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UNOBLIGATED BALANCES: FREEING UP FUNDS, SETTING PRIORITIES AND UNTYING AGENCY HANDS

HEARING

BEFORE THE

FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY SUBCOMMITTEE

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

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THURSDAY, MAY 18, 2006

U.S. SENATE,
SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT,
GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:34 p.m., in room SD–342, Dirksen Senate Office Building, Hon. Tom Coburn, Chairman of the Subcommittee, presiding.

Present: Senators Coburn and Carper.

OPENING STATEMENT OF SENATOR COBURN

Senator COBURN. The Subcommittee on Federal Financial Management, Government Information, and International Security of the Committee on Homeland Security and Governmental Affairs will come to order.

I want to first thank each of our guests for being here. The topic we are going to talk about today is something called "unobligated balances." An unobligated balance is money that we appropriate to a government agency, but for whatever reason, and there are many, the agency does not or cannot spend it in that particular year, and so the money sits, parked in the agency's accounts.

There are different types. The first kind of unspent funds are called "expired funds,"—money we said was to be spent during a certain fiscal year. At the end of the year the money is considered expired and is supposed to sit in these accounts for 5 years. At that point, it is supposed to go back to the Treasury where it can pay down debt or be put toward emergencies and other priorities.

The notion is that bills come late, projects get delayed, so the money should be available for 5 years to pay for commitments made during that first year.

We can argue about whether 5 years is too long but one thing for sure—the system is not working the way it should. First of all, there is too much expired money.

From our cursory investigation, it looks like there is at least $54 billion in expired funds. That is over half the war supplemental we just passed. We ought to be thinking seriously about how to investigate expired funds each year in a systematic way so that we can figure out how much of it we are likely to need to pay bills we have already incurred and how much is just going to sit in the account for 5 years.

Another problem is that Congress views expired funds approaching the 5-year waiting period as new money in the year that they are supposed to revert to the Treasury. That means if we appropriate $1 million in fiscal year 2000, and that $1 million did not get used, in 2006, Congress can take that money and spend it for "free" on 2006 programs. That means we actually spend $1 million more than the budget caps allow. That is what actually happens to unobligated balances.

Calling this money "new budget authority" renders meaningless the spending caps that are in place each year. What is worse, it is used to grow government and liabilities in 2006 rather than paying down the debt incurred by repeated supplemental appropriation bills and out-of-control spending.

This is not how the real world operates. The Federal Government should take the same approach as a private business. The money should not be used to offset spending that would otherwise bust the budget cap if it were not for this "accounting gimmick."

By my estimates, and let me tell you—it has been very hard for this Subcommittee to estimate because we are not keeping good track of these monies at the Federal level—there is somewhere around $430 billion in unspent funds government-wide. Of this, at least $54 billion, as I said earlier, is sitting in expired accounts. And I am not confident that this number is even within the ballpark of what is really sitting in these accounts.

It is difficult to get the exact figures because the Office of Management and Budget (OMB) does not track this money. They could not provide this Subcommittee with a reasonable figure for the carryover balance of unobligated funds government-wide because each agency uses different methods to keep their own records.

I am not doubting the financial accounting of the individual agencies, but I think these are records OMB should officially monitor and keep to inform the budget makers and financial planners.

Expired funds are only one of the unobligated balances. There are other types—those sitting in multi-year accounts for projects expected to stretch out over several years, and those in so-called "no-year" accounts—such as contingency funds that need to be ready if needed at any time, such as the Vaccine Injury Compensation Fund or the Public Health Emergency Fund. The amount in these accounts is around $376 billion.

While some of these no-year accounts are important to retain, it is still worth taking an examination and looking at them. Certain funds need to stay at a certain level, but some certainly could be reduced.

Several programs consistently carry-over a large amount of money each year, but then have no problem asking Congress for budget increases. Take food stamps. OMB estimated that last year the program carried over $2 billion in unobligated balances at the end of the fiscal year. That is on top of overpayments of $1.6 billion. The program is estimated to carry over $3 billion this year and $3 billion next year. Yet I am sure the Administration will continue to request steady or increased funding for the program regardless of the reserve balances.

It is time to start thinking creatively about the budget process. Given the serious financial challenges we all face, at the very least we should be asking appropriate questions and exploring all avenues so future generations may have the same opportunities we have had.

The one consistent finding from our investigation has been that every agency uses different definitions of terms, tracks different types of balances, and has different rules governing unspent funds.

The Department of Justice, for instance, has a special waiver allowing it to treat unspent funds differently than other departments. With OMB responsible for the overall budget process request, it would be helpful if they set systemic standards about how to define, measure, and report unspent funds at all agencies.

I am very disappointed that OMB is not testifying here today, since fixing this problem is so critical to developing a responsible budget request. The ad hoc system we have now is allowing billions of dollars to go to waste every year. That waste will be paid for by our children and grandchildren with interest.

Again, I want to welcome each of you here. I ask that you would limit your verbal testimony to 5 minutes. Your complete written statement will be made part of the official hearing record and we will hold our questions to the end.

Senator Carper will be here. He is running a little bit behind.

Our first witness is Phyllis Scheinberg, Assistant Secretary for Budget and Programs/Chief Financial Officer of the Department of Transportation. She directs the development and presentation of the Department's budget, coordinates DOT's programs to achieve the goals of the President's Management Agenda and oversees all DOT financial programs and systems.

Lee Lofthus is Deputy Assistant Attorney General and Controller of the Justice Management Division, Department of Justice. He is the Deputy Chief Financial Officer and is responsible for department-wide financial reporting, budget formulation and execution, accounting operation, assets forfeiture fund, operational support, procurement, debt management support, budget performance reporting, integration into the President's Management Agenda.

John Roth is Deputy Comptroller Office of the Under Secretary of Defense, Controller, Department of Defense. He is responsible for budget review and analysis of all defense programs. He is a former Deputy Director of the Investment Directorate, Office of the Under Secretary of Defense, where he was responsible for all defense programs funded by procurement and research development tests and evaluations appropriation. He is also an honorary professor at the Defense Systems Management College.

Charles Johnson is well-known to this Subcommittee. He is Assistant Secretary for Budget Technology and Finance at the Department of Health and Human Services. He is the former Chief Financial Officer of the Environmental Protection Agency. He previously served as President of the Huntsman Cancer Foundation. He is a former member of the Utah State Board of Regents. He had a 31-year career practice of accounting, retiring from KPMG in 1991. Welcome back.

Robert Henke is Assistant Secretary for Management, Department of Veterans Affairs. He serves as VA's Chief Financial Officer, Chief Acquisition Officer and Senior Real Property Officer. He is responsible for the Department's budget, financial policy and operations, acquisitions and material management, real property asset management and business oversight.

He is the former Principal Deputy Under Secretary at the Department of Defense. He served in Operation Desert Storm and most recently as a Navy reservist in Operation Enduring Freedom in Afghanistan.

Welcome and thank you for your service.

Ms. Scheinberg, you are recognized for 5 minutes.

TESTIMONY OF PHYLLIS F. SCHEINBERG,[1] ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS/CHIEF FINANCIAL OFFICER, U.S. DEPARTMENT OF TRANSPORTATION

Ms. SCHEINBERG. Good afternoon, Mr. Chairman. Thank you for the opportunity to appear before you today to discuss the treatment of unobligated balances by the Department of Transportation (DOT) and how they affect the Department's budgeting and programming processes.

To put this discussion in context, I would like to briefly describe the Department's programs. The President's fiscal year 2007 budget request for the departmental totals $65.6 billion in budgetary resources to support major investments in transportation nationwide that are vital to the health of our Nation's economy and the American way of life. This includes over $41 billion for highway infrastructure investment and for highway safety programs.

An additional $8.7 billion has been requested for Federal transit grant programs that will be used to construct new transit projects, purchase bus and transit rail cars, and replace and refurbish existing transit systems.

Over $13.6 billion has been requested to build, maintain, and operate the Nation's air traffic control system, regulate and inspect commercial and general aviation safety, and improve the capacity and safety of airports. Combined, these investments account for over 95 percent of the Department's fiscal year 2007 budget request.

Typically, Federal operating programs, such as those that fund the salaries and expenses of our railroad safety inspectors, are funded year by year through the annual appropriations process and the resources are used during that same year.

