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May 13, 2022

Introduction to Budget Authority

Under the U.S. Constitution, Congress exercises the "power of the purse." This power is expressed through the application of several provisions, particularly Article I, Section 9, which states that funds may be drawn from the Treasury only pursuant to appropriations made by law. However, when Congress enacts an appropriation, this does not mean that the Treasury sets aside cash for a specified agency to allow it to carry out that purpose. In practice, it means that when Congress enacts an appropriation it is providing an agency with "budget authority" that can be used to finance federal programs and activities. This budget authority allows agencies to enter into various financial obligations and for the Treasury to subsequently outlay the funds to meet those obligations. Agencies can enter into financial obligations through such things as employing personnel, entering into contracts, submitting purchase orders, or other activities that establish a financial liability.

Because it takes time for budget authority to become outlays, the amount of budget authority enacted for a fiscal year does not necessarily equal the amount of outlays that will occur in that year. The outlay amounts for proposed budget authority are estimates based on the historical rate at which funds for a given account or activity have been expended (known as the *outlay rate* or *spendout rate*). As illustrated in the figure below, the enactment of budget authority, its obligation, and the outlay of funds by the Treasury occur at separate stages of the spending process. A portion of the budget authority enacted in a fiscal year may be obligated but not become outlays until future years, or it may remain unobligated until future years. Conversely, some of the budget authority enacted in previous years may become outlays in the current year.

Section 3(2) of the Congressional Budget Act (2 U.S.C. §622(2)) defines *budget authority* to mean:

> (i) provisions of law that make funds available for obligation and expenditure (other than borrowing authority), including the authority to obligate and expend the proceeds of offsetting receipts and collections;
>
> (ii) borrowing authority, which means authority granted to a Federal entity to borrow and obligate and expend the borrowed funds, including through the issuance of promissory notes or other monetary credits;
>
> (iii) contract authority, which means the making of funds available for obligation but not for expenditure; and
>
> (iv) offsetting receipts and collections as negative budget authority, and the reduction thereof as positive budget authority.

Budget Authority

In most cases, budget authority is provided in the form of appropriations making funds available for both obligation and expenditure. The statutory language that provides budget authority can be classified in various ways that indicate how it is provided, how long it will be available, and how much will be available.

Discretionary vs. Direct Spending

Discretionary spending is provided and controlled by appropriations acts. Direct spending (also referred to as mandatory spending) is provided and controlled by other laws. These classifications are defined in statute (2 U.S.C. §900(c)(7)-(8)) for purposes of procedural and statutory budget enforcement rules.

Classified by Duration

Budget authority may be made available for obligation for a one-year, multiyear, or no-year period. One-year, or annual, budget authority is available for obligation only during a specific fiscal year, and any unobligated authority expires at the end of that fiscal year. Multiyear authority is available for a period longer than one fiscal year (but still a defined period). No-year budget authority is available for an indefinite period. No-year budget authority is typically identified by language indicating that it is "to remain available until expended."

Classified by Amount

Budget authority may establish a definite amount that is available for obligation. In some instances, however, a statute may instead provide an indefinite amount of budget authority. For example, Congress may appropriate all or part of the receipts from certain sources, even though the specific amount that will be collected cannot be determined. Congress may also appropriate "such sums as may be necessary" for a given purpose.

Classified by Permanency

Some budget authority is provided on a temporary basis, such as in annual appropriations or through periodic reauthorizations (such as the farm bill), while other budget authority is provided on a permanent basis (such as for

Social Security and Medicare) without requiring repeated action by Congress to provide additional amounts.

Borrowing Authority

Borrowing authority allows agencies to enter into obligations and to finance certain activities and programs using borrowed funds. It may be provided through (a) authority to borrow from the Treasury; (b) authority to sell agency debt securities and, therefore, to borrow directly from the public; (c) authority to borrow from the Federal Financing Bank; or (d) some combination of these. Borrowing from the Treasury is the most common form and is also known as "public debt financing."

The largest single use of borrowing authority is provided for the Department of Agriculture's Credit Commodity Corporation, which has authority to borrow up to $30 billion from the Treasury to conduct a range of commodity price and income support, conservation, and disaster relief programs. (For more information, see CRS Report R44606, *The Commodity Credit Corporation (CCC)*, by Megan Stubbs.)

Contract Authority

Contract authority provides agencies with the authority to obligate funds but does not include statutory language that would allow for an outlay to occur. Thus, contract authority permits agencies to enter into binding contracts, even though it does not provide funds to satisfy that obligation. Congress must make a subsequent appropriation called a "liquidating appropriation" or grant authority to use offsetting receipts or collections to liquidate the obligated contract authority. Contract authority may be provided in legislation other than appropriations acts, although appropriations acts may include language that limits such obligations to a specific amount (known as an *obligation limit*).

One example of contract authority is its use to finance certain multiyear procurement activities by the Department of Defense. (For more information, see CRS Report R41909, *Multiyear Procurement (MYP) and Block Buy Contracting in Defense Acquisition: Background and Issues for Congress*, by Ronald O'Rourke.) The Department of Transportation also uses contract authority to finance some transportation projects, such as highway and airport construction and maintenance.

Offsetting Collections and Receipts

The terms *offsetting collections* and *receipts* describe funds that federal agencies and departments collect from business-like transactions for goods and services (such as user fees, rents and royalties, and proceeds from the sale of government property).

These collections and receipts are defined as "negative budget authority" rather than as revenues. As a consequence, the collected funds offset an agency's spending authority. A reduction of offsetting collections or receipts is correspondingly defined as positive budget authority. Authority to spend offsetting receipts and collections may be provided in appropriations acts or other laws.

Offsetting collections are collections authorized by law to be credited to appropriations or fund expenditure accounts. These fees are available for obligation to meet the account's purpose without further congressional action. Accordingly, because the receiving agency has the authority to obligate and expend offsetting collections, offsetting collections constitute budget authority. For example, fees charged by the U.S. Citizenship and Immigration Services to expedite its processing of certain petitions and applications are available to be used to carry out those purposes.

In contrast, offsetting receipts are offset against gross outlays but are not authorized to be credited to a specific expenditure account. Offsetting receipts may be deposited in either specific accounts or in the general fund of the Treasury. Offsetting receipts cannot be obligated and expended, however, without further congressional action. Because offsetting receipts are not available to the receiving agency for obligation, they do not constitute budget authority until Congress takes action to appropriate them. One example is rents and royalties paid to the federal government for offshore oil and gas leases.

For more information on budget authority, see U.S. Government Accountability Office, *Principles of Federal Appropriations Law* (4th ed., 2016), GAO-16-464SP, Ch. 2, The Legal Framework, pp. 2-1 to 2-11.

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IF12105

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