

Office of the Clerk
U.S. House of Representatives
Washington, DC 20515-6601

December 30, 2024

The Honorable Bryan Steil
Chairman
Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

The Honorable Joe Morelle
Ranking Member
Committee on House Administration
1216 Longworth House Office Building
Washington, DC 20515

Dear Chairman Steil and Ranking Member Morelle,

Pursuant to Section 503 of House Resolution 756 from the 116th Congress, I am submitting this annual report about the establishment and maintenance of an up-to-date database of information on the expiration dates of all federal programs.

As my office has reported previously, identifying all programs, projects, and activities currently authorized by law and when they expire presents both conceptual and methodological issues, making it challenging to compile an authoritative list.¹

As you are aware, the recently released Subcommittee on Modernization report updated the status of recommendation four (“one-click access to a list of agencies and programs that have expired and need congressional attention”) from “Open-Needs Attention” to “Closed-Partially Implemented.”²

Both the Congressional Budget Office (CBO) and the Congressional Research Service (CRS) have explored such possibilities and report that there are significant challenges to creating a complete, authoritative list of programs and their expiration dates. In previous reports, we shared a November 1, 2016, CRS memorandum on the identification of “appropriations not authorized by law.” We have attached an updated version of that document.

¹ <https://usgpo.github.io/innovation/reports>.

² <https://www.govinfo.gov/content/pkg/CPRT-118HPRT57715/pdf/CPRT-118HPRT57715.pdf>.

CBO provides an annual report that includes only expired and expiring authorization of appropriation expenditures, not the authorization of the programs themselves. The report for fiscal year 2024 is available online.³

If you or others on the Committee have questions about this report, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Kevin F. McCumber". The signature is written in a cursive style with a large, prominent 'K' and 'M'.

Kevin F. McCumber
Acting Clerk of the House

cc: The Honorable David Valadao, Chairman, Legislative Branch Appropriations
Subcommittee
The Honorable Adriano Espaillat, Ranking Member, Legislative Branch Appropriations
Subcommittee
Chief Administrative Officer Catherine L. Szpindor

Attachment

Congressional Research Service Memorandum, "CRS Identification of 'Appropriations not Authorized by Law,'" January 19, 2024.

³ <https://www.cbo.gov/publication/60580>.

MEMORANDUM

January 19, 2024

Subject: CRS Identification of “Appropriations not Authorized by Law”

From: *[Personally identifiable information redacted]*

This memorandum was prepared to enable distribution to more than one congressional office.

This memorandum responds to multiple requests for CRS to identify either statutes authorizing appropriations or those appropriations that are not authorized by law. The rules of the House and Senate generally require that appropriations be for programs and activities previously authorized by law.¹ As explained by the Government Accountability Office (GAO), however, Congress may “appropriate funds for a program or object that has not been previously authorized or which exceeds the scope of a prior authorization.”² As a consequence, if Congress chooses to provide appropriations for a purpose for which there is no authorization or for which the authorization has expired, such funding is typically referred to as being “unauthorized.” Identifying all programs or activities funded through appropriations that are not currently considered authorized by law, however, presents both conceptual and methodological issues which prevent CRS from compiling an authoritative list. These issues are discussed below. There are, however, resources that address issues and questions associated with appropriations for purposes that may not be authorized by law. This memorandum includes a description of these resources: the annual Congressional Budget Office (CBO) report on unauthorized appropriations and expiring authorizations, and the House and Senate Appropriations Committee reports accompanying each annual appropriations bill.³

¹ House Rule XXI, clause (2)(a)(1) and Senate Rule XVI(5).

² GAO, *Principles of Federal Appropriations Law* (4th ed., 2016), GAO-16-464SP, ch. 2, (hereinafter cited as GAO, *Principles of Federal Appropriations Law*), p. 2-79.

