



MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: Sarah T. Schlenk

SUBJECT: Federal Actions Impacting City Budget

DATE: March 29, 2017

City Administrator

Date

Approval

INFORMATION

Introduction

The purpose of this memo is to: 1) provide Council with a summary and analysis of President Trump's proposed topline budget proposal, elaborate on the federal budget process and its many steps, and provide insight on how the budget's proposed cuts could fiscally impact the City; and 2) provide Council with an update on the Sanctuary Cities executive order and its potential impact on the City's federal law enforcement grant funds.

On March 16th, President Trump released his proposed topline budget summary for Fiscal Year 2018, which features dramatic cuts to many domestic programs, while increasing spending for the military, veterans and border security. The proposal serves as an unofficial "starting point" for the Congressional budget and appropriations process, which will play out over the next six months. While President Trump will push his "America first" priorities, Congress will ultimately decide spending levels and can be expected to resist many of the cuts proposed in this budget.

The President's 62-page budget proposal is not as detailed as years past (by comparison, President Obama's very first budget summary was 142 pages long), and is what the administration is calling a "skinny budget," outlining the general direction and priorities of the Trump administration. The budget only outlines policy directives for discretionary spending; the Office of Management and Budget has stated that the administration intends to release a full line-item budget in May containing the president's plan for mandatory programs like Medicare and Social Security. It will also contain 10-year projections for taxes and spending. As such, the budget proposal does not cite all programs for proposed cuts or increases, and not all details of how the proposed budget might be implemented are immediately available.

In addition, this week Attorney General Jeff Sessions reaffirmed the Administration's efforts to cut federal funding from Sanctuary Cities and jurisdictions. During a press conference on March 27th, Sessions explained jurisdictions must demonstrate they are not sanctuary cities in order to receive financial grants from the Department of Justice. However, due to varying interpretations

of the statute, and laws that prevent the government from taking back awarded funds, it remains to be seen if the administration will successfully implement this rule.

Proposed Cuts Relevant to City of Oakland

President Trump’s topline budget proposal for FY 2017-18 includes \$54 billion in cuts to pay for a \$54 billion increase in defense spending. Much of these cuts have been described as draconian in nature; some could drastically impact the City’s operations and services if they were to be written into law.

In the current fiscal year (2016-2017), the City of Oakland has approximately \$130 million in federal grants from recurring grants, one-time grants, or prior-year balances. The recurring annual federal funds total approximately \$40 million, of which nearly half is for the Head Start and Early Head Start programs. Other recurring funds come from mandatory grants like the US Department of Housing and Urban Development (HUD)’s Community Development Block grant program, which provides funding on a formula basis for a variety of community needs ranging from economic development and housing to disaster relief. Non-recurring funds come from discretionary grant programs that are awarded through a competitive process. These grants include the US Department of Justice’s Community Oriented Policing Services (COPS) grant, which provides funding for the hiring of new police officers.

President Trump’s budget appears to threaten key sources of the City’s federal funding. Based on what is written in the president’s budget, the proposed cuts that would have the greatest direct fiscal impact on the City include:

- The elimination of the Community Development Block Program (\$3 billion);
- The elimination of the HOME Investment Partnerships Program;
- The elimination of the Community Services Block Grant;
- The elimination of the Economic Development Administration, which gives out grants in struggling communities; and
- Cuts \$667 million from FEMA grant programs to state and local agencies, including pre-disaster mitigation grants and counterterrorism funding.

The following recurring sources of City funds could be in jeopardy if these proposed cuts were to make it through the appropriations process:

Federal Funding Source	2016-17 Total Recurring Funding Amount	Department(s) Affected
Department of Housing and Urban Development – Community Development Block Grant	\$7.1 million	Housing and Community Development, Human Services Department
Department of Housing and Urban Development – HOME Investment Partnership Program	\$2.1 million	Housing and Community Development

Department of Health and Human Services – Community Services Block Grant	\$1.35 million	Human Services Department
TOTAL:	\$10.55 million	

In addition, the City has received one-time funding from the federal government through the following programs that are slated to be cut or eliminated. Staff does not anticipate existing funds to be in jeopardy, because they were already awarded, but it may be important to note that any future opportunities from these sources may be impacted:

- Economic Development Administration - \$1.2 million. Pass through from Bay Area Air Quality Management District for the Broadway Shuttle.
- FEMA - \$11.4 million. Includes funding for OFD through the SAFER grant and HCD’s grants for seismic retrofiting.
- Department of Transportation (TIGER) \$1.5 million. Sub-grant from BART for 19th Street renovation.
- National Endowment for the Arts - \$35,000. Grant supports development of the City’s Arts Plan.

