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Report to the Chairman, Committee on the Budget, House of Representatives

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FEDERAL USER FEES

Budgetary Treatment, Status, and Emerging Management Issues

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The Honorable John R. Kasich
Chairman
Committee on the Budget
House of Representatives

Dear Mr. Chairman:

Federal user fees[1]—such as agricultural commodity grading fees, trademark registration fees, and park entrance fees—provided the United States government with $196.4 billion in revenues in fiscal year 1996.[2] This total amounted to 12 percent of all federal revenues collected in fiscal year 1996 and was more than twice the amount collected from excise taxes, estate and gift taxes, and customs duties combined. User fee collections have grown steadily since the early 1980s and have played several roles in the federal budget. They have financed new spending by replacing or supplementing agency appropriations capped by deficit reduction agreements. They also have fostered more business-like practices in the government by making some agencies[3] wholly reliant on fees to finance their operations. In other cases, user fees have provided revenues for deficit reduction.

If user fee collections continue to grow, how the Congress oversees and federal agencies manage these fees will continue to increase in

[1]The Office of Management and Budget (OMB) defines user fees as "a general term referring to fees charged to users directly availing themselves of, or subject to, a government service, program, or activity, in order to cover the government's costs." OMB's October revisions to OMB Circular A-11 for the fiscal year 1999 budget expanded and clarified the term user fee. The revised definition excludes fees deposited in the general fund of the Treasury. OMB's revised definition is comparable to how fees are defined in this report, except for voluntary payments to social insurance programs, which OMB classified as user fees and we did not. The Federal Accounting Standards Advisory Board (FASAB) uses the term "exchange revenue" which it defines as "inflows of resources to a Government entity that the entity has earned. They arise from exchange transactions, which occur when each party to the transaction sacrifices value and receives value in return." Both OMB and FASAB include regulatory fees in their definitions. Exchange revenue is reported on an accrual basis. All amounts included in this report are shown on a budgetary or cash basis. See footnote 2 for a fuller explanation of OMB's definition of offseting collections from the public.

[2]Total federal user fees is the amount shown in the Budget of the United States Government, Fiscal Year 1998—Analytical Perspectives for offsetting collections from the public. OMB included the following in this total: medicare premiums, Outer Continental Shelf payments, naval petroleum reserve lease receipts, spectrum auction proceeds, sale of property and services, interest income, deposit insurance funds, loan guaranty and other insurance premiums, loan repayments, both distributed and undistributed offsetting receipts, and all offsetting collections to appropriation or fund accounts.

[3]As used in this report, the term agency refers to the grouping of activities shown as bureaus or listed as other independent agencies in the President's budget request to the Congress. See appendix I, Scope and Methodology, for more discussion on the use of this term.

importance. You asked us to identify agencies that rely on fees for a significant portion of their budget. We identified 27 agencies where fees from the public represented 20 percent or more of their funding averaged over fiscal years 1991 through 1996. For these agencies, you asked us to (1) identify changes in agency reliance on user fees since passage of the Budget Enforcement Act[4] (BEA) of 1990 and (2) describe the ways user fees are structured in the budget, including what budgetary controls govern the availability and use of these fees and how they are treated under BEA. Based on these findings, you also asked us to identify issues for consideration in the future design and management of user fees.

Results in Brief

Since the 1990 enactment of BEA, the 27 agencies in our review have increased or maintained their reliance on user fees as a source of funding. Several of the regulatory agencies we surveyed were given authority to substantially increase user fee collections and to use these fees for program purposes. For example, in fiscal year 1991, the Federal Communications Commission (FCC) received less than 1 percent of its new funding from user fees. However, by fiscal year 1996 user fees made up 73 percent of the agency's operating budget. For those agencies that relied at least in part on general fund appropriations in fiscal year 1991, new or existing fee authority was used to maintain rather than supplement agency funding. Only the Immigration and Naturalization Service (INS) received increases in general fund appropriations and in fee collections, some of which was the result of new authority.

Although federal agencies often collect user fees for similar purposes, not all user fees are treated alike in the federal budget. Some user charges must be deposited in the general fund of the U.S. Treasury, while others are required by law to provide funding for specific purposes. Yet, even when fees are dedicated to the agency or activities that generated the fee, there are differences in when and how the fees are made available to the agency and in how much flexibility agencies have in using the fee revenue. The attempt to distinguish between fees collected for the government's business-type activities from those derived from the government's power to tax was always problematic. How fees are categorized has become

[4]BEA divides federal spending into (1) discretionary spending controlled through annual appropriation acts, which is further subdivided and capped for fiscal years 1998 through 2000 and (2) direct, or mandatory, spending controlled by permanent law. BEA constrains discretionary spending through fixed dollar amounts, called spending limits or caps, on total budget authority and outlays for each fiscal year through 2002. Mandatory spending and receipts are constrained through a pay-as-you-go (PAYGO) requirement that the cumulative effects of legislation in this area must not increase the deficit. See the glossary for more information on BEA. Receipts are normally scored as PAYGO under BEA requirements unless the law directs that they be used to offset discretionary spending.

increasingly important by the fact that under BEA scoring rules, some fees are netted against their accounts' budget authority and outlay spending. If offset, growth in new and existing fees does not add to the amount of spending that is scored under BEA discretionary spending limits, but frees up discretionary resources for other purposes. Most new user fees enacted between fiscal years 1991 and 1996 were authorized to offset discretionary spending.

The disparate treatment of fees—particularly those associated with discretionary spending—raises issues for congressional control, agency management, and competition for limited federal resources. In shifting to a more fee-reliant government, inconsistencies in budgetary treatment of fees with similar characteristics are likely to increase. Unlike agencies that rely primarily on appropriated funds from general revenues, both the Congress and fee-reliant agencies face additional policy and management issues such as how to (1) meet the needs for accountability to both the Congress and fee payers, including agreement on priorities and the appropriate assessment of fees and (2) define the relationship between fee-financed and appropriated activities, particularly if resource disparities between the two groups increase.

Background

Given the scope and variety of federal activities, the federal budget is inevitably complex. This is particularly seen in the federal budgetary treatment of receipts. The 1967 President's Commission on Budget Concepts recommended a dual system of accounting for federal receipts. The Commission recommended that receipts from activities which were essentially governmental in nature, including regulation and general taxation, be reported as receipts, and that receipts from business-type activities "offset to the expenditures to which they relate." The Commission recommended this system so that budget totals could present a clear picture of the extent of governmental activity.

In practice, however, the distinction was never sharp as evidenced by the fact that revenue from business-type transactions, termed "offsetting collections," are not made available to agencies in the same way.

- *Collections credited to appropriation or fund accounts* go directly to expenditure accounts. Here, legislation requires that collections be credited to an appropriation or fund account and offset spending in the account without further legislative action. Collections are typically credited to revolving funds when they are the main source of financing and are permanently appropriated to fund business-like activities, such as the Postal Service. However, offsetting collections to appropriation or fund accounts are not limited to business-like or self-supporting activities.[5]

- *Offsetting receipts* are required by law to be deposited into receipt accounts. Additional congressional action is necessary to move these into, most often, special or trust fund expenditure accounts. Offsetting receipts offset budget authority and outlays, but at a level other than at the expenditure account. The U.S. Fish and Wildlife Service's (USFWS) migratory bird conservation activities are funded through appropriated offsetting receipts.

Whatever the budget accounting, the Congress grants agencies authority to spend offsetting collections either through permanent or current appropriations. For example, the Congress permits some agencies to obligate fees credited directly to appropriation or fund accounts without further congressional action. In this report, we refer to this type of permanent authority as spending authority. In other cases, the Congress requires some agencies to obtain budget authority through current appropriations before spending offsetting receipts. In this report, we refer to this budget authority as an appropriation.

Scope and Methodology

To better understand differences in how offsetting collections for business-type activities are treated in the budget process and how they have fared recently, we created a universe of 27 agencies to review that rely on fees as a source of funds. We defined fee-reliant agencies using the following criteria (1) fees from the public must be used to support the agency that generated the fee, (2) services, goods, or benefits must be provided in exchange for fees and the exchange should be closely linked in time, and (3) new fees from the public must represent 20 percent or more of the agency's gross outlays less offsetting collections from federal sources averaged over fiscal years 1991 through 1996.

To identify changes in agency reliance on user fees since the passage of BEA, we used OMB actual year data to construct a series of analyses that described trends in budget authority and collections for fee-reliant agencies. Data used in this report cover fiscal years 1991 through 1996.

[5]There are six types of federal budget accounts—general fund, special fund, nonrevolving trust fund, public enterprise revolving fund, revolving trust fund, and intragovernmental fund—and all can receive user fees from the public. All budget accounts are classified as either expenditure or receipt accounts. Receipt accounts record income and are credited with either governmental or offsetting receipts. Expenditure accounts may receive appropriations, can be credited directly with collections, and record outlays. See the glossary for a further description of these accounts.

OMB codes also allowed us to track changes in discretionary versus mandatory classifications of agency funding and shifts from current to permanent budget or spending authority.

To review the classification and treatment of fees in budget accounts, we used OMB codes created for the Administration's annual budget request. These codes allowed us to identify (1) fees from the public and their classification as an offsetting receipt or an offsetting collection credited to an appropriation or fund account, (2) the type of expenditure account the fee is credited to, and (3) the fee's availability for obligation in a given fiscal year.

To identify issues for consideration in the future design and management of such fees, we conducted interviews with budget officials at CBO, OMB and 6 of the 27 agencies we identified as fee-reliant.

This report discusses user fees in a budget context and not from a financial management perspective. Issues related to reporting of fees in financial statements or compliance with standards, such as OMB Circular A-25, User Charges and the Statements of Federal Financial Accounting Concepts and Standards No. 4, Managerial Cost Accounting Standards, are not addressed in this report.

Details of our scope and methodology are contained in appendix I and related GAO products are listed at the end of the report.

