Why All These Rules?

A History of Budget and Accounting

Ed Martin

Why are there rules anyway?

- Article 1, section 9, clause 7 of the Constitution gives the legislative branch the "power of the purse"
  - *"No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and*
  - *a regular Statement and Account of Receipts and Expenditures of all public Money shall be published from time to time"*
- The Constitution does not provide explicit instructions on how Congress should implement its appropriation power
- Congress does this in two ways:
  - Through annual appropriations
  - Through a series of laws enacted which establish <u>rules</u>

Why are there rules anyway?

- These statutes were passed to curb perceived abuses by the Executive branch
- Much of federal fiscal law arises from the natural antithesis of executive flexibility and congressional control

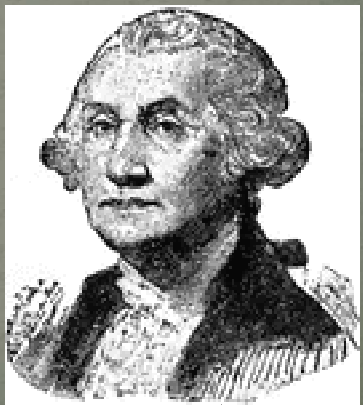
What are these rules?

- Budget rules related to:
  - Time
  - Purpose
  - Amount
  - Apportionment (Preventing Deficiencies)
- Accounting rules related to:
  - Who's responsible
  - The relationship of accounting and budget

Budget Rules

Time

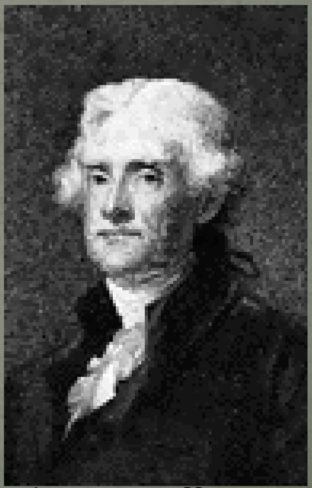
- 1789 – First appropriation enacted “for the service of the present year” – establishing concept of an annual appropriation
- Initially, appropriations were on a calendar year basis
- 1795 – Congress required unexpended balances be transferred to a “surplus fund” two years after expiration, limiting the agencies’ ability to spend funds



George Washington

Purpose

- 1789 – 1792 - First appropriations in gross amounts
- In order to exert “power of the purse,” Congress began to make “specific appropriations” in 1792
- The executive branch complained about “lack of flexibility” – lumped funds together
- 1809 – Congress passed the “purpose statute” -- appropriations may be used only for their intended purposes
- This rule, codified at 31 USC §1301(a), remains in effect today


Thomas Jefferson

Amount

- Prior to 1820 - Federal agencies signed contracts without sufficient appropriations to pay for them
- 1820 – Congress passed the "Adequacy of Appropriations" Act
  - No contract could be made unless it is:
    - authorized by law or
    - under an appropriation "adequate to its fulfillment"
- This statute, codified at 41 USC §6301(a), remains in effect today

James Monroe

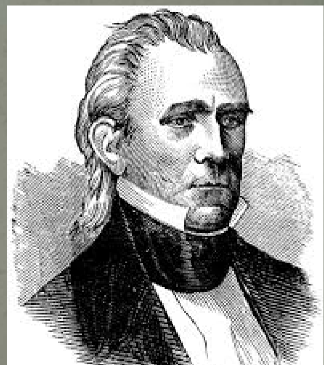
Time

- 1842 – Congress established the Federal fiscal year as July 1 – June 30

John Tyler

Amount

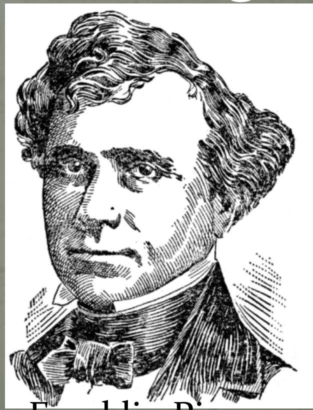
- Prior to 1849 - Executive agencies sometimes collected money owed to the United States and used the funds to pay salaries and expenses
- 1849 – Recognizing such “augmentation” violated the power of the purse, Congress passed the “Miscellaneous Receipts Statute.”
- Unless authorized by law, an agency may not keep money received from sources other than congressional appropriations – it must be deposited in the Treasury.
- This statute, codified at 31 USC §3302(b), remains in effect today