³ Section 202(e)(3) of the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344) requires that the CBO provide an annual report listing “(A) all programs and activities funded during the fiscal year ending September 30 of that calendar year for which authorizations for appropriations have not been enacted for that fiscal year, and (B) all programs and activities for which authorizations for appropriations have been enacted for the fiscal year ending September 30 of that calendar year but for which no authorizations for appropriations have been enacted for the fiscal year beginning October 1 of that calendar year.” House Rule XIII, clause (3)(f)(1) requires each Appropriations committee report on a general appropriations bill to list “all appropriations contained in the bill for expenditures not currently authorized by law for the period concerned...” Senate Rule XVI(7) requires each Appropriations committee report on a general appropriations bill to list each recommended amendment proposing an “item of appropriations which is not made to carry out the provisions of an existing law, treaty stipulation, or an act or resolution previously passed by the Senate during that session.” These requirements are discussed further in the “Resources” section of this memorandum.

For general information on procedural and legal issues related to the authorization of appropriations, see also CRS Report R46497, *Authorizations and the Appropriations Process*, by James V. Saturno.

The U.S. Constitution grants Congress the “power of the purse” by prohibiting expenditures “but in Consequence of Appropriations made by Law.”⁴ As a result, legislation to provide for government expenditures must adhere to the same requirements and conditions imposed on the lawmaking process as any other measure. There is no constitutional or general statutory prescription, however, that determines how this legislative power is to be exercised. Instead, the manner in which the House and Senate have chosen to exercise this authority is a construct of congressional rules and practices, which have evolved pursuant to the constitutional authority of each chamber to “determine the Rules of its Proceedings.”⁵

One way that both chambers have chosen to exercise this authority is to generally limit appropriations to purposes previously authorized by law.⁶ This has resulted in a two-step process in which separate legislation to establish or continue federal agencies, programs, policies, projects, or activities is presumed to be enacted first, and legislation that provides funding is presumed to follow. In order for this two-step process to work, congressional rules therefore distinguish between legislation that addresses questions of policy and that which addresses questions of funding, and encourage their separate consideration. In common usage, the terms used to describe these types of measures are *authorizations* and *appropriations*, respectively.

- An *authorization* may generally be described as any statutory provision that defines the authority of the government to act. It can establish or continue a federal agency, program, project, or activity. Further, it may establish policies and restrictions and deal with organizational and administrative matters. It may also, explicitly or implicitly, authorize subsequent congressional action to provide appropriations. By itself, however, an authorization does not provide funding for government activities.
- An *appropriation* may generally be described as a statutory provision that provides budget authority, thus permitting a federal agency to incur obligations and make payments from the Treasury for specified purposes, usually during a specified period of time. Discretionary spending encompasses appropriations not mandated by existing law and therefore may be made available in appropriation acts in such amounts as Congress chooses.

It is therefore important to note that the concept of “unauthorized appropriations” is a procedural construct rather than a constitutional or legal one because it reflects the procedural status of an appropriation in relation to other statutes and not the legality of either the appropriation or the associated federal activities. As a result, it is House and Senate rules, practices, and precedents that guide its interpretation and application. Furthermore, these interpretations have evolved over the years so that the two chambers have developed divergent understandings in a number of significant respects regarding what constitutes “authorized by law.”

One area of difference is the circumstances under which appropriations may be considered to be for purposes not authorized by law, and therefore prohibited. The House prohibition in Rule XXI, clause (2)(a)(1) broadly applies to provisions in any general appropriations bill or amendment thereto. The Senate prohibition in Rule XVI(1) is comparatively more narrow. Because it is framed in terms of amendments that would increase the amount for an item in the bill or add a new item, it does not apply to House-passed language, measures originated by the Senate Appropriations Committee, amendments to a

⁴ Article 1, Section 9. For more on the appropriations power, see CRS Report R46417, *Congress’s Power Over Appropriations: Constitutional and Statutory Provisions*, by Sean M. Stiff.

⁵ Article 1, Section 5.

⁶ For more on the appropriations process generally, see CRS Report R47106, *The Appropriations Process: A Brief Overview*, by James V. Saturno and Megan S. Lynch.

House-passed bill reported by the committee, or amendments offered by direction of the authorizing committee with relevant jurisdiction, which have been reported and referred to the Committee on Appropriations at least one day before consideration.⁷ In other words, the Senate prohibition applies most significantly to amendments offered by individual Senators during floor consideration of a general appropriations bill.