Our work was performed in Washington, D.C. between September 1996 and September 1997 in accordance with generally accepted government auditing standards. We requested comments on a draft of this report from the Director of the Office of Management and Budget or his designee. On December 12, 1997, the Deputy Associate Director for Budget Analysis and Systems in the Budget Review Division provided us with comments, which are discussed in the "Agency Comments and Our Evaluation" section.

Agencies Increasingly Rely on User Fees

The agencies we reviewed increased the overall amount of fees they collected and these fees constituted a larger proportion of their budgets in fiscal year 1996 than in fiscal year 1991. Fee collections among the 27 agencies we surveyed totaled $74.9 billion in fiscal year 1996. As noted earlier, federal user fees provided the United States government with

$196.4 billion in revenues in fiscal year 1996.[6] Of this total, Congress has earmarked $154.3 billion to the agencies that generated the fees, while $42.1 billion was not earmarked to specific agencies but was credited to the general fund of the Treasury. Fees collected by the 27 agencies in our review represented 49 percent of the $154.3 billion in earmarked user fees from the public in fiscal year 1996.

In fiscal year 1991, these 27 agencies collected $58 billion from the public in user fees to support their activities. By fiscal year 1996, this amount had grown to $74.9 billion. Although these figures are dominated by the Postal Service, which accounted for $13 billion of the $17 billion increase, collections increased 27 percent in real terms between these years.[7] Between 1991 and 1996, all agencies we studied either increased or roughly maintained the percent of their budgets funded though user fees. During this time period, the Congress substantially increased the fee-reliance of some regulatory agencies, such as the Federal Trade Commission, the Federal Communications Commission, and the Securities and Exchange Commission.

Additional user fee collections appear to have replaced appropriated funds or to have reduced the size of decreases in appropriated funds. Replacement of general fund appropriations can also be seen in that most increases in user fees enacted between fiscal years 1991 and 1996 were designated as discretionary spending for BEA purposes. The classification of these fees and increased use of fee collections to offset discretionary spending has lessened the impact of BEA spending limits on agencies that collect fees.

Congress Has Increased Several Federal Agencies' Reliance on User Fees

As shown in table 1, 8 out of 27 agencies in our survey showed increased reliance on user fees from fiscal year 1991 to fiscal year 1996. Of the 27 agencies in our review, 15 were fully funded, or nearly so, by fees from the public in fiscal year 1991 and remained so through fiscal year 1996 according to budgetary data. Of the remaining 12 agencies, 6 substantially increased their reliance on fees from fiscal years 1991 to 1996. Congress increased fee reliance of two additional agencies, though not to the extent of the agencies noted above. Four agencies saw the percentage of their budgets funded through user fees remain stable between fiscal year 1991 and 1996.

[6]See footnote 2 for revenue sources included in OMB's definition of offsetting collections from the public.

[7]Adjusted based on 1996 dollars.

Table 1: Change in Fee Reliance Among Fee-Reliant Agencies, Fiscal Years 1991 to 1996

Agencies Nearly or Fully Funded By Fees (15)	
— Comptroller of the Currency — Other Department of Defense Trust Funds — Farm Credit Administration — Federal Housing Finance Board — Federal Retirement Thrift Investment Board — National Credit Union Administration — National Technical Information Service	— Nuclear Regulatory Commission — Office of Thrift Supervision — Panama Canal Commission — Patent and Trademark Office — Postal Service — Power Marketing Administrations — Tennessee Valley Authority[a] — U.S. Enrichment Corporation
Agencies That Increased Fee Reliance Substantially (6)	
— Animal and Plant Health Inspection Service — Bureau of Reclamation — Federal Communications Commission	— Federal Trade Commission Service — Securities and Exchange Commission — U.S. Customs Service
Agencies That Increased Fee Reliance Slightly (2)	
— Immigration and Naturalization	— U.S. Mint Service
Agencies Where Fee Reliance Remained Stable (4)	
— Agricultural Marketing Service — Grain Inspection, Packers and Stockyards Administration	— Minerals Management Service — U.S. Fish and Wildlife Service

Note: Agencies we categorized as nearly or fully funded by fees received, on average, over 95 percent of their funding from fees from fiscal years 1991 through 1996. Agencies that increased fee reliance substantially increased fee reliance between 21 percent and 70 percent between these fiscal years. Agencies that increased fee reliance slightly increased fee reliance between 8 percent and 10 percent. Agencies we categorized as where fee reliance remained stable either increased fee reliance by less than 3 percent or decreased fee reliance by less than 3 percent.

[a]We classified the Tennessee Valley Authority (TVA) as nearly or fully funded by fees because it was funded mainly through revenues from current power operations and borrowing against future power revenues.

Many of the 15 agencies were fully funded, or nearly so, by fees from the public from fiscal years 1991 to 1996. The Congress authorized substantial fee increases for two of these agencies, the Patent and Trademark Office (PTO) and the Nuclear Regulatory Commission (NRC), in the Omnibus Budget and Reconciliation Act of 1990 (OBRA 90). While many of these 15 agencies are primarily regulatory in nature, they also include service agencies, such as the Department of Commerce's National Technical Information Service (NTIS) and the Postal Service. Several of these 15 agencies are involved in banking or credit regulation, such as the Office of Thrift Supervision and the National Credit Union Administration, among others. These banking and credit regulatory agencies are usually supported through examination or assessment fees on their members.

Six agencies in our survey substantially increased their reliance on fees from fiscal years 1991 to 1996. Again, these agencies are primarily regulatory. The increased reliance on user charges among these agencies resulted mainly from legislative changes requiring increased collections for activities such as licenses, filings, and applications.

- In fiscal year 1991, FCC received less than 1 percent of its new budget authority from user fees. However, the Omnibus Budget and Reconciliation Act of 1993 (OBRA 93) increased the fees that FCC charges to cover the cost of the application and licensing of radio stations, telecommunications equipment, and radio operators, so that by fiscal year 1996 user fees made up 71 percent of the agency's new budget authority.[8]
- The fiscal year 1993 Commerce, Justice, State and the Judiciary Appropriation Act increased filing fees charged jointly by the Department of Justice and the Federal Trade Commission (FTC) to review proposed mergers. These fees had originally gone into effect in fiscal year 1990 and covered all costs associated with reviewing proposed mergers that might reduce competition. In fiscal year 1991, FTC received 18 percent of its new budget authority from user charges. With the 1993 fee increases, this grew to 69 percent by fiscal year 1996.
- In fiscal year 1991, the Securities and Exchange Commission (SEC) received 19 percent of its new budget authority from user charges. Beginning that year, user fees became an increasingly important component of SEC appropriations so that by fiscal year 1996 these fees made up 70 percent of the agency's new budget authority.
- The U.S. Customs Service doubled its reliance on fees, as new budget authority from fees grew from 41 percent in fiscal year 1991 to 71 percent in fiscal year 1996. This increase was largely a function of the North American Free Trade Agreement Implementation Act of 1993, which extended the collection of Customs Service user fees through September 2003, increased air and sea passenger collections, and lifted air and sea passenger country exemptions through September 1997.
- In fiscal year 1991, the Animal and Plant Health Inspection Service (APHIS) received less than 9 percent of its new budgetary authority from user fees. APHIS' revenues increased primarily because four programs previously funded with appropriations were converted to user fee funding between fiscal years 1991 and 1993. As a result, by fiscal year 1996 APHIS received 31 percent of new budget authority from user fees.
- In addition, the Bureau of Reclamation increased its reliance on user fees between fiscal years 1991 and 1996 due to, among other activities,

[8]OBRA 93 also gave FCC authority to auction licenses to use parts of the radio spectrum. We have not included proceeds from the spectrum auctions in our analysis since it is unlikely that the revenue from these asset sales will become available to FCC.

increased offsetting receipts appropriated to carry out provisions of the Central Valley Project Improvement Act.

The Congress increased the reliance of the U.S. Mint and INS on user fees, though not to the extent of the agencies noted above. Although the U.S. Mint's collections increased, the most significant change was structural. In fiscal year 1996, the U.S. Mint was restructured to operate with a single revolving fund. Although INS fee collections from the public more than doubled between fiscal years 1991 and 1996, from $411 million to $922 million, fees as a portion of INS's new budget authority increased only slightly due to large increases in general fund appropriations.

With four agencies—the U.S. Fish and Wildlife Service, Minerals Management Service, Agricultural Marketing Service (AMS), the Grain Inspection, Packers and Stockyards Administration (GIPSA)—the percentage of their budgets funded through user fees remained stable between fiscal years 1991 and 1996.

User Fees Increasingly Offset Discretionary Spending

Most new user fees enacted between fiscal years 1991 and 1996 were designated as offsets to discretionary spending for BEA purposes. In fiscal year 1991, 6 of the 27 agencies, the Postal Service, APHIS, SEC, NRC, INS and FCC, had 90 percent or more of their total spending classified as discretionary spending. By fiscal year 1996, four additional agencies, PTO, NTIS, FTC, and the Panama Canal Commission, had more than 90 percent of their total spending classified as discretionary spending. Spending for two of these additional agencies, NTIS and the Panama Canal Commission, went from 100 percent mandatory spending in fiscal year 1991 to 100 percent discretionary spending by fiscal year 1996. For NTIS, this occurred when its operations were converted from a trust fund to a self-supporting revolving fund. For the Panama Canal Commission this change is attributable to the decision made by OMB in fiscal year 1993 not to include fees that offset spending in discretionary accounts in the PAYGO baseline.[9]

The Bureau of Reclamation also had a significant increase in the percent of total spending classified as discretionary. In fiscal year 1991, 60 percent of Reclamation's total spending was classified as discretionary spending, but by fiscal year 1996 this percentage had increased to 86 percent. Of the 27 agencies in our survey, 14 saw an increase in the percent of agency spending classified as discretionary between fiscal years 1991 and 1996, 5 agencies saw a decrease, while 8 agencies showed no change. See table

[9]See appendix III for a discussion of this OMB decision.

III.1 in appendix III for detailed information on the BEA classifications for each agency in our survey.

