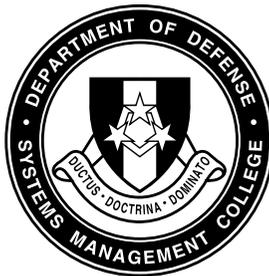


# CONGRESSIONAL INVOLVEMENT AND RELATIONS

## A GUIDE FOR DEPARTMENT OF DEFENSE ACQUISITION MANAGERS

FOURTH EDITION



Wilbur D. Jones, Jr.

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## DISCLAIMERS

The views, findings, and opinions contained in this Guide are those of the author and should not be construed as an official Department of Defense position, policy, or decision unless so identified.

Whenever feminine or masculine nouns or pronouns appear, other than with obvious reference to named individuals, they have been used for literary purposes and are meant in their generic sense.

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## PREFACE

The first three Editions of this Guide in 1986, 1989, and 1992 were well received and widely used by various levels of Department of Defense (DoD) managers, the defense industry, and academia. We at the Defense Systems Management College (DSMC) are pleased with the Guide's usefulness. We firmly believe it has served the acquisition manager (AM) well in understanding how to do business with Congress and fortify for its diversions.

The *Third Edition* cautioned DoD AMs to listen and look for repercussions and new directions in working with Congress brought on by the end of the Cold War. The current scene is as dramatic, but domestic politics only.

Political parties at both ends of Pennsylvania Avenue have virtually switched places, but the basic Washington political landscape remains unfettered: the American voters continue to demand split government between the executive and legislative branches. Players' titles, names, and faces change, even congressional committee names, but the basic culture for doing business properly with Congress — from the authorization and appropriations processes to dealing with personal staff — has shown only slight (or is it temporary?) evidence of gene alteration. (Keep in mind that some of the political angst on Capitol Hill emanates from this sudden role reversal: the Democrats controlled Congress for 59 of the last 63 years.)

The obvious exceptions, of course, center around the Republican takeover of the 104th Congress in January 1995, and the reorganizations, ambitious legislative calendars, and speed toward agenda accomplishment. How long this so-called "revolution" will sustain itself, or whether it will settle into traditional conformity, has to be watched closely before any long-term conclusions or predictions can be drawn. While much of

the foregoing deals with issues outside of — and larger than — the realm of the DoD AM, one can assume that any weapon system or any program can become a chip at the political table. Thus, while advisedly maintaining a “flexible business as usual” approach at the working level with Capitol Hill, until he discovers differently, the AM must still be alert to sensitive issues of concern to Congress and the Administration that may impact his program.

The DoD officials must recognize the relevance of the continuing face changes in Congress. For example, since 1990, approximately half of the House of Representatives has turned over, and with many incumbents not running in 1996, the number will be approximately two-thirds by the 105th Congress. Congressional corporate memory and experience levels are being drained. Fewer and fewer Members, and their staffers, have served in the military and thus assumedly enter with limited or no knowledge of DoD concerns.

What does this mean for DoD? For one, it means DoD AMs are involved in a continuing, detailed educational process to bring Members and staffers current. But it also means that “the way we have always done it” may no longer be a starting point in discussions.

Regardless of who occupies seats in Congress, certain fundamental tenets still apply to the successful and functioning DoD AM in doing business with Congress:

He must work hard overcoming probable personal shortcomings in political knowledge, sensitivities, and exposure to the Washington environment inherent in most military officers and many senior civilian managers.

He must understand Congress as an institution, its role in governing, its objectives, and how it operates.

He must learn the systems through which Congress approves, funds, and monitors defense programs.

He must appreciate the relationship between DoD and Congress and work within the framework of that relationship to manage those programs.

The mandatory requirement for acquisition officials to come up to speed quickly has rendered a seat-of-the-pants, “learn for yourself as I did” educational process obsolete. Existing — even simply functioning — in today’s volatile budgetary world of forces downsizing, reduced research and development, and tailing-off of procurement, coupled with properly identifying the threat and roles and missions to counter it (them), is tough enough by itself. Add to it the world of congressional involvement and relations, and the picture might appear unstable or overwhelming.

This Guide describes how Congress is organized and structured to perform its two major responsibilities in working with DoD: the legislative process and the oversight function. It provides history, timetables, explanations, and rationale. It attempts to educate without hand-holding, inform without overwhelming. It offers recommendations based on current directives and operating procedures, tradition, experience, and a great deal of “street smart intellect.” Included as reference material is a partial listing of DoD directives on this subject. Because this Guide is written in the broadest sense, it does not republish contents of those documents. You should refer to this listing and other documents for specific “how-to” guidance.

In January 1990, the Secretary of Defense sent to the President a *White Paper on the Department of Defense and the Congress*, a treatise on the congressional defense oversight process. In citing numerous instances of congressional “intervention” in budgetary and management matters which complicated the management and execution of defense programs, the paper called for consensus on reform goals and improved working relationships between the DoD and Congress. The paper subsequently was approved by the President and presented to congressional leadership, but there was little movement to modify procedures.

Most of the identified issues remain. Even the casual student of Congress would be well advised to read the White Paper and examine its close connection with the material contained herein. A copy is held in the DSMC Acker Library.

For any references herein to the DoD 5000 Documents, a series of defense acquisition directives, the reader is reminded to check the 1996 revised issuance of the Documents to see what items are changed. At the time this *Fourth Edition* went to press, publication of the new DoD 5000 Documents was pending.

For ease of reference, the following terminology is used herein:

AM -- Defense acquisition manager. A DoD official - military or civilian - at any level of responsibility, including senior management, program executive officers, program managers, and functional specialists.

PM -- Program, project, or product manager. A DoD official - military or civilian - responsible for developing, producing, and supporting an acquisition system.

Member -- Member of Congress, either of the Senate (Senator) or the House of Representatives (Representative).

Congress -- The institution, or the Legislative Branch. Also, either Members and congressional staff or both, or generally Capitol Hill ("the Hill").

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April 1996

# LESSONS LEARNED

*Or, thoughts for keeping your program afloat and your head above water and off the reef.*

## **Philosophically Speaking**

Changes in political parties in either Congress or the White House do not automatically cause changes in the ways of doing things. Cautious attention to the flow is imperative. Tradition feeds on itself and dies hard, if ever.

However, understand there will be missteps by parties assuming new leadership roles. Anybody out of power for so long has forgotten what it was like to organize, plan, and execute. Besides, the book has been rewritten many times since.

New alliances are formed, old ones strengthened. Know the new players, staffers, structure, and power points.

Congress is not a manufacturer for the executive branch. It is a separate branch of government, and will accept responsibility only for matters it wishes to be within its purview often on its own timetable.

Political science is a contradiction in terms.

Never assume that politics will subsume logic.

Newton's law does not apply. There may not be a reaction, but an overreaction. It could be based on misconceptions, wrong perceptions, or responses to the media. Be prepared for it.

Politics is give-and-take, the way we solve problems peacefully. The purpose of politics is to win, thus having one's point of view prevail.

Compromise might not fit your political shibboleths, but practicing its art to attain most of your objectives is what the other guy will be doing for his.

Officially, Congress runs by rules, traditions, and institutions. Unofficially, it runs on personalities, persuasiveness, political winds, paybacks, commitments, issues coalescence, constituent feedback, personal agendas, and polling data.

Almost everyone can agree on the problems. Finding agreement on the solutions is extremely difficult — including the distribution of anything considered excess, or largesse.

New programs have been easy to establish. Dismantling old ones requires the wisdom of Solomon and the skill of Merlin. By the same token, passing legislation is easier than defeating it.

To reach maximum efficiency in carrying out personal objectives, representing constituent needs, and discharging legislative responsibilities, a Member must remain in the Congress. Therefore, it stands to reason that reelection is the prime motivator.

The DoD is in the insurance business. If we buy enough stuff we won't have to use it.

Bad data or no data *are* data and will be used by Congress to decide the future of your program.

Reelection is the prime motivator of Congress, but remember who elects. The driver is C<sup>3</sup> — equaling constituent, constituent, constituent. Understanding a corporate constituent's interest will allow you to respond best to the Member.

## **The Machine**

On Capitol Hill, perceptions are realities. If the Congress perceives something, it is a fact. You must never lose sight of this axiom.

But — false (unwanted) perceptions can be corrected by presenting the facts, i.e., using opportunities to “correct the record.”

Year-in and year-out, Congress does not sustain 100-day agendas. Chances are your issue will be handled routinely.

The bulk of public business does not take place in public, such as hearings or on the Senate and House floor. Understand how things get done and whether, or how, you should play.

Except in national emergencies, “deliberate” and “ponderous” are the cornerstones of congressional machinery.

No one, or even two, is in charge, although some are on television more than others, and some present taller targets for the opposition.

The shortest distance between two points in Washington is the network between the Pentagon and Capitol Hill.

Congress is never in front of any power curve. It doesn’t start initiatives, infrequently moves on Administration initiatives, and normally responds only to strong public opinion when it is politically smart in its interest.

Congress pushes parochial concerns, not always asking what is best for the country.

Some Members always call for cuts in defense spending...unless such might affect their district. It’s often a case of “do it in the other guy’s backyard, not mine.” For examples, see recent base closure lists.

Members don’t usually get reelected by creating pain: raising taxes, cutting social spending, etc.

Citizens hold Congress (the institution) responsible for the public interest, and individual Members (notably their Member) responsible for what they do for them.

Congress may be unable to change a defense policy or decision but it wants to be part of the process.

Recognize defense acquisition is a two-way street. Without Congress, there are no programs and no money. Without programs, there is no national defense (or jobs back home). Dependence on each other produces a “win-win” situation. Work toward it.

Congress almost never makes a (pushed-into-the) “corner” solution to a problem.

Congress has the “right” to do “whatever it wants.” So, instead of you saying Congress “can’t do this,” say Congress “ought not to,” or “it is not prudent to do so.”

Congress plays Humpty-Dumpty with the defense budget but no one puts it back together again.

Regardless of their obvious importance to you, spare parts and gun ammunition have less political appeal than hardware systems. This is one reason why “sustainability” and “force modernization” projects, regardless of how they are spoken, carry lower congressional priorities and shorter attention spans than main battle tanks, attack submarines, and stealth aircraft.

Virtually anyone on the Hill can bring something to a halt, but few can say “yes.”

Acquisition legislation usually is triggered by something that happens. Members just don’t sit back and invent issues.

In normal times, Congress doesn’t change the thrust of the DoD budget. It plays on the margins with a little here and there.

Recognize the myriad agendas attempting to be carried out — state, district, party, caucus, defense committee, other committee, personal. Understand motivations.

Trade-offs, deal-making, and back scratching form the basic political process in Congress. With 535 equals (in ego and authority), it is difficult for one point of view to prevail on everything.

Despite so-called two-year defense budgets and five-year defense programs, Congress continues to look at defense issues one year at a time.

Staff, particularly on the “Big Four” (defense) committees, make the bills happen. Be professional, rather than arrogant, in dealing with them, regardless of their military expertise.

### **Doing Your Homework**

Handle things promptly, quickly, correctly, and ethically.

You must use your legislative liaison office. Its job is to take temperatures and soundings, and help you score.

Don't play games or waffle with information. To do so is a deadly game.

Know your committees and how they are organized and operate. No two are alike.

A fatal pitfall — Congress hearing different things on the same program from OSD, the Services, and the contractors.

Check out minor events. What seems small might be taken out of context and blown out of proportion. Don't take anything lightly. The situation may be convoluted, but Congress is not shooting in the dark.

Major defense contractors have Washington staffs adequately representing their interests. Be careful in having your contractor doing your congressional liaison. His interests, not yours, must come first, in spite of your relationship. For one thing, it

might create the impression you are in bed with the contractor. Avoid this, but don't try to restrict what the contractor can say to the Hill.

Be responsive, candid, truthful. Credibility is one of your biggest assets on Capitol Hill.

Know how to sniff the winds of change. An example in wind shift: "black programs." If you have one, consider putting it in shape, and prepare to bring it into the daylight with increased access. Congress has been leaning this way. Some view it as a means of hiding money.

Be careful of what is written, especially if you write it. Things have a way of getting to Capitol Hill even without that intention. Conclude what you are doing is probably already, or about to be, known there. The network is fantastic.

Understand, and take advantage of, working relationships already established by many career personnel with Congress.

The military eyes cannot look for blacks and whites, rights and wrongs, all or nothing, as may be customary. Congress doesn't work that way.

If you think you can take care of business by yourself, you could be in deep trouble at the outset. Seek help from those who have been there. Because it's new to you doesn't mean it's just been discovered.

Keep current on test results. Somehow, sometimes, the media and Hill get there first, necessitating an embarrassing response.

Know where you stand in-house. Your program may not be the high priority you think.

You must establish your bonafides to be successful with Congress — but, that still requires time and sterling judgment on their part.

Changes in schedule and number of buys, stretchout, etc., hurt credibility.

Use common sense. While a subcommittee is looking into your program, refrain from terminating for cause a contractor in the chairman's district.

Always be fully prepared. Do your homework vigorously, including having answers to all questions that might be raised. This is the only wise way.

### **Providing Information**

The worst possible thing is for Congress to be surprised.

In the day of reduced budgets, the "gray area" for program survival increases. The slightest appearance of DoD deception or inconsistency can be fatal.

Don't talk above or below your level of expertise or concern. Stick to the subject.

Don't encroach into someone else's area of expertise. Respect territorial rights (read "rice bowls"), or it will be done unto you.

Present a united front. Savvy Hill staffers can detect weak links and why.

If your principal job is maintaining your program year-to-year, you lack credibility on the Hill.

Keep the antenna tuned toward a "hidden agenda" when requests for information arrive.

Don't be overzealous in selling a weapon system once you've decided what you want. That's the user's responsibility.

Be careful about promising or making commitments if there is a possibility you can't deliver. Sell it realistically based upon known history.

Before answering an inquiry, check the facts and what has already been published or said to the Congress on that subject. Inaccuracy or inconsistency from your command's position is dynamite waiting for the match. It is reason enough to cause a mark on your program.

Numbers change as quickly as stock market averages. Make sure you have the latest. If they've changed since you last talked with Congress, fully explain the changes.

Usually, hearings and reviews are not fact-finding missions. The committee and staff know in advance what is to be said and accomplished. Certainly, you run a risk if you blindside or surprise them.

Respond equally as fast and efficiently to all Members regardless of party or ideology. Even minority Members wield influence on issues through committee work, networking, and reciprocal agreements.

Don't go to Congress and spill your soul. Show restraint, but do not hedge. It is easier to add information than subtract.

Backfill the legislative liaison office and your boss after you have contact. You may not be obligated to heed their advice, but it's good practice to keep them informed. In a backfire, they can provide your case with Exhibit A one way or another.

If you raise an issue, be prepared to pursue it at some length. Information volunteered is information explained.

Don't be afraid to respond. If you don't know, don't guess. Say: "I'll find out and get back to you."

When urgent phone calls come from staff, understand why the information is wanted immediately.

## About Members

Because a Member voted with you the last time doesn't lock in that vote on future issues. For maximum yield, every new crop has to be cultivated.

Although most Members are well prepared for you, don't expect them to be experts in your affairs unless you make them so.

Don't be led to believe the staffs run Congress, in spite of what you see as their roles and influence. The Members do.

Use language Members can understand. Use examples. Don't talk in terms (acronyms, etc.) you would put in your papers to a colleague down the hall. Avoid being too technical or detailed unless specifically asked.

Don't be lulled or misled by philosophical generalities. Don't stereotype Members or staffers, or hold grudges. The one who fights you today may be your best friend on tomorrow's issue. Know where each person stands on each issue.

Sometimes Members feel compelled to remind officials of the Executive Branch just who is elected and who is not. Neither be offended nor intimidated. Listen and take it as part of the job, realizing some is wing-flapping for the record, the sound bites, and the folks back home.

On the other hand, think *very carefully* before providing Congress the institution or any Member with a lesson in your political acumen.

Don't remind a Member how many people your contractors employ in his district, or impacts on him because of a lost contract or budget cut.

Members don't get wrapped around programmatic. Staffs are there to fill them in. However, when a Member does, he flags a genuine concern.

Members and staff of the Defense Committees really do believe in a strong national defense, though they question how to get there. Be open and cooperative with them.

Be polite, but be careful with small talk. The Washington Redskins' season is okay. Raising recent congressional scandals or Congress' low public esteem shows incredible *naiveté*.

The RDT&E (research, development, test, and evaluation) and procurement appropriations (they make things) have stronger constituencies than O&M (operations and maintenance) appropriations (which don't make things).

Recognize there are a number probably voting against defense most of the time, and a number voting for. Some need convincing each time.

Recognize the power of serving in Congress and the egos to match. Members often take themselves more seriously than they do national issues.

### **About Staffs**

Staffers perceive a program and its AM as having the same character. A poor program reflects on its manager, and vice versa.

Staffers usually support national defense, but not necessarily the DoD way of preserving it.

Recognize that former military officers and DoD officials with defense expertise and "Washington street smarts" often end up on staffs. Don't presume their bonding with you in the name of national security.

Staffers are often stovepiped experts in a particular field and will bore in on their interests. Staffers jockey within their offices for information and standing and internal jealousies exist as anywhere. However, do not think they operate in a vacuum. They talk with each other and compare notes.

Be careful about playing staffers off against each other. Not all are experts in your areas, but usually they know how to ask the right questions, discern answers, draw conclusions, and make recommendations.

Committee staffers often act as brokers between Members. If you are not getting cooperation from the majority-side staffer, try the minority side.

If a staffer perceives you are honest and straightforward, he will work with you in spite of adversity.

The mission of appropriations committee professional staff members institutionally has been to cut the budget, but that may be changing. Know which way the flow is going.

Staffers have to make a living too. They need you and want to keep their pipelines open and sources accessible.

Committee staffers are key to the long-term memory of Congress and are known to remember promises made to the Hill.

### **If That's Not Enough**

Let a sleeping dog lie if all is going well on your program.

Being shown up is a sensitive issue on the Hill. Win gracefully. Don't make a Member or staffer look uninformed.

The ideal situation for you is: nobody knows you're there, and you get what you ask for. Try to stay low, work the system properly, and keep the right people informed.

If you choose confrontation, be absolutely sure you (1) are dead right, (2) you have 100 percent support up the line, and (3) you are prepared for any consequence. The Congress will outlast those of us who come and go in DoD.

The President's budget is always "dead on arrival" on Capitol Hill. Rather, it is a guideline to the President's thinking.

Therefore, defend the President's budget, even if you disagree or feel inadequate, and even if you know a decision was just made adversely affecting your program. One possible way to handle it: "The decision on my program is not blessed yet. When it gets signed off, I will return to brief you."

Burning bridges is a cardinal sin. That staffer you hedged your bet with could cross the Potomac and be your Service's next acquisition chief.

# GLOSSARY

For acquisition acronyms and terminology, refer to the DSMC Press publication *Glossary: Defense Acquisition Acronyms and Terms, Sixth Edition*, March 1995. The following are a few acronyms and terms frequently used in this Guide.

**Act** - A bill or measure after it passes one or both Houses of Congress. Also denotes a law in place.

**Adjournment** - Ends a legislative day. Unlike a recess, which ends a calendar day but which does not end a legislative day.

**AM** - Acquisition Manager (Department of Defense (DoD)): program executive officer, program or project manager, or other senior official.

**ASC** - Armed Services Committee in either house dealing with matters of the armed services: Senate Armed Services Committee and House National Security Committee.

**ASD (LA)** - Assistant Secretary of Defense (Legislative Affairs).

**Appropriating Committee** - The House Appropriations Committee (HAC) or Senate Appropriations Committee (SAC).

**Appropriation** - An authorization by an act of Congress that permits Federal agencies to incur obligations and make payments from the Treasury. An appropriation usually follows enactment of authorizing legislation.

**Appropriation Bill** - Grants the actual funding approved by authorization bills. Originates in the House.

**Authorization** - An act of Congress that permits a federal program or activity to begin or continue from year to year. It sets limits on funds that can be appropriated, but does not grant funding which must be provided by a separate Congressional appropriation.

**Authorization Bill** - Authorizes start or continuation of a program(s), specifies its general aim and conduct and, unless “open-ended,” puts a ceiling on funding. Usually enacted before an appropriation bill is passed.

**Authorizing Committee** - A committee with legislative and oversight jurisdiction over agency program(s); the Senate Armed Services Committee (SASC) and the House National Security Committee (HNSC) for most DoD matters.

**Bill** - Nearly all legislative proposals being considered by Congress. (Commonly the rest are resolutions.) Designated either a HR (House of Representatives) Bill or S (Senate) Bill according to where they originate, and by a number assigned in the order introduced.

**Budget** - In DoD, the output of the planning, programming, and budgeting system, which becomes part of the President’s budget. Until 1987 (for FY 1989), it was annual; now it is biennial.

**Budget Committee** - House (HBC) or Senate (SBC) committee determining appropriation limits for fiscal year under consideration.

**CBO** - Congressional Budget Office.

**Chamber** - Either the Senate or the House of Representatives.

**Conference** - A meeting of representatives of the Senate and House, called conferees, to reconcile differences about provisions of a bill.

**Continuing (appropriations) Resolution** - When a fiscal year begins and Congress has not passed all regular appropriations bills, a joint continuing resolution is passed giving agencies authority to spend at same rates as previous fiscal year, or some other specified rate. Also, continuing resolution authority (CRA).

**CRS** - Congressional Research Service (of the Library of Congress).

**Defense Agency** - Defense Logistics Agency (DLA), Defense Nuclear Agency (DNA), etc.

**Defense Committees** - The House National Security Committee (HNSC) and Senate Armed Service Committee (SASC), and the Defense Appropriations Subcommittees of the House Appropriations Committee (HAC) and Senate Appropriations Committee (SAC).

**DoD** - Department of Defense.

**Executive Session** - A meeting closed to the public.

**FAStA** - Federal Acquisition Streamling Act

**FY** - Fiscal year. U.S. Government: October 1 to September 30 (12 months).

**GAO** - General Accounting Office. An agency of the legislative branch, responsible solely to Congress, which functions to audit all negotiated government office contracts and investigate all matters relating to the receipt, disbursement, and application of public funds. Determines whether public funds are expended in accordance with appropriations.

**Germane** - Pertinent, bearing on the subject.

**HAC** - House Appropriations Committee.

**HBC** - House Budget Committee.

**HNSC** - House National Security Committee

**LA/LLO** - Legislative Affairs/Legislative Liaison Office in Office of the Secretary of Defense (OSD) or the Services/Defense

Agencies, which processes congressional inquiries and related matters on acquisition policy, administration, and programmatic.

**Majority/Minority** - The political party in/ not in power in either chamber.

**Markup** - Subcommittee or committee action on a bill by proceeding through the bill line-by-line approving, disapproving or making modifications.

**Measure** - A bill or other proposed legislative act under consideration.

**OSD** - Office of the Secretary of Defense.

**Oversight** - Review activity by congressional committees of DoD programs to determine current status, if the law or other desires of the Congress are being followed, or a basis for possible future legislation.

**PB** - President's Budget - The Federal Government budget for a particular fiscal year transmitted on the first Monday in February to Congress by the President in accordance with the Budget Enforcement Act of 1992. Includes all agencies and activities of the executive, legislative, and judicial branches.

