MEMORANDUM FOR THE SECRETARY

FROM: Michael L. Telson
Chief Financial Officer

SUBJECT: ACTION: Report to Congress on Limited Period Funding

ISSUE: The National Defense Authorization Act for FY 1998 requires the Secretary of Energy to provide a report, by October 1, 1998, assessing how the Department could carry out a transition from a no year funding system to a limited period funding system.

The requirement for this report grew out of a belief by some Members of Congress that limited period funding might improve DOE financial management, especially with regard to reducing unobligated and uncosted balances. In fact, limited period funding would have substantial costs and no appreciable benefits for the Department; it would:

- require significant additional administrative controls, with a cost of <u>at least</u> $30 million the first year and $10 million each year thereafter.
- hamper DOE's ability to manage its programs, given the loss in fiscal flexibility inherent in limited period appropriations.
- likely <u>increase</u> uncosted balances by forcing premature obligation decisions. DOE's uncosted/unobligated balances are already equivalent to those of other agencies.

DOE's financial management credentials are good. We are one of only six federal agencies to receive an unqualified opinion, and one of only two federal agencies to receive a grade of 'A' from GAO, on our audited financial statements.

The report provides the requested information, <u>and strongly recommends against limited period funding for DOE</u>, but states that the Department is prepared to work with Congress on other ways to improve financial management and control unobligated and uncosted balances to satisfy whatever concerns the Congress may have.

SENSITIVITIES: This requirement is driven primarily by the House National Security Committee.

POLICY IMPACT: Would significantly impact DOE budget and financial policies.

RECOMMENDATION: Sign out the attached transmittal letter.

Approve: ____________________________

Disapprove: ____________________________

Date: ____________________________

Attachment

Concurrence:

Defense Programs (DP)--Dave LeClaire (concurred 9/11/98)
Energy Efficiency (EE)--(Assumed concurrence)
Environmental Restoration and Waste Management (EM)--Jim Owendoff (concurred 9/15/98)
Energy Research (ER)--Martha Krebs (concurred 9/15/98)
Fossil Energy (FE)--Bob Kripowicz (concurred 9/8/98)
General Counsel (GC)--Mary Ann Sullivan (concurred 9/16/98)
Human Resources (HR)--Tom Tamura (concurred 9/10/98
Nuclear Energy (NE)--Bill Magwood (concurred 9/11/98)
Congressional, Public and Intergovernmental Affairs (CP)--John Angell (concurred 9/21/98)
(CI-20)--M. Greenwald (concurred 9/22/98)
(CI-30)--D. Berick (concurred 9/22/98)

The Honorable Strom Thurmond
Chairman, Committee on Armed Services
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Section 3169 of the National Defense Authorization Act for Fiscal Year 1998 required a report assessing how the Department of Energy could carry out a transition from a no year funding system to a limited period funding system. I am pleased to transmit this report.

In conducting the analysis required to prepare this report, two facts became very clear. First, the Department of Energy's programs have enjoyed many benefits from having no year funds. The very nature of our work with cutting edge research, complex environmental cleanup, and management of nuclear materials and hazardous waste argues against the restrictions inherent in funding that is available only if obligated before the end of a given fiscal year. Second, a transition to limited period appropriations, while possible, would require that the Congress provide funding to cover significant costs to modify business systems, and to pay for an increased workforce to manage the additional volume of transactions. However, there would be few, if any, benefits from the change.

I believe this report will be useful in establishing a basis for dialogue; I look forward to working with you on approaches to strengthen and enhance the financial management of the Department in ways that might better address any concerns that you might have with our present no-year funding system. The Department's Chief Financial Officer, Michael Telson, is available to answer any questions your staff may have or to provide additional information; you can reach him at (202) 586-4171.

Thank you for your continued support of the Department's programs.

With best wishes,

Bill Richardson

Enclosure

EXECUTIVE SUMMARY

Pursuant to Congressional direction, the Department of Energy (DOE) has prepared a report assessing how the Department could carry out a transition from no-year funding to a limited-period funding system.

While the Department could make this transition, there are substantial costs and few benefits to such a change. The Department estimates that at least $30 million would be required to modify Departmental accounting systems (predominantly the accounting systems of the Department's contractors) to accommodate tracking appropriated funds by fiscal year. In addition, we estimate $10 million in increased annual operating costs, and a three-to four-fold increase in the volume of data to be reported, reconciled and managed.

