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BUDGET ISSUES

Compliance Report Required by the Budget Enforcement Act of 1990





United States
General Accounting Office
Washington, D.C. 20548

**Comptroller General
of the United States**

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February 16, 1996

The President
The President of the Senate
The Speaker of the House of Representatives

As required by the Budget Enforcement Act of 1990,¹ which amended the Balanced Budget and Emergency Deficit Control Act of 1985, we hereby submit our compliance report covering reports issued by the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) during the session of the Congress ending January 3, 1996. We are required to issue this compliance report 45 days after the end of a session of the Congress.

To determine compliance with the Budget Enforcement Act, we reviewed OMB and CBO reports issued under the act to determine if they reflected all of the act's requirements. We interviewed OMB and CBO officials to obtain explanations for differences between reports. Background information on the various reports required by the act and details concerning our objectives, scope, and methodology are in appendix I.

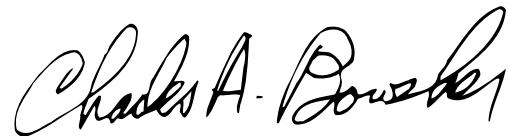
In our opinion, the OMB and CBO reports substantially complied with the act. We discuss in appendix II some implementation issues which are not, in our judgement, compliance issues. They are related to (1) a change in OMB's methodology for calculating inflation for discretionary spending limits, (2) OMB's reestimate of enacted emergency legislation, and (3) differences in OMB and CBO spending estimates of appropriation acts and direct spending legislation. Appendix III lists regular appropriations, supplemental appropriations, and continuing resolutions enacted, to date, in the 104th Congress.

We provided a draft of this report to OMB and CBO officials for their review. They agreed with our presentation of their views and the facts as presented. We incorporated their comments where appropriate.

We are sending copies of this report to the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Members of the Congress. Copies will be made available to other interested parties on request.

¹The Budget Enforcement Act of 1990, as amended by the Omnibus Budget Reconciliation Act of 1993, is referred to in this report as BEA.

This report was prepared under the direction of Susan J. Irving, Associate Director, Budget Issues, who may be reached at (202) 512-9142 if you or your staffs have any questions. Major contributors to this report are listed in appendix IV.

A handwritten signature in black ink that reads "Charles A. Bowsher". The signature is written in a cursive style with a large, prominent initial "C".

Charles A. Bowsher
Comptroller General
of the United States

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Abbreviations

BEA	Budget Enforcement Act of 1990, as amended
CBO	Congressional Budget Office
DOD	Department of Defense
DOT	Department of Transportation
FEMA	Federal Emergency Management Agency
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
FAA	Federal Aviation Administration
OBRA 90	Omnibus Budget Reconciliation Act of 1990
OBRA 93	Omnibus Budget Reconciliation Act of 1993
OMB	Office of Management and Budget
PAYGO	pay-as-you-go
VCRTF	Violent Crime Reduction Trust Fund

Background and Objectives, Scope, and Methodology

Background

The Budget Enforcement Act (BEA) of 1990 changed the budget process by establishing three major points of control—dollar limits on discretionary spending, a pay-as-you-go (PAYGO)¹ requirement for direct spending² and receipts legislation, and adjustable maximum deficit targets for fiscal years 1991 through 1995. The act requires OMB and CBO to issue Preview, Update, and Final Sequestration reports at various times during the year. Each report is to include a discretionary sequestration report and a PAYGO sequestration report. Reports in years previous to this were required to specify the amount of the adjusted maximum deficit for the coming fiscal year. That requirement is no longer in effect because the Omnibus Budget Reconciliation Act of 1993 (OBRA 93) extended the discretionary and PAYGO provisions through fiscal year 1998 but did not extend the sequestration provision for enforcing the deficit targets beyond fiscal year 1995.

In their final sequestration reports, both OMB and CBO calculate whether a sequester is necessary. However, the OMB report is the sole basis for determining whether any end-of-session sequestration is required. If OMB determines that a sequester is required, the President must issue an order implementing it. For fiscal year 1996, neither CBO's report, issued January 11, 1996, nor OMB's report, issued January 18, 1996, called for a sequestration.

In addition, as soon as practical after the Congress completes action on any appropriation involving discretionary spending, CBO is required to report to OMB the estimated amount of new budget authority and outlays provided by the legislation. Five days after an appropriation is enacted, OMB must report its estimates for these amounts, using the same economic and technical assumptions underlying the administration's most recent budget submission. It also must include the CBO estimates and an explanation of any differences between the two sets of estimates. OMB and CBO have requirements similar to those described above to report their estimates for any direct spending or receipts legislation.

Further, for any appropriation enacted after the Congress adjourns to end a session for that budget year but before July 1 of that fiscal year, CBO and OMB must issue Within-Session Sequestration Reports 10 and 15 days,

¹The Budget Enforcement Act, as amended, requires that any legislation that increases direct spending or decreases receipts be deficit neutral (that is, not increase the deficit) in the aggregate within any fiscal year from fiscal year 1992 through fiscal year 1998.