**PSM** - Professional staff member of a congressional committee.

**Ranking Member** - Senior minority Member of a committee, or senior majority Member not serving as chairperson.

**SAC** - Senate Appropriations Committee.

**SASC** - Senate Armed Services Committee.

**SBC** - Senate Budget Committee.

**S/DA** - Service/Defense Agency.

**Service** - Military department. Department of the Army, Department of the Air Force, Department of the Navy, Department of the Navy - U.S. Marine Corps

# CONTENTS

ACKNOWLEDGEMENTS.....	iii
PREFACE .....	v
LESSONS LEARNED .....	ix
GLOSSARY .....	xxi
CONTENTS .....	xxvii

---

<b>BOOK I</b>	
<b>THE ANATOMY OF CONGRESS.....</b>	<b>1</b>

---

<b>Chapter 1</b>	
<b>The Perspective of Congress .....</b>	<b>3</b>
Authority of the Congress.....	3
Evolution and Expansion of Authority .....	4

---

<b>Chapter 2</b>	
<b>Organization of Congress .....</b>	<b>7</b>
The Structure .....	7
“Two Congresses” .....	8
Characterizing Congress .....	8
Institutional Ways of Doing Business .....	9
Fundamental Differences .....	10
Congressional Support Agencies .....	10

---

<b>Chapter 3</b>	
<b>The Changing Nature of Congress .....</b>	<b>13</b>

Other Significant Recent Changes ..... 13

---

**Chapter 4**

**Congressional Decision Making ..... 19**

Defense Committees ..... 19  
Organization and Nature of Appropriating  
    Committees and Authorizing Committees ..... 20  
Subcommittees of the Appropriating Committees ..... 22  
Subcommittees of the Authorizing Committees ..... 22  
Pressures on Decision Makers ..... 25  
Detailed Oversight *vis-à-vis* Reasonable Direction ..... 26

---

**Chapter 5**

**Congressional Committees ..... 29**

Committees at Work ..... 29  
Organization and Structure ..... 30  
Committee Chairmen ..... 31  
Committee Assignments ..... 32

---

**Chapter 6**

**Congressional Staffs ..... 35**

Role of Staffs ..... 35  
Division of Work ..... 36  
Personal Staff and the Member's Office ..... 37  
Who They Are ..... 37  
How Staffs Operate ..... 38  
Member's Office ..... 39  
Committee Staffs ..... 40  
Who They Are ..... 40  
Roles of Committee Staffs ..... 41

---

<b>Chapter 7</b>	
<b>DoD Liaison with Congress .....</b>	<b>45</b>
DoD Liaison Policy and Operations .....	45
AM Interactions with Congress .....	46
DoD Liaison Offices .....	47
Appropriations (Budgetary) .....	47
Authorization (Non-budgetary).....	50
Comptroller Liaison .....	50
Legislative Affairs .....	51
Service/Defense Agency LLO Activities .....	52
Congressional Access to Classified and Sensitive Matter .....	53
Unauthorized Release of Information .....	55
Notification of Contract Award .....	55

---

**BOOK II**  
**CONGRESS AND THE LEGISLATIVE PROCESS..... 59**

---

<b>Chapter 8</b>	
<b>Congressional Budget Process .....</b>	<b>61</b>
Budget Process at Work .....	61
Congressional Budget Process Timetable .....	62
Budget Enforcement Act (BEA) .....	63
“Two Step” Budget Process .....	65
Concurrent Resolution on the Budget .....	66
Budget Committees .....	66
Budget Resolution .....	67
Reconciliation .....	68

---

<b>Chapter 9</b>	
<b>Congressional Hearings .....</b>	<b>69</b>
Characteristics of Hearings .....	70

Five Types of Hearings .....	70
Why Hearings Are Held .....	70
Scenarios .....	71
Characteristics to Remember .....	73
DoD Witnesses .....	74
Statements and Testimony .....	74
AM Assistance to Witnesses .....	75
AM as a Witness .....	75
Transcripts .....	77
Insertions of Material for the Record .....	77

---

**Chapter 10**  
**Markup and Conference Committees ..... 81**

Markup .....	81
Conference Committees .....	82

---

**Chapter 11**  
**Authorization Process ..... 85**

Defense Programs .....	85
Committee Hearings .....	86
Floor Action by the House .....	87
Senate Action .....	87
Authorization Conference Committee .....	89

---

**Chapter 12**  
**Appropriations Process ..... 91**

Major Defense Appropriations Bills .....	91
DoD Appropriations Bill .....	92
House Review .....	92
Senate Review .....	94
Appropriations Conference Committee .....	94
Appeals .....	95

Continuing Resolution Authority (CRA) ..... 95

---

**BOOK III**  
**CONGRESS AND THE OVERSIGHT FUNCTION ..... 99**

---

**Chapter 13**  
**Congressional Oversight ..... 101**

Origin of Congressional Oversight ..... 101  
Need for Oversight ..... 102  
Impact of Oversight ..... 104

---

**Chapter 14**  
**Congressional Briefings ..... 107**

Characteristics of Briefings ..... 107  
Functions of Briefings ..... 108  
Differences Between Briefing and Hearing ..... 109

---

**Chapter 15**  
**Congressional Inquiries ..... 111**

Informal Inquiries ..... 111  
Formal Inquiries ..... 112

---

**Chapter 16**  
**Congressional Investigations ..... 115**

How an Investigation Generates ..... 115  
Investigative Hearings ..... 116  
GAO Surveys and Reviews ..... 117  
HAC Investigative Staff ..... 119

---

**Chapter 17**  
**Congressional Trips ..... 121**

Where To, and When ..... 121  
What the AM Should Do ..... 122

---

**Chapter 18**  
**Congressional Data Requirements and Reporting ..... 125**

Budget Justification Material  
and Other Reporting Information ..... 125  
Budget Justification Material ..... 126  
RDT&E Exhibits (R-Forms) ..... 126  
Procurement Exhibits (P-Forms) ..... 128  
Other Acquisition Information Reports ..... 129  
SARs ..... 129  
Defense Acquisition Executive Summary (DAES) ..... 130  
Unit Cost Reporting ..... 130  
Studies and Analyses ..... 131

---

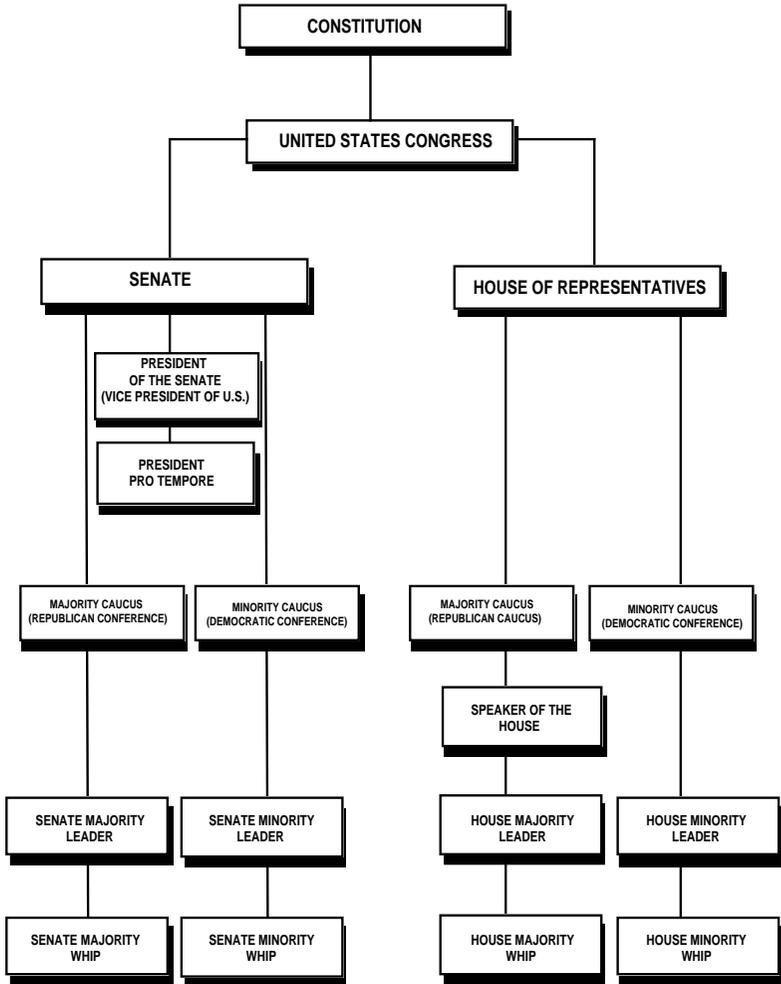
**Appendix A - Selected References ..... 135**

**Appendix B - Interviewees  
and Other Personal Sources ..... 137**

**Appendix C - Partial Bibliography of Government  
Directives on Congressional Relations1 ..... 141**

**About the Author ..... 147**

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# ***I***

## **THE ANATOMY OF CONGRESS**

# 1

## THE PERSPECTIVE OF CONGRESS

*It is a fact of life. Members vote on programs in terms of their constituent interests.*

—Counsel to an Authorizing Committee

### **Authority of Congress**

While creating our national government, the founding fathers at the American Constitutional Convention of 1787 separated power and responsibility among three branches.

The legislative branch, represented by elected Members of Congress.

The judicial branch, represented by an appointed Supreme Court and the federal judiciary system.

The executive branch, represented by an elected President and Vice President, and the agencies reporting to the President.

The Constitution says little about national defense. It establishes the President as commander-in-chief. Congress has the power “to provide for the common defense...to raise and support armies...to provide and maintain a Navy...to make rules

for the Government and regulations of the land and naval forces...to declare war...and to make all laws which shall be necessary and proper for carrying out the foregoing powers.”

The form of government created was a republic. Throughout the years, the term democracy has become more commonly associated with the United States government and through accepted usage means virtually the same.

From their experience with the British crown, the founding fathers were most afraid of a strong executive. Indeed, they wrote a weak executive into the Constitution, and provided Congress and the courts with checks and balances against the executive. Historically, however, presidents have become much stronger. Characteristically our system of government is chaotic, adversarial, an invitation to struggle, and without continuance of policy. (Some would say if James Madison walked the halls of Congress today, he would be proud.)

### **Evolution and Expansion of Authority**

Through evolution, Congress has expanded its interests and activity into many national areas of concern. The execution of national defense, a responsibility of the executive branch, is a prime example. From its constitutional powers, Congress grants approval and money for defense programs ranging from manpower levels, to numbers of army divisions and navy carrier battle groups and which weapon systems are produced. This power has been a natural extension rather than an intrusion — of congressional authority concerning fiscal and programmatic accountability of the executive branch.

That Congress has license for involvement in any or all defense matters has been clearly evident in recent years. The license is called oversight. Oversight is a year-round review, reporting and funding control umbrella through which congressional committees monitor federal agency activities and assert increasing influence and management of defense issues. This is in addition to the authorization and appropriation power Congress

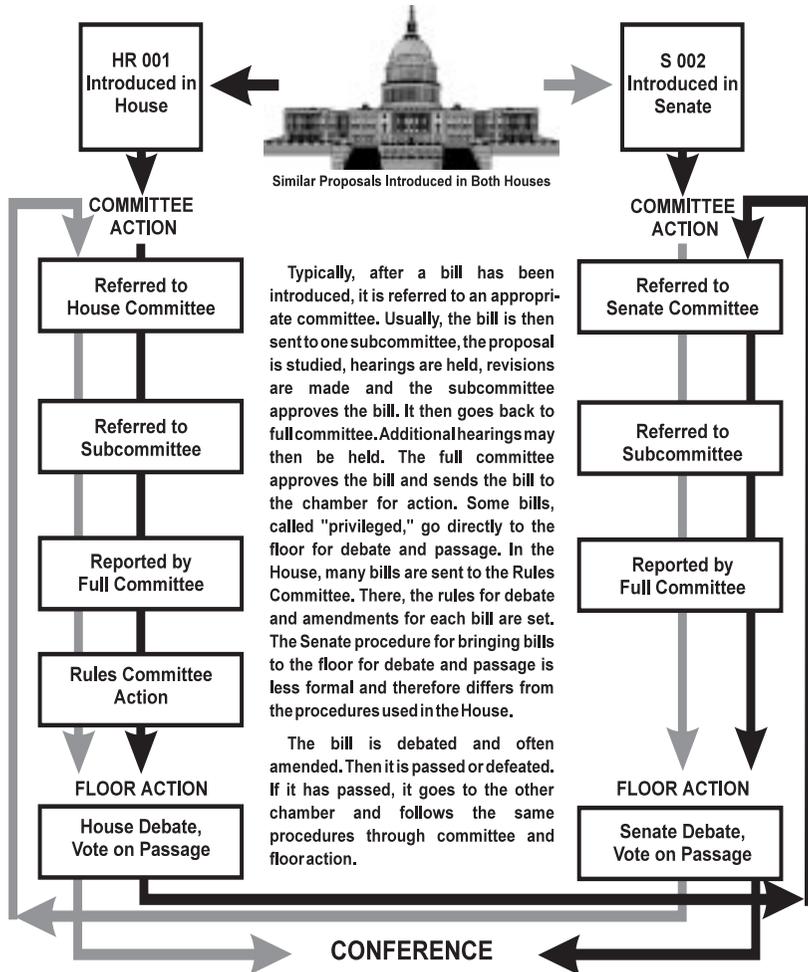
exercises annually. The foundation of this control umbrella is information. Information in Washington is power, and Congress employs a multitude of mechanisms to gather, process, and use it.

Congressional assertion of authority in national defense has been cyclical throughout the years. Primarily depending upon the counter role exerted by the executive branch and emanating from the early 1970s. This follows a period of a strong, activist executive role, and exacerbated by weaknesses in the executive branch during the Watergate era and the attendant jurisdictional problems of the Vietnam War.

In its assumed role, because of real and perceived abuses in weapons acquisition, Congress has felt the need to direct the Department of Defense (DoD) to change course or accelerate its efforts to tighten and improve internal procedures. Thus, in recent years the results of enacting significant laws are new regulations and organizations to manage defense acquisition.

*This expanded authority of Congress has had cascading effects throughout the acquisition community. Oversight begets oversight at all levels; no management level wants unexpected surprises by lacking knowledge of activity. Consequently, the DoD acquisition manager (AM) is under increased scrutiny. They must maintain scrupulous records, be the subject of unsolicited questioning, must make frequent schedule and funding adjustments, and must continuously advocate his program. Whether this increased congressional involvement accomplishes its purposes efficiently, timely, and in a businesslike manner is open to conjecture. Nevertheless, it is a fact of life.*

# How a Bill Becomes Law



Typically, after a bill has been introduced, it is referred to an appropriate committee. Usually, the bill is then sent to one subcommittee, the proposal is studied, hearings are held, revisions are made and the subcommittee approves the bill. It then goes back to full committee. Additional hearings may then be held. The full committee approves the bill and sends the bill to the chamber for action. Some bills, called "privileged," go directly to the floor for debate and passage. In the House, many bills are sent to the Rules Committee. There, the rules for debate and amendments for each bill are set. The Senate procedure for bringing bills to the floor for debate and passage is less formal and therefore differs from the procedures used in the House.

The bill is debated and often amended. Then it is passed or defeated. If it has passed, it goes to the other chamber and follows the same procedures through committee and floor action.



If both chambers have passed related bills, a conference committee composed of members from both the House and the Senate is convened to eliminate the differences. The compromise bill is then sent to each chamber for final passage.



**VETO**



This version of the bill is then sent to the President to be signed into law or vetoed. If the Congress overrides the veto with a two-thirds majority in each house, the bill becomes law without the President's signature.

# 2

## ORGANIZATION OF CONGRESS

*It is hard to hold anyone in Congress accountable. What Congress provides for the average citizen is a point of access to the Federal Government. The citizen doesn't feel alienated or disenfranchised.*

—Senior Staffer, Senate Armed Services Committee

### The Structure

The Constitution organized Congress into two houses (chambers): the Senate, or upper house, and the House of Representatives, the lower house. The Congress consists of 540 Members: 100 Senators, elected for 6-year terms; 435 Representatives, elected for 2-year terms; and five Delegates, non-voting Members of the House: American Samoa, District of Columbia, Guam, and U. S. Virgin Islands, for 2-year terms; and Puerto Rico, a 4-year term.

What are the qualifications for being a Member of Congress? Few. The Constitution requires: age — 25 to hold office in the House, 30 in the Senate; citizenship — at least 7 years in the House, 9 in the Senate; residency — must be a resident of state from which elected. No skills, no expertise are required. Voter satisfaction is the test of ability.

The Congress is housed in 16 buildings on Capitol Hill. The elected leadership receives a slightly higher salary. All Members receive numerous allowances to hire staff, for travel, mailings, etc.

## “Two Congresses”

Essentially, Congress is “two Congresses.” A Member serves two constituencies: his home state or district (a representative) and his colleagues in Congress (a lawmaker). The pressures in balancing service to both simultaneously are tremendous. The first constituency elects him, and his obligations are local — a “local face.” Therefore, he must see to constituents’ needs and, by and large, vote the way they prefer to remain in the Congress. Voting their way may not coincide with the Member’s views, forcing him to make a tough decision. The second constituency relates to his legislative responsibility, his obligations nationwide — a “national face.” Therefore, the way he performs on the floor and in committees, on political party affairs, and attendant chores impacts how well he survives and advances in Washington.

## Characterizing Congress

Congress is not the efficient, streamlined, disciplined body some might wish. From all evidence, in the minds of the founding fathers that was not the intention. Overlap of jurisdiction in Congress is commonplace by original design to protect against tyranny. Power within Congress is deliberately divided and fragmented to keep majorities from rolling over minorities.

Overarching organization and operating procedures is the omnipresent *politics*, which in the long run drives nearly all decisions and actions. Politics exists in several forms: with the opposition political party, with the Administration governing the Executive Branch, within one’s own party or committee, and with the public and media regarding the national mood.

*The AM must recognize the politics of each situation and adjust to them.* He is neither immune to politics nor above it, and in many instances is unable to influence it, whether he wishes to or not.

## Institutional Ways of Doing Business

The procedural rules encourage deliberation, negotiation, consensus, collegial decision making, compromise, dissent, openness, participation, accessibility, and pragmatism.

Common courtesy and reciprocity (“comity” in congressional lexicon) are two generally accepted rules that serve to cross party, sectional, and ideological lines. The process moves forward slowly, underscored by bargaining and accommodation. These are not qualities that encourage quick decisions or tidy organizational patterns.

Congress is neither hierarchical nor a bureaucracy. It is completely decentralized, with power and influence claimed to some degree by its 540 Members and approximately 300 committees, which makes coordinating difficult. No one is “in charge.” Even the Senate and House political leaders have limited leverage with which to develop united positions. Except in emergencies, total agreement is nearly impossible. For Congress to arrive at ill-advised agreements, given the deliberative legislative and debate processes, is unusual. Usually, time is on Congress’ side as all aspects of an issue are aired, fostering restraint rather than a need to rush to judgment.

Members may act alone, with their committees, or unanimously as a body. Natural internal divisions, including institutional, partisan, regional, sectional and, of course, political, are pressures that splinter and coalesce. Members have become more individual activist in recent years. To the outside observer, it may appear there are 540 Secretaries of Defense and State, each staking out a position, each seeking to have a voice in, or even directing, national security or foreign policy. To forge alliances or positions (or otherwise accomplish their goals) party or issue leaders must bargain, persuade, and compromise. Then, too, coalitions and interests often shift and are short-lived, and each new issue is a challenge in coalition building. Summarily speaking, unwritten “proper” behavior gives Congress a sense of order and discipline and the ability to get things done.

*Doing business with Members individually or with committees can be frustrating, tiring, repetitive, and time-consuming. Endurance is absolute. As decentralized as Congress is, there may be no alternative. Appreciate, too, that Congress must work within its own system.*

## **Fundamental Differences**

The observer must realize certain fundamental differences between the two chambers. The Senate is a collegial body and has less concern for rules and procedures (for example, there is no rule of germaneness — a bill amendment can occur at any time). The Senate is freer, looser than the House. The House is strict, structured, and accedes to precedence, while teaching its Members to exist by rules. The House limits debate; the Senate allows the delaying filibuster.

## **Congressional Support Agencies**

Included in the legislative branch are three support agencies offering assistance to congressional offices by conducting research, studies, and analyses. They are the General Accounting Office (GAO), the Congressional Research Service (CRS) of the Library of Congress, which is absorbing the former Office of Technology Assessment, and the Congressional Budget Office (CBO).

Because their records remain on file within the agencies (whereas some congressional offices dispose of their records after a Member's defeat), and their professional staffs tend to have less turnover, these agencies are called the corporate memory of Capitol Hill.

Analyses are conducted at the request of a committee chairman, ranking minority member, or in some cases for individual Members. Final reports usually are made available to all Members, but are sometimes denied. All can receive CRS Issue Briefs.

Members use reports to reinforce and advocate previous positions, to document in detail what they have found in part, as background for legislation, and as justification for public accusations. As can be expected, findings and conclusions dealing with the executive branch are not always agreed to by the administration, but the opportunity to review the draft and comment is usually provided.

The AMs can expect communications from these agencies, especially short questions from CRS. If formal inquiries involve GAO or another agency, the AM should consult the Office of the Secretary of Defense (OSD) and Service directives.

*Recognize the Special Role of Congress.* Congress as an institution was designed to operate in an adversarial relationship with the executive branch, through a system of checks and balances and separation of powers. The two branches share many common concerns, goals, and objectives, including peace and a strong national defense. Yet, each branch has the natural desire for its will to prevail on how best to achieve those ends. This creates a process where, in all likelihood, neither side will get everything it wants. Therefore, each seeks satisfaction in reaching partial victory through negotiation and compromise, bearing in mind the “good of the country,” which often is interpreted as the “good of the constituents.” Thus, ideally a “win-win” situation is achieved when each side gets something it wanted.

# 3

## THE CHANGING NATURE OF CONGRESS

*There is one law in political science: the law of unintended consequence. You will have predicted 30 percent of the consequences, not predicted 70 percent. However, the 70 percent will cause more to happen than you ever figured on.*

—Prominent Political Scientist

As an institution, Congress is dynamic. By reorganization and “reform,” reacting to the times, Congress changes its nature of operations. However, change comes slowly. Congress reflects the national mood and world events and rarely is in front of them. Not only do congressional rules, procedures, and structures change, there exists a constant interplay between these formal, highly visible aspects of organization and the less obvious ongoing interactions of the Members.

The most significant change came after the 1994 elections — Democratic dominance since World War II ceased. The House, in the current 104th Congress, is Republican for the first time in 40 years, and the Senate is Republican for the first time in 11 years.

### **Other Significant Recent Changes**

Congress of the 1990s is markedly different from previous decades. Sweeping modifications have influenced distribution

and use of power and the legislative process. They have affected responsiveness to national problems and their involvement in policy making. The most significant ones are:

*Decline of the Seniority System.* This is more prevalent in the House. For many years, Members' longevity, along with committee membership, determined selection for committee chairmanships. In the 1970s, because of a sudden rare influx of new, younger Members, rules were changed to allow the majority party to choose in caucus its own chairmen without solely relying on seniority. Majority Members in each committee recommend their choice to the caucus, which normally ratifies that choice. Although most committees continue to choose the senior Member anyway, it has not always been the case. In 1985 the House Armed Services Committee (HASC), now the National Security Committee, dropped senior Member and Chairman Melvin Price and elected a more junior Member, Les Aspin. His reelection in 1987 over several opponents reaffirmed this change in process. In organizing the 104th, House Republican leaders ignored seniority in assigning committee chairs. Also, new Members assert themselves and pursue leadership roles quicker and more vocally than in the past. Freshmen Republicans elected in 1994 appear to be continuing this assertiveness, while forming philosophical bonds on many issues.

