



EXECUTIVE ORDERS

Executive Order on Increasing Government Accountability for Administrative Actions by Reinvigorating Administrative PAYGO

BUDGET & SPENDING | Issued on: October 10, 2019



By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. In May 2005, the Office of Management and Budget (OMB) implemented a budget-neutrality requirement on executive branch administrative actions affecting mandatory spending. This mechanism, commonly referred to as “Administrative pay-as-you-go” (Administrative PAYGO), requires each executive department and agency (agency) to include one or more proposals for reducing mandatory spending whenever an agency proposes to undertake a discretionary administrative action that would increase mandatory spending.

In practice, however, agencies have applied this requirement with varying degrees of

stringency, sometimes resulting in higher mandatory spending. Accordingly, institutionalizing and reinvigorating Administrative PAYGO through this order is a prudent approach to keeping mandatory spending under control.

Sec. 2. Policy. It is the policy of the executive branch to control Federal spending and restore the Nation’s fiscal security. This policy includes ensuring that agencies consider the costs of their administrative actions, take steps to offset those costs, and curtail costly administrative actions.

Sec. 3. Definitions. For the purposes of this order:

(a) the term “discretionary administrative action” means any administrative action that is not required by statute and that would impact mandatory spending, including, but not limited to, the issuance of any agency rule, demonstration, program notice, or guidance; and

(b) the term “increase” in the context of mandatory spending means an increase relative to the projection in the most recent President’s Budget, as described in 31 U.S.C. 1105, or Mid-Session Review, as described in 31 U.S.C. 1106, of what is required, under current law, to fund the mandatory-spending program.

Sec. 4. Scope. This order applies to discretionary administrative actions undertaken by agencies. If an agency determines that a proposed administrative action that would increase mandatory spending is required by statute and therefore is not a discretionary administrative action, the agency’s general counsel shall provide a written opinion to the Director of OMB (Director) explaining that legal conclusion, and the agency shall consult with OMB prior to taking further action.

Sec. 5. Agency Proposal Requirements. (a) Before an agency may undertake any discretionary administrative action, the head of the agency shall submit the proposed discretionary administrative action to the Director for review. Such submission shall include an estimate of the budgetary effects of such action.

(b) If an agency's proposed discretionary administrative action would increase mandatory spending, the agency head's submission under subsection (a) of this section shall include a proposal to undertake other administrative action(s) that would comparably reduce mandatory spending. Submissions to increase mandatory spending that do not include a proposal to offset such increased spending shall be returned to the agency for reconsideration. The Director shall have the discretion to determine whether a proposed offset in mandatory spending is comparable to the relevant increase in mandatory spending, taking into account the magnitude of the offset and the increase and any other factors the Director deems appropriate.

Sec. 6. Issuance of Administrative PAYGO Guidance and Revocation of OMB PAYGO Memorandum. Within 90 days of the date of this order, the Director shall issue instructions regarding the implementation of this order, including how agency administrative action proposals that increase mandatory spending and non-tax receipts will be evaluated. In addition, within 90 days of the date of this order, the Director shall revoke OMB Memorandum M-05-13.

Sec. 7. Waiver. The Director may waive the requirements of section 5 of this order when the Director concludes that such a waiver is necessary for the delivery of essential services, for effective program delivery, or because a waiver is otherwise warranted by the public interest.

Sec. 8. Flexibility for the Director of OMB to Pursue Additional Deficit Reduction. The Director may pursue additional deficit reduction through agency administrative actions.

Sec. 9. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,
October 10, 2019.