²Direct spending (commonly referred to as mandatory spending) means entitlement authority, the food stamp program, and any budget authority provided by law other than in appropriations acts. For definitions of budget terms see *A Glossary of Terms Used in the Federal Budget Process* (GAO/AFMD-2.1.1, January 1993).

respectively, after enactment if that appropriation causes the spending limits for the year in progress to be exceeded. On the same day that the OMB report is issued, the President must issue an order implementing any sequestrations set forth in that OMB report. This year no Within-Session Sequestration Reports were required.

The Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) established the Violent Crime Reduction Trust Fund (VCRTF). The act provided that specified amounts of budget authority be transferred to the trust fund from the general fund in each fiscal year from 1995 through 2000. The act further provided that appropriations from the trust fund not be counted in determining compliance with the discretionary spending limits of BEA. Thus, the act established a special category of discretionary spending. Total discretionary spending limits are now composed of two categories—general purpose appropriations and the crime trust fund. The crime trust fund is subject to sequestration if estimated outlays from the fund exceed annual spending limits specified in the Violent Crime Control and Law Enforcement Act.

Objectives, Scope, and Methodology

The objective of our review was to determine whether the OMB and CBO reports complied with the requirements of BEA. To accomplish this, we reviewed the OMB and CBO Preview, Update, and Final Sequestration reports to determine if they complied with all of the technical requirements specified in BEA, such as (1) estimates of the discretionary spending limits, (2) explanations of any adjustments to the limits, (3) estimates of the amount of net deficit increase or decrease, and (4) in the event of a sequester, the sequestration percentages necessary to achieve the required reduction.

We reviewed BEA, its accompanying Joint Statement of Managers, OBRA 90, and OBRA 93. We also reviewed the pertinent appropriations acts and their related Conference Reports. We examined the OMB and CBO reports on the 7 regular appropriations bills enacted for fiscal year 1996, the 2 supplemental appropriations acts passed in 1995, the 4 continuing resolutions passed in 1995, and the 20 pay-as-you-go reports on direct spending and receipts legislation enacted during the first session of the 104th Congress. We compared each OMB and CBO report and obtained explanations for differences of \$100 million or more in total bill estimates for the appropriation and PAYGO reports.

Appendix I
Background and Objectives, Scope, and
Methodology

During the course of our work, we interviewed OMB and CBO officials. Our work was conducted in Washington, D.C., from July 1995 through January 1996. We provided a draft of this report to OMB and CBO officials for their review. They agreed with our presentation of their views and the facts as presented. We incorporated their comments where appropriate.

Implementation Issues

We identified several implementation issues in which OMB and CBO differed in making (1) adjustments to the discretionary spending limits, or caps, (2) estimates of discretionary appropriations, and (3) estimates of PAYGO legislation. These are discussed in the following sections.

Discretionary Spending Limit Adjustments

Implementation issues related to differences between OMB and CBO discretionary spending limit adjustments include (1) the methodology used to make inflation adjustments, (2) what was included in the discretionary spending base that was adjusted, and (3) adjustments related to emergency legislation.

OMB and CBO Differed in Adjusting Discretionary Spending Limits for Inflation

In its Preview Sequestration Report, OMB's estimates for the discretionary spending limits were \$4.5 billion higher in budget authority and \$2.7 billion higher in outlays than CBO was for fiscal year 1996. About \$4.4 billion of the \$4.5 billion difference in budget authority estimates was due to differing interpretations of an amendment to BEA governing how discretionary spending limits should be adjusted for inflation. About \$2.4 billion of the \$2.7 billion difference in outlay estimates was due to the different OMB and CBO adjustments for inflation.

BEA originally established discretionary spending limits for fiscal years 1991 through 1995 based on assumed levels of inflation (for fiscal years 1990 through 1993). If the actual rate of inflation for those fiscal years differed from the assumed rates, BEA required OMB to adjust the spending limits to account for the difference.¹

In practice, this involved using the actual inflation rate for the most recently completed fiscal year, comparing that rate to the assumed rate in BEA, and making the appropriate adjustment. For example, when the administration submitted its fiscal year 1995 budget to the Congress in February 1994, the most recently completed fiscal year was 1993 (which ended September 30, 1993). The administration then adjusted the discretionary spending limits for fiscal year 1995 based on the difference between the actual rate of inflation for fiscal year 1993 and the rate assumed in BEA for fiscal year 1993.

