CONGRESSIONAL ENACTMENT PROCESS

- Explain the Congressional enactment process
- Explain why the Authorization and Appropriation Laws are important
- Discuss the respective roles of the Congressional personal & professional staffer
- Name the Congressional committees that review Defense acquisition programs
- Express the importance of the interaction between Congressional and DoD officials and how the Legislative Liaison Offices are involved in that process
LESSON OVERVIEW

• Where are we today?
• Constitutional & statutory basis for enactment process
• Congressional participants and committees
• Budget enactment process & timelines
• Continuing Resolution Authority (CRA)
Where Are We Today?

- **FY19**
  - Budget Execution
  - Sequestration mitigated (FY14-18) by Bipartisan Budget Agreement/Acts (not required in FY19)

- **FY20**
  - President’s Budget (PB) at Congress
  - Sequestration returns (through FY21)

- **FY21**
  - Services’ POM/BES due to OSD end of Aug/Sept
  - Sequestration ends

- **FY22**
  - Preliminary POM planning underway at Command-level
Today’s Fiscal Environment

- **Budget Control Act (Aug 2011)**
  - Established 10-year discretionary budget caps (FY12 – FY21)
  - Reduced DoD budget ~$487 billion over 10 years
  - Established committee to recommend additional $1.5T in savings

- **Sequestration**
  - Failure of committee resulted in additional automatic reductions to DoD of ~$600B over 10 years to begin Jan 2013
  - Returns in FY20 unless another “Budget Agreement” (see next slide)
Today’s Fiscal Environment

• Bipartisan Budget Agreement (Dec 2013)
  – Revised discretionary budget caps for FY14 and FY15

• Bipartisan Budget Act of 2015 (Oct 2015)
  – Revised discretionary budget caps for FY16 and FY17
  – Reduced FY16-17 DoD sequester by ~$40B

• Bipartisan Budget Act of 2018 (Feb 2018)
  – Revised discretionary budget caps for FY18 and FY19
  – Reduced FY18-19 DoD sequester by ~$165B
PPBE Phases

• Planning (OSD Policy)
  – Assess capabilities / review threat
  – Develop guidance

• Programming (OSD CAPE)
  – Turn guidance into achievable, affordable packages
  – Five-year program (Future Years Defense Program)

• Budgeting (OSD Comptroller)
  – Test for efficient funds execution
  – Scrub budget year
  – Prepare defensible budget

• Execution Review (concurrent with program/budget review)
  – Develop performance metrics
  – Assess actual output against planned performance
  – Adjust resources to achieve desired performance goals

Insert: Congressional Enactment process
LESSON OVERVIEW

- Where are we today?
- Constitutional & statutory basis for enactment process
- Congressional participants and committees
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- Continuing Resolution Authority (CRA)
**Article 1 Section 8:**
The Congress shall have power to lay & collect taxes, duties, impost & excises, to pay the debts & provide for the common defense & general welfare of the United States….

- To raise & support armies
- To provide & maintain a navy
- To make rules for the government & regulation of the land & naval forces

**Article 1 Section 9:**
...no money shall be drawn from the Treasury, but in consequence of appropriations made by law…
Congressional Acts

- **Budget & Accounting Act of 1921:**
  - Requires President to submit an annual budget
  - Requires revenue & expenditure estimates
  - Bureau of the Budget & General Accounting Office (now Government Accountability Office)
  - Established the apportionment process

- **Budget & Impoundment Control Act of 1974:**
  - Budget Committees in House & Senate
  - Concurrent Resolutions
  - Congressional Budget Office
  - Impoundment limitation
  - Revised budget submission timeline & end of fiscal year
LESSON OVERVIEW

- Where are we today?
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Congressional Staff

• **Personal Staff**
  • Work for individual Members
  • Main goal: get boss reelected
  • Case work; may work issues
  • Young, well educated, 1-4 year tenure

• **Professional Staff**
  • Report to Committee Chair
  • Institutional memory; specific areas of expertise
  • Draft legislation, perform analysis, monitor execution
  • Older, better educated, longer tenure
  • With whom the PM must work, when appropriate
Other Support Staff

**Congressional Budget Office**
- Created by Budget & Impoundment Control Act of 1974
- Perform analytical / economic reviews of the President's Budget, revenues and outlays

**Government Accountability Office (GAO):**
- Congress’s chief investigator, auditor & program evaluator
- Examines agency financial operations, Federal program performance, & the economy and efficiency of governmental operations

• Where are we today?
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• Continuing Resolution Authority (CRA)
Congressional Enactment Process