James K. Polk

Time

- The 1795 requirement to transfer unexpended funds to the “surplus fund” two years after expiration created problems for the Executive branch regarding contracts
- 1853 – Treasury interpreted “unexpended” as “unobligated” to avoid problem of requiring contracts to be fully paid within two years.
- 1854 – Attorney General opinions suggested allowing appropriations to be used on a FIFO basis, thereby getting around having to transfer funds to the surplus fund



Franklin Pierce

Time

- By the end of the Civil War, this FIFO interpretation by the Executive Branch resulted in huge sums remaining on the books
- This lack of time constraints on appropriations and improper use of unexpended balances led Congress to act
- 1870 – Congress passed the *Bona Fide* Needs statute requiring that unexpended balances of appropriations made for a definite period of time be used only for expenses properly incurred during that time period
- This statute, codified at 31 USC 1502(a), is still in effect today.

Ulysses S. Grant

Amount

- 1870 – the Navy Department obligated funds that were more than double available resources, thereby creating a "coercive deficiency"
- 1870 – Congress passed the original "Anti-Deficiency" Act prohibiting:
  - spending in excess of appropriations
  - involving the government in a contract for future payments in excess of appropriations
- This statute, codified at 31 USC § 1341, is still in effect today

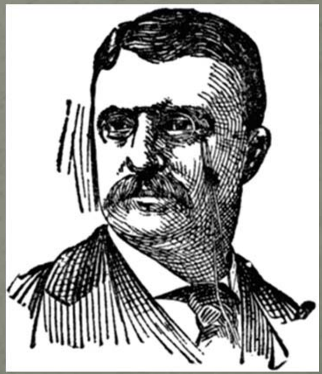
Ulysses S. Grant

Amount

- In the 1880s, Executive agencies asked employees to "volunteer" to perform overtime work, thereby creating a deficiency for Congress to fund
- 1884 – Congress prohibited voluntary service in excess of that authorized by law
- 1905 – Congress amended Anti-Deficiency Act, adding the prohibition on voluntary services

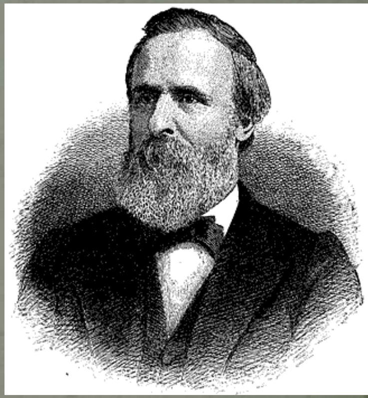

Chester Arthur

This is codified at 31 USC § 1342 and is still in effect today


Theodore Roosevelt

Apportionment (Preventing Deficiencies)

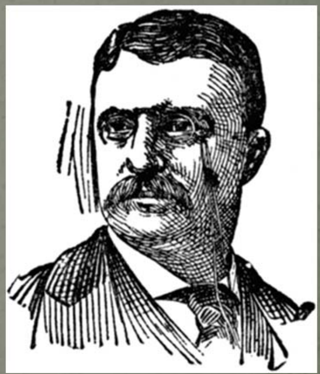
- Passage of the Anti-Deficiency Act in 1870 did not stop "coercive deficiencies"
- 1879 – Post Office entered into contracts that would exhaust appropriations by April
  - Postmaster General claimed contracts could be cancelled and not paid, but mail delivery would stop
  - Congress not pleased



Rutherford B. Hayes

Apportionment (Preventing Deficiencies)

