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A Process for Examining the Budget of an Agency within a Federal Department

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The process of budget examination requires identifying success and failure, quantifying benefits and costs, and evaluating the results expected in terms of public benefits. Budget examination should also identify priorities. An examination of an agency budget request should reveal whether the agency delivered services to the public in an effective and efficient manner. Further, a proper budget examination informs Congress and the public whether the agency is a good steward of the public trust. A budget examination also informs the discussion about whether to increase or decrease the agency's budget and where its resources should be devoted.

This paper describes a series of questions and procedures to be followed by congressional staff in analyzing and preparing for a hearing on the budget of an agency. The items outlined in this paper are general principles and can be used to examine most agency budgets. For purposes of illustration, however, the paper uses the Food and Drug Administration, an agency within the Department of Health and Human Services (HHS), as an example.

If the process of budget analysis should expose evidence of what activities work well and produce significant public benefit, then the incentive would be to support that activity with continued funding. However, if the analysis shows evidence that the activity produces little or no public benefit, then it is much harder to justify continued funding for that activity. A useful tool in making this decision is to identify the cost per unit of success and then eliminate activities with high costs and low levels of success. This theory is at the heart of "evidence-based budgeting."

DEFINING TITLES

The two descriptive terms used in this paper define somewhat complementary approaches to budget development. Zero-based budgeting requires a review of the total amount of spending on each budget item in the budget process. Evidence-based budgeting requires that the entire budget be reviewed item by item using evidence of last year's results to guide funding decisions.

Applying a Zero-Based and an Evidence-Based Budgeting Mindset to the Analysis of Expenditures

Evidence-based budgeting demands evidence of what was achieved with the resources used in the last fiscal period.¹ Using analysis of evidence of previous performance, it is possible to identify what expenditures will maximize the public benefit from this policy. Using this approach, it is possible to develop advice supported by evidence on what expenditures to maintain at current levels, request improved productivity from the same amount of money, or even recommend increases in funding to achieve significantly more in public benefits.

Federal budgeting currently follows an incremental approach that concentrates primarily on changing the funding levels from year to year. Generally, it operates from the premise that all programs and activities should continue, with the main issue being whether annual funding should increase, decrease, or remain the same. By contrast, zero-based and evidence-based budgeting require each program and activity to justify why it should receive funding every year. These approaches are much more likely to ask what outcomes a program has achieved, what alternatives exist, and whether the program has outlived its usefulness. Applying these core principles can greatly enhance the quality of budget analysis, particularly for major regulatory and funding programs. Many of the specific lines of inquiry below reflect these principles.

Take Advantage of the Many Sources Available to Inform and Enhance Budget Analysis

Numerous sources within and outside government can be called upon to support rigorous analysis of federal programs and agency performance. These include annual reports compliant with the Government Performance and Results Act (GPRA); audit reports; Office of Inspector General reports; Government

Accountability Office (GAO) High Risk List reports; congressional committee oversight reports; program evaluations; GPRA strategic plans; and a variety of special purpose investigative reports. This information can add important context for funding decisions.

Legal Authorities and the Agency Mission

It is important to examine the statute that created the agency, as well as any other statutes it implements, in order to confirm that the agency is using its budget resources in compliance with the law. It is also important to ensure that the agency's mission and functions remain worthy of continued funding in terms of the goals pursued and performance results. Analysts should at this stage identify all programs and activities that are not part of the agency's core business or do not advance its mission goals. These noncore activities should be recommended for transfer to another agency or for termination.

If the agency has regulatory powers, analysts should determine whether the agency is acting in compliance with government-wide and agency-specific requirements governing regulatory activities.

Funding Authorization and Budget Resolutions

Congressional rules generally require that appropriations be authorized by law.² However, each year Congress appropriates billions of dollars for programs without a current authorization. Unauthorized spending for fiscal year (FY) 2015 totaled at least \$294 billion.³ Authorization laws provide Congress with a key control over federal programs and federal agencies. The authorization process is an important tool available to Congress to review the longer-term achievements of programs and decide whether the program should continue or is now redundant. Thus, a budget examination should determine whether agency and program funding requests have appropriate authorizations. If the authorization is not current, these agencies or programs should be recommended for immediate reauthorization or termination.

Analysts also should ensure that agency appropriations comply with funding levels and other conditions in any applicable congressional budget resolutions adopted pursuant to the Congressional Budget Act.⁴

Performance, Effectiveness, and Outcomes

A budget examination requires an analysis of agency performance; it asks whether the agency is effectively spending public dollars to deliver the expected outcomes efficiently. The agency's reporting under GPRA provides a key resource for assessing goals and performance results.⁵ For example, GPRA reports should identify whether the agency's mission goals are expressed as outcomes that capture intended public benefits and whether its performance measures are outcome-oriented and clearly related to its goals. Further, performance reports should describe how well the agency has performed against its goals and measures, how its performance can be improved, and whether there are agency programs that are outdated, redundant, or inferior to alternative approaches and should be reformed or terminated.⁶

If the agency has regulatory functions, analysts should consult the Mercatus Center's Regulatory Report Card in assessing the agency's performance.⁷ The FDA's average score on seven regulations reviewed by Mercatus graders since 2008 is 12.6 out of 30, or 42 percent—a failing grade.⁸

OVERSIGHT ISSUES

In addition to examining program effectiveness, the appropriations process is an ideal venue for conducting oversight of agency financial and program management, economy, and efficiency. Following are some key oversight subjects.

