



**U.S. AIR FORCE**

**New Start  
Training Package**  
*Executive Summary*

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# Overview

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- **Key Points**
- **Fiscal Law Basis**
- **Congressional Interest**
- **Definitions**
- **Decision Trees**
- **Validation Form**
- **HAF Process**
- **POCs**



# SECAF Guidance

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- **“A new start is simply the initiation of an effort not justified to and approved by Congress during the appropriations process for the fiscal year involved.”**
  - Revised Guidance
  - Training Program
  - Early Warning
  - Inspection & Oversight

*SECAF memo, 6 Dec 99*



# Key Points

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- **Policy Focus on RDT&E, Procurement**
  - O&M, MPA “nature of the appropriation”
- **Strong Fiscal Law Foundation**
  - Bona Fide Need Rules Always Apply
- **New Starts Can Be Any Amount**
  - Determines Only the Notification Method
- **Requirements Documents Not A Player**
  - Budget Submitted to Hill Key Document
- **Political Sensitivity Critical**
  - Restore Confidence on Capitol Hill



# Legal Basis

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- **“What are the chief sources of expenses for every government... ? The answers are plainly wars and rebellions.... The expenses arising from...the domestic affairs of state are insignificant in comparison with those which relate to the national defense.”**



# Legal Basis

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- **U.S. Constitution, Art. I, Sec. 9, Cls. 7**  
Appropriations; Publication of Statements and Accounts

**“No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.”**



# Legal Basis

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- **Title 31 United States Code § 1105**
  - Budget Contents and Submission to Congress

“(a) On or after the first Monday in January but not later than the first Monday in February of each year, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:”



# Legal Basis

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- **Title 31 United States Code § 1105 cont.**

- Budget Contents and Submission to Congress

“(1) information on activities and functions of the Government.

(2) when practicable, information on costs and achievements of Government programs.

(3) other desirable classifications of information.”



# Legal Basis

- **Title 31 United States Code § 1105 cont.**

- Budget Contents and Submission to Congress

“(5) . . . estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year.”



# Legal Basis

U.S. AIR FORCE

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- **Title 31 United States Code § 1105 cont.**

- Budget Contents and Submission to Congress

“(32) (e) (1) . . . **an analysis** . . . that shall identify requested appropriations or new obligational authority and outlays for each major program that may be classified as . . . a **military capital investment program**, and . . . summaries of the total amount of such appropriations or new obligational authority and outlays for . . . military capital investment programs.”



# Legal Basis

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- **Aircraft Procurement, Air Force**

“For construction, procurement, lease, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$8,228,630,000, to remain available for obligation until September 30, 2002.”

*P.L. 106-79 - Department of Defense Appropriations Act, 2000*



# Legal Basis

- “Funds are most often appropriated in lump sums on the basis of mutual legislative and executive understandings as to their use and derive from agency budget estimates and testimony and expressions of intent in committee reports. As the Navy points out, there are practical reasons why agencies can be expected to comply with these Congressional expectations.”



# Legal Basis

- “If an agency finds it desirable or necessary to take advantage of that flexibility by deviating from what Congress had in mind in appropriating particular funds, the agency can be expected to so inform Congress through recognized and accepted practices.”

*LTV Aerospace Corporation, 55 Comp. Gen. 307 (1975)*



# Legal Basis

- “In a strictly legal sense, the Department of Defense could utilize the funds appropriated for whatever programs were included under the individual appropriation accounts, but the relationship with the Congress demands that the detailed justifications which are presented in support of budget requests be followed.”



# Legal Basis

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- “To do otherwise would cause Congress to **lose confidence** in the requests made and probably result in reduced appropriations or line item appropriation bills.”

*H.R. Report No. 93-662, 93d Cong., 1st Sess. 16 (1973).*



# Congressional Interest

- **HAC-D issued strong language in FY00 House report criticizing DoD for initiating new programs without proper notification**
  - Cited lax management
- **FY00 Appropriation Bill Sec 8096**
- **Retained in FY01 Appn Bill**

**“None of the funds in this Act may be used to compensate a DoD employee who initiates a new start program without notification to OSD and the congressional defense committees, as required by DoD financial management regulation.”**



# Congressional Interest

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## FY00 House Appropriations Committee Report 106-244, p. 9

**“Violation of both new start program regulations and law, as well as standard reprogramming procedures, by using fiscal year 1999 funds to begin a new start, several hundred-million dollar production program which the Congress never formally approved (the C-5 avionics modernization program)-and did so by diverting funds specifically provided by the Congress for another program”**



# Case Study #1

U.S. AIR FORCE

C-5 AMP

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- **Requirement**
  - **FY98 DEPSECDEF direction - passenger safety high priority**
  - **Air Force decides to start Traffic and Collision Avoidance System (TCAS) effort on the C-5 in FY99 instead of FY00**
- **Budget Justification?**



U.S. AIR FORCE

# FY99 C-5

## Budget Justification

<b>BUDGET ITEM JUSTIFICATION (EXHIBIT P-40)</b>		<b>Date</b> February 1998
<b>APPROPRIATION/BUDGET ACTIVITY AIRCRAFT PROCUREMENT-AIR FORCE/Aircraft Modifications</b>		<b>P-1 ITEM NOMENCLATURE: C-5</b>

This line item funds modifications to the C-5 aircraft. The four engine C-5 carries outsized and heavy cargo (tanks, helicopters, etc.) between main operating bases. The primary modification budgeted in FY99 is the TF-39 High pressure Turbine (HPT). Other modifications enhance operational capability while improving flight safety, reliability and maintainability. The specific modifications budgeted and programmed are below.

