

## The Federal Budget Process and HIV/AIDS Funding

October 2007

*"Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."<sup>1</sup>*

### Overview of the Federal Budget

The current federal budget process was established by the Congressional Budget Act of 1974, and amended by subsequent legislation. Every year, the President and Congress decide how much money to spend and how much is expected to be raised through taxes. They determine how much money will go to each department, agency, activity, and program and, together, they strive to ensure that the government does not exceed its designated spending limit. Then, at the end of each budget process, actual expenditures are reported back to the President and Congress. Twelve appropriations bills are responsible for enacting the will of the President and Congress, as defined by the allocated funds for each department, agency, activity, and program.

The President's submission of a budget request begins the federal budget process, but it does not have a legally binding effect. It is a set of recommendations expressing the President's priorities and goals for the coming fiscal year (October 1 to September 30). Before the President submits his budget, each agency in the Administration submits a detailed justification for its spending priorities in the next fiscal year to the Office of Management and Budget (OMB) for the President's approval. Then, the President submits his budget request to the House and Senate, where the leadership refers the budget to the Budget Committee and to the Appropriations subcommittees, which have jurisdiction over funding for specific departments, agencies, activities, and programs.

After the Budget Committees review and often hold hearings on the President's budget, Congress passes its own budget resolution. The annual budget resolution may reflect some or all of the recommendations in the President's budget, but it does not have to. A budget resolution must cover five fiscal years: the coming fiscal year and the four years that follow. Like the President's

budget, Congress' budget resolution is not law, but it serves as the framework to help Members of Congress make their decisions on spending and revenue collection. It includes targets for total spending and total revenues, the projected budget surplus or deficit, and allocations that set spending targets for two types of federal spending: mandatory and discretionary. To assist in the development of the budget resolution, the AIDS Budget and Appropriations Coalition (ABAC) provides budget and appropriations recommendations to Congress for the federal HIV/AIDS portfolio and for related health and human services programs.

Mandatory spending is spending authorized and required by permanent laws. It includes entitlements, such as Social Security, Medicare, Medicaid, Veterans' benefits, food stamps, and interest payment on the national debt. In order to change mandatory spending, the President and Congress must revise federal law. Mandatory spending accounts for almost two thirds of all current federal spending.

Discretionary spending reflects the priorities of the President and Members of Congress, including their response to the needs of their constituents. Discretionary spending is controlled by annual appropriations in the House and Senate Appropriations Committees. Discretionary spending accounts for approximately one-third of all current federal spending. The allotment for defense alone accounts for approximately half of the total appropriations for discretionary spending.

When the President and Congress are unable to arrive at an agreement and to take action on all twelve appropriations bills by the end of the fiscal year (September 30), a Continuing Resolution (CR) must be passed. A CR ensures that government departments, agencies, and programs for which an appropriations bill has not been passed remain funded and operating. A

CR, which is usually based on the funding levels from the previous fiscal year, is the only mechanism Congress can use to keep the government open temporarily, until the outstanding appropriations bills are passed by both chambers of Congress and signed into law by the President. If a CR is not passed, the departments, agencies, and programs no longer have the budget authority to continue to operate; consequently, they must close.

In recent years, Congress has bundled two or more individual appropriation bills into a single appropriations bill known as an omnibus bill. Creating and passing omnibus legislation is a mechanism by which Congress can complete its task of adopting the federal budget.

### **HIV/AIDS Funding**

The Department of Health and Human Services – the federal department under which the majority of domestic HIV/AIDS programs and initiatives operate - receives its funding from the appropriations bill created by the House and Senate Appropriations Subcommittees on Labor, Health and Human Services, and Education (Labor-HHS). Funding decisions for Ryan White CARE Act programs, National Institutes of Health research (NIH), HIV/AIDS prevention programs run by the Centers for Disease Control and Prevention (CDC), and Substance Abuse and Mental Health Services Administration (SAMHSA) programs are debated and appropriated in the Labor-HHS funding bill. The Labor-HHS Appropriations bill is the second largest discretionary spending bill after the defense bill. It contains a large number of programs to address a broad array of the nation's healthcare, education, and labor needs and sets the tone for the country's domestic priorities. Members of Congress often have differing and passionate opinions on how to set spending levels for each program contained in the bill. The size and significance of the Labor-HHS Appropriations bill inspires lengthy debate and negotiating. It is not unusual for final passage of the bill to go well beyond the October 1 beginning of the fiscal year.