Increased User Fee Collections Replaced General Fund Appropriations

Table 2 compares growth from current appropriations[10] versus growth from all sources, including fees from the public, from fiscal years 1991 through 1996.[11] See table IV.1 in appendix IV for detailed information on current and permanent appropriations for the 27 agencies in our survey.

[10]Current appropriations are provided by annual appropriation acts and are scored against BEA discretionary spending limit totals. Current appropriations include general, special, and trust fund appropriations.

[11]Nine agencies—the Federal Retirement Thrift Investment Board, Other DOD Trust Funds, Farm Credit Administration, Comptroller of the Currency, Office of Thrift Supervision, Federal Housing Finance Board, National Credit Union Administration, Panama Canal Commission, and U.S. Enrichment Corporation—were excluded from this table because they did not receive current appropriations from fiscal years 1991 to 1996. The National Technical Information Service was also excluded because it received only small current appropriations in fiscal years 1993 and 1995.

Table 2: Fee-Reliant Agency Growth in Current Appropriations Versus All Sources From Fiscal Years 1991 Through 1996

Agency	Compound growth rate[a] Current appropriations (percent)	Fiscal Years 1991-1996 All sources[b] (percent)
Agricultural Marketing Service	–1.37	1.32
Animal and Plant Health Inspection Service	1.86	1.69
Grain Inspection, Packers and Stockyards Administration	2.44	1.51
Federal Communications Commission	–12.77	11.29
Federal Trade Commission	–13.18	5.56
Immigration and Naturalization Service	14.13	15.42
Patent and Trademark Office	–2.06	12.64
Securities and Exchange Commission	–8.33	12.00
Nuclear Regulatory Commission	0.30	0.40
Power Marketing Administrations	–0.45	0.21
Tennessee Valley Authority	–4.19	1.05
Bureau of Reclamation	–3.61	–1.47
Minerals Management Service	–0.83	–0.50
U.S. Fish and Wildlife Service	–1.12	2.98
U.S. Customs Service	2.46	4.19
U.S. Mint	–100.0	26.13
Postal Service	–24.90	4.55

Note: When amounts are shown in constant dollars, which excludes inflation, all of the fee-reliant agencies show negative growth in current appropriations except for INS.

[a]Compound growth rate means the average annual growth rate from fiscal years 1991 through 1996.

[b]Includes federal and nonfederal offsetting collections and funding from permanent and current budget authority.

Twelve fee-reliant agencies that received current appropriations, either from general revenue or special fund appropriations, showed negative growth in appropriated funds. However, once user fees and other permanent budget authority were included, 15 of the 17 agencies shown in table 2 either increased their budgets or had decreases less than the decrease in current appropriations. For example, current appropriations for SEC declined by 8.3 percent between fiscal years 1991 and 1996. However, after fees were included in SEC's budget totals, the agency's budget grew 12 percent over this period. Current appropriations for the Bureau of Reclamation declined by 3.6 percent between fiscal years 1991 and 1996. However, user fee revenues helped reduce the effect of this decline on the Bureau's budget so that it experienced only about a 1.5 percent reduction during this period.

Budgetary Treatment Among Agencies That Collect User Fees Is Inconsistent

The 27 fee-reliant agencies in our review varied in how their user fees were classified, what kind of account they were deposited into, the legislative controls on the amount or use of these fees, and how they were treated under BEA. As a result, user fees for similar programs were often treated quite differently in the federal budget process. For example, some agricultural inspection fees were netted against their accounts' budget authority and outlays, which reduced spending counted against BEA discretionary spending limits. Other agricultural fees were appropriated as new budget authority and were counted as discretionary spending. While these fees offset spending, they do so at the department and subfunction levels. In this case, the offset can be used to provide room under the spending caps elsewhere and not necessarily for the program generating the fee.

Table 3 lists these 27 agencies and identifies whether, in fiscal year 1996, they received user fees from the public primarily as collections credited to an appropriation or fund accounts or as offsetting receipts.

Table 3: Twenty-Seven Fee-Reliant Agencies and Their Fee Classifications

Agencies That Primarily Had Collections Credited to Appropriation or Fund Accounts (18)

— Comptroller of the Currency
— Other Department of Defense Trust Funds
— Farm Credit Administration
— Federal Communications Commission
— Federal Housing Finance Board
— Federal Trade Commission
— Grain Inspection, Packers and Stockyards Administration
— National Credit Union Administration
— National Technical Information Service
— Office of Thrift Supervision
— Panama Canal Commission
— Patent and Trademark Office
— Postal Service
— Power Marketing Administrations
— Securities and Exchange Commission
— Tennessee Valley Authority
— U.S. Enrichment Corporation
— U.S. Mint

Agencies That Primarily Received Offsetting Receipts (8)

— Animal and Plant Health Inspection Service
— Bureau of Reclamation
— Federal Retirement Thrift Investment Board
— Immigration and Naturalization Service
— Minerals Management Service
— Nuclear Regulatory Commission
— U.S. Customs Service
— U.S. Fish and Wildlife Service

Agencies That Received a Mix of Offsetting Collections (1)

— Agricultural Marketing Service

Note: Agencies that we categorized as primarily having collections credited to appropriation or fund accounts received at least 75 percent of their fees from the public in this manner in fiscal year 1996. Agencies we categorized as primarily receiving offsetting receipts received at least 75 percent of their fees in this manner in fiscal year 1996. The one agency we categorized as receiving a mix of offsetting collections received less than 75 percent of its offsetting collections in the form of collections credited to appropriation or fund accounts or as offsetting receipts in fiscal year 1996.

As shown in table 3, 18 of the 27 agencies we identified as fee-reliant received fees from the public primarily as collections credited to appropriation or fund accounts. Eight other agencies received fees mainly as offsetting receipts, with two of those being authorized to use fees received during the year to reduce their appropriations. In practice, this treatment is similar to those agencies that have collections credited to their appropriation or fund accounts. One agency collected fees that were not predominantly one type or the other.

The following sections provide more detail on the different budgetary treatment of these user fees. See appendix II for a detailed listing of budgetary characteristics for each of the 27 agencies in our review.

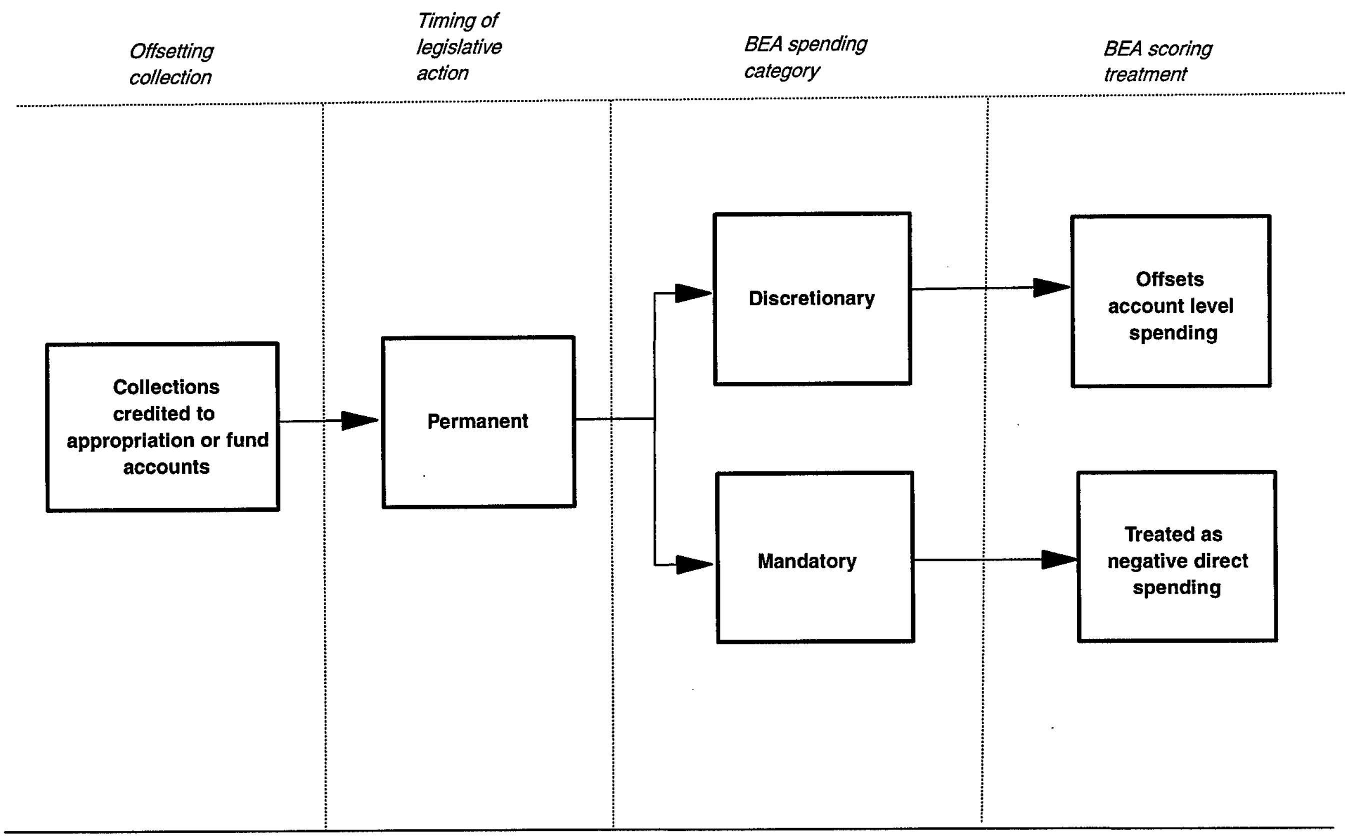
Budgetary Treatment of Collections Credited to Appropriation or Fund Accounts

As shown in table 3, we identified 18 fee-reliant agencies that received user fees as collections credited to appropriation or fund accounts. This treatment was typical for agencies that conduct business-type operations and are largely self-supporting through the exchange of fees for goods or services. Most of these agencies are authorized to use these collections without further congressional action. In some cases, this reflects the belief that an agency—such as the Postal Service—might not be able to respond quickly to its customers if it were required to go through the appropriations process. In other cases, the amount collected is too insignificant or unpredictable to be separately appropriated and, instead, is included in a general operating account. Of these 18 agencies, 12 were funded entirely, or mostly so, through public enterprise funds. Fees for two agencies, the Comptroller of the Currency and commissary sales in the DOD Trust Funds, were deposited in trust revolving funds.