A second area of difference is the timing of when a program or activity may be considered authorized. In the House, Rule XXI, clause (2)(a)(1) requires that an authorization be enacted into law prior to consideration of the relevant general appropriations bill⁸ in order to be considered authorized.⁹ In the Senate, Rule XVI(1) requires an authorization to have been passed by the Senate during the current session of Congress prior to consideration of the relevant general appropriations bill¹⁰ in order to be considered authorized.¹¹

A third area of difference is the types of projects and activities for which the rules provide an exception, thereby allowing an appropriation to be in order even in the absence of prior legislation providing an authorization. For example, House Rule XXI, clause (2)(a)(1) contains a provision that excepts appropriations that would continue “public works and objects already in progress” from the general prohibition on unauthorized appropriations. The Senate rule provides no such exception. Senate Rule XVI(1) does, however, allow appropriations for projects and activities “proposed in pursuance of an estimate submitted in accordance with law.”¹² Such estimates can be provided in the President’s annual budget request, as required by 31 U.S.C. §§ 1105(a) and 1107, or through deficiency and supplemental appropriations requests made after the President’s budget request has been submitted to Congress.¹³ House rules provide no such exception.

Because each chamber necessarily relies on its own body of precedents, and uses different practices in applying those precedents, an appropriation that is for a purpose considered authorized within the meaning applied in one chamber might not be considered as such by the other.

Methodological Issues

The primary purpose of authorization statutes or provisions is to provide authority for an agency to administer a program or engage in an activity. These are sometimes referred to as “organic” or “enabling” authorizations. It is generally understood that such statutory authority to administer a program or engage in an activity also provides an implicit authorization for Congress to appropriate for such program or activity. Appropriations may also be authorized explicitly for definite or indefinite amounts (i.e., “such sums as may be necessary”), either through separate legislation or as part of an organic statute. This language is sometimes referred to as an “authorizations of appropriations.” If such an authorization of

⁷ Floyd M. Riddick and Alan S. Frumin, *Riddick's Senate Procedure: Precedents and Practices*, 101st Cong., 2nd sess., S.Doc. 101-28 (Washington: GPO, 1992), [hereinafter *Riddick's Senate Procedure*], pp. 171, 189.

⁸ In the House, “general appropriations bills” are the annual appropriations acts (or any combination thereof) and any supplemental appropriations acts that cover more than one agency. Continuing resolutions are not considered to be general appropriations bills except in limited circumstances. See Charles W. Johnson, John V. Sullivan, and Thomas J. Wickham Jr., *House Practice: A Guide to the Rules, Precedents and Procedures of the House*, 115th Cong., 1st sess., (Washington: GPO, 2017), [hereinafter *House Practice*], ch 4, §3.

⁹ See *House Practice*, ch. 4, §10, for a further discussion of this requirement.

¹⁰ In the Senate, “general appropriations bills” are the annual appropriations acts (or any combination thereof) and any supplemental or continuing appropriations acts that cover more than one agency or purpose. See *Riddick's Senate Procedure*, p. 159.

¹¹ *Riddick's Senate Procedure*, p. 187.

¹² *Riddick's Senate Procedure*, p. 180.

¹³ *Riddick's Senate Procedure*, p. 155.

appropriations is present, it may expire even though the underlying authority in the organic statute to administer such a program or engage in such an activity does not.

In most cases, the purpose of an appropriation is said to be authorized when there is explicit language defining the legal authority for a federal agency, program, policy, project, or activity that will be applicable in the same fiscal year for which the appropriation is to be enacted. In contrast, the purpose of an appropriation is said to be unauthorized when no such authority has been enacted or, if previously enacted, has terminated or expired.