<u>MOD NR</u>	<u>MODIFICATION TITLE</u>	<u>FY-97</u>	<u>FY-98</u>	<u>FY-99</u>	<u>FY-00</u>	<u>FY-01</u>	<u>FY-02</u>	<u>FY-03</u>	<u>COST TO GO</u>	<u>TOTAL PROG.</u>
3150	NAVSTAR GLOBAL POSITIONING	11.9	8.3	6.7	5.3					88.5
4252	AIRLIFT DEFENSIVE SYSTEMS	1.3	4.3	2.7	2.8	5.1				30.8
6032	COMPARTMENT FLOOR CORROS			0.4	0.3					0.7
6037	TF39 ENGINE HIGH PRESSURE	19.7	34.2	33.1	37.0	41.1	24.9			190.0
<b>6038</b>	<b>AVIONICS MODERN PROGRAM</b>				<b>113.4</b>	<b>53.7</b>	<b>123.2</b>	<b>107.0</b>	<b>200.6</b>	<b>597.9</b>
96001	STATION KEEPING EQUIPMENT	10.8	2.4		13.6	10.2	0.4			37.5
96004	SINCGARS		7.9	13.1	13.2					34.3
99999X	LOW COST MODIFICATI		0.9				0.1	0.1		2.8
Z88888	REPROGRAMMING		1.7							1.7
<b>TOTAL FOR C-5</b>		<b>61.6</b>	<b>81.2</b>	<b>63.6</b>	<b>193.0</b>	<b>121.0</b>	<b>154.4</b>	<b>107.5</b>	<b>200.6</b>	

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# Case Study #1

## C-5 AMP

U.S. AIR FORCE

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- **Requirement**
  - **FY98 DEPSECDEF direction - passenger safety high priority**
  - **Air Force decides to start Traffic and Collision Avoidance System (TCAS) effort on the C-5 in FY99 instead of FY00**
- **Budget Justification**
  - **FY99 President's Budget (PB) showed C-5 AMP (Avionics Modernization Program) totaling \$600M beginning in FY00**
    - **TCAS effort included as part of overall C-5 AMP program**
  - **Answer to Congressional Inquiry (Aug 98) states AF intent to accelerate TCAS portion of C-5 AMP**
  - **During Staffer Days (Feb 99) briefed House Appropriations Committee (HAC) staffer - intent to accelerate TCAS portion of AMP from FY00 to FY99**
- **Decision - New Start Notification Not Required**
  - **AF believed Congress notified and agreed with approach**



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# FY00 C-5

## Budget Justification

<b>BUDGET ITEM JUSTIFICATION (EXHIBIT P-40)</b>		<b>Date</b> February 1999
<b>APPROPRIATION/BUDGET ACTIVITY AIRCRAFT PROCUREMENT-AIR FORCE/Aircraft Modifications</b>		<b>P-1 ITEM NOMENCLATURE: C-5</b>

This line item funds modifications to the C-5 aircraft. The four engine C-5 carries outsized and heavy cargo (tanks, helicopters, etc.) between main operating bases. The primary modification budgeted in FY00 is the TF-39 High pressure Turbine (HPT). Other modifications enhance operational capability while improving flight safety, reliability and maintainability. The specific modifications budgeted and programmed are below.

<u>MOD NR</u>	<u>MODIFICATION TITLE</u>	<u>FY-98</u>	<u>FY-99</u>	<u>FY-00</u>	<u>FY-01</u>	<u>FY-02</u>	<u>FY-03</u>	<u>FY-04</u>	<u>FY-05</u>	<u>COST TO GO</u>	<u>TOTAL PROG.</u>
3150	NAVSTAR GLOBAL POSI	8.1	8.1	5.3							78.6
4252	AIRLIFT DEFENSIVE SYS	5.0	6.4	3.1	0.4						30.7
6032	COMPARTMENT FLOOR	1.2	0.4	0.3							5.4
6037	TF39 ENGINE HIGH PRE	40.2	39.7	37.6	45.8	24.9					207.7
6038	AVIONICS MODERNIZATI		9.7	22.6	129.9	195.3	217.3	163.1	2.4		740.3
96001	STATION KEEPING EQUI	1.4									11.4
96004	8.33 RADIO	13.3	1.9								15.2
99999X	LOW COST MODIFICATI	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1		3.0
Z88888	REPROGRAMMING		6.9								6.9
<b>TOTAL FOR C-5</b>		<b>84.7</b>	<b>82.4</b>	<b>70.0</b>	<b>180.6</b>	<b>237.6</b>	<b>235.9</b>	<b>260.3</b>	<b>455.6</b>	<b>4700.8</b>	<b>6729.5</b>