Collections for four agencies—FCC, the Federal Trade Commission (FTC), PTO, and SEC—were deposited in general fund expenditure accounts. Collections credited to a general fund expenditure account may be broad-based and cover the agency's operations as well as specific fee activities. Where the definition of costs charged to users was broadened to include indirect costs, this can mean that the agency is entirely supported by fees. For instance, PTO is fully funded through fees. Of PTO's $631 million in new budget authority for fiscal year 1996, $82 million was appropriated from a special fund and $549 million from spending authority from offsetting collections. In other cases, fees may supplement an agency's general fund appropriation. In fiscal year 1996, the Southwestern Power Administration's operations and maintenance account was funded primarily through $30 million in current appropriations from general revenues, but received an additional $3 million in collections.

Although there are exceptions, figure 1 outlines the ways collections are generally credited to appropriation or fund accounts in the budget process, differences in BEA spending categories among these collections, and subsequent BEA scoring treatment. As shown in figure 1, collections credited to appropriation or fund accounts may either (1) offset discretionary spending at the account level or (2) be treated as negative direct spending, which has no effect on discretionary spending limits. As noted above, collections credited to discretionary appropriation or fund accounts are netted against account budget authority and outlays. For example, of the $100 million in new budget authority available to FTC in fiscal year 1996, only $35 million in its Salaries and Expenses account counted towards BEA budget authority limits. The remaining $65 million from offsetting collections was not scored.

Figure 1: Collections Credited to Appropriation or Fund Accounts in the Budget Process



Timing of Legislative Action and Other Controls

In a number of instances, the Congress has authorized agencies to obligate collections for program purposes without further congressional action, a form of permanent budget authority. Although fees credited directly to revolving funds are by definition available for the agency's use, this does not make program size solely a function of fee collections. The Congress can limit the amount available to an agency, typically through provisions in appropriation acts. Nearly a third of the agencies in our study with one or more revolving funds had a limitation on obligations between fiscal years 1991 and 1996. An agency's use of revolving funds may also be limited through the apportionment process, which limits the amount of obligations an agency or program can incur within a particular time period, program, activity, or project.

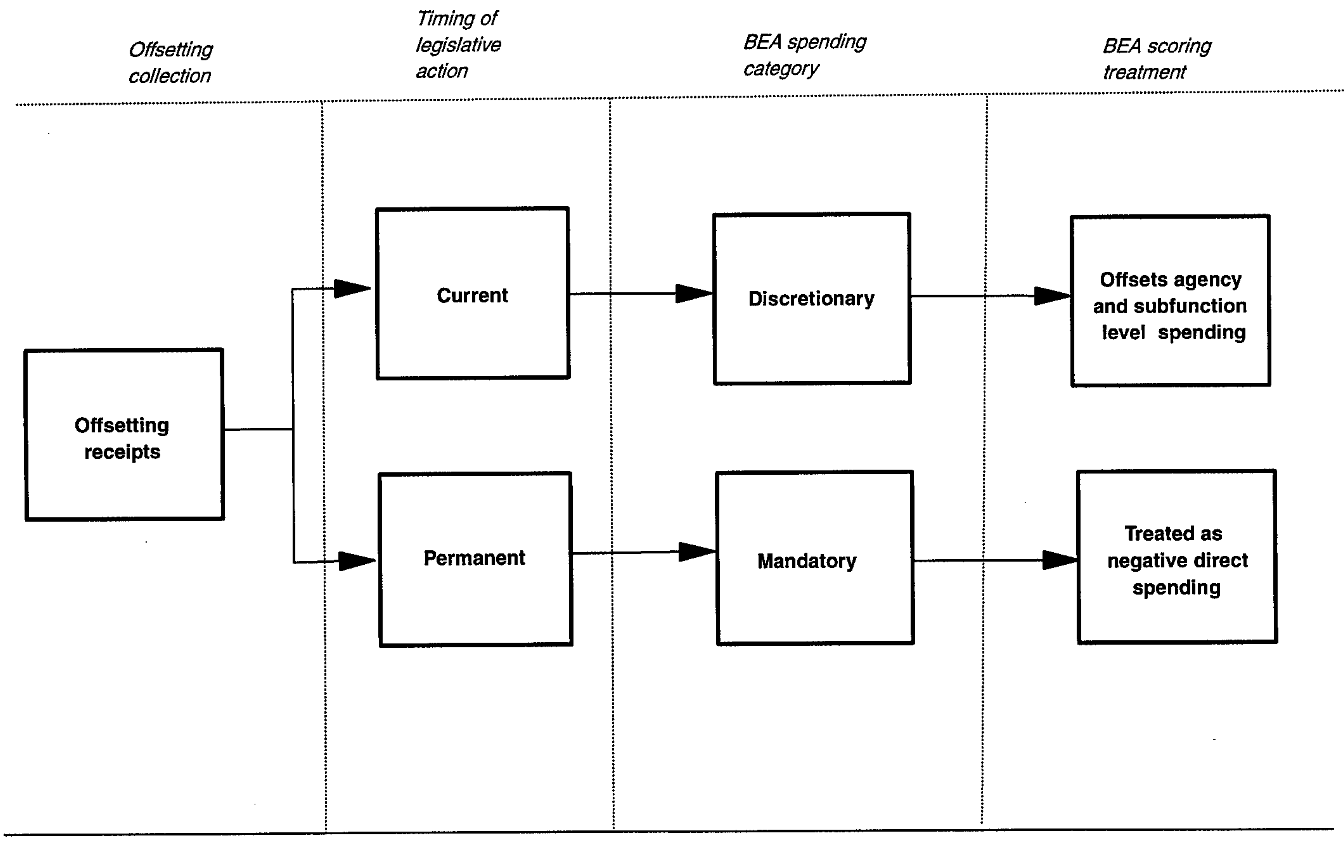
Budgetary Treatment of Offsetting Receipts

As shown in table 3, eight of the agencies we identified as fee-reliant received most of their fees from the public through offsetting receipts. Based on the agencies in our review, most that receive all or most of their funding from offsetting receipts are not entirely fee-reliant. Offsetting receipts are generally appropriated to a special, nonrevolving trust or general fund account to support the agency or activity that generated the fee. Agencies derive these fees from many of the same types of transactions as those credited as collections to appropriation or fund accounts.

Although there are exceptions, figure 2 outlines the ways offsetting receipts are generally treated in the budget process, differences in BEA spending categories among these receipts, and BEA scoring treatments. As is the case for collections credited to appropriation or fund accounts, offsetting receipts also may be classified as either discretionary or mandatory spending under BEA. If offsetting receipts are classified as discretionary, they may (1) offset discretionary spending at the agency (executive department or independent agency) and subfunction level or (2) be used, in the case of some regulatory agencies, to reimburse general or special fund appropriations similar to collections credited to appropriation or fund accounts. If offsetting receipts are classified as mandatory spending, they are treated as negative direct spending and used to meet PAYGO requirements on the mandatory side of the budget.

In those instances where offsetting receipts offset discretionary spending at the agency or subfunction level, they provide room under the caps for additional spending, but not necessarily for the account or agency that generated the fees. For example, fees generated by the Animal and Plant Health Inspection Service (APHIS), are treated as offsets to spending for the Department of Agriculture as a whole.

Figure 2: Offsetting Receipts in the Budget Process



Timing of Legislative Action and Other Controls

The Congress may—as is true for funding from general revenues—make offsetting receipts available in a permanent appropriation. Unlike current authority in which the Congress annually sets the program level which can not be exceeded without further congressional action, permanent authority is available in the first year as well as in succeeding years.

The Congress can also decide to cap the amount of fee receipts available in a given fiscal year by making the budget authority definite—that is, for a fixed amount. If the amount of fees collected exceeds the amount appropriated, then the excess fees are held in special or trust receipt accounts to be made available in subsequent years or deposited in the general fund of the Treasury.[12] Typically, fees that are permanently

[12]Seven of the 11 agencies that received some offsetting receipts had appropriations for a fixed amount.

appropriated are not for a fixed or definite amount; instead, the program retains for obligation whatever fees it generates. In contrast, fees that are currently appropriated are more likely to be for a specific amount.

Increasingly, fees generated by some regulatory agencies are used to reimburse or reduce amounts appropriated to an agency. Agencies with this authority fund their activities either through (1) general or special fund appropriations, which their legal authority directs be reduced as fees are collected or (2) fees appropriated to special fund expenditure accounts that are then used to offset spending in another account, such as the agency's main operating account.[13] Two agencies in our survey—NRC and INS—are required by law to reimburse their appropriations with receipts collected during the fiscal year. This budgetary treatment is similar to the treatment of user fees collected by FTC and FCC, as both agencies' appropriations are reduced dollar for dollar as collections are credited to their appropriation accounts.

Many of these regulatory receipts, including some of those for NRC, were previously classified as governmental and deposited in the general fund of the Treasury. However, in OBRA 90, the Congress authorized NRC to charge fees to its licensees to cover all its appropriation except for that amount appropriated from the Nuclear Waste Fund. As a result, nearly all of NRC's budget is financed by fees. For instance, in fiscal year 1996, NRC was appropriated $472.6 million which was reduced during the fiscal year by $461.6 million in offsetting collections. The result was a net fiscal year 1996 appropriation of $11 million. Although NRC had budget authority equal to $472.6 million only the $11 million was subject to BEA discretionary spending limits.

