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Expiration and Cancellation of Unobligated Funds

Unless Congress chooses to intervene, appropriated funds that have not been obligated may expire and be cancelled according to procedures that are outlined in statute. Relevant provisions related to the expiration and cancellation of appropriated funds are found in Title 31 of the *United States Code*.

Background

The Constitution vests Congress with the authority to levy taxes, authorize the issuance of debt, and make appropriations to fund the federal government, which is collectively known as the power of the purse. Those funds may be drawn from the Treasury only in consequence of appropriations made by law.

The President, the Office of Management and Budget (OMB), and agencies execute the budget in accordance with the budgetary laws that have been enacted. They possess limited authority to make spending adjustments after appropriations and other spending legislation have been enacted. Budget execution occurs in multiple steps:

- *Budget authority* is enacted into law by appropriations legislation. Budget authority provides agencies with the legal basis to incur obligations.

- *Obligations* are incurred when agencies enter into legally binding commitments such as employing personnel or awarding contracts for the provision of goods or services.

- *Outlays* are payments made to liquidate these obligations.

After enactment of a particular appropriation into law, agencies may obligate and expend funds subject to several conditions addressed by appropriations statutes. These conditions on the availability of appropriations include:

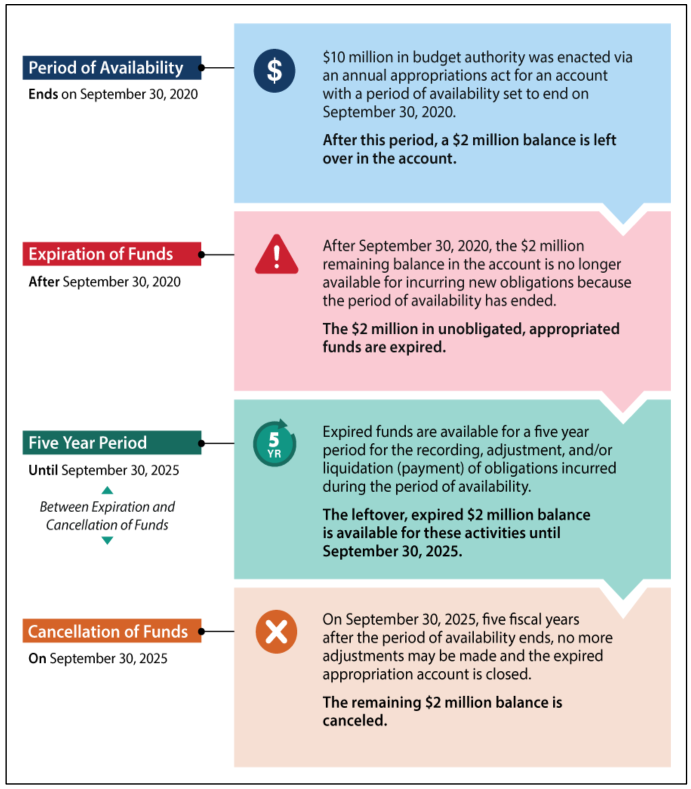
- the time period during which funds are available for obligation, sometimes referred to as the *period of availability* or *duration of appropriations*;

- the *purpose(s)* for which particular funds are appropriated; and

- the *amount* of appropriated funds that may be obligated and expended.

While executive agencies may have legal discretion to determine how to allocate and obligate the funds available to them, they are also legally required to execute spending legislation as enacted.

Figure 1. Example of the Expiration and Cancellation of Unobligated Funds with a Definite Period of Availability



Source: CRS analysis of 31 U.S.C. §§1552-1555.

Notes: This graphic serves as an illustrative example and does not represent a particular appropriations account or appropriated amount.

Accounts with a Definite Period of Availability

In most cases, appropriated funds may be obligated only during a defined period of availability. *One-year funds* are appropriations that remain available for obligation for one year. *Multiyear funds* are appropriations that remain available for obligation for more than one year.