At DOT such programs constitute a very small portion of our total budget. Instead, the majority of the Department of Transportation's program dollars support major capital investment projects like highway, transit, and airport construction, that generally take several years to complete. As a result, funding for these programs also needs to be available over multiple years and linked to the overall construction cycle. As infrastructure projects progress, the specific funds linked to each project are obligated as they are needed to complete construction phases. Because this often happens over a long period of time, a sizable portion of each year's funding is likely to remain unobligated and unexpended for several years.

[1] The prepared statement of Ms. Scheinberg with attachments appears in the Appendix on page 25.

For the Federal-aid Highway Program, the primary reason for most of the unobligated balances is the application of statutory budgetary controls known as obligation limitations. These limitations, set in the annual appropriations process, control the use of contract authority that is authorized in multi-year highway authorization acts.

Typically, the limitation on obligations is lower than the amount of new contract authority each year so a portion of the contract authority is at least temporarily unavailable for obligation. At the end of fiscal year 2005, $23 billion of the $34.4 billion in the Federal-aid Highway Program unobligated balances reflected the cumulative effect of annual obligation limitations. This partially explains why DOT had an unobligated balance of approximately $43 billion at the end of fiscal year 2005.

The unobligated balances that result from slow spending patterns of capital infrastructure projects typically cannot be directed to other funding needs. In addition, the Department as such, is subject to the reprogramming provisions included in our annual appropriations acts that tend to limit the movement of funds when doing so would typically change a program or move funds to other projects.

In the Federal-aid Highway Program there is considerable flexibility for the States to transfer their formula funds to other programs when they would be more useful to the States. Similar flexibility does not exist for funds statutorily designated for specific projects. The only exception is for funds still remaining from projects designated before 1991.

In addition, the Congress has authorized the Federal Highway Administration to conduct a process known as the August redistribution. The process allows for obligation authority that cannot be used by the end of a fiscal year to be made available to States that can obligate these additional funds before the end of the fiscal year. Given the complex nature of Federal infrastructure projects, this redistribution project has been an effective way for managing highway transportation dollars.

Finally, Mr. Chairman, you asked if DOT's unobligated balances expire. In some cases, our unobligated balances do expire based on the number of years the Congress has made the funds available to the Department in the annual appropriations acts or in authorizing statues.

Unobligated balances that expire may stay within an account for up to 5 additional years and can be used only to cover upward adjustments of prior year obligations.

However, a significant portion of our funds do not expire as they are provided in "no-year accounts" with unlimited availability. These accounts include Federal-aid highways and transit grant programs.

Thank you for the opportunity to testify and I will be happy to answer any questions.

Senator COBURN. Thank you, Ms. Scheinberg. Mr. Lofthus.

TESTIMONY OF LEE J. LOFTHUS,[1] DEPUTY ASSISTANT ATTORNEY GENERAL AND CONTROLLER, U.S. DEPARTMENT OF JUSTICE

Mr. LOFTHUS. Thank you, Mr. Chairman. Good afternoon. I appreciate the opportunity to appear before you today to discuss unobligated balances and how they affect budgeting and program funding at the Department of Justice. We are committed to the wise use of unobligated balances in support of the Department's critical mission programs.

In terms of funding flexibilities, like many other agencies, the Department of Justice is permitted by our appropriations act to reprogram current year funds between programs, projects, and activities within appropriations. We also have a provision that permits us to transfer funds between appropriations. At certain limits these capabilities require OMB clearance and Congressional notification. Reprogrammings and transfers are beneficial flexibilities for current funds but we also have two important capabilities for using funds beyond a single fiscal year's limitations.

The first category is explicit in the language of our appropriations act, that funding is provided in the form of multi-year or no-year appropriations. The multi-year or no-year authority is typically targeted for specific program needs such as information technology projects, automated litigation support, construction, or accounts with significant variability in funding needs across years such as prisoner detention.

The second authority provided to the Department of Justice by Congress is a provision which permits us to access expired balances, a capability which is of tremendous importance in managing our operations effectively. As with most agencies, we receive a substantial portion of our funding in annual appropriations that expire if they are unobligated at the end of a fiscal year. Agencies often describe these expired funds as lapsed money, since the funds are no longer available for new program needs.

Importantly in regard to expired balances, in fiscal year 1992 the Congress gave the Department of Justice the authority to recapture expired unobligated balances prior to their permanent Treasury cancellation. Public Law 102–140 allows us to transfer expired unobligated balances to the Department's working capital fund when we are sure that all of the original obligations are covered and the remaining balances are not required for adjustments or outlay. These transfers are made to a specific working capital fund account that we call the unobligated balance transfer account, known by its initials, UBT.

The working capital fund is a no-year fund, so after a component's unobligated balances are transferred to the UBT account, that funding remains available until expended. The law specifies that the unobligated balances are transferred only for department-wide acquisition of capital equipment, for law-enforcement or litigation-related information technology systems, and for financial and payroll/personnel systems. We do not commingle the UBT balances with other working capital fund balances. Our use of the UBT resources is subject to Congressional notification.

[1] The prepared statement of Mr. Lofthus appears in the Appendix on page 32.

Since 1992, we have transferred approximately $1.8 billion in funding to the Department's working capital fund to be reused for various priority projects. Once the funds are deposited in the UBT account, the funding is used for purposes approved by the Attorney General and OMB and with Congressional notification.

In recent years, we have used the UBT funding for critical information technology projects such as the FBI's Fingerprint Identification System, the FBI's Project Sentinel Case Management System and the Law Enforcement National Data Exchange System. We have used the UBT money for financial systems projects and have also used it for the costs of department-wide projects such as the Joint Automated Booking System project and the Justice Consolidated Office Network, called JCON.

The Department has used the UBT authority wisely in solving unforeseen funding problems that occur in the course of our operations. We have carefully used this authority in the manner intended by Congress.

In closing, I would like to stress that the Department of Justice highly values the authorities we have been given to effectively manage our resources including the authority to transfer expired unobligated balances into our working capital fund. This flexibility provides a strong incentive for prudent financial management and ensures that funds appropriated to the Department of Justice remain accessible for high priority needs.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions. Thank you.

Senator COBURN. Thank you, Mr. Lofthus. Mr. Roth.

TESTIMONY OF JOHN P. ROTH,[1] DEPUTY COMPTROLLER (PROGRAM BUDGET), OFFICE OF THE UNDER SECRETARY OF DEFENSE (COMPTROLLER), DEPARTMENT OF DEFENSE

Mr. ROTH. Thank you, Mr. Chairman. I, too, welcome the opportunity to testify on behalf of the Department of Defense's unobligated balances, their treatment and how they affect our budgeting and programming.

As you are aware, the Department of Defense budget is large and complex. In fiscal year 2006, we are executing programs from 110 different military accounts. Of this number, 80 are funded by appropriations from Congress and 30 are funded from other sources such as permanent and indefinite appropriations, receipts or revolving fund sales.

These accounts vary as to purpose and obligation life. Approximately 39 percent are available for incurring new obligations for only 1 year. The majority of these are military personnel and operation and maintenance accounts. Investment accounts are available for new obligations for multiple years ranging from 2 years, for example, in the research and development accounts to 5 years for accounts such as military construction and shipbuilding.

For the most part, the Congress appropriates the total funding for a given quantity of items or a program activity even though the funding will obligate over a number of years.

[1] The prepared statement of Mr. Roth appears in the Appendix on page 36.

Last, a few of our accounts, such as the Defense Working Capital Fund and things like the Base Realignment And Closure (BRAC) account are no-year accounts, meaning that these funds are available for new obligations for an indefinite time period.

Accounts expire for new obligations at the end of the period of obligation availability stated in the relevant appropriation act. Any unobligated balance remaining after the account expires can only be used to adjust previously recorded obligations. We cannot write new contracts or start new projects after the account expires. For example, a contract amendment for a cost growth, a price redetermination for example, or claims that are within the scope of the original contract are chargeable to that same account that originally funded the contract.

Adjustments up to $4 million must be approved by the component requesting the change. Adjustments between $4 million and $25 million must be approved by the Defense Comptroller. And any just over $25 million requires Congressional notification in accordance with 31 U.S. Code 1553.