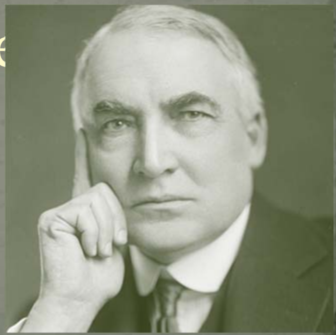
- 1905 – Congress amended the Anti-Deficiency Act, adding an apportionment requirement
  - Prohibited spending funds at a rate that may require deficiency appropriations to complete the year
  - Since there was no government-wide budget office, agencies apportioned themselves; but Agency Heads could (and did) waive requirement
  - Amended version codified at 31 USC § 1512
- Added penalties ($100, 1 month jail)



Theodore Roosevelt

Apportionment (Preventing Deficiencies)

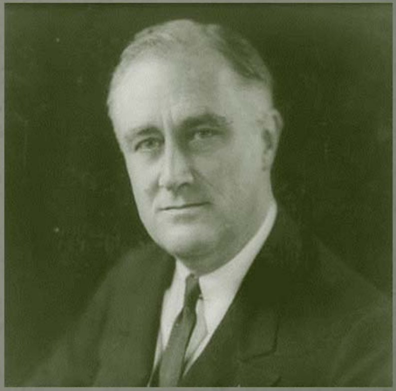
- 1906 – Congress again amended the Anti-Deficiency Act, tightening up the waiver authority
  - Waivers restricted to "extraordinary emergencies" or "unusual circumstance"
  - Congress had to be notified
- 1921 – Bureau of the Budget (BoB) created in Treasury by Budget and Accounting Act
  - BoB director issued regulation requiring notification of all apportionments and waivers of apportionme
  - Main objective of apportionment process: prevent deficiencies as required by statute



Warren Harding

Apportionment (Preventing Deficiencies)

- 1933 – FDR issued Executive Order 6166 transferring apportionment function to the BoB
- 1936 – FDR issued Executive Order 8248 transferring the BoB to the Executive Office of the President
- By bringing the "power of the apportionment" into his office, the President compelled obedience to the Anti-Deficiency Act
  - FDR recognized that the apportionment could be used as a budget tool



Franklin D. Roosevelt

Apportionment (Preventing Deficiencies)

- 1950 – Anti-Deficiency Act amended
  - Gave BoB statutory authority over apportionments
  - Made exceeding apportionment/allotment a violation
  - Required agencies to have "systems of administrative control" that:
    - Restrict obligations to apportioned amounts
    - Enable head of agency to fix responsibility for creating obligations in excess of apportioned amounts
  - Increased penalties ($5,000 fine, 2 years in prison
  - Codified at 31 USC § 1513, 1514, 1517 – still in effect


Harry Truman

Time

- Prior to 1940s – The government was still following the 1795 requirement to transfer unexpended funds to the "surplus fund" two years after expiration
- In order to pay claims from expired funds, Congress had to reappropriate funds, leading to delays
- 1945 – Congress provided "such sums" for the Comptroller General to pay certified claims under $500 from the surplus fund
- This amount was inadequate


Harry Truman

Time

- 1949 – Congress passed the "Surplus Fund – Certified Claims Act" to expedite claims payment
  - Authorized transfer of expired funds to a "Payment of Certified Claims" account from which the Comptroller General paid certified claims
  - Any funds left over went to the surplus fund
- Problem: all certified claims had to be handled by the Comptroller General (GAO)
- 1956 – Congress repealed the "Surplus Fund – Certified Claims Act"
  - Payment of claims passed to agencies
  - GAO still had oversight – received reports

Dwight Eisenhower

Time

- 1956 - This "M Account" legislation:
  - Established "M" accounts for deposit of obligated, but unpaid balances two years after expiration.
  - Established "Merged surplus authority" for deposit of unobligated balances two years after expiration
  - These funds could be used by the agencies to pay valid claims, unrecorded obligations, increased bills
- Problem: this permitted the accumulation of large balances which could be used with minimal Congressional oversight

