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**the Budget, CBO, and OMB.<sup>1245</sup>**

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<sup>1245</sup> The statement of managers accompanying the conference report on the Budget Enforcement Act expressed concern regarding the powers conferred by this paragraph and set forth the scorekeeping guidelines to which this paragraph refers:

**XII. SCOREKEEPING**

The conferees recognize that, because of the constraints imposed by the Supreme Court's decision in *Bowsher v. Synar*, the conference agreement vests substantial power to estimate the costs of legislation with the Office of Management and Budget. The conferees are concerned that the Office of Management and Budget has not always shown complete objectivity in its estimates. The conferees urge the Congress to scrutinize the scorekeeping of the Office of Management and Budget as that Office implements the procedures under this conference agreement. The conferees considered procedures under which Congress would enact into law Congressional Budget Office cost estimates as part of any spending legislation. Should the Office of Management and Budget abuse its scorekeeping power, the conferees believe that the Congress should adopt such procedures at that time.

Section 251(a)(7) and 252(d) of Gramm-Rudman-Hollings as amended by this conference agreement provide that the Office of Management and Budget must make its estimates in conformance with scorekeeping guidelines determined for consultation among the Senate and House Committees on the Budget, the Congressional Budget Office, and the Office of Management and Budget. These provisions carry on and codify the existing consultative process that has led to these parties developing the following scorekeeping guidelines:

**SCOREKEEPING GUIDELINES FOR [FISCAL YEAR] 1991**

The guideline[s] listed below reflect general budget scorekeeping conventions that will be used by the House and Senate Budget Committees and the Office of Management and Budget in measuring compliance with Congressional budget targets and the Budget Summit Agreement.

To the extent possible under the Budget Enforcement Act of 1990, the Gramm-Rudman-Hollings statute, the Congressional Budget Office and the Office of Management and Budget will follow these guidelines in calculating deficit estimates and making projections for Gramm-Rudman-Hollings and the Budget Enforcement Act 1990.

For both budget scorekeeping and Gramm-Rudman-Hollings, final scoring will necessarily depend on the review of legislation by the scorekeepers, as provided in the Budget Enforcement Act of 1990, the Congressio-  
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<sup>1245</sup>(...continued)

nal Budget Act and Gramm-Rudman-Hollings. These rules will be reviewed on an annual basis.

*1. Mandatory spending*

The list of accounts that are considered mandatory for purposes of scoring appropriations bills follows.

*2. Outlays prior*

Outlays from prior-year appropriations will be classified consistent with the discretionary/mandatory classification of the account from which the outlays occur.

*3. Direct spending programs*

Entitlements and other mandatory programs (including offsetting receipts) will be scored at current law levels, unless congressional action modifies the authorizing legislation. Substantive changes to or restrictions on entitlement law or other mandatory spending law in appropriations bills will be scored against the Appropriations Committee section 302(b) allocations in the House and the Senate except for those savings provisions that are to be enacted by an authorizing committee pursuant to the Budget Summit Agreement.

*4. Transfer of budget authority from a mandatory account to a discretionary account*

The transfer of budget authority to a discretionary account will be scored as an increase in discretionary budget authority and outlays in the gaining account. The losing account will not show an offsetting reduction if the account is an entitlement or mandatory.

*5. Permissive transfer authority*

Permissive transfers will be assumed to occur (in full or in part) unless sufficient evidence exists to the contrary. Outlays from such transfers will be estimated based on the best information available, primarily historical experience and, where applicable, indications of Executive or Congressional intent.

This guideline will apply to specific transfers (transfers where the gaining and losing accounts and the amounts subject to transfer can be ascertained) for [Fiscal Year] 1991 and to both specific and general transfer authority thereafter.

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<sup>1245</sup>(...continued)**6. Reappropriations**

Reappropriations of expiring balances of budget authority will be scored as new budget authority in the fiscal year in which the balances become newly available.

**7. Advance appropriations**

Advance appropriations of budget authority will be scored as new budget authority in the fiscal year in which the funds become newly available for obligation, not when the appropriations are enacted.