In addition to these increased costs, there are other disadvantages to operating with limited period appropriations. Research and Development activities are unnecessarily restricted with funding cut-offs at the end of each fiscal year. No-year funds allow these programs flexibility to allocate funding at the pace appropriate to the success or failure of a line of scientific investigation. Environmental cleanup activities are also subject to stops and starts as regulatory bodies approve plans and issue permits on schedules that are not always those forecast in the budget. No-year funding allows the work to proceed when the permit is issued, or the cleanup solution is approved, regardless of whether this is past the end of the fiscal year in which the funds were requested. No-year funds also provide flexibility for activities which are cutting edge, whether basic research, or work at our nuclear and radioactive waste sites. When we experience problems, such as with the in-tank precipitation process at the Savannah River Site, the availability of no-year funds allows us to propose a reprogramming to quickly initiate work to resolve the problem rather than waiting through a budget cycle to request funding. No-year funds support the existing structure of the Department's management and operating (M&O) contracts. Imposition of time-limited funding on these large, multi-year (normally five year) M&O contracts would require the use of the special multi-year contracting authority under the Federal Acquisition Streamlining Act. This authority would require the Department to obligate, up front, the full amount of termination costs under the multi-year contract. The consequence of this would be to cause unnecessary spikes in budget requests and increased levels of uncosted balances tied up in these reserves. Finally, limited period appropriations require additional administrative controls and may force decisions and actions which are not in the overall best interest of the taxpayer, such as when a decision is made before all the facts are available because a decision to delay would mean the loss of the funds required to complete the work.

Opponents of no year funding argue that the transition to annual or limited period appropriations would result in better financial management. In particular, they argue that the Department has excessive unobligated and uncosted balances which would be eliminated by such a change. This is not the case. The Department of Energy is unique in the Federal Government in the way work is conducted. In each of our business lines, Science, National Security, Environmental Quality and Energy Resources, our work is conducted by contractors, many of whom are responsible for operating a federally owned site (national laboratory, weapons production facility or clean-up site). The Department obligates funds to these contractors on a single contract which may cover a wide variety of tasks. This contractual vehicle allows obligation of funds right up to the end of the fiscal year, thus providing an ideal environment to avoid unobligated balances, whether no-year or limited period funding is involved. With no-year funding, however, there is less pressure to obligate funds before they are actually needed since unused funds carry over and can be used in the next fiscal year.

Would the use of annual or limited period appropriations reduce uncosted balances? Once funds are obligated on a contract for a valid requirement, they remain obligated and available for use for, in the case of annual appropriations, five more years. If a contractor were to do no work for four years, the funds would sit on the contract as uncosted balances. In fact, with annual funding there is less incentive for the contractor to identify the funds as excess, since if they are deobligated after the end of the fiscal year, they cannot be reused. No-year funds, on the other hand, can be proposed for reprogramming or as a future year budget offset.

In summary, the Department's assessment, based on input from its contractors as well as discussions with several agencies working under limited period appropriations, indicates that a change to limited period appropriations would provide no benefit in improving financial management in the Department. It would require a significant up front investment to modify DOE and contractor business systems to meet legal requirements associated with limited period appropriations, and would mean substantial additional annual costs to properly administer such a system. It also would hamper the Department's ability to manage its program activities due to the loss in fiscal flexibility inherent in limited period appropriations.

We recognize that the Congress has several objectives in mind in pursuing a change to limited period appropriations. We are prepared to work with the Congress to seek less costly and burdensome if the Congress desires, alternatives to limited period appropriations for meeting these objectives.

SECTION I
INTRODUCTION

The National Defense Authorization Act for Fiscal Year 1998 contained a provision requiring the Secretary of Energy to submit a report to Congress by October 1, 1998 assessing how the Department could carry out a transition from a no year funding system to a limited period funding system. Specifically, Sec. 3169 states:

> REPORT- Not later than October 1, 1998, the Secretary of Energy shall submit to Congress a report assessing how the Department of Energy could carry out a transition from a no-year funding system to a limited-period funding system.
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> MATTERS COVERED - The report shall cover the following matters:
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> > A conceptual proposal on how the no-year funding system could be phased out.
> > An estimate of the cost of making the transition to a limited period funding system.
> > A description of the programmatic effects that could occur if the no-year funding system is eliminated.
> > A delineation of activities for which the no-year funding system should be retained.
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> DEFINITIONS - In this section:
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> > The term “no-year funding system” means a funding system in which funds are available to the Department of Energy until expended.
> > The term “limited-period funding system” means a funding system in which funds are available to the Department of Energy for a limited period of time.

