after expiration

In order to pay claims from expired funds, Congress had to reappropriate funds, leading to delays

1945 – Congress provided “such sums” for the Comptroller General to pay certified claims under $500 from the surplus fund

This amount was inadequate
1949 – Congress passed the “Surplus Fund – Certified Claims Act” to expedite claims payment
  - Authorized transfer of expired funds to a “Payment of Certified Claims” account from which the Comptroller General paid certified claims
  - Any funds left over went to the surplus fund

Problem: all certified claims had to be handled by the Comptroller General (GAO)

1956 – Congress repealed the “Surplus Fund – Certified Claims Act”
  - Payment of claims passed to agencies
  - GAO still had oversight – received reports
1956 - This “M Account” legislation:

- Established “M” accounts for deposit of obligated, but unpaid balances two years after expiration.
- Established “Merged surplus authority” for deposit of unobligated balances two years after expiration.
- These funds could be used by the agencies to pay valid claims, unrecorded obligations, increased bills.

Problem: this permitted the accumulation of large balances which could be used with minimal Congressional oversight.
Prior to 1954 – Federal agencies used inconsistent definitions of “obligation”
  - Congress could not accurately determine agency needs
  - Established rules for proper recording of obligations that met specified standards
  - Required “certified” statement of obligations with annual budget request
This statute, codified at 31 USC § 1501 and 1108, is in effect today
Apportionment (Preventing Deficiencies)

• 1970 – In Executive Order 11541, President Nixon designated the Bureau of the Budget as the “Office of Management and Budget”
Time

- 1974 – Congress established the Federal fiscal year as Oct 1 – Sep 30
• 1989 – The Air Force used $1 Billion from M account to fund B-1B Bomber contract modifications

• 1990 – Congress repealed the 1956 “M Account” legislation:
  • Set the limit of availability of an account to pay obligations to 5 years after expiration – after which the funds are then cancelled
  • Made provision for payment of cancelled obligations from current appropriations

• This legislation, codified at 31 USC §1551-1553 continues in effect today
Accounting Rules
Accounting

• Accounting has been with us since the Babylonian Empire in 4500 BC
• Double-entry accounting was developed in Italy during the Renaissance due to investment in trade
• 1494 - Luca Pacioli published the first printed book on double-entry accounting
Accounting

• 1787 - Article 1, section 9, clause 7 of the Constitution requires that:
  • “...a regular Statement and Account of Receipts and Expenditures of all public Money shall be published from time to time”

• Accounting is an important tool in managing and controlling the financial operations of the government

• Whose job is it?
  • Legislative Branch?
  • Executive Branch?
Accounting

• 1789 – Congress created the Treasury Department – initially giving Executive Branch accounting and auditing responsibility

• 1791 – Congress requested an “annual statement of receipts and expenditures” from Treasury Department
Accounting

- 1890s – the Dockery-Cockrell Commission reiterated Congress’ preeminent role in financial management
- 1894 – Congress passed “Dockery Act” revamping Treasury accounting/auditing structure
- Created Comptroller of the Currency, consolidating audit function in Treasury
- Required, by law, annual combined statement of receipts and expenditures

Grover Cleveland
Accounting

1921 – Congress passed “Budget and Accounting Act”

- Congress unhappy with Executive Branch auditing itself
- Asserting their power over financial matters, they established the General Accounting Office, moving the Comptroller/Auditor functions in Treasury to GAO and creating a Comptroller General with a 15-year term as Chief Accountant/Auditor
- The Act required an annual budget containing “the expenditures and receipts of the federal government during the last completed fiscal year”

Warren Harding
After 1921 – the combination of the accounting and auditing functions in GAO became a contentious issue.

1937 – FDR’s Brownlow Commission asserted that accounting was an Executive Branch function.
- The commission suggested splitting GAO functions, giving Executive Branch accounting responsibility and GAO audit responsibility.

Congress disagreed – they considered accounting part of legislative oversight and budget function.
- The Executive branch called it “micro-management.”
Accounting

- This tug-of-war was detrimental to improvement of financial management so...
- 1947 – The Legislative and Executive Branches agreed to a joint program to improve accounting
  - Executive Branch operates accounting systems
  - GAO develops standards and guidance – continues to provide audit function
1950 – Congress passed “Budget and Accounting Procedures Act.” Part II:

- Required federal agencies to establish and maintain systems of accounting and internal control that:
  - Provide full disclosure of financial results
  - Support the budget request
  - Control and carry out Agency budget
  - Support the management of the agency
  - Provide integration with Treasury

- Created the “Joint Financial Management Improvement Program (JFMIP)”
  - Composed of GAO, OMB, and Treasury representatives, the goal was to improve financial management practices in the Federal government
Accrual accounting:
- Recommended in 1949 & 1956– by Hoover Commissions
- 1956 – Congress passed legislation requiring accrual accounting
- Recommended in 1967 by President’s Commission on Budget Concepts
- 1975 – Arthur Anderson & Co. proposed consolidated financial statements on accrual basis
- 1976 – Treasury began issuing pro-type statements
- Called a “bottomless pit” and “Alice in Wonderland nonsense, not remotely possible or useful” by Federal Budget officials
Accounting

- 1980s – Institutional conflicts continued
- 1986 – Arthur Anderson & Co. advocated government use of generally accepting accounting principles (GAAP) and accrual accounting
- Federal Budget officials still did not see value of accounting principles developed for businesses
  - Accounting rules should not challenge, but should support and complement budgeting
  - Government is different
- After negotiations, GAO, Treasury, and OMB agreed to work together
  - Distinguished between proprietary and budgetary accounting
Accounting

- 1990 – “Chief Financial Officers Act”
  - Established CFOs in agencies
  - Required **annual** audited financial statements in major programs
  - Executive and Legislative Branches gave up exclusivity in establishing standards to the Federal Accounting Standards Advisory Board (FASAB)
    - FASAB is made up of members from Treasury, OMB, GAO, CBO, and the public
    - FASAB recommends “generally-accepted accounting principles” (GAAP) for the federal government
  - Established Office of Federal Financial Management
Accounting

- 1994 – “Government Management Reform Act”
  - Extended requirement for audited financial statements to most programs on a quarterly basis

  - Required federal agencies to:
    - Comply with systems requirements established by JFMIP
    - Meet accounting standards of FASAB
    - Use USSGL at transaction level
and the history continues...