¹Section 251(b)(1)(B)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, specifies how discretionary spending limits were to be adjusted for changes in inflation in the budgets submitted for fiscal years 1992 through 1995. The adjustments were to be based on differences between the actual rate of inflation for the most recently completed fiscal year and the rate assumed when the discretionary spending limits were established: $\text{actual rate} = \text{adjustment rate} + \frac{\text{assumed rate}}{\text{actual rate}}$

OBRA 93 extended the discretionary spending limits through fiscal year 1998. It also amended BEA to extend the inflation adjustments to be made to the caps for fiscal years 1996 through 1998. The amendment states: “For a budget submitted for budget year 1996, 1997, or 1998, the adjustments shall be those necessary to reflect changes in inflation estimates since those of March 31, 1993, set forth on page 46 of House Conference Report 103-48.”²

OMB interpreted the OBRA 93 amendment to alter the way it adjusted the discretionary spending caps for inflation. When OMB submitted the fiscal year 1996 budget, instead of comparing the actual rate of inflation for fiscal year 1994 (the most recently completed fiscal year) with the rate assumed for fiscal year 1994 in House Conference Report 103-48, OMB compared its current projections of inflation for 1996, 1997, and 1998 with the rates assumed for those years in the conference report. OMB then adjusted the discretionary spending limits upward because OMB’s assumed inflation rates were higher than those estimated in the conference report for fiscal years 1996 through 1998.³

Because the actual rate of inflation for fiscal year 1994 was lower than the rate assumed for fiscal year 1994 in the conference report (2.0 percent versus 2.4 percent), CBO adjusted the discretionary spending limits for fiscal year 1996 downward in its Preview Sequestration Report. Since CBO lowered the limits and OMB adjusted them upward, the different inflation adjustments explain most of the difference between OMB’s and CBO’s estimates of the discretionary spending limits. As shown in table II.1, because of the different inflation adjustments, OMB’s estimates for the spending caps were \$4.4 billion higher in budget authority and \$2.4 billion higher in outlays than CBO’s estimates for fiscal year 1996.

²Section 251(b)(1)(B)(iii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

³House Conference Report 103-48 had assumed inflation rates of 2.3 percent, 2.2 percent, and 2.2 percent, respectively, for fiscal years 1996, 1997, and 1998. OMB’s 1996 budget assumed inflation rates of 2.9 percent, 3.0 percent, and 3.0 percent, respectively, for fiscal years 1996 through 1998.

**Appendix II
Implementation Issues**

Table II.1: OMB and CBO Adjustments to the Discretionary Spending Limits Due to Different Inflation Assumptions

Dollars in billions

Fiscal year	1996		1997		1998		1996-1998	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
OMB adjustment	\$3.0	\$1.8	\$7.2	\$5.1	\$11.5	\$8.9	\$21.7	\$15.8
CBO adjustment	-1.4	-.6	-1.4	-1.0	-1.5	-1.3	-4.3	-2.9
Difference	\$4.4	\$2.4	\$8.6	\$6.1	\$13.0	\$10.2	\$26.0	\$18.7

As shown in table II.1, in fiscal year 1997, the difference in how the caps were adjusted for inflation meant that OMB's estimates for the spending caps were \$8.6 billion higher in budget authority and \$6.1 billion higher in outlays than CBO's. In fiscal year 1998, the inflation adjustment difference made OMB's estimates for the spending caps \$13.0 billion higher in budget authority and \$10.2 billion higher in outlays than CBO's estimate. The total effect of the opposite inflation adjustments on the spending limits for fiscal years 1996 through 1998 was approximately \$26 billion in budget authority and \$18.7 billion in outlays.

According to OMB, the language in OBRA 93 concerning the inflation adjustments for the 1996 through 1998 budgets contains no specific guidance on how these adjustments should be made other than that they should adjust for changes in estimates and that the adjustment should be made from the inflation estimates contained in the House Conference Report on the 1994 Budget Resolution. CBO, however, believed that the OBRA 93 amendment did not change the method specified in BEA for adjusting the discretionary spending limits for changes in inflation, but merely specified the assumed inflation rates for additional years. CBO believed that the approach used to adjust the caps for inflation for fiscal years 1992 through 1995 was to be continued for fiscal years 1996 through 1998. A CBO official told us that CBO relied on language in the statement of managers accompanying OBRA 93 which stated that the Senate amendment (which was incorporated in the final legislation) "retains, with minor technical and conforming changes, the current law's procedures for periodically adjusting the discretionary spending limits."

When the Congress amended BEA with the OBRA 93 amendments, it did not simply insert budget years 1996, 1997, or 1998 into the existing statutory provision governing the adjustment of discretionary spending to account for changes in inflation. Instead, the Congress added a separate subsection governing inflation adjustments in budget years 1996, 1997, and 1998.

Thus, at least structurally, the statute suggests a different treatment for estimates in 1996 through 1998 than in 1992 through 1995. More substantively, however, is that the provision relating to budget years 1992 through 1995 clearly states that the inflation adjustment is that of the “level of year-over-year inflation measured for the fiscal year most recently completed and (emphasis added) the applicable estimated level” specifically set forth in 2 U.S.C. 901(b)(1)(B)(ii). The language for years 1996 through 1998 only requires inflation adjustments to reflect changes “in inflation estimates” (emphasis added) from those estimates found in House Conference Report 103-48 rather than compared to any actual inflation measures. Although the statement of managers in OBRA 93 indicates that no change to the procedure for adjusting discretionary spending limits for inflation was expected, OMB’s inflation adjustment tracks the literal language of the OBRA 93 amendments.