The application of this principle to specific items, however, may depend on additional distinctions, including whether appropriations for the program are implicitly authorized through an organic statute, or explicitly through an authorization of appropriations. In instances where an explicit authorization of appropriations has expired or terminated, subsequent appropriations for such a program or activity may be regarded as “unauthorized” under House and Senate rules,¹⁴ despite the fact that the underlying legal authority for a project or activity in the organic statute remains, and appears to carry with it implicit legal authority to appropriate.¹⁵

The interaction between authorizations and appropriations can also be affected by how specific or general an authorization is. For example, statutes that provide an explicit authorization of appropriations may place a limit on the amount that is authorized, either generally for a class of “programs, projects, or activities” (PPAs), or for a more specifically designated PPA. In these instances, appropriations in excess of such amounts are generally considered not to be authorized. Appropriations that address only some of the PPAs framed more generally in an authorization of appropriation, or do so in more specific terms, however, may be said to be authorized, as long as the funding provided falls within any limits prescribed by the authorization.¹⁶

A significant methodological challenge in determining whether the purpose of an appropriation is authorized by law stems from the fact that the authority for individual accounts or PPAs is often provided through more than one authorization law. For example, while the United States Geological Survey’s (USGS) funding is currently provided in a single appropriations account,¹⁷ its website identifies multiple sections of the *U.S. Code* authorizing various USGS activities.¹⁸ Because the authority for most governmental PPAs stems from this type of “patchwork” of laws, determining which authorizations apply

¹⁴ In the House, implicit authority in an organic statute is considered sufficient to meet the requirement that appropriations be for purposes authorized by law unless a periodic scheme of authorization has been enacted or at some point in time “occupied the field” (*House Manual, One Hundred Seventeenth Congress*, H.Doc. 116-177, 116th Cong., 2nd sess., [compiled by] Jason Smith, Parliamentarian (Washington: GPO, 2021) (hereinafter cited as *House Manual*), §1045). In these instances, if an authorization is of limited duration and not reauthorized when it expired, subsequent appropriations would not be considered to be for a purpose “authorized by law” (*House Practice*, ch 4, §38). While the Senate recognizes the distinction between the implicit authority to appropriate in an organic statute and an explicit authorization of appropriations (*Riddick’s Senate Procedure*, p. 179), the organic statute may not be superseded by a periodic authorization of appropriations in every circumstance.

¹⁵ According to GAO, “the existence of a statute (organic legislation) imposing substantive functions upon an agency that require funding for their performance is itself sufficient legal authorization for the necessary appropriations, regardless of whether the statute addresses the question of subsequent appropriations.” If an authorization of appropriations expires, Congress may still choose to appropriate money to fund a particular program, agency, or activity; and that enactment of an appropriation would provide a “sufficient legal basis to continue the program during that period of availability, absent indication of contrary congressional intent.” (GAO, *Principles of Federal Appropriations Law*, 2-55, 2-80).

¹⁶ Note, however, that an appropriations act generally carries with it a legal authority to engage in the activities funded therein. “Where authorizations are not required by law, Congress may, subject to a possible point of order, appropriate funds for a program or object that has not been previously authorized or which exceeds the scope of a prior authorization, in which event the enacted appropriation, in effect, carries its own authorization and is available to the agency for obligation and expenditure.” (GAO, *Principles of Federal Appropriations Law*, 2-79).

¹⁷ For FY2023, United States Geological Survey funding was provided under a single account for “Surveys, Investigations, and Research,” Title I of Division G, P.L. 117-328.

¹⁸ <https://www.usgs.gov/about/organization/science-support/budget/authorizations>

to the particular PPAs in an appropriations account may require complex, and often case-by-case, statutory interpretation. In many instances, the volume of laws authorizing one or more aspects of a PPA or account may be more than could be reasonably compiled, preventing making such determinations.

An additional difficulty in compiling a list associating appropriations with the laws that authorize those purposes stems from the fact that authorization laws may evolve after they are initially enacted through further revision by subsequent statutes. Because the explicit authorization of appropriations is not generally the primary purpose of authorization laws, many such laws do not contain provisions explicitly authorizing appropriations, although they might still provide sufficient implicit authorization. Because authorization laws generally do not correspond to the appropriations account structure, and the language and form of these laws may change over time, there is no single or systematic methodology available to compile and associate them with the relevant PPA or appropriations account.

