

ONDCP Circular: Budget Execution

May 8, 2018

TO: THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

FROM: JAMES W. CARROLL, DEPUTY 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 January 18, 2013.
3. **Authority.** *The Office of National Drug Control Policy Reauthorization Act of 1998* (P.L. 105-277, dated October 21, 1998), as amended by Public Law 109-469 (December 29, 2006), provides the authority for ONDCP's oversight of the National Drug Control Budget. 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 or bureau's budget that has been presented to the Congress.
 - b. **Reprogramming or Transfer** means any change to an agency 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 that a project or activity critical to the National Drug Control Strategy is funded.
 - 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 May 8, 2018. 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. Further, consistent with 21 U.S.C. § 1701(7), the provisions of Sections 7, 8, and 9 of this circular apply to agencies that receive funding included in the National Drug Control Budget by transfer from a National Drug Control Program agency. Such funds continue to be an integral part of support for the *National Drug Control Strategy*.
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. Linking the drug budget with the operating budget of each agency and bureau provides policy officials with the information they need to make resource allocation decisions as part of the budget formulation process, as well as adjustments to agency and bureau financial plans during the year of execution. ONDCP requires that all bureaus submit a financial plan for review and approval consistent with the guidance outlined below.
 - a. **Financial Plans for Multi-Mission Bureaus:** Much of the drug control budget is a subset of identifiable components of the President's Budget. For some bureaus, however, aggregate drug funding is calculated pursuant to a drug methodology that is subject to ONDCP's approval. These bureaus are listed in Attachment B of the ONDCP Circular, *Budget Formulation*, dated May 8, 2018.
 - (1) **Financial Systems.** Drug funding for these bureaus must be reflected in agency and bureau financial systems of record with a level of accountability that is comparable to drug control funding identified for all other bureaus. For other bureaus, this is accomplished through the appropriations process – funding is provided consistent with the established account structure defined by the President's Budget. For the multi-mission bureaus, the same level of accountability will be imposed administratively, rather than through the appropriations process. ONDCP will require that financial systems of record recognize drug control funding for these bureaus. This will be accomplished through the development of bureau financial plans for drug control funding and ONDCP review and approval of these plans in the year of budget execution.
 - (2) **Requirements.** For the year of budget execution, each of the multi-mission bureaus shall develop a detailed financial plan for their drug control funding. This plan shall identify how: (1) drug funding calculated pursuant to the bureau's approved drug methodology supports specific accounts included in the Budget of the President; and (2) how this funding by account further supports particular bureau budget decision units and projects under those budget decision units. Within these parameters, the format and content of these financial plans is at the discretion of the bureaus. Details of a plan could consolidate elements included in portions of the Congressional budget justification documents relating to drug control, if such language provided an adequate explanation. However, such plans should include sufficient detail to explain fully the connection between the bureau's drug budget calculation and the programs

described in the bureau's budget justification documents accompanying the President's Budget.

- b. **Financial Plans for Other Bureaus:** Financial plans for all other bureaus shall include account level detail at the appropriation and decision unit level as displayed in the President's budget and Congressional budget justification documents.
 - c. **Due Dates.** Bureau financial plans shall be submitted to ONDCP for review and approval as soon as possible after appropriations are enacted. Final plans will be summarized in the National Drug Control Budget and Performance Summary to provide Congress and the public with an explanation of how drug funding relates to the bureau's operating budget.
7. **Reprogramming Requests.** A National Drug Control Program agency, in accordance with 21 U.S.C. § 1703(c)(4)(A), shall not "... submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds in an amount exceeding \$1,000,000 that is included in the National Drug Control Program budget unless the request has been approved by the Director [of National Drug Control Policy]." For a change in a financial plan to accomplish a single purpose, agencies or bureaus shall not structure multiple reprogramming or transfer transactions of less than \$1 million in order to limit ONDCP's opportunity to review such proposals. If prior reprogrammings of less than \$1 million have been sent to the Congress, any additional reprogramming that brings the sum total of reprogrammings for a given appropriation over the \$1 million level shall be sent to ONDCP for approval, regardless of the individual total of that new reprogramming.
- a. **Reporting Requirements:** Each agency reprogramming request to ONDCP shall include the following elements:
 - (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 the changes in funding levels between budget decision units, or changes in the programs, projects and activities within budget decision units, that comprise the proposed revisions to the financial plan for the current fiscal year.
 - (2) **Explanation of Changes:** The request shall provide a narrative explanation of the proposed changes to the financial plan, which highlights the effects of these changes on 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 prompt review of the material provided by the agency under Section 6a, 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 6b of this circular.
8. **Transfers.** In order to address particular needs during the year, the Director of National Drug Control Policy may transfer funds from one account of the National Drug Control Budget to another account of the National Drug Control Budget (21 U.S.C. § 1703(d)(8)), with such accounts defined in the ONDCP Circular, *Budget Formulation – Attachment B: Definition of the National Drug Control Budget*. A proposal to transfer funds between accounts may be initiated by the Director or may be recommended by the head of any agency. Agency proposals submitted to ONDCP for a transfer of funds shall detail the programs, projects and activities affected in the sending and receiving accounts. ONDCP may execute such transactions, subject to the following conditions:
- a. **Limitation:** The authority to make such transfers may be limited in annual appropriations acts or other provisions 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 under this authority may not exceed 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 under this authority 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:** On the approval by ONDCP of any transfer proposals under this section, the Director shall notify Congress of the transfer proposal before giving it effect. Notifications shall include correspondence to the Committees on Appropriations of the Senate and House of Representatives, ONDCP's authorizing committees, and any other committees of jurisdiction (21 U.S.C. § 1703(d)(8)(E)(i)). The Director shall also submit an annual report to Congress describing the effect of all such transfers (21 U.S.C. § 1703(d)(8)(E)(ii)).
9. **Fund Control Notices.** The Director of National Drug Control Policy may limit the obligation of all or part of the 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 Attachment B of the ONDCP Circular, *Budget Formulation*, dated May 8, 2018.

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:** Pursuant to 21 U.S.C. § 1703(f)(3), “...[i]n the case of a violation of [a Fund Control Notice] by an officer or employee of a National Drug Control Program agency, the head of the agency, upon the request of and in consultation with the Director, may subject the officer or employee to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office.”

e. **Restrictions:** Pursuant to 21 U.S.C. § 1703(f)(5), a Fund Control Notice will not “direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated, modified, or altered in any manner contrary, in whole or in part, to a specific appropriation or statute.”

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 ONDCP point of contact for all matters referenced in this circular is:

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Office of National Drug Control Policy
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Washington, DC 20503

Email: Executive_Secretariat@ondcp.eop.gov