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BUDGET ISSUES

Budget Uncertainty and Disruptions Affect Timing of Agency Spending

Statement of Heather Krause, Director, Strategic Issues

Accessible Version

GAO-17-807T

GAO Highlights

Highlights of GAO-17-807T, a testimony before the Subcommittee on Federal Spending Oversight and Emergency Management, Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

Given the fiscal pressures facing the nation, the need to identify opportunities for savings, better leverage resources, and increase accountability has become even more critical to the success of federal agencies and the programs they administer. At the same time, federal decision makers must effectively and efficiently manage resources in an era of considerable budget uncertainty.

Congress exercises its constitutional power of the purse by appropriating funds and prescribing conditions governing their use. As funds approach the end of their period of availability for obligation, a "use-it or lose-it" mentality can set in, creating an incentive to rush to obligate. However, higher obligations in the fourth quarter of a fiscal year do not necessarily indicate a problem with wasteful spending—such spending may be the result of planned spending intended by Congress and the agencies.

This statement is primarily based on GAO's prior reports and testimonies on agency budgeting issued between 2009 and 2016. It addresses (1) strategies federal managers have used to execute their budgets in response to various budget uncertainties and disruptions, and (2) the legal constraints and other considerations agency managers must balance when executing their budgets.

View GAO-17-807T. For more information, contact Heather Krause at (202) 512-6806 or krauseh@gao.gov.

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Budget Uncertainty and Disruptions Affect Timing of Agency Spending

What GAO Found

Agency responses to budget uncertainties affect timing of spending. Due to uncertainties about the total funding ultimately available in a given year, prior GAO work has found that agency officials limit their spending early in the fiscal year because final funding decisions may be less than anticipated. GAO's prior work has identified three key sources of budget uncertainty and disruption.

- **Continuing resolutions.** In all but 4 of the last 40 years, Congress has passed continuing resolutions (CR) to enable agencies to continue operating if all regular appropriation bills have not been enacted on time. In 2009, GAO reported that challenges caused by CRs continued at the selected agencies reviewed even after they had received their full year appropriations. Officials from selected agencies reported that they delayed hiring or contracts during the CR period, potentially reducing the level of services these agencies provided and increasing costs. Agency officials reported taking varied actions to manage inefficiencies resulting from CRs, including shifting contract and grant cycles to later in the fiscal year to avoid repetitive work.
- **Sequestration.** In 2014, GAO reported that agencies that historically obligated most of their funding in the latter half of the fiscal year had more flexibility to implement sequestration.
- **Lapse in appropriations.** In 2014, GAO reported on the effects of a 2013 lapse in appropriations (or government shutdown) on agencies' ability to manage their resources. In managing the implementation of the shutdown, the agencies GAO reviewed experienced budget and programmatic delays.

GAO has also previously reported that while agency managers leverage flexibilities available to them as they execute their budgets, Congress has established controls that agencies must follow throughout the year to ensure accountability and fiscal control. Legal constraints regarding the purpose, amount, and time of the funds available affect how the funds can be spent throughout the year. These include:

- The fiscal characteristics of the funding, including the period of availability of the funds, influence how agencies manage their resources.
- An agency may not obligate current appropriations for the needs of future fiscal years. Commonly referred to as the *bona fide* needs rule, an agency must point to a genuine need for the expenditure, not a mere need to use up remaining dollars before the end of the fiscal year.
- Two laws in particular require agencies to walk a fine line throughout the fiscal year, avoiding both over-obligating and under-obligating funds. The Antideficiency Act prohibits an agency from incurring obligations or expenditures in advance of or in excess of an appropriation. Conversely, the Impoundment Control Act generally bars agencies from refusing to obligate the amounts that Congress has appropriated for their use. Sometimes obligation delays are due to legitimate programmatic reasons or the result of outside forces not under the agency's control.

Chairman Paul, Ranking Member Peters, and Members of the Subcommittee:

Thank you for the opportunity to discuss our work on year-end spending and agency responses to budget uncertainties and disruptions. Given the fiscal pressures facing the nation, the need to identify opportunities for savings, better leverage resources, and increase accountability has become even more critical to the success of federal agencies and the programs they administer. At the same time, federal decision makers must effectively and efficiently manage federal resources in an era of considerable budget uncertainty.