Budgetary Treatment of Similar User Fees

Although fees are treated differently for similar activities, increasingly authority is being provided to allow fees to offset discretionary spending no matter what the source or purpose of the fee. To illustrate, table 4 shows five accounts that receive fees from the public for their inspection services. Although there are no economic differences in these transactions, there were significant differences in budgetary treatment.

[13]These fees usually offset spending in the generating agency at the account level up to a specified amount. Any fees collected in excess of this amount may be made available either immediately, at a specified time in the future, through the reprogramming process, if applicable, or in a subsequent appropriation. From the agency's perspective, this system has both advantages and disadvantages. The advantage is the assurance of funding up to the appropriated amount whether or not fees are collected for the full amount. The disadvantage is that the agency may not be permitted to spend fees collected in excess of its general or special fund appropriation. In addition, the Congress may also direct that fee balances be deposited in the general fund of the Treasury.

For purposes of BEA scoring, fees in all five accounts either reduce budget authority and outlays subject to discretionary limitations or do not affect discretionary spending because they are classified as mandatory.

Table 4: Budgetary Treatment and BEA Scoring for Inspection Services

Agency/Fee type	Budgetary treatment of fees	BEA scoring
Agency: APHIS **Activity**: Agricultural quarantine inspection **Fee Type**: proprietary receipt	**Account Title**: Salaries and expenses **Account Type**: general fund expenditure account **Type of Authority**: current budget authority	Account classified as discretionary. Appropriated receipts are treated as new budget authority at the account level and offset at the agency (Department of Agriculture) and subfunction level. These offsetting receipts are scored as zero under BEA.
Agency: Nuclear Regulatory Commission **Activity**: Inspection, oversight and licensing of nuclear facilities **Fee Type**: offsetting governmental receipts	**Account Title**: Salaries and expenses **Account Type**: general fund expenditure account **Type of Authority**: current budget authority	Account and receipts are classified as discretionary. Offsetting governmental receipts are required by law to offset appropriation. Only the net amount is included in BEA scoring of discretionary spending.
Agency: AMS **Activity**: Inspection of egg handlers and hatcheries, grading of tobacco and cotton, and other marketing services **Fee Type**: offsetting collections to an appropriation or fund account	**Account Title**: Marketing services **Account Type**: general fund expenditure account **Type of Authority**: permanent spending authority	Account and offsetting collections are classified as discretionary. Budget authority and outlays are offset by the amount of collections. Only the net amount is included in BEA scoring of discretionary spending.

(continued)

Agency/Fee type	Budgetary treatment of fees	BEA scoring
Agency: GIPSA **Activity**: Grain inspection, weighing and grading services **Fee Type**: offsetting collections to an appropriation or fund account	**Account Title**: Inspection and weighing services **Account Type**: public enterprise revolving fund **Type of Authority**: permanent spending authority.	Account and offsetting collections were classified as mandatory at the time of our review. Recently this account was reclassified because of a concept change. As a mandatory account it had no effect on discretionary spending. As a discretionary account, budget authority and outlays are offset by the amount of collections.
Agency: AMS **Activity**: Inspection and grading of agricultural commodities **Fee Type**: Proprietary receipts	**Account Title**: Miscellaneous Trust Funds **Account Type**: trust fund **Type of Authority**: permanent budget authority	Account and receipts are mandatory. Included in the direct spending baseline. No effect on discretionary spending.

APHIS' fees for agricultural quarantine inspection are a dedicated source of revenue that are earmarked for the purposes for which they were collected. Since proprietary receipts are offsetting, any fees provided in appropriations language to APHIS are offset against discretionary spending limits. However, because APHIS is part of a larger agency, the benefits of this offset accrue to the Department of Agriculture as a whole and for the agricultural research and services subfunction.

NRC receipts are called offsetting governmental because they are governmental receipts by nature but are required by law to offset spending. Originally, some of NRC's receipts were governmental and not earmarked for NRC's use. However, beginning with OBRA 90, NRC and several other regulatory agencies were authorized to recover total agency costs or, in some cases, amounts in excess of agency costs. The appropriations language for these agencies directed that the collections be treated as offsetting. OMB subsequently created the offsetting governmental receipt classification to distinguish these receipts from other types of receipts.

AMS fees for inspection and cotton and tobacco grading, and GIPSA's grain inspection fees are both authorized to be credited directly to appropriation or fund accounts. GIPSA was classified as a mandatory account at the time of our review and therefore it and its collections were treated as direct or mandatory spending subject to PAYGO requirements.[14] Recently, this GIPSA account was reclassified by OMB applying BEA scoring rules that, in most cases, where the Congress has provided permanent authority but has imposed an obligation limitation, the account will be treated as discretionary.

The last example, AMS's grading of agricultural commodities, is classified as mandatory spending because the fees for these activities are authorized as receipts to a trust fund. These fees and their activities are not subject to discretionary spending limits.

Issues for Consideration in the Design and Management of User Fees

Increased reliance on fee collections as an agency's primary source of funding has implications for federal budgeting and management that may call for a reexamination of the basic principles as well as the actual practices underlying the treatment of fees. Offsetting can inhibit congressional tradeoffs based on the relative merit of programs and can obscure the amount of spending for fee-reliant agencies. The current trend to net fees against spending at the account or agency level offers agencies some stability, even potential growth, not available to most agencies dependent on current appropriations. However, fee-reliant agencies are faced with some unique challenges that make management of these agencies more complex.

How user fees are structured reflects competing considerations and the sometimes differing interests of the Congress, OMB, agencies, and the fee payers. Some believe that agencies will have less motivation to collect and users to pay if the fees are not credited to the activity that generated the fee. Others have cautioned that earmarking fees reduces congressional flexibility in making resource decisions and can complicate agency oversight. Still others maintain that the merits of a program—not its ability to generate fees—should influence funding decisions and program size, particularly in the context of continuing reductions in overall discretionary spending. In considering these trade-offs, it is important that budgetary treatment of fees influence, but not drive, resource and management decisions.

[14]The classification depends on whether the fees are authorized to be charged in appropriations acts or authorizing statutes.

Inconsistencies Between Budget Concepts and Fee Classifications Are Likely to Increase

As scoring differences become more important and distinctions in fee classifications more ambiguous, fee structure is likely to be driven by budget rules that make certain designs most advantageous. The 1967 Commission on Budget Concepts could not have anticipated how discretionary caps would serve to erode the criteria it proposed to distinguish the budgetary treatment of fees. The obvious advantage of netting fees against program spending and the pressures to earmark fees for certain uses make it more likely in today's budget environment that fees from the public will be treated as offsets to appropriations under BEA caps, regardless of whether the underlying federal activity is business or governmental in nature. An agency is likely to consider offsetting collections that are credited directly to its appropriation or fund account more advantageous than a receipt that offsets at the department and subfunction level. Moreover, inconsistencies have emerged in the budgetary treatment of fees with similar characteristics and purposes, and these differences have important implications for budgetary decisions among these programs.

Any further examination of fees might include a broader range of user charges not discussed in this report, including possibly excise taxes and those fees collected under authority provided by the Independent Offices Appropriation Act of 1952.[15] Questions could be asked, such as the following: What rules make sense for comparable types of activities? What are the best ways of presenting user fees in a unified budget that will be inclusive and consistent? Finally, recognizing that not all activities are alike, What treatment will provide the most appropriate oversight and control for a particular fee-reliant activity?

Fee-Reliant Agencies Face Unique Management Issues

Fee-reliant agencies face management issues not faced by those that depend primarily on general fund appropriations. Agencies' reliance on fees may raise expectations that these agencies will be self-supporting, thereby prompting questions about the applicability of market or business-like principles to their funding and operations. For example, dependence on fees may cause these programs to become more vulnerable to cyclical swings in demand and fee income. This in turn raises questions about how to respond to such downturns in income, such as whether general appropriations should be used to subsidize operations if fees decline. If these agencies are expected to operate in a market environment—especially without an appropriations "safety net"—pressures to provide exemptions from government rules and

[15]See the glossary for a discussion of the Independent Offices Appropriation Act of 1952.

regulations on procurement and personnel may arise. Balancing these with other issues, such as accountability to the Congress and the general taxpayer, will be a continuing challenge.

Increasingly, agencies are being asked to provide greater accountability. Where the Congress and fee payers agree on priorities, there may be no conflict between oversight and accountability to the Congress and accountability to fee payers. However, where congressional and fee payer priorities differ, the agency may be under greater pressure to satisfy the demands of fee payers, particularly if the exchange of fee for service is voluntary.

Even where there may be agreement in principle that fees should be charged for an activity, there is the possibility of increased conflict between different payers about the allocation among them. Moreover, few agencies provide purely business-type services. To the extent that fee-reliant agencies also provide services to the general public and do not receive general fund appropriations, fees may have to be set to subsidize non-fee-related costs and activities, which can prompt further conflict between the fee payers and those receiving these broader benefits.

In addition, agencies with some fee-funded activities will have to redefine relationships between fee-funded and appropriated activities. Agencies will be faced with the inequities, real or perceived, that different funding sources may create. In addition to any perceived funding imbalances between fee and appropriations supported programs, management challenges can arise from differences in their funding status. For example, during times of government shutdowns, programs with authority to obligate fees without congressional action were among those able to continue operating while programs and staff funded solely through current appropriations were shutdown and furloughed.

Agency Comments and Our Evaluation

OMB officials agreed that different budgetary treatments have occurred as agencies have sought and the Congress has enacted laws that allow agencies to use the fees they generate to offset spending. Several comments by OMB officials suggested that offsetting correctly applied, that is, offsetting that results from business-like activities, does not inhibit tradeoffs between programs or limit congressional flexibility in decision-making because this type of spending is self-controlling. These comments assume that it is possible to make clear distinctions between business-like and governmental activities. Although the 1967 President's

Commission on Budget Concepts recommended a dual system of accounting based on these distinctions, such distinctions have been difficult to make in practice. A clear line between governmental and business-type activities is even less likely to be applied in the future given the overwhelming benefits of offsetting under BEA discretionary spending limits.