Advance appropriations will be classified as mandatory or discretionary consistent with the mandatory list below.

**8. Rescissions and transfers of unobligated balances**

Rescissions of unobligated balances will be scored as reductions in current budget authority and outlays in the year the money is rescinded.

Transfers of unobligated balances will be scored as reductions in current budget authority and outlays in the amount from which the funds are being transferred, and as increases in budget authority and outlays in the account to which these funds are being transferred.

In certain instances, these transactions will result in a net negative budget authority amounts in the source accounts. Such amounts of budget authority will be projected at zero. Outlay estimates for both the transferring and receiving accounts will be based on the spending patterns appropriate to the respective accounts.

**9. Delay of obligations**

Appropriations bills specify a date when funds will become available for obligation. It is this date that determines the year for which new budget authority is scored. In the absence of such a date, the bill is assumed to be effective upon enactment.

If a new appropriation provides that a portion of the budget authority shall not be available for obligation until a future fiscal year, that portion shall be treated as an advance appropriation of budget authority. If a law defers existing budget authority (or unobligated balances) from a year in which it was available for obligation to a year in which it was not available for obligation, that law shall be scored as a rescission in the current year and a reappropriation in the year in which obligational authority is extended. If the authority to obligate is contingent upon the enactment of a subsequent appropriation,

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<sup>1245</sup>(...continued)

new budget authority and outlays will be scored with the subsequent appropriation. If an appropriation is contingent on enactment of a subsequent authorization, new budget authority and outlays will be scored with the appropriation. If an appropriation is contingent on the fulfillment of some action by the Executive branch or some other event normally estimated, new budget authority will be scored with the appropriation and outlays will be estimated based on the best information about when (or if) the contingency will be met. Non-lawmaking contingencies within the control of the Congress are not scoreable events.

#### *10. Absorption*

Appropriations bills or reports should contain language that clearly specifies the extent to which funds for pay raises are either provided or absorbed within the levels appropriated in the bill, or remain to be provided.

#### *11. Scoring purchases, lease-purchases and leases*

*General Rule.* — When a bill provides the authority for an agency to enter into a contract for the purchase, lease-purchase, or lease of a capital asset, budget authority will be scored in the year in which the budget authority is first made available in the amount of the government's total estimated legal obligations.

Outlays for a purchase or for a lease-purchase in which the Federal government assumes substantial risk — for example, through an explicit government guarantee of third-party financing — will be spread across the period during which the contractor constructs, manufactures, or purchases the asset. Outlays for a lease, or for a lease-purchase in which the private sector retains substantial risk, will be spread across the lease period. In all cases, the total amount of outlays scored over time against a bill will equal the amount of budget authority scored against that bill.

*Implementation of the Rule.* — Contracts under existing authority will not be rescored. Purchases and lease-purchases will be scored on the basis of this rule starting in [Fiscal Year] 1991. Multi-year leases will be scored consistent with current practice, rather than this rule, in [Fiscal Year] 1991.

*Further details.* — See "Addendum: Details on scoring purchases, lease-purchases, and leases".

#### *12. Write-offs of uncashed checks, unredeemed food stamps, and similar instruments*

Exceptional write-offs of uncashed checks, unredeemed food stamps, and similar instruments (i.e., write-offs of cumulative balances that have build

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<sup>1245</sup>(...continued)

up over several years or have been on the books for several years) shall be scored as an adjustment to the means of financing the deficit rather than as an offset. An estimate of write-offs or similar adjustments that are part of a continuing routine process shall be netted against outlays in the year in which the write-off will occur. Such write-offs shall be recorded in the account in which the outlay was originally recorded.

### **13. *Reclassification after an agreement***

Except to the extent assumed in a budget agreement, a law that has the effect of altering the classification of spending and revenues (e.g. from discretionary to mandatory, special fund to revolving fund, on-budget to off-budget, revenue to offsetting receipt), will not be scored as reclassified for the purpose of enforcing a budget agreement.