Congress exercises its constitutional power of the purse by appropriating funds and prescribing conditions governing their use. Federal funding may be available to obligate for one-year, multiple years, or until expended (no-year). As funds approach the end of their period of availability for obligation, a “use-it or lose-it” mentality can set in among agencies, creating an incentive to rush to obligate. Moreover, the incremental nature of budgeting—that is, using past years’ appropriations levels to set new appropriations—can also create an incentive to fully obligate funds. On the other hand, higher obligations in the fourth quarter of a fiscal year do not necessarily indicate a problem with wasteful spending—such spending may be the result of planned spending intended by Congress and the agencies.

Our prior work on year-end spending has emphasized the importance of accurate and available data for effective monitoring of budget execution.[1] Our body of work on federal budgeting has stressed the importance of budget data quality and availability for both management and oversight of budget execution. It also has focused on agencies’ management strategies during budget uncertainty and disruption.[2]

My remarks today focus on (1) strategies federal managers have used to execute their budgets in response to various budget uncertainties and disruptions, and (2) the legal constraints and other considerations agency managers must balance when executing their budgets. My testimony

[1]GAO, *Year-End Spending: Reforms Underway But Better Reporting and Oversight Needed*, GAO/AIMD-98-185 (Washington, D.C.: July 31, 1998).

[2]https://www.gao.gov/key_issues/federal_budgeting/issue_summary.

today is primarily based on our prior reports and testimonies on agency budgeting issued between 2009 and 2016. The examples we use in this statement illustrate the types of challenges agencies may encounter even today. We used multiple methodologies to develop the findings, conclusions, and recommendations for these prior products. A more detailed discussion of the prior reports' objectives, scope, and methodologies, including our assessment of data reliability, is available in the reports cited throughout this statement.

The work upon which this testimony is based was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

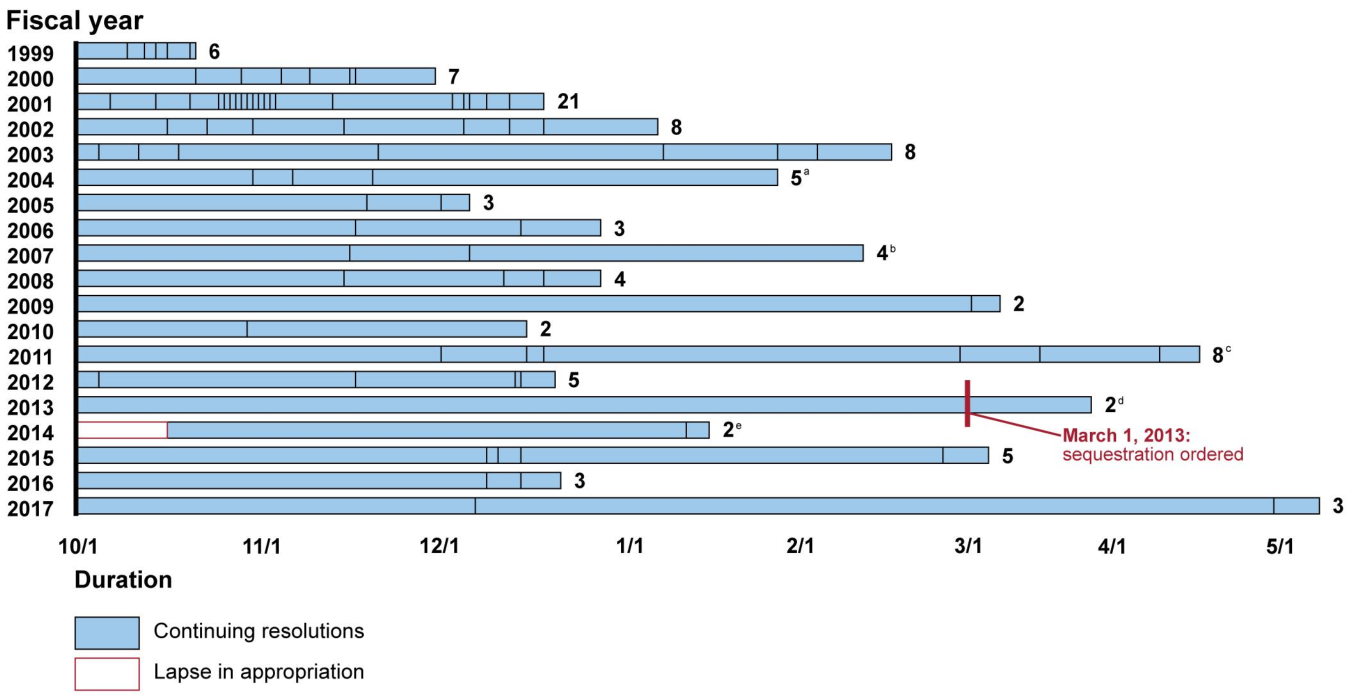
Agency Responses to Budget Uncertainties and Disruptions Affect Timing of Spending