(NOTE: Effects in the Senate are less rigid but minimal; the senior Member of the majority party usually is the committee chairman, and the senior member of the minority the ranking member.)

*Subcommittee Government.* If, by custom and practice, the real work of Congress is accomplished in committees, then real work of the committees is accomplished by numerous subcommittees. Today, there are 17 standing (permanent) committees in the Senate and 17 in the House.

To streamline congressional business, subcommittees proliferated in recent years. The House has nearly 150 subcommittees

and several panels which in effect are subcommittees without the title. There are always a few select (temporary) committees. The Senate has about 100 subcommittees plus four subcommittees belonging to the five select or special committees. Additionally, there are two joint committees (Economic and Taxation, between the two chambers) with their subcommittees. With each unit having a chairman (some Members can chair more than one committee or subcommittee), approximately half of the Members mathematically could be chairmen.

Increasingly, the House is utilizing the task force concept, versus the usual committees, to conduct a portion of its business. Conceivably, a task force could contact the AM for information.

*Declining Influence of Leadership and Parties.* Until the Republicans elected Newt Gingrich as Speaker for the 104th Congress, observers of congressional dynamics believed the days of the Sam Rayburns (“seniority will grow on you” -- S. R.) and the Lyndon Johnsons were gone — with their legendary ways of conducting congressional business. Gingrich’s leadership has engendered favorable comparisons to Rayburn, but time will evaluate his impact on the general characterization of declining leadership.

The 104th has seen a revival of party voting discipline, many measures on the floor or committee issues being decided by a straight (or near straight) party vote. Until 1995, the frequent marriages of Republicans and Southern Democrats to pass sensitive defense legislation worked in favor of DoD. The days of situational coalition building and appeals, rationale and reasoning, both within each political party and between the two. Power had become diffused and dispersed, and congressional leadership found it difficult to discipline colleagues for “straying from the ranch” on issues. The tendency had been for Members to go their own ways, partly because Congress has limited authority to control and discipline its members. Only time, too, will tell whether these are phenomenas or trend reversals.

*Increased Number of Ancillary Groups.* As leadership and party influence waned prior to 1995, another trend was the increasing influence of ancillary groups of Members within Congress: caucuses, regional, and other special interest groups. However, many caucuses have disbanded or have gone “underground” because official funding for their operations has been reduced or eliminated. Some exist in name. The legislative support agencies, the CBO, and GAO in particular, continue their influential roles.

*Increased Size and Influence of Staffs.* Tracking all the important and complex issues becomes increasingly more difficult and demanding for Members, both in Washington and in their home states.

More staff was the answer both in the Members’ offices and the professional committee staffs. Through expertise or personal relationships with the Members, the staffers actively participate in affairs of Congress and frequently interface with executive branch officials on behalf of their bosses. While the workload remains high, leadership of the 104th Congress has instituted a turnaround of this trend, as well. Staffers have been reduced by approximately 30 percent of the 20,000 employed a few years ago.

*Smaller congressional staffs with no workload reduction mean potential mistakes.* The prudent AM should watch the language in his bills.

*The “Reform Eras.”* Until 1995, the foregoing changes characterized the “reform era” of roughly 1965-through the early 1980s. Whether that period’s reform impact on the congressional environment will be sustained following the 104th Congress is a matter of speculation. Some recent veteran observers said “reform” has “over-reformed,” nearly infringes on minority party rights, and slowed things even more. The negative attention drawn to congressional perquisites and ethics in the 1990s (e.g., book royalties, speaking honoraria, influence of lobbyists,

House bank overdrafts, and post office problems) caused Congress to overhaul some of its organization and procedures. But the question of whether a new era of reform is upon Congress is being played out. Whatever reforms bring, the recent basic business relationship between DoD and Congress is expected to remain.

*One area of "reform" remains high on the agenda of both Congress and DoD, however. That is acquisition reform, recently enacted in the 1994 Federal Acquisition Streamlining Act (FAStA). Look for continuing efforts here.*

*The End of the Cold War and Defeat of Soviet Communism.* These momentous events played significantly on the way Congress adjusted to meet new or additional national priorities, primarily predicated on earmarking more money for social programs. But the threat(s) to national security became more elusive, and roles and missions became more difficult to define to meet myriad contingencies. Peacekeeping and nation building became a cornerstone of military planning. Defense budgets shrank consistently every year since 1985, checked only by the increase demanded by Congress for FY 1996. The obvious immediate effect has been less funding for personnel, force structure, weapon systems, equipment, supplies, and bases. Members have been torn between defense cuts — which ultimately means fewer jobs — and a desire to shift emphasis to social issues. It appears the defense budget will remain contentious between Congress and the Administration in the near future, among other things increasing instability to acquisition programs.

*Get to know Congress, especially key events and players in the defense budget and oversight processes.* The AM is well advised to learn all he can about congressional timetables, procedures, methods, and key events affecting his budget and the monitoring of his programs...to know which committees and subcommittees are interested in his program and why, what the record says of their previous positions,

votes and statements...to know which Members have contractor facilities in their states or districts with contracts on his program, or are known to want his business. While knowing all he can about the staff with whom he interfaces, the organization of committees, and how decisions are made is highly desirable, the AM should not extend himself beyond the defense legislative system and become an expert in all congressional affairs.

# 4

## CONGRESSIONAL DECISION MAKING

*Congress getting something done is like watching oatmeal harden. You cannot watch it happen. It just does.*

—Member, House National Security Committee

The congressional decision making process is decentralized and fragmented. Responsibility, hence decision making, is executed through three functions:

- The congressional budget process, which includes the budget resolution, the budget itself, and the authorization and appropriation of funds;
- The oversight of government operations; and
- The impact on formulation of national policy.

### **Defense Committees**

The congressional budget process, which provides funds for national defense, and the function to oversee defense, is executed primarily by the four “defense committees.”

*House.* The **Committee on Appropriations**, commonly called the House Appropriations Committee (HAC), the appropriating committee; and the **Committee on National Security**, commonly called the House National Security Committee (HNSC),

the authorizing committee. (Until 1995, the HNSC was called the HASC.)

*Senate.* The **Committee on Appropriations**, commonly called the Senate Appropriations Committee (SAC), the appropriating committee; and the **Committee on Armed Services**, commonly called the Senate Armed Services Committee (SASC), the authorizing committee.

The recent assertiveness of strong “subcommittee government” has shifted much of the responsibility for detailed deliberations from full committees to their subcommittees, further decentralizing decision making. Full committees view subcommittee actions with authority, and alter them only if there are serious divisions or if they are considered not representative of the full committee’s feelings.

### **Organization and Nature of Appropriating Committees and Authorizing Committees**

The two Appropriations Committees fund all federal agencies, not just DoD. The HNSC and the SASC handle only defense matters. The separate committees are for the convenience of Congress, as the Constitution stipulates only a funding (appropriations) requirement. (Because they were established much earlier, the Appropriations Committees think of themselves as “senior.”) The Constitution requires “money bills” to originate in the House. Thus, the HAC, through its Defense Subcommittee, plays the leading role in debating and passing the defense budget.

In the HNSC, a program with both research and development (R&D) and procurement accounts could be subject to review by more than one subcommittee. Charters of the authorizing committees actually call for them to establish policy but increasingly during the years they have looked at budgetary and appropriations matters — an inherent overlap. Generally speaking,

the authorizing committees “run the Pentagon” except on matters before the Corps of Engineers, veterans benefits, and nuclear energy matters, which is the jurisdiction of other committees. The SASC is organized into mission-oriented subcommittees, the HNSC more into functional-area subcommittees.

Traditionally, the SASC has been more partisan than the HNSC, particularly regarding staff, but individual Members are congenial and collegial. The HNSC has been less split along party lines (but the 104th Congress shows indications of becoming more so) and has been more issue-oriented, including staff.

Traditionally, SASC has had a “lead client” relationship (some might infer a “comfortable” one) with DoD. From 1977 to 1994, membership of the HNSC changed its political bent from one composed primarily of conservatives or Members from districts heavy with military establishments or defense industries, who would be prone to support DoD requests. As more liberals, women, and African-Americans joined the committee, the status quo moderated. The “coziness” between the Pentagon and Capitol Hill has all but disappeared and a more adversarial relationship has spawned. Some traditional friends of DoD still may be portrayed as “pro-defense,” but not quite so “pro-DoD.” Conventional wisdom says a Republican Congress should be more conducive to DoD interests. In the 104th Congress, the defense committees have actually contributed to lower numbers submitted by the Administration.

For the 104th Congress (1995-96), the appropriating and authorizing committees consists of the following ratio of Members to staff:

HAC - 57 : approximately 37 staff (excluding Representatives' associate staff);

SAC - 28: 75;

SASC - 21: 60; and

HNSC - 55: 52.

## **Subcommittees of the Appropriating Committees**

### **HAC**

Subcommittees dealing with defense matters

National Security (14 Members, 14 staff)

Military Construction (11 Members, 4 staff)

### **SAC**

Subcommittees dealing with defense matters

Defense (17 Members, 12 staff)

Military Construction (7 Members, 3 staff)

## **Subcommittees of the Authorizing Committees**

### **HNSC Subcommittees (5)**

Military Installations and Facilities

Military Personnel (MP)

Military Procurement

Military Readiness

Military R&D

2 Full Committee Panels —

Special Oversight Panel on Morale, Welfare, and Recreation

Special Oversight Panel on the Merchant Marine

### **SASC Subcommittees (6)**

Acquisition and Technology

Airland Forces

Personnel

Readiness

Seapower

Strategic Forces

The **HNSC** represents several changes in House organization for the 104th. Its jurisdiction includes the following:

- ammunition depots, forts, arsenals, Army, Navy, and Air Force reservations and establishments;

- the DoD and common defense generally;
- military applications of nuclear energy;
- tactical intelligence and DoD intelligence-related activities;
- national security aspects of the merchant marine;
- pay, promotion, retirement, and other benefits and privileges of the armed forces;
- scientific R&D in support of the armed services;
- size and composition of the armed forces;
- strategic and critical materials necessary for the common defense; and
- special oversight functions regarding international arms control and disarmament.

HNSC Subcommittee jurisdictions include the following areas:

**Subcommittee on Military Procurement** jurisdiction includes the annual authorization for procurement of military weapons systems and components, including full-scale development and systems transition; military applications of nuclear energy; and related legislative oversight.

**Subcommittee on Military Readiness** jurisdiction includes the annual authorization for operations and maintenance (O&M), the readiness and preparedness requirements of the defense establishment, and related oversight.

**Subcommittee on Military Research and Development (R&D)** jurisdiction includes the annual authorization for military R&D and related oversight.

Jurisdiction of the **SASC** was revised to include the following:

- aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations;
- DoD generally and common defense;
- military R&D;

- national security aspects of nuclear energy;<sup>1</sup>
- pay, promotions, retirement, and other benefits of members of the armed forces; and
- strategic and critical materials necessary for the common defense.

The **SASC Subcommittee on Acquisition and Technology** jurisdiction includes: the technical base, acquisition policy, industrial base policy, defense conversion programs, test and evaluation, technology export policy/counter-proliferation, defense laboratories, small business issues, simulation and modeling, non-traditional warfare R&D, medical R&D, information warfare R&D, foreign military sales policy; and the Under Secretary of Defense (Acquisition and Technology) (USD(A&T)) and military department acquisition executives, the Director of Operational Test and Evaluation, Assistant Secretary of Defense for Economic Security, oversight of the Advanced Research Projects Agency, Defense Contract Audit Agency, Defense Technology Security Administration, and defense conversion and technology base budget accounts.

The **SASC Subcommittee on Readiness** jurisdiction includes: military readiness, training and exercises, logistics, industrial operations, depots and shipyards, environmental issues, wartime sustainability, real property maintenance, military construction (MILCON), base realignment and closure, conventional munitions, ammunition plants and ammunition, chemical weapons and demilitarization, and information systems; the Under Secretary of Defense (Personnel and Readiness), Deputy Under Secretary of Defense (Logistics), Defense Logistics Agency; and oversight of O&M, readiness procurement and MILCON budget accounts.

Whereas the authorization and appropriation process occurs annually in stages, the process through which government operations are reviewed — called oversight — is continual. In

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<sup>1</sup>The SAC Subcommittee of Energy and Water Development handles appropriations matters relating to Department of Energy Atomic Defense Activities.

addition to authorizing and appropriating, the four defense committees handle most oversight of defense-related business in Congress. They are not alone.

Approximately 20 standing committees can be involved in DoD matters, including the Small Business Committees of both houses, the Senate Governmental Affairs Committee, the House Government Reform and Oversight Committee, the Senate Energy and Natural Resources Committee, and the House Science Committee. Two select committees — the House and Senate Select Committees on Intelligence — are deeply involved in defense matters. Consequently, any number of Members or committees and subcommittees may take an interest in, and exert influence over, defense programs, forcing an AM potentially to face multiple congressional audiences.

### **Pressures on Decision Makers**

In making decisions, Members are subject to influence from numerous pressure points, including constituents, the executive branch, the media, industry and union lobbyists, special interest groups, campaign supporters, and their own colleagues. These pressures contribute mightily to the congressional environment. They impact formal rules and procedures and are omnipresent in the development, deliberation, and passage of legislation. This is the democratic system at work.

*Don't expect businesslike practices.* AMs must understand the legislative process is not neat and precise, nor is it necessarily businesslike. Predictable, quick and rational responses, such as might be expected in military situations, are normally not the product of congressional activity. Congressional traditions, courtesies, idiosyncrasies, and protocol must not be taken lightly, nor should the fact that politics — pure and simple politics — is the engine which drives the legislative branch of government. The AM who comprehends this and accordingly copes is more likely to keep his program alive and well than one who doesn't.

## Detailed Oversight *vis-à-vis* Reasonable Direction

An always important and highly debated issue affecting the decision making process is how to balance congressional oversight responsibilities with the need for reasonable discretion in program administration sought by the Executive Branch. Because defense spending is constantly in the public debate, nowhere is this truer than in DoD, where Congress frequently delves into great detail. The continuing questions are — When does oversight become micromanagement? When does the Congress devote more attention to overall planning and framing of national defense and policy, with rational occasional review, rather than extensive line item control of individual defense activities? With the influx of new Members for the 104th Congress, the nature of oversight is changing to a more pro-defense nature. A subdebate is developing between the “Hawks” and the “Cheap Hawks.”

*The Congress, as an independent branch, in theory is responsible only to its constituents. After all, it is only the voters residing in a Member’s state or district who can grant or take away the Member’s job on election day. Even though there are other activities competing for a Member’s time and attention — such as political party and caucus assignments, Washington related social engagements, speeches to trade association conventions, and fact-finding trips abroad — characteristically Members individually and collectively have acted with their home voters foremost in mind. Therefore, it is logical that reelection, or for Members seeking another elected office, enhancing the next step, is the underpinning of congressional business. For a number of recent elections, House figures show approximately 95 percent of those standing for reelection are successful; in the Senate, approximately 70 percent. Those percentages were slightly skewed downward in 1994, but incumbent advantage remains. Most Republican seats were gained in districts where Democrat incumbents ei-*

ther retired or lost in a primary. The average tenure is over nine years. Thus, senior Members do have institutional memory.



# 5

## CONGRESSIONAL COMMITTEES

*Congress on the floor is Congress in exhibition. Congress in committee is Congress at work.*

—Woodrow Wilson, 1885

### Committees at Work

Wilson's observation remains appropriate today. The committee system, more than 200 years old, divides the workload of Congress. It distributes a wide-range of complex issues to work units specializing in those issues.

In the event committee jurisdiction overlaps, proposed legislation could be referred to multiple committees. Committees might vie for the right to have legislation referred to them or for review rights on some topical national issue. Several committees might hold hearings on similar subjects. Sometimes committees stretch issues into their jurisdictions by the manner in which they interpret their rights. The House used to refer bills to as many committees as had jurisdiction, but jurisdictional lines in the 104th Congress have been tightened and referral is more limited. The Senate does not disperse bills (except otherwise by unanimous consent), and refers defense bills only to the SASC. (Senate nuclear energy bills are referred to the Energy and Natural Resources Committee.)

Committees decide what legislation is likely to pass. For measures other than the annual defense authorization and appropriations

bills, from their tendencies to be slow, negative and excessively deliberative, Committees can be the “graveyards of legislation.” Passing a measure is more difficult than stopping one. Often, not enough time or interest can be developed for an issue to compel completed legislative action during a numbered Congress (every two years). Measures not enacted must be reintroduced during a subsequent Congress if the sponsoring Member(s) wishes to pursue it.

## **Organization and Structure**

Neither House nor Senate committees are required to be similarly organized and structured, including membership and the staffs. Each committee has rules and procedures developed over time. Each office reflects the Member’s interests, style, and constituency. The AM should know how each committee he has contact with is organized or conducts business, particularly in the House because of the 1995 reorganization.

Naturally, the AM’s concern is with the Defense Committees — HAC, SAC, HNSC, and SASC. (The Appropriations Committees, formed earlier, consider themselves “senior” to the authorizing committees.) Depending upon the nature of the chairman, the authorizing committees and the Defense Subcommittees of HAC and SAC have shown tendencies of independence within Congress. Their Members wield substantial influence concerning formulation of defense policy, programs, weapons, and their management and execution. Their staffs generally are regarded as experienced, capable, and realistic.

The committees discussed to this point are standing committees. Other committees are called joint and select. Joint committees (Members from each House) are established without legislative authority (cannot report bills to the floor) to study mutual concerns: taxation, economics, and the library. Separate select committees are established by each House and must be recreated by each Congress. Except for intelligence committees, they have no legislative authority (the license to introduce

legislation). Each holds hearings and issues reports. The select committees of most interest to AMs are those on intelligence.

The House Rules Committee, whose purpose is to funnel proposed legislation to the floor in an orderly way (i.e., control the legislative calendar), is a powerful low-profile committee. Members serve on no other standing committee to prevent possible conflict of interest. With no equivalent, similar Senate functions are performed by the Senate Majority Leader.

### **Committee Chairmen**

Authority and power in Congress are vested primarily in the chairmanships of committees and subcommittees. History indicates chairmen of defense committees and subcommittees frequently exerted dominating influence upon national defense through policy, program, and funding controls.

Chairmen today still impact heavily on defense matters but, operating in the atmosphere of recent reform, they have seen their power diminish (particularly in the House). They now appear more prone toward negotiation and consensus than before, including consultation on, or coordination of, committee activities with other senior Members. (The caucus of the full committee decides to which subcommittee a bill will be referred, and decides who will be subcommittee chairmen, further watering down the power of the committee chairman.)

From the reform era, one constant has remained. Committee and subcommittee chairmen always are from the majority party. Their performances are sometimes subject to public criticism by the leadership or by a Member of their party. Still, they possess much (but hardly unlimited) control of committee matters. Their authority includes the following three areas:

—Call the committee meetings, approve the agenda, schedule the witnesses for hearings, preside at the sessions (power of the gavel), and recognize Members for questioning and speaking.

—Orchestrate most committee activities (with limited power) to refer legislation to subcommittees, and manage committee bills when they reach the floor.

—Allocate funds to hire professional staff members, whose expertise, networking, and detailed committee work, provide the committee with a formidable power base for use by Members to achieve goals in return for their support and cooperation. The chairman sometimes hires staff himself, and some subcommittees hire their staffers.

Theoretically, the seniority system in the House is gone, but most chairmanships still go to senior Members elected by their committee's majority. The reforms also established clearer jurisdictional responsibilities for subcommittees, provided chairmen greater autonomy and authority from the full committee and guaranteed a relatively equal spread of chairmanships among Members. Today, the Senate has more subcommittees than Senators, and the House has enough subcommittees to provide one chairmanship for nearly every fourth Member. On the minority party side in both Houses, senior committee members in terms of service on the committee remain as ranking members.

### **Committee Assignments**

Committee work provides a Member a forum for making his mark and an impression for public consumption. New Members list committee assignments they prefer, and the leadership tries to accommodate. Reelected Members can request their committee assignments be changed, and they frequently are. The Member's background, interests, constituency, and unique qualifications are taken into consideration. "Good" assignments can enhance a Member's value to constituents, whereas "bad" assignments can impair one's influence and use in providing services. In either political party, Members without a major defense contractor or defense base generally might find it hard to be assigned to an authorizing committee (the

reelectability factor). Members may serve on more than one committee.

Significant differences exist between what Members are able to do with their assignments. Senators are fewer in number, serve for longer terms, and generally are more visible to the media. They serve on more committees and, thus, tend to be less expert on all issues their committees cover, relying more on staffs. Senators are more likely to get national media exposure. And, more of them run for president than do Representatives.

Representatives, on the other hand, by serving on fewer committees, have an opportunity to develop expertise in certain issue areas. They traditionally do more of their own work and rely less on staff. For groups or persons concerned with those issue areas, Representatives can provide in-depth insight and can become well known in those areas. For the most part, Representatives lack independent visibility and national stature.

Defense-related committees have tended to attract Members interested in defense policy and benefits derived from the defense budget. The military has a natural support base among these Members since most represent military bases or defense industries. Strong support for national defense is part of the political culture of many Southern and Western districts, even where bases or plants are few. Contrarily, until 1995 the HNSC attracted Members wishing to change the course (i.e., redirect) of defense policy or activities.

## Comparison Between Senate and House Committees <sup>1</sup>

Senate	House
1 Fewer committees and subcommittees	1 More
2 More assignments per Member (average: 11)	2 Fewer (average: 7)
3 Almost every Senator assigned to one of the elite four: Armed Services, Appropriations, Finance, Foreign Relations	3 Fewer assigned to power and prestige committees: Rules, Budget, Appropriations, Armed Services, Ways and Means
4 Committees review treaties and presidential nominations	4 Not a function of House
5 Senators can influence policy area regardless of assignments	5 Member's floor activity somewhat confined to bills reported by his committee
6 Subcommittee government noted on some but not all committees	6 The norm on many committees
7 Easier to bypass committee consideration (e.g., by offering riders) to bills pending on floor	7 More difficult
8 Chairmen have freer hand to organize and manage their committees	8 Chairmen subject to party and House rules limiting discretionary authority
9 Staff more aggressive in pushing their ideas and shaping agendas	9 Staff generally less assertive in advocating own agenda
10 All majority Senators usually chair subcommittee regardless of longevity	10 Representatives of majority party usually must wait a term or longer

<sup>1</sup>Davidson, Roger H. and Oleszak, Walter J., *Congress and Its Members*, Third Edition (Washington: CQ Press, 1990).

# 6

## CONGRESSIONAL STAFFS

*Recognize that some staff members have their own personal agendas — they, too, are ambitious — and that they, too, are in a revolving door. They may influence their Members accordingly.*

—Senior Aide to “reform” Member of the Congress

### Role of Staffs

The role of congressional staffs, especially committee staffs, has mushroomed in recent years. The role has become such a force behind the congressional decision making process that staff is often referred to as “the unelected fourth branch of government.” With the great numbers of newly elected Members of the 104th Congress, for a while, at least, those Members may feel more comfortable with their personal staffs as they work to be reelected, and rely less on committee staff until gaining political stability.

Before 1946, few staff personnel worked for Members of committees. Members did most of their own work, read all their mail, drafted their legislation, and had continuing direct interface with their colleagues. The workload and issue complexity were much less than they are today.