OMB and CBO Made Inflation Adjustments to Different Bases

In addition to using different inflation adjustments, OMB and CBO applied their different inflation adjustments to different bases, or starting points. OMB applied its inflation adjustment to a larger discretionary spending limit base than CBO because it included personnel costs and the Violent Crime Reduction Trust Fund in its base while CBO did not.

In contrast to previous years, OMB’s inflation adjustment for the fiscal year 1996 discretionary spending limits included personnel costs. This inclusion, which we have advocated in past compliance reports,⁴ increased the base to which OMB’s upward inflation adjustment was applied, resulting in a higher discretionary spending limit than if OMB had followed its past practice of excluding personnel in its base.

In our BEA compliance report for fiscal year 1994, we concluded, and CBO agreed, that properly adjusted discretionary spending limits should cover inflation in personnel costs. In previous fiscal years covered by BEA, OMB did not agree and did not adjust personnel costs for inflation. In those years, such an adjustment would have lowered the discretionary spending limits. In estimating the adjustment for inflation for the fiscal year 1996 budget, CBO used the method OMB adopted in its 1993 Preview Sequestration Report issued in January 1992. That method entailed adjusting only nonpersonnel costs instead of adjusting all discretionary spending. CBO did this because although, as noted earlier, it disagreed with OMB’s interpretation of the inflation adjustment provision in BEA, OMB’s cap

⁴Budget Issues: Compliance With the Budget Enforcement Act of 1990 (GAO/AFMD-93-38, November 23, 1992) and Budget Issues: Compliance Report Required by the Budget Enforcement Act of 1990 (GAO/AIMD-94-66, January 10, 1994).

adjustments are controlling. Therefore, CBO followed OMB's past methodology in its 1996 Preview Sequestration Report.

OMB's inflation adjustment for the fiscal year 1996 discretionary spending limits also included the Violent Crime Reduction Trust Fund. Spending from the VCRTF was excluded from the discretionary spending limits by the Violent Crime Control and Law Enforcement Act of 1994. The act provided that specified amounts of budget authority and outlays be deducted from the discretionary spending limits in each fiscal year from 1995 through 2000 to create a separate spending limit for the VCRTF. By establishing this special category of discretionary spending, the act created two categories of discretionary spending—general purpose discretionary spending and VCRTF. In fiscal year 1996, the VCRTF spending limits were set at \$4.3 billion in budget authority and \$2.3 billion in outlays, and the discretionary spending limits were reduced by those amounts. The VCRTF totals represent less than 1 percent of the total discretionary spending limits.⁵

When OMB made its inflation adjustments to the fiscal year 1996 discretionary spending limits it included both the general purpose discretionary spending and VCRTF in its discretionary spending limit base. However, CBO only included general purpose discretionary spending in its base. According to a CBO official, CBO believed that the Violent Crime Reduction and Law Enforcement Act excluded the VCRTF from BEA rules governing discretionary spending limit adjustments and so they did not include the crime trust fund in their discretionary spending limit base. OMB told us that BEA requires that the inflation adjustment be applied to the entire discretionary spending limit base, which includes both general purpose discretionary spending and the VCRTF.

Based on our review of the Violent Crime Control and Law Enforcement Act and BEA, we believe that OMB's position is better supported by the crime law than CBO's. In commenting on a draft of this report, CBO officials disagreed with this conclusion. We do believe that, at least conceptually, general purpose discretionary spending limits should not benefit from the inflation increase that results from inflating a larger base.⁶ Because the

⁵CBO's Preview Sequestration Report for fiscal year 1996 set discretionary spending limits at \$517 billion in budget authority and \$549 billion in outlays. The VCRTF deduction of \$4.3 billion in budget authority and \$2.3 billion in outlays from the spending limits in fiscal year 1996 represented 0.8 percent and 0.4 percent, respectively, of total discretionary spending limit budget authority and outlays.

⁶Because specific amounts of budget authority and outlays were set in the crime law for the VCRTF, adjusting the total discretionary spending limits has the effect of increasing the amount available for general purpose discretionary spending.

VCRTF represents such a small percentage of the total discretionary spending limit base, the increase in the spending limits for general purpose discretionary spending is minimal.

OMB and CBO Differed in Reestimates of Enacted Emergency Legislation

OMB and CBO disagreed over whether BEA allows for reestimates of previously enacted emergency legislation in order to adjust the discretionary spending limits. OMB's Preview Sequestration Report discretionary spending limits reflected outlay increases of \$171 million in fiscal year 1996, \$62 million in 1997, and \$259 million in 1998 as a result of reestimates of enacted emergency legislation. CBO, however, believed that BEA did not allow adjustments for reestimates of the costs of emergency legislation and did not include any in its January 1995 Preview Sequestration Report estimate of the discretionary spending limits. According to an OMB official, OMB believes it has authority under BEA to reestimate enacted emergency legislation⁷ and has traditionally reestimated enacted emergency legislation because doing so allows OMB to provide a better estimate of the true outlay rate of the legislation. While this issue is not specifically addressed in BEA, we believe that OMB had a reasonable basis for its adjustments to the spending caps due to emergency appropriations.