Federal funding to address the housing needs of people living with HIV/AIDS primarily comes through the Housing Opportunities for People With AIDS (HOPWA) program. HOPWA is operated by the Housing and Urban Development (HUD) Department,

which receives its funding from the appropriations bill created by the House and Senate Appropriations Subcommittees on Transportation, Housing and Urban Development, and Related Agencies.

Much of the funding for the various global AIDS programs and initiatives is included in the State and Foreign Operations spending bill. The House and Senate Appropriations Subcommittee on State, Foreign Operations, and Related Programs has jurisdiction over this bill. The Labor/HHS appropriations bill also includes funds for some global AIDS programs.

### **The Federal Budget Process**

#### *November*

Each federal agency submits a detailed justification of its spending priorities to the Office on Management and Budget

#### *February*

The President submits his proposed budget to Congress on the first Monday in February

#### *March 15*

Congressional Appropriations Subcommittees submit their views of the President's budget and make their recommendations to the Budget committee, which will create the Congressional Budget Resolution

#### *April 15*

Deadline for adoption of the Congressional budget resolution for the next fiscal year

#### *May*

Consideration of appropriations bills begins in the House of Representatives Appropriations Committee

#### *June-July*

Consideration of appropriations bills begins in the Senate Appropriations Committee

#### *September-October*

Senate and House conference committees meet to negotiate any differences between the respective Appropriations bills that have passed each chamber. The President signs appropriations bills or a CR to keep the government funded

#### *September 30*

Current Fiscal Year Ends

#### *October 1*

New fiscal year begins

### **Appropriation vs. Authorization**

Appropriating is the Congressional act that enables federal agencies to draw funds from the treasury for

specific purposes; whereas Authorizing is the Congressional act that creates, continues, or modifies a federal agency program or policy, either for a specified period of time or indefinitely. The appropriations process usually *follows* an authorization.

### **Authorization**

An authorization act may create a new permanent or annual program, or it may revise, extend or articulate the goals and guidelines of an already existing program. The language of an authorization act projects the time needed to achieve such goals, and programs are often authorized for multiple years. The language of an authorization act also recommends a ceiling on the amount that can be appropriated for the program, known as the authorization level. The majority of the domestic HIV/AIDS portfolio is authorized through the Senate Committee on Health, Education, Labor, and Pensions (HELP) and the House Energy and Commerce Subcommittee on Health. Congress first authorized the Ryan White CARE Act (CARE Act) of the Health Resources and Services Administration (HRSA) in 1990. It was reauthorized for the third time in December 2006.

### **Appropriation**

Once a program is authorized, Congress can appropriate funds for the program. A program such as the CARE Act can be authorized by Congress and signed into law by the President, but if funds are not appropriated for it, the program will not be able to function.

An appropriation of funds to a department, agency, activity or program is sometimes possible without specific authorizing language. For example, the CDC receives an annual appropriation that is divided among its programs and goals, including the programs designed to control and prevent the transmission of HIV. Unlike HRSA, the CDC's HIV prevention programs do not require reauthorization like the CARE Act. However, both programs must be annually appropriated.

Funds are generally available to the relevant federal departments, agencies, programs, and activities immediately after each appropriations bill passes for the designated fiscal year. For non-governmental entities, the actual dates of funding availability may vary. These variations are based on agency implementation

schedules (including dates and processes for requests for proposals), special provisions in the appropriations bill, and the need to issue or amend regulations, and other factors.

### **Supplemental Appropriations**

After Congress has appropriated funds for the fiscal year, there is often a need for additional funds to support recovery from natural disasters or other unforeseen emergencies. A request for funding and an allocation in the same calendar year that the funds are needed is called supplemental appropriations. Supplemental appropriations bills often include directives so that only the unforeseen disaster is covered by the supplemental.

### **Constituent Involvement**

Often, when funding bills are being considered, there is time allotted by the committee for debate and comments. It is important that constituent views be made known to key legislators and their staff during this time. Informing your Representative, Senators, and other key Congressional leaders of the needs in their communities and the importance of receiving federal funding to ensure successful delivery of health and human services is essential during the appropriations process.

### **The Tracking of a Bill**

After the President signs a bill into law, the federal agencies responsible for administering the new law issue a rule, which elaborates on important provisions, such as eligibility for assistance, timetables for implementation and program administration, to ensure the law is carried out correctly. (Rulemaking may also be triggered by Congressional hearings and reports, Office of Management and Budget Circulars, court orders, or agency initiatives to carry out their mission.) The public is encouraged to participate in the rulemaking process by submitting comments. It is important to follow legislation through the rulemaking process. Key policies are often established and articulated during this period. Visit [www.regulations.gov](http://www.regulations.gov) to identify, review, and submit comments on federal documents that are open for comment and published in the Federal Register, "the government's legal newspaper."