GAO high-risk list. The GAO issues a biennial list of federal operations that it deems most vulnerable to fraud, waste, abuse, mismanagement, or other major deficiencies. The current list contains 32 high-risk areas, many of which have languished on the list for years or even decades.⁹ Any area on the GAO high-risk list should be a prime target for oversight. The FDA is the subject of one high-risk area: "Improving Federal Oversight of Food Safety."¹⁰

Inspector general list of most serious challenges. Inspectors general are required by law to issue annual reports on the most serious management and performance challenges facing their agencies.¹¹ These reports are like agency-specific high-risk lists and are equally important for oversight. The FDA is the subject of one quite broad HHS inspector general-designated

challenge: "Ensuring the Safety of Food, Drugs, and Medical Devices."¹²

Financial stewardship. Agencies are required by law to submit audited financial statements.¹³ Analysts should examine the agency's annual financial audit and report in order to assess its performance as a steward of public funds. The auditor's report will highlight any material weaknesses or other significant financial management problems. Failing audits or qualified audits should be unacceptable and the agency's plan to become compliant should be examined closely.

Improper payments. Agencies are required to report annually on estimated improper payments.¹⁴ It is estimated that across the federal government, improper payments for FY 2014 cost taxpayers \$124.7 billion—up significantly from \$105.8 billion in the prior year.¹⁵ This is pure fraud, waste, and abuse. Where improper payments are evident, analysts should ask for the agency's plan and timeline to eliminate them.

CONCLUSION

Having gathered the pertinent information for a hearing, the remaining task is to organize that information so it can be effectively used at the hearing. Demonstrating where there is a high return on taxpayer dollars is important, but equally important is demonstrating where there is a negligible or zero rate of return on taxpayer dollars spent. This type of critical information is most likely to influence budgetary spending decisions. This process to organize information will push the most relevant information to the forefront, but will have available the sources of the information. The relevant passages of laws, rules, and quotations from other hearings or reports should also be available. When questions are asked the relevant evidence should be immediately available.

NOTES

1. Office of Management and Budget, “Memorandum to the Heads of Executive Departments and Agencies: Use of Evidence and Evaluation in the 2014 Budget,” M-12-14, May 18, 2012.
2. See House of Representatives Committee on Rules, “House Rules for the One Hundred Fourteenth Congress,” Rule XVI, January 6, 2015, <https://rules.house.gov/resources>; Senate Committee on Rules and Administration, “Rule XVI: Appropriations and Amendments to General Appropriations Bills,” January 24, 2013, <http://www.rules.senate.gov/public/index.cfm?p=RuleXVI>.
3. Congressional Budget Office, *Unauthorized Appropriations and Expiring Authorizations*, January 15, 2015, 2.
4. See generally Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93-344, 88 Stat. 297, title III (1974), as amended, 2 U.S.C. 631 et seq.
5. Government Performance and Results Act, Pub. L. No. 103-62, 107 Stat. 285 (1993), as amended by Pub. L. No. 111-352, 124 Stat. 3866 (2011).
6. For the FDA’s strategic goals, see FDA, “FDA Strategic Priorities: 2014-2018,” September 2014. The FDA’s most recent performance information is incorporated into the HHS 2015 performance report and plan at HHS, “Fiscal Year 2015 Annual Performance Report and Performance Plan,” March 2014, <http://www.hhs.gov/sites/default/files/budget/fy2015/online-performance-appendix.pdf>.
7. “Regulatory Report Card,” Mercatus Center at George Mason University, Arlington, VA, <http://mercatus.org/reportcards>.
8. Jerry Ellig and James Broughel, “FDA Regulations Should be Safe and Effective,” Mercatus Center at George Mason University, Arlington, VA, March 12, 2014. The authors discuss several basic flaws in the FDA’s regulatory approach.
9. Government Accountability Office, *High-Risk Series: An Update*, GAO-15-290, February 2015.
10. *Ibid.*, 263-67.
11. Reports Consolidation Act of 2000, 31 U.S.C. § 3516(d).
12. Office of Inspector General, HHS, *Fiscal Year 2014 Top Management and Performance Challenges Identified by the Office of Inspector General*, 2014.
13. Chief Financial Officers Act of 1990, 31 U.S.C. § 3515.
14. Improper Payments Information Act of 2002, Pub. L. No. 107-300, 116 Stat. 2350 (2002), as amended, 31 U.S.C. § 3321 note.
15. GAO, *Government Efficiency and Effectiveness: Opportunities to Reduce Fragmentation, Overlap, Duplication, and Improper Payments and Achieve Other Financial Benefits*, GAO-15-440T, March 4, 2015, 25.

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