Appropriations for the Department of Treasury are illustrative of these methodological issues. The Act of September 2, 1789 is the organic authorization that created the Department of Treasury. Since that time, some of the provisions in this Act have been amended by more specific laws (including those listed below), while other parts remain in effect to this day.

- Act of March 3, 1791;
- Act of May 8, 1792;
- Act of March 3, 1809, chap.28;
- Act of November 22, 1814;
- Act of March 3, 1817, chap.45;
- Act of February 24, 1819, chap. 43;
- Act of May 1, 1820, chap. 50; and
- Act of May 15, 1820, chap. 107.

The Department of Treasury is currently divided into nine offices that conduct a variety of programs and activities. While some of these projects and activities may be generally authorized by the Act of September 2, 1789, as amended, others may be more specifically addressed in separate statutes. Appropriated funding for these programs and activities is currently provided in a single appropriations account for Departmental Offices—Salaries and Expenses. This account contains a number of line items related to specific programs and activities.

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Freedman’s Bank Building; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; executive direction program activities; international affairs and economic policy activities; domestic finance and tax policy activities, including technical assistance to State, local, and territorial entities; and Treasury-wide management policies and programs activities, \$273,882,000, of which not less than \$12,000,000 shall be available for the administration of financial assistance, in addition to amounts otherwise available for such purposes: Provided, That of the amount appropriated under this heading—

- (1) not to exceed \$350,000 is for official reception and representation expenses;
- (2) not to exceed \$258,000 is for unforeseen emergencies of a confidential nature to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on the Secretary’s certificate; and
- (3) not to exceed \$34,000,000 shall remain available until September 30, 2024, for—

- (A) the Treasury-wide Financial Statement Audit and Internal Control Program;
- (B) information technology modernization requirements;
- (C) the audit, oversight, and administration of the Gulf Coast Restoration Trust Fund;
- (D) the development and implementation of programs within the Office of Cybersecurity and Critical Infrastructure Protection, including entering into cooperative agreements;
- (E) operations and maintenance of facilities; and
- (F) international operations.¹⁹

To evaluate under which laws appropriations for these programs and activities are authorized, each PPA in this account would need to be assessed separately to determine if it is authorized under the original organic statute, generally through a different authorization statute, or explicitly through an authorization of appropriations.

In addition to the programs and activities undertaken by the nine departmental offices, the Department of the Treasury also oversees 12 bureaus, nine of which are funded through separate annual appropriations (below):²⁰

- The Alcohol and Tobacco Tax and Trade Bureau;
- The Bureau of the Public Debt;
- The Community Development Financial Institution Fund;
- The Financial Crimes Enforcement Network;
- The Financial Management Service;
- The Inspector General;
- The Treasury Inspector General for Tax Administration;
- The Internal Revenue Service; and
- The U.S. Mint.

In many instances, the authority and activities of these bureaus are addressed more specifically in other statutes, rather than in the revised Act of September 2, 1789 directly. In addition, funds administered by these bureaus are currently funded in at least 13 different appropriations accounts, which do not always correspond to the administrative structure outlined above. For example, funding for the Internal Revenue Service is provided through at least four accounts.

The lack of direct correspondence between these 14 Department of Treasury appropriations accounts and relevant authorization laws for each PPA presents significant methodological challenges. At a government-wide level, there likely would be many instances where compiling all of the laws that correspond to an individual PPA, and subsequently determining if a PPA was authorized, would be impractical.

Resources

While there is no practical way in which all possible authorizing statutes can be identified and associated with every appropriation, there are at least two generally available resources that address the issue of

¹⁹ Financial Services and General Government Appropriations Act, 2023, Division G, P.L. 117-328.

²⁰ The Bureau of Engraving and Printing, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision are funded through sources other than annual appropriations.

appropriations and their authorizations: an annual CBO report on unauthorized appropriations and expiring authorizations, and the House and Senate Appropriations Committee reports that accompany annual appropriations bills.