Federal Budget and Appropriations Process

Please see Attachment 1 for a step-by-step illustration of the federal budgetary process. At the federal level, the president’s budget is a non-binding, broad outline of spending that is recommended, but not required, which is followed by appropriations bills that fund all federal government agencies. Budgets provide the president’s policy priorities and act as a starting point for discussion and negotiation with Congress, which dictate actual spending via appropriations. Appropriations bills, which fund the federal government, are traditionally adopted in twelve individual bills pertaining to the various federal departments and agencies. These bills may also advance in the form of the following:

- **Continuing Resolution (CR):** Extension of federal funding for a set amount of time at the same level as previously negotiated
- **Omnibus:** Full-year funding, all in one bill
- **Minibus:** Full-year funding, but for several departments at a time
- **CRomnibus:** Combination CR and omnibus, which negotiates new funding levels for some areas of government and simply extends federal funding at same levels for other areas of government

In a typical legislative year, Congress begins crafting their annual funding bills after the president submits his proposal in February, followed by appropriation committee hearings in early spring, appropriation bill mark-ups in late spring, floor debate and passage in summer, conference committee negotiations in early fall and final approval by the House and Senate before the September 30 end of the fiscal year. However, for the past several years, Congress has been unable to pass all twelve bills in time, and has relied on a series of CRs or omnibus bills. An omnibus (and sometimes minibuses) can be unwieldy and under-scrutinized compared to the

individual twelve bills, but ultimately, they fund the government in the same way individual appropriation bills would.

As such, President Trump's topline budget proposal is, essentially, the opening scene in a multi-act play. There will be numerous steps in the process, and it can be expected that there will be differences between the president's proposals and what eventually makes it through appropriations. There is also a lot of uncertainty as to whether all Congressional Republicans will fully buy-in to the Administration's proposed cuts, or if the president will meet resistance from his own party.

In addition, as with most new administrations, budget proposals can be submitted as late as May (which happened in Obama's first year). This will leave little time for hearings and markups to occur. Once these bills pass through their Committees, they will be scheduled for floor debate, which could take weeks. Coupled with potential resistance from both democratic and republican officials, the ACA repeal, and an abundance of appointment hearings, the clock may run out on Congress to approve all twelve appropriations bills. It could be likely that FY 2018 begins with another CR.

In order to prevent a government shutdown, by April 28th Congress must pass remaining appropriations bills or a CR for the remainder of the 2016-2017 fiscal year. Reports today indicate that the president will request that the spending bill include \$33 billion to support his border wall with Mexico, and \$18 billion in cuts to medical research and jobs programs. These requests are not popular among members of Congress, even among Republican lawmakers, and it is expected that lawmakers will work to leave these demands out of a CR in order to avert a potential shutdown.

Sanctuary Cities Update

Per a recent report from Townsend Public Affairs, Inc., during a press conference Monday, Attorney General Jeff Sessions reaffirmed the Administration's efforts to cut federal funding from Sanctuary Cities and jurisdictions. Sessions explained jurisdictions must demonstrate they are not sanctuary cities in order to receive financial grants from the Department of Justice. However, it remains to be seen if the administration will successfully implement this rule.

Session's comments parallel the executive order President Trump issued his first week in office, indicating that DOJ and DHS should define a sanctuary jurisdiction and look into withholding grants. Sessions said the Department of Justice would require that jurisdictions seeking or applying for Department of Justice grants in the future would have to certify compliance with the law, which require jurisdictions to demonstrate compliance with USC 1373 in order to receive funds. Section 1373 prohibits "government entities and officials from taking action to prohibit or in any way restrict the maintenance or intergovernmental exchange of [immigration status] information, including through written or unwritten policies or practices."