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# Case Study #1

## C-5 AMP - Lessons Learned

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- **Discussion**
  - \$9.7M spent in FY99 for TCAS, using funds from other C-5 modification efforts
  - FY00 PB sent to Congress with FY99 updates
  - Budget depicted \$9.7M for C-5 AMP (which was not supposed to start until FY00)
  - HAC criticism published in NY Times
  - Appearance that Air Force diverted funds from Congressional special interest item to fund the new start
- **Conclusion - Formal Congressional Notification Required**
  - Staffer Day briefing does not constitute notification

**KEY POINT: Formal Notification**



# Definitions

- **New Start:**
  - ***“Any program, subprogram, modification, project or subproject not previously justified by the Department and funded by the Congress through the normal budget process.” - OUSD(C) policy memo dated 18 Feb 00, Subject: New Start Procedures***
  - ***“New starts pertain to specific appropriation line-items and include any new programs, projects, subprojects, or modifications that were not disclosed to Congress in the justification material” - FY99 DoD Approp Bill HAC Report 105-591***
- **Program - Investment Accounts**
  - **The aggregate level of budget line items as identified in the President’s Budget P-1 and R-1 justification documents and related classified annexes and reports as subsequently modified by Congressional action**



# Definitions (cont)

## • Sub-Program/Project/Sub-Project

- *The most specific level of budgeted items identified in the President's Budget Justification documents and related classified annexes. These sub-programs, projects, and sub-projects are shown as separate efforts below P-1/R-1 line.*
- *For RDT&E refer to R-2A budget exhibits by fiscal year. The Budget Program Activity Code (BPAC) may also indicate the level of detail that should be reviewed.*
- *For Aircraft and Missile Procurement refer to P-40 narrative and supporting exhibits such as P-3A or P-1900s.*

**Additional guidance in AFIs 65-601, 63-101, and 23-205**



# Definitions (cont)

- **Modifications**

- The alteration, conversion, or modernization of an end item of investment equipment
- All modifications, regardless of amount, not previously justified and appropriated by Congress should be considered a new start
- Any modification regardless of cost (except for safety modifications less than \$10 million over the entire effort) must receive prior approval (DD 1415-1) before initiating
- Safety Modification - corrects material deficiency which caused Class A Mishap (per AFI 91-204)
  - Safety modifications less than \$10 million for entire effort can be initiated in advance of Congressional notification



# Definitions (cont)

- **Commodities** - executed in accordance with AF annual priorities; new start notification procedures do not apply to the following **unless it results in a new program or P-1 line item:**
  - **3010**
    - BP12 - Common Support Equipment
    - BP14 - Industrial Responsiveness
    - BP16 - Initial Spares
    - BP17 - War Consumables
  - **3020**
    - BP22 - Missile Replacement Equipment
    - BP24 - Industrial Responsiveness
    - BP25 - Replenishment Spares
    - BP26 - Initial Spares



# Definitions (cont)

- **Commodities** - executed in accordance with AF annual priorities; new start notification procedures do not apply to the following **unless it results in a new program or P-1 line item:**
  - **3080\***
    - BP82 - Vehicular Equipment
    - BP83 - Electronics and Telecommunications Equipment
    - BP84 - Other Base Maintenance and Support Equipment
    - BP86 - Spares and Repair Parts
  - **3011\***
    - BP35 - Munitions and Related Equipment

\* Commodities comprise the preponderance of items in 3080 and 3011; new starts will seldom arise. End item mods are considered commodity lines within the above BP's. Current non-commodity 3080/3011 programs listed separately (see next slide) must comply with new start procedures for projects below the P-1 line. The following SAF/FM New Start web site will maintain most current list:

<http://www.saffm.hq.af.mil/FMB/FMBI/newstarts/newstarts.shtml>



# 3080/3011 Non-Commodity Programs

## U.S. AIR FORCE New Start Procedures Applied Below P-1 Line

- **3080**

- 60K Aircraft Loader
- Next Gen Small Loader
- Intel Data Handl Eq (TBM)
- ATCALs (MPN-25)
- Natl Airspace Sys
- Theater Air Ctrl Sys Impr  
(GTACS & AFMSS)
- Weather Observation/Fcst
- Strategic Cmd & Ctr (B-2 proj)
- Combat Training Ranges
- MEECN

- Theater Battle Mgmt C2 Sys
- Base Info Infrastructure (CITS)
- NAVSTAR GPS (Space)
- NUDET Detection Sys (Space)
- AF Satellite Control Network (Space)
- Eastern/Western Range I&M (Space)
- MILSATCOM (Space)
- Tactical C-E Equipment
- CSEL Radio
- DARP RC135
- DARP MRIGS