**Budget Resolution:**
Sets Congressional budget at “top line/ceilings” for spending for major functions, & revenues

**Defense Authorization**:
Provides authorization, at a maximum ceiling level, for specific activities/”things” for which budget authority (BA) may be appropriated

**Defense & MILCON Appropriations**:
Provides BA for those activities/”things” authorized – permission to obligate the Government

*Congressional rules generally prohibit appropriating BA for purposes not authorized
116th Congress

HOUSE

• 435 Voting Members
  • 235 Democrats
  • 197 Republicans
  • 0 Independents
  • 3 Vacancies
  • 6 non-voting members

SENATE

• 100 Members
  • 45 Democrats
  • 53 Republicans
  • 2 Independents
  • 0 Vacancies

91nd Military Service = 75% 1969 - 1971
96th Military Service = 31% 1979 - 1981
110th Military Service = 24%
115th Military Service = 18.8%
116th Military Service = 17.9%

As of March 2019: 96
Primary Congressional Committees
Involved in Defense Matters

- **Budget Resolution Process**
  - House Budget Committee (HBC)
  - Senate Budget Committee (SBC)

- **Defense Authorization Process**
  - House Armed Services Committee (HASC)
  - Senate Armed Services Committee (SASC)

- **Appropriation Process**
  - House Appropriations Committee (HAC)
  - Senate Appropriations Committee (SAC)
Budget Resolution

- House & Senate Budget Committees (HBC & SBC)
- Established by Budget Impoundment & Control Act of 1974
- Work with Congressional Budget Office
  - Projected spending / revenue levels

- Draft Concurrent Budget Resolution
  - Overall budget plan
  - Spending ceilings for each major government function (e.g. National Defense)
  - Resolution is NOT law
  - Congress usually follows guidelines
National Defense Authorization Act

- House Armed Services Committee (HASC)
- Senate Armed Services Committee (SASC)
- Provides for:
  - Program approval (new starts & continuing programs)
  - Procurement quantities
  - Personnel end-strength
  - Funding ceilings for programs
  - Policy
SASC/HASC Subcommittees
Different Titles in House & Senate

Senate Armed Services
Subcommittees
Airland
Emerging Threats & Capabilities
Personnel
Readiness & Management Support
Strategic Forces
Seapower

House Armed Services
Subcommittees
Tactical Air & Land Forces Readiness
Intelligence, Emerging Threats & Capabilities
Military Personnel
Strategic Forces
Seapower & Projection Forces
Oversight & Investigation
Authorization Process

- **HOUSE ARMED SERVICES COMMITTEE (HASC)**
  - COMMITTEE / SUBCOMMITTEE HEARINGS
  - MARCH
  - HOUSE BILL / REPORT
  - AMENDMENTS
  - FLOOR

- **SENATE ARMED SERVICES COMMITTEE (SASC)**
  - COMMITTEE / SUBCOMMITTEE HEARINGS
  - MARCH
  - SENATE BILL / REPORT
  - AMENDMENTS
  - FLOOR

- **MAY - JUL**
  - HASC / SASC CONFERENCE
  - BILL

- **SEP**
  - PRESIDENT SIGNS
  - ACT / REPORT

- **LAW**

- **PRESIDENT SIGNS**
Appropriation Act

- House Appropriations Committee (HAC)
- Senate Appropriations Committee (SAC)
- Provide budget authority - permission to obligate
- Normally follow lead of authorizing committees
- 12 annual appropriations acts
  - Defense
  - Military Construction/VA
  - Energy and Water
  - 9 others
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

Commerce, Justice, Science, and Related Agencies

Defense

Energy & Water Development, and Related Agencies

Financial Services and General Government

Homeland Security

Interior, Environment, and Related Agencies

Labor, Health and Human Services, Education, and Related Agencies

Legislative Branch

MILCON/VA/Related Agencies

State, Foreign Operations, and Related Programs

Transportation, Housing and Urban Development, and Related Agencies
### Congressional Enactment Timetable

#### Budget Resolution
- **House**: HRNGS → Floor → Authorization Act
- **Senate**: HRNGS → Floor → Authorization Act

#### Authorizations
- **House**: HASC HRNGS → Marks → Floor → Conf
- **Senate**: SASC HRNGS → Marks → Floor → Conf

#### Appropriations
- **House**: HAC HRNGS → Floor → Conf
- **Senate**: SAC HRNGS → Floor → Conf

<table>
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<tr>
<th>JAN</th>
<th>FEB</th>
<th>MAR</th>
<th>APR</th>
<th>MAY</th>
<th>JUN</th>
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<td>Pres Budget</td>
<td>CBO Report</td>
<td>Committee Inputs</td>
<td>Authorization Act</td>
<td>“Target” Fiscal Year</td>
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<td></td>
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</table>