## **The 110<sup>th</sup> Congress**

### **Relevant House and Senate Committee Members:**

#### **Senate Labor-HHS Appropriations Subcommittee:**

##### **Senator Tom Harkin, Iowa, Chairman**

Senator Daniel Inouye, Hawaii  
Senator Herb Kohl, Wisconsin  
Senator Patty Murray, Washington  
Senator Mary Landrieu, Louisiana  
Senator Richard Durbin, Illinois  
Senator Jack Reed, Rhode Island  
Senator Frank Lautenberg, New Jersey

##### **Senator Arlen Specter, Pennsylvania, Ranking Member**

Senator Thad Cochran, Mississippi  
Senator Judd Gregg, New Hampshire  
Senator Larry Craig, Idaho  
Senator Ted Stevens, Alaska  
Senator Richard Shelby, Alabama

#### **House Labor-HHS Appropriations Subcommittee:**

##### **Rep. David Obey, Wisconsin, Chairman**

Rep. Nita Lowey, New York  
Rep. Rosa DeLauro, Connecticut  
Rep. Jesse Jackson, Illinois  
Rep. Patrick Kennedy, Rhode Island  
Rep. Lucille Roybal-Allard, California  
Rep. Barbara Lee, California  
Rep. Tom Udall, New Mexico  
Rep. Tim Ryan, Ohio

##### **Rep. James Walsh, New York, Ranking Member**

Rep. Ralph Regula, Ohio  
Rep. John Peterson, Pennsylvania  
Rep. Dave Weldon, Florida  
Rep. Mike Simpson, Idaho  
Rep. Dennis Rehberg, Montana

#### **Senate Health, Education, Labor and Pensions Committee:**

##### **Senator Edward Kennedy, Massachusetts, Chairman**

Senator Christopher Dodd, Connecticut  
Senator Tom Harkin, Iowa  
Senator Barbara Mikulski, Maryland  
Senator Jeff Bingaman, New Mexico  
Senator Patty Murray, Washington  
Senator Jack Reed, Rhode Island

Senator Hillary Clinton, New York

Senator Barack Obama, Illinois

Senator Sherrod Brown, Ohio

##### **Senator Michael Enzi, Wyoming, Ranking Member**

Senator Judd Gregg, New Hampshire  
Senator Lamar Alexander, Tennessee  
Senator Richard Burr, North Carolina  
Senator Johnny Isakson, Georgia  
Senator Lisa Murkowski, Alaska  
Senator Orrin Hatch, Utah  
Senator Pat Roberts, Kansas  
Senator Tom Coburn, Oklahoma

#### **House Energy and Commerce Subcommittee on Health**

##### **Rep. Frank Pallone Jr., New Jersey, Chairman:**

Rep. Henry Waxman, California  
Rep. Edolphus Towns, New York  
Rep. Bart Gordon, Tennessee  
Rep. Anna Eshoo, California  
Rep. Gene Green, Texas  
Rep. Diana DeGette, Colorado  
Rep. Lois Capps, California  
Rep. Thomas Allen, Maine  
Rep. Tammy Baldwin, Wisconsin  
Rep. Eliot Engel, New York  
Rep. Jan Schakowsky, Illinois  
Rep. Hilda Solis, California  
Rep. Mike Ross, Arkansas  
Rep. Darlene Hooley, Oregon  
Rep. Anthony Weiner, New York  
Rep. Jim Matheson, Utah

##### **Rep. Nathan Deal, Georgia, Ranking Member**

Rep. Ralph Hall, Texas  
Rep. Barbara Cubin, Wyoming  
Rep. John Shadegg, Arizona  
Rep. Steve Buyer, Indiana  
Rep. Joseph Pitts, Pennsylvania  
Rep. Mary Bono, California  
Rep. Mike Ferguson, New Jersey  
Rep. Mike Rogers, Michigan  
Rep. Sue Myrick, North Carolina  
Rep. John Sullivan, Oklahoma  
Rep. Tim Murphy, Pennsylvania  
Rep. Michael Burgess, Texas  
Rep. Marsha Blackburn, Tennessee

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<sup>1</sup> The United States Constitution § Article 1, Section 9, Clause 7