Accounts cancel 5 years after they expire for new obligations. When an account is canceled, all remaining balances, both the unobligated balances and obligated balances not yet paid, are written off of the Treasury's books. No obligation adjustments and no further payments can be made from the account.

In certain cases, this process prevents us from making payments on valid obligations of the Federal Government. In these cases, the Congress has, in fact, provided as with special authority that allows the use of up to 1 percent of our current use funds to pay those kinds of bills.

The Department monitors obligations and unobligated balances very carefully. Obligation rates are one of our key financial metrics. Our programs are, in fact, utilizing the funding provided in accordance with their plan. During the active life of an appropriation, unobligated balances not required for their original purposes can be shifted to other programs in accordance with established reprogramming procedures and statutory transfer authorities.

The Congress has long recognized the Department needs some flexibility to move funds amongst these 80 accounts and the several thousand individual programs contained in our budget in order to satisfy urgent requirements, to accommodate fact of life changes after appropriation action is complete.

We can group these flexibilities into two categories: Reprogramming and transfers. Reprogramming actions move funds between different programs within an appropriation account. We control these programs at the program, project and activity level or what we call the line item level, as specified in the relevant oversight committee reports.

Transfers move funds between appropriation accounts. For example, Congress provides us with what is called general transfer authority. General transfer authority allows us to move funds between accounts up to a certain aggregate dollar limit. These transfers must be for higher priority purposes based on unforeseen military requirements when determined to be in the national interest.

Once funds have expired, it is important to note that, except for very limited cases, the Department has no authority to transfer funds, nor can we transfer funds between fiscal years. The major exception is our authority to transfer unobligated balances to accommodate fluctuations in foreign currency rates. The Department does have standing authority to transfer expired funds into operation and maintenance, military personnel and construction accounts to the foreign currency transfer accounts to fund foreign currency variances.

Unobligated balances are part of the Federal financial management process, particularly when you have multi-year accounts and those kinds of appropriations. The Department is very conscious of its accountability responsibilities. As good stewards of the taxpayer funds, the Department manages unobligated balances carefully to maximize utility of the funding provided by Congress and to ensure that all relevant policy and procedures are properly followed.

That concludes my comments and I am here for any questions that you might have.

Senator COBURN. Thank you, Mr. Roth. Mr. Johnson.

TESTIMONY OF CHARLES E. JOHNSON,[1] ASSISTANT SECRETARY FOR BUDGET, TECHNOLOGY AND FINANCE, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. JOHNSON. Thank you, Dr. Coburn. It is good to be with you again. I am pleased to represent Secretary Leavitt in testimony before you this afternoon.

You have asked us in our testimony to deal with the funding flexibility that we have and to discuss the status of our unobligated balances.

The Department of Health and Human Services has a budget of almost $700 billion, approximately one out of every four Federal dollars is spent by us. Almost everyone would assume that we have a lot of money that can be moved around. People talk about all we want are the crumbs that you drop by each day.

When I joined HHS, I thought, too, that funding for projects would be easy to find compared to the $8 billion budget that I had at EPA. It is not as easy as I thought and here is what I have discovered in my analysis.

Although it is $700 billion, almost 90 percent is in mandatory funds. That still leaves a very substantial discretionary amount, but that side, too, has its limitations. We are subject to the normal budget rules which have been carefully developed over time. The necessary expense rule, use money only for its original stipulated purpose. Augmentation, you cannot add additional funds to amounts previously specified by Congress. Transfers, you cannot transfer between appropriation accounts except for a small amount that we can transfer under an emergency. And reappropriations, even if Congress allows a reappropriation, it is scored again by CBO so there is some reluctance by Congress to do so.

We are presently beginning work on our 2008 budget while we are under a fiscal 2006 spending plan. It is not surprising that there are events that cannot wait for 2008 action.

[1] The prepared statement of Mr. Johnson with an attachment with an attachment appears in the Appendix on page 40.

I can cite three recent examples where we have not as yet been able to obtain funds because of these limitations. We wanted to change our secure site for HHS to do business in emergencies, the so-called COOP site because we need a closer location. We were looking for some money to put into systems to save substantial labor costs and to shorten the time in response to our constituents. And Secretary Leavitt would like some put in for a data collection system but there is no secretarial discretionary fund. He has a small amount, that 1 percent transfer authority, but only in an emergency.

So what about unobligated funds? Why not use those? Let me show you our unobligated funds through a graph.[1] And I am pleased to report that it is the same number on both graphs.

Senator COBURN. That is amazing is it not?

Mr. JOHNSON. That really pleases me.

Senator COBURN. That does not happen often.

Mr. JOHNSON. No, so I am very pleased with that.

But you can see that it is broken down with $825 million in user fees, revolving funds, cooperative research agreements, other people's funds for which we are the custodian.

Under the mandatory programs the largest number, of course, is TANF and child care. We received an appropriation in late September for disbursement in October, so it is an anomaly really. The TANF Contingency Fund was part of the welfare reform developed in 1996 in which we wanted to protect States on an ongoing basis.

Other mandatory programs, including vaccine for children, State demo grants, child support enforcement, other issues like that all in the mandatory program.

So we get down to the discretionary side. On the discretionary side, we have buildings and facilities for FDA, Indian Health Services, National Institute of Health, CDC. Of course, those are no-year funds until we can complete our construction projects.

And then our other discretionary programs contain things like free clinic, malpractice claims—a reserve basically—stockpile, LIHEAP contingency funds.

And so as I looked at that, I said you know, not a lot of real promise out of those funds. So what about our expired unobligated funds?

The question I ask is would we like more flexibility? Would we like to reduce our current request in order to access the existing funds? The answer is absolutely. We understand that when Congress gives us more flexibility it can possibly take some flexibility away from you. So I understand that dilemma.

But if we look at the expired but unobligated funds, we have $4.8 billion again, we agree, of which $1.8 billion of that is in the discretionary category. We do not presently have access to those funds other than to cover newly discovered claims that apply to prior years.

So as I have read the testimony and heard the testimony today, I see some special consideration has been given to some other agencies to use expired but unobligated funds that are about to be canceled. I am anxious to hear about those departments and the spe-

[1] The graph referred to appears in the Appendix on page 00.

cial rights that they may have and certainly your desire to get more uniformity among agencies.

I stand ready to answer any questions you may have.

Senator COBURN. Mr. Johnson, thank you. Mr. Henke.

TESTIMONY OF ROBERT J. HENKE,[1] ASSISTANT SECRETARY FOR MANAGEMENT, DEPARTMENT OF VETERANS AFFAIRS

Mr. HENKE. Good afternoon, Mr. Chairman. Department of Veterans Affairs and the Subcommittee share the common goals of accountability, stewardship and improved financial management. VA values and needs the authority that Congress has given us in law to carry over unobligated funds, and in certain specific circumstances to move resources between accounts. This authority gives us the smart management flexibility that we need to steward our resources in a way that maximizes VA's mission, which is providing timely, high-quality health care and benefits to our Nation's veterans.

At the end of fiscal year 2005, VA's unobligated balances totaled $21.601 billion. About $19 billion of this, or 89 percent, was in our mandatory accounts, our trust funds and our revolving funds. These resources are for our entitlement programs and can only be used for veterans benefits as specifically mandated by law. By design and statute, Congress has designated these as no-year accounts or funds that do not expire, and we maintain these balances to ensure that veterans benefits are paid on time. In some cases, the balances actually represent veterans assets and not the VA's.

This $19 billion I mention is largely in three accounts. First, our National Service Life Insurance Trust Fund, started in 1940 to finance life insurance for World War II veterans, contains $9.1 billion of unobligated funds. The Department oversees this trust fund on behalf of veterans. Indeed, the $9.1 billion represents insurance premiums that veterans have paid over time.

Second, our housing accounts contain $5.7 billion. These funds operate our guaranteed housing loan and direct housing loan programs which, for over 60 years, have provided veterans with the opportunity to become homeowners.

Third, $1.1 billion was unobligated in our compensation and pensions mandatory account. This account makes compensation payments to service-connected disabled veterans and pension payments to wartime veterans. We disperse about $3 billion a month from this account, from this compensation and pensions account. And so this unobligated balance was used to pay benefits to veterans in the first month of 2006.