*Realize the important roles played by staffs.* Most communication and direct contact between the AM and Congress are through staff personnel rather than with Members. The Members’ extremely busy schedules and the multitude of items begging their attention dictate even-increasing reliance on staff in the performance of their duties.

The number of staffers interacting with the AM is small, frequently the same ones repeatedly, facilitating his ability to know their personality, styles, and position on issues.

## **Division of Work**

Myriad complex issues, constituent demands for services, the increased population served, and the perceived need to monitor executive branch performance have resulted in significant staff growth, and the number of buildings housing them. The trend in the several years before the Republican takeover in 1995 the overall staff numbers had dropped and leveled off below the peak of 20,000-plus in the 1980s. The majority of staff do not work directly on legislation but work in constituent, administrative, security, and support areas in offices around Capitol Hill.

Staffers with whom the AM is most likely to have contact fall into two categories — Members' personal staffs and committee staffs. Each serves for a different purpose and bring many dissimilar characteristics to their jobs.

Many of the approximately 10,000 personal staffers, particularly those in the district or state offices, work on constituent-related case work and public relations activities. The role of personal staff is to help reelect their employer, the Member, who hires and fires them. Some 3,000 staffers work on committees or support them. Numerous staffers draft legislation and review programs (assist with oversight) of the executive branch. Their role is to help achieve the committee's agenda and goals. Approximately 4,000 staffers are employed by congressional support agencies such as GAO. These agencies provide direct service to members and committees as "adjunct staff."

*Congressional staff are equivalent to executive assistants in the Pentagon and often wear their bosses' stars. (For protocol purposes, DoD accords staffers DV-5 [two-star] status.)* The

AM should avoid running around a Member's personal staff in Washington or in the state or district offices. Everything said to staff can end up in the Member's ears. The AM's humility will pay off in the end.

## **Personal Staff and the Member's Office**

### **Who They Are**

Each Member is allotted a staff to serve him personally. The number he can hire is discretionary within (House) a pay allowance and up to 18 full time; and (Senate) an allowance, with extra allowance depending upon size of state, with no number limitations. Members are free to pay whatever and hire as many as they wish as long as they remain under caps (individually) and within the total allowance. If Members wish, additional staff can be hired out of their pockets. Staff are not "GS/GM employees," do not have Civil Service protection or benefits and can be fired at will. The longer a Member stays, usually the smaller the staff (so they can be paid more). Young people not long out of college often handle sensitive issues with lots of responsibility.

Personal staffers tend to be young, recent college graduates, some with advanced or law degrees, generalists and underpaid (most earning about \$30,000 or less). Of course, there are personal staffers with defense expertise, some of whom serve in the offices of senior defense committee Members. Work days of 10-12 hours or more are commonplace. Often there are not job descriptions as such, and a staffer can be asked and expected to do anything. Staffs, as part of the Legislative Branch, are not subject to the same protections and procedures (e.g., equal employment opportunity) as staffs in the Executive Branch, and can be terminated for cause immediately. Turnover is frequent since many staffers use congressional experience to move on to other endeavors. It can be frustrating to "old hands" around Washington having to break in new inexperienced staffs, and again cultivate new relationships.

Personal staffers generally are of two types — those closely associated with a Member who come from his state or district and who may have labored on his election campaign, and “career” professional personal staffers who move from one Member’s office to another. The former often come to Washington with limited or no knowledge of the city’s politics, or experience or expertise in issues of concern to the Member. For these staffers, time and the job itself educate them. Their strengths lie in familiarity with and loyalty to the Member and their knowledge of and contacts with the state or district. The “career” staffers, without the close ties, provide “corporate memory” of the congressional signature of the state or district. They may have worked for the Member’s predecessor, and are “street smart” about Capitol Hill, the legislative process, and dealing with the Executive Branch. Personal staff usually are partisan.

### **How Staffs Operate**

The key personal staff positions are —

Administrative Assistant (AA), usually the number 1 position, who serves as a chief of staff for office operations; all positions report to the AA or through an intermediate level.

Legislative Director (LD), serves between the administrative assistant and the legislative assistants, and is the most experienced legislative staffer; does not usually participate in hearing unless on issues under his domain.

Legislative Assistant (LA), the person(s) involved in drafting and reviewing legislation and programs; reports to the LD.

Military Legislative Assistant (MLA), the person who tracks military (defense) issues for Members on defense committees or with special defense concerns.

Press Secretary, who keeps the Member’s name favorably in the media.

The Member's personal secretary.

Field Representative/Assistant, who runs the state or district office(s), frequently represents the Member at local functions, and handles much of the constituent casework.

Any of these staffers might communicate with the AM on behalf of the Member, particularly regarding industry constituents, procurement, or expressing the Member's sentiments on defense.

Much of the personal staff's workload is casework, or handling constituent communications. In district/state offices, where the Member is "service-oriented," it's their primary job. Most of this is mail. Millions of letters arrive annually on Capitol Hill or in the district/state offices. All must be processed and answered. Casework includes requests for information or status, questions regarding the Member's position on an issue, requests for follow-up with a federal regulatory agency on a personal or community problem, help with an entitlement (i.e., social security or veteran's disability) or a personal gripe or opinion. Some small defense contractors might use the casework route for a problem with DoD.

### **Member's Office**

Each congressional office is different, suiting the personality and desires of the Member. The majority of staffers are placed in Washington, where office space is severely limited and crowded, or in the home state or district, where office space in a federal building or commercial property is more readily available. Some Members prefer to have staff in Washington, particularly if their images are national, they are legislation oriented, or the challenge to reelection is minimal. Larger state or district offices are typically the product of a newer Member choosing to establish himself as accessible to the people, a Member with a serious reelection challenge, or a primarily constituent service-oriented Member without aspirations for national office.

## Committee Staffs

### Who They Are

Until 1995, rapid growth was a byword for committee staffs, and from 1970 to 1980, defense-oriented staffs grew from 35 to nearly 90 people. In the reorganization of the 104th Congress, the numbers have shrunk by as much as 30 percent in keeping with the Republican platform. Like personal staffs, they are not under the Civil Service system. They are hired directly by the committee chairman or by a Member and placed on the committee staff, in the latter case serving both committee and Member. The House has indicated it may have no more dual-hatted committee staff after the 104th.

Committee staffs tend to be older than personal staffs, more experienced with areas of expertise, technically competent, and lawyers or holding advanced degrees. Committee staff generally have higher salaries than personal staff, some ranging from \$70-90,000. Some are retired from the military or other federal service, or have experience in either, a significant situation on defense-oriented committees. In a recent observation, the HNSC professional staff tended to be one-third academic, one-third with Hill experience, and one-third with operational experience. For those working with Congress for a while (it is not unusual to work most of a career with a committee), the usual path would be personal staff to committee staff, not the reverse. Committee staffs are housed on Capitol Hill. They frequently travel alone with other staff or with Members on fact-finding trips or hearings to home states or districts.

Owing their allegiance to the chairman, the Member hiring them, or the committee itself, committee staffs are nonpartisan, bipartisan, or partisan, reflecting committee traditions. The SASC has majority and minority staffs serving membership of both parties. The AM should be aware of any partisan nature of a staff to understand the political climate in which he works.

Because no committees are organized alike, staff titles in one committee might not mean the same in another. However, the “small letter” title of professional staff member (PSM) generally applies to staffs in the non-support and non-clerical areas. The AM usually will have contact with the PSMs. Regarding tenure, HAC PSMs tend to be 7-8 years, and SAC PSMs, 4-6 years. Their backgrounds are heavy in auditing and budget.

Generally, titles for key staff positions are —

Staff Director, chief executive officer (chief of staff) for the chairman;

General Counsel, top legal advisor frequently taking a lead role in drafting legislation (and herding it through the process) and reports;

Chief Clerk, responsible for committee administration and personnel;

Counsels, usually lawyers assisting general counsel; and

PSMs, performing much of the budget review and program oversight functions.

### **Roles of Committee Staffs**

Staff assistance has gone well beyond the old days of preparing hearings’ transcripts for publication and coordinating witnesses. Now, in helping defense committee Members address issues, draft legislation, review the budget and execute oversight responsibilities, committee staffs have evolved into significant players with substantial authority. Their competence, along with the availability of defense program and funding information, enables them to exert extraordinary influence and weight in recommending positions and decisions.

Committee staffers tend to specialize and possess a repository of facts and knowledge. Their information sources and networking are developed from long or proven associations with

DoD and other contacts. Each staffer wants to be as knowledgeable as possible in his defense area, because on Capitol Hill a person with information and expertise — highly marketable commodities — has considerable influence and leverage.

*Know the sensitivities of relationship among majority and minority staffs where those divisions exist. Cultivate and maintain both sides.*

At the direction of the Member or chairman, staffs routinely are expected to perform the following missions.<sup>1</sup>

Suggest areas of inquiry.

Draft correspondence and reports for the chairman.

Prepare questions for use during hearings. On occasion, in committee sessions they question witnesses and propose motions.

Prepare summaries of hearings for all minority Members and follow-up with witnesses for additional information.

Draft legislation and amendments to legislation.

Prepare reports for Members on pending legislation, bill status, daily summary of committee-related items in the *Congressional Record* and executive committee minutes.

Maintain communications with executive branch on its legislative proposals, rules, regulations, and guidelines.

Monitor administration and impact of federal programs under their committee's jurisdiction through briefings, correspondence, inquiries, investigations, studies, visits, and the telephone.

Maintain committee administrative records, including hearings, transcripts, budget, travel, and legislative history of bills.

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<sup>1</sup>*A Guide to Capitol Hill*, Government Affairs Institute.

Develop and maintain contacts with experts “sources” to gather information, opinions, reactions, and ideas.

Speak before conferences, seminars, panels, and groups.

Answer approximately 700 calls per week from Members’ offices concerning pending legislation, and another 250 calls on the same not originating in Members’ offices.

Preparing news releases, arrange news conferences, respond to media questions, and assist Members with speeches, constituent problems, and radio and television programs.

Maintain liaison with other staffs in each House.

Arrange and conduct briefings for Members, legislative assistants and interest groups.

Meet with lobbyists and special interest groups.

Both personal and committee staffs hire retired military officers and former civilian Federal Government employees, in mid-career or retired, to perform in their areas of expertise. Active duty military officers are frequently found as legislative fellows on staffs and can provide AMs with a conduit through the maze.

*Expect communications from staffs.* In performing their jobs, staff will need to get answers, positions, policy, figures, and facts. Most of the time they deal through the DoD comptroller on budgetary matters, and the OSD or Service legislative liaison offices (LLOs) for program matters or through the chain of command. Other times, they go directly to the AM. In the end, many communications may be channeled to the AM. The AM must keep these things in mind; (1) normally, the communication is coming in the name of the Member, committee chairman or committee, this should not be second guessed or taken lightly, even if

the authenticity might be questionable; (2) determine the request's origin and urgency and decide how critical it is; (3) a quick response is expected by the staffer and is in the program's best interest (if it comes during markup, the AM must drop everything else to reply); and (4) OSD and Service procedures must be followed regarding in-house after-action reports on the contact and information provided or, if there is time, prenotification.

# 7

## DoD LIAISON WITH CONGRESS

*There is a lack of experience in the Pentagon in congressional affairs, rather than the reverse of a lack of military experience in congressional staff.*

—Senior Aide to U. S. Senator

### DoD Liaison Policy and Operations

The DoD policy is to make *accurate* information promptly available to Congress. However, this policy is limited only by pertinent regulations relating to security and protection of individual privacy and to official information that requires protection in the public interest.

Provisions of federal law limit certain forms of communication by federal officials with Members and the public. Unsolicited communications with Members must be through official DoD channels authorized to speak to Congress on behalf of DoD.

Some legal interpretations conclude agency heads and certain senior political appointees are exempt from some lobbying restrictions. The Legislative Liaison Office (LLOs), along with the Office of General Counsel, if necessary, will assist AMs in determining the propriety of program office and congressional communications. However, it would be considered appropriate for an executive branch official to initiate contact with a Member, if the intent is to keep the Member apprised of developments on an issue to which he expressed earlier interest. Additionally, guidance concerning the transmission of legislative

proposals, comments on draft legislation, and testimony dealing with legislation is delineated in Office of Management and Budget (OMB) Circular A-19.

On recent occasions, the executive branch may be seen as stretching the spirit of the “lobbying law” under the assumption they are “providing information” to the Hill, not in all cases requested. This may take the form of visits to Hill offices with weapon systems information or invitations to Members and staff to visit DoD activities. With the influx of freshmen Members in the 104th Congress, this more aggressive approach can be helpful to offices lacking military experience or knowledge. Members, DoD officials and staffers on both sides of the Potomac are faced with an unusual political turnaround of reversed typical roles, and are seeking the appropriate water level.

*Understand the political dilemma and emotional drama in both Pentagon and Capitol Hill. Old contacts, loyalties, and information sources may be gone or altered. The AM is wise to be honest and above board consistently, regardless of the parties with whom he must conduct business.*

### **AM Interactions with Congress**

The DoD AM — certainly the Program Manager (PM) — is likely to conduct business with Congress in the following areas:

Articulating program details, like system performance parameters, number to be procured, acquisition strategy, test and evaluation results, funding profiles, and schedule problems;

Articulating management of the program, including how decisions are made, contractor relationships, the review process, the advocacy, and staffing, and organizational problems;

Reporting status of any item and changes when occurring or anticipated;

Providing input material to witnesses for budget and oversight hearings;

Appearing as a primary, supporting or backup witness at a committee hearing;

Providing program briefings;

Providing written or oral responses to congressional inquiries;

Editing draft hearing testimony transcripts;

Arranging for or escorting Members or staff visiting contractor facilities or DoD field activities;

Preparing, reviewing, or supplementing program and funding status reports; and

Tracking, keeping the history, and relating back to what was previously said to the Congress on any item.

*The DoD speaks with one voice.* Agree with the team approach. The AM must know what has been said officially, support it, and not hedge.

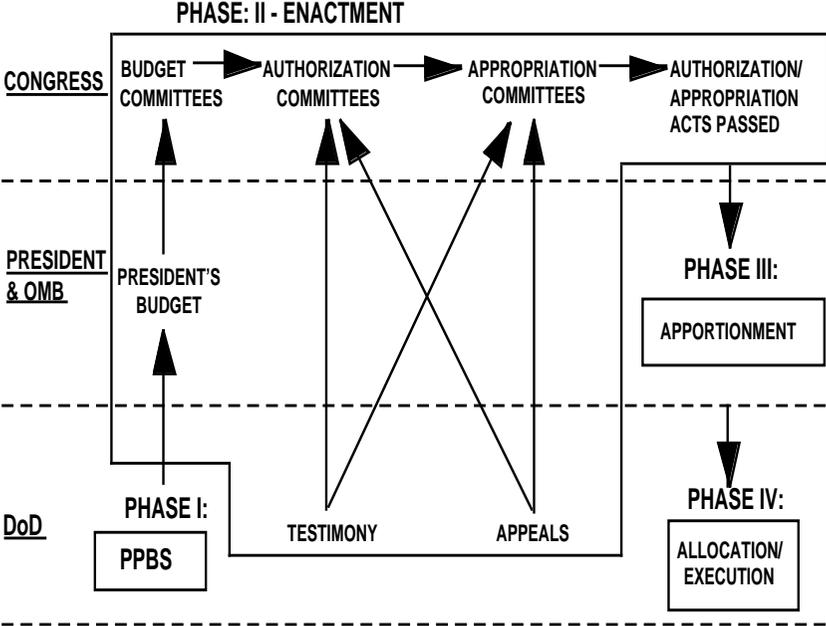
## **DoD Liaison Offices**

The DoD liaison with Congress is divided into appropriations and non-appropriations matters. Each is handled in a separate office within the OSD and the Services/Defense Agencies (S/DAs).

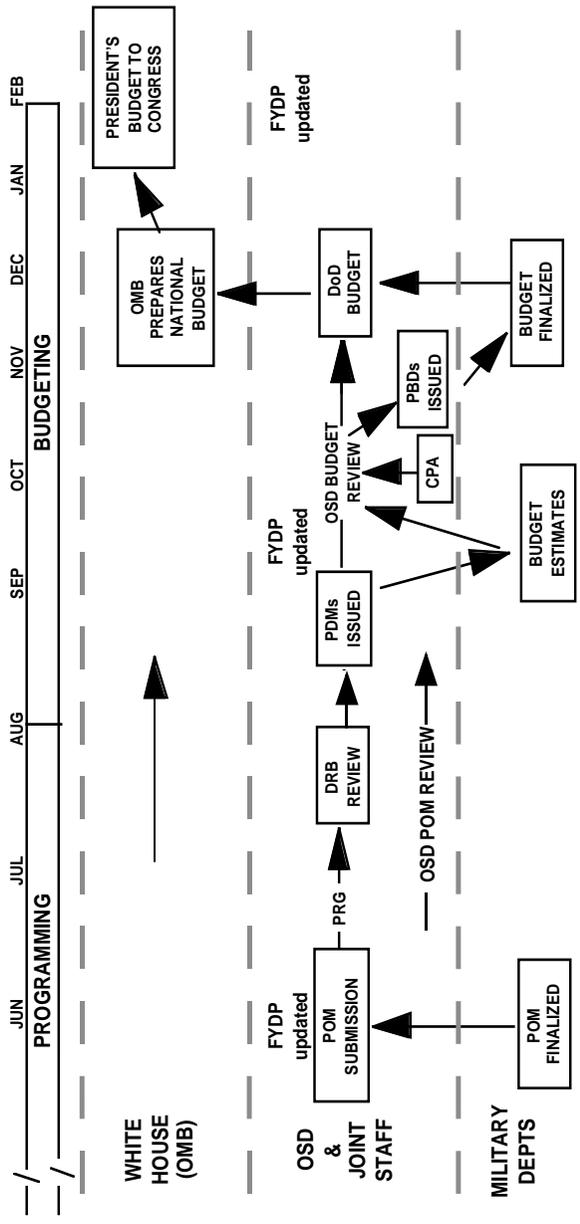
### **Appropriations (Budgetary)**

At the OSD/DoD-wide levels, the Office of the DoD Comptroller conducts liaison with the Senate and House Appropriations and Budget Committees.

# RESOURCE ALLOCATION PROCESS



# PPBS Programming and Budgeting Cycles (even years) (illustrative biennial PPBS process)



OMB: Office of Management and Budget  
 OSD: Office of the Secretary of Defense  
 FYDP: Future Years Defense Program  
 PRG: Program Review Group  
 CPA: Chairman's Program Assessment  
 DRB: Defense Resources Board  
 PDM: Program Decision Memorandum  
 PBD: Program Budget Decision

Cochrane/DSMC/Dec 1995

## **Authorization (Non-budgetary)**

At the OSD/DoD-wide levels, the Office of the Assistant Secretary of Defense (Legislative Affairs), ASD(LA), conducts liaison with the SASC and HASC and other committees interacting with DoD, except those concerned with budgetary matters.

The S/DAs conduct congressional liaison using similar offices and in the same manner as OSD. The big difference may be in titles.

*Learn when and how to use DoD congressional liaison offices.* The OSD and the S/DAs have central offices designated for conducting liaison with Congress. The AM must work through these offices in normal circumstances. Most, but certainly not all, congressional requests for information go via the OSD, Service comptroller, or LLO. The AM must understand roles of these offices and learn how to use them for the success of his program. The AM should consult appropriate OSD and S/DA directives regarding actions to take. They are listed in Appendix C.

## **Comptroller Liaison**

Responsibilities of the DoD Comptroller and S/DA comptrollers include: the planning, programming, and budgeting system (PPBS); budget formulation and execution; financial management; and information to support justification of the budget to Congress. In carrying out the last responsibility, the comptrollers will interface with the AM.

Usually, only comptroller representatives discuss funding matters with Congress. Two reasons for this requirement are: the common fiscal control function between military budget offices and the corresponding committees, and the fact that only one set of funding figures should be provided from a central source to avoid inconsistency or inaccuracy. The two appropriations

committees have reviewed military budgets for 60 years, developing a close trust relationship with comptroller offices. Defense subcommittee staffers often have military comptroller experience to reinforce this bond. (The DoD Comptroller in the Clinton Administration is a former SASC staffer.)

*Congressional inquiries on budgetary matters must be referred to the comptroller. In spite of best efforts, the speed with which numbers fluctuate may make it difficult for the AM to have the latest numbers, either actual program costs or numbers in next year's budget. It makes good policy and good sense to check with the comptroller's shop.*

## **Legislative Affairs**

The OSD LLO is headed by the ASD(LA), a civilian presidential appointee. Typically, the ASD(LA) and his top politically appointed assistants include staff service with Members or congressional committees. That office acts as the focal point for liaison on matters concerning defense authorizations, DoD-wide policy inquiries, and cross-service issues. The office is staffed by MP of all Services and career civil service employees. Most staff action officers have "graduated" from the Service LLOs, bringing a wealth of Pentagon and Hill savvy. A military O-5/6 is assigned liaison with the USD(A&T) and is an extremely valuable contact for AMs on any acquisition matter.

The Office of the ASD(LA), called OASD(LA), is responsible for DoD legislative program coordination, congressional liaison (including arrangements for witnesses and testimony at hearings, congressional inquiries), DoD support of congressional travel, and security clearances for congressional staff.

The OASD(LA) performs liaison that transcends the Services (i.e., defense policy, acquisition policy, base closures, etc.). They are more active politically than S/DA counterparts and have deeper and more frequent contacts with The White House and the Hill. The OASD(LA) can provide information on who is

pro/con defense, who favors what Services, identify who might be concerned with an issue, and speculate how a Member or committee might act. The OASD(LA) can fashion a strategy regarding interests of Members and can generate sessions with them to advance those interests.

The Joint Chiefs of Staff, Army, Navy, and Air Force each has an LLO headed by a military director, usually of two-star rank, who serves as OSD's counterpart. The LLO main offices are in the Pentagon. Branch offices are in the Senate and House office buildings to nurture good relations, keep communications open, provide services to Members and committees, perform some casework, escort Service visitors and witnesses, and escort Members on official travel.

*The LLO staffers are not supposed to be experts in the AM's areas, nor advocates for programs. They walk a fine line and would rather the AM sell the program. Congress prefers the LLOs act only in a liaison capacity to maintain credibility. The LLOs can lead and help open doors, but they cannot do the AM's work. Involve them in the evolution of strategy to establish and maintain good relations.*

### **Service/Defense Agency LLO Activities**

The S/DA LLOs perform similar activities as the OASD(LA), but probably get into more programmatic detail. Duties include:

Acting as a buffer between AM and Congress by responding to questions beyond AM's reach or expertise, like policy or the latest DoD position.

Acting as a clearinghouse for defense information.

Explaining programmatic or defending budget requirements, not necessarily clarifying themselves, but by getting together the right people from DoD to meet with concerned congressional parties.

Pre-briefing the AM and other DoD officials on what to expect before visiting Congress, accompanying them, and conducting post-visit critiques.

Coordinating “murder boards” for testifying officials before hearings or other visits.

Notifying Members and committees about installation matters, including openings, closings, construction, and major policy changes.<sup>1</sup>

Notifying concerning contract awards in accordance with the Federal Acquisition Regulation (FAR) and 10 U.S.C. 2316.<sup>2</sup>

Providing an “inside look” into possible political or sensitive ramifications unknown to the AM.