In addition to these resources, the Clerk of the House is required to pursue the development and maintenance of a database containing the expiration dates of all federal programs and the primary committee of jurisdiction for each program.²¹ The most recent report by the Clerk on this database acknowledges, however, that the conceptual and methodological issues outlined above inhibit their ability to easily create such a database.²²

Congressional Budget Office—Unauthorized Appropriations and Expiring Authorizations

Section 202(e)(3) of the Congressional Budget and Impoundment Control Act of 1974 requires that CBO provide an annual report on unauthorized appropriations and expiring authorizations.²³ The report is required to list (1) “all programs and activities funded for the current fiscal year for which the authorizations of appropriations have expired,” and (2) “all programs and activities for which the authorizations of appropriations will expire during the current fiscal year.”²⁴

To assemble this report, CBO tracks provisions that explicitly authorize appropriations for a specified period. The report’s tables provide this information in three forms, identifying such provisions categorized by:

- House authorization committee of jurisdiction;
- Senate authorization committee of jurisdiction; and
- Appropriations subcommittee of jurisdiction

The example below is an excerpt from the April 2023 edition of the report listing the number of programs under the jurisdiction of each authorizing committee in the House and Senate with expired authorizations of appropriations that were funded in FY2023, as well as the total amount appropriated (in millions of dollars) to such programs.

²¹ This requirement was established in Section 503 of H.Res. 756 (116th Congress) which requires the Clerk to develop and maintain on its public website:

an up-to-date database that is searchable, sortable, and downloadable of the expiration dates of all Federal programs and the primary committee of subject matter jurisdiction over each such program.

Section 503 also requires the Office of the Clerk to issue an annual report regarding the progress made on the establishment and maintenance of the database.

²² The Clerk’s report for 2023 (published December 30, 2022) states that “The staff in Legislative Computer Systems (LCS) have this item [the database] on their backlog of projects and tasks.” The full report is available at <https://usgpo.github.io/innovation/resources/reports/Clerk-Annual-2023-Program-Authorization.pdf>.

²³ 2 U.S.C. §602(e)(3). This report is due on or before January 15 of each year.

²⁴ Congressional Budget Office, *Expired and Expiring Authorizations of Appropriations for Fiscal Year 2023*, April 2023, p. 1, available at <https://www.cbo.gov/publication/58954>. Reports from earlier years are also available on the CBO website.

Table 1.

Summary of 2023 Appropriations With Expired Authorizations, by House and Senate Authorizing Committee

	All Expired Authorizations of Appropriations		Expired Authorizations of Appropriations With Identifiable Appropriations	
	Number of Laws ^a	Number of Authorizations ^b	Number of Authorizations	Amount of Appropriation (Millions of dollars) ^c
Total	n.a. ^d	1,108	428	510,465
House Authorizing Committee				
Agriculture	6	7	3	381
Armed Services	2	2	1	40
Education and the Workforce	21	149	103	93,213
Energy and Commerce	55	283	73	79,781
Financial Services	24	48	25	55,264
Foreign Affairs	35	111	43	60,638
Homeland Security	8	22	5	800
House Administration	3	4	3	120
Judiciary	39	123	63	49,629
Natural Resources	65	163	49	5,686
Oversight and Accountability	9	15	5	152
Science, Space, and Technology	17	54	20	33,895
Small Business	4	9	6	1,549
Transportation and Infrastructure	30	85	21	6,172
Veterans' Affairs	15	23	1	122,306
Ways and Means	8	10	7	841
Senate Authorizing Committee				
Agriculture, Nutrition, and Forestry	8	20	7	440
Armed Services	2	7	2	43
Banking, Housing, and Urban Affairs	21	42	21	54,175
Commerce, Science, and Transportation	45	139	52	37,564
Energy and Natural Resources	27	180	21	14,290
Environment and Public Works	39	89	26	16,401
Finance	8	10	7	841
Foreign Relations	33	109	43	60,638
Health, Education, Labor, and Pensions	46	264	146	148,105
Homeland Security and Governmental Affairs	20	47	19	3,263
Indian Affairs	14	40	11	1,126
Judiciary	39	122	61	49,591
Rules and Administration	4	5	4	123
Small Business and Entrepreneurship	5	11	7	1,559
Veterans' Affairs	15	23	1	122,306

Data source: Congressional Budget Office. See www.cbo.gov/publication/58954#data.