OMB officials also provided a number of technical and clarifying comments, which we incorporated in the report where appropriate.

We are sending copies of this report to other interested Members of the Congress and the Director of the Office of Management and Budget. We will make copies available to others on request. Please call me at (202) 512-9142 if you or your staff have any questions. This report was prepared under the direction of Barbara Bovbjerg. Major contributors were Denise Fantone, Tim Minelli, Carlos Diz (Attorney-Advisor), John Mingus, and Paul Yoon (Intern).

Sincerely yours,

Susan J. Irving

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Associate Director, Budget Issues

Contents

Tables

Figures

Abbreviations

AMS	Agricultural Marketing Service
APHIS	Animal and Plant Health Inspection Service
BEA	Budget Enforcement Act
CBO	Congressional Budget Office
COBRA 85	Consolidated Budget Reconciliation Act of 1985
DOD	Department of Defense
FCA	Farm Credit Administration
FCC	Federal Communications Commission
FHFB	Federal Housing Finance Board
FRTIB	Federal Retirement Thrift Investment Board
FTC	Federal Trade Commission
GPRA	Government Performance and Results Act
GIPSA	Grain Inspection, Packers and Stockyards Administration
GRH	Gramm-Rudman-Hollings
INS	Immigration and Naturalization Service
IOAA	Independent Offices Appropriation Act of 1952
MMS	Minerals Management Service
NRC	Nuclear Regulatory Commission
NTIS	National Technical Information Service
OBRA 90	Omnibus Reconciliation Act of 1990
OBRA 93	Omnibus Reconciliation Act of 1993
OMB	Office of Management and Budget
OTS	Office of Thrift Supervision
PAYGO	pay-as-you-go
PCC	Panama Canal Commission
PTO	Patent and Trademark Office
PMAs	Power Marketing Administrations
SEC	Securities and Exchange Commission
TVA	Tennessee Valley Authority
USEC	United States Enrichment Corporation
USFWS	United States Fish and Wildlife Service

Scope and Methodology

To better understand the roles fees have had as a funding source since BEA was enacted, we reviewed all agencies in which fees for business or regulatory services to the public provided a significant and continuing source of funding. Twenty-seven agencies met our criteria.

We defined our universe of fee-reliant agencies using the following criteria: (1) fees from the public must be used to support the agency that generated the fee, (2) services, goods, or benefits must be provided in exchange for fees and the exchange should be closely linked in time, and (3) budget authority from fees from the public must represent 20 percent or more of the agency's gross outlays from federal sources averaged over fiscal years 1991 through 1996. This excludes offsetting collections and associated outlays from federal sources.

To meet these criteria, we excluded (1) agencies that collected fees that were deposited in the general fund of the Treasury instead of designated for the agency's use, (2) insurance and retirement programs because of the delay between when a fee is paid and when there is a pay out, although many of these programs, such as the Federal Deposit Insurance Corporation are totally self-supporting, (3) credit programs because they involve subsidies, (4) agencies that receive fees from the public that are then transferred to another federal agency or a state, (5) agencies that receive fees from the public intermittently, (6) Government-sponsored enterprises, such as the Federal Reserve, which receive funding from the public, but are classified as private and not included in the federal budget, and (7) agencies that receive most of their fees from other federal agencies, although many of the agencies included have some funding from this source.

Certain accounts of the agencies we identified as fee-reliant were excluded from subsequent analyses. Insurance and credit accounts were excluded from Bureau of Reclamation and National Credit Union Administration totals, except for the examination and regulatory fees that are deposited in the Credit Union Share Insurance Fund and transferred to the Operating Fund account. Other DOD Trust Funds includes only those accounts that received offsetting collections from the public for commissary sales. Accounts on gift funds and separation pay were excluded from Other DOD Trust Funds totals. The Funds for Strengthening Markets, Income, and Supply account was excluded from Agricultural Marketing Service totals because most of its funding is transferred to other programs, principally child nutrition. Also, the Universal Service Fund and the Spectrum Auction Program account were excluded from Federal Communication Commission totals.

The 27 agencies span 7 of the 13 appropriations subcommittees: (1) Agriculture and Rural Development, (2) Commerce, Justice, State, and the Judiciary, (3) Defense, (4) Energy and Water Development, (5) Interior and Related Agencies, (6) Treasury, Postal, and General Government, and (7) Veterans Administration, Housing and Urban Development, and Independent Agencies.

As used in this report, the term "agency" refers to the grouping of activities shown as "bureaus" or listed as "other independent agencies" in the President's budget request to the Congress. The bureau designation generally corresponds to a subordinate organization in an executive department. Although this structure will include both fee and non-fee programs and activities, we selected this level of aggregation because it is organizationally comprehensive and more readily understood than either of the alternatives, appropriation account or program activity. For example, the U.S. Fish and Wildlife Service is more recognizable an entity than the various accounts, such as Resource Management, Migratory Bird Conservation, and Sport Fish Restoration, that make up the agency. In two cases the bureau designation does not correspond with a single entity. Other DOD Trust Funds described above, and the Power Marketing Administrations, which includes 5 separate organizational entities.

To review the classification and treatment of fees in budget accounts, we used OMB codes created for the President's annual budget request. These codes allowed us to identify (1) fees from the public and their classification as an offsetting receipt or a collection credited to an appropriation or fund account, (2) the type of expenditure account the fee is credited to, and (3) the fee's availability for obligation in a given fiscal year.

Using OMB actual year data we constructed a series of analyses that described trends in budget authority and collections for these agencies. Our trend data only includes new appropriations and spending authority available to an agency and not funding from unobligated balances. We did not include unobligated balances because the data coding did not distinguish between unobligated balances from fees and those from other sources.

Data in this report cover fiscal years 1991 through 1996. OMB's codes also allowed us to track changes in discretionary versus mandatory classifications of agency funding and shifts from current to permanent budget or spending authority. Our observations are based on 6 years of OMB data for those agencies selected. This work describes overall trends in 27 fee-financed agencies, but is not generalizable to all agencies with fees.

We also conducted interviews in six agencies: Agricultural Marketing Service, National Technical Information Service, Nuclear Regulatory Commission, Patent and Trademark Office, Securities and Exchange Commission, and U.S. Fish and Wildlife Service.

Budgetary Characteristics of Fee-Reliant Agencies, Fiscal Year 1996

Agency	Fees from the public: Offsetting collections to accounts	Fees from the public: Offsetting receipts	Fees from the public (percent of outlays[a])
Federal Retirement Thrift Investment Board		X	215.8
National Credit Union Administration	X		129.2
United States Enrichment Corporation	X		122.2
Office of Thrift Supervision	X		113.2
Patent and Trademark Office	X	X	108.6
Comptroller of the Currency	X		105.8
Panama Canal Commission	X		105.5
United States Mint	X		105.1
Postal Service	X		101.0
Federal Housing Finance Board	X		100.0
National Technical Information Service	X		100.0
Power Marketing Administrations	X	X	98.7
Farm Credit Administration	X		95.0
Other DOD Trust Funds	X		94.3
Tennessee Valley Authority	X		88.9
Nuclear Regulatory Commission	X	X	88.8
Securities and Exchange Commission	X		85.5
Bureau of Reclamation		X	83.4
Agricultural Marketing Service	X	X	81.1
Federal Communications Commission	X		73.2
Minerals Management Service	X	X	72.8
United States Customs Service	X	X	70.0
Federal Trade Commission	X		64.7
Grain Inspection, Packers and Stockyards Administration	X		54.4
Immigration and Naturalization Service	X	X	37.7
United States Fish and Wildlife Service	X	X	36.1
Animal and Plant Health Inspection Service	X	X	30.2

Fees from federal sources	Expenditure account fund type: General fund	Expenditure account fund type: Special or trust fund	Expenditure account fund type: Revolving fund	Timing of legislative action: Permanent	Timing of legislative action: Current	Amount available: Indefinite	Amount available: Definite
		X		X		X	
			X	X		X	
			X	X		X	
			X	X		X	
	X			X	X	X	X
X			X	X		X	
			X	X		X	
			X	X		X	
X			X	X		X	
			X	X		X	
X			X	X		X	
X	X	X	X	X	X	X	X
			X	X		X	
X			X	X		X	
X			X	X		X	
X	X			X	X	X	X
X	X			X		X	
X	X	X	X	X	X	X	X
X	X	X	X	X		X	
X	X			X			b
X	X	X		X	X	X	X
X	X	X		X	X	X	X
X	X			X			c
			X	X		X	
X	X	X		X		X	
X	X	X		X	X	X	X
X	X	X		X	X	X	

Notes: (1) Categories are as shown in OMB budget documents and have not been independently verified. For a fuller discussion of accounts with spending authority and permanent appropriations see Budget Issues: Inventory of Accounts With Spending Authority and Permanent Appropriations, 1996 (GAO/AIMD-96-79, May 31, 1996).

(2) This table includes only those agency accounts that have fees from the public. An agency may have additional accounts that only get general fund appropriations or were excluded as noted in appendix I. Revolving funds include public enterprise and trust revolving funds.

[a]Gross outlays minus offsetting collections from federal sources.

[b]The Federal Communications Commission's Salaries and Expenses account had a limitation on spending authority from offsetting collections for fiscal year 1996.

[c]The Federal Trade Commission's Salaries and Expenses account had a limitation on spending authority from offsetting collections for fiscal year 1996.

BEA Classification of Fee-Reliant Agencies

The Budget Enforcement Act of 1990, as amended, divided spending at the budget account level into two broad categories: discretionary and mandatory. BEA classification is assigned to expenditure accounts within agencies. Some accounts may have both mandatory and discretionary funds and they are identified separately for BEA scoring purposes. Legislative changes to mandatory spending enacted in a given fiscal year are required to be deficit neutral in the aggregate. Discretionary spending is held to fixed annual limits.

