

Appendix B

ONDCP Circular: Budget Execution

May 30, 2002

TO: THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

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 for certain bureaus.
2. **Authority.** *The Office of National Drug Control Policy Reauthorization Act of 1998* (P.L. 105-277, dated October 21, 1998) 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. § 1701-1712.
3. **Definitions.** As used in this circular, key terms related to the National Drug Control Program and budget are defined in Section 4 of the ONDCP Circular, *Budget Formulation*, dated May 30, 2002. These terms include: *National Drug Control Program, National Drug Control Program Agency, Bureau, Drug Methodology, Drug Control Functions, and Budget Decision Units.*
4. **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 5, 6, and 7 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 part of the National Drug Control Budget.
5. **Reprogramming Requests.** As referenced in this circular, a reprogramming or transfer is any change to an agency or bureau's financial plan that requires Congressional notification.
 - a. **ONDCP Review:** Pursuant to 21 U.S.C. § 1703(c)(4)(A), "[n]o National Drug Control Program agency shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds in an amount exceeding \$5,000,000 that is included in the National Drug Control Program budget unless the request has been approved by the Director [of ONDCP]." 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 \$5 million in order to limit ONDCP's opportunity to review such proposals.

b. **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.

c. **ONDCP Action:** After prompt review of the material provided by the agency under Section 5b., the Director's determination under this Section will be communicated in writing to the responsible agency official.

d. **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 5c. of this circular.

6. **Transfers.** In order to address particular needs during the year, the Director of ONDCP 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 Congress (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)).

7. **Fund Control Notices.** The Director of ONDCP 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)). 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 30, 2002.

- 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 level 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.”

8. Financial Plans for Certain Multi-Mission Bureaus. 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. 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 include:

- U.S. Customs Service,
- U.S. Coast Guard,
- Immigration and Naturalization Service (INS), and
- Veterans Health Administration (VHA)

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 identified in this section – Customs, Coast Guard, INS, and VHA – 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.

- a. **Bureau Financial Plans:** For the year of budget execution, each of the bureaus identified in this section 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.

Bureau financial plans shall be submitted to ONDCP for review as soon as possible after final appropriations are enacted. Also, ONDCP requests that versions of these financial plans, consistent with the President's Budget, be included in the bureau's Congressional budget justification documents. This will provide Congress and the public with an explanation of how drug funding relates to the bureau's operating budget. It also will facilitate an expeditious review of the bureau's financial plan, once appropriations are enacted.

b. **ONDCP Oversight:** To ensure bureau compliance with the provisions of this section, ONDCP shall issue a Fund Control Notice pursuant to Section 7 of this circular that will limit the obligation of drug control funding until the Director of ONDCP has reviewed a bureau financial plan, based on final annual appropriations, prepared pursuant to Section 8a. of this circular. To ensure continued recognition of drug control funding in agency financial systems of record throughout the fiscal year, the Director may issue further Fund Control Notices that would limit the obligation of drug control funding by time period.

9. **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.

10. **ONDCP Point of Contact.** The ONDCP point of contact for all matters referenced in this circular is:

Associate Director for Planning and Budget
Office of National Drug Control Policy
750 17th Street, N.W.
Washington, DC 20503

| SIGNED |

John P. Walters
Director