- **3011**

- Sensor Fuzed Weapon
- Joint Direct Attack Munition

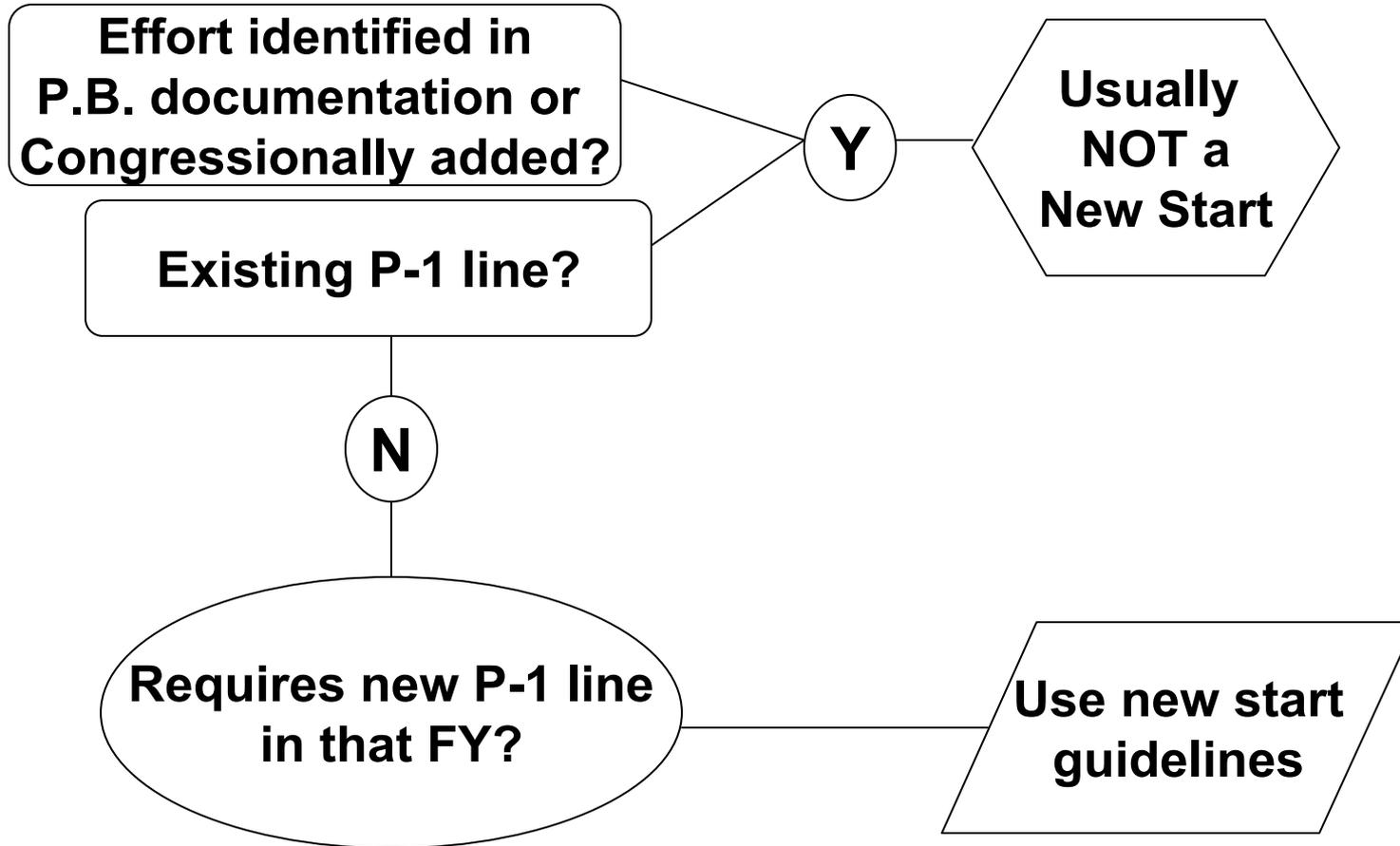
- Wind Corrected Munitions Dispenser



# NEW START DETERMINATION COMMODITIES

(BPs 12/17/22 & Majority of 3080/3011\*)