Table III.1 shows the change in classification from fiscal year 1991 to fiscal year 1996 for accounts in the 27 agencies we reviewed. During this time, there was an increase in the percentage of spending classified as discretionary spending for 14 of the 27 agencies. Four agencies showed decreases in spending classified as discretionary, while spending classifications for nine agencies in our survey did not change.

Table III.1: Mandatory Versus Discretionary Classification for Fee-Reliant Agencies

	Mandatory (percent of funding)		Discretionary (percent of funding)	
Agency	**FY91**	**FY96**	**FY91**	**FY96**
25 percent or more change from mandatory to discretionary				
National Technical Information Service	100	0	0	100
Panama Canal Commission	100	0	0	100
Patent and Trademark Office	74	0	26	100
Bureau of Reclamation	40	14	60	86
Less than 25 percent change from mandatory to discretionary				
Agricultural Marketing Service	78	59	22	41
Federal Trade Commission	18	0	82	100
United States Customs Service	35	22	65	78
Animal and Plant Health Inspection Service	10	1	90	99
Power Marketing Administrations	91	86	9	14
Grain Inspection, Packers and Stockyards Administration	59	57	41	43
Minerals Management Service	71	69	29	31
Federal Communications Commission	1	0	99	100
Nuclear Regulatory Commission	1	0	99	100
Securities and Exchange Commission[a]	0	0	100	100
No change: mandatory to discretionary				
Comptroller of the Currency	100	100	0	0
Other DOD Trust Funds	100	100	0	0
Farm Credit Administration	100	100	0	0

(continued)

Agency	Mandatory (percent of funding) FY91	FY96	Discretionary (percent of funding) FY91	FY96
Federal Housing Finance Board	100	100	0	0
Federal Retirement Thrift Investment Board	100	100	0	0
National Credit Union Administration	100	100	0	0
Office of Thrift Supervision	100	100	0	0
United States Enrichment Corporation	100	100	0	0
No change: discretionary to mandatory				
Immigration and Naturalization Service	0	0	100	100
25 percent or more change from discretionary to mandatory				
United States Mint	75	100	25	0
Less than 25 percent change from discretionary to mandatory				
Tennessee Valley Authority[a]	98	98	2	2
United States Fish and Wildlife Service	30	35	70	65
Postal Service[a]	0	0	100	100

[a]Three agencies—SEC, the Postal Service, TVA—had less than a 1 percent change in the amount of funding classified as discretionary or mandatory spending between fiscal years 1991 and 1996.

Most of the change in classification is attributable to a decision made by OMB in fiscal year 1993 not to include fees that offset spending in discretionary accounts in the PAYGO baseline. A technical revision by OMB for the fiscal year 1995 budget (OMB Circular A-11, Preparation and Submission of the Budget Estimates, Sec. 21.2, p. 62 (August 4, 1993)) clarified that collections credited to discretionary appropriation or fund accounts would be classified as discretionary. According to OMB, prior to this change double counting had occurred in preparing the federal budgets after enactment of BEA. Collections credited to appropriation or fund accounts were counted as mandatory receipts (because they had permanent spending authority), and, at the same time, were netted against discretionary spending according to budget concept rules. Although this correction did not change the impact of collections credited to appropriation or fund accounts on discretionary spending, it means that if discretionary spending were ever to exceed the annual caps, all discretionary resources, including these offsetting collections, would be subject to sequestration. For example, if a sequestration had occurred in fiscal year 1996, all of FCC's budget authority in its Salaries and Expenses account would have been subject to sequestration. For FCC this would have been $202 million. However, without the need for sequestration, only

$59 million, or the net budget authority, is counted as discretionary spending.

Current Versus Permanent Appropriations

Current and permanent appropriations refer to the timing of legislative action in making budget authority available to an agency. When budget authority is enacted permanently, it is available until spent. Such authority can be the result of substantive legislation or appropriations acts. When budget authority is enacted as current authority, the appropriations language specifies how long the funds will be available. In general, current appropriations are classified as discretionary and are under the jurisdiction of the appropriations committees and their subcommittees. While there are exceptions, permanent appropriations are more likely to be classified as direct, or mandatory, spending and be under the jurisdiction of authorizing committees.

Table IV.1 shows that from fiscal years 1991 through 1996 spending authorized as permanent increased for 13 of the 27 agencies in our survey. Twelve other agencies did not see changes in the percent of the their funding classified as either permanent or current. The remaining two agencies, GIPSA and APHIS, had small declines in funding from what was permanently appropriated.

Table IV.1: Permanent Versus Current Appropriations for Fee-Reliant Agencies

Agency	Permanent (percent of funding) FY91	Permanent (percent of funding) FY96	Current (percent of funding) FY91	Current (percent of funding) FY96
25 percent or more change from current to permanent appropriations				
Federal Communications Commission	1	71	99	29
Securities and Exchange Commission	19	70	81	30
Federal Trade Commission	18	69	82	31
United States Mint	74	100	26	0
Less than 25 percent change from current to permanent appropriations				
Patent and Trademark Office	74	87	26	13
United States Fish and Wildlife Service	40	51	60	49
Bureau of Reclamation	37	44	6	56
United States Customs Service	34	39	66	61
Immigration and Naturalization Service	29	33	71	67
Agricultural Marketing Service	79	81	21	19
Minerals Management Service	71	72	29	28
United States Enrichment Corporation	98	100	2	0
Postal Service	99	100	1	0
No change: permanent to current				
Comptroller of the Currency	100	100	0	0
Other DOD Trust Funds	100	100	0	0
Farm Credit Administration	100	100	0	0
Federal Housing Finance Board	100	100	0	0
Federal Retirement Thrift Investment Board	100	100	0	0
National Credit Union Administration	100	100	0	0
National Technical Information Service	100	100	0	0
Office of Thrift Supervision	100	100	0	0
Panama Canal Commission	100	100	0	0
Tennessee Valley Authority	98	98	2	2
Power Marketing Administrations	91	91	9	9
No change: current to permanent				
Nuclear Regulatory Commission	1	1	99	99
Less than 25 percent change from permanent to current appropriations				
Grain Inspection, Packers and Stockyards Administration	59	57	41	43
Animal and Plant Health Inspection Service	10	9	90	91

Current Appropriations for Fee-Reliant Agencies Versus Subcommittee Agencies, Fiscal Years 1992 Through 1996

	Change in current budget authority (percent)				Compound rate of growth (percent)
Appropriation subcommittee and agency	**FY92-93**	**FY93-94**	**FY94-95**	**FY95-96**	**FY92-96**
Agriculture and Rural Development					
Agricultural Marketing Service	–4.01	1.46	–5.19	–12.96	–5.32
Animal and Plant Health Inspection Service	–1.98	3.12	–1.93	0.00	–0.22
Farm Credit Administration	0.00	0.00	0.00	0.00	0.00
Grain Inspection, Packers and Stockyards Administration	–0.06	–1.90	0.23	0.00	–0.44
Agriculture, Rural Development Appropriations	**11.58**	**6.08**	**-1.57**	**-7.26**	**1.84**
Subtotal: Fee-Reliant Agencies	**–2.12**	**2.72**	**–2.18**	**–1.31**	**–0.74**
Subtotal: All Other Subcommittee Agencies	**12.21**	**6.22**	**–1.54**	**–7.49**	**2.07**
Commerce/Justice/State/Judiciary					
Federal Communications Commission	10.84	–27.43	–32.09	–14.49	–17.33
Federal Trade Commission	0.65	–2.48	–19.02	–43.64	–18.19
Immigration and Naturalization Service	3.05	8.68	35.21	20.81	16.30
National Technical Information Service[a]	0.00	0.00	0.00	0.00	0.00
Patent and Trademark Office	–2.00	1.91	–7.17	0.00	–1.87
Securities and Exchange Commission	–19.21	–54.53	86.67	–4.63	–10.07
Commerce/Justice/State/Judiciary Appropriation	**6.90**	**1.64**	**5.21**	**7.86**	**5.37**
Subtotal: Fee-Reliant Agencies	**1.35**	**–2.18**	**27.60**	**14.33**	**9.66**
Subtotal: All Other Subcommittee Agencies	**7.29**	**1.89**	**3.77**	**7.35**	**5.05**
Defense					
Other DOD Trust Funds	0.00	0.00	0.00	0.00	0.00
Defense Appropriation	**–6.18**	**–4.88**	**1.07**	**–0.09**	**–2.57**
Subtotal: Fee-Reliant Agencies	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**
Subtotal: All Other Subcommittee Agencies	**–6.18**	**–4.88**	**1.07**	**–0.09**	**–2.57**
Energy and Water Development					
Nuclear Regulatory Commission	5.37	–0.93	–2.06	–9.92	–2.04
Power Marketing Administrations	6.24	–9.62	–34.08	35.62	–3.75
Tennessee Valley Authority	0.00	4.05	–1.76	–21.01	–5.21
Energy and Water Development Appropriations	**0.92**	**–0.03**	**–7.04**	**–5.75**	**–3.04**
Subtotal: Fee-Reliant Agencies	**4.97**	**–3.49**	**–13.02**	**0.22**	**–3.06**

(continued)