On the discretionary side, we had about $2.4 billion in unobligated balances, almost entirely in two accounts. VA's major construction account carried forward funds into fiscal year 2006. This account is also a no-year account and unobligated balances are carried over each year. Large capital construction projects typically take 12 months to award design contracts and 18 to 24 months to make construction contracts. Funds are obligated over time but only when key construction milestones are met.

[1] The prepared statement of Mr. Henke appears in the Appendix on page 51.

Multi-year projects require multi-year money and having this flexibility ensures these projects are completed on time and without interruption.

Our medical care discretionary accounts carried over more than $1.1 billion from fiscal year 2005. VA received a $1.5 billion supplemental for health care near the end of 2005 and it was provided as 2-year money. Given that timing, much of the supplemental was carried over and is being used to provide veterans health care in 2006.

In those few instances when funds do expire, they are not available for new obligations. They remain expired for 5 years to make obligation adjustments and at the end of the fifth year, the funds are canceled and returned to the Treasury.

VA financial managers take many steps to ensure that we minimize the amount of funds that expire. Of the $21.6 billion in unobligated funds at the end of fiscal year 2005, only $13 million lapsed or was not available for obligation, and that is less than 0.1 percent of the balance.

Sir, you asked about our ability to shift funds between accounts. VA has specific defined authority to transfer available funds between certain appropriated accounts. The accounts we can transfer funds between and the requirements for us to do so are clearly spelled out in law. In each case, VA notifies Congress of its intent to transfer or reprogram funds, and this ensures proper oversight and transparency.

The ability to transfer funds when necessary makes good sense and it is a critical and prudent financial management tool. It allows VA to respond to changing conditions during the budget year and it helps us to ensure that taxpayer dollars are well spent.

To close, Mr. Chairman, VA strives to ensure that every dollar devoted to veterans programs is used wisely and smartly managed. We do this to maximize both the effective and efficient delivery of benefits and services earned by those who have served our country in uniform.

Thank you for the opportunity and I welcome your questions.

Senator COBURN. Thank you. Let me just ask a general question. We are going to make this pretty informal.

You basically have three different types of unobligated balances. As you look at them, one of my questions is the gaming that takes place on the appropriation cycles when they go and steal your unobligated balance to create budget cap elevation. The money that you have in unobligated balances is not real money. It is not—money is not borrowed against that money until it is actually spent. So it is an account. It is not actually cash. Have those grown? And have they grown disproportionately to the size of the program that you are administering?

For example, in VA health care, have the unobligated balances risen at a rate faster than the growth of the program in the mandatory programs, for example? I know that you, I think, at the end of March, with the transparency that has come from the VA—and I want to compliment you all on that because it has helped Congress a great deal—I think you had $600 billion still in that account at the end of March just for the veterans health care.

Are you seeing in these different areas growth or have you even looked at year-to-year-to-year unobligated balances growing faster than what the program growths are? Because what that allows us to do is, although you all are charged with doing it in your areas of responsibility, it allows us to redirect dollars where they should be.

My question is do you see any trend in that in any of the accounts? Or have you even looked at it?

Mr. JOHNSON. Dr. Coburn, I will tell you what I have looked at is the unobligated balances that expire and that is what you are dealing with. And I have looked at it for the last 5 years. And it really moves around with some, I guess regularity, if you can say it moves around with regularity. There is no pattern to it.

Senator COBURN. It is irregularly regular.

Mr. JOHNSON. It is irregularly regular; right?

And so I did not see a trend that would indicate that it is growing faster nor is there a trend that is reducing. It just moves around.

Senator COBURN. Let me ask each of you, the Department of Justice has what would seem to be some flexibility for things that will make them more efficient, increase their data, streamline some of their processes and allow them to do things that they might not otherwise because they have more flexibility than many other agencies when it comes to unobligated balances.

What do you think about that? Does it actually, and I will ask you again Mr. Lofthus, has it really truly decreased the requests coming from DOJ on the total budget request, what it would have been otherwise? And how do we take what we are doing there and maybe give some flexibility to the other departments to allow them to be wiser with the money under their own discretion in transferring or reprogramming some of this money?

Mr. LOFTHUS. If I can start on that one, Senator, I think one of the advantages that we have with the unobligated balance transfer authority, it really does allow us to maximize the use of the appropriations we have received and diminishes the need for us to go in for new money in the sense that we are often left with rather small amounts in many accounts. We have over 300 different appropriations, if you count current and expired appropriations.

And across those appropriations we are often left with rather modest or small balances that by themselves are not going to accomplish a whole lot. But by being able to go to those accounts, transfer the money into our unobligated balance transfer account, we can then use it for sizable capital expenditures that the Department really needs.

We have bought a plane for the Justice Prisoner Transportation System. That was desperately needed and that was a great use.

We have used the unobligated balance transfer to go in for money for the FBI's crime lab, and that meant we did not have to go in with a new budget request. It was by cobbling together these small balances from many sources. I think it has given us a real advantage.

Senator COBURN. Yes, ma'am, Ms. Scheinberg.

Ms. SCHEINBERG. Mr. Chairman, I read Mr. Lofthus's testimony, and I listened to his testimony, and I am taking copious notes on this program because this would help us quite a bit at the Department of Transportation for similar reasons.

We often do not need a huge amount of money to do something very significant. We need some money, but we do not have the flexibility to put the money together to do something. I am thinking more in the terms of Information Technology (IT) and financial systems, things that would improve the way we manage the Department.

In a Department like ours, where there is a lot of interest in construction programs, there is not a lot of outside interest in our own internal financial management.

Senator COBURN. They want the money to go through the door.

Ms. SCHEINBERG. A small amount of flexibility could really be helpful to us in the management systems that we need to keep track of all of this money.

As it is, we try to find bits and pieces of money and put these systems together. But it would be really helpful.

We also have about 100 appropriations accounts. When you have large numbers of accounts, there is a lot of money spread around. But we do not have the transfer authority.

Senator COBURN. Anybody else want to comment? Mr. Johnson.

Mr. JOHNSON. We looked at that proposal with great envy. The three examples I mentioned, the COOP site and two systems issues that we are desperately looking for ways to find funds, would fit right into that working capital idea. I think it is a tremendous idea.

It also includes an accountability clause, which I understand that you have to submit any proposed expenditures out of it to the Congress for oversight, which does add the oversight and accountability to it. I just think it is a tremendous idea.

Senator COBURN. Welcome, Senator Carper. I am glad you are here. I was kind of lonely up here by myself.

This phenomenon of spending down as you get towards the end of the fiscal year. You all know what I am talking about. It happens.

If you had some kind of flexibility like that (DOJ working capital fund flexibility), do you think that would be a tool to keep you from spending down in anticipation that "oops, somebody on the Hill might not think we need this money. So we are not going to get rid of it, maybe not in the best way?" I am not saying necessarily wasteful, but maybe done in terms of the highest priority and need?

Could you see that that could create an opportunity where there would be a pressure exerted on more judicious financial decisions made as you ended the fiscal year, knowing that some of that would go into an unobligated balance that then could allow you to do what you wanted to do with the money rather than spend it? Do you think there is any truth to that across your agencies?

Go ahead, Mr. Henke.

Mr. HENKE. Yes, sir, that is a true statement. We at VA have, in our discretionary accounts, typically a fraction of our appropriations that have a 2-year availability to avoid that very phenomenon. It typically ranges between 5 percent and 7 percent of the account. But it is a particular portion of the account that keeps its availability beyond 1 year to avoid that very phenomena that you talk about. And we use that ability and that authority flexibly to ensure that the end of year spend down does not happen. Having 2-year money available affords us that opportunity.

Senator COBURN. Go ahead, Mr. Roth.

Mr. ROTH. We, too, at the Defense Department, have looked at some of our annual accounts and whether it would be judicious to extend the availability into the 2 years.

I will say, we take a hard look every year at unobligated balances. You asked in one of your early questions is the trend up or down. We have tried to really squeeze that number down to ensure that people are making maximum utility of their resources. And so we frequently look at the current year budget. One of your questions in setting up this hearing is how do we use the unobligated balances in terms of setting future budgets and programs. In fact, as I said in my opening statement, as one of the key metrics in judging some of these accounts is the size of the unobligated balances and the trend that they have had in recent years. For those that show a persistent trend of having large unobligated balances, we take a hard look at that account to see why that persists.

