

The Next Eight Months: Are you prepared for three Fiscal Year Spending Decisions, FY21-23?

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The end of the 116th Congress, last winter, the start of the 117th Congress in January, and the new Biden Administration's presentation of their policy and funding objectives over the past four months, provide examples of unique and quite different appropriations and funding processes from years past. With the transition of majority status, coupled with the impacts of Congressional programs to meet the challenges of the Coronavirus, Congress has allocated huge multi-Trillion Dollar funding bills and impacted the regular order of appropriations legislation. For federal government officials now deeply in transition from one set of political appointees to the next, this provides a complex decision-making aspect to programs and policies.

For those who follow Congressional appropriations funding, some of the questions for May-December action decisions relate to:

- Some of the "Stimulus" multi-trillion-dollar funding bills span many Fiscal Years, in some cases, FY21-25. How will allocations work?
- How will the FY process for FY22 work considering the present multi-trillion-dollar packages being proposed by the White House and the Majority in Congress?
- Will renewal of "community projects" (earmarks) by the Majority impact decision-making?

Passage of Public Law 116-260 on December 27, 2020, provided for over \$1.45T of FY21 allocations to federal agencies, plus almost \$1T (\$900B) for Corona Virus projects. In reviewing the 5,600-page bill, the key take-away points are:

- These allocations per Departments and agencies within this bill, relate to FY21, which began almost three months prior, October 1, 2020, and will end September 30, 2021. Report language accompanying the

Omnibus funding bill directs policies in these decisions, but reflects the prior Administration's priorities.

- These allocations do not include FY21 funding provisions for Departments and Agencies in previously passed "Stimulus" laws. For example, the "CARES Act" (Public Law 116-136), signed February 27, 2020, included huge amounts of FY21 funds through September 30, 2021. These funds included monies for Coronavirus mitigation programs such as, \$30.7B for the Department of Education's Stabilization Fund or \$34M to the USDA's National Forest System.

Within the next two weeks, the Congress will be receiving this Administration's FY22 Budget Justification Books, which outline for the Appropriations Subcommittees and others, line-by-line allocation requests. The process for this FY funding includes:

- Appropriations Subcommittee hearings on the budget requests, with witnesses testifying for and against (May-June).
- Authorizing Committees reviewing Budget requests relating to policy decisions: This is a critical component of the FY22 process. For example, in the House and Senate Armed Services Committees, the FY22 National Defense Authorization Act will be finalized on a legislative "track" comparable to the FY22 Department of Defense Appropriations bills. Similar FY22 decisions appear in reauthorization legislation, now pending in the Congress, such as the five-year Highway bill.
- Integration of the FY22 House Appropriations Committee "markup" and passage of individual funding bills will go through the House Rules Committee, then final amendments and decision on the House Floor. The Senate Appropriations Committee's bills usually are reported to the Senate floor where hundreds of amendments are considered by leadership (this process will culminate end of July, prior to the August "recess").
- Final Conference between the House and Senate funding committees will decide all issues for the Fall/Winter.

Despite the "regular order" of the Congressional appropriations process, the next eight months until the end of the year will pose critical and unique

challenges to anyone who seeks to influence the House and Senate (and White House/Agencies) on these budgets. Here are the challenges to be faced:

1. The Biden Administration political appointees are just now being nominated, approved, and inserted into departments and agencies in the May-June period. Officials will very quickly have to make decisions on three separate Fiscal Year budget allocations; monies from previous FY21 funded laws, the present FY22 funding requests, and the FY23 projections due to the White House before Christmas (see item below).
2. The 117th Congress has “new” leaders and Professional Staff Members (PSM) in the appropriations process, which bring new decisions and policies on programs. These officials are just 30-45 days in positions to begin impacting the FY22 process. The House Appropriations Committee has a new Chair, and this is especially true in the Senate Appropriations Committee in which the Democrat Majority now has taken control of the process. New Staffs and leaders require new presentations and considerations for influence.
3. It is still “not clear” to officials in the agencies, and Congressional staffs, on how best to integrate almost five FY21-22 “stimulus” laws and other major funding bills into the process. For example, the President in his State of the Union, April 28th, recommended over \$1.8T for an American Family policy bill, which is over and above the \$2.3T Infrastructure proposal of several weeks ago. There are expected to be other Trillion Dollar proposals over the course of the year. Are these requests “discretionary” for the Department Secretary’s or top officials, and mandated in formula state allocations and grant programs, and how will they be treated with the monies still left from FY21?

Two other aspects to consider in this eight-month key period for influence decisions:

- First, the FY 2023 process, which is much overlooked, but a critical component in funding decisions. The FY23 process, is now on-going within each agency and Department, and seeks to secure from the new appointees, or federal officials which budget or program decisions they would like to receive support from the White House and Congress next year. The FY23 period begins October 1, 2022 through September 30, 2023. Final requests are due at the Office of Management and Budget

(OMB) by Thanksgiving, requiring final changes or decisions by the White House before Christmas. The next FY23 Budget will be presented to the 117th 2nd Session Congress a year from now. Why is this important? 2022 is a highly political year culminating on November 8th, 2022, when Congressional elections could change the majority status in both Houses. If this were the case the FY23 Biden Budget would be one of the last without GOP opposition.

Second, the House Appropriations Committee, and soon their Senate counterpart officials, have issued very strict guidelines for up to 10 “community project” requests from individual House members, known as “earmarks”. While the total amount that will be considered in the FY22 (possibly FY23) process is small compared to the over bill amount, it does add new dynamics to the eight-month funding project and, I believe, will have greater impact in next year’s FY23 process.

The Congressional funding allocations, agency by agency and program by program, have many aspects to final decision-making. Knowing the process and avoiding issues that are adverse to goals, are key considerations for the next eight months. Are you ready? The McKeon Group is!