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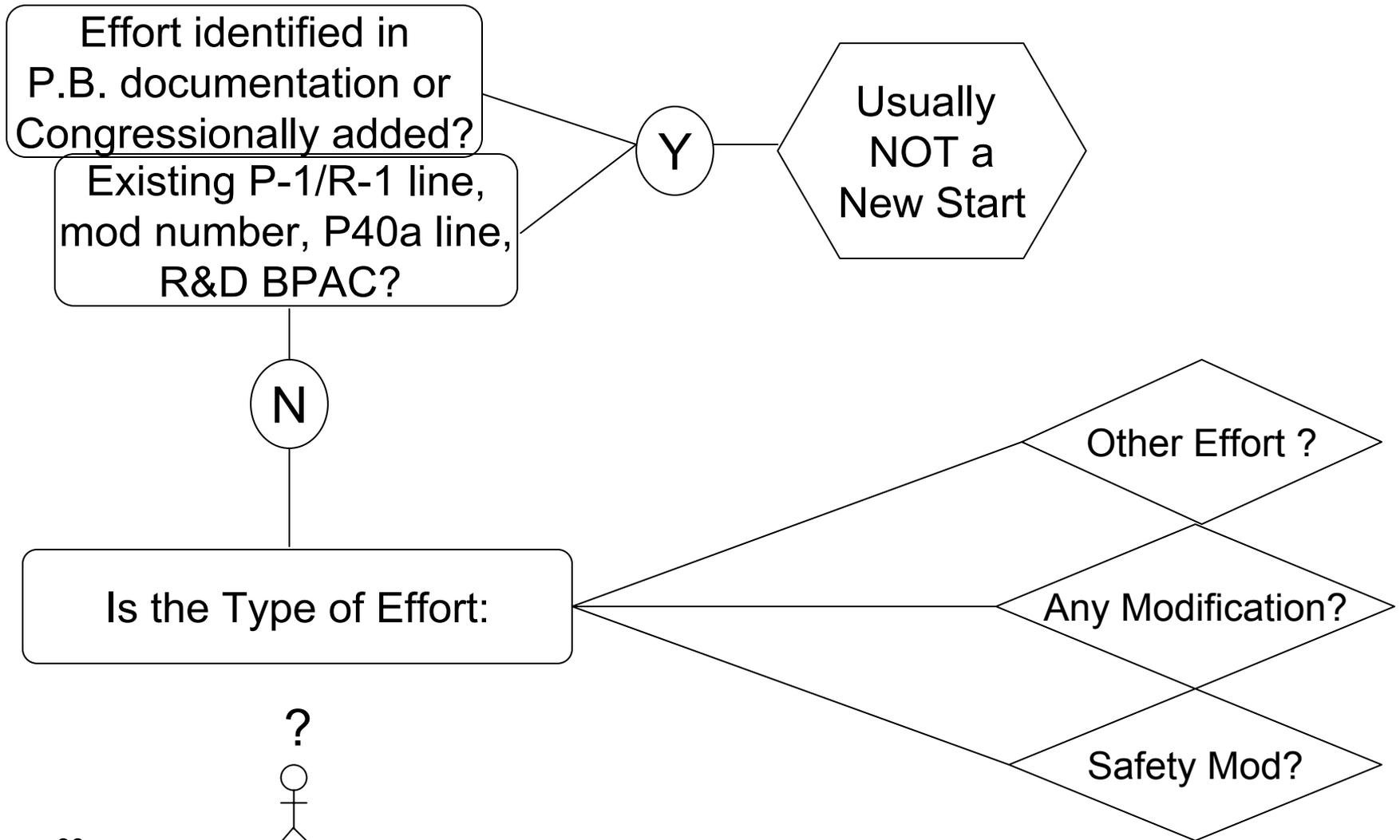
\* 3080/3011 exceptions are those programs (P-1 lines) listed on SAF/FM New Starts web site <http://www.saffm.hq.af.mil/FMB/FMBI/newstarts/newstarts.shtml>