Dwight Eisenhower

Amount

- Prior to 1954 – Federal agencies used inconsistent definitions of "obligation"
  - Congress could not accurately determine agency needs
- 1954 – "Recording Statute" enacted in Supplemental Appropriations Act, 1955
  - Established rules for proper recording of obligations that met specified standards
  - Required "certified" statement of obligations with annual budget request
- This statute, codified at 31 USC § 1501 and 1108, is in effect today

Dwight Eisenhower

Apportionment (Preventing Deficiencies)

- 1970 – In Executive Order 11541, President Nixon designated the Bureau of the Budget as the "Office of Management and Budget"

Richard Nixon

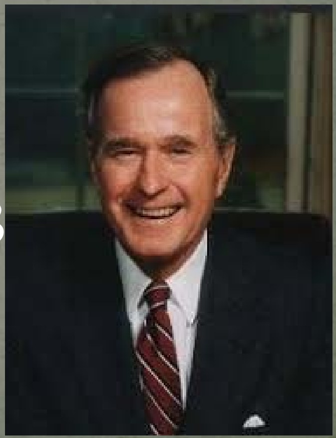
Time

- 1974 – Congress established the Federal fiscal year as Oct 1 – Sep 30

Richard Nixon

Time

- 1989 – The Air Force used $1 Billion from M account to fund B-1B Bomber contract modifications
- 1990 – Congress repealed the 1956 “M Account” legislation:
  - Set the limit of availability of an account to pay obligations to 5 years after expiration – after which the funds are then cancelled
  - Made provision for payment of cancelled obligations from current appropriations
- This legislation, codified at 31 USC §1551-1553 continues in effect today



George H.W. Bush

Accounting Rules

Accounting

- Accounting has been with us since the Babylonian Empire in 4500 BC
- Double-entry accounting was developed in Italy during the Renaissance due to investment in trade
- 1494 - Luca Pacioli published the first printed book on double-entry accounting

Fr. Luca Pacioli

Accounting

- 1787 - Article 1, section 9, clause 7 of the Constitution requires that:
  - *"…a regular Statement and Account of Receipts and Expenditures of all public Money shall be published from time to time"*
- Accounting is an important tool in managing and controlling the financial operations of the government
- Whose job is it?
  - Legislative Branch?
  - Executive Branch?

Accounting

- 1789 – Congress created the Treasury Department – initially giving Executive Branch accounting and auditing responsibility
- 1791 – Congress requested an “annual statement of receipts and expenditures” from Treasury Department

George Washington

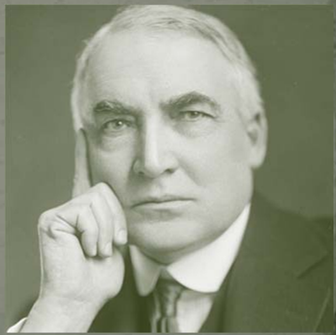
Accounting

- 1890s – the Dockery-Cockrell Commission reiterated Congress' preeminent role in financial management
- 1894 – Congress passed "Dockery Act" revamping Treasury accounting/auditing structure
- Created Comptroller of the Currency, consolidating audit function in Treasury
- Required, by law, annual combined statement of receipts and expenditures

Grover Cleveland

Accounting

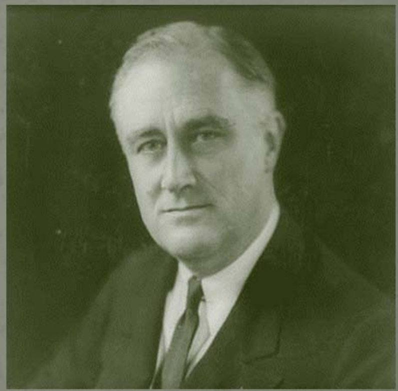
- 1921 – Congress passed "Budget and Accounting Act"
  - Congress unhappy with Executive Branch auditing itself
  - Asserting their power over financial matters, they established the General Accounting Office, moving the Comptroller/Auditor functions in Treasury to GAO and creating a Comptroller General with a 15-year term as Chief Accountant/Auditor
  - The Act required an annual budget containing "the expenditures and receipts of the federal government during the last completed fiscal year"