Budget uncertainty and disruptions affect spending patterns. Due to uncertainties about the level of funding that will ultimately be available in a given year, our prior work has found that agency officials limit their spending early in the fiscal year because final funding decisions may be less than anticipated.

Continuing Resolutions

Continuing resolutions (CR) provide funding that allows agencies to continue operations until agreement is reached on their final appropriations, but they also create uncertainty for agencies. This presents challenges for federal agencies continuing to carry out their missions and plan for the future. Moreover, during a CR, agencies are often required to take the most limited funding actions. In all but 4 of the last 40 years, Congress has passed CRs when all regular appropriations bills have not been enacted before the beginning of the new fiscal year. See figure 1 for the duration and number of CRs since 1999.

Figure 1: Duration and Number of Continuing Resolutions (Fiscal Years 1999-2017)



Source: GAO analysis of Congressional Research Service data. | GAO-17-807T

Data Table for Figure 1: Duration and Number of Continuing Resolutions (Fiscal Years 1999-2017)

Number of CRs 1 through 10

Year	CR-1	CR-2	CR-3	CR-4	CR-5	CR-6	CR-7	CR-8	CR-9	CR-10
1999"	9	3	2	2	4	1	NA	NA	NA	NA
2000"	21	8	7	5	7	1	14	NA	NA	NA
2001"	6	8	6	5	1	1	1	1	1	1
2002"	16	7	8	16	21	8	6	20	NA	NA
2003"	4	7	7	35	50	20	7	13	NA	NA
2004"	31	7	14	71	0	NA	NA	NA	NA	NA
2005"	51	13	5	NA	NA	NA	NA	NA	NA	NA
2006"	49	29	14	NA	NA	NA	NA	NA	NA	NA
2007"	48	21	69	NA	NA	NA	NA	NA	NA	NA
2008"	47	28	7	10	NA	NA	NA	NA	NA	NA
2009"	157	5	NA	NA	NA	NA	NA	NA	NA	NA

Year	CR-1	CR-2	CR-3	CR-4	CR-5	CR-6	CR-7	CR-8	CR-9	CR-10
2010"	30	49	NA	NA	NA	NA	NA	NA	NA	NA
2011"	64	15	3	73	14	21	7	NA	NA	NA
2012"	4	45	28	1	6	NA	NA	NA	NA	NA
2013"	178	NA	NA	NA	NA	NA	NA	NA	NA	NA
2014"	16	91	4	NA	NA	NA	NA	NA	NA	NA
2015"	72	2	4	74	8	NA	NA	NA	NA	NA
2016"	72	6	7	NA	NA	NA	NA	NA	NA	NA
2017”	70	140	8	NA	NA	NA	NA	NA	NA	NA

Number of CRs 11 through 21

Year	CR-11	CR-12	CR-13	CR-14	CR-15	CR-16	CR-17	CR-18	CR-19	CR-20	CR-21
2001”	1	1	1	1	10	21	2	1	3	4	6

Notes: Modified from GAO-13-464T

[a]The fifth CR, P.L. 108-185, amended the original CR with substantive provisions but did not extend the CR period.

[b]In February 2007, Congress enacted a 227-day CR that provided funding for the remainder of the fiscal year; this CR is not included in the figure.

[c]In April 2011, Congress enacted a 168-day CR that provided funding for the remainder of the fiscal year. This CR is not included in the figure.

[d]In March 2013, Congress enacted a 189-day CR that provided funding for the remainder of the fiscal year; this CR is not included in the figure.

[e]In October 2013, the federal government partially shut down for 16 days because of a lapse in appropriations.