Appropriation subcommittee and agency	Change in current budget authority (percent) FY92-93	FY93-94	FY94-95	FY95-96	Compound rate of growth (percent) FY92-96
Subtotal: All Other Subcommittee Agencies	**0.72**	**0.14**	**–6.75**	**–6.02**	**–3.04**
Interior and Related Agencies					
Bureau of Reclamation	–9.53	0.21	0.03	–1.49	–2.78
Minerals Management Service	–1.85	–0.82	–2.53	–3.09	–2.08
United States Fish and Wildlife Service	–2.03	–5.70	–7.14	–0.30	–3.83
Interior and Related Agencies Appropriations	**–4.71**	**9.91**	**–0.24**	**–11.51**	**–1.94**
Subtotal: Fee-Reliant Agencies	**–5.60**	**–2.43**	**–3.23**	**–1.21**	**–3.13**
Subtotal: All Other Subcommittee Agencies	**–4.56**	**11.93**	**0.19**	**–12.93**	**–1.75**
Treasury/Postal/General Government					
Comptroller of the Currency	0.00	0.00	0.00	0.00	0.00
Office of Thrift Supervision	0.00	0.00	0.00	0.00	0.00
United States Customs Service	–2.06	–0.67	1.60	–1.68	–0.71
United States Mint	1.62	5.10	0.41	–100.00	–100.00
Postal Service	–19.21	–54.53	86.67	–4.63	–10.07
Treasury/Postal/General Government Appropriations	**4.90**	**0.79**	**1.75**	**–5.44**	**0.43**
Subtotal: Fee-Reliant Agencies	**–3.53**	**–4.62**	**4.68**	**–5.21**	**–2.25**
Subtotal: All Other Subcommittee Agencies	**6.46**	**1.69**	**1.29**	**–5.48**	**0.90**
VA/HUD/Independent Agencies					
Federal Housing Finance Board	0.00	0.00	0.00	0.00	0.00
Federal Retirement Thrift Investment Board	0.00	0.00	0.00	0.00	0.00
National Credit Union Administration	0.00	0.00	0.00	0.00	0.00
Panama Canal Commission	0.00	0.00	0.00	0.00	0.00
United States Enrichment Corporation	0.00	0.00	0.00	0.00	0.00
VA/HUD/Independent Agencies Appropriations	**3.10**	**3.48**	**3.18**	**–11.92**	**–0.77**
Subtotal: Fee-Reliant Agencies	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**
Subtotal: All Other Subcommittee Agencies	**3.10**	**3.48**	**3.18**	**–11.92**	**–0.77**

[a]NTIS received small appropriations in fiscal years 1993 and 1995.

Glossary

Agency

Under the broadest definition of the term, a department, agency, or instrumentality of the U.S. government (31 U.S.C. 101). However, statutes and regulations often include specific definitions of the term "agency" (or related terms like "executive agency" or "federal agency").

Budget Accounts

Accounts used by the federal government to record outlays (expenditure accounts) and income (receipt accounts) primarily for budgeting or management information purposes but also for accounting purposes. There are six types of federal budget accounts and all can receive user fees from the public.

General Fund Accounts: These accounts are composed of all federal funds not allocated to any other account and are generally credited with collections not earmarked by law for a specific purpose. Some general fund accounts receive earmarked offsetting collections that are credited directly to the appropriation or fund account and are available for use, often without further legislative action. One such account, the Bureau of Reclamation's Water and Related Resources, is credited with offsetting collections from federal and nonfederal sources.

Special Fund Accounts: These accounts record receipts collected from a specific source and earmarked by law for a specific purpose. They are essentially trust funds except not so designated by law. The Fish and Wildlife Service's Land and Water Conservation Fund is an example of a special fund.

Nonrevolving Trust Fund Accounts: These accounts record revenues collected for a specific purpose or for a program designated in law as trust funds. Nonrevolving trust fund accounts finance programs such as Social Security, Medicare, and Superfund.

Public Enterprise Revolving Fund Accounts: These accounts receive funding generated in a continuing cycle of business-type operations primarily from nonfederal sources. Examples include the Postal Service and the United States Enrichment Corporation.

Revolving Trust Fund Accounts: These accounts receive revenues generated in business-type operations and are designated as trust funds by statute. A revolving trust fund finances the bank regulatory activities of the Comptroller of the Currency.

Intragovernmental Fund Accounts: These accounts receive primarily federal funding either from organizations within a department or other federal agencies, such as working capital.

The general fund, special fund, and nonrevolving trust fund accounts have both a receipt account, which are credited with collections, and an expenditure account, to which appropriations are made and outlays recorded. The three revolving accounts—public enterprise, trust revolving, and intragovernmental fund—are appropriation or fund accounts that are credited directly with collections and do not require a separate receipt account.

Budget Authority

Authority provided by law to enter into financial obligations that will result in immediate or future outlays involving federal government funds. The basic forms of budget authority include the following:

Appropriations: An act of the Congress that permits federal agencies to incur obligations and to make payments out of the Treasury for specified purposes. An appropriations act is the most common means of providing budget authority.

Borrowing Authority: Statutory authority that permits a federal agency to incur obligations and to make payments for specified purposes out of money borrowed from the Treasury or the public.

Contract Authority: Statutory authority that permits a federal agency to enter into contracts in advance of appropriations.

Offsetting Collections and Receipts: Authority to obligate and expend the proceeds of offsetting receipts and collections.

Budget authority provided in laws other than appropriation acts is termed spending authority. Spending authority includes contract authority, authority to borrow, and entitlement authority for which the borrowing authority is not provided in advance by appropriation acts.

Budget authority may be classified by its duration (1-year, multiple-year, or no-year), by the timing of the legislation providing the authority (current or permanent), by the manner of determining the amount available (definite or indefinite), or by its availability for new obligations.

Budget Enforcement Act of 1990 (BEA), as Amended

BEA divides spending into two types—discretionary spending and direct or mandatory spending. Discretionary spending is controlled through annual appropriations acts. Direct or mandatory spending is controlled by permanent laws. BEA constrains discretionary spending differently from mandatory spending and receipts. During the period of our review, discretionary spending was constrained by dollar limits ("caps") on total budget authority and outlays for this category for each fiscal year through 1998. In fiscal year 1997 BEA was extended through 2002. Discretionary spending was subdivided further into spending limits for defense, non-defense and violent crime reduction in fiscal years 1998 and 1999, and discretionary and violent crime reduction in fiscal year 2000. If the amount of budget authority provided in appropriations acts for the year exceeds the discretionary cap on budget authority, or the amount of outlays estimated to result from this budget authority is estimated to exceed the discretionary caps on outlays, BEA specifies a procedure, called sequestration, for reducing discretionary spending. Under a sequester, spending for most discretionary programs is reduced by a uniform percentage. Special rules apply in reducing some programs and some programs are exempt from sequester by law.

BEA constrains mandatory spending and receipts differently. Laws that would increase mandatory spending or decrease receipts are constrained through "pay-as-you-go" (PAYGO) rules. Under these rules, the cumulative effects of legislation affecting mandatory spending or receipts must not increase the deficit. For a complete description of the Budget Enforcement Act, see chapter 24 of the Analytical Perspectives volume of the Budget of the United States Government Fiscal Year 1998.

Discretionary Spending Limits/Spending Caps

Under the Budget Enforcement Act, discretionary spending limits, or spending caps, are maximum amounts of new budget authority and outlays for specific categories of discretionary appropriations. Discretionary appropriations are budgetary resources provided in appropriation acts.

Fiscal Year

A fiscal year is a 12-month accounting period. The fiscal year for the federal government begins October 1 and ends September 30. The fiscal year is designated by the calendar year in which it ends; for example fiscal year 1998 is the year beginning October 1, 1997, and ending September 30, 1998.

Independent Offices Appropriation Act of 1952

The purpose of the IOAA, also called the "User Charge Statute," was to distribute the costs of government services to those who received benefits beyond those provided to the general public. The statute gave agencies for the first time broad statutory authority to set fees through administrative regulation. Any fees collected under this authority are deposited in the general fund of the Treasury and not credited to the agency or activity generating the fees.

Offsetting Collections

All collections by government accounts from other government accounts and any collections from the public that are of a business-type or market-oriented nature. They are classified into two major categories: (1) offsetting receipts, which are amounts deposited in receipt accounts and (2) collections credited to appropriation or fund accounts.

Offsetting Receipts: Offsetting receipts are amounts deposited in receipt accounts. Offsetting receipts cannot be used without being appropriated. However, a significant portion of such collections, for example, most trust fund offsetting receipts are permanently appropriated and, therefore, can be used without subsequent appropriation legislation. The Congressional Budget Act of 1974, as amended by the Budget Enforcement Act of 1990, defines offsetting receipts and collections as negative budget authority and the reductions thereof as positive budget authority. Offsetting receipts are subdivided into three categories:

Intragovernmental Transactions are payments into receipt accounts from governmental appropriations or fund accounts. They are treated as offsets to budget authority and outlays rather than as governmental receipts.

Offsetting Governmental Receipts are governmental in nature but are required by law to be treated as offsetting.

Proprietary Receipts From the Public are collections from outside the government which are deposited in receipt accounts that arise as a result of the government's business-type or market-oriented activities. Among these are interest received, proceeds from the sale of property and products, charges for nonregulatory services, and rents and royalties. Such collections may be credited to general fund, special fund, or trust fund receipt accounts and are offset against budget authority and outlays. In most cases, such offsets are by agency and by subfunction but some proprietary receipts are deducted from total budget authority and outlays for the government as a whole.

Collections Credited to Appropriation or Fund Accounts: These collections include all revolving funds and some appropriation accounts. Laws authorize collections to be credited directly to appropriation or fund accounts and may make them available for obligation to meet the account's purpose without further legislative action. However, it is not uncommon for annual appropriations acts to include limitations on the obligations to be financed by these collections.

Outlay

The issuance of checks, disbursement of cash, or electronic transfer of funds made to liquidate a federal obligation. Outlays also occur when interest on the Treasury debt held by the public accrues and when the government issues bonds, notes, debentures, monetary credits, or other cash-equivalent instruments in order to liquidate obligations. Also, under credit reform, the credit subsidy cost is recorded as an outlay when a direct or guaranteed loan is disbursed. Outlays during a fiscal year may be for payment of obligations incurred in prior years (prior-year obligations) or in the same year. Outlays, therefore, flow in part from unexpended balances of prior-year budgetary resources and in part from budgetary resources provided for the year in which the money is spent.

Pay-As-You-Go (PAYGO)

Under the Budget Enforcement Act, the principle that all direct spending and tax legislation enacted after BEA for a fiscal year must be deficit-neutral in the aggregate. If the Congress enacts direct spending or receipts legislation that causes a net increase in the deficit, it must offset that increase by either increasing revenues or decreasing another direct spending program in the same fiscal year. This requirement is enforced by sequestration.

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