*The AM must realize not all congressional inquiries will come through proper channels. Some will come directly to him, particularly if previous contact has been made. Regardless, the AM should take care with all information he releases, record the transactions, and notify his superior and the LLO.*

## **Congressional Access to Classified and Sensitive Matter**

Members and staffs are authorized access to classified and unclassified information when necessary to perform governmental functions. Members have clearances for classified matter by virtue of their election to Congress but the level of clearance is left open. Staff clearances are processed by OASD(LA) and go through the same background investigations as do DoD personnel. When granted, the clearances are for a certain level.

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<sup>1</sup>The AM must be extremely careful about transmitting contract award information. Coordinate all notifications with the contracting officer, LLO, and consult the FAR, DFARS, and Service Supplements.

<sup>2</sup>Ibid.

Members and staff usually require a “need to know” before being given classified information. Not all such material has to be released to them. Besides classified material, other sensitive DoD material, some of which may be unclassified, may not be releasable. This includes contract or contractor information, proprietary technical data, material covered under the Privacy Act, internal DoD budget documents such as the Program Objective Memoranda (POM), or when executive privilege is invoked. Intelligence committees can dictate in what form Members have access to data and do a good job while maintaining secrecy. Some Members do not wish to know secrets because it would inhibit their debate on those issues.

The foregoing analysis applies to Members acting in their personal capacity, and for their personal staffs. It does not apply to an official request from a committee or from a Member acting in an official committee capacity. (For instance, note whether the Member uses committee or personal letterhead as the basis for his request when writing. Attempt to determine whether Congress is asking for the information on behalf of a committee or a corporate constituent.) Information can be denied if it involves a case in litigation. The AMs must exercise extreme care in dealing with such situations and should only respond by explaining that release of requested information could jeopardize the government’s case. The AM could offer to provide details at an appropriate time to demonstrate good faith. It is always prudent to involve General Counsel in cases of this nature.

*The AM must avoid establishing an independent game plan for doing business with Congress. Because the AM — especially a PM and staff — might not be privy to grand strategy by top management or the LLO and, thus not realize his program’s place in the big picture, the idea is dangerous. For sure, playing off or currying favor with state delegations concerning contract awards is a clear case of “shooting oneself in the foot.”*

The release to Congress as “the institution” potentially raises the question of executive privilege, a situation that must be referred to top management. Generally, it is the exception to the rule when it is not turned over to Congress, “the institution.” When classified or sensitive material is given to Congress, generally it is caveated against public disclosure. Usually, such decisions within DoD are made by top management.

### **Unauthorized Release of Information**

Unauthorized release of information to Congress is frequently counterproductive and should be avoided meticulously. This category ranges from deliberate release in advance of official release times to “score points” and be a “good guy,” to outright ignorance of procedures.

*The AM should contact the LLO immediately for guidance if any question arises concerning release of classified or sensitive material to a Member or staffer.*

### **Notification of Contract Award**

The FAR (at Section 5.303, DoD Federal Acquisition Regulation Supplement (DFARS) and Service Supplements) calls for the contracting officer to forward to the Service LLO and/or higher headquarters, relevant contract award data, on contract actions greater than \$5 million, one to three days in advance of the anticipated award date. The Service LLOs prepare written award notifications and provide them to interested congressional offices on the award day, after the stock market closes. The advance submission to higher headquarters (not Congress) is necessary to allow for announcement preparation and thorough coordination within the Pentagon. While going through the high-level coordination cycle, the information is treated as “Source Selection Sensitive.”

Three things happen nearly simultaneously after the market closes. The contracting officer, or someone in the chain, notifies

the successful offeror. The Service LLO notifies interested Members. The OSD and S/DA public affairs offices make the information available to the Pentagon media pool.

*The LLOs strive to keep Congress out of the source selection process. We in the acquisition business cannot create or nurture the perception that Members participate on a source selection advisory council or source selection evaluation board. Most Members recognize the risks of interfering in the process and “taking credit” for contract award decisions. The DoD awards contracts based upon legitimate needs, ever vigilant in protecting the taxpayers’ interests.*

# **Finding Out About the Status of Pending Legislation, Congressional Committee Hearings and Floor Action**

## **General Sources**

The Bill Status Office provides legislative status information on all bills and resolutions before the Congress. The office is located in Room 696, House Annex No. 2, 2nd and D Streets SW, phone: (202) 225-7598.

*Today in Congress* is a column which appears daily in *The Washington Post* when Congress is in session.

U.S. Capitol switchboard telephone information number: (202) 224-3121.

## **In the House**

House Republican Cloakroom: Recorded Messages

House Floor Action: (202) 225-7430

Legislative Program: (202) 225-2020

House Documents Room—located H226 U.S. Capitol: (202) 225-3456

Distributes House bills, reports, public laws, and documents.

Committee-produced materials should be obtained from the Committees themselves.

House Democratic Cloakroom: Recorded Messages

House Floor Action: (202) 225-7400

Legislative program: (202) 225-1600

Republican Cloakroom: (202) 225-7430

Democratic Cloakroom: (202) 225-7400

Majority Whip: (202) 225-0197

Minority Whip: (202) 225-0100

Daily Digest: (202) 225-2868

### **In the Senate**

Senate Republican Cloakroom: Recorded Messages describes Senate floor action: (202) 224-6191

Senate Democratic Cloakroom: Recorded Messages describes Senate floor action: (202) 224-4691

Senate Documents Room: Distributes Senate bills, reports, public laws, and documents. Committee-produced bills should be obtained from the Committees themselves, located at B4 Hart Senate Office Building: (202) 224-7860

Republican Cloakroom: (202) 224-6191

Democratic Cloakroom: (202) 224-4691

Majority Whip: (202) 224-2708

Minority Whip: (202) 224-2158

Secretary: (202) 224-2115

Daily Digest provides information on chamber action and committee meetings: (202) 224-2658

Senate Executive Clerk: S227 U.S. Capitol: (202) 224-4341

When Congress is in session, this office handles all information and materials related to treaties submitted to the Senate for ratification. When Congress is not in session, check with the Senate Documents Room.

# ***II***

## **CONGRESS AND THE LEGISLATIVE PROCESS**

# 8

## CONGRESSIONAL BUDGET PROCESS

*Authorizers give us the hunting license. Appropriators give us the rabbits.*

—Senior Staffer in Congressional Budget Process

The primary responsibility of Congress is to legislate — to pass laws by which the country is governed. Therefore, legislation occupies most of the annual congressional agendas. Budgetary (money) bills are most numerous.

The two types of bills involving DoD are authorization bills, which authorize programs and specify how much (the maximum) can be spent on those programs, and appropriations bills, which provide the “money” (the actual amount of “budget authority” (BA) provided by Congress, to enter into obligations). The annual concurrent resolution on the budget and, if required, the continuing appropriations resolution, although not actually bills, are also major legislative activities. Authorization and appropriations bills appear on the congressional calendars about the same time each year.

### **Budget Process at Work**

The process through which the President’s budget is acted upon, with its authorization and appropriations bills, preceded by a concurrent budget resolution in both Houses that sets budget limits, is called the congressional budget process. It is also

referred to as the enactment process, whereby Congress enacts legislation giving the Executive Branch its BA with which to operate.<sup>1</sup> The process begins when the President submits his annual budget to Congress by the first Monday in February, outlining the needed funding of the Federal Government for the next fiscal year (FY) which starts in October.

*Understand the particulars of the congressional budget process.* The AM is not expected to be an expert on any budget other than his own, but it makes good sense to follow and comprehend what Congress is doing to his program. The process tests the political skills of DoD witnesses in articulating requirements to a legislative body of diverse interests and perspectives, and of DoD staff who track bills through their checkpoints. The process is complicated, mostly tedious, sometimes frustrating to watch, rarely totally satisfying to defense advocates, and usually late. Occasionally, a program is increased or deleted. Most often it is pared. To remain as requested is good fortune.

### **Congressional Budget Process Timetable**

The accompanying “Congressional Timetable” figure displays how the budget resolution and authorization and appropriations bills make their way through the congressional budget process. Additionally, the following dates are important.

5 days prior to President’s Budget Submission: CBO Sequestration Preview Report

First Monday in February: President submits his budget; OMB Sequestration Preview Report

6 weeks after the President’s Budget Submission: congressional committees submit views and estimates to budget committees

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<sup>1</sup>Enactment also is the second phase of DoD’s four-phase resource allocation process: (1) PPBS; (2) enactment; (3) apportionment of money by the OMB; and (4) execution, obligation, or spending of the money.

1 April: Senate Budget Committee reports concurrent budget resolution to Senate

15 April: Concurrent budget resolution

15 May: Annual appropriations bills considered on the House floor, even if budget resolution has not been passed

10 June: HAC reports final appropriations bills

30 June: House completes action on annual appropriations bills

15 July: President submits mid-session review of the budget

10 August: Presidential notification exempting MP from sequestration

15 August: CBO sequestration update report

20 August: OMB sequestration update report

10 days after Session: CBO final sequestration report

15 days after Session: OMB final sequestration report; Presidential order

30 days later: GAO compliance report

### **Budget Enforcement Act (BEA)**

Passage of the BEA in 1990 after a budget “summit” between The White House and Congress altered and complicated existing legislation to control the federal deficit and spending. The previous law, called Gramm-Rudman-Hollings (GRH), was intended to reduce the deficit. But it fell woefully short of its goals, and radical changes became necessary.

The GRH established a budget process calling for a balanced budget by FY 1991, achievable by identifying a deficit target

for each FY so that if the target were exceeded, Congress and the President would have 30 days to fix it. If Congress and the President were unable to agree on the cuts, an automatic trigger would be invoked, known as sequestration.

However, the BEA shifted emphasis from deficit reduction to spending control. It created spending “caps,” or ceilings, on categories of discretionary appropriations, established new sequestration procedures to enforce the caps, and required all entitlement program (e.g., Social Security) increases and revenue reductions to be on a “pay-as-you-go” basis (no borrowing). The BEA set spending caps for five years, which have since been extended by the Omnibus Budget Reconciliation Act of 1993. Although projecting that deficits would decline, BEA did not require or predict that the deficit would ever reach zero.

The BEA divided spending into two areas: discretionary appropriations, and mandatory spending or entitlement programs. Discretionary spending was divided into three independent categories (defense, domestic, and international) for FYs 91-93. For FY 94 and beyond the categories are combined into one. Both new BA and outlays (funds actually spent in a FY) have separate limits or caps. The BEA allows the President limited authority to adjust the caps each year, probably upward, for economic and technical reasons. Additionally, adjustments can be made for what the President and Congress both agree to designate as “emergencies” (e.g., Operation Desert Shield). Otherwise they are fixed amounts which may not be exceeded without triggering sequestration.

(NOTE: Discretionary items comprised approximately 70 percent of the federal budget in 1963 versus 36 percent today. Entitlements have grown from about 29 to 64 percent over the same period. Since mandatory spending does not require annual appropriations, it is the discretionary items that traditionally receive the most attention from Congress and the public. Today, however, entitlement programs are by far the largest portion of the federal budget, and potentially have the greatest impact on deficit control.)

Under the BEA, sequesters could occur more often than under the previous law. To the AM, this threat is the BEA's major force, since sequesters could reduce available program funding in both the current execution year and the next FY. The AM may find himself swept into a political turmoil able only to pay attention and ride it out, while planning alternatives.

### **“Two-Step” Budget Process**

Another name given to the congressional budget process is the “two-step” process, the means through which Congress provides defense funding by the authorization step first, followed by the appropriations step. In actuality, it is more of a “three-step” process, counting the concurrent budget resolution. This precedes authorization and sets annual total federal budget targets (caps) for the authorizers and appropriators to work toward.

The origin of the “two-step” process was a House of Representatives rule in 1921 which decreed appropriations could not be recommended by appropriations committees for purposes not authorized by law. (Remember, all “money” or funding bills originate in the House.) Similarly, another rule prohibited the substantive committees, such as Armed Services, from adding appropriations to the authorization bills after they had been reported out of committee. In 1959, the process began a detailed review of the entire defense budget. Public law established no funds could be appropriated for procuring aircraft, missiles, or ships unless that appropriation had been authorized by legislation. Subsequently, requirements were added to include almost everything we spend money for in DoD, and everything in systems acquisition.

In other words, the procedures have evolved into:

The authorizing committees authorize programs (including quantities) and set funding ceilings for those programs;

The appropriating committees can fund only those programs which have been authorized, for any amount, but for no more than the ceilings;

Authorizers cannot add funding to their authorization bill after it reaches the floor of the House for full debate;

Appropriators cannot authorize programs not already authorized by authorizers; and

Appropriations can choose not to fund authorized programs.

In reality, these rules are not always followed to the letter. Although certainly not routine, in recent years appropriators have, certainly funded programs not authorized by authorizers. The DoD has seen these turnabout possibilities as a two-edged sword. It can work to DoD's advantage when a favorite program sought in the authorizing committees, but not authorized, is picked up in the appropriations process. To DoD's disadvantage, some factions in Congress have used the appropriations process to add a program not desired by DoD or the Armed Services. The DoD is not supposed to start an unauthorized program. Generally speaking, if a program is funded without authorization, the matter is worked out among DoD and the authorizing and appropriating committees.

## **Concurrent Resolution On The Budget**

### **Budget Committees**

The Senate and House Budget Committees (SBC, HBC) were created by the Congressional Budget and Impoundment Control Act of 1974 which also established the budget resolution requirement and the CBO. Neither budget committee has subcommittees, although the House has several "task forces." The committees hold hearings, usually with senior administration officials. It is unlikely the AM will be asked to assist in activity with the SBC or HBC.

The committees annually determine the appropriation limits for the FY under consideration, using the President's budget and input (views and estimates) from standing committees and the CBO. They work simultaneously to bring the concurrent resolution on the budget to the floor in each house.

## **Budget Resolution**

After submission of the President's budget and its current services (not military services, but programs the government intends to provide the public) estimates, the CBO, acting for Congress, prepares a similar report called the Current Policy Budget Estimate (CPBE), using independent economic assumptions. The CPBE is sent to the SBC and HBC where it becomes a baseline and is assimilated with projected estimates from all standing committees regarding funding required to continue their programs. These data are used by the budget committees to develop recommended target revenue and spending guidelines for the coming fiscal year. These guidelines, brought to the floors of both Houses as concurrent resolutions on the budget, set overall spending levels for use by the authorizers and appropriators.

The budget committees make aggregate, not line item, decisions, asking the question: "Does it fit the policy objectives of the committee Members?" The budget resolution, by definition, is not law but only advisory, a congressional planning document in the form of a summary table. However, it is binding upon Congress to the extent that if a bill exceeding the ceiling in the Resolution reaches the floor, a vote of 60 percent of the total membership is required to change the ceiling.

Within the law, no authorizations or appropriations can be considered until the budget resolution is passed. In reality, they are, because of the usual delays in passing the resolution which cause severe time constraints. Practice has been for the authorizing and appropriating committees to begin their work without the budget resolution if necessary. (In 1986, the first year of

GRH, the Senate and House did not adopt the budget resolution until late June, more than two months behind schedule.)

The two separate resolutions are debated on the floor of both houses and passed. Considerable attention is paid to defense and other discretionary funding areas. Generally, there are differences, requiring a conference committee. By law, the conference agreement must be met by April. It may match the President's total budget request but, more likely, Congress exercises its prerogatives regarding appropriations.

### **Reconciliation**

The resolutions set limits but do not spell out how much to spend on defense or other major budget area. They do contain reconciliation directives to standing committees calling for certain dollar savings and a deadline for reporting legislation to achieve the savings. This requirement serves to get recalcitrant committees to move to decrement the budget. Later, the budget committees introduce an omnibus reconciliation bill which incorporates these legislative recommendations and it is acted on by both Houses. (In the Senate, if appropriations committees violate the spending caps, they are subject to a point of order by any Member rising in support of the caps.)

*The mechanics of authorizing and appropriating are fascinating to behold.* To many observers, this is a textbook example of our democratic process at work — the art of give-and-take, trade-offs, negotiations, and compromise applied during this match between executive and legislative, and within the legislative itself.

# 9

## CONGRESSIONAL HEARINGS

*Frequently the staff already knows the answers to questions about to be asked.*

—Senior Staffer of an Appropriations Committee

Congressional committees and subcommittees use hearings to discuss and act on public business within their jurisdictions. A hearing is a formal committee meeting scheduled and convened by the chairman. Of course, not all committee matters are handled during hearings. Much work is done in private; or otherwise off the record.

Witnesses from the private or public sectors appear before a committee and testify on certain subjects. Usually, witnesses begin by reading a prepared statement and respond to questions from the Members. The hearing proceedings are legal records of congressional business and are recorded, usually published, and are used for purposes like drafting legislation, background or reference material, and direction or guidance for a federal agency.

A hearing is either open (public welcome to attend), or closed (by invitation only, committee meets in executive session, or classified information is being discussed). Hearings predominantly are on Capitol Hill, but not all. They can be anywhere and occasionally are in the chairman's state or district. "Sunshine Legislation" a few years ago opened more hearings, particularly markups.

*The impact of a committee staff during hearings should not be underestimated.* As directed by the chairman, staffers assimilate detailed material on DoD programs (much accumulated year-around), summarize, and provide it with questions and remarks to Members for potential use. Staffer presence at hearings is obvious as they move about behind the Members' chairs, frequently passing notes to, receiving instructions from, and whispering to the chairman and other Members. Occasionally, the staffers ask questions of witnesses.

## **Characteristics Of Hearings**

### **Five Types of Hearings**

**Legislative.** Witnesses act as government officials, have few rights, and must respond to all questions. (Used for authorization and appropriations hearings.)

**Oversight.** How well the executive branch is implementing the laws and intent of Congress. Witnesses act as government officials.

**Investigations.** Witnesses act as individual citizens, can refuse to answer questions and have more rights than in legislative hearings.

**Advise and Consent.** For nominations and treaties in the Senate.

**Markup.** Putting a bill in "final draft"; no witnesses called.

### **Why Hearings Are Held**

The primary purpose of a hearing is to place the matter on public record, and as a means to deliberate the DoD authorization and appropriations bills. Additionally, hearings can serve the following purposes;

“Official” information gathering,

National, or local district, public relations purposes,

Reelection purposes, especially for home consumption,

Delay legislation (hold up the progress of a bill by taking some, if slight, action),

Fulfill campaign commitments,

Make or build the record for a chairman, Members, or the committee,

Staged to benefit one another (sybiotic), and

Hidden agendas.

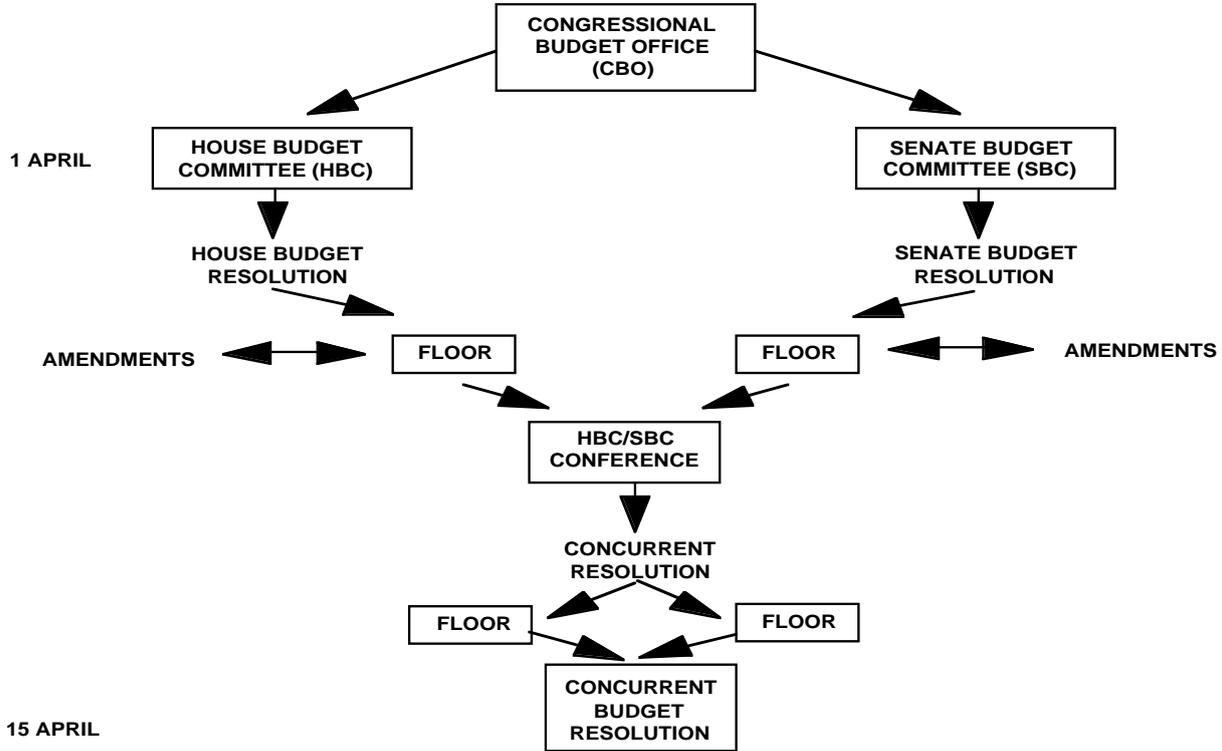
### **Scenarios**

Hearing scenarios vary by committee or subcommittee. A typical hearing might run only one day from 1000-1200 or 1400-1600 depending on material to be addressed. Likely, more than one primary witness will testify, particularly at budget hearings. Testimony is recorded by a hearing reporter. Some testimony is sworn (with oath), others not.

The primary witness may be accompanied by adequate supporting and backup witnesses, but these should be held to a minimum. To quote a former chief counsel for an authorizing committee, “An abundance of uniforms looks fine in a parade, but they become particularly conspicuous in a hearing room.”

At open hearings, expect to find the media, defense contractors, lobbyists, students, tourists, and representatives of foreign interests, perhaps including foreign embassy personnel. Some hearings begin as open ones then move into closed sessions for discussion of classified information; or so Members can meet privately.

# BUDGET RESOLUTION PROCESS



*The LLO can learn the agenda and committee intent and help alert or coordinate beforehand. The AM should not be flattered if called to testify. They must go fully — repeat fully — prepared to address anything in his area.*

## **Characteristics to Remember**

Don't be surprised at the lack of attendance by committee members. For example, Senators serve on numerous committees and subcommittees and cannot possibly attend all hearings. Other factors include no interest in the subject and, most importantly, constituent business (visiting delegations or campaign associates, etc.). Other hearing characteristics might include, but are not limited to the following.

Members do not attend hearings always to find out information. It could be they have it already, and this should be considered if it appears they are not paying attention during proceedings.

In some cases the chairman and a staff member may be the only committee personnel present.

A staffer cannot convene or continue a hearing in the absence of a Member(s).

Typically, a committee quorum in the Senate is one Member present; in the House, two Members present, with one being from the minority party. (Not all committee rules are alike.)

Hearings are frequently interrupted by bells calling Members to the floor for quorum calls or votes.

Some committees permit an absent Member to be represented by personal staff to give the chairman a list of questions to be asked on his behalf.

Select, *ad hoc* and joint committees can hold hearings but cannot report legislation (exception: the Select Committees on Intelligence).