In 2009 we reported that challenges caused by CRs continued even after the agencies we reviewed had received their full year appropriations.[3] In general, we found that longer CRs can make it more difficult for agencies to implement unexpected changes in their regular appropriations, because agencies have a limited time to do so. In addition, longer CRs can contribute to distortions in agencies' spending as agencies rush to obligate funds late in the fiscal year. Agency officials said that if the agency does not have enough time to spend its funding on high-priority

[3]GAO, *Continuing Resolutions: Uncertainty Limited Management Options and Increased Workload in Selected Agencies*, GAO-09-879 (Washington, D.C.: Sept. 24, 2009). The six agencies we reviewed were the Department of Health and Human Services' Administration for Children and Families and the Food and Drug Administration, the Department of Veterans Affairs' Veterans Health Administration and Veterans Benefits Administration, and the Department of Justice's Bureau of Prisons and the Federal Bureau of Investigation.

needs (such as hiring new staff) because of a lengthy CR, the agency ultimately may spend funds on a lower priority item that can be procured quickly.

Officials from the selected agencies reviewed said that they delayed hiring or contracts during the CR period, potentially reducing the level of services agencies provided and increasing costs. Selected agency officials stated that, absent a CR, they would have hired additional staff sooner for government services such as grant processing and oversight, food and drug inspections, intelligence analysis, prison security, claims processing for veterans' benefits, or general administrative tasks, such as financial management and budget execution. Officials also said that if hiring was delayed during the CR period, it was difficult to fill positions by the end of the fiscal year, particularly after a longer CR period. Several of the selected agencies also reported delaying contracts during the CR period, which could increase costs. Some agency officials said that contracting delays resulting from longer CRs also affected their ability to fully compete and award contracts in the limited time remaining in the fiscal year after the agency had received its regular appropriation. Agency officials reported taking varied actions to manage inefficiencies resulting from CRs. These actions included shifting contract and grant cycles to later in the fiscal year to avoid repetitive work, and providing guidance on spending rather than allotting specific dollar amounts during CRs to provide more flexibility and reduce the workload associated with changes in funding levels.

Sequestration

Not only do agencies often limit their spending under a CR because final funding decisions for the fiscal year may be less than anticipated, but across the government in 2013, agency officials were directed to implement budget cuts under sequestration in the middle of the fiscal year. On March 1, 2013, pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), the President ordered an across-the-board cancellation of budgetary resources—known as sequestration—to achieve $85.3 billion in reductions across federal government accounts.[4]

Budget uncertainties may lead agencies to plan a higher level of obligations during the latter half of a fiscal year. In our 2014 report on agency actions to implement sequestration, we found that agencies that historically obligated most of their funding in the latter half of the fiscal year had more flexibility to implement sequestration.[5] In 2016, when we again reported on sequestration, we found that in certain cases, according to officials, sequestration added further uncertainty to pre-existing budgetary restrictions on agencies' programs.[6]

Lapse in Appropriations

When regular appropriations or CRs are not passed, it results in a lapse in appropriations (or government shutdown), which affects agencies' ability to manage their resources and resulting delays in budget and programmatic activities.[7] In 2014, we reported on the effects of the 2013 shutdown on three agencies.[8] Some officials said time spent preparing for the shutdown led to a loss of productivity. Even the threat of a government shutdown may require planning that could serve as a distraction to obligating funds towards the end of the fiscal year. For example, officials at the Department of Energy's Office of Environmental Management estimated that budget, procurement, and management

[4]BBEDCA has been amended many times, including by the Budget Enforcement Act of 1990, the Statutory Pay-As-You-Go Act of 2010, the Budget Control Act of 2011, and the American Taxpayer Relief Act of 2012. This body of law is classified in sections 900 through 907d in title 2 of the U.S. Code.

[5]GAO, *2013 Sequestration: Agencies Reduced Some Services and Investments, While Taking Certain Actions to Mitigate Effects*, GAO-14-244 (Washington, D.C.: Mar. 6, 2014).

[6]GAO, *2014 Sequestration: Opportunities Exist to Improve Transparency of Progress Toward Deficit Reduction Goals*, GAO-16-263 (Washington, D.C.: Apr. 14, 2016).

[7]Over the past 25 years, there have been federal lapses in appropriations that led to government shutdowns. The most recent government shutdown occurred at the beginning of fiscal year 2014 and lasted for 16 calendar days, from October 1 to 16, 2013. The Office of Management and Budget reported that 40 percent of the civilian federal workforce were furloughed for at least part of the shutdown.