Discretionary Spending Estimates

Implementation issues related to the discretionary spending estimates of OMB and CBO for fiscal year 1996 appropriations include (1) different outlay estimates for the seven enacted general purpose appropriations, (2) different budget authority and outlay estimates for the two enacted supplemental appropriations, and (3) estimates for continuing resolutions.

OMB and CBO Had Some Differences in Outlay Estimates for Appropriation Acts

OMB and CBO estimates of budget authority did not differ significantly for any enacted regular appropriation. However, as shown in table II.2, the differences in outlay estimates between OMB and CBO for the seven enacted appropriations varied somewhat. The overall net difference—relevant to whether there would be a difference in conclusions about breaching the spending caps—was only \$87 million.⁸ OMB and CBO had differences in outlay estimates greater than \$100 million for three of the seven enacted appropriations—those funding the Departments of Agriculture, Defense,

⁷Section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

⁸Outlay estimates are based on CBO's scorekeeping reports prepared after the completion of congressional action and OMB's "5-day" scorekeeping reports issued after enactment of the appropriation.

and Transportation. While these differences represented a relatively small percentage of the total bill estimates (1.8 percent, 0.1 percent, and 1.5 percent respectively), we examined the OMB and CBO reasoning behind the different numbers to ensure that no systemic tendencies to over- or underestimate outlays were involved.

As of the end of the first session of the 104th Congress, 7 of the 13 regular appropriation bills for fiscal year 1996 were enacted. The enacted appropriations covered funding for the Departments of Agriculture, Defense (including military construction), Transportation, and Treasury; the legislative branch; the Postal Service; and, energy and water construction. Among the six regular appropriation bills not enacted, the President vetoed three, including those funding the Departments of Commerce, Justice, State, Interior, Veterans Affairs, Housing and Community Development, and the judiciary. The remaining three appropriation bills—covering the Departments of Labor, Health and Human Services, and Education; District of Columbia finances; and foreign operations—did not receive final congressional action during the first session of the 104th Congress.

**Appendix II
Implementation Issues**

Table II.2: Comparison of OMB and CBO Scoring of General Purpose Appropriations in Fiscal Year 1996

Dollars in millions				
Appropriation act	Estimates of outlays			Percent difference ^b
	OMB	CBO	Difference ^a	
Agriculture	\$13,827	\$13,581	\$246	1.78
Commerce	bill not enacted			
Defense	242,965 ^c	242,727	238	0.10
District of Columbia	bill not enacted			
Energy/Water	19,736	19,712	24	0.12
Foreign Operations	bill not enacted			
Interior	bill not enacted			
Labor/HHS/Education	bill not enacted			
Legislative Branch	2,208	2,180	28	1.27
Military Construction	9,597	9,621	-24	-0.25
Transportation	36,200 ^c	36,754	-554	-1.53
Treasury/Postal	11,445 ^c	11,490	-45	-0.39
VA/HUD/Independent Agencies	bill not enacted			
Total Enacted	\$335,978	\$336,065	\$-87	-0.03

^aA positive number means that OMB's estimate was higher than CBO's.

^bPercent difference is calculated by dividing the difference by OMB's estimate of outlays.

^cOMB's scoring included outlays from emergency appropriations for 1996, enacted or released since the February budget.

As shown in table II.2, OMB estimated \$246 million more in outlays for the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act than CBO. Most of the difference in the outlay estimates for this appropriation was attributable to different OMB and CBO methodologies for estimating outlays resulting from budget authority provided in prior years for accounts covering the Food and Drug Administration, the Foreign Agricultural Service, and the Rural Housing and Community Development Service, among others. Other differences in the outlay estimates were attributable to OMB and CBO having different estimates of the impact of freezing the food stamp standard deduction at the fiscal year 1995 level.

In the Department of Defense (DOD) Appropriations Act, OMB estimated \$238 million more in outlays for fiscal year 1996 than CBO. This occurred, in part, because OMB included \$425 million in its estimate of DOD's regular

appropriation for fiscal year 1996 outlays to reflect emergency spending contained in Public Law 104-6, the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995, enacted on April 10, 1995. This adjustment was made in anticipation of a commensurate increase in the discretionary spending caps to reflect emergency spending. While CBO agrees that this adjustment was appropriate given OMB's responsibilities under BEA, CBO did not include this amount in its estimate because it felt it was appropriate to wait for OMB to formally adjust the caps.