Senator COBURN. There is another downside on this, and I am going to use something from your agency and it is not to slam you at all.

Senator Ensign held a hearing on the $6 billion in overpayment of performance bonus payments to people who were not eligible. The finding from that hearing was that if it was not going to get spent, they were not going to get it next time. So therefore they paid the performance bonuses even though people did not meet the standards for the performance bonuses.

So we have to balance that against the unobligated balances, against the incentive to do the right thing. Because here the incentive worked the wrong way. We paid contractors $6 billion in 2005 or 2004, one of those years, for performance that they did not perform in a fear that they would not get the money the next year to pay the performance bonuses. So it defeated the whole purpose of having a performance bonus system and the taxpayers are out $6 billion in one fiscal year.

Those are difficult things to handle, but the purpose of this hearing is to find out these unobligated, and then figure the psychology, how do we best create the incentives to make the best decisions.

Mr. Johnson, I think you wanted to say something.

Mr. JOHNSON. I have some experience from two different agencies. At EPA, where they had 2-year money so you were not as worried at the end of the fiscal year about obligating very quickly. And now, at HHS, where it is all 1-year money and there is a rush to obligate.

I am not saying that bad decisions are made. But whenever there is a rush, you do change the culture a little bit. And you may indeed move into some things that you should not move into.

Senator COBURN. That might not be the highest priority.

Mr. JOHNSON. It may not be the highest priority, that is correct.

Senator COBURN. Senator Carper, would you like to inquire?

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. I do. Thanks, Mr. Chairman.

To all of you, welcome. Some of you I see a lot, regulars around here. We are glad to see you, whether it is your first time or your third or fourth time.

I am struck, Mr. Chairman, by what Mr. Henke said from the VA. I am always looking for best practices and models that we can try to identify and see if they may be replicable in other agencies.

You may recall in one of our hearings, I want to say it was on real property management with the VA. I think one program I thought they were doing an especially good job. I personally like the way they harnessed information technology with respect to the delivery of health care.

I want to more fully understand how you address this issue of unobligated funds. Just give me a little primer on what you do at the VA and how that works.

Mr. HENKE. Yes, sir. The large balance of our unobligated money is typically in our mandatory or trust fund accounts. About 90 percent of what is unobligated is unobligated by design and it remains available until expended. For example, our Life Insurance Trust Fund, which is actually insurance premiums paid by veterans, had $9 billion of unobligated balances at the end of fiscal year 2005.

So where appropriate the funds are necessary and are designed to match the needs of the program. In our compensation and pensions accounts, those funds are necessary to carry over to make payments early in the next part of the fiscal year.

On the discretionary side, we have some accounts that are necessarily 2-year money or are no-year money based on the particular project and activity that they are going to fund. But we try to match up what the program needs with the way that we finance it with the funds that are available to us.

Senator CARPER. Are you aware of other agencies where we could have an apples to apples comparison, where other agencies are doing what VA is doing, in some respects?

Mr. HENKE. I think, sir, each agency is unique in the specific authorities that it has, perhaps in its appropriations act. Obviously, we all are required to follow Title 31 and the fiscal laws that are established there. But I think we have seen today a fairly interesting variation in the authorities and the flexibilities between different agencies.

Senator CARPER. Going back to a point I think the Chairman was making earlier, in State government in Delaware we used to have a situation, and maybe we still do. I have been away from State government for a while now. But it used to be that we worked on a cash basis accounting. We got to the end of the fiscal year in late June and agencies would spend their money because if they did not they would lose it.

And then we got to the place where we were encumbering the money and agencies could carry the money over from year to year. So I remember well the motivation that some agencies feel. Some people in agencies feel a use it or lose it kind of approach.

I do not know who once said the only thing that is new in the world is the history that we never learned. I want to go back in history just a little bit and better understand how this system worked, how we treated these unobligated funds prior to 1990. I want to understand a little bit of the history of why the Congress made the changes that it did in 1990.

I do not know if any of you could help us with that, but if you could just give me a little bit of the history? Anybody?

Senator COBURN. They are not old enough.

Senator CARPER. A couple of them might be old enough.

Mr. ROTH. I can talk to some basics. I will not claim to be a subject matter expert, to go back that far. The rules before 1990 were that the active appropriations would then go into a surplus fund for 2 years where the funds would retain their line item and appropriation and fiscal year integrity and identification for the 2 years.

At that point, the funds then transitioned into something called merged surplus and so-called M accounts. And in the so-called merged surplus accounts, as the name would indicate in the M accounts, the funding lost its fiscal year identification and lost its appropriation identification. In the case of the Defense Department these accounts never canceled. In today's world, after 5 years the money is canceled and gets written off the Treasury's books.

Before 1991 the money never canceled. These merged surplus accounts and M accounts simply grew in size over time. That, in and of itself, became a matter of controversy, just the size of those accounts.

So that, very quickly, was the nature of the world before that.

Senator CARPER. A question for each of you. If you had to, 16 years later, rewrite the rule book for the practices that we follow, and you probably already said this, but how would each of you rewrite the rules? Or would you just leave them pretty much as it is?

Ms. SCHEINBERG. Senator Carper, there is a fine line between flexibility and oversight and controls. Even on the issue of spending at the end of the fiscal year, to spend what is available, we have controls to make sure that the money lasts through the fiscal year. We do not want people to spend their money too fast and we do not want them to spend it too slow. The goal is to get down to the end of the fiscal year with just the right amount of money. That is a very difficult thing to do.

At the Department of Transportation, we do not have very many 1-year accounts because we have a lot of accounts that fund construction programs and need to be available for many years.

We do not have very much flexibility, and it would be helpful to have some more flexibility in being able to move money. We had some discussion already at this hearing about that. But I do appreciate the need for control, as well. It is a fine balance.

I think it would be nice to have a little bit more flexibility but I do understand that we need to continue to control these things.

Senator CARPER. Thank you. Mr. Lofthus.

Mr. LOFTHUS. I think in terms of the flexibilities that Justice has, which are different I think from some of the other speakers here this afternoon, in terms of being able to make use of expired funds, when you look at things like the zeal that may exist in certain pockets to spend down at the end of the year, that environment really does not exist at the Justice Department because we do have a capability to look at our expired balances and be able to maintain them in a special account where we can make use of them for capital expenditures in the future.

I think it provides a built-in incentive to our financial managers and our program managers to have, I think, excellent stewardship over those funds because the agency can really put them to good use.

So I think we have benefited tremendously from that provision that dates to 1992. And I think that is something that we rely heavily upon now, particularly in lean budget times. And it means a lot to our Agency. So I am pleased that we are able to make use of a capability like that.

Senator COBURN. How much did the Justice Department turn in to the the Treasury Department in expired funds last year?

Mr. LOFTHUS. To give you an exact figure, I would like to get back for the record. But you can see on this chart over here on the right that our expired balances are roughly $585 million at the close of 2005.[1] A lot of that would have been swept into our unobligated balance transfer account and then we would have had just a small portion of that, maybe a few tens of millions that might have gone into that. Not even that amount.

We try to make sure we sweep everything possible in so we leave a very small amount that actually lapses and goes back to the Treasury to be permanently canceled.

Senator COBURN. But some did?

Mr. LOFTHUS. Yes, we leave some back. We do that because right down to the last day, on September 30, we may have a bill come in that we have to pay or settle some ratification or something and we want to make sure there is money there until the last day.

Senator CARPER. Mr. Roth, if you would just quickly address my question.

Mr. ROTH. I share the sentiment in terms of this fine line between flexibility and accountability. There is not a program manager worth their salt out there who would not like more flexibility in terms of funding and being able to move money around.

In our particular case, again we have about 100 accounts. We always have a tension, for example, for a program manager between what is called procurement accounts and research and development accounts. There are some fine lines between that. They would love to have some more flexibility to move money back and forth but you get into an accountability issue and into an oversight issue in terms of transparency, in terms of where you are spending the money and these kind of things.

At the end of the day obviously the tension is you cannot spend more than what was appropriated in any given account, given the Anti-Deficiency Act laws and regulations and those kinds of things. So there will always be something of a balance.

To answer one of the questions, on September 30, 2005, we canceled $2.7 billion at the end of that particular fiscal year. It sounds like a large number, but that is far less than 1 percent of the funds that were available within that program year.