[8]GAO, *2013 Government Shutdown: Three Departments Reported Varying Degrees of Impacts on Operations, Grants, and Contracts*, GAO-15-86 (Washington, D.C.: Oct. 15, 2014). We reviewed the impacts of the 2013 shutdown on the Departments of Energy, Health and Human Services, and Transportation.

officials spent at least 50 percent of their time in September 2013 preparing for the shutdown. Department of Energy officials told us that annually, during August and September, they prepare to address potential budget uncertainty that would impact their agency's operations and services in anticipation of a potential CR or other situations affecting funds.

Agency Managers Must Balance Multiple Considerations When Executing Their Budgets

As we have previously reported, agency managers leverage flexibilities available to them as they execute their budgets, but Congress has established controls that agencies must follow throughout the year to ensure accountability and fiscal control. As agencies manage their budgets, there are certain legal constraints regarding the purpose, amount, and time of the funds available that affect how the funds can be spent throughout the year.[9]

- **Fiscal characteristics of funds:** In any given year, the total budgetary resources available in an agency's budget account consist of unobligated funds carried forward from previous years, if applicable, plus funds newly available for obligation in that fiscal year. Based on the total available budget authority in the account, agencies may then obligate funds throughout the fiscal year.[10] The fiscal characteristics of the funding, including the time limits imposed upon the funds (period of availability for obligation) influence how agencies manage resources. Some factors that affect the timing of budget spending are within an agency's control and some are not. For example, agencies may choose to award contracts or grants annually at the end of a fiscal year. However, an agency may be compelled to spend at the end of the fiscal year due to external events beyond the agency's control, such as natural disasters or economic crises.

[9]See generally GAO, *Principles of Appropriations Law*, available at www.gao.gov/legal/red-book.

[10]An obligation is a definite commitment that creates a legal liability of the federal government for the payment of goods and services. For example, an agency incurs an obligation when it places an order, signs a contract, awards a grant or purchases a service. Payment may be made immediately or in the future. Only when funds are actually disbursed for payment—that is, the obligation is liquidated—does an obligation become an outlay.

- ***Bona fide* needs:** A fixed period appropriation is available only to fulfill a genuine or *bona fide* need continuing or arising during the period of availability for which it was made. Thus, an agency may not obligate current appropriations for the *bona fide* needs of future fiscal years. This bedrock of appropriations law is commonly referred to as the *bona fide* needs rule. An agency must point to a *bona fide* need for the expenditure, not a mere need to use up remaining dollars before the end of the fiscal year.[11]
- **Antideficiency Act and Impoundment Control Act:** Two laws in particular require agencies to walk a fine line throughout the fiscal year, avoiding both over-obligating and under-obligating funds. The Antideficiency Act prohibits an agency from incurring obligations or expenditures in advance of or in excess of an appropriation.[12] Conversely, the Impoundment Control Act generally bars agencies from refusing to obligate the amounts that Congress has appropriated for their use.[13] Sometimes obligation delays are due to legitimate programmatic reasons or the result of outside forces not under the agency's control; for example, if an agency administering a grant program receives no grant applications so no grants can be made.

Chairman Paul, Ranking Member Peters, and members of the Subcommittee, this concludes my prepared remarks. I look forward to answering any questions you may have.

GAO Contact and Staff Acknowledgements

For questions about this statement, please contact me at (202) 512-6806 or krauseh@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals making key contributions to this testimony were Janice Latimer and Carol Henn, Assistant Directors, Alexandra Edwards,

[11] 31 U.S.C. § 1502(a); B-322455, Aug. 16, 2013 (finding that an agency violated the *bona fide* needs rule when it modified a cost-reimbursement contract in the last few days of fiscal year 2008 to add services that did not begin until fiscal year 2009); B-309530, Sept. 17, 2007 (finding that an agency violated the *bona fide* needs rule when it obligated fiscal year 2006 funds to renew database subscriptions that were not due to expire until one month into fiscal year 2007).

[12] 31 U.S.C. § 1341(a)(1).

[13] Pub. L. No. 93–344, title X, 88 Stat. 297, 332 (July 12, 1974), *classified at* 2 U.S.C. §§ 681–688.

Erinn L. Sauer, Cynthia Saunders, Lauren Sherman, and Mackenzie D. Verniero.

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