Source: CBO, *Expired and Expiring Authorizations of Appropriations for Fiscal Year 2023*, April 2023, p. 3.

As mentioned above, CBO is also required to include in its report information on authorizations of appropriations expiring on or before the end of the applicable fiscal year. The example below is an excerpt from the April 2023 edition of the report providing the number of programs with authorizations of appropriations expiring on or before September 30, 2023, organized by appropriations subcommittee of jurisdiction. The table also provides total authorized amounts for such programs (in millions of dollars).

Table 4. Continued

Summary of Authorizations of Appropriations Expiring on or Before September 30, 2023, by House and Senate Authorizing Committee and Appropriations Subcommittee

	All Expiring Authorizations of Appropriations		Expiring Authorizations With Definite Amount Authorized in 2023	
	Number of Laws ^a	Number of Authorizations ^b	Number of Authorizations	Authorized Amount (Millions of dollars) ^c
Appropriations Subcommittee				
Agriculture, Rural Development, FDA, and Related Agencies	2	129	121	3,527
Commerce, Justice, Science, and Related Agencies	11	37	34	2,094
Defense	1	9	3	798,200
Energy and Water Development and Related Agencies	7	22	17	31,959
Financial Services and General Government	6	14	12	516
Homeland Security	4	19	15	14,619
Interior, Environment, and Related Agencies	11	22	20	663
Labor, HHS, Education, and Related Agencies	13	58	53	10,561
Military Construction, Veterans' Affairs, and Related Agencies	4	9	8	19,823
State, Foreign Operations, and Related Programs	5	13	12	6,014
Transportation, HUD, and Related Agencies	6	23	22	21,681

Data source: Congressional Budget Office. See www.cbo.gov/publication/58954#data.

Source: CBO, *Expired and Expiring Authorizations of Appropriations for Fiscal Year 2023*, April 2023, p. 7.

CBO is able to track the status of authorizations of appropriations with a specified duration because such provisions constitute positive law in effect for a limited period. The CBO report does not cover explicit authorizations of appropriations that are not about to expire or do not expire, appropriations implicitly authorized by organic statutes, or appropriations for purposes that have never been covered by an authorization statute. As a result, limited conclusions can be drawn from the CBO report beyond which explicit authorizations of appropriations have expired or are about to expire. It is not intended to comprehensively identify all authorizations or cases of appropriations that would be considered to be for purposes not authorized by law under House and Senate rules.

Appropriations Committee Reports

In both the House and the Senate, the Appropriations Committees are required to present information concerning unauthorized appropriations provided in measures reported from the committee. These reporting requirements, however, do not constitute a comprehensive identification of all authorizations applicable to amounts appropriated in the bill.

House Rule XIII, clause (3)(f)(1) requires that reports from the Appropriations Committee accompanying general appropriations bills include:

a list of all appropriations contained in the bill for expenditures not currently authorized by law for the period concerned (excepting classified intelligence or national security programs, projects, or activities), along with a statement of the last year for which such expenditures were authorized, the level of expenditures authorized for that year, the actual level of expenditures for that year, and the level of appropriations in the bill for such expenditures.

The House Appropriations Committee currently includes this information in report sections titled “Appropriations Not Authorized by Law.” The determination as to what is included in the list is made by the Committee. The example below is an excerpt from the committee report accompanying the House FY2024 Financial Services and General Government appropriations bill, as reported by the House Appropriations Committee (H.R. 4664, H.Rept. 118-145, p. 119).