As I went through some of the accounts in preparing for this hearing, we typically cancel 0.3 percent. It is really a very small

[1] Chart referred to appears in the Appendix on page 59.

percentage. It turns out, on an aggregate level, ultimately to be a large number, in the billions of dollars. But it is always far less than 1 percent.

So there clearly is a need for the funds during the expiration period to settle old contracts, to pay old claims and these kind of things. At the end of the day we actually, on a percentage basis, end up canceling very little in terms of the total program.

Senator CARPER. Thank you. Mr. Johnson, do you want to take a shot at it?

Mr. JOHNSON. You have asked the question have we heard some ideas today that we would like to insert, if you were to rewrite provisions?

Senator CARPER. Please.

Mr. JOHNSON. The two things I like, the first is the Justice Department, the Working Capital Fund, which would come from expired funds.

The second I like is the ability to move a small amount of 1-year money and convert that into 2-year funds, so that at the end of the year you would have some small ability to carry over some amount of otherwise lapsed funds. I like both of those ideas.

Senator CARPER. Thanks. Mr. Henke, the last word.

Mr. HENKE. Yes, sir. Your question is a very thoughtful one because the incentive needs to be balanced between the need to spend funds wisely against the desire to spend the funds at this point in time.

I would suggest that VA's flexibility to carry some portion or some fraction of our 1-year money into a second year is particularly useful and helps us make prudent decisions. I think that the ability that the DOD and DOJ have to sweep expired balances for a particular purpose and need is also a sound practice.

Senator CARPER. OK. Thank you all. Thanks, Mr. Chairman.

Senator COBURN. For the record, the Treasury Department reported to us that they got $16.4 billion back from the agencies last year.

I have a couple questions that I would like to ask. Would it be helpful to see, for everybody across the board, a transfer authority of X percent of unobligated balances and mandates? The rest is kept toward putting and keeping your annual budget request down.

One of the things that we heard before you came here is that the request from the Department of Justice is actually less than their budget request because they have this flexibility with this money. So if that was agency-wide, where you had this ability, and then maybe combined with an idea to incentivize efficiency, in other words, incentivize not spending the money. I am not talking about in mandatory programs. We are going to spend what we have to on the mandatory programs, whether it is Veterans, Medicare, or whatever.

But on the programs that are not, how do we incentivize inside the agencies to where the agency benefits by being a better steward? In other words, how do they share in the savings? And how do we do that agency-wise to where we could do that? Most of your funds go through the door.

So this portion of your funds that are not going out through the door, how do we incentive the Department of Transportation that they get a share in the savings generated by good ideas, by good stewardship, by efficiency, by new IT? We can eliminate this many FTEs if we do this?

In other words, how do you incentivize progress, like we see in everybody else that is working on the greed motive, on the profit motive? How can we do that? Any thoughts on that, how we could do that? It is not a matter of distrust.

The other point that I would say is that you would have to have mandatory oversight every year of each one of these segments so that you knew you were going to have to have transparency with the Congress and the American public.

Yes, ma'am?

Ms. SCHEINBERG. Yes, Senator.

As we mentioned a little while ago, one of the benefits would be the ability of combining small amounts of money. Right now we cannot move money, even if it is a very small amount. And so you end up with small amounts of money in different places in the Department. However, if we could combine those amounts we could actually do something very constructive for the Department as a whole in the sense of information technology and financial management.

Senator COBURN. Or maybe five miles more of highway.

Ms. SCHEINBERG. The highway money——

Senator COBURN. I understand but it does not necessarily—in other words, the point I am making in responding to your question, it does not necessarily have to go for things inside. It could buy more highway or more transit cars or do something else if we got to the point where you were running efficiently with the tools that you need.

Ms. SCHEINBERG. Right, and actually, that is a different issue. Right now we do not, at the Department level, have the ability to go out and bring back money that is unspent. The States have the ability to move money but we do not. And so money does sit in States around the country. If we could bring it back and redistribute it, that would be very helpful.

That is a much larger issue because it involves the authorization of these programs.

Senator COBURN. I think the other Senator from Oklahoma would be very interested in your thoughts on that.

Ms. SCHEINBERG. What I consider a smaller and easier issue to tackle would be the money that stays in the Department. Instead of having it spread throughout our 12 operating agencies, DOT would benefit by being able to combine it for purposes that would be department-wide. It is not that I would be looking for money to be moved from one agency to another for somebody else's purpose but to do things that are department-wide.

Right now we are not able to do that. We are not able to get folks to come together because the money is all separate.

Senator COBURN. I am asking this for information and not in an accusatory tone at all, so do not take it that way.

Are there any other ways that are padded in your agencies? In other words, that things get padded towards the end of a fiscal year? Padded because of some quirk in what Congress has said? What else is out there in terms of padding?

That is kind of the response I thought I would get, no response. Nobody is going to voluntarily offer that.

Mr. LOFTHUS. I will stick my neck out just to say that since we have had the ability to transfer our expired balances into the unobligated balance transfer account, I think it has diminished the likelihood that people see an incentive to pad or somehow put extra obligations on the books because they simply do not have to do that. There is now an incentive not to do it, to keep the funds available moving into this account where a large number of our components across the Agency have all benefited. They do not all benefit in a single year. They may get taken care of in 1 year and they may not get taken care of again for 2 or 3 years because it is somebody else's turn. But the fact is they know there is a chance for them to have a turn.

So there is really an incentive to be a good steward in this environment.

Senator CARPER. I had two more questions and you asked them both. In fact, one of them you answered and that was the amount of unobligated balance figures that went to the Treasury Department?

Senator COBURN. $16.4 billion.

Senator CARPER. So I do not have any more questions for this panel. Thank you.

Senator COBURN. I have a couple more.

Is the 5-year period the right number? Or should it be flexible? In other words, in the Defense Department, on some of these systems, should it be longer and on other things should it be shorter?

In other words, the fact that on funds that are going to go into the unobligated expired accounts, we know that is 1 year. And then it is going to be held for 5 years. Are there differences in those? Are there some times where it should be 2 years and sometimes when it should be 8? In other words, I do not know how we got to 5 years and I do not know the legislative history behind that. But it would just seem to me that the 5 years does not necessarily apply uniformly across all the different needs and tasks that agencies are given.

Any thoughts on that?

Mr. ROTH. Since you focused on us to begin with, let me try to answer your question.

Like any standardized number, I think you are absolutely correct, 5 years is a relatively artificial number. I think for some of our annual accounts like our operating accounts and our personnel accounts, 5 years is probably more than adequate in terms of covering the kinds of claims that might come in during that period.

For some of our larger capital investment accounts, shipbuilding accounts, building space assets, and some of our military construction facilities, 5 years is at a razor's edge. We, on more than the odd occasion, use this 1 percent rule to pay a bill after the 5 years.

So for large capital investment kinds of things, the 5 years is probably not long enough. For annual accounts probably 2 to 3 years would be adequate.

Ms. Scheinberg, how much do you think is sitting in State accounts in unobligated highway funds now? A rough guess.

Ms. SCHEINBERG. I can tell you as a whole——

Senator COBURN. Yes, as a whole, not individual States.

Ms. SCHEINBERG. As a whole, the amount that is unobligated for the Federal-aid Highway Program——

Senator COBURN. But is in State accounts.

Ms. SCHEINBERG. It would be about $10 billion in obligation limitation.

Senator COBURN. There is all sorts of quirky things that happen. I was talking with our State highway director. They keep the money there because some people do not file claims for bridge repairs that is done in a county by county commissioner. But they kind of like having that little cushion there.

Ms. SCHEINBERG. There are a lot of reasons why this money has not yet been obligated. Part of it has to do with money that has been designated for special projects. And so the project is not ready because it did not come from the State's program. The State did not identify it and have it ready for expenditure.

The other issue has to do with the fact States are waiting for certain requirements to be met first. There are environmental impact statements that have to be completed before you can obligate the money. There is a long series of steps that a State must go through before a highway project can be completed.

In fact, even once it is obligated, we expect it to take 9 years for money that is obligated to be expended. Our outlay stream is 9 years. So there is a very long process for these projects.

There are a lot of reasons.