#### **ADDENDUM: DETAILS ON SCORING PURCHASES, LEASE-PURCHASE, AND LEASES**

**Budget Authority.** — Budget authority scored against a bill will include all costs of the project except for imputed interest costs calculated at Treasury rates. Imputed interest costs will not be scored against a bill or for current level but will count for other purposes.

**Criteria for Defining a Lease.** — Under a lease arrangement, ownership of the asset remains with the lessor during the term of the lease and is not transferred to the Government at or shortly after the end of the lease period. In addition, the Government should enter into the contract for limited use of an asset and not consume a substantial portion (75 percent) of its economic value. All risks of ownership of the asset (e.g. financial responsibility for destruction or loss of the asset) should remain with the lessor.

**Illustrative Criteria Determining Private Risk.** — Legislation and lease-purchase contracts will be considered against the following type of illustrative criteria to evaluate the level of private-sector risk in a project.

There should be no explicit government guarantee of third party financing.

All risks to ownership of the asset (e.g. financial responsibility for destruction or loss of the asset, etc.) should remain with the lessor unless the Government was at fault for such losses.

The asset should be a general purpose asset rather than for a special purpose of the Government and should not be built to unique specification for the Government as lessee. There should be a private-sector market for the asset.

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<sup>1245</sup>(...continued)

The project should not be constructed on Government land.

**Directed Scorekeeping.** — Language that attempts to waive the Anti-Deficiency Act, or to limit the amount of timing of obligations recorded, does not change the government's obligations or obligation authority, and so will not affect the scoring of budget authority or outlays.

**Authority to Obligate.** — Unless bill language that authorizes a project clearly states that *no* obligations are allowed unless budget authority is provided specifically for that project in an Appropriations bill in advance of the obligation, the bill will be interpreted as providing obligation authority, in an amount to be estimated by the Congressional Budget Office (for the Congress) and the Office of Management and Budget (for the Executive).

APPROPRIATED ENTITLEMENTS AND MANDATORIES  
FOR FISCAL YEAR 1991

*Commerce-Justice-State*

Payment to the Foreign Service retirement and disability fund  
19-0540-0-1-153

Fishermen's guaranty fund  
19-5121-0-2-376

Salaries of judges:

Supreme Court, S&E<sup>1</sup>  
10-0100-0-1-752

U.S. Court of International Trade<sup>1</sup>  
10-0400-0-1-752

U.S. Court of Appeals<sup>1</sup>  
10-0510-0-1-752

Courts of Appeals, District Courts, etc.<sup>1</sup>  
10-0920-0-1-752

Payment to judicial officers' retirement fund  
10-0941-0-1-752

Fees and expenses of witnesses  
15-0311-0-1-752

Independent counsel  
15-0327-0-1-752

Public Safety Officers benefits  
15-0403-0-1-754

Civil liberties public education fund  
15-0329-0-1-808

(continued...)

**1245 (...continued)**

***Defense***

**Payment to the Central Intelligence Agency retirement fund  
56-3400-0-1-054**

***District of Columbia***

**No mandatory accounts.**

***Energy-Water***

**No mandatory accounts.**

***Foreign Operations***

**Housing and other credit guaranty programs  
72-4340-0-3-151**

**Guarantee reserve fund  
11-4121-0-3-152**

**Payment to the Foreign Service retirement and disability fund  
11-1036-0-1-153**

***Interior***

**Miscellaneous trust funds  
14-9971-0-7-302**

**Range improvements  
14-5132-0-2-302**

**Administration of territories<sup>2</sup>  
14-0412-0-1-808**

**Compact of free association<sup>3</sup>  
14-0415-0-1-808**

***Labor-HHS-Education***

**Guaranteed student loans  
91-0230-0-1-502**

**Higher education facilities loans  
91-0240-0-1-502**

**College housing and academic facilities loans<sup>4</sup>  
91-0242-0-1-502**

**Federal unemployment benefits and allowances (FUBA)  
16-0326-0-1-504  
16-0326-0-1-603**

**Social services block grant  
75-1634-0-1-506**

**(continued...)**

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<sup>1245</sup>(...continued)