This upward adjustment was partially offset by a \$279 million downward adjustment made by OMB due to its assumption regarding how quickly DOD would spend the emergency supplemental funds provided in Public Law 104-6. CBO assumed that since DOD received the money half-way through fiscal year 1995, it would spend about half the money by the end of the fiscal year and spend the other half during fiscal year 1996. However, after OMB discussions with DOD officials, OMB assumed that DOD would spend more of its regular fiscal year 1995 budget earlier in the fiscal year than it otherwise would have, in anticipation of the additional funds provided through the supplemental appropriation. Because of this assumption, OMB then assumed a more rapid spend out of the supplemental appropriation than did CBO. The total outlay estimates were the same over the 2-year period.

In the Department of Transportation and Related Agencies (DOT) Appropriations Act, OMB estimated \$554 million less in outlays for fiscal year 1996 than CBO. Most of the difference in the outlay estimates was attributable to different OMB and CBO methodologies for estimating outlays resulting from budget authority provided in prior years. Three of OMB's outlay estimates for DOT agencies differed from CBO by more than \$100 million. These included outlay estimates for the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA). CBO estimated \$198 million, \$118 million, and \$178 million more, respectively, in outlays for these agencies than OMB for fiscal year 1996.

An OMB analyst noted that each of these agencies funds large construction projects spanning several years, and that relatively small percent differences between OMB and CBO regarding the rate of expenditures in these accounts can cumulatively result in relatively large dollar differences. For example, budget authority in the Federal Highway Aid account, the largest account within FHWA, creates outlays for the next 9

fiscal years, and small differences in OMB and CBO spend out rates can result in different estimates of outlays flowing into subsequent budget years from this account. The analyst noted that over time, OMB and CBO estimates of outlays will balance out. However, given different spend out assumptions of multi-year budget authority, outlay estimates year-to-year will vary.

OMB and CBO Differed in Estimates of Supplemental Appropriations

Two supplemental appropriations were enacted in the first session of the 104th Congress. The first supplemental appropriation, Public Law 104-6, was enacted on April 10, 1995. The act rescinded fiscal year 1995 budget authority for several agencies and provided an emergency supplemental appropriation to replenish DOD and Coast Guard accounts to cover the costs of contingency operations in the Persian Gulf, Somalia, Rwanda, Haiti and elsewhere, and to enhance military readiness. The second supplemental appropriation, the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-Terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995 (Public Law 104-19), was enacted on July 27, 1995. This act rescinded additional fiscal year 1995 budget authority and provided emergency spending for disaster relief for the bombing in Oklahoma City and for other additional disaster assistance.

As shown in table II.3, OMB and CBO had differences in the budget authority and outlay estimates of discretionary spending rescinded in the two supplemental appropriations.

Table II.3: Comparison of OMB and CBO Scoring of General Purpose Discretionary Spending in Supplemental Appropriations Enacted in the First Session of the 104th Congress

Act	Fiscal year 1995		Fiscal year 1996		Total	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
	Dollars in millions					
P.L. 104-6						
OMB estimate	-\$551	\$1,585	-\$50	-\$712	-\$601	\$873
CBO estimate	-911	-51	-100	294	-1,011	243
Difference ^a	360	1,636	50	-1,006	410	630
P.L. 104-19						
OMB estimate	-14,949	-1,112	-71	-3,456	-15,020	-4,568
CBO estimate	-15,251	-593	22	-3,133	-15,229	-3,726
Difference	302	-519	-93	-323	209	-842

^aA positive number means that CBO estimated a larger rescission amount than OMB.

As shown in table II.3, for fiscal years 1995 and 1996, CBO estimated \$410 million more in rescinded budget authority for Public Law 104-6 than OMB. This difference was attributable to different OMB and CBO scoring of funds to be received, as a result of Public Law 104-6, as reimbursements for DOD operations from foreign governments and foreign entities. Language in the act required that funds received as reimbursements for DOD operations be deposited in the Treasury instead of a DOD account. Thus, under the new law, DOD could not spend the reimbursements. CBO assumed that \$360 million would be received in fiscal year 1995 and \$50 million would be received in fiscal year 1996 for reimbursements and scored those as reductions in budget authority under Public Law 104-6. OMB did not score this provision of the act as having budget authority savings because the administration's budget had assumed no reimbursements would be received. As discussed earlier, outlay differences between OMB and CBO for Public Law 104-6 were attributable to different OMB and CBO assumptions regarding how quickly DOD would spend the supplemental funds.