# New Start Determination

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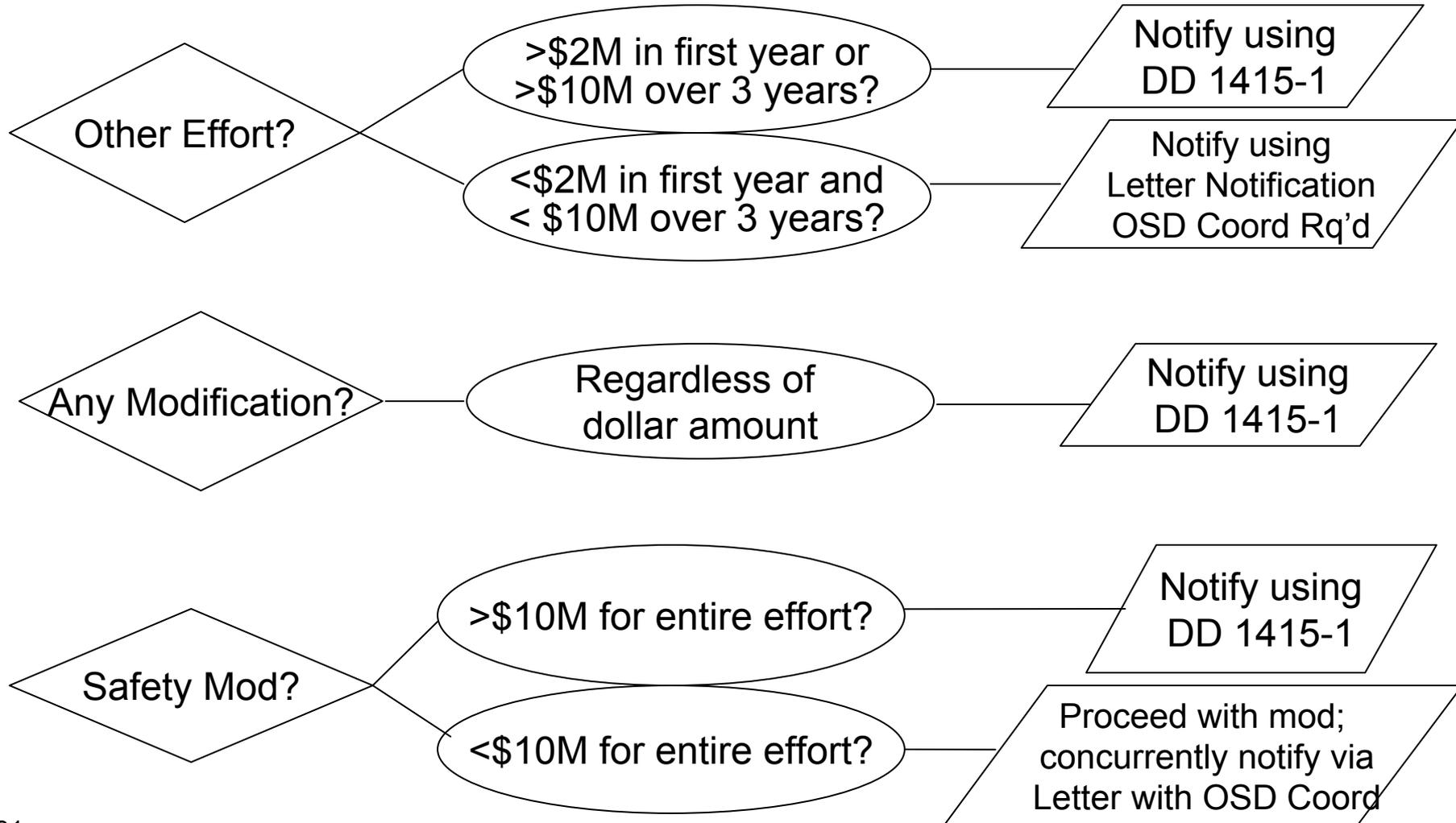
## SPO Acquisition Programs in Investment Approps