Senator COBURN. This is the last question and you do not have to answer it here but I would love a written response. If you could use all of your expired unobligated balances in your agency for the next year, what would that reduce your request on appropriations coming to Congress for? In other words, is there a one-to-one correlation? Or is it 80 percent of that we are going to get benefit out of it?

In other words, how do we better use the money that has been appropriated? And how can you, you are there, you are on the ground. You see the problems. You see the needs.

If you had that opportunity every year, if you had that year end unobligated balances that were expired and were going directly to you for your discretion, what would that do in terms of the request of decreasing budget for your individual agencies?

In your case, it is only $13 million so it is probably not going to do much in terms of veterans. But it would do something.

So the point is to allow that. But one of the things that is happening is this money is getting gamed. You all need to know this. Because we have a budget cap and then we use these expiring unobligated balances to increase spending to the flavor of what a senator or congressman wants, and most of it is in terms of earmarks not in terms of something you all identify as a priority but what some political need is in terms of a priority.

So one of my goals in having this hearing is how do we utilize the money in an area in which it was originally intentioned and not in an area that is localized geographically to somebody's political benefit.

That is the other thing that we want to look at because we are going to look at it this year as we go through the appropriation cycle, is how much of this is used to pump up the budget? And how much of that pump does not go for you all but does go in terms of directed funds to something that is not necessarily a priority seen by you. But yet you have to do—and you experience that a lot, Mr. Roth I know in terms of the Department of Defense.

Department of Energy, 50 percent of their budget is earmarks. So you can see the potential there where we could get online on things that you are obligated to do in terms of your charge as agencies can further benefit and the politics can get out of it a little bit

Thank you all for being here. Let me say I appreciate what you do. I appreciate President Bush because of what he has done in terms of putting CFOs in, in terms of his PART program and how we are seeing the agencies starting to become financially secure in terms of their information systems and trying to do it.

And my hope is that OMB can get as good as you all are in terms of your CFO responsibilities and analysis of how you are doing it.

Thank you for being here.

The hearing is adjourned.

[Whereupon, at 3:42 p.m., the Subcommittee was adjourned.]

APPENDIX

STATEMENT OF
PHYLLIS F. SCHEINBERG
ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS AND CHIEF FINANCIAL OFFICER
U.S. DEPARTMENT OF TRANSPORTATION

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY
UNITED STATES SENATE

MAY 18, 2006

Good afternoon. Thank you for the opportunity to appear before you today to discuss the treatment of unobligated balances by the Department of Transportation (DOT) and how they affect the Department's budgeting and programming process. To put this discussion into context, I would like to briefly describe the Department's programs that are funded with the resources provided by the Congress.

The President's fiscal year (FY) 2007 budget request for the Department totals $65.6 billion in budgetary resources to support major investments in transportation nationwide that are vital to the health of our Nation's economy and the American way of life. This includes over $41 billion for highway infrastructure investment and for highway safety programs. An additional $8.7 billion has been requested for Federal transit grant programs that when combined with state and local funding will be used, among other things, to construct new fixed guideway and non-fixed guideway transit projects, purchase bus and transit railcars, and replace, rehabilitate and refurbish existing transit systems. Over $13.6 billion has been requested to build, maintain, and operate the Nation's air traffic control system; oversee commercial and general aviation safety through regulation and inspection; and improve the capacity and safety of airports. Combined, these investments account for over 95 percent of the Department's FY 2007 budget request.

Typically Federal operating programs – such as those that fund the salaries and expenses of railroad safety inspectors – are funded year-by-year through the annual appropriations process and these funding resources are outlayed during the same fiscal year. At DOT such programs constitute a very small portion of our total budget. Instead, the majority of the Department of Transportation's program dollars support major capital investment projects – like highway, transit, and airport construction – that generally take several years to complete. As a result, funding for these programs also needs to be available over multiple years and linked to the project's overall construction cycle. As infrastructure projects progress, the specific funds linked to the project are obligated as they are needed to complete construction phases. Because this often happens over a long period of time, a sizable portion of each year's funding is likely to remain unobligated and unexpended for several years.

For the Federal-aid Highway Program, the primary reason for large unobligated balances is the application of statutory budgetary controls known as obligation limitations. These limitations, set in the annual appropriation process control the use of contract authority authorized in the multi-year highway authorization acts. Typically, the limitation on obligations is lower than the amount of new contract authority each year, so a portion of the contract authority is at least temporarily unavailable for obligation. At the end of fiscal year 2005, $23 billion of the $34.4 billion in Federal-aid Highway Program unobligated balances reflected the cumulative effect of annual obligation limitations. This explains why the Department of Transportation had an unobligated balance of over $43 billion at the end of FY 2005, with approximately $34.4 billion of these unobligated balances attributed to the Federal-Aid Highway program alone. A table that shows the unobligated balances for the Department at the end of FY 2000 through FY 2005 is attached.

The unobligated balances that result from the slow spending patterns of capital infrastructure projects typically cannot be directed to other funding needs. Congress has given the Department limited flexibility in shifting funds from one purpose to other purposes within an agency. Title 31 of the United States Code, Section 1301 – known as the "purpose statute" – states that:

- Appropriations are to be applied only to the objects for which the appropriations have been made, except as otherwise provided by law;
- Reappropriation and the diversion of the unexpended balance of an appropriation for a purpose other than that for which the appropriation originally was made is accounted for as a new appropriation; and,
- A regular annual appropriation is not available for more than one year unless the law in which the appropriation appears expressly provides an availability of more than one year.

These restrictions ensure that funding provided continues to support its original purpose.

In addition to the "purpose statute," the Department is subject to the reprogramming provisions included in our annual appropriations act. Section 710 of the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 (Public Law 109-115) requires a reprogramming action when funds are to be shifted that would, among other things:

- Create a new program;
- Eliminate a program, project or activity;
- Increase funds or personnel for a program, project, or activity for which funds have been denied or restricted by the Congress;
- Result in funds directed for a specific activity by either the House or Senate Committees on Appropriations to be used for a different purpose;
- Augment existing programs, projects, or activities in excess of $5,000,000 or 10 percent, whichever is less;

- Reduce existing programs, projects, or activities by $5,000,000 or 10 percent, whichever is less; or
- Create, reorganize, or restructure a branch, division, office, bureau, board, commission, agency, administration, or department different from the Congressional budget justifications or the table accompanying the Statement of the Managers accompanying the Department's annual appropriations act, whichever is more detailed.

For designated high-priority items of interest to the House and Senate Appropriations Committees, as reflected in report language and on the reprogramming baseline reports that the Department submits to the Appropriations Committees pursuant to Section 710, any proposed change in funding (even if the change is below the "normal" size thresholds) requires notification to the Appropriations Committees.

There are a few exceptions to these rules that provide some limited flexibility to shift funds to other programs. For example, the Secretary of Transportation is authorized to transfer funds appropriated for any part of the Office of the Secretary (OST) to any other part of the Office of the Secretary, provided that no appropriation for any office is increased or decreased by more than 5 percent by all such transfers. The Federal Aviation Administration (FAA) is authorized to transfer up to 2 percent of funds from any budget activity funded within is Operations appropriation, excluding aviation regulation and certification, to any other budget activity within Operations, provided that no budget activity is increased or decreased by more than 2 percent. Finally, the Federal Transit Administration's Administrative Expenses appropriation is authorized to transfer funds appropriated for an office of the Federal Transit Administration, provided that no appropriation for an office is increased or decreased by more than a total of 5 percent by all such transfers. Any OST, FAA or FTA transfers over these thresholds require formal reprogramming notification. We have found these tools to be helpful in managing our programs and in addressing small funding needs between programs.

In the Federal-aid Highway Program, there is considerable flexibility for States to transfer their apportioned (formula) funds to other formula programs where they would be more useful to the State. Similar flexibility does not exist for funds statutorily designated for specific projects, except for the flexibility provided by the section 1603 of the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" (SAFETEA-LU). Section 1603 provides an exception for projects designated before fiscal year 1991. Under this provision, funds remaining from a pre-1991 designation, either unobligated or obligated on an inactive project, may be used instead by the State for any project eligible under the Surface Transportation Program, the most flexible of the highway formula programs.