## **DoD Witnesses**

### **Statements and Testimony**

Primary witnesses usually are required to submit a prepared written statement to the committee a day or two before the hearing. Copies are available to the public. These statements set the stage for testimony that follows and for general subject philosophy. Because some statements are long, often they are not read aloud but entered into the record (a reason for providing it earlier so Members and staffs can read ahead). If classified, an unclassified version is usually required for the public.

Testimony, including prepared statements and oral responses to questions, must convey adequate, accurate, and appropriate information, and should be of high quality and easily understood by the congressional audience. Recognizing that Members and staff have some depth of understanding of the subject, and attendees may be experts in the area under discussion, witnesses should be judicious in using military jargon. “Pentagonese” expressions or acronyms, and excessively technical and programmatic details — unless requested — are unclear for committee personnel to understand.

Witnesses are obligated to support the DoD or S/DA position. Opinions should not be volunteered and may be expressed if asked and identified as such. Testimony should be restricted to information germane to the question or hearing subject. Generally, witnesses have to be prepared to address any aspect of the subject. Unless charged with doing so, a witness should not assume himself to be speaking for DoD or the S/DA.

Guidance on these and other conditions affecting witnesses and testimony are contained in appropriate DoD and S/DA directives, some of which are cited at the end of this Guide.

## **AM Assistance to Witnesses**

Preparation for and attendance at hearings and briefings regarding weapon systems acquisition — whether budget or oversight hearings — usually would include a senior AM and perhaps, the PM. As directed by higher authority, the least the PM might provide is some of the information used in writing the testimony and backup material, although the PM usually would not write either.

In helping to prepare witnesses, the AM can make substantial contributions, such as: identifying issues or subjects likely to be addressed by the committee; developing backup or study books with facts and history; holding one-on-one briefing sessions; helping compile a series of potential questions and their replies; and assisting in “murder board” dry runs. Formats and processes prescribed by DoD and the S/DAs must be followed, such as writing and assembling information in a form permitting rapid identification and extraction under pressure.

*Input from the AM to preparers of testimony is important. The AM should consider this an opportunity to advance his program with the facts. Information must be accurate, timely (the latest, and forwarded on time), supportive of policies and DoD or Service positions, consistent with other materials submitted, of sufficient detail with ease of reference, and with conclusions and summaries to aid the witness in absorbing the “big picture.” Information can include test and evaluation schedules and results, acquisition strategy, contractors and their locations and dollar amounts, performance parameters, quantities being procured, competition plans, and previous congressional interest.*

## **AM as a Witness**

The AM may be asked to appear as one of the three types of witnesses — primary, supporting, and backup. The primary

witness delivers the prepared statement and frames the testimony. The supporting witness may be asked by the committee or primary witness to elaborate or respond to a question. The backup witness is usually a “details” person who in most cases would not be called upon but who whispers or writes information to the primary and supporting witnesses and takes notes. Generally, primary witnesses are senior civilians or military officers. For hearings on weapon systems, it is not unusual to have the PM as the primary witness. A supporting or backup witness should respond when requested and otherwise remain in the background.

The witness should have facts available to present or indicate they will be available later for the record. Being honest, pleasant, forthright, business-like, respectful, candid, and able to distinguish opinions from fact are necessary personal characteristics. Knowledge of DoD or Service policy on the matter is useful, and that policy should be supported. Awareness of, and empathy for, the hearing’s political ramifications and sensitivities, to the committee or to an individual Member, are an absolute necessity. (This aspect could envelop the entire issue of why the hearing is being held, or otherwise could be at the heart of one or more key issues.) Be careful of signals sent through body language, facial expressions, frequent passing of notes or whispering: they may show improper preparation. Sarcasm, negativism, emotional displays, hedging, inconsistencies and waffling, likely will not create goodwill for the witness, his program, or his organization.

*Know what to expect as a witness. Appearing as a hearing witness is challenging to say the least. Consistency is important. Your program’s requirement, the user’s endorsement, and acquisition strategy should reflect what is in the descriptive summaries, test reports, and other material given to Congress. If something has changed, the AM must explain the changes, causes and effects. Bad news explained forthrightly is better received than if glossed over or hidden.*

## **Transcripts**

Hearing transcripts form the basis for hearing records and committee reports. They usually are provided to witnesses for their reviews and to correct factual mistakes. No substantive changes can be made. This is a courtesy extended by committees, whose rules must be followed.

Probably the most important rule is the deadline to return the transcript, generally short-fused (1-3 days). Deadline extensions seldom are granted, and being late is considered as being “non-responsive to Congress.” This can cause criticism and loss of credibility, telephone calls by the chairman to heads of the Services, and critical remarks printed in committee reports. In the end, a witness is responsible for his testimony.

An AM should edit his transcript or that of another witness for grammatical errors, misquotes, and inaccuracies; to identify security or policy information and place brackets around it; and to insert copies of visuals (graphs, charts, tables, etc.) used during the hearings. No attempt should be made to produce unread written testimony from oral testimony, or to edit remarks of committee Members or staffs. Transcripts should not be shared with contractors or unauthorized parties without a “need-to-know.”

Apparent errors should be identified in the margin along with recommended changes. Excessive editorial changes are generally unacceptable and can be rejected and returned to the Service. In recent instances committees have required entire sections be typed by the S/DA as an alternative to excessive editing. If the AM determines the testimony is incorrect, misleading or requires security classifications, he should alert his LLO.

## **Insertions of Material for the Record**

Not all questions during the hearing are immediately answerable. A witness may not know the reply or it may be too long,

detailed, and complex to provide. Rather than speculate, wander from his area of expertise, or make a halfway attempt the witness is advised to say; "it will be provided for the record." There may not be enough hearing time for all questions, in which case they are given to the witness, and answers are expected when the edited transcript is returned.

An AM may assist a witness required to provide an insert for the record if the question was part of the witness' testimony and the AM is most knowledgeable to prepare the reply. As with transcripts, each committee has rules regarding insertions.

*Follow up on transcripts.* Editing transcripts and inserting material in the record are handled through the comptroller or LLO and usually travel via the chain of command. Action instructions and do's and don'ts accompany the material and, if not, should be obtained. Remember, this may be the "best chance" or "last chance" to be on the record. Do a good job. Congressional records outlive an AM's career.



# 10

## MARKUP AND CONFERENCE COMMITTEES

*Congress has a short-term look at almost everything.*

—Former Member of Congress

### Markup

Some of the most important and crucial committee activities occur at markup time, when bills are given final review in subcommittee or full committee. Markup means Members literally mark the bill, line-by-line, agreeing to or striking out items, adding amendments and, otherwise making changes. The resultant bill is agreed to first by the subcommittee, then the full committee, and is ultimately reported to all Members.

Markup sessions resemble hearings, except no witnesses are called. Generally, they are open to the public. A chairman may ask if a representative from an agency whose bill is being marked happens to be present, in case information is needed quickly. Markup uses much of the material from the earlier hearings.

Historically, the HNSC is first to mark the defense budget and normally makes significant changes to programs. Congressional activity in program changes during markup has increased greatly since 1970, a year when total line item dollar adjustments (adds and cuts) by the SASC and HNSC were 180.

In 1985, there were 1,314, up 631 percent, about 60 percent made by the HNSC. The HNSC subcommittees do perform markup. The SASC subcommittees do not markup; it is done by the full committee.

Markup sessions can take days and are lengthy, involved, and tiring for Members and staffs. Typically, at this time the committee must have received from DoD the complete, accurate, and immediate responses to proposals and questions. The AM may be asked to provide information and, therefore, must stay current and alert when his program is being deliberated.

### **Conference Committees**

The likelihood of the House and Senate passing identical authorization and appropriations bills is rare. Consequently, if two different bills have passed, the houses must meet to resolve differences and construct a single compromise bill that will be presented to both houses for final passage. The mechanism is called the conference.

Although rules call for the Senate presiding officer and Speaker of the House to appoint conference committee members, in reality this is done by chairmen of committees reporting the legislation. Unlimited conferees can be named by each house. For recent authorization bills, approximately 16 Members represented the House. Party representation usually reflects its proportion in each house. The conference chairmen rotate. Staff participation is heavy, and usually there are many people attending. None are from DoD or the public because conferences are closed. Conferences are tricky, complex, and pressurized. As the congressional sessions progress, the conferences become more difficult.

As expected, the conference divides into subconferences. No instructions are given the conferees going into conference. The atmosphere is one of negotiation, trade-offs, and compromise. No witnesses are called. Additional backup material usually is not requested. Conferees deal with broad categories, only with

what is in the record, and try only to resolve differences. They cannot exceed the scope of the differences and cannot enter anything that is not debatable. The DoD is allowed again to submit a written appeal. The AM may be called for specifics. Earlier item agreements in both Houses remain intact. No issue can be revisited, but on occasion the bill has been modified or language added.

Staffs play key roles in resolving most disputed matters, with Members agreeing to their recommendations. Staffs often are surrogates for Members to resolve differences at staff conferences. Then, Members continue resolution and, on controversial matters, they usually bargain directly, though the staffs usually help develop positions and options. Significant trading (compromising) might take place, with personalities often carrying a successful issue before agreement is reached.

When this work is finished, the conference report is the legislation agreed to in conference by a majority of conferees. It includes instructions to DoD. When the Senate and House act on the conference report, the word is "adopted," not "passed." If it fails, it is returned to conference. It cannot be amended on the floor, but can be returned to conference with direction or recommendations in lieu of amendments.

*Timing and speed are essential to Members during markup and conference committees. The AMs must react accordingly when requests for information are received, but without jeopardizing the integrity of the liaison process.*

# 11

## AUTHORIZATION PROCESS

*There was never any intent that the Budget Committee would get into authorization and appropriations levels preempting those committees before they held their hearings.*

—Senior Member of Appropriations Committee

In theory, authorization must be completed before the appropriations review can begin in order to separate the legislative and funding processes. In actuality, both the authorizing and appropriating committees start about the same time because of the voluminous, time-consuming work required.

Defense authorization comprises; (1) program approval, (2) funding ceiling (appropriations cannot exceed) for that program, and (3) quantities to be procured. Authorization looks at line (individual) items and appropriations account totals, but does not convey obligational authority to spend. Often, the defense authorization act, once passed, contains more than the foregoing, including myriad amendments containing whole or partial bills relating to, for example, acquisition policy.

### **Defense Programs**

*Weapon Systems Acquisition*--Research, development, test, and evaluation (RDT&E) account; and procurement accounts, such as weapons procurement, aircraft procurement, ship construction and conversion, and other procurement.

*Line Items within Other Accounts*--Including O&M, MP, and MILCON.

The major authorization bill affecting DoD is the **National Defense Authorization bill**. The bill includes MILCON, Department of Energy, and related defense issues in one authorization bill. The former name of the principal authorizing measure for defense acquisition issues was the DoD authorization bill.

Additional authorizations for national security may be contained in one or more federal authorization bills.

The AM may have stake in several authorizations, but the DoD authorization generally is his main concern and is the one addressed here. In concert with the two-year budget submitted by DoD, the authorizing committees attempt to authorize some programs for two years, although these are insignificant. In actuality, Congress passes an annual authorization bill regardless of the DoD budget submission.

### **Committee Hearings**

Before detailed reviews, the HNSC and SASC hold hearings on military posture, or, the status and readiness of DoD and the S/DAs regarding war-fighting capability, force levels, manpower strengths, etc. These hearings set the stage for in-depth program reviews. Witnesses are from top management: the Secretary of Defense (SECDEF), senior OSD officials like the USD(A&T), Service Secretaries, Chairman of the Joint Chiefs of Staff, and military Service chiefs.

Usually, the HNSC and SASC hold separate hearings on RDT&E and procurement. Although principal witnesses are assistant secretaries of defense and the Services and deputy chiefs of staff, an AM of a major program may be called to testify or be a supporting witness. Witnesses present and support programs and funds requested in the President's budget usually by reading a prepared opening statement and responding to committee questions and remarks.

The HNSC and SASC hold extensive hearings, but customarily the HNSC spends more time on details. Like all standing committees, the President's budget is divided into areas of

jurisdiction. Defense is dispersed to the authorizing subcommittees that handle all defense requests, from the aggregate to minutiae. Once the subcommittees finish work, their reports are brought before the full committees. Hearings can continue, or the committee may proceed to finalize its review. In doing so, it takes the budget and makes changes through markup.

After markup, the full committee completes its review and reports out the bill to the floor, reporting its rationale for actions taken. The HNSC usually precedes the SASC in completing its review, which is completed near May 15. Authorization bills reported after that may be considered only if a waiver is granted from the House Rules Committee.

*The AM must understand what transpires in authorization deliberations.* Constructive debate, posturing, opinion stating, and ideological appeals are parts of the system. Trade-offs among cost, performance, schedule, and quantities are made as in the Pentagon. The urge to get “down in the grass” on an issue and play micromanager with low levels of detail is not uncommon. Arrangements are struck, often out of sight and earshot. Entire programs or their funding levels can be “offered up” to achieve a personal or subcommittee goal elsewhere.

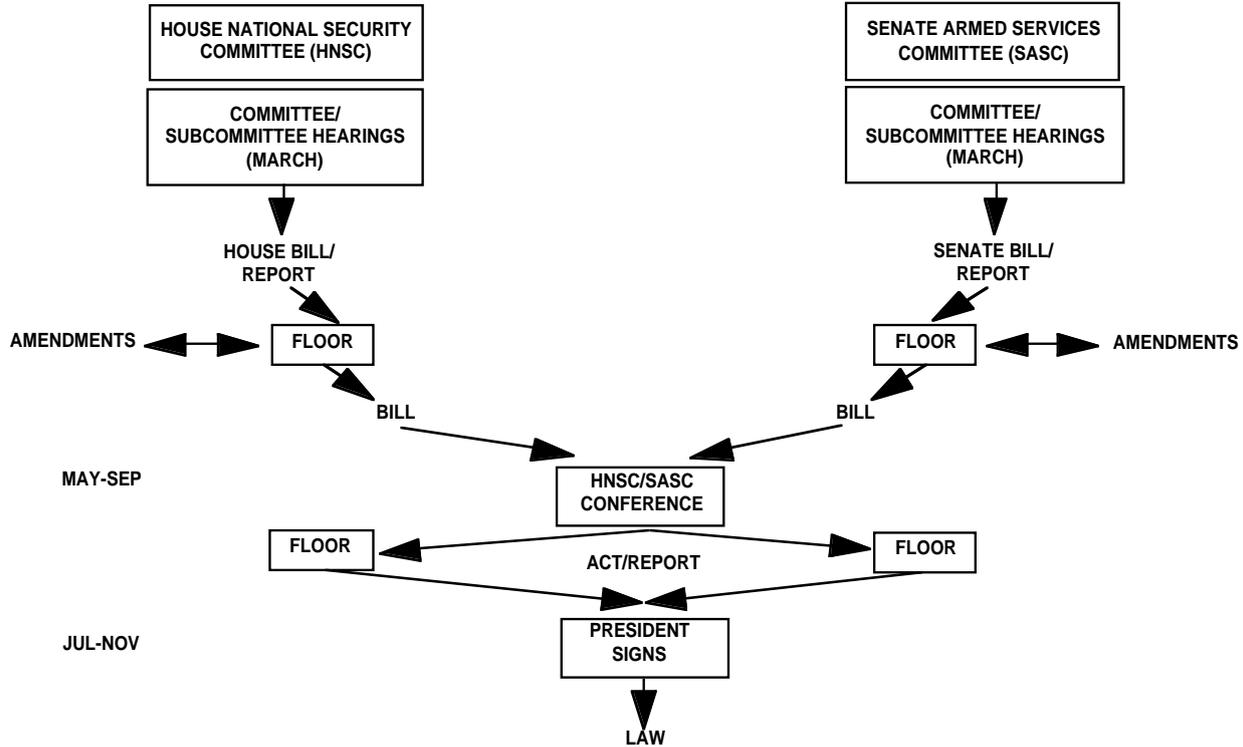
## **Floor Action by the House**

Without waiting for the Senate version, the House takes action. The bill is debated on the floor. The full House is not obligated to accept the committee’s bill *carte blanche*. Amendments are offered and agreed to or rejected. Usually there are changes, often originating from non-committee Members whose positions are reflected by the House as a whole, if not by the committee. The vote is taken, the bill passes, and action by the Senate is awaited.

## **Senate Action**

During HNSC activity, the SASC conducts hearings and prepares its version of the marked-up budget. Between House

# AUTHORIZATION PROCESS



authorization bill passage and markup, the Senate allows DoD to submit a written appeal on House action that addresses adverse effects caused by reductions. The appeal is considered and the budget is marked similar to the HNSC. The SASC reports out its bill to the floor along with its rationale. The full Senate debates the bill, considers amendments, and votes. The bill is usually on the Senate floor longer than it is on the House floor.

### **Authorization Conference Committee**

The bills passed by each House will be different — possibly different programs, quantities, or account totals. These differences must be reconciled by a conference committee. When conference action is complete, the conference report is the legislation to be adopted by both houses. After adoption, the bill goes to the President for signature into law, and DoD has its authorization.

*Seemingly vast amounts of information are requested and must be supplied. Some is used for, some against, but is not one-sided. The DoD is heard, often accommodated. The result is a package believed by the committee and by Congress to be the best for national defense based on resources available, priorities, and America's role in world affairs. Arguably, there may be truth to what DoD officials might say leaving hearings: "Congress cut...did not understand...failed to recognize," or "they just don't know what they're doing to my program." In the end, Congress accomplishes its constitutional responsibility faithfully and objectively.*

# 12

## APPROPRIATIONS PROCESS

*Congress guides our defense strategy by the budget, rather than the other way around as the Pentagon would have it.*

—Member of an Authorizing Committee

The process by which an appropriations bill proceeds through Congress is similar to that of an authorization bill. There are a few distinctions.

### **Major Defense Appropriations Bills**

The three major appropriations bills involving DoD are:

DoD appropriations bill;

MILCON bill; and

Energy and water development bill.

Additional funding for DoD may be contained in one or more of the other ten federal appropriations bills, and a supplemental appropriations bill. This Guide concentrates on the DoD appropriations bill, which provides funding for weapon systems acquisition (less nuclear programs, funded under the energy and water development bill) and most other major items affecting the AM. (If there is a supplemental appropriation, it comes near mid-year and usually provides additional funds to the O&M and personnel accounts.)

The authorizing and appropriating committees are independent of each other and may not appear to work as a team to address the same issues. Traditionally, the HAC plays an almost adversarial role within the Congress, seeing the HNSC and other authorizing committees primarily as advocates for their respective agency funding requests. The HAC sees itself as a “guardian of the taxpayers” and pays close attention to details, new programs, and program increases. The SAC perspective is one of ensuring the “lower house” “does not give away the store” to the detriment of constituency or national interests. The SAC is last to markup and must bring to the floor a bill that meets the targets set by the Budget Committees.

*Realize the different perspectives and agendas of the authorization and appropriations committees. Don't be surprised if numbers and guidance in the two separate bills do not total the same.*

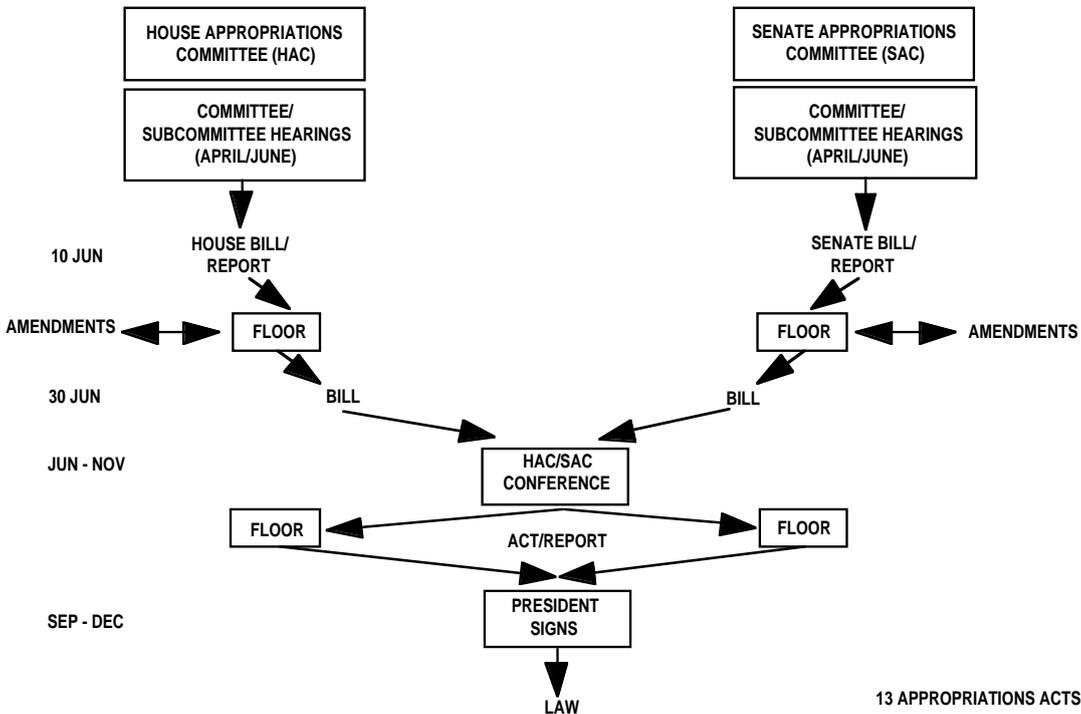
## **DoD Appropriations Bill**

### **House Review**

Review by the HAC begins with hearings at which top administration officials appear. They include the Secretary of the Treasury and Director of OMB to testify on broad questions of fiscal policy. Then the Subcommittee on Defense, like the two authorizing committees, hears the SECDEF, the Chairman of the Joint Chiefs of Staff (CJCS), and other top Service officials defend the President's budget.

Hearings are based on appropriations accounts regarding defense programs. For example, when the O&M account is being reviewed, all Services are heard before the next account is reviewed. Proceedings are generally the same as in the authorizing committees regarding witnesses, prepared testimony, questioning, and editing of transcripts. So are markups. Remember, appropriations committees evaluate dollar amounts, and either add, cut, or let stand.

# APPROPRIATIONS PROCESS



Following markup, the printed proposed bill and subcommittee report are sent to the full committee that acts similarly to the authorizing committees. The marked bill is then reported out to the floor, and usually within a few days is debated and passed.

## **Senate Review**

Budget hearings in the Senate normally do not begin until the HAC has reported out, and sometimes not until the House has acted. The nature, length (normally 2-3 weeks), and timing of the hearings vary depending upon the budget situation, House action, and the chairman's desires. Generally, the SAC Subcommittee on Defense does not consider the budget on a program-by-program basis. Significantly, the SAC is key to DoD in the appeals process. The SAC Subcommittee on Defense and full committee procedures closely parallel HAC's regarding conduct of the hearings, markup, and report. For ease of comparison, the subcommittees show the bill with both House versions and proposed Senate amendments.

*Appropriators want only those briefings they request. Normally they don't take information briefings. If one were proposed, their first question would be: "what's wrong with the program?" When called, provide lap briefs. Don't talk about the "out years" — only the President's budget, unless you know Congress already has the Future Years Defense Program. Answer only those questions that are asked.*

## **Appropriations Conference Committee**

The procedures used to reconcile the two houses on the appropriations bill are identical to those for the authorization bill. The two staffs compare line-by-line on each element to seek differences. This turns into material for the conference committee. Both houses then take action on the compromise bill, and after the President's signature, the "two-step" congressional process is complete.