In approaching this study, the Department determined that the Budget Results Council, representing a team of Headquarters financial and program officers, field financial personnel and contractor financial personnel, was the best group to address the variety of issues, assumptions and options necessary to assess, evaluate and report on this matter. The Council began in February 1998 by establishing a working group to collect information, evaluate alternatives and prepare the report.

In assessing actions needed to make a transition from no year to limited period funding, it was evident that Departmental accounting systems, predominantly those of our over 40 integrated contractors would be affected most significantly. These contractors account for approximately 85 percent of all costs incurred under the Department's appropriations. These contractors would be largely responsible for administering and maintaining a funding system involving limited period appropriations. Consequently, the Budget Results Council obtained an impact analysis from fourteen of the Department's largest contractors. The assessment offered in this report relies heavily on the findings from these contractors. Appendix A provides a listing of the contractors responding and an abstract of their key issues.

SECTION II
TRANSITION TO LIMITED PERIOD FUNDING

In assessing the actions needed to transition from no-year funding to limited-period funding the Department addressed four factors:

- **Assumptions -** on funding availability and on interpretation of the bona fide need and severability rules with respect to the Department's major contractors

- **Time Periods for Limited Period Appropriation -** Consideration of what limited periods should be considered given the Department's business lines

- **Time Required for Transition**

- **Cost of Transition**

ASSUMPTIONS: If the Department were to operate with limited period appropriations several issues would arise which do not exist with no-year funds. These include continuity of operations, interpretation of bona fide needs and severability under the terms of our management and operating contracts, phase funding of subcontracts, and funding during changeover of prime management and operating or management and integrating contractors.

Continuity of Operations: Currently, the Department obligates funds to our major contractors in a lump sum with supporting detail on the tasks and activities to be accomplished. Many of our contractors deal with nuclear facilities and with hazardous and radioactive materials requiring a continuing presence to protect public and worker health and safety, to prevent unauthorized access, to protect national security, and to support non-proliferation goals. We cannot simply send workers home during a temporary funding hiatus when Congress has not enacted either a continuing resolution or a new appropriation. With no-year funding, we are able to use unobligated and uncosted balances at year end to temporarily bridge a brief (three-to seven-day) funding hiatus without sending the contractor workforce home. With limited period funds this flexibility would be reduced or eliminated. Existing authorities which allow certain activities necessary to protect life and property to continue in the absence of funding require burdensome identification and justification for each individual who is deemed essential. They do not facilitate continuation of critical operations by contractors. In preparing this assessment, we have assumed that funds will be available on October 1 of each fiscal year or that special legislation will be enacted to ensure continuity of operation in the absence of funds.

Bona Fide Needs and Severability Rules: The General Accounting Office has issued numerous decisions relative to the use of limited-period appropriations that are based on two primary rules, the bona fide needs rule and the severability rule. With no year funding, neither of these rules create obstacles to the Department's operations. However, under limited period appropriations there is the potential for increased costs and administrative burdens depending on how these rules are applied. Our assessment assumes the most flexible and unrestrictive interpretation of each rule. A more restrictive interpretation would increase costs and burden above the levels we have calculated in this report.

The **bona fide needs** rule provides that appropriations are available for obligation only for bona fide needs within the period of the appropriation availability consistent with the purpose for which the appropriation is provided. A common example is the issue of whether an annual appropriation may be used to order supplies at the end of one fiscal year which will not be used until the next. Simply, if the supplies are needed now, they may be ordered with this year's annual appropriation even if they will not be delivered until the following fiscal year. However, if the supplies will not be needed until next year, they are not a bona fide need for this year, and an annual appropriation may not be obligated to order them until the year they are needed. This can become a problem especially for programs without uniform, predictable schedules or cycles. Money may be budgeted one year and then not obligated because supplies are used more slowly than expected. On the other hand, if the budget anticipated that supplies would be bought in August but, as a result of program delays, they are not needed until October, budgeted funds have expired for obligation and the new budget may not have included any money for these supplies. With no-year funding, the appropriation is available without time limitation, therefore if the supplies are not needed until October, the money is still available to purchase them as budgeted.