Sessions did not clarify if this applied to all DOJ grant programs or only some. His statements alluded to compliance with an Obama policy that identifies three programs (COPS grants, Byrne-

JAG grants, and the State Criminal Alien Assistance Program) that already require jurisdictions to demonstrate compliance with USC 1373 in order to receive funds. Sessions also stated the department will “also take all lawful steps to claw back any funds awarded to jurisdictions that don’t comply.” The operative word in this statement is “lawful,” since in many cases taking back lawfully-awarded funds after they are issued would be illegal. The only way he could do this is to identify grant recipients who were not compliant with the criteria at the time of issuing funds, and attempt to litigate the funds back.

It still remains unclear whether this order will have an effect on the City of Oakland, and the federal funds it receives from the Department of Justice for the Oakland Police Department (OPD). As of December 2016, OPD had \$5.2 million in remaining funds from the Department of Justice through various grant programs. Much of these funds are from discretionary programs and are provided on a competitive basis. Also, since these funds were already awarded to the City, it is highly unlikely that DOJ would be able to scale back or recapture these funds. However, it may affect future grant applications if compliance with the law is written into the guidelines.

Conclusion

Multiple jurisdictions, including the City of San Francisco, and Santa Clara County, have filed suit claiming the order violates State’s rights provisions of the Constitution. Lastly, the term “sanctuary city” has yet to be defined in statute. While it is generally understood to mean a municipality that declines to assist federal authorities enforcing immigration law, the lack of a definition could make it difficult for the administration to institute punitive actions against sanctuary cities. Staff will track the outcome of the Sanctuary City order, and will inform Council of any changes, and of potential actions that could be taken in response.

The cuts proposed by the Trump Administration are not bound by law, and are merely a reference for the President’s priorities. There are many steps that will have to take place before any of these cuts are to make it through the appropriations process. However, since this budget includes serious policy directives from the incoming administration, these proposed cuts should not be taken lightly. It is also uncertain if there will be more cuts to other funding sources critical to the City once the detailed budget is released in May. Resistance to these cuts from both Houses of Congress is anticipated, as well as efforts from Governor Brown to counteract these reductions in his budget’s May revision. Also, given the potential for another Continuing Resolution, and due to timing of grant awards, the City may not experience the fiscal impact of the 17-18 federal budget until the City is into its 2018-19 fiscal year.

The Finance Department, in coordination with TPA, will closely monitor all budget activity at the federal level, as well as their potential fiscal impacts to the City of Oakland.

Respectfully submitted,

/s/

Sarah Schlenk
Budget Administrator, Finance Department

For questions, please contact Jonathan Segarra, Citywide Grants Coordinator, at 510-238-4906.

Attachments

--Attachment1- federal budget process

A guide to the federal budget process

The president's budget request is the first step in the complex process of funding the federal government.

By Karen Yourish and Laura Stanton

1 On or before the first Monday in February, the president submits to Congress a detailed budget request for the next fiscal year, which begins Oct. 1.

2 Based on the president's proposal, the House and Senate budget committees propose budget resolutions that set targets for spending and tax revenue and identify any policies that will need to move through reconciliation. These are sent to the floor for a vote, and differences are resolved in conference.

3 The House and Senate appropriations committees divide the discretionary spending set forth in the budget resolution among each of their 12 subcommittees.

Each subcommittee conducts hearings on the programs under its jurisdiction and votes out a bill. The full committee marks up the bill and sends it to the floor. Both chambers pass their bills and iron out the differences in conference. The House and Senate vote again, and the conference report is sent to the president for his signature or veto.

All of the appropriations bills are supposed to be signed by the president by Oct. 1, but this rarely happens. To avoid a government shutdown, a series of continuing resolutions are approved to continue funding the agencies at their current levels.

Reconciliation occurs if Congress needs to legislate policy changes in mandatory spending or tax laws to meet the annual targets laid out in the budget resolution. The resolution requires the relevant authorizing committees to come up with a plan and report back to the budget committees. The budget committees combine all of the authorizing plans into an omnibus package and send it to the floor for a vote. The House and Senate work out differences in conference, vote again and send the final version to the president for signature or veto.



Discretionary spending is subject to annual approval by Congress. Legislators have less control over mandatory spending, which is devoted to entitlement programs.