Once the appropriations bill is signed, and subject to apportionment by OMB, funds up to the amounts authorized and appropriated are available to DoD. Before funds can be obligated, appropriate DoD and other procedures must be followed.

## Appeals

The congressional appeal process provides DoD the opportunity to justify restoration of all or part of any program reductions or changes made by a committee report. Such restoration would be to the level of the President's budget. Processed through the comptroller, the appeal may give added or better justification, clarify errors or misconceptions, rebut the committee's position, or explain why the changes are unacceptable to DoD. Normally, appeals are generated in the Pentagon, but the PM may be called on for assistance.

The appeals procedures chain is:

<b>Report being appealed</b>	<b>Appeal made to</b>
HNSC markup	SASC
SASC and HNSC markups	Authorization conference
HAC markup	SAC
SAC and HAC markups	Appropriations conference

## Continuing Resolution Authority (CRA)

Even though the congressional budget process begins in early February, the appropriations act normally has not been completed until after the start of the next FY. The Congressional Budget and Impoundment Control Act of 1974 changed the FY start to October 1. Since this change, nearly all FYs have

begun with no Defense Appropriations Act in place. Uncharacteristically, the FY 1989 authorization and appropriations acts were both passed and signed in the final hours of FY 1988, marking the first time in many years DoD began a new FY accordingly. Today the CRA maneuver has become the rule, rather than the exception.

This affects not only DoD but all federal agencies, technically meaning the government is without funds with which to operate beginning October 1. Because the Anti Deficiency Act specifies no payment shall be made in excess of, or in advance of, appropriations unless authorized by law, Congress has developed the CRA as an interim, stop-gap measure for keeping the federal government alive. The CRA is signed by the President into law.

If used, the CRA is acted on at the end of the FY or immediately after October 1. It is a resolution passed by both houses which has the effect of law. It provides authority to continue ongoing programs, either at the same funding level as the previous FY, or at a portion of the requested year, whichever is less, while action on the appropriations act is completed. The CRA will contain conditions (limitations) under which the authority is granted, including funding levels and the CRA's own duration (usually for a set period of days). In short, the CRA is a piece of legislation open to the will of Congress.

*Watch out for CRA limitations, changes to old programs, or any new issues.* The CRA is particularly significant for the PM, as it may impose a set of limitations on program execution for the duration of the CRA. These limitations may cause management problems, such as the inability to award contracts, start production, or a deferral of all effort levels. A serious problem confronts a PM transitioning into full-scale development or production causing program revisions to accommodate the delays. Some plan-

ners forego any new starts during the first quarter of the new FY because of the annual threat of CRA. The CRA is a perturbation that must be anticipated. It can last a few days, weeks, or months.

# *III*

## CONGRESS AND THE OVERSIGHT FUNCTION

# 13

## CONGRESSIONAL OVERSIGHT

*Senior DoD acquisition official, appearing before an authorizing committee: “Gentlemen, what we’d like to know is when are you going to stop micromanaging our business?”*

*Senior, veteran professional staff member of that committee: “Sir, when you start.”*

—Differing Views

This exchange typifies the environment, some might say trap, where the sticky issue of congressional involvement in administration of the executive branch lives. That it will at one time or another almost certainly draws the AM into its net is a foregone conclusion.

### Origin of Congressional Oversight

The Constitution, Article I, Section 8, gives Congress authority to review government operations and administration. Use of the term “oversight” is a recent addition, based on inherent power to appropriate money and see to its proper spending. The historical precedent for oversight was the Joint Committee on the Conduct of the [Civil] War in the 1860s. However, the first congressional investigation on military affairs was in 1792 regarding poor quality of powder and uniforms blamed for General St. Clair’s defeat by the Indians in the West. Oversight was a minor function until the New Deal (1930s) and World War II, when suddenly there was much more to oversee.

The 1946 Legislative Reorganization Act uses the words “continuous watchfulness” in directing all congressional committees

to exercise oversight of agencies and programs in their jurisdiction. A committee reporting legislation has oversight authority in that area. In 1974, GAO was authorized to assist Congress in program evaluation and assessment. In short, Congress is unwilling to grant *carte blanche* to the Executive Branch without strings.

*Imagine the vastness of trying to monitor the Executive Branch. Often, Congress can conduct oversight only after the fact. Does oversight generate solutions and preventions, or just treat symptoms? How are the results of oversight measured if not by more reports and feedback? The answers remain illusive.*

### **Need For Oversight**

Throughout the years, oversight has become a congressional responsibility some observers feel is equal in importance to authorizing and appropriating. Reasons for increased congressional involvement in executive branch management include:

To determine whether the law is being executed and whether money is being spent as appropriated;

Conscientious efforts to ensure limited resources are utilized most effectively for national security, internal social harmony, and execution of other national policies;

Fraud, waste, and abuse in the executive branch;

“Big government,” involving itself more in the lives of citizens and resultant dissatisfaction;

Failure of, or skepticism of, the abilities of government to deliver as promised;

Focus on the Administration’s failures (most likely) or accomplishments (less likely);

Protect, project, and support favored policies and programs;

Publicize and advance a committee's or a Member's goals and agendas;

Availability of more congressional staff, thus allowing for more attention in this area;

Assertion by Congress of authority in the 1970s after years of the strong presidency, with the Vietnam War and Watergate opportunities the prime examples;

Increasing complexity of issues begging solutions which need to be aired;

Display committee initiative and aggressiveness in dealing with agencies and forestall appearance of inactivity or comfortable relationships; and

The feeling "things just aren't being done as well as they should."

*The politics of oversight cannot be overlooked, especially since the voting public appears to be satisfied with split government: a White House and Congress controlled by different parties.*

Prior to a requirement in the 1980s for baselining certain programs, Congress had only two formal methods for keeping track of DoD management. The formal methods are the budget process — which includes the authorization and appropriations processes — and the selected acquisition report process for reporting the status of certain programs. The budget process remains the most effective tool for oversight and is conducted through hearings, investigations, and reports.

For whatever single or combination of motivations, Congress is expected to continue closely monitoring DoD activities. The figures, however, inconclusively show both increases and decreases in measurable oversight functions — hearings, testimonies by OSD officials, and written and telephonic inquiries. Yet,

the point to be made is less quantifiable to DoD in these numbers than it is in the nature or severity of oversight. Namely, detailed line-item-level changes and decision making, second-guessing and challenging, constant justifying on many grounds, reporting back, and the frustration of “someone else telling us how to fight a war.”

*Understandably, these are real concerns for Congress and DoD. Regardless of personal feelings, the AM must appreciate congressional viewpoints and make every effort to accommodate and foster healthy working relationships, whether directly with Members or staff, or through intermediaries like the LLO or senior Pentagon staff. The irritation is not necessarily oversight as a requirement, but, rather, the inability of Congress and DoD to close down contentious issues that generate intense congressional interest, such as the Ballistic Missile Defense, B-2 bomber, and certain roles and missions like peacekeeping.*

Past allegations of perceived cozy relationships among authorizing committees and DoD when political party roles were reversed gave some observers the impression that committees failed to perform adequate oversight. For the 104th Congress, oversight is more “pro-defense” — “not enough” — which occasionally puts the committees at loggerheads with the Administration over such matters as readiness, roles, and missions. Once perceived as “fronts for the Pentagon,” the committees now act as healthy critics.

### **Impact of Oversight**

The DoD now argues that Congress should focus on broad objectives and just give it the money to do the job or, don't give us money and programs if we don't want them. Congress argues DoD should provide for a stronger defense, manage itself better, stay out of the newspapers with horror stories, and produce weapons that work right. In the past all

parties have recognized excessive interference can constrain effective and efficient routines. However, for Congress to relinquish its oversight role would be tantamount to leaving non-elected officials to administer national defense.

The issue of oversight *vis-à-vis* micromanagement has affected DoD's internal management psychology: if Congress wants details, so do we and down the line. Consequently, each level has required more paper, more reviews, and more status reports with many more headquarters and command staff playing in the overlays.

*The debate will continue. However, remember always that civilian control of the military is a national institution, and those civilian political considerations frequently dictate military reactions to execute them, rather than the other way around. The AM must realize by virtue of his position he is part of it, often in the middle. The issue will manufacture distractions and roadblocks if his program is involved.*

# 14

## CONGRESSIONAL BRIEFINGS

*A senior general told me he gets too much help from Congress. That's the first time I've ever heard of someone saying he got too much help from Congress.*

—Senior Member of Appropriations Committee

A congressional briefing is an informal hearing given by DoD to Congress on any subject. Briefings are a routine means of gathering information during the budget and oversight processes or for any purpose. A briefing can be as important to a program as a hearing, maybe more. Guidance offered in this Guide for preparing for and participating in hearings is applicable to briefings.

### Characteristics of Briefings

Requests for most briefings come from Congress, either by subcommittees or committees, a chairperson, individual Members or staff, or the GAO. Occasionally, DoD or an S/DA requests a briefing to make certain points or acquaint Congress with their activities.

The audience can be a room full or one person. That one person can be a key personal or committee staffer; a Member does not have to be present. Generally, there are no set procedures or rules as in a hearing, but this does not mean the AM should discern less seriousness on the part of congressional attendees. He should have a “feel” for what will be discussed and why,

the expected attitude of those attending, and should be prepared to answer pertinent questions. The briefing does not have to be held in a hearing room but can be in a Member's office, the Pentagon, the field, a contractor's office, or a program management office. Usually, it is private and not publicized.

*When facing Congress, the AM must have a handle on the program or issue at stake. Take along experts in testing, logistics, engineering, budget, etc., to assist. However, don't overwhelm the party being briefed, especially if it is one or two persons. Use discretion. The way the AM responds in these situations creates impressions and has make-or-break lethality.*

## **Functions of Briefings**

Briefings serve several functions:

Assist new Members or staff in becoming current with a program;

Provide more in-depth material than was available or presented during a hearing;

Serve as a prelude to a hearing;

Generally educate;

Advocate the program and seek support;

Justify requirements for keeping the program;

Explain recent events, perturbations, or changes;

Seek concurrence with proposed changes, as in "running it up the flagpole"; and

Present a program appearing in the budget for the first time.

## Differences Between Briefing and Hearing

The differences between a briefing and a hearing include:

The PM is usually the one who briefs an acquisition program;

The PM is the “briefer” and not the “witness”;

Notes might be taken by attendees, but unless a memorandum for the record is stipulated, no formal or official record is kept;

Briefing questions are likely to be more detailed and technical;

Visuals (i.e.; overhead projector viewgraphs), handouts, mockups, and models are used more frequently;

Probably, more OSD, Service and AM officials, and staff accompany; and

Briefings are more commonplace.

*Briefings are extremely important to the life of a program. The climate and tenor of a briefing can become very informal and relaxed. While this can cultivate excellent and mutually beneficial interchange between PM and attendees, it can also result in misconceptions. Candor is translated by the Congress as meaning credibility. The briefer should not assume an “off the record” stance, be careful of expressing personal opinions that might be interpreted as being official positions, and be careful in agreeing to provide additional data, since there may be some restrictions or complications to doing that. The impact of a briefing, while not sensed at the time, can have far reaching effects. Answer all questions honestly, consistently, and courteously.*

# 15

## CONGRESSIONAL INQUIRIES

*The Hill often acts to get the attention of DoD to force them to do something.*

—Senior Aide to U. S. Senator

Besides hearings and briefings, three other traditional methods used by Congress to obtain information are inquiries, investigations, and trips. Each is considered an extension of congressional oversight.

Congressional inquiries are requests for information from the executive branch and are informal (verbal) or formal (in writing). However, most are verbal. The DoD and the S/DAs have explicit directives on how inquiries will be handled. This Guide contains only general guidance.

### **Informal Inquiries**

Informal inquiries usually come from congressional staff who routinely telephone DoD (or request in person) with inquiries year around, the bulk coming during peak periods in the budget process. Usually they come via the comptroller/LLO. Such inquiries are processed through appropriate channels, which might include directly from LLO to AM. Some inquiries may come directly to the AM, predominately involving programmatic or budgetary matters. Other inquiries could involve the following four areas:

Follow ups to previous discussions, hearings, or briefings;

Requests for new or current figures;

Verification of data received elsewhere (care should be taken in this area, since every effort must be made by the PM and others concerned to provide a consistent set of numbers or data); and

“What-if drills” regarding potential impacts or courses of action if certain steps were taken (say, to cut half a program’s RDT&E funding for the next FY).

The deadline for responding to informal inquiries depends mostly on the urgency of the request and how the caller perceives the difficulty of getting the response. Usually, it would be a few hours or a couple of days. Obviously, if the HAC or SAC is in the middle of markup on the appropriations bill the information is needed immediately.

*Exercise caution upon receiving direct calls from Congress.* The AM should be tactful and willing, but cautious, while avoiding the appearance of being evasive. Possibly, the telephone inquiry should best be handled by a formal written request or reply. This may be the most prudent course. The comptroller/LLO should be advised and their guidance strongly considered. If a verbal response cannot be avoided, the AM must exercise best judgment, realize the consequences of his response, and notify the chain of command and the comptroller/LLO immediately. Common sense goes hand-in-glove with caution here. Sometimes the AM’s reaction will depend on his credibility and relationship with the Member or staffer asking the question.

## **Formal Inquiries**

Formal inquiries arrive as congressional mail or transmittal sheets. The DoD handles congressional mail with the highest

priority. Timely responses, within a few days, are mandatory. Interim acknowledgments are sent when more time is needed to assemble, diagnose, and forward the information. Mail from committee chairmen takes precedence; mail from other Members is next; followed by transmittal sheets.

When a chairman or Member writes a personal letter to an official in DoD, this is called congressional mail. Most of these letters are for top management, but it is customary for one to be directed to a mid-level manager or PM. Besides requesting similar kinds of information as in informal inquiries, this type of inquiry would usually address controversial or sensitive subjects, policy decisions, explanations, or future plans. They also serve to document a committee or Member's interest in a particular subject since replies are virtually guaranteed. A response to a letter addressed to someone less than top management probably would be signed-out by an official up the chain.

The Member's query is likely to be of a more personal, parochial, or political nature than a chairman's and often is precipitated by a constituent's action. Nevertheless, the same types of information may be sought from DoD by the Member.

The Member has a service obligation to constituents to get answers for them. Consequently, he forwards to DoD a wide range of requests, ideas, suggestions, complaints, and thoughts. One might be a technical question regarding a new weapon system from a retired engineer. Another might be from a high school science class suggesting ways to increase stability in guided missile destroyers. Some will appear naive, some well-thought-out, some just curious, some accusatory, some pleasant, some not. The end result is the Member, and DoD, must reply to all of them. Extreme care must be taken regarding contract matters or litigation.

Member inquiries not signed by the Member on personal letterhead are forwarded by his office staff on pre-printed transmittal sheets (buck slips). Sometimes the original constituent

correspondence is attached, forwarded by a hand-written or rubber-stamped note. Typically, the Member would not see the transmittal sheets, and, while DoD does not give this immediate attention, nevertheless someone must take time to research and provide an answer.

*Tell headquarters, and record what is said.* In addition to informing the comptroller/LLO, the Service and developing activity headquarters, and next level in the chain must be told of congressional inquiries directed to the AM. No one wants to be surprised when it comes to congressional interest, and the mere fact someone in Congress has inquired is intelligence that should be shared. A memorandum for record should be made while the matter is fresh, and any follow-up action by the AM or higher authority so indicated with a tickler.

# 16

## CONGRESSIONAL INVESTIGATIONS

*Defense is a cheap football to be kicked around.*

—Senior Staffer, Senate Armed Services Committee

A formal congressional investigation is an attempt by Congress to explore a very serious condition emanating from DoD. Investigations are usually allegations of poor management, substantial technical problems, or wrong-doings, such as fraud, waste, and abuse.

### **How an Investigation Generates**

An investigation of DoD can be triggered by various sources including media reports; charges by a DoD or industry employee, or a private citizen; information uncovered during hearings, inquiries, or trips; internal audit reports or reports from DoD; or from information known or suspected by a Member or committee. Of the numerous methods Congress uses to collect information and practice oversight of DoD, the investigation is the most onerous.

A defense committee or Member usually originates an investigation request. Actual investigations can be conducted by the committee staffs, the HAC Investigative Staff, or the GAO. Other committees; like the House Government Reform and Oversight Committee and the Senate Governmental Affairs Committee (utilizing the Permanent Subcommittee on Investigations), which have some jurisdiction of DoD, or other committees with investigative powers; may conduct investigations.

Investigative data are collected from interviews, hearings, briefings, depositions, and trips. Witnesses, or interviewees, have more rights than they would in regular committee hearings.

What are the chances of a DoD program being investigated? Prospects rise proportionally to the intensity applied by program conditions of size — both in dollars and numbers procured; controversy concerning program impact on national security; civility of media relations, not just the AM's, but mostly of DoD and his Service; harmony of contractor relations; disputes regarding contract awards; test and evaluation results; major changes in cost, schedule, and performance; and, naturally, the political temperature and posturing.

*The vigilant AM tries to preclude an investigation through proper attention to management. He responds to congressional requests with accurate, adequate information and cooperates fully with the staffs. He establishes his credibility and integrity. He is sensitive to the committee's motives and objectives and aware of their procedures. He knows his program will falter, perhaps fail, without congressional approval. No matter how he works with these things in mind, his program likely will be investigated in some manner — for whatever reason — either directly or indirectly during his tour.*

## **Investigative Hearings**

An investigative hearing is preceded by staff research. If the staff effort indicates no need for Congress to pursue the matter, the investigation may be dropped, or Congress might ask DoD or a Service to pursue it. If Congress pursues it, the DoD or Service conducts its own investigation, providing information to concerned Members to help establish the proper context for their questioning. To avoid an appearance of a "cover up," DoD officials must give accurate explanations (not excuses) and identify what has been done (or is underway) to fix the problem.

The fact an investigation is called is apt to discredit DoD and generate adverse publicity. The position Congress would hold is one of "doing its job to look into this," thus accruing a favorable degree of publicity. The form or substance of an investigative hearing separates it less from a regular hearing than does the inevitable tone or climate of the proceedings.

*Hearing witnesses, or those being interviewed or otherwise providing information, are not expected to be public relations specialists. But, they are expected to be forthright. Still, the AM should not panic or become defensive. He should stick to the facts, be candid, and have a positive attitude and approach. Past experiences have shown trauma can be alleviated with a correct mix of facts, attitude, and conduct. Detailed preparation, including guidance from public affairs and LLO officials, will help. The AMs can survive investigations if they are sensible, knowledgeable, honest, and confident.*

## **GAO Surveys and Reviews**

During the past few years GAO surveys and reviews have increased significantly, emphasizing acquisition, personnel, and logistics issues, making it possible a major program AM will be investigated. A survey is usually a relatively short-term look into a program to see if a full review is warranted. A review is a comprehensive study of the program, sometimes taking a year or more. The GAO and DoD assume a policy of cooperation so both can proceed with minimum delay and inconvenience. Liaison with GAO resides in the Office of the Inspector General in OSD and the Army, and in the Office of the Comptroller in the Navy and Air Force. Each organization follows well-established procedures.

The GAO conducts surveys and reviews as requested by a Member or committee usually stemming from a controversial aspect of the program, a constituent's complaint, or to support

a Member's position (usually recognized as being politically motivated). Or, surveys and reviews may be self-initiated, stemming from a routine or periodic review of a larger and ongoing problem, like a program with significant or frequent changes, or one with previous troubles. These generally are scheduled ahead and take longer to conduct.

*When visited by a GAO audit team, the AM must cooperate and respond fully.* Generally, GAO is authorized access to all information (including classified material, but not the POM) relating to their investigation. Volunteering information beyond the scope of questions should be handled with caution.

The GAO's former image as a group of accountants auditing federal programs to see if numbers matched is past. Today, GAO's many defense specialists, still called auditors, examine "the books," mission requirements, test results, cost patterns, and whether statutes and the intent of Congress are being executed properly. Outside technical consultants are hired as required.

Interested in good facts as well as bad, GAO occasionally compliments constructively and helpfully where cases warrant. Auditors often have a good idea of how a program is progressing before officially investigating it. Findings are reported in "real time" as soon as possible back to the survey or review originator, sometimes before the AM learns of them. The team may conduct an exit conference to provide a preliminary look at its findings and recommendations. While not obliged to do so, GAO may have DoD review and comment on the draft report. The Service concerned usually is not advised officially of findings and recommendations of congressionally requested surveys and reviews. However, copies of the reports usually are available.

*Ensure GAO receives accurate information.* The wise AM names a knowledgeable, personable, adept member of his

office as the GAO team point of contact. That person should be continuously available to the team and accompany them to the fullest extent, particularly when they visit contractors. Anyone not well-versed on the program might mis-speak, misinterpret, or misdirect. The AM must be involved to correct any misconception or misinformation before it is recorded rather than after.

## **HAC Investigative Staff**

The HAC Investigative Staff conducts studies and examinations of the organization and administration of any executive branch agency. The Investigative Staff responds and reports only to the HAC, and calls on specialists from other agencies and other outsiders to assist a core group. Their thorough and intensive studies usually take 60-90 days. A fact-finding unit only, the Staff draws no conclusions and makes no recommendations. Findings are reported to the committee or subcommittee chairman and can be the basis for a special hearing or, at least, a round of questions in a scheduled hearing. Most Investigative Staff studies relate to DoD and include subjects other than weapon programs, such as medical readiness and drug and alcohol abuse.

The DoD has established procedures for working with the congressional investigative units. The committees expect responsiveness and cooperation to these units, as they do of other staffers and GAO auditors seeking information. Generally, questioning and requests will be matter-of-fact and may appear tough and demanding. Speed in responding is important because their quick surveys do not allow for delays. An investigative unit may change its itinerary on short notice and, subsequently, directly inform a DoD field activity only immediately before being investigated.

*The AM must stay on top of all investigations.* In certain circumstances, the AM can delegate portions of a GAO investigation. However, the AM is advised to handle the committee ones himself.

# 17

## CONGRESSIONAL TRIPS

*Show me a program that is well managed and I will show you a program Congress has stayed away from.*

—Staffer on Appropriations Committee

Congressional trips are fact-finding visits by Members or staffers to DoD field activities within the United States or abroad. These trips utilize government transportation, scheduling, escorts, and other conveniences, which DoD coordinates.

### **Where To, and When**

Congressional trips include test ranges, laboratories, contractor plants, warehouses, troops in deployed units equipped with the system in question, the PMO, and other related facilities.

Visitors traditionally ask to meet top management, for program or facility overviews, tours, hands-on experiences with equipment, and demonstrations. More than 75 percent of the trips to which the AM is exposed are staff visits. The purpose of trips simply is for staffers to find out what is happening.

Trips by Members are frequently keyed to congressional recess periods, are constituent- or contractor-related, usually are more general than visits by staff, and may have political overtones. The last may appear to be so if that plant or facility is within the visitor's district, thus allowing the Member an opportunity to meet workers, and perhaps to address them. Arrangements

are made by an LLO, who will provide military officers as escorts if the Member feels it is necessary. The trip host might not be from one's own Service if more than one stop and Service weapon system are on the Member's schedule.

A Member's visit to a plant within his state/district where a weapon system is being built could be at any time he is home and arranged by his personal staff. Members do visit sites on their own, even outside their home districts, without utilizing government conveniences. The AM is just as likely to be included in such arrangements as for a formal trip; if so, the LLO should be notified.