In addition, with no-year funds, if a contractor completes a task below budgeted cost we have flexibility to reuse the savings. This may not be true under the bona fide needs rule for a limited period appropriation. For example, consider a case where $100 million is obligated under an **annual** appropriation to a site's operating contractor for meeting Defense Program stockpile stewardship requirements for the year. Within the $100 million, the contractor is authorized $2 million for the acquisition of a new process control computer system. At the conclusion of the year, the project is well underway but not completed. Mid-way through the next fiscal year, the project finishes up at a final cost of $1.8 million. What's the status of the $200,000 project underrun relative to the Department's ability to reuse these funds? A restrictive interpretation of the bona fide needs rule would conclude that the underrun funds should be deobligated from the contract because the specific task (acquisition of a new process control system) was complete and the reuse of these funds would no longer represent a bona fide need of the annual appropriation that had been provided in the previous year. Such an interpretation would create significant problems for this Department under limited period appropriations, since much of our work is non-routine and subject to fluctuations up and down from the specific amount in the budget. In addition, we do not budget for contingencies. Our contractors rely on the ability,

within reason, to reapply minor underruns on one task to minor cost increases on another to meet operating needs of the site.

Using a broader interpretation of the bona fide needs rule, however, yields a different result. Specifically, if the bona fide need of the funds obligated to the contractor is viewed to be operation of the site to meet stockpile stewardship requirements, the contractor could reapply the underrun to meet other stockpile stewardship needs consistent with the purpose of the original appropriation. The funds in this case would not be deobligated from the contract, merely redirected to meet emerging requirements of the stockpile stewardship mission. Our assessment assumes that we have the broader interpretation of the bona fide needs rule. If this is not the case, we will lose our ability to manage emergent work without the specter of violation of appropriation laws. We would be forced to either attempt to budget specifically for contingencies or to rely on supplemental appropriations to accommodate urgent, unplanned work. Such an approach would disrupt site operations, lead to significant unproductive contractor time waiting for new appropriations to be enacted and increase costs of operation due to inefficiencies and delays.

In addition to the probable programmatic impacts from a narrower interpretation of the bona fide needs rule, significant additional expenses would be required to track and monitor obligations to contractors at this distinctly lower level of detail to assure compliance with the rule. This would involve business system modifications beyond those discussed in this report.

The **severability** rule states that certain activities such as guard service, lawn mowing and janitorial service are considered severable by fiscal year, and are to be funded one year at a time. Other activities, such as studies or design of a building are product oriented; hence non-severable, and should be funded in an amount necessary to produce the product even if that effort takes more than one fiscal year. Currently, the Department obligates funds in a lump sum to a management and operating contract for a variety of services. Some of these are severable, others are non-severable. With no year funds, we do not have the expense of segregating these costs. All of the funds are required to operate the site and perform designated projects and tasks. If we were to transition to limited period appropriations this could increase the oversight and controls required to ensure that specific decisions on severability are made.

Phase Funding: Two other areas of potential concern regarding the bona fide needs and severability rules and limited period appropriations involve treatment of phase funding of subcontracts and dealing with changeover of prime management and operating and management integrating contractors. Over the last several years, in an effort to reduce uncosted balances, many of the Department's contractors have gone to phased funding of their subcontracts. This requires the imposition of limitation of funds provisions in these subcontracts, which allows for incremental funding on an annual basis. It is assumed this practice will still be permissible notwithstanding the provisions of the severability and bona fide needs rulings. If this assumption is unacceptable, a significant one-time adjustment in budget authority would be required to cover these encumbrances and a growth in uncosted balances should be expected.

Contract Change: Under limited period appropriations, the Department would require some legislative provision be established dealing with changeover of prime management and operating or management integrating contractors. Currently, the Department's practice is to compete these contracts when they come up for renewal (usually every five years). When a new vendor wins the competition, personnel and funding must transition to the new contractor. This includes some work in progress for which funds have been obligated but work is not complete. Under our current no-year funding, there is no problem when we deobligate balances from one contract and obligate them on another. The GAO has made numerous rulings concerning the re-use of limited period appropriations beyond their expiration date when contracts have been terminated for default or convenience and the services must be reacquired. We could find no decisions related to normal replacement of an M&O or M&I contractor through recompetition upon the expiration of the incumbent contractor's contract. The assessment assumes that these balances could be reobligated. If this is not the case, there would be a significant problem as these balances are large and could not be accommodated within current appropriations.