# New Start Determination

## SPO Acquisition Programs in Investment Approps

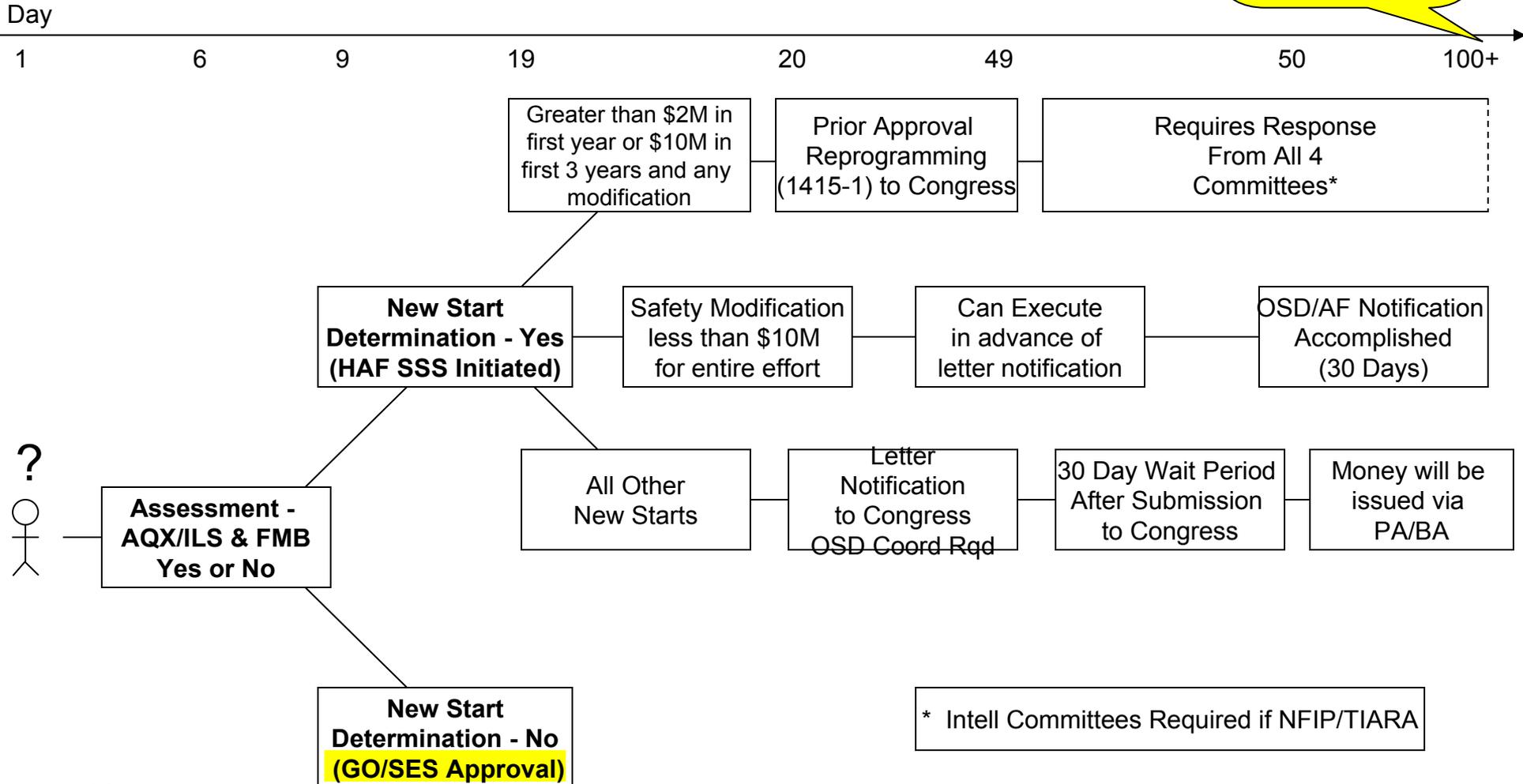




# New Start Notification Process

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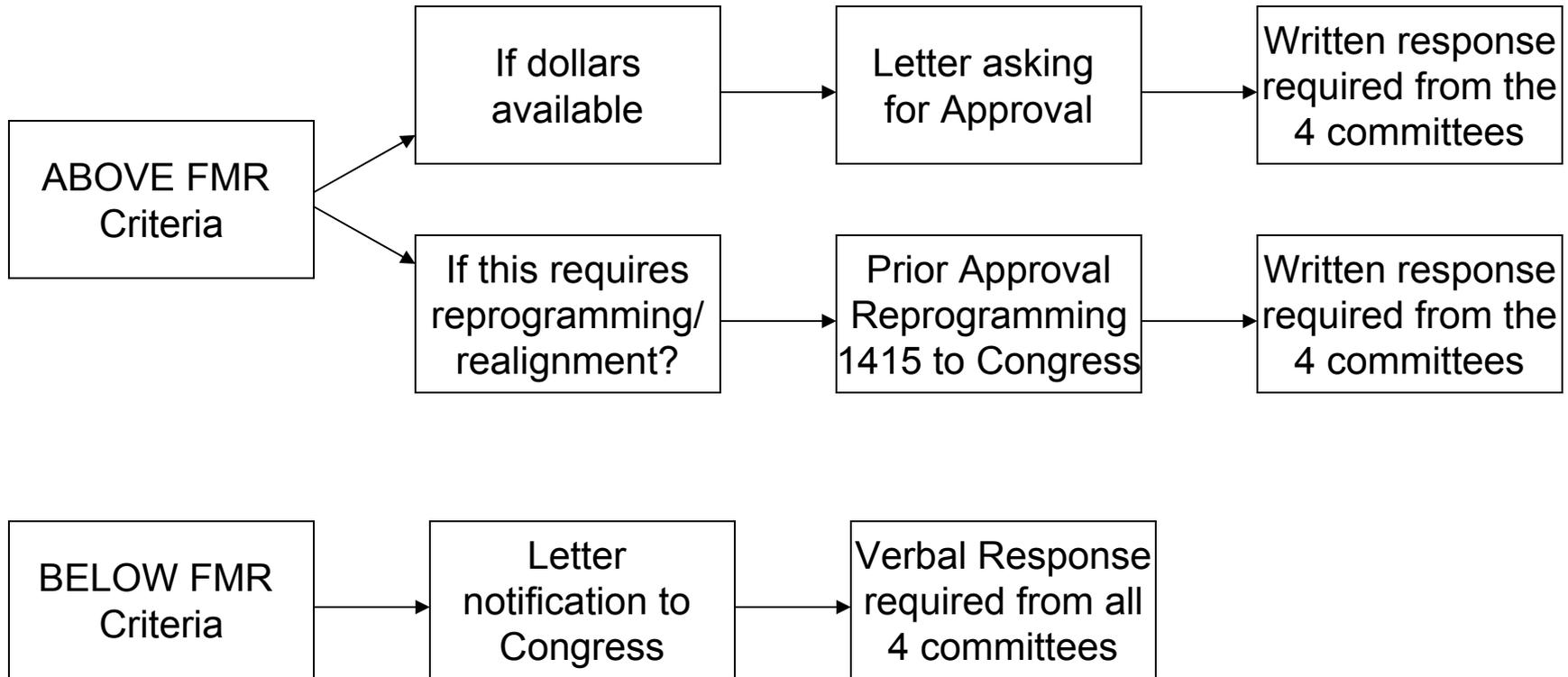
Not a quick process



\* Intell Committees Required if NFIP/TIARA



# Classified (SAR) New Start Process - All Approps



**Supplemental SAR training will be provided separately**



# Establishing Accountability - Validation Process

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- **Program Office validates congressional appropriation or new start approval before obligation of funds**
  - Written validation for each action
  - New Start Validation Form signed by System Program Director and Program Control Chief
  - Validation Form filed in official contract file
  - Exception: “commodity” programs
- **“Maybes” and “no consensus” elevated to SAF/AQ or AF/IL and reviewed with SAF/FM**
  - Documented yes/no decision - GO/SES level