As shown in table II.3, for fiscal year 1995, CBO estimated \$302 million more in rescinded budget authority than OMB for Public Law 104-19. This difference is largely attributable to a scoring difference between OMB and CBO regarding rescinded funds for the Job Opportunities and Basic Skills program of the Department of Health and Human Services. CBO assumed that the act's language made a substantive change to this mandatory program and scored the \$330 million as savings for BEA purposes. OMB concluded that because, under current law, the budget authority in this program is decreased by the amount that is unused, the legislation did not change the program and thus BEA scoring rules did not allow savings to be recognized. Based on our review of Public Law 104-19, we concluded that the rescission only decreased the amount deemed unnecessary to pay state claims—the amount that would be unused anyway. Since the claims are already under a legal limitation of available funds, the substantive ceiling of \$1.3 billion in budget authority was specifically left the same for claims purposes. Therefore, we concur with OMB's decision not to score the savings for BEA purposes. Fiscal year 1996 differences in budget authority estimates between OMB and CBO were attributable to provisions in the act regarding timber salvage sales. OMB and CBO used different technical assumptions regarding the price and volume of the salvage timber sold.

Outlay differences of \$842 million between OMB and CBO for Public Law 104-19 are largely attributable to (1) different technical assumptions

regarding across-the-board travel and administrative reductions, (2) different estimates of timber salvage sales by the Departments of Agriculture and Interior, (3) different outlay spend-out rate assumptions regarding reductions in the General Service Administration's federal building fund, and (4) different outlay spend-out rate assumptions regarding the Department of Labor's training and employment services.

In addition, OMB and CBO differed over provisions in Public Law 104-19 that enacted emergency spending. OMB estimated roughly \$2.5 billion more in outlays for fiscal year 1996 than did CBO for Public Law 104-19 for emergency spending. This occurred because OMB used the historic spendout rate for the Federal Emergency Management Agency's (FEMA) regular and contingent emergency appropriation, and estimated that FEMA's outlays would increase \$2.5 billion in fiscal year 1996. According to a CBO official, CBO assumed a slower spendout rate for these funds because FEMA had large unobligated balances of budget authority from previous years, and CBO assumed FEMA would spend this money first, before using the budget authority from Public Law 104-19. OMB and CBO estimates of budget authority did not differ for the emergency spending provisions in Public Law 104-19.

Unusual Budget Year Resulted in OMB and CBO Differences in Scoring of Continuing Resolutions

Four continuing resolutions were enacted during the first session of the 104th Congress. The first continuing resolution (Public Law 104-31) was enacted September 30, 1995, and covered appropriations from October 1 until November 13, 1995. The second continuing resolution (Public Law 104-54) was enacted on November 19, 1995, and covered appropriations from November 14 until November 20, 1995. The third continuing resolution (Public Law 104-56) was enacted November 20, 1995, and covered appropriations until December 15, 1995. The fourth continuing resolution (Public Law 104-69) was enacted December 22, 1995, and provided appropriations for selected activities. While OMB produced estimates of budget authority and outlays for the first and third continuing resolutions, CBO did not produce estimates for any of the continuing resolutions. According to a CBO official, for BEA purposes, CBO only estimates spending of appropriation bills covering the entire fiscal year. CBO takes this position because it assumes that any part-year spending appropriation will subsequently be subsumed by a full-year measure.

In its Final Sequestration Report, OMB annualized the continuing resolutions enacted in the second session of the 104th Congress in order

to estimate full-year compliance with the discretionary spending limits.⁹ OMB's estimates were based on the full-year effect of these continuing resolutions, even though funding expired on January 26, 1996,¹⁰ for most of the programs covered by the continuing resolutions. With the estimated full-year impact of the continuing resolutions, estimated full-year budget authority fell \$32.4 billion under its discretionary spending limit and estimated full-year outlays fell \$17.8 billion under its spending limit. Since CBO only estimated the seven enacted general purpose appropriations, plus funds made available through emergency appropriations, it concluded in its Final Sequestration Report that budget authority and outlay spending for fiscal year 1996 fell far below the discretionary spending caps.

Differences in OMB and CBO Estimates of PAYGO Legislation

Twenty pieces of direct spending and receipts legislation were enacted in the first session of the 104th Congress. As shown in table II.4, OMB estimated that this legislation increased the fiscal year 1995 deficit by \$187 million, \$61 million less than CBO's estimate. For fiscal year 1996, OMB estimated that this legislation would increase the deficit by \$865 million, \$802 million more than CBO's estimate. The table also shows that OMB and CBO had differences of over \$100 million in their estimates of the deficit effects of 2 of the 20 laws. These differences accounted for most of their total estimating difference.

BEA requires that, in total, direct spending and receipts legislation not increase the deficit in any year through 1998. Net savings enacted for one fiscal year may be used to offset net increases in the next year. The PAYGO process requires that OMB maintain a "scorecard" that shows the cumulative deficit impact of such legislation, beginning with the 102nd Congress. Through January 3, 1996, OMB reported that enacted PAYGO legislation had, in total, lowered the deficit by \$1.1 billion for 1995 and 1996 combined. Therefore, even though OMB estimated that PAYGO legislation enacted in the last session of the Congress increased the deficit somewhat, no sequestration of direct spending programs is required for fiscal year 1996.

⁹These estimates were based on OMB scoring of the Sixth Continuing Resolution (P.L. 104-92), the Seventh Continuing Resolution (P.L. 104-91), and the Eighth Continuing Resolution (P.L. 104-94), all of which were signed by the President on January 6, 1996.