APPROPRIATIONS NOT AUTHORIZED BY LAW				
Pursuant to clause 3(f)(1)(B) of rule XIII of the Rules of the House of Representatives, the following table lists the appropriations in the accompanying bill which are not authorized by law for the period concerned:				
[DOLLARS IN THOUSANDS]				
Account	Last Year of Authorization	Authorization Level	Appropriation in Last Year of Authorization	Appropriations in this bill
Title I—Department of the Treasury				
Departmental Offices—Salaries and Expenses	n/a	n/a	n/a	248,109
Office of Terrorism and Financial Intelligence	2013	such sums	100,000	206,842
Cybersecurity Enhancement Account	n/a	n/a	n/a	150,000
Department-Wide Systems and Capital Investments Program	n/a	n/a	n/a	14,600
Bureau of the Fiscal Service	n/a	n/a	n/a	368,155
Alcohol and Trade Tax and Trade Bureau	2002	n/a	80,000	135,038
Community Development and Financial Institutions Fund	1998	such sums	80,000	278,617
Internal Revenue Service:				
Taxpayer Services	n/a	n/a	n/a	2,780,606
Enforcement	n/a	n/a	n/a	4,206,180
Operations Support	n/a	n/a	n/a	4,100,826
Business Systems Modernization	n/a	n/a	n/a	150,000

Similarly, Senate Rule XVI(7) requires that Appropriations Committee reports accompanying general appropriations bills identify:

each recommended amendment which proposes an item of appropriations which is not made to carry out the provisions of existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session.

The Senate Appropriations Committee currently includes this information in report sections titled “Compliance with Paragraph 7, Rule XVI of the Standing Rules of the Senate.” The determination as to what is included in this list is made by the Committee. The example below is from the committee report accompanying the Senate FY2024 Homeland Security appropriations bill, as reported by the Senate Appropriations Committee (S. 2625, S.Rept. 118-85, p. 124).

**COMPLIANCE WITH PARAGRAPH 7, RULE XVI OF THE
STANDING RULES OF THE SENATE**

Paragraph 7 of rule XVI requires that Committee reports accompanying general appropriations bills identify each recommended amendment which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session.

The Committee recommends funding for the following programs or activities which currently lack authorization for fiscal year 2024:

- Analysis and Operations: Operations and Support.
- U.S. Customs and Border Protection: Operations and Support; and Procurement, Construction, and Improvements.
- U.S. Immigration and Customs Enforcement: Operations and Support; and Procurement, Construction, and Improvements.
- Transportation Security Administration: Operations and Support; Procurement Construction and Improvements; and Research and Development.
- Coast Guard: Operations and Support; Procurement Construction and Improvements; and Research and Development; and Retired Pay.
- Cybersecurity and Infrastructure Security Agency: Operations and Support; Procurement Construction and Improvements; and Research and Development.
- Federal Emergency Management Agency: Operations and Support; Procurement, Construction and Improvements; and Federal Assistance Programs.

In addition to those items not authorized by law identified in Appropriations Committee reports, unauthorized appropriations may be identified through points of order raised during the consideration of appropriations bills on the House or Senate floor. Such points of order would indicate whether a particular appropriation is considered out of order as being for a purpose not considered authorized by law under the rules and precedents of the respective chamber. Because such points of order are not often raised, however, they would not likely identify a significant number of cases beyond those listed in the reports. Additionally, if a point of order is not raised in a timely fashion, the House or Senate may consider and agree to an appropriation even if it might have otherwise been considered out of order.

The House and Senate have specific procedures for handling points of order raised against appropriations for not being in compliance with their respective chamber's rules concerning authorization. In the House, if a point of order is raised against a provision of an appropriations bill as being for a purpose not authorized by law, the burden of proof would be on the manager (typically the chair or ranking member of the committee that reported the measure) to identify the provision of law under which the appropriation is authorized. If a point of order is raised against a provision in an amendment, the burden of proof would be on the Member who offered the amendment.²⁵ Likewise, the burden of proof in the Senate is on the Member who offered the amendment to identify the provision of law under which the appropriation is authorized.

In the House, the prohibitions against appropriations for purposes not authorized by law may be waived by unanimous consent, suspension of the rules, or the adoption of a special rule. In the Senate, these prohibitions may be waived by unanimous consent or suspension of the rules. Provisions specifically identified through one of these actions would, in most cases, also be identified in the Appropriations Committee reports.

²⁵ *House Manual*, §1044a.