**Ensure Validation**

# New Start Validation

In accordance with AFI 63-101, I have validated the following prior to approving this contracting action (one of the following **must** be answered yes):

	YES	NO
<p><b>1. Program was budgeted and appropriated.</b> Effort was budgeted in the President’s Budget Submission and is consistent with program direction provided by Defense Appropriations Conference language and/or marks. <b>Fiscal year of President’s Budget Submission must match fiscal year of funds being used.</b> This effort is not a new start.</p>		
<p><b>2. Program was a Congressional add.</b> Effort was not requested in the President’s Budget Submission, but funds were appropriated by the Defense Appropriations Conference and effort is consistent with program direction provided by Defense Appropriations Conference language and/or marks. Fiscal year of marks must match fiscal year of funds being used. This effort is not a new start requiring Congressional approval. SAF/AQX or AF/ILS Program Authorization attached.</p>		
<p><b>3. Program is an out-of-cycle New Start.</b> Effort is an out-of-cycle new start for which Congressional notifications/approval has been accomplished as reflected on the Secretary of the Air Force funds release document. SAF/AQX or AF/ILS Program Authorization attached.</p>		
<p><b>4. HAF has advised that new start notifications are not required</b> (documentation attached).</p>		

\_\_\_\_\_  
System Program Director

\_\_\_\_\_  
Program Control Chief

Department of Defense Appropriations Act, 2000, Public Law 106-79 Sec. 8096. None of the funds in this Act may be used to compensate a DoD employee who initiates a new start program without notification to OSD and the congressional defense committees, as required by DoD financial management regulation.



# POCs

- **FMBI**
  - 3010 - Mr Ron Nuss, DSN 224-4642
  - 3011/3080 - Mr Ron Wells, DSN 224-4644
  - 3020 - Lt Col Ricky Valentine, DSN 225-0009
  - 3600 - Mr John Uperti, DSN 224-4603
- **AQXR**
  - 3010/3020 - Ms Debbie Hughes, DSN 425-7241
  - 3600 - Mr Frank Sosa, DSN 425-7209
- **ILSR**
  - Ms Debbie Erickson, DSN 225-7030
- **FMBMB - Special Access Programs**
  - Ms Olga Crerar, DSN 224-1319
- **FMBMM - Policy**
  - Ms Marti Maust, DSN 225-0305



# Summary

- **Heighten awareness of notification requirements, policies, and procedures**
- **Legal and statutory basis**
- **Congressional concern is not diminishing**
  - Risk of Adverse Reaction High
- **Most determinations can be made at Centers**
  - Over 95% of contractual activities are not new starts
- **If unsure whether new start go through PEM/FMB**
- **Need to elevate early for timely decision**
  - Letter Notifications - minimum two months
  - Prior Approval Notifications - four to six months



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**BACK UPS**



# New Start Language

- DoD Appropriations Bill, 1999, HAC Report 105-591, New Start Notification
  - “For a third consecutive year, the Committee finds that it must again address failures of the Department of the Navy specifically, and the Department of Defense generally, to follow the proper procedures for initiation of new start programs. Last year, after the Committee expressed its concern over the Navy’s initiation of two new start programs without prior notification to Congress, the Secretary of the Navy wrote to the Committee that, ‘while we have longstanding policy guidance regarding budget execution, it will be reinvigorated so that all of our involved organizations follow established DoD policies and procedures regarding changes to Congressionally approved programs, as well as new start programs.’ During the course of its review of the Department of Navy’s budget this year, the Committee has learned of three additional cases in which the Department has initiated new programs, representing billions of dollars of potential expenditure, without prior notification to Congress. Further, the Committee has also learned of similar unapproved new start programs within the Air Force and DARPA. Particularly disturbing to the Committee are unapproved new starts in classified, ‘special access’ programs.”



# New Start Language (cont)

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- DoD Appropriations Bill, 1999, HAC Report 105-591, New Start Notification
  - “To fulfill its constitutional responsibilities, Congress must know prior to the obligation of any funds when the Department plans to start programs, projects, subprojects or modifications that were not specifically explained in the budget justification material supporting a Presidential budget request for which a subsequent appropriation was made. New starts pertain to specific appropriation line-items and include any new programs, projects, subprojects, or modifications that were not disclosed to Congress in the justification material. A new start occurs even when such activities may be funded in another appropriation belonging to the same or different military department or defense agency. Since the existing DoD financial management policies governing the new start notification process have failed, the Committee bill includes a new general provision (Section 8103) which prohibits compensation of any DoD employee who initiates a new start program without following the proper procedures required by the DoD financial management regulations. The Committee believes that DoD’s acquisition and comptroller organizations, especially at the levels most directly responsible for approval of the obligation of funds, must institute improved management controls to ensure the existing regulations are carefully followed. The Committee is prepared to work with DoD to develop effective enforcement mechanisms for the new start approval process.”