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Office of Management and Budget

After an executive department has drafted a bill and sends it through that organization's legislative process, the bill is then transmitted to the Office of Management and Budget (OMB)⁴⁷ for clearance prior to being sent to Congress. Basically, the clearance process involves checking that the proposed legislation is consistent with the President's policies and programs. The functions of the OMB include:

1. To assist the President in his effort to develop and maintain effective government by reviewing the organizational structures and management processes of the Executive Branch to assure that they are capable of producing the intended results.
2. To assist the President in the preparation of the budget and the formulation of the fiscal program of the Government.
3. To supervise and control the administration of the budget.
4. To evaluate the performance of federal programs and to serve as a catalyst in the effort to improve interagency cooperation and coordination.
5. To provide leadership in designing programs for the development of career executive talent through the Government.
6. To assist the President by clearing and coordinating departmental advice on proposed legislation and by making recommendations as to Presidential action on legislative enactments.
7. To assist in the consideration and clearance and, where necessary, in the preparation of proposed executive orders and proclamations.
8. To plan and promote the improvement, development, and coordination of federal statistical services; and to provide leadership in the development of new information systems to provide the President with performance data.
9. To keep the President advised of the progress of activities by agencies of the Government with respect to work proposed, work actually initiated, and work completed, together with the relative timing of work between several agencies of the Government, all to the end that the work programs of the several agencies of the executive branch may be coordinated and that the monies appropriated

47. Created on July 1, 1970 by Exec. Order No. 11,541, 31 U.S.C.A. § 16 (West Supp. 1972), formerly known as the Bureau of the Budget. For a report on the establishment of OMB, see *National Journal*, vol. 3, No. 4, Jan. 23, 1971, at 151.

by the Congress may be expended in the most economical manner possible with the least possible overlapping and duplication of effort.⁴⁸

The Project was primarily concerned with the sixth function. This area is handled by the Legislative Reference Division of OMB's Management Section. The duties of this division include reviewing the annual agency legislative programs, as well as coordinating the agency preferences with the President's established goals. In this sense OMB functions mainly as a presidential sieve for agency legislation.

All of the executive legislative programs fall into one of six budget divisions: National Security Programs Division; International Programs Division; Economics, Science, and Technology Programs Division; Natural Resources Programs Division; and General Government Programs Division.⁴⁹ The Legislative Reference Division assigns one of its personnel the responsibility for handling executive legislation which affects each one of these programs. These individuals are concerned primarily with policy. Technical sufficiency of the legislation is examined only incidentally. Not all of these personnel are lawyers; some are economists and others political scientists.⁵⁰

Where conflicts arise between the agencies, the OMB makes every effort to negotiate in order to obtain agreement on the legislation. Sometimes the OMB requires the redrafting of legislative proposals, as was the case with the ROTC bills. In that instance the OMB called for a consolidation of the ROTC programs of the three services, rather than separate programs. The idea was to keep repetitive provisions out of the act.⁵¹ In some cases the OMB itself redrafts the legislation, as in the Graduate Education section of the Higher Education Amendments of 1968. The files on these amendments reflect an abundance of substantive as well as technical changes made by the OMB.⁵²

Many of the legislative draftsmen interviewed complained that in most instances they are not present during meetings with the OMB when the depart-

48. GSA, U.S. GOVERNMENT ORGANIZATION MANUAL 58-59 (1970-71).

49. *Id.* See also 3 U.S. CODE CONG. & AD. NEWS 6318-19 (1970).

50. Project observation at OMB, July-August, 1970.

51. See DOD Study, DOD-ROTC notes 23, 39. This notation system is a shorthand citation form developed by the Project to cite specific memoranda contained in the file drawer content analysis sections appended to each agency study. "DOD" refers to the Department of Defense Study. "ROTC" refers to the file notes on the ROTC Revitalization Act, the bill traced in DOD. The number in each citation following the word "note" is the number of the exact memorandum referred to. Thus, "DOD-ROTC, note 23," is a citation to the 23d memorandum in the ROTC Act bill tracing section. All other agencies have been assigned similar letters and this system of citation has been followed uniformly throughout the study.

52. See HEW Study, HEW-HEA notes 5, 10.

ment's legislative proposal is being considered for clearance.⁵³ The feeling is that many of the technical deficiencies could be ironed out at an earlier stage, and inconsistent legislation could be discovered before it reaches the higher levels for approval. However, in many cases the draftsmen have been invited to meet with members of Legislative Reference Division in OMB to discuss their legislative proposals, and there seems to be no objection on the part of OMB to have such personnel present.⁵⁴

53. *See, e.g.*, FAA Study, text accompanying footnotes 133-137.

54. *See, e.g.*, HEW Study, text accompanying footnotes 243-259.