

The Appropriation Process

Major General Clair F. Gill, US Army

ON 17 SEPTEMBER 1787, in Philadelphia, Pennsylvania, our founding fathers sent to the states a document for ratification, the *Constitution of the United States*. To this day that document remains remarkably intact, having been amended only 27 times since ratification. Any discussion about the appropriation process must begin there. The *Constitution* directs that “the President shall be Commander in Chief of the Army and Navy of the United States.”²¹ Further, the *Constitution* explains that the Congress provides the revenues for the country—“All bills for raising revenue shall originate in the House of Representatives; but the senate may propose or concur with amendments as on other bills.”²² The *Constitution* also addresses Congress’s role with respect to the military. In part, that section provides that “the Congress shall have power . . . to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.”²³ Our *Constitution* establishes the Congress as the branch of the American government responsible for providing funds for the nation’s defense.

While the first Congress did not envision a separate authorization and appropriation process, it established the protocols by which both processes operate. Spending bills still must originate in the House. Both houses still have to agree, word for word, with what is sent to the president to be signed into law. If the president vetoes the bill, the constitutional process for overriding this veto still exists

untouched. Having said all that, there remain nuances in the process to be examined and explained.

This process of appropriating funds for the national defense consists of a series of dynamic events that seldom occur exactly the same way from year to year. Certain events recur every year, but how they occur or when depends on congressional leadership, administration leadership and national events or externalities impacting Congress. The appropriation process formally begins the first Monday in February with the submission of the president’s budget to Congress and ends with the president signing the *Defense Appropriations Bill* into law, ideally prior to the beginning of the new fiscal year on 1 October.

This article explains and provides insight into the process of appropriating funds by the Congress. The events that lead up to the president’s signature can be generally categorized as:

- Budget justification by the services.
- House and Senate “marks” documented in committee bills and reports.
- “Heartburn” appeals and conference.
- Bill signing by the president. Visually, the process is depicted by the figure on page 27.

The Army’s budget is included in the publication of the president’s budget after it has been carefully considered by the Office of the Secretary of Defense (OSD), Office of Management and Budget and the White House Budget Office. This budget provides programming and financing information for all

Army appropriations, but it does not contain detailed justification materials that are necessary for the Army budget justification before Congress.

Army budget justification begins with the submission of budget-supporting information to justify or validate the Army's funding requests to Congress. All services go through this process and must coordinate with the Department of Defense. At the service level, the Army prepares and submits Budget Justification Books (J Books). These are prepared in the budget office for each appropriation with extensive support from the entire Army staff (ARSTAF) and secretariat. The appropriations covered by J Books include military personnel (pay), operations and maintenance, research and development, the five procurement accounts, military construction, environment and chemical demilitarization. US Army Reserve and Army National Guard versions of the operations and maintenance and the personnel accounts also have separate J Books.

Committee professional staffers use the J Books to conduct analyses and make recommendations to the members of the Appropriation Subcommittees on Defense and Military Construction. At the same time the ARSTAF is preparing the J Books, it is also finalizing many supporting information papers. These papers are important because they become primary reference materials for the secretary of the Army (SECARMY), Army chief of staff (CSA) and other senior leaders to prepare for their congressional testimony. Both the House and Senate Armed Services Committees (authorizers) and the House and Senate Defense and Military Construction Appropriation Subcommittees of the Appropriation Committees (appropriators) hold posture hearings where the service secretaries and chiefs testify on the state of their military departments and address concerns and questions of committee members. Committee questions can range from national-level, readiness-related topics, to more politically sensitive topics involving local issues such as installations or contractors.

During this period of hearing preparation, the posture statement is also being readied. Similar in purpose to the posture hearings and delivered to the committees in support of these hearings, the posture statement documents the state of the service and also serves as a "this is the Army"-type pamphlet for members and staffers to use and refer to throughout the year.