Payments to States for foster care and adoption assistance  
75-1645-0-1-506  
Rehabilitation services and handicapped research  
91-0301-0-1-506  
Vaccine [injury] program trust fund  
20-8175-0-7-551<sup>5</sup>  
Retirement pay and medical benefits for commissioned officers  
75-0379-0-1-551  
Medicaid  
75-0512-0-1-551  
Medical facilities guarantee and loan fund  
75-4430-0-3-551  
HMO loan and loan guarantee fund  
75-4420-0-3-551  
Health professions graduate student loan insurance fund  
75-4305-0-3-553  
Payments to health care trust funds  
75-0580-0-1-571  
Advances to the unemployment trust fund  
16-0327-0-1-601  
Special benefits  
16-1521-0-1-601  
16-1521-0-1-602  
Black lung disability trust fund  
20-8144-0-7-601  
Federal payments to the railroad retirement accounts  
60-0113-0-1-601  
Special benefits for disabled coal miners  
75-0409-0-1-601  
Supplemental security income program<sup>6</sup>  
75-0406-0-1-609  
Family support payments to States  
75-1501-0-1-609  
Payments to States for family support activities  
75-1509-0-1-609  
Payments to social security trust funds  
75-0404-0-1-651

*Legislative Branch*

Compensation of members, Senate  
00-0100-0-1-801  
Compensation of members, House  
00-0200-0-1-801  
Payments to widows and heirs of deceased members of Congress  
00-0215-0-1-801

(continued...)



<sup>1245</sup>(...continued)

Payments to widows and heirs of deceased members of Congress -  
Senate

00-0115-0-1-801

*Military Construction*

No mandatory accounts.

*Rural Development-Agriculture*

Reimbursement to the rural electrification and telephone fund

12-3101-0-1-271

Conservation reserve program<sup>7</sup>

12-3319-0-1-302

Dairy indemnity program

12-3314-0-1-351

Temporary emergency food assistance program (TEFAP)<sup>8</sup>

12-3635-0-1-351

Federal Crop Insurance Corporation fund

12-4085-0-3-351

Agricultural credit insurance fund<sup>9</sup>

12-4140-0-3-351

Commodity Credit Corporation fund

12-4336-0-3-351

Payments to the farm credit system financial assistance corp.

20-1850-0-1-351

Rural housing insurance fund<sup>9</sup>

12-4141-0-3-371

Rural communication development fund

12-4142-0-3-452

Rural development insurance fund<sup>9</sup>

12-4155-0-3-452

Special milk program

12-3502-0-1-605

Food donations programs for selected groups<sup>10</sup>

12-3503-0-1-605

Food stamp program

12-3505-0-1-605

Child nutrition programs

12-3539-0-1-605

Nutrition assistance for Puerto Rico

12-3550-0-1-605

Funds for strengthening markets (section 32)<sup>11</sup>

12-5209-0-2-605

(continued...)

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<sup>1245</sup>(...continued)***Transportation*****WMATA, interest payments****46-0300-0-1-401****FAA, aircraft purchase loan guarantee program****69-1399-0-1-402****Coast Guard, retired pay****69-0241-01-403*****Treasury-Postal Service*****Payment to the Postal Service fund for non-funded liabilities****18-1004-0-1-372****Government payment for annuitants, employees health benefits****24-0206-0-1-551****Government payment for annuitants, employees life insurance****24-0500-0-1-602****Compensation of the President****11-0001-0-1-802****Payment of government losses in shipment****20-1710-0-1-803****Payment to civil service retirement and disability fund****24-0200-0-1-805*****Veterans-HUD*****FSLIC resolution fund****51-4065-0-3-371****Federal Housing Administration fund<sup>12</sup>****86-4070-0-3-371****Veterans Benefits Administration:****Insurance and indemnities****36-0120-0-1-701****Compensation****36-0153-0-1-701****Pensions****36-0154-0-1-701****Burial benefits****36-0155-0-1-701****Readjustment benefits****36-0137-0-1-702****Guaranty and indemnity fund****36-4023-0-3-704****Loan guaranty revolving fund****36-4025-0-3-704****(continued...)**

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<sup>1245</sup>(...continued)