TIME PERIODS FOR LIMITED PERIOD APPROPRIATIONS: The Department considered several options relative to the specific time periods that appropriations should remain available for obligation. If we were to move to limited period appropriations, the Department understands that there are a number of flexible options available recognizing that agencies such as the Department of Defense have limited period appropriations ranging from one to five years of availability that cover differing types of activities such as operation and maintenance (1 year), research and development (2 years), major procurement (3 years), and shipbuilding and conversion (5 years). The Department believes that the nature of much of our work most closely resembles research and development type activities which would suggest a two-year appropriation. Even for activities not traditionally viewed as R&D, i.e., environmental cleanup, there is a significant dependency on R&D and these activities are less predictable than traditional operation and maintenance accounts. We considered the option of a variety of periods for different activities, but believe (with the exception of continued no year funding for construction projects, the Power Marketing Administrations and basic research, discussed below) that would increase the complexity of the transition for no appreciable benefit. Thus, while we recommend continuation of no year funding and believe it is the most cost effective option, we have prepared this assessment, based on a shift to two-year appropriations.

For major construction projects we recommend that Congress continue to provide no-year funds. The use of limited period appropriations to incrementally fund construction projects on an annual basis could negatively affect good project management and would likely affect project performance. Projects are typically managed as a discrete activity with a scheduled period of performance extending over multiple fiscal years. They carry a specific budget over the project's life cycle (the total estimated cost or TEC) to which the project is managed. Under limited period appropriations, there is significant risk that project managers will shift their focus from managing the project as a whole to managing it in annual increments for purposes of preserving appropriations to assure the total estimated cost of the project is supported. This increases the likelihood that decisions affecting project performance will be based on concerns over maintaining full project funding rather than what is the best sequencing of work activities to accomplish the project. In addition, DOE has experienced construction projects that require more than five years to complete. Financial closure can be even longer, requiring, in some cases, more than ten years to finish. Limited period appropriations are only available for expenditure for five years after they expire. Thus, using limited period appropriations for construction would require that close out costs or other bills presented more than five years after the appropriation expired be paid from current year funds. We note that construction activities of the National Aeronautics and Space Administration and the Army Corps of Engineers are funded with no-year appropriations. This is consistent with our recommendation for the Department of Energy.

Further, we recommend retaining no-year appropriations for the Power Marketing Administrations given the unique nature of their Federal operations and the need for maintaining continuous real time power production and distribution, and for basic research given the need for flexibility to allocate funding at the pace appropriate to the success or failure of a line of scientific investigation.

In summary, should the Congress decide to change the Department of Energy's appropriations to limited period appropriations, we believe two-year appropriations for all operation and maintenance and research and development activities would be preferable to a more restrictive annual appropriation or to a situation where there would be different periods for different types of activities. We would recommend retention of no-year funding for construction, basic research and power marketing activities.

Our preference and our recommendation, however, is to retain no-year funding for all Departmental activities.

TIME REQUIRED FOR TRANSITION: The Department estimates that at least two years will be required to make an orderly transition from no-year funding to limited-period appropriations. Two years will be required to complete necessary systems modifications and to properly staff and train personnel. Our estimate is based on experience this year with one limited period appropriation, the Energy Supply account (annual), and on an analysis of systems changes required to properly account for limited period appropriations.

Currently, significant Departmental and contractor resources are involved in resolving "Year 2000" computer issues. Until programming resources can be released from this effort, inadequate resources remain to address systems modifications required to account for limited period appropriations. In addition, our contractors report estimates ranging from six months to two years to implement changes once programming begins. The disparity in timeframes is due to the fact that some contractors are in the process of replacing business systems with new systems that would have the ability to account for limited period appropriations, while others would need time to modify existing systems.

Another critical requirement for assuring successful implementation of limited period appropriations is the education and training of a substantial portion of DOE and contractor personnel, most of whom have little or no experience in managing limited period appropriations and do not fully understand the requirements. Experience over the last year with the change in DOE's Energy Supply account from no-year to a one-year appropriation demonstrates the need for adequate advance training. Specific areas that need to be addressed relate to differences in management attention, internal control requirements, and business system processes required by limited period appropriations.

