

1. PURPOSE. This Handbook sets forth the responsibilities of officials and personnel of the Department of Housing and Urban Development for protecting the confidential nature of all budget estimates and supporting data submitted to the Office of Management and Budget and to the Congress, Congressional Committees, the Congressional Budget Office, and the General Accounting Office.
2. SCOPE. This Handbook is applicable to those budget documents transmitted annually by the Department to the Office of Management and Budget, and subsequently by the President to Congress, and to the communications concerning the formulation of the budget and related documents, as well as to budget amendments, supplemental estimates, and other proposals for the granting of new obligational authority that are transmitted after the transmission of the original budget.
3. BACKGROUND
 - a. The Budget and Accounting Act of 1921, as amended, and the Congressional Budget and Impoundment Control Act of 1974, as amended, provide the President with responsibility for presenting an Executive Budget to Congress. The laws require that the budget represents the judgment of the President with respect to financial requirements for all parts of the Government except the Legislative and Judicial Branches. With the advice and assistance of the Office of Management and Budget, the President reviews, revises and approves the estimates of all departments and agencies and consolidates them into a complete government-wide budget for the following fiscal year. He/she assumes official responsibility for the integrity and validity of the estimates contained in the Executive Budget. No official of an executive department or agency may take any action or volunteer any opinion that is contrary to official budget policies as expressed by the President, except through the proper official channels.
 - b. Nothing in this Handbook prohibits the disclosure of records that are specifically required to be disclosed by statute. For example, this Handbook does not prohibit the release of records otherwise required to be released under the Freedom of Information Act (FOIA) (5 U.S.C. 552). At the same time, this Handbook does not require the disclosure of information permitted by law to be withheld. For example, it is not intended to require the release of information that the Department is authorized to withhold under the FOIA.

4. PRIVILEGED COMMUNICATIONS.

- a. Assuring the Confidentiality of Budget Data. From the time the preparation of estimates is begun until the Presidents recommendations have been officially released, all data (except actual data applicable to past fiscal years) pertaining directly to the budget are for official use only. Such information may be disclosed only to officials or personnel having need of the data for the performance of their duties. All budget estimates and supporting materials submitted to the Office of Management and Budget are privileged communications. Their confidential character must be protected and unauthorized disclosure is prohibited since these data and worksheets constitute a link in the executive process by which the President resolves budget problems and arrives at decisions and policies with respect to his/her recommendations to the Congress. The Secretary is responsible for preventing the premature disclosure of information contained in such estimates and material including the decisions of the President.

- b. Limitations on Information on Appropriations and Budgetary Matters. Budget data may be provided to the Budget and Appropriations Committees, and the Congressional Budget Office (CBO) only on request in formal appropriation hearings or when requested by Members of the Congress in connection with their consideration of the budget after its transmittal. The Budget and Accounting Act of 1921 provides that:

 "...an officer or employee of an agency... may submit to Congress or a committee of Congress an appropriations estimate or request, ...or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress." (31 U.S.C. 1108(e))

- c. Information Available to the Public. Disclosure of budgetary records, if otherwise appropriate, is permissible upon a request for such records pursuant to the Freedom of Information Act (FOIA) following the end of the fiscal year to which such information pertains. Although it is not possible to determine merely by generic category of records

whether the Department would be authorized to withhold records requested under the FOIA in every instance, most budgetary documents of the Department would be exempt from the mandatory release requirement of the FOIA until after the fiscal year to which such records pertain or until made public. Depending upon the nature of the records, the propriety of releasing records after the end of the fiscal year to which the records pertain shall be determined. The Assistant Secretary for Administration, in consultation with the General Counsel, is responsible for determining the propriety of releases of records under the FOIA pertaining

to budgetary matters.

- d. Prohibition in Lobbying Activities. The law provides a further restriction on individual lobbying activities as follows including penalties for violation or attempted violation.

"No part of the money appropriated by an enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business." (18 U.S.C. 1913)

- e. Prohibition Against Premature Release of Data Prepared for Congress. Budget material prepared specifically for the Congressional Committees may not be given to individuals or groups outside the Department prematurely. In accordance with precedent and informal direction of the House Appropriations Committee, such data are considered to be privileged communications until the Committee releases the Hearing Record at the time it reports its bill to the House.

5. DISCLOSURES OF BUDGET INFORMATION TO STATE AND LOCAL GOVERNMENTS

- a. Policy. Departmental employees may need to provide and/or disclose certain data and other information to state and local (non-Federal) officials in their discussion at meetings with them on matters concerning the development of Departmental programs related to state and local needs. It is the Departments policy that all discussions with non-Federal officials should be straightforward and in a climate of openness and joint participation. This must be pursued, however, within the bounds of good judgment and discretion as well as Office of Management and Budget regulations. The confidential nature of agency submissions, requests, communications, supporting materials and similar communications should be maintained..
- b. Scope. In no case should data or papers prepared as

preliminary to, or as part of, the Budget estimates submission be provided to any individuals outside the Department without the express approval of the Secretary or Under Secretary. This does not preclude candid and early discussions (with appropriate prior approvals for such actions) between Federal policy-makers and non-Federal representatives at which Federal estimates and policy drafts (even written material) are presented and discussed. The restrictions apply only to the final recommendations from the Department to the President. Those data which may be discussed with non-Federal officials include the longer range kinds of planning papers, trends, and the reasonable expectation of what state and local governments would like to see reflected in the final Budget.

6. GUIDANCE FOR, TESTIFYING OR COMMUNICATING WITH MEMBERS OF CONGRESS.

When acting in an official capacity on behalf of the Department, officials and personnel will be guided by the following policies as prescribed by the Office of Management and Budget then testifying before any Congressional Committee or communicating with Members of Congress about budgetary matters.

1/88

4

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- a. Frank and complete answers will be given to all questions.
- b. Personal opinions will not be volunteered which reflect positions inconsistent with the program or appropriation request the President has transmitted to the Congress.
- c. In responding to specific questions on program and appropriations requests, witnesses will refrain from providing plans for the use of appropriations that exceed the President's request. (Witnesses typically bear responsibility for the conduct of one or a few programs, whereas the President must weigh all of the needs of the Federal Government against the revenues available to meet such needs. Where appropriate, witnesses should call attention to this difference in scope of responsibility.)
- d. Witnesses will arrange for a reply to be provided through the Secretary whenever a written submission is requested which will involve a statement of opinion relating to program and/or appropriation requests.
- e. Witnesses are expected to support the President's budgetary decisions and seek adjustments to those decisions through established procedures for budget amendments or supplemental appropriations requests if the Secretary determines such action to be necessary.

5

1/88

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