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[Notes for the list "APPROPRIATED ENTITLEMENTS AND MANDATORIES FOR FISCAL YEAR 1991" that appears in this note 1245, pp. 487-493:]

- <sup>1</sup> Account split — Only salaries of judges are mandatory.
- <sup>2</sup> Account split — The interest rate differential related to the Guam Power Authority refinancing and the Northern Marianas covenant will be scored as mandatory.
- <sup>3</sup> Account split — The account shall be split between mandatory payments (required by treaty) and discretionary costs.
- <sup>4</sup> Account split — Payment of interest to Treasury shall be scored as mandatory. Loan levels shall be scored as discretionary loan limitations and borrowing authority.
- <sup>5</sup> The administrative expenses associated with this account are discretionary within the jurisdiction of the Commerce, Justice, State subcommittee.
- <sup>6</sup> Account split — Administrative expenses shall be scored as discretionary BA and outlays.
- <sup>7</sup> Appropriations to fund an agreed-upon level of 40 million acre minimum specified in authorizing legislation shall be scored as mandatory. Appropriations above this level shall be scored as discretionary.
- <sup>8</sup> Account split — Only purchases of commodities for Hunger Prevention Act are mandatory.
- <sup>9</sup> Account split — Appropriations for losses will be scored as mandatory. Changes to loan levels allocated to authorizing committees will be scored as discretionary.
- <sup>10</sup> Account split — Only purchases of commodities for Hunger Prevention Act are mandatory.
- <sup>11</sup> The entire account shall be scored as mandatory except to the extent that discretionary set asides are specified in appropriations language.
- <sup>12</sup> Account split — Payments for interest, net realized losses, and temporary mortgage assistance payments are mandatory. Administrative expenses transferred to Management and Administration and Inspector General accounts will be classified as a discretionary obligation limitation and

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§ 251(b)(1) (b) **ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.**<sup>1246</sup> — (1) When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year<sup>1247</sup> 1992, 1993, 1994, 1995, 1996, 1997, or 1998<sup>1248</sup> (except as otherwise indicated), OMB<sup>1249</sup> shall calculate (in the order set forth below), and the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each out-year<sup>1250</sup> through 1998<sup>1251</sup> to reflect the following:

§ 251(b)(1)(A) (A) **CHANGES IN CONCEPTS AND DEFINITIONS.** — The adjustments produced by the amendments made by title

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<sup>1245</sup> (...continued)  
outlays.

H.R. CONF. REP. NO. 101-964, 101st Cong., 2d Sess. 1172-80, *reprinted in* 1990 U.S.C.C.A.N. 2374, 2877-85.

For additional legislative history on the accounting for lease-purchases, see 136 CONG. REC. S8019-20 (daily ed. June 14, 1990) (statements of Sen. DeConcini and Chairman Sasser).

<sup>1246</sup> Section 250(c)(1) of Gramm-Rudman-Hollings (*see supra* p. 440) defines "discretionary spending limit" by adopting the definition of section 601(a)(2) of the Congressional Budget Act (*see supra* pp. 301-303) as adjusted under sections 251 and 253 of Gramm-Rudman-Hollings. *See* pp. 475-502, 523-533.

<sup>1247</sup> Section 250(c)(12) defines "budget year." *See supra* p. 446.

<sup>1248</sup> Section 14002(c)(1)(B)(i)(I) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14002(c)(1)(B)(i)(I), 107 Stat. 312 (1993), extended this reference to fiscal years 1996, 1997, and 1998. For legislative history of the extension, *see supra* notes 870 & 936 & *infra* note 1807.

<sup>1249</sup> Section 250(c)(15) defines "OMB" to mean "the Director of the Office of Management and Budget." *See supra* p. 446.

<sup>1250</sup> Section 250(c)(14) defines "outyear." *See supra* p. 446.

<sup>1251</sup> Section 14002(c)(1)(B)(i)(II) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14002(c)(1)(B)(i)(II), 107 Stat. 312 (1993), changed this reference from "1995" to "1998." For legislative history of the extension, *see supra* notes 870 & 936 & *infra* note 1807.