Legislative Scorecard Issues — Fiscal Year (FY) 2012 Funding

Congress Finalizes FY2012 Appropriations, President Signs into Law

On Friday, December 16, 2011, in the House, and Saturday, December 17, in the Senate, Congress voted to adopt the conference agreement (H.R. 2055, H. Report 112-331) for a nine-bill FY 2012 spending package that finalized the appropriations process. This action came after the Congress passed its fifth Continuing Resolution (CR) to fund the government through December 23, the date on which President Obama signed the conference agreement into law [P.L. 112-74]. NIH/NEI highlights include (see funding chart):

- Increases NIH program funding by $299 million to $30.7 billion, reduced to $30.6 billion by a 0.189 percent across-the-board rescission for all Labor, Health and Human Services, and Education (LHHS) programs.
- Increases NEI funding by $3.2 million to $704.04 million, which is reduced to $702.7 million by the 0.189 percent LHHS rescission.
- Reduces the salary cap from Executive Level I ($199,700) to Executive Level II ($179,700) of the Federal Executive Pay scale and does not provide an inflationary adjustment to non-competing awards.
- Approves and funds the new National Center for Advancing Translational Sciences (NCATS) and funds the Cures Acceleration Network (CAN) within it at $10 million.
- Requires a multitude of update reports on NCATS and CAN implementation; a study on NIH-wide implementation of the 2010 Institute of Medicine (IOM) recommendations on the design, implementation, and management of clinical trials; and a pilot study on third-party reimbursement for clinical services incurred in NIH research facilities.

Due to Congressionally negotiated cuts in the Budget Control Act to FY2012 spending that were below FY2011 levels, the series of CRs that funded the government until the spending bill was signed into law had imposed a 1.503 percent cut on all agency programs, including the NIH/NEI. For NEI, this meant it operated at a funding level of $690.3 million, a reduction of $10.5 million, through the first one-third of the fiscal year. In FY2011, Congress did not finalize appropriations until April 2012 after a series of eight CRs.

Salary Cap Issue

Every year since 1990, Congress has legislatively mandated a provision limiting the direct salary that an individual may receive under an NIH grant. Despite opposition from the medical research advocacy community to any changes in the salary cap in the FY2012 appropriations process, for the first time Congress restricted the amount of direct salary to Executive Level II of the Federal Executive Pay scale ($179,700), down from Executive Level I ($199,700). The community has already expressed concern about the impact of this action. The Association of American Medical Colleges (AAMC) has stated that reducing the cap will have a significant impact to non-competing awards. The Association of American Universities (AAU) has noted that the change would disproportionately affect physician scientists, who are critical to advancing breakthrough discoveries into the next generation of medical advancements.

House and Senate Conferees Have Their Say in the FY2012 conference agreement’s Report Language, the conferees:

- Strongly urged NIH to maintain extramural research at a level of at least 90 percent of the budget, as in most recent years, and to establish safeguards to ensure the percentage of funds used to support basic research across the NIH is maintained.
- Expresses disappointment in the way the Administration presented its request to fund NCATS and the accompanying uncertainty as to whether the proposal to create it complied with the legislative requirements within the NIH Reform Act of 2006 with respect to the role of the Scientific Management Review Board (SMRB)—the entity created to make recommendations on NIH management and structure. The conferees strongly recommended that NIH’s deliberative approach to potentially consolidating the functions of the separate institutes on Drug and Alcohol into a new “Addiction Institutes” (tentatively called the National Institute of Substance Use, Abuse, and Addiction Disorders) should include full consideration by the SMRB. NAEVR has been monitoring the latter process closely to see if it is precedent-setting for any other institute consolidations, such as a “Brain Institute” into which NEI could be clustered.

Whither Sequestration?

Since the Joint Select Committee on Deficit Reduction, which was created by the Budget Control Act of 2011 (P.L. 112-25), did not offer up recommendations for budget cuts of $1.2 trillion over ten years, sequestration is scheduled to begin in January 2013. About half of these cuts are slated from defense, and the other half from non-defense discretionary spending, which includes NIH. The Congressional Budget Office (CBO) has estimated potential NIH budget cuts of eight percent below final FY2013 appropriations. NIH Director Dr. Collins has noted that, due to NIH’s out-year commitments, sequestration would have the greatest impact on funding for new grants.

Congress has been uncharacteristically silent about sequestration, except for defense supporters who are concerned about its impact on the nation’s military preparedness. To avoid these cuts, Congress would need to void all or part of its prior mandate or find the $1.2 trillion in other cuts or new revenue.

Visit the NIH/NEI funding section of NAEVR’s Web site at www.eyeresearch.org for full details

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<th>FY2010 Final**</th>
<th>FY2011 Final</th>
<th>FY2012 Final</th>
<th>FY2012 Net of .189% Rescission</th>
<th>FY2013 President’s Budget</th>
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<tr>
<td>NIH*</td>
<td>$30.78 +2.3%</td>
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* Program Level — Net of Transfers
** Absent ARRA Funding ($175M for NEI over two fiscal years, FY2009/2010)
+ $703.8M appropriation reduced by transfer of programs to National Library of Medicine
^ $707.04M appropriation reduced by transfers to new National Center for Advancing Translational Sciences (NCATS)
^+ NEI Baseline Re-Stated as $700.25M Due to Transfers to National Library of Medicine

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