Our experience this year with the Energy Supply account also demonstrated the need to perform significant manual record keeping due to inadequacies of existing DOE and contractor accounting systems. We also found that we had to spend additional time on internal controls and on interpreting and determining compliance with legal requirements of limited period appropriations.

The timeframe could also be affected by the interpretation of the bona fide needs and severability rules and their application to our management and operating contractors as discussed above. If a narrower interpretation of these rules prevail, the timeframe for an orderly transition will exceed two years.

COST OF TRANSITION: Based on input from 14 of our major contractors and our three consolidated accounting centers, we estimate that one-time costs of $30 million would be needed to implement DOE and contractor business system changes to properly account for limited period appropriations. Additionally, we estimate that incremental costs of $10 million annually would be required to administer, monitor and control a Departmental funding system involving widespread use of limited period appropriations.

One-time costs would provide for computer reprogramming efforts required to modify or replace existing systems to provide for proper accounting and reporting of limited period appropriations, for establishing of adequate internal controls within Departmental systems to prevent violations of the Anti-deficiency Act, and for training of Departmental personnel. They would also provide for an expansion of disk storage capacity since the transition to limited period appropriations will result in an exponential growth in the number of charge/project codes required to segregate contractor costs by distinct appropriation year. The $30 million cost estimate is based on input from selected contractors. If the decision is made to transition to limited period appropriations, a more precise estimate including all contractors is needed prior to implementing system upgrades.

The incremental increase in annual operating cost of approximately $10 million results from additional financial system maintenance, internal control, and administration requirements that will be necessary given the increase in volume of activities required to be controlled under limited period appropriations, and because of the increased potential for Anti-deficiency Act violations under limited period appropriations. Maintaining accounting transactions by fiscal year (which is not required for no-year funds, but is required for limited period appropriations) will result in a three-to four-fold increase in the volume of accounting records to be maintained. Currently, contractors use the same charging codes/job order numbers from year to year to capture costs for the many activities that extend beyond a single year. This applies to a substantial portion of

DOE's work which tends to be on-going, or will require a substantial number of years to complete, e.g., cleanup projects, R&D activities and construction projects. Legal requirements associated with limited period appropriations demand contractors create and maintain a unique set of charging codes each year. For example, at the Savannah River Site, there are approximately 10,000 charging codes in use. The majority of these charge codes remain the same from year-to-year. Limited period appropriations will require that a completely new set of charge codes be established each year while prior years' codes remain open to capture costs related to previous years' appropriations. These codes must remain open for six years for annual appropriations and seven years for two year appropriations. In the Savannah River example, it is estimated that by the end of the fifth year under limited period appropriations, the contractor will have to control, reconcile and manage approximately 40,000 charging codes instead of the 10,000 currently maintained under no-year appropriations. Across the Department, this represents a significant administrative burden, particularly at a time when we are trying to reduce overhead costs. The additional administrative requirements will translate into a need for additional personnel (predominantly in the areas of accounting, legal, procurement, and budgeting) who will need to track and reconcile data as well as analyze and interpret rulings such as the bona fide need and severability rules for proper application of appropriations.

SECTION III
IMPACTS OF TRANSITION

In assessing the potential impacts of implementing limited-period appropriations, the Department began by trying to understand the benefits to be gained in making such a change. Based on past discussions with Congressional staff and a study of prior Congressional report language, we believe Congress has two primary objectives in mind in considering the use of limited period appropriations. First, the reduction of uncosted balances. Second, improved financial accountability and fiscal responsibility in the management of Departmental activities.

The Department has made significant progress in reducing uncosted balances and does not believe that a transition to limited-period appropriations will provide additional gains. In fact, the reverse may be true. Over the past five years, uncosted balances for appropriated funds have declined from $9.1 billion at the close of FY 1993 to $4.8 billion as of September 30, 1997. Of the $4.8 billion, $2.1 billion is tied to completion of authorized construction projects, purchase of long-lead capital equipment, and to subcontracts with third party vendors at the Department's M&O contractor sites. Construction and capital equipment purchases frequently require more than a year to complete, making the uncosted balances levels less controllable by the Department. By phased funding of M&O subcontracts, we have squeezed the outstanding uncosted balances on these activities so there is little additional potential for savings. The remaining balance of approximately $2.7 billion represent uncosted balances for non-M&O activities and M&O activities which are not subcontracted. The uncosted balance level for these remaining activities is consistent with outstanding balances at year-end for other Federal agencies, including those now operating with annual appropriations. Limited-period appropriations, by their nature, put increased pressure on program managers to get funds obligated before they expire. This could result in an increase in uncosted balances, if funds are obligated before work is actually ready to begin or before all issues about the merits of a project have been resolved.