The process of "marking" the budget begins when the president's budget goes to Congress. Committee staffers are eager to meet with Army budget personnel and other senior Army officials to discuss programs and funding. Briefings for staffers are

held both on Capitol Hill and in the Pentagon. A dialogue begins and continues until completion of the conference many months away. The committee staffers also receive information they seek during the hearings conducted by the members—either

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by members asking questions and receiving answers or through "Questions for the Record" that are passed to the Army following the hearing. In this fashion, congressional staffers collect their information, analyze it and prepare recommendations to their subcommittees for inclusion in their bills and reports. The key to achieving Army budget objectives is for the ARSTAF to provide accurate and timely information that meets congressional needs.

In the past few years, House and Senate defense subcommittees have formally met in the June-July timeframe to approve their respective bills. By this time, Army and congressional staffs have made great efforts to justify and resolve budget issues. A parallel event has occurred during the past two years while the subcommittees have worked to prepare their appropriation bills. This has been consideration of "emergency appropriation" legislation to address unforeseen situations, which can include contingencies and storm damage in the current fiscal year (FY). During the past two years, Congress has passed legislation in April, appropriating emergency funding for the services to pay for these significant expenses, which would have degraded readiness unacceptably had the services been forced to absorb the costs.

Once the subcommittees pass their bills, these approved bills go to the full committees for approval. Once approved, these bills proceed to a floor vote to receive full House and Senate approval. Action in the House and Senate can occur quickly. It is possible for a bill to go from subcommittee to full committee to floor in a matter of days. For planning purposes, though, we assume each step will take a week to complete. Typically, bills do not go to the full House or Senate right away. The committee

chairmen work closely with the House speaker or Senate majority leader to move a bill to the floor at the best strategic time to assure passage.

Once the House and Senate have passed their bills, focus in the Army changes to working to attain the best possible compromise position between the two houses of Congress. Remember, for a bill

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to clear Congress and be transmitted to the president, it must be agreed to by both Houses. However, as a practical matter, the House and Senate never pass identical legislation on the first try. The result is that committees must "conference" to resolve their differences. First, the staffs meet and address every difference between the two bills and include explanations in their accompanying reports. Defense subcommittee staffs work very hard to reach agreement and provide a complete product for members to review and approve.

Each subcommittee selects the same number of "conferees" to attend a conference, keeping the ratio between Republicans and Democrats the same as it is in the full House and Senate. The two subcommittee chairmen preside over the conference, with the two houses alternating the lead each year.

The timing of the conference is always an issue of concern because it could happen within days of the passing of the second house's bill. Over the past few years, a number of weeks have separated the latter house's bill and report and the convening of the conference, but this is not necessarily the case. This is important because the services prepare "heartburn" appeals to the conferees addressing marks in the bills and reports of the most concern. Army appeals normally request that the conferees reinstate the funding amount requested in the president's budget or the higher funding mark between the two houses. The latter situation occurs only when both the House and Senate have reduced funding for a program. Because the conference's purpose is to resolve differences between the

House's and Senate's respective bills, the highest funding amount the Army can reasonably expect is the higher amount of the two marks. Also, an appeal cannot be submitted with the purpose of changing a mark that is above the president's budget. For example, if the Senate provides additional funding above the amount requested in the president's budget for a system, and the House only sustains the amount requested in the president's budget, the Army cannot submit an appeal requesting the amount provided by the Senate.

Another prohibition is the Army cannot appeal any requirement that appears in report language and not in the accompanying bill. Since report language never becomes law and is therefore never legally binding, and since the charter of the conferees is to reconcile differences between each committee's bill, OSD, the consolidator and signature authority for all service appeals, does not accept report language appeals.

Because many differences always exist between the House and Senate bills, significant work must be accomplished by the ARSTAF to review each bill and identify what items or issues to appeal, prioritize and submit to OSD. Sometimes the Army has less than a week to do all of this. Determining the number of appeals to submit and their prioritization is always an important issue for the senior leadership to decide.

Senior Army leadership has just approved a FY 2000 priority list, sometimes referred to as a "top issues list," or "Army budget priorities list." This priority list, as with similar lists the past two years, enables the Army to better articulate its priorities early in the process, well before appeals are to be worked in July and August. This list will also assist senior leaders visiting Capitol Hill to meet with congressional members and staffers. Occasionally, an Army official may brief congressional members and staffers on particular systems not on the top priority list. In these cases, senior leaders should clarify or provide perspective that the Army has certain top priorities as identified on the "top issues list," and that the item under discussion, although important, is not on the list.