- **Committee**: House, Senate
- **Inputs**: House, Senate

- **HRNGS** (Hearings)
- **Floor**
- **Conf** (Conference)

**Images**:
- Senate chamber
- U.S. Capitol building
Legislative Liaison

- Department of Defense
  - ASD (LA): House & Senate Legislative Affairs
  - USD (C): Appropriation-related

- Department of the Army
  - The Office, Chief of Legislative Liaison (OCLL)
  - ASA (FM&C) Congressional Budget Liaison Office

- Department of the Navy
  - Chief of Legislative Affairs: House Liaison & Senate Liaison
  - ASN FM Appropriations Matters Office

- Department of the Air Force
  - Office of Legislative Liaison: House Liaison & Senate Liaison
  - ASAF FM Budget & Appropriation Liaison
LESSON OVERVIEW

• Where are we today?
• Constitutional & statutory basis for enactment process
• Congressional participants and committees
• Budget enactment process & timelines
• Continuing Resolution Authority (CRA)
Continuing Resolution Authority

• Continuing Resolution
  • “Legislation in the form of a joint resolution enacted by Congress, when the new fiscal year is about to begin or has begun, to provide budget authority for Federal agencies and programs to continue in operation until the regular appropriations acts are enacted”*. 
  
• Provides “stopgap” funding authority when appropriations not signed into law by start of fiscal year (FY) to keep affected agencies operating for a specified period of time
  • Precludes anti-deficiency violations
  • Precludes government shutdown

• May range from a few days to a few months, depending on when Congress believes it can pass the final appropriations bill(s)
  • Period spelled out in the resolution

Congress Can Extend the CR for One or More (Omnibus) of the 12 Appropriation Acts Through the Entire FY:

- Agriculture, Rural Development, Food and Drug Administration, and Related Agencies
- Commerce, Justice, Science, and Related Agencies
- Defense
- Energy & Water Development, and Related Agencies
- Financial Services and General Government
- Homeland Security
- Interior, Environment, and Related Agencies
- Labor, Health and Human Services, Education, and Related Agencies
- Legislative Branch
- MILCON/VA/Related Agencies
- State, Foreign Operations, and Related Programs
- Transportation, Housing and Urban Development, and Related Agencies
Most CR’s…

• Prohibit Initiation of New Starts:
  - Unless expressly authorized in CR language (Special Interest (SI) items may have specific guidance)
    • RDTE: Any new program element or project or major component thereof not previously justified by DoD and funded by Congress through the normal budget process*
    • Procurement: Any new procurement line item or major component thereof not previously justified by DoD and funded by Congress through the normal budget process*
    • MILPERS and O&M: Due to the characteristics these programs, new starts seldom occur (would be significant new programs, efforts, or activities that have not been explicitly justified to the Congress in budget justification material)*

* FMR, Volume 3, Chapter 6, paragraph 060401-E, March 2011
Most CR’s…

- Do Not Specify Dollar Amounts of Budget Authority; permits activities to operate at "the current rate of operations"
  - At “appropriation level”, to a rate that is the lesser of (in both $ and qty):
    - Amount appropriated in previous FY, or
    - Lowest Congressional mark to date in the current process, or
    - Next FY’s budget request
  - Interpretation of “current rate of operations" is generally left to the individual agencies/services
  - So, an individual program office could receive a relatively large percentage of its probable total FY funding
WHAT HAVE WE COVERED

- Where are we today?
- Constitutional & statutory basis for enactment process
- Congressional participants and committees
- Budget enactment process & timelines
- Continuing Resolution Authority (CRA)
QUESTIONS?
BACKUP
LESSON OVERVIEW

• Where are we today?
• Constitutional & statutory basis for enactment process
• Congressional participants and committees
• Budget enactment process & timelines
• Appeals to Congressional marks
• Continuing Resolution Authority (CRA)
Appeals to Congressional Marks

General Rules Between Congress & DoD

- Authorization & Appropriation phases are considered separately
- Appeal to next Committee of that phase considering the budget request (e.g., generally appeal to the SASC, SAC and/or the appropriate conference committee)
- Appeal to:
  - President’s Budget request if only 1 (lower) mark exists
  - Amount (mark) closest to the President’s Budget request if 2 (lower) Congressional marks exist
  - President’s Budget amount if 1 or more of the Congressional marks exceeds the President’s Budget request
- Acceptable to appeal language, production quantities, & end strength as well as dollar amounts
### APPEALS PROCESS EXAMPLE

