Demystifying the Federal Budget Formulation and Grants Process –
Authorization, Appropriations, and Federal Programs

National Indian Nations Conference
December 6-8, 2012
Creating a Federal Program

- Federal programs are created and funded in two stages:
  - Authorization (establishing a program)
  - Appropriations (funding a program)

- Congress and the Executive Branch (the President and Federal agencies) share responsibility for creating and managing Federal programs

- Different Congressional committees oversee each stage of the process
The Federal Legislative Process

Bill Introduced and Referred to Committee

House Committee Review and Markup

Senate Committee Review and Markup

Bill reported out to full House Committee report

Bill reported out to full Senate Committee report

Debate, amendment, and passage by the House

Debate, amendment, and passage by the Senate

Reaching Agreement/Conference Process

Congress Overrides Veto or Reconsiders Bill

President Vetoes the Bill

Bill Enacted Into Law

President Sings the Bill

Bill Presented to the President
Any member of Congress may propose a bill authorizing (creating) a Federal program

Sources of legislative proposals

Authorizing legislation:
- Typically authorizes the operation of a program for a fixed period of time (often 5 years)
- Defines the program’s purpose and may establish eligibility criteria, program restrictions, or funding formulas
- May enable the Attorney General to take discretionary (voluntary) actions, such as issuing regulations or setting aside funding for certain purposes

For DOJ and its agencies, authorizing committees are the House and Senate Committees on the Judiciary and Homeland Security
Federal Budget and Appropriations Process

• Without appropriations, Federal agencies cannot implement their programs, even if they are authorized.

• Most Federal programs are funded by annual discretionary appropriations.

• Federal agencies begin preparing their budgets well in advance (typically 18 months before the start of a fiscal year) and invest considerable time and effort in justifying their funding requests.

• Federal agency budgets are an important planning tool for the coming fiscal year – determine not only program funding, but also funding for Federal personnel and support operations.
Department of Justice
Budget Formulation Process

Department Budget Submission
- OJP develops a budget request, forwards to DOJ for review (February-June)
  - Focus on proposals for new programs or changes to existing programs
  - DOJ budget staff review request, provide feedback (passback) to OJP (June-July)

OMB Budget Submission
- OJP revises budget request to reflect DOJ passback (July to September)
  - Focus on Department, Attorney General budgetary and program priorities
  - DOJ budget staff compile Department budget request, forwards to OMB for review (September)

The President’s Budget
- OMB provides passback on all funding and program request to DOJ (November)
  - Final decisions on all budget requests,
  - Focus on incorporating the President’s budgetary and program priorities
- OMB complies budget requests from all Federal departments and agencies into the President’s annual budget request (January to February)
Appropriations

- Congressional appropriations process is designed to run from early February to late September of each Federal fiscal year, but often takes longer.

- Begins with the release of the President’s Budget to Congress and the public (usually in the first week of February).

- Budget hearings held by the House and Senate Committees on Appropriations (February to March).

- House and Senate Committees on the Budget prepare the concurrent budget resolution:
  - Serves as a blueprint for the budget process, setting overall levels of revenue and spending for the coming fiscal year.
Appropriations
(continued)

• Subcommittees of the House and Senate Appropriations Committees begin review and discussion of the budget proposals from the agencies they are responsible for (March to September)

• If Congress fails to pass appropriations bills by October 1:
  ➢ It can pass a continuing resolution (CR) to give itself more time to work on appropriations bills, or
  ➢ Most government agencies would have to cease operations because they can no longer pay their employees or spend on program activities

• Continuing resolutions:
  ➢ May last anywhere from a few days to an entire Federal fiscal year
  ➢ Typically place tight restrictions on Federal spending during the time the CR is in effect

• For DOJ and its agencies, appropriations committees are the House and Senate Committees on Appropriations, Subcommittees on Commerce, Justice Science, and Related Agencies
The Appropriations Process

President’s Budget Transmitted To Congress February (1st Monday)

Congress Holds Appropriations Hearings Late Feb - April

Questions for the Record (QFRs) Are Generated and Due to Congress Late April

Congressional Budget Resolution

“Caps” for New Spending Set

Congress “Marks-Up” Appropriations Bills July- August

Congress Passes Appropriations Bills August - September

Appropriations Bill is Transmitted to the President for Enactment September

On October 1, New Fiscal Year Begins

Congressional Budget Resolution

Conference Agreement
Congressional Oversight

- Once created, programs and appropriations are subject to ongoing review:
  
  - **Spending plans**
    - Required by appropriations acts funding DOJ agencies
    - Provides a detailed summary of how DOJ agencies plan to use funds appropriated by Congress
    - OJP spend plans detail how much funding the agency will use for grants, training and technical assistance, research and statistic, administrative operations, and other activities

  - **Congressional report language and reporting requirements**
    - Committee reports accompanying appropriations acts may provide additional guidance on OJP programs or require the agency to report to Congress on specific programs or topics

  - **Oversight hearings by authorizing committee**
Appropriations Law: Managing Federal Funds

• **All spending on federal programs must be authorized in law:**
  - Budget authority provided for specific purposes

• **The Anti-Deficiency Act**
  - Agencies must use budget authority as Congress intended
  - Purpose, time, and amount

• **Earmarks**
  - Congressionally-directed spending that benefits a specific recipient
  - Controversial – popular with some Member of Congress and recipients, but sharply criticized by others due to lack of competitive funding process and accountability
  - Currently prohibited by House and Senate legislative rules
Appropriations Law: (continued)

• Obligations
  ➢ Grant award and acceptance (documented by acceptance paperwork) creates an obligation
  ➢ Grant reporting requirements – financial reporting, quarterly reports, performance measures, evaluations – document delivery of services
  ➢ Properly concluding (closing out) obligations is vital – closeout paperwork, extension
  ➢ Congress may rescind (take away) unobligated funding

• Audits and Program Reviews
  ➢ Agency-level program and financial audits
  ➢ Department-level OIG
  ➢ OMB (federal financial and grants management practices)
  ➢ GAO

• Accountability to the Public
  ➢ Transparency reporting requirements
  ➢ Freedom of Information Act (FOIA)
Relations Between Congress and Federal Agencies

- Some tension between the Legislative Branch (Congress) and the Executive Branch (President and Federal agencies) is common.

- Appropriations (the “power of the purse”) is a key Congressional power.

- To function in this environment, Federal agencies must be:
  - **Unified** - supporting their Department’s leadership and collaborating with other agencies and stakeholders to develop the best budget proposals and programs possible.
  - **Impartial** – treating both parties in Congress equally and balancing the needs of many different interest groups in its policy and budget decisions.
  - **Responsive** – taking into account the interests of the many interest groups involved in their programs and designing programs that respond to as many of these as practical.

- Federal agencies do not have exclusive control over programs they administer; they may provide information and suggestions to Congress, but are only one of many influences on the federal legislative process.
QUESTIONS?

Office of Justice Programs