The Army's Top Issues List for FY 2000 follows:

- Timely funding (non-offset) for all contingency operations.
- Fund pay raise, retirement reform and pay table reform.
- Fund total Army end strength and man-years.
- Fund readiness accounts (operations and maintenance) in the categories as requested:
 - Ground operations tempo and flying hours program.

- Base operations and real property maintenance.
 - Depot maintenance.
 - Fund Force XXI digitization and experimentation programs:
 - Field 4th Infantry Division (-) at Fort Hood by FY 2000; Corps by FY 2004.
 - Support institutional training base programs, to include gender-integrated training.
 - Fund critical warfighter programs:
 - Comanche, Crusader, Apache Longbow and Armored Systems Modernization.
 - Fund Army construction, such as barracks, housing and privatization initiatives, as requested.
 - Fund Army pre-positioned brigade sets and installation strategic mobility programs.
 - Continue support for AC/RC integration, to include authorizing relief for Reserve Component full-time support personnel utilization.

During the appeal process, this priority list will be very helpful because senior leaders use it as the basis to approve and array the appeals prepared by the ARSTAF. This facilitates the process by helping the Army remain consistent throughout the overall process and reducing the time needed to prepare a complete packet for OSD.

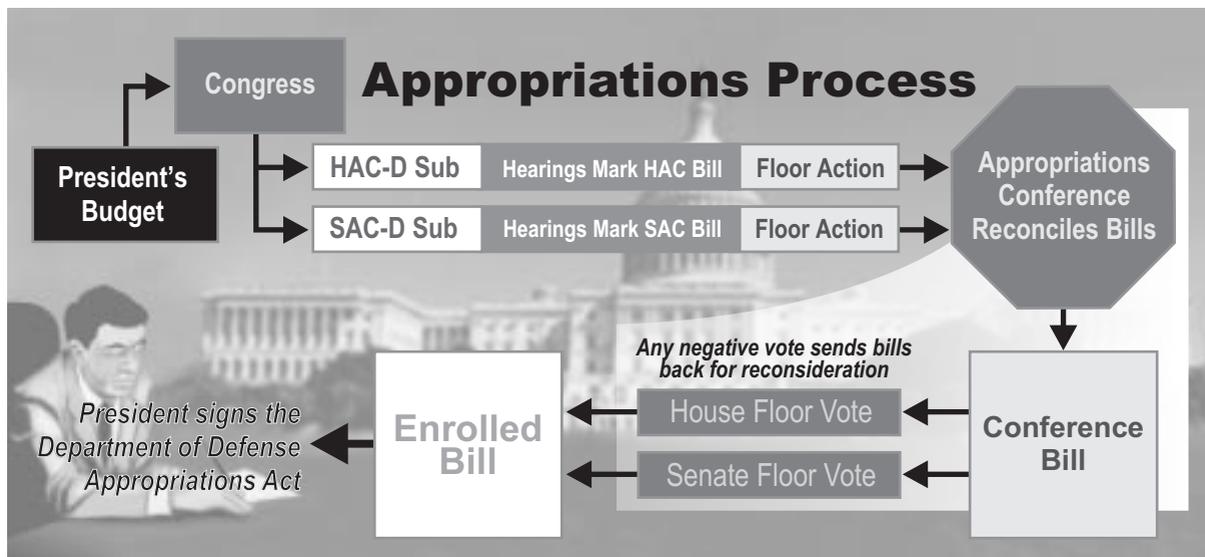
After the conferees complete their work and agree upon a final bill, the subcommittees “file” the bill so that it can be brought to the floor of each house for a vote. The vote is a simple approval or disapproval; amendments cannot be made, and the bill is not otherwise adjusted. Each house of Congress approves or rejects. If disapproved, the bill would be referred back to the conferees for more work. After passing both houses, the bill is enrolled, printed on parchment and sent to the president for signature.