¹⁰On January 26, 1996, the 9th Continuing Resolution was enacted that extended funding until March 15, 1996, for most programs whose regular spending bills have not yet been enacted. The measure provided full-year funding for programs normally funded by the foreign operations appropriations bill. See appendix III for a list of appropriations, including a list of continuing resolutions, enacted to date in the 104th Congress.

Appendix II
Implementation Issues

Table II.4: Comparison of OMB and CBO Scoring of PAYGO Legislation Enacted in the First Session of the 104th Congress

Act	Change in fiscal year baseline deficit	
	1995	1996
Dollars in millions		
Self-Employed Health Insurance Act		
OMB estimate	\$147	\$74
CBO estimate	248	83
Difference	-101	-9
Medicare Select Policies		
OMB estimate	40	900
CBO estimate	0	0
Difference	40	900
All others		
OMB estimate	0	-109
CBO estimate	0	-20
Difference	0	-89
Total enacted		
OMB estimate	\$187	\$865
CBO estimate	248	63
Difference ^a	-61	802

^aA positive number means that OMB's estimate was higher than CBO's.

As shown in table II.4, OMB and CBO had different views of the estimates of reductions in receipts resulting from the Self-Employment Health Insurance Act (Public Law 104-7). This act reinstated a 25 percent tax deduction for health insurance premiums for the self-employed. There is an additional revenue loss in the act due to the extension of the rule related to the deductibility of expenses in connection with certain group health plans. However, revenue losses were offset by several provisions in the act, including a repeal of Section 1071 of the Internal Revenue Code, which allows sellers of Federal Communications Commission-licensed broadcast facilities to defer taxes on gains realized in a sale to minority ownership.

OMB estimated that the act would result in revenue losses of \$147 million in fiscal year 1995 and \$74 million in fiscal year 1996. CBO estimated that the act would result in revenue losses of \$248 million in fiscal year 1995 and \$83 million in fiscal year 1996. Most of the difference between the two estimates for the act can be explained by different estimates of offsetting revenue gains due to the repeal of Section 1071. OMB, which receives its estimates of changes in tax laws from the Treasury Department, estimated that the Section 1071 repeal would result in higher revenue gains than did

CBO, which receives its estimates of changes in tax laws from the Joint Committee on Taxation.

Other large differences in OMB's and CBO's PAYGO estimates were attributable to different estimates of the outlay impact of the Medicare Select Policies Extension (Public Law 104-18). This act extended the 15-State Medicare Select demonstration project to all states for 3 years. Under this demonstration project, individuals can purchase Medigap policies that only pay full supplemental benefits if covered services are provided through preferred providers. OMB concluded that while the demonstration project was intended to reduce health costs, it has cost the government money. OMB estimated that by extending the demonstration project, the act would increase the deficit \$40 million in fiscal year 1995 and \$900 million in fiscal year 1996, while CBO estimated that the act would have no impact on the deficit. According to OMB, preliminary results from an evaluation of the demonstration projects sponsored by the Health Care Financing Administration indicated that they are not achieving their goal of reducing unnecessary health care utilization among participating Medicare beneficiaries and thus are not reducing costs. CBO concluded that this act could result in either costs or savings to the federal government and that, on balance, these costs or savings are not likely to be significant.

Appropriations Enacted by the 104th Congress

Regular Appropriations

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act (Public Law 104-37), signed October 21, 1995.

Energy and Water Development Appropriations Act (Public Law 104-46), signed November 13, 1995.

Legislative Branch Appropriations Act (Public Law 104-53), signed November 19, 1995.

Military Construction Appropriations Act (Public Law 104-32), signed October 3, 1995.

Department of Defense Appropriations Act (Public Law 104-61), signed December 1, 1995.

Department of Transportation and Related Agencies Appropriations Act (Public Law 104-50), signed November 15, 1995.

Treasury, Postal Service, and General Government Appropriations Act (Public Law 104-52), signed November 19, 1995.

Supplemental Appropriations

Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (Public Law 104-6), signed April 10, 1995.

Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-Terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995 (Public Law 104-19), signed July 27, 1995.

Continuing Resolutions

1st Continuing Resolution (Public Law 104-31), signed September 30, 1995.

2nd Continuing Resolution (Public Law 104-54), signed November 19, 1995.

3rd Continuing Resolution (Public Law 104-56), signed November 20, 1995.

4th Continuing Resolution (Public Law 104-69), signed December 22, 1995.

Appendix III
Appropriations Enacted by the 104th
Congress

5th Continuing Resolution (Public Law 104-90), signed January 4, 1996.

6th Continuing Resolution (Public Law 104-92), signed January 6, 1996.

7th Continuing Resolution (Public Law 104-91), signed January 6, 1996.

8th Continuing Resolution (Public Law 104-94), signed January 6, 1996.

9th Continuing Resolution (Public Law 104-99), signed January 26, 1996.

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