Expiration of Funds

When the defined period of availability for an appropriation account ends, any remaining funds in the appropriation account expire. Expired funds are no longer available for incurring new obligations, because the period of availability has ended (31 U.S.C. §1552). For five fiscal years following the expiration of appropriated funds, the funds may still be available for the payment of obligations properly incurred during the period of availability (31 U.S.C. §1553; see **Figure 1**). During this five-year period, additional obligations may be incurred due to contract changes, which may trigger reporting requirements if the changes exceed certain thresholds (31 U.S.C. §1553(c)). If additional obligations are incurred due to contract changes that exceed $4 million, then the obligation may be made only if it is approved by the head of the agency or a designated officer of the agency. If additional obligations are incurred due to contract changes that exceed $25 million, then the obligation may not be made until (1) the head of the agency submits a notice in writing of the intent to obligate such funds to the appropriate authorizing committees of Congress and the Committees on Appropriations of the Senate and the House of Representatives, a description of the legal basis for the proposed obligation, and the policy reasons for the proposed obligation; and (2) a period of 30 days has elapsed after the notice is submitted.

After the period of availability for obligation of an appropriation account ends, the account is subject to any audit requirements, limitations on obligations, or reporting requirements that were applicable during the period of availability (31 U.S.C. §1554). The head of each agency is required to submit a report to Congress, the President, and the Secretary of the Treasury detailing unliquidated obligations, unobligated balances, cancelled balances, and adjustments made to appropriation accounts after the close of each fiscal year. To fulfill this requirement, OMB established the *SF 133 Report on Budget Execution and Budgetary Resources*, which can be accessed online via OMB's MAX.gov website. In addition, the President submits a budget document called *Balances of Budget Authority* to Congress as a component of the President's annual budget submission. This document contains the balances of budget authority for the end of the past three fiscal years. These documents are available on the GovInfo.gov website dating back to FY1996.

Cancellation of Funds

On September 30, five fiscal years after the period of availability for an appropriation account ends, the account is closed and any remaining balance, whether obligated or unobligated, is cancelled. The remaining balance is no longer available for obligation or expenditure for any purpose.

Accounts with an Indefinite Period of Availability

In some cases, appropriated funds may also be obligated during an indefinite period of availability. *No-year funds* are appropriations that have no defined period of availability and remain available until expended. The process for cancelling unobligated funds is distinct for an appropriations account with an indefinite period of availability. No-year funds do not have an expired phase before cancellation.

Cancellation of Funds

In the context of appropriations accounts with indefinite periods of availability, the accounts are closed and any remaining balance is cancelled if:

1. the head of the agency or the President determines that the purposes for which the appropriation was made have been carried out, and
2. no disbursement has been made against the appropriation for two consecutive fiscal years (31 U.S.C. §1555).

Considerations for Congress

Congress has demonstrated a sustained interest in executive agencies' execution of enacted budgetary legislation. The established process for the expiration and cancellation of unobligated funds may raise topics for congressional consideration.

For example, Congress may consider if the current reporting requirements for unobligated balances are sufficient for congressional oversight. Congress may further consider if the current amount of time between the expiration and cancellation of funds—five years—is sufficient. Another issue of potential interest to Congress may be additional obligations that are incurred due to contract changes during the five-year period between the expiration of funds and the cancellation of funds. Specifically, Congress could consider if the statutory thresholds provided in Section 1553(c) are satisfactory. Congress could also consider the potential tradeoffs of granting agencies transfer authority to repurpose leftover, unobligated funds before they are cancelled.

Selected References

31 U.S.C. §§1552-1555

CRS Report R47019, *The Executive Budget Process: An Overview*, by Dominick A. Fiorentino and Taylor N. Riccard

CRS Report R47333, *Reporting on Agency Budget Execution: Processes and Case Study Illustration*, by Dominick A. Fiorentino

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