If the Congress is not able to pass a bill before

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the new FY’s start, a temporary spending measure is required to prevent the government from “shutting down.” The Congress must pass Continuing Resolution Authority (CRA) legislation, which must also be signed by the president in order to keep the government operating. In FY 1996, the government partially “shut down” twice when the president would not accept the *Omnibus*—a catch-all, multi-agency spending bill—passed by Congress, and the Congress could not agree with the president on a CRA to keep the government temporarily funded.

The final stage of the appropriation process is the signing of the *Act*—a bill passed in identical form by both houses of Congress—by the president. However, as the appropriation process closes, the Army is just beginning the year of execution. The services must now take the *Appropriation Act* and match it to the budget request submitted to the Congress back in February. This is necessary to take into account the adjustments made by Congress to the budget request. For example, in the O&M appropriation, the Congress has in the past made adjustments to the OPTEMPO, base operations and real property maintenance accounts. The



ARSTAF takes all the adjustments into account and then provides an adjusted funding amount to the commands. For operations and maintenance funding, commands receive a funding letter, which provides FY funding amounts as well as any special guidance from Congress or Army leadership. The procurement, research and development, pay and military construction appropriations all go through similar reviews to match the budget to the appropriation and establish an FY spending plan.

The *Conference Report for the Defense Appropriation* is the document used as the basis for matching the budget to the appropriation. Conference reports are essentially a complete document with both the bill and the "statement of managers," also referred to as bill language from the Congress. The bill is easily identified in the appropriation by italicized print, while the statement of managers is identified by normal print. Once signed, the bill is enacted, that is it becomes law, and is legally binding upon the services. The statement of managers is similar to "commander's intent," not strictly law, but the way the Congress wants things done under the law. Congress's expectation is that the Army will comply with all language in the statement of managers. If not done, these requirements could be easily converted to law the following year. The immediate risk to the Army would be increased submissions of congressional inquiries and a diminution of Army credibility on the Hill. Generally speaking, the Army makes every effort to support congressional report language unless some other law or very strong reason exists not to comply. In these cases, the Army's senior leadership becomes involved in resolving the issue.

What is clear is that the Army cannot run, train or operate without funding and program authorization from Congress. It is also clear that the Army must reach out to Congress and work to comply with congressional desires in order to receive the full requested authorization and funding. In recent years the Army has made determined strides to focus and develop a plan to respond to Congress and to articulate Army requirements better and gain congressional support. While the priority list helps in this regard, major command (MACOM) and installation

commanders are particularly well suited for engaging members of Congress. Commanders in chief (CINCs) are also very effective. The appropriation committees hold special hearings every year to hear from these commanders. And clearly, as the Congress approaches completion of a bill, the most influential senior leaders to address the greatest concerns are the SECARMY and CSA. Members and staffs listen and make great effort to support their specific requests. The challenge for the ARSTAF is to schedule and coordinate the SECARMY's and CSA's visits at the right time with the appropriations' chairmen and ranking members and prepare them for these discussions.

However, while the Army's senior military and civilian leaders have a formal role in the appropriation process, each of us, regardless of the uniform or suit we may wear or the rank we hold, also can play an important part. Whether we are formally engaged in providing information directly to Congress, preparing answers and data for our leadership to present or have the unique opportunity to meet a congressional member or staffer on our installation, our priority duty is to tell the Army story, as completely and as accurately as we are able to present it.

The appropriation process and its counterpart, the authorization process, are dynamic events demanding great effort from the ARSTAF, CSA and SECARMY, through the staff officer as well as the Army's MACOMs when needed. The stakes are high—the Army depends on Congress for its funding. The more effectively the Army can justify its budget requests, the better the chance of receiving the funding needed.

It is important to remember that it is the responsibility and prerogative of the elected members of Congress to raise and support armies. As officers and noncommissioned officers, it is our job to articulate accurately our needs and requirements and, once appropriated, to use these precious resources as wisely as possible to produce a trained and ready Army. This is our special and sacred trust. **MR**

NOTES

1. *United States Constitution*, Article II, Section 2.
2. *United States Constitution*, Article I, Section 7.
3. *United States Constitution* Article I, Section 8.

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