Warren Harding

Accounting

- After 1921 – the combination of the accounting and auditing functions in GAO became a contentious issue
- 1937 – FDR's Brownlow Commission asserted that accounting was an Executive Branch function
  - The commission suggested splitting GAO functions, giving Executive Branch accounting responsibility and GAO audit responsibility
- Congress disagreed – they considered accounting part of legislative oversight and budget function
- The Executive branch called it "micro-management"



Franklin D. Roosevelt

Accounting

- This tug-of-war was detrimental to improvement of financial management so…
- 1947 – The Legislative and Executive Branches agreed to a joint program to improve accounting
  - Executive Branch operates accounting systems
  - GAO develops standards and guidance – continues to provide audit function

Harry Truman

Accounting

- 1950 – Congress passed "Budget and Accounting Procedures Act." Part II:
  - Required federal agencies to establish and maintain systems of accounting and internal control that:
    - Provide full disclosure of financial results
    - Support the budget request
    - Control and carry out Agency budget
    - Support the management of the agency
    - Provide integration with Treasury
  - Created the "Joint Financial Management Improvement Program (JFMIP)"
    - Composed of GAO, OMB, and Treasury representatives, the goal was to improve financial management practices in the Federal government


Harry Truman

Accounting

- Accrual accounting:
  - Recommended in 1949 & 1956– by Hoover Commissions
  - 1956 – Congress passed legislation requiring accrual accounting
  - Recommended in 1967 by President's Commission on Budget Concepts
  - 1975 – Arthur Anderson & Co. proposed consolidated financial statements on accrual basis
  - 1976 – Treasury began issuing pro-type statements
  - Called a "bottomless pit" and "Alice in Wonderland nonsense, not remotely possible or useful" by Federal Budget officials

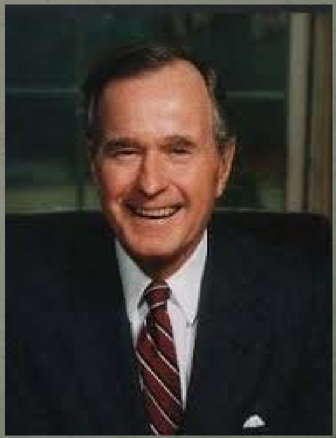
Accounting

- 1980s – Institutional conflicts continued
- 1986 – Arthur Anderson & Co. advocated government use of generally accepting accounting principles (GAAP) and accrual accounting
- Federal Budget officials still did not see value of accounting principles developed for businesses
  - Accounting rules should not challenge, but should support and complement budgeting
  - Government is <u>different</u>
- After negotiations, GAO, Treasury, and OMB agreed to work together
  - Distinguished between proprietary and budgetary accounting

Ronald Reagan

Accounting

- 1990 – “Chief Financial Officers Act”
  - Established CFOs in agencies
  - Required <u>annual</u> audited financial statements in major programs
  - Executive and Legislative Branches gave up exclusivity in establishing standards to the Federal Accounting Standards Advisory Board (FASAB)
    - FASAB is made up of members from Treasury, OMB, GAO, CBO, and the public
    - FASAB recommends “generally-accepted accounting principles” (GAAP) for the federal government
  - Established Office of Federal Financial Management



George H.W. Bush

Accounting

- 1994 – "Government Management Reform Act"
  - Extended requirement for audited financial statements to most programs on a <u>quarterly</u> basis
- 1996 – "Federal Financial Management Improvement Act"
  - Required federal agencies to:
    - Comply with systems requirements established by JFMIP
    - Meet accounting standards of FASAB
    - Use USSGL at transaction level

Bill Clinton

and the history continues…