In the area of improved financial accountability and fiscal responsibility, we believe the Department has demonstrated its commitment to excellence in financial management. We are one of only six agencies who received unqualified opinions on our audited financial statements and one of two graded "A" by the General Accounting Office in this area. We have implemented an Executive Information System to provide key financial data to the Department's senior decision makers, and we are in the process of assessing requirements for a new Business Management Information System to provide a single source of information on our business activities (personnel, procurement, finance and administration). We are concerned that the additional burden of administering limited-period appropriations will, in fact, detract rather than enhance our ability to continue to make improvements in financial accountability and responsibility. Maintaining financial data by fiscal year will greatly expand the volume of transactions for which we must account and will require additional personnel to record, report, manage and reconcile data. Resources will be pulled away from system enhancement initiatives and from financial analysis and assigned to deal with the new restrictions and volumes of transactions which must be separately recorded.

Other impacts have been presented with the transition report. They include:

- One time cost of $30 million or more to modify accounting and business systems.

- Annual recurring costs of $10 million or more to manage the increased volume of data and additional restrictions of limited period appropriations.

- Problems associated with temporary lapse of appropriations at facilities with nuclear materials, high level radioactive waste and other health and safety issues.

In addition, use of limited period appropriations would eliminate a number of key advantages inherent with no-year appropriations under which the Department operates best. Specifically, no-year appropriations provide much needed flexibility for managing constantly changing cutting-edge research; and for managing continuity of operations at fiscal year end for large scale management and operating and management integrating contractors responsible for complex sites and hazardous materials and waste. No-year funds allow work to proceed at an optimum pace rather than being rushed or contorted by artificial time limitations on funding availability; and they are consistent with National Performance Review recommendations to impose fewer, rather than additional administrative burdens and restrictions. There is also a concern that the long term funding uncertainties introduced by limited period funding will have an adverse impact on the Department's ability to attract and retain management and operating contractors. In particular, this will likely reduce competition at a time when the Department is seeking to increase competition for contracts.

SECTION IV

ASSESSMENT OF OTHER AGENCIES WORKING WITH LIMITED PERIOD APPROPRIATIONS

In developing the details of its assessment, DOE contacted several other agencies in order to better understand the changes that would be brought about by a transition to limited-period appropriations. These agencies included NASA, Department of Agriculture, Environmental Protection Agency (EPA), and the Department of Defense (DOD). The purpose of these contacts was not to perform an exhaustive study, but rather to obtain some sense as to the differences in management requirements and the type of effort required under limited versus no-year appropriations. While inconclusive, our discussions revealed that, in general, the agencies expressed no significant concerns with managing limited-period appropriations but acknowledged that financial management would be simplified under no-year appropriations. For example, Agriculture indicated that considerable effort is spent on determinations of severability related to procurements made under their annual appropriations. They noted that because the discretionary portion of their budget represents only about $4 billion of the approximately $40 billion appropriation (the balance being "mandatory" for grants to states and payments to recipients), that the effort is manageable. They noted, however, that since the DOE's budget is almost totally discretionary, the work related to severability determinations could have substantial impact on staffing requirements.

Discussions with the EPA, which has no-year appropriations for its Superfund and predominantly two-year funding for its regulatory and other operating activities, indicated that the volume of detail required to be tracked under their two-year accounts basically doubles the resource tracking workload compared to their no-year account for the Superfund. EPA also noted, similar to feedback from NASA and Agriculture, that considerable effort and concern over severability determinations is required and that most such work falls within the procurement organizations of their respective agencies.

SECTION V
DEPARTMENT OF ENERGY RECOMMENDATION

As requested by Congress, this report details an assessment to move from a no-year system of funding to one of limited-period appropriations. It remains the strong recommendation of the Department that Congress retain the present no-year system of funding and continue to work with the Department to improve financial and project accountability. The Department sees its implementation of GPRA as a significant opportunity to achieve many of the same objectives sought through limited-period appropriations. If the Congress desires, DOE is prepared to work with Congress to find less costly and less disruptive alternatives to accomplishing Congressional objectives sought through limited-period appropriations.

The Department is prepared to discuss this report further with the Congress.