### **What the AM Should Do**

For a pending congressional visit, the AM should operate through his LLO, who will coordinate the event and provide the military-officer escort. The AM should ascertain the levels of protocol expected and understand exactly what the visitor wants to accomplish so the presentation can be gauged accordingly. Congressional staffs should be treated as two-star rank unless they request otherwise. (Staff have complained they often have time only for specific questions or things to see but instead are given a lengthy, full "dog and pony show.") Visitors may specify with whom they wish to speak, or those to be excluded. Some Members arrive without staff, only LLO escorts. Some staffers arrive alone and unescorted. The decision is theirs.

The number of persons from Headquarters and the PMO who are present is negotiated between the AM and LLO. The AM should learn all he can about the visitors, their backgrounds, their intentions, and desires, most of which can be supplied by the LLO. If the visitors want to discuss classified information with a contractor, the contractor must contact the AM who must contact the LLO for procedures.

*The AM can use congressional trips as an opportunity. Meeting a Member or staffer in a scene away from Washington*

can be beneficial, providing an informal atmosphere in which to discuss the program. Being candid and an advocate are pluses, but the AM should take care to “make things go right” and not overstep the boundaries of good judgment with glibness. Nothing will make a Member lose interest faster than someone from the program pinging in his ear and whining for more dollars. Remember, congressional visitors are busy and are there for a purpose. It is up to the AM to understand the real purpose and accommodate it first and foremost.

# 18

## CONGRESSIONAL DATA REQUIREMENTS AND REPORTING

*Congress is like a large cat. If you stroke it, it will purr. If you cross it, it will claw you.*

—Veteran Observer of Capitol Hill Politics

To supplement the more familiar, established public methods of gathering information, such as hearings, investigations, and trips, etc., Congress requires from DoD a series of recurring reports on development, financial data, and contracts. Hundreds of reports are required from DoD by Congress annually. These include (1) reports submitted with and in support of the President's budget, called budget backup or budget justification material, and (2) other similar acquisition reporting information required periodically throughout the year.

### **Budget Justification Material and Other Reporting Information**

**Budget justification material** consists of narrative statements and data in tabular form derived from internal DoD budget documents. For the R&D and production phases, this information is contained in the following reports:

RDT&E Exhibits; and

Procurement Exhibits;

**Other acquisition reporting information required periodically includes:**

Selected Acquisition Reports (SARs);

Unit Cost Reporting;

Contract Award Report; and

Studies and analyses.

*Information given to Congress must be timely, accurate, current, and consistent.* There is no substitute for the AM's diligence, persistence, and pursuit in developing the right data and ensuring incorporation in the documents pertaining to his program going to Congress. Not only may it keep his program out of trouble, it just makes good business sense.

**Budget Justification Material**

Along with data the S/DAs offer to support budget requests, other budget justification material is forwarded to the authorization and appropriations committees well in advance of budget hearings. Staffs review the documents to clarify issues with DoD, and advise of areas of interest to the committees. Staffs may request briefings on significant program areas.

**RDT&E Exhibits (R-Forms)**

These exhibits provide a strong, credible, and detailed justification for each item (program element) in the RDT&E account, and reflect the agreed-upon DoD and S/DA position. The exhibits must describe fully the scope and anticipated results of each program — why needed, mission shortfalls it will satisfy, accomplishments to date, a schedule of acquisition and testing milestones, cost and contract data, and funding for RDT&E, procurement, and MILCON. The exhibits must be simple, concise, and comprehensible to non-technical reviewers.

## **HOW TO ORDER THE**

### **Congressional Record**

The public proceedings of each House of Congress are printed and published for each day that one or both Houses are in session in the Congressional Record. It will be furnished by mail to subscribers, free of postage, for \$225.00 per year or \$1.50 per copy, payable in advance. Remit check or money order, made payable to the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Following each session of Congress, the daily Congressional Record is revised, printed, permanently bound, and is sold by the Superintendent of Documents in individual parts or by sets. If a large dot is printed before a member's name, it means the subsequent statement was written and inserted and not spoken on the floor. Phone: (202) 225-3000.

### **General Accounting Office Records**

The Congressional investigation arm is the General Accounting Office (GAO). There are many unclassified reports, resulting from GAO investigations, that are available to the public. For more information about available reports, write GAO, P.O. Box 6015, Gaithersburg, Maryland 20760, or telephone (202) 512-6000 for their automated menu selection service.

### **Federal Register**

The Federal Register, published daily, includes Federal agency regulations and proposed regulations and changes and other legal documents of the executive branch. It will be furnished by mail to subscribers, free of postage, for \$340.00 per year, payable in advance. The charge for individual copies is \$1.00 per each issue, or \$1.00 for each group of pages actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

These exhibits become a key source of program description and rationale, and a general reference on the DoD RDT&E program. They may result in hearings' questions and inquiries. For some R&D programs, this documentation may be the only budget explanation some Members and staff will see. Exhibit content and format are standardized by the DoD Financial Management Regulation (7000.14-R, Vol. 2). Each S/D has its own procedures.

The committees pay particular attention to the section comparing the previous and current years' funding profiles. The section explains changes since the last budget submission. Some committee marks have been based on this information. The AM must pay extra attention to its preparation.

*Realize the impact of test and evaluation (T&E) data.* The DoD and the defense committees have made T&E a key element in assessing program progress, especially in transitioning to production. The AM should be able to articulate his test program results, costs, risks, and schedule.

### **Procurement Exhibits (P-Forms)**

These exhibits are submitted for each aircraft, missile, ship, and weapon system line item for which a quantity or advance procurement is shown in the procurement program.

These exhibits include a complete, current narrative description, and justification of each significant procurement program; an eight-year quantity and funding profile; unit and total cost details; contract date to include methods, type, and award dates; and a schedule showing production rates, lead times, and monthly end item deliveries.

*Because it is impossible to discuss every DoD program during budget hearings, many committee budget decisions are made outside the public arena.* This fact makes the RDT&E and

Procurement Exhibits extremely important for those programs not likely to be discussed.

## **Other Acquisition Information Reports<sup>1</sup>**

### **SARs**

The SARs provide a summary of key cost, schedule, and technical information on selected DoD acquisition programs meeting these criteria.

All programs designated by SECDEF as major systems under DoDD 5000.1 and DoDI 5000.2, meeting the qualifications because of congressional interest, development risk, joint Service funding, urgency, etc.

Those others estimated to require eventual expenditures of more than \$300 million in RDT&E and \$1.8 billion in procurement (FY 90 constant \$).

Excluded are programs identified by SECDEF to be “highly sensitive classified.”

The SARs are submitted annually as of 31 December. They provide a comprehensive status report on DoD major acquisition programs, and must reflect the President’s budget and supporting documentation (e.g., Procurement Exhibits). Quarterly submissions are required when there has been a 15 percent or greater change in program unit costs from the Acquisition Program Baseline or there has been a six month or greater delay in the current estimate of any schedule milestone shown in the previous SAR. The AM prepares the SAR in accordance with DoDI 5000.2, Appendix 1, Consolidated Acquisition Reporting System.

By comparing current estimates of total program acquisition costs, schedule, and technical data with established baselines,

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<sup>1</sup>Review the 1996 version of the DoD 5000 Documents of acquisition directives for changes to this chapter.

the report provides consistent, reliable information on program status. Obviously, accuracy and consistency are paramount in SAR preparation. Even if the AM does not participate directly in responding to SAR queries, he may originate much of the basic information.

### **Defense Acquisition Executive Summary (DAES)**

The DAES, an internal DoD report only, was created to alert senior officials of potentially significant SAR program problems. (Reference DoDI 5000.2, Appendix 1) Though not provided to Congress, the DAES is mentioned here because of its connection with the SARs. The DAES is a formatted document closely integrating the SAR and unit cost reporting, and is submitted quarterly on a rolling basis by all programs designated for SAR reporting.

### **Unit Cost Reporting**

Unit cost reporting shows the relationship of the program's unit costs and other data to that shown in the SAR baseline, and provide management with regular indications of potential unit cost growth. Additionally, the AM submits reports whenever he believes those unit costs, or the costs of a major contract, will increase 15 percent or more above the baselines.

The USD(A&T) implements the Unit Cost Reporting system. The AM prepares appropriate documents in accordance with instructions for the DAES. The AMs' submission of the DAES satisfies the reporting requirement to DoD.

If the Service Secretary determines there is a breach, he must notify Congress in writing within 45 days, and submit a SAR for the next quarter. For a 25 percent threshold breach, the USD(A&T) must certify in writing to Congress within 30 days of the SAR that the program is essential to national security, there are no alternatives to provide greater or equal military capability at less cost, and the management structure is adequate to manage and control unit costs.

*Understand cost and schedule reporting.* While most major programs submit the SAR, all AMs should understand the contents and procedures. Many staffers use the SAR format for discussing programs with DoD and expect AMs to be able to converse in SAR language. The anticipative AM will keep current his cost and schedule data and program planning and control information, and be prepared on short notice to talk with the staffs.

## **Studies and Analyses**

A committee chairman or Member frequently requests or directs DoD to perform studies and analyses. It could also come through the language of a committee report or legislation. The subject may be a specific program aspect, a policy, or of a general nature. This method of acquiring information from DoD has escalated over the years. The AM and his data bank may be part of the process.

The OSD compiles an annual list of all directed reports after receiving final committee reports and passage of the authorization and appropriations acts. Each Service assigns accountability and tracks progress until submission. Assignments must be conducted as quickly as possible depending upon the deadline, and meet the same requirements for accuracy, consistency, etc., as is any information provided Congress. Some studies and analyses originated within DoD, perhaps directed by SECDEF or a Service Secretary as a product of earlier congressional interest, may become known to Congress with a copy provided.

*Stay on top of studies and analyses.* These reports are becoming an increasing source of additional, in-depth program information for Congress. The AM of a program being studied must track its progress regardless of who has responsibility, for one thing ensuring accuracy of information it is generating, and that it is traceable to other data

submitted. The AM cannot assume the study team has his degree of concern about the program.

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**A Closing Note to This Guide  
(or, a Lesson You Don't Want to Learn the Hard Way)**

*Beware of the gadflies who wish to provide services on the Hill. The AM should use the best judgment regarding information to share with them or with old friends. Some may have worked in DoD as AMs, LLO representatives, or in other acquisition functions. Now, they are in the private sector making livings as consultants or lobbyists. As such they would also service the Hill, sometimes working one side of the river against the other. The gadflies treat you as though you're their best friend and will as long as you feed them. But, they can stir up a hornet's nest.*

**—Seasoned Veteran of DoD Legislative Liaison**

# Congressional Telephone Numbers

(All Numbers = Area Code 202)

Capitol Switchboard: 224-3121

The President: 456-1414

The Vice President: 456-2326

White House Comments:

Register your opinion on an issue: 456-1111

Whether a Bill is signed or vetoed: 456-2226

Capitol Guide Service: 225-6827

Government Printing Office:

Congressional Information: 512-1800

To Order Documents:

Library of Congress - Congressional Research: 512-5700

Democratic National Committee: 863-8000

Republican National Committee: 863-8500

## SENATE

Majority Leader: 224-3135

Majority Whip: 224-2708

Minority Leader: 224-5565

Minority Whip: 224-2158

Secretary of the Senate: 224-2115

Document Room: 224-7860

## HOUSE

Speaker of the House: 225-0600

Majority Leader: 225-4000

Majority Whip: 225-0197

Minority Leader: 225-0100

Minority Whip: 225-3100

Clerk of the House: 225-7000

## LEGISLATIVE SCHEDULE

Democrat: 225-1600

Republican: 225-2020

Legislative Information - Bill Status: 225-1772

Cloakroom (for emergency contact with Representative on the floor):

Democrat: 225-7330

Republican: 225-7350

# APPENDIX A

## SELECTED REFERENCES

Baker, Ross K., *House and Senate* (New York: W. W. Norton & Co., 1989).

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# APPENDIX B

## INTERVIEWEES AND OTHER PERSONAL SOURCES

### The Congress

Mr. Chris Alredge, House Armed Services Committee  
Mr. Carter Baird, House Appropriations Committee  
Mr. Arch Barrett, House Armed Services Committee  
Mr. Anthony R. Battista, House Armed Services Committee  
Ron Boster, Ph.D., Office of Representative Willis Gradison  
(R-OH)  
Mr. Tom Carter, Office of Senator Bob Dole (R-KS)  
Representative Bill Chappell (D-FL)  
Mr. Jim Curry, Senate Select Committee on Intelligence  
Mr. Robin Deck, House Appropriations Committee  
Mr. Jon Etherton, Senate Armed Services Committee  
Mr. David J. Gribben, House Republican Policy Committee  
Mr. Robert Hale, Congressional Budget Office  
Mr. John J. Hamre, Senate Armed Services Committee  
Mr. John Haybush, Office of Representative Denny Smith  
(R-OR)  
Representative Dennis Hertel (D-MI)  
Mr. William Hogan, House Armed Services Committee  
William Hunter, Ph.D., Office of Senator Dan Quayle (R-IN)  
Representative John R. Kasich (R-OH)  
Mr. Richard Kogan, House Budget Committee  
Mr. Richard B. Ladd, Senate Appropriations Committee  
Thomas K. Latimer, Ph.D., House Permanent Select Intelligence  
Committee  
Senator Carl Levin (D-MI)  
Mr. Paul Maggliocetti, House Appropriations Committee  
Ms. Alice Maroni, Congressional Research Service  
Dr. Nick Masters, House Budget Committee  
Representative Nicholas Mavroules (D-MA)  
Representative Leon Panetta (D-CA)

Mrs. Colleen Preston, House Armed Services Committee  
Mr. Al Ptak, Office of Senator Phil Gramm (R-TX)  
Mr. Gordon Riggle, Senate Armed Services Committee  
Mr. Robert Schafer, House Armed Services Committee  
Ms. Judy Schneider, Congressional Research Service  
Mr. Wayne Schroeder, Senate Appropriations Committee  
Mr. Carl Smith, Senate Armed Services Committee  
Representative G. William Whitehurst (R-VA)  
Mr. David Wilson, House Appropriations Committee  
Senator Timothy Wirth (D-CO)  
Mr. Andrew Wright, Office of Representative Frederick Boucher  
(D-VA)  
Mr. Allen Yuspeh, Senate Armed Services Committee

### **The Private Sector**

Ross Baker, Ph.D., Rutgers University  
Ms. Barbara Chow, Price Waterhouse  
Former Senator Dick Clark (D-IA)  
Mr. Tom Culligan, McDonnell Douglas Astronautics  
Former Representative Tom Kindness (R-OH)  
James I. Lingle, Ph.D., Georgetown University  
Mr. Mark Talisman, Kennedy School of Government, Harvard  
University  
Mr. Pat Towell, Congressional Quarterly  
Mr. Mike Viilo, Kaman Aerospace Corporation  
Former Representative Charles Whalen (R-OH)

### **Office of the Secretary of Defense**

LTC Douglas Bell, USA, Office of the Assistant Secretary of  
Defense (Legislative Affairs)  
Lt. Col. Edwynn L. Burckle, USAF, Office of the Assistant  
Secretary of Defense (Legislative Affairs)  
Mr. Grady Lose, Office of the Department of Defense  
Comptroller  
COL John Richardson, JAGC, USA, Office of the Assistant  
Secretary of Defense (Legislative Affairs)

LTC Anthony E. Taylor, USA, Office of the Assistant Secretary of Defense (Comptroller)  
LTC Warren Taylor, USA, Office of the Assistant Secretary of Defense (Legislative Affairs)

### **Department of the Army**

COL Michael J. Brokovich, USA, Office of the Comptroller  
Mr. Russell S. Eggleton, Office of the Inspector General  
MG Richard D. Kenyon, USA, Chief of Legislative Liaison  
Mr. A. Richard Lemy, Office of the Comptroller  
Mrs. Maria R. Murphy, Office of the Comptroller  
MAJ Timothy E. Nullarato, USA, Office of Legislative Liaison  
Ms. Shawn Weinhold, Office of the Comptroller  
MAJ Ryan Zimmerman, USA, Office of the Deputy Chief of Staff for RD&A

### **Department of the Navy**

CAPT Bill Cohen, JAGC, USN, Office of Legislative Affairs  
Mr. C. S. Dalrymple, Office of the Comptroller  
Mr. Bryan K. Davis, Office of the Comptroller  
CDR David Edwards, USN, Office of Legislative Affairs  
CAPT John Fedor, USN, Deputy Chief of Legislative Affairs  
CDR W. J. Kane, USN, Office of Legislative Affairs  
CDR Braden Phillips, SC, USN, Office of the Comptroller  
Mr. G. Richard Reed, Office of the Comptroller  
CAPT Glen Ritchey, USN, Office of the Comptroller  
Lt. Col. J. R. Ryan, USMC, Office of Legislative Affairs

### **Department of the Air Force**

COL Richard Collier, USAF, Office of the Comptroller  
Ms. Helen Covington, Office of Deputy Chief of Staff, Research, Development and Acquisition (RDA)  
Mr. Zack E. Gaddy, Air Force Audit Agency  
Mr. Bruce P. Hedrick, Office of the Comptroller  
Lt. Col. Richard P. Metzger, USAF, Office of the Comptroller

Lt. Col. D. F. McNierney, USAF, Office of the Deputy Chief of Staff, RDA

MAJ Charles O'Connor, USAF, Office of Legislative Liaison

COL Joseph W. O'Neill, USAF, Associate Director of Legislative Liaison

COL Timothy Titus, USAF, Office of Legislative Liaison

Ms. Lois J. Witteurangle, Office of the Comptroller

### **Department of State**

Mark M. Lowenthal, Ph.D., Office of Strategic Forces Analysis, Bureau of Intelligence and Research (and later with Congressional Research Service)

### **U.S. Office of Personnel Management**

Phillip Chartrand, Ph.D., Government Executive Institute

James M. Hershman, Ph.D., Government Executive Institute

Janice Churchill Sadeghian, Ph.D., Government Executive Institute

# APPENDIX C

## PARTIAL BIBLIOGRAPHY OF GOVERNMENT DIRECTIVES ON CONGRESSIONAL RELATIONS

### OFFICE OF MANAGEMENT AND BUDGET (OMB)

Circular	Title	Date
OMB A-11	Instruction for the Preparation and Submission of the Annual Budget Estimate	12-1-95
	Telephone: (202) 395-3172 Internet: <a href="http://www.osd.gov/">http://www.osd.gov/</a>	

### DEPARTMENT OF DEFENSE (DoD)

OSD DIR/INST	Title	Date
5142.1	Assistant Secretary of Defense (Legislative Affairs) (ASD(LA))	7-2-82
5400.4	Provisions of Information to Congress	1-30-78
5400.7	DoD Freedom of Information Act (FOIA)	5-13-88
5400.10	OSD Implementation of DoD FOIA Program	1-24-91

5500.16	Relationship with the Surveys and Investigation Staff, House Appropriations Committee	1-5-77
7000.14-R	DoD Financial Management Regulation, Vol. 2 (Budget Presentation and Formulation)	5-11-94
<b>OSD/DIR</b>	<b>Title</b>	<b>Date</b>
7200.1	Administrative Control of Appropriations	5-7-84
7650.1	General Accounting Office Access to Records	8-26-82
7650.2	General Accounting Office Audits and Reports	7-19-85
7650.3	Follow-up on General Accounting Office, DoD Inspector General, Internal Audits, and Internal Review Reports	2-14-92

Office of the Assistant Secretary of Defense  
(Legislative Affairs)  
Telephone: (202) 693-0305  
Internet: <http://www.whitehouse.gov/>

#### DEPARTMENT OF THE ARMY (DA)

<b>Directive</b>	<b>Title</b>	<b>Date</b>
DACS-DMC	SOP Responsibilities in Connection with Army Appearances Before Committees of Congress	

AR 1-20	Legislative Liaison	8-13-90
AR 36-2	Audit Reports and Follow-up	4-26-91
AR 37-200	Selected Acquisition Information and Management Systems	3-1-79
RAD	Reprogramming Action Directive	

DA Office of Army Regulations and Publications  
Telephone: (703) 325-0849  
Internet: <http://www/dtic.dla.mil/defenselink/>

#### DEPARTMENT OF THE NAVY (DON)

<b>Directive/Series</b>	<b>Title</b>	<b>Date</b>
SECNAV 5730.5G	Procedures for Handling of Naval Legislative Affairs	8-24-81
SECNAV 5430.26E	Mission, Functions, and Responsibilities of OLA	11-13-95
SECNAV 5730.11B	Support of DON Requests to Congress for Authorization for Appropriations for Procurement	5-2-70
SECNAV 5740.24B	Relations with the Surveys and Investigative Staff, House of Appropriations Committee	10-5-90

SECNAV 5740.26	Relations with General Accounting Office	3-24-86
SECNAV 7700.5E	Selected Acquisition Reports	11-1-84
OPNAV 5730.4D	Procedures for Handling Congressional Matters	7-29-91
NAVCOMPT 7102.2B	NAVCOMPT Budget Guidance Manual	4-23-90
NAVCOMPT 7121.3D	Information on Witness - DoD Annual Budget Hearings, etc.	10-6-67

DON Office of Legislative Affairs (Administrative Office)  
Telephone: (703) 695-5195

**DEPARTMENT OF THE AIR FORCE (DAF)**  
**(as found in Air Force Index 2, 1 Aug 95)**

<b>Directive</b>	<b>Title</b>	<b>Date</b>
AFI 65-401	Relations with General Accounting office	4-94
AFI 51-30	Releasing Information in Lithigation, Testimony by Current or Former Air Force Personnel as Witnesses, etc.	
AFI 65-601V4	Researching, Developing, Testing and Evaluations (RDT&E) Appropriation	11-93
AFI 63-101	Air Force Acquisition System	5-94

DoDI  
5000-2AS1  
(Previously AFR 800-2)

Acquisition Management

8-93

DAF Office of Legislative Liaison  
Telephone: (703) 697-8153

## ABOUT THE AUTHOR

Wilbur D. Jones, Jr., is a professor at the Defense Systems Management College (DSMC) where he teaches defense acquisition and serves as speechwriter to the general officer commanding DSMC. He was the senior editor and writer for the *First Edition* of this Guide in 1986, and authored the *Second Edition* in 1989 and the *Third Edition* in 1992.

Mr. Jones has “survived” 27 years in Washington, D.C. Before joining the DSMC faculty in 1984, in his political staff life he served as a Republican Party organizer in Los Angeles, assistant to two California Republican congressmen, assistant to three commissioners of the U. S. General Services Administration, assistant to two Secretaries of Housing and Urban Development, Director of Public Affairs for the United States Chamber of Commerce, director of President Richard M. Nixon’s reelection campaign in New Hampshire, and staff assistant and advance representative to President Gerald R. Ford.

Formerly the DSMC Associate Dean of Information, he headed the DSMC Press and served as founding Managing Editor of the Defense Acquisition University journal, *Acquisition Review Quarterly*. He has authored numerous books and magazine articles for the government on defense matters. On special requested details from DSMC, he served as assistant and speechwriter to two Under Secretaries of Defense (Acquisition) in the Reagan and Bush Administrations.

A military historian, he has published magazine articles on World War II and the Civil War, and is awaiting 1996 publication of a Civil War book on an Indiana infantry regiment, and a book for the Marine Corps on the life of the WWII enlisted Marine.

He was a naval officer for 28 years, including 14 on active duty, and achieved the rank of captain. He retired from the Naval

Reserve in 1984. Upon government retirement in November 1996, he will have served 41 continuous years of duty in the Department of Defense.

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