[Assume President’s Budget Request = $100 M]

<table>
<thead>
<tr>
<th>Authorization</th>
<th>Appropriation</th>
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<td>HASC</td>
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<td>SASC</td>
<td>$90 M</td>
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<tr>
<td>Appeal to:</td>
<td>SAC $85 M</td>
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<tr>
<td>AUTH Conf</td>
<td>APPN Conf $85 M</td>
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<tr>
<td>AUTH BILL:</td>
<td>$86 M</td>
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<td>APPN BILL:</td>
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**Rules:**
1. Keep phases separate
2. Appeal to next Congressional committee of that phase
3. If 1 mark (lower than President’s Budget request), appeal to President’s Budget request
4. If 2 marks (both lower), appeal to mark closest to President’s Budget request
5. If 1 or more marks exceeds the President’s Budget request, appeal back to the amount of the President’s Budget request
APPEALS PROCESS EXAMPLE

[ Assume President’s Budget Request = $100 M ]

AUTHORIZATION

<table>
<thead>
<tr>
<th>MARK</th>
<th>APPEAL TO</th>
<th>MARK</th>
<th>APPEAL TO</th>
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</thead>
<tbody>
<tr>
<td>HASC</td>
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<td>SASC</td>
<td>$100 M</td>
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<tr>
<td>SASC</td>
<td>$90 M</td>
<td>AUTH Conf</td>
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</tr>
<tr>
<td>AUTH BILL:</td>
<td>$86 M</td>
<td>APPN BILL:</td>
<td>$106 M</td>
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</table>

APPROPRIATION

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<tr>
<th>MARK</th>
<th>APPEAL TO</th>
<th>MARK</th>
<th>APPEAL TO</th>
</tr>
</thead>
<tbody>
<tr>
<td>HAC</td>
<td>$110 M</td>
<td>HAC</td>
<td>$110 M</td>
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<tr>
<td>Appeal to: SAC</td>
<td>$100 M</td>
<td>Appeal to: APPN Conf</td>
<td>$100 M</td>
</tr>
</tbody>
</table>

Rules:

(1) Keep phases separate
(2) Appeal to next Congressional committee of that phase
(3) If 1 mark (lower than President’s Budget request), appeal to President’s Budget request
(4) If 2 marks (both lower), appeal to mark closest to President’s Budget request
(5) If 1 or more marks exceeds the President’s Budget request, appeal back to the amount of the President’s Budget request
APPEALS PROCESS EXAMPLE

[ Assume President’s Budget Request = $300 M ]

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<th>APPROPRIATION</th>
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<td>APPN BILL:</td>
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Rules:
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(2) Appeal to next Congressional committee of that phase
(3) If 1 mark (lower than President’s Budget request), appeal to President’s Budget request
(4) If 2 marks (both lower), appeal to mark closest to President’s Budget request
(5) If 1 or more marks exceeds the President’s Budget request, appeal back to the amount of the President’s Budget request
Knowledge Check

• Which Committees are the authorizers?
  - House Armed Services Committee (HASC)
  - Senate Armed Services Committee (SASC)

• Which Committees are the appropriators?
  - House Appropriations Committee (HAC)
  - Senate Appropriations Committee (SAC)

• After which budget are congressional marks issued?
  - President's Budget

• Who signs the appropriation into law?
  - The President
Knowledge Check

• Which of the following does NOT become a law:
  
  - Budget Resolution
  
  - Defense Appropriation
  
  - Defense Authorization
<table>
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<th>Description</th>
<th>Budget Resolution</th>
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<td>NOT a law</td>
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<td>Appropriation Act</td>
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<td>Permission to obligate the Government</td>
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<td>Generally contains 12 annual acts</td>
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<td>Funding ceilings for programs</td>
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</tr>
<tr>
<td>Policy</td>
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</tbody>
</table>
The President’s Budget requested $110M for your program.
The House Armed Services Committee marked your program to $100M and the Senate Armed Services Committee marked it to $105M.
DoD may appeal to this group for this level of funding.

ANSWER:
- Authorization Conference
- $105M
Knowledge Check

- The President’s Budget requested $110M for your program.
- The House Armed Services Committee marked your program to $120M.
- DoD may appeal to this group for this level of funding.

ANSWER:
- Senate Armed Services Committee (SASC)
- $110M
• The President’s Budget requested $110M for your program.
• The Authorization Conference marked your program to $100M.
• The House Appropriations Committee marked your program to $90M.
• DoD may appeal to this group for this level of funding.

ANSWER:
- Senate Appropriations Committee (SAC)
- $110M