The Congress has authorized another mechanism to use within the Federal Highway Administration programs that we have found to be very effective. That process, known as "August redistribution" is provided for in the Department's annual appropriations acts and allows for redistribution of obligation authority that expires that fiscal year. If that obligation authority cannot be used by the end of the fiscal year due to schedule slippages, funding changes etc., then it is made available to States that can obligate these additional amounts before the end of the fiscal year. As a result, Federal-aid highway dollars are available to support as many projects as possible within the envelope of resources in a given fiscal year. Given the complex nature of Federal infrastructure projects and the timelines needed to complete them, this redistribution process has been an effective approach for managing highway transportation dollars wisely.

Finally Mr. Chairman, you asked me to address whether or not DOT's unobligated balances expire. In some cases unobligated balances do expire, based on the number of years Congress has made the funds available in the Department's annual appropriations act or in authorizing statutes. Some of our programs have three-year availability and some have no limit to availability. Unobligated balances that expire may stay within an account for up to five additional years and can be used only to cover upward adjustments of prior-year obligations. Generally, we adhere to the principle of "first-in-first-out" where our oldest funds are used first. According to law, after the five-year period, the remaining unobligated resources are returned to Treasury. For the Federal-aid Highway Program, funds must be obligated within the period of availability. Funds that are obligated within the availability period but not expended, and no longer required, may be recovered and reobligated pursuant to 23 USC 118(d) and 31 USC 1301(a).

Thank you for the opportunity to appear before you today. I would be happy to answer questions.

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DEPARTMENT OF TRANSPORTATION
OBLIGATED AND UNOBLIGATED BALANCES FY 2000-2005
IN MILLIONS OF DOLLARS

	FY 2005		FY 2004		FY 2003		FY 2002		FY 2001		FY 2000	
MODE/ACCOUNT	**UNOBL**	**OBL BAL**	**UNOBL**	**OBL BAL**	**UNOBL**	**OBL BAL**	**UNOBL**	**OBL BAL**	**UNOBL**	**OBL BAL**	**UNOBL**	**OBL BAL**
OST												
Salaries & Expenses	1	4	0	44	0	41	10	12	1	5	1	22
Office of Civil Rights	0	3	0	3	0	3	0	2	0	2	0	1
Minority Business Outreach	8	3	0	4	1	4	2	2	1	3	0	3
New DOT Headquarters Building	24	42	0	0	0	0	0	0	0	0	0	0
Rental Payments	0	0	0	0	0	0	0	0	0	0	1	0
Compensation for Air Carriers	72	0	279	0	278	0	450	0	2,672	0	0	0
Transportation Planning, R & D	9	24	5	35	9	14	3	9	1	3	2	3
Essential Air SvCc	1	44	2	41	7	33	1	19	0	21	2	18
Working Capital Fund / Transportation Admin Src Ctr	0	55	0	37	0	-8	0	12	18	-43	23	111
MBRC Program	0	2	0	1	0	0	0	0	0	1	0	5
Payments to Air Carriers (TF)	5	15	0	16	0	13	11	19	0	1	0	6
FAA												
Operations	2	801	12	905	22	667	27	695	128	854	0	110
Aviation User Fees	1	0	0	0	77	20	57	0	30	0	0	0
Aviation Insurance Revolving Fund	563	6	399	5	218	5	102	5	88	0	79	0
Administrative Services Franchise Fund	95	27	73	136	79	92	57	71	26	49	3	5
Grants-in-Aid for Airports	0	2	0	0	0	0	0	0	0	0	0	0
Grants-in-Aid for Airports (TF)	483	6,059	285	6,094	9	5,682	1	4,993	302	4,378	903	3,200
Facilities & Equipment (TF)	869	1,738	957	1,672	604	1,953	476	1,989	483	1,751	234	1,620
Research, Engineering & Development (TF)	19	158	19	174	17	193	16	206	14	162	13	144
Operations (TF)	0	4	0	7	0	28	69	75	0	76	23	717
FHWA												
Miscellaneous Appropriations (GF)	138	511	165	693	197	792	247	792	192	728	203	170
Applachian Dvlpmt Highway System (GF)	195	190	194	225	210	176	107	131	7	94	23	161
State Infrastructure Banks	0	4	0	5	0	10	1	16	5	20	4	25
Ellsworth Housing Settlement	0	0	0	0	0	0	0	2	0	0	0	3
Right-of-Way Revolving Fund Liquidating Account (TF)	3	9	0	10	0	10	0	14	0	21	0	33
Federal-Aid Highways (TF)	34,379	43,690	31,579	41,777	21,806	42,018	24,346	40,411	27,653	38,689	24,114	36,564
Applachian Dvlpmt Highway System (TF)	3	9	4	24	3	70	1	165	60	185	0	0
Highway Related Safety Grants (TF)	0	1	0	1	0	1	0	1	0	1	0	1
Miscellaneous Trust Funds	72	155	178	65	43	151	60	111	59	27	51	33
Miscellaneous Highway Trust Funds (TF)	356	387	421	519	530	616	589	527	825	415	23	83

DEPARTMENT OF TRANSPORTATION
OBLIGATED AND UNOBLIGATED BALANCES FY 2000-2005
IN MILLIONS OF DOLLARS

MODE/ACCOUNT	FY 2005 UNOBL	FY 2005 OBL BAL	FY 2004 UNOBL	FY 2004 OBL BAL	FY 2003 UNOBL	FY 2003 OBL BAL	FY 2002 UNOBL	FY 2002 OBL BAL	FY 2001 UNOBL	FY 2001 OBL BAL	FY 2000 UNOBL	FY 2000 OBL BAL
FMCSA												
Motor Carrier Safety	32	167	19	99	14	64	5	36	8	34	2	18
National Motor Carrier Safety Program	3	208	4	199	4	200	3	180	3	138	2	85
Border Enforcement Program (TF)	0	13	0	17	0	27	0	37	0	0	0	0
NHTSA												
Operations and Research	1	44	4	60	12	125	19	121	26	86	14	64
National Driver Register (TF)	10	186	6	98	5	81	1	60	1	71	2	84
Highway Traffic Safety Grants (TF)	4	258	4	252	0	237	0	224	0	231	0	225
FRA												
Safety and Operations	10	28	8	20	5	27	6	25	5	24	6	17
Railroad R&D	9	50	4	43	3	43	4	38	6	33	5	30
Rhode Island Rail Development	0	0	0	0	0	14	0	28	0	35	10	14
Pennsylvania Station Redev. Project	60	0	60	0	60	0	40	0	20	0	0	0
Alaska Railroad Rehabilitation	0	0	0	27	0	23	0	21	0	42	0	40
West Virginai Rail Project	0	0	0	1	0	4	2	9	12	3	0	0
Grants to Amtrak	4	33	24	28	24	92	24	50	312	1	343	3
Next Generation High Speed Rail	18	53	12	60	14	56	9	54	6	61	2	60
Northeast Corridor Improvement Project	4	2	4	15	4	15	3	15	3	15	3	16
Emergency Railroad Rehabilitation and Repair	0	0	0	0	0	0	0	1	0	1	0	4
Local Rail Freight Assistance	0	0	0	0	0	0	1	0	1	0	1	1
Conrail Commuter Transition Assistance	0	0	0	0	0	0	0	0	0	1	0	3
Trust Fund Share of Next Gen. High-Speed Rail (TF)	0	0	0	0	0	0	0	0	0	0	0	2
FTA												
Administrative Expenses	0	14	0	13	0	13	0	18	0	10	0	9
Formula Grants	2,542	6,177	2,067	6,300	1,554	6,797	1,322	6,650	1,327	6,338	1,294	5,931
University Transportation Research	9	10	6	12	6	13	0	11	0	13	0	10
Transit Planning & Research	80	237	68	243	40	262	34	268	25	281	35	247
Job Access and Reverse Commute Grants	123	190	128	164	114	160	145	109	91	104	76	58
Capital Investment Grants	2,870	7,427	3,239	7,072	5,874	4,032	3,092	3,562	1,213	3,056	1,006	2,471
Research, Training and Human Resources	0	1	0	1	0	1	0	1	0	3	1	4
Interstate Transfer Grants	0	4	0	6	0	10	7	-8	6	0	7	2
Washington Metropolitan Area Transit Authority	0	7	1	9	1	21	1	32	1	121	0	237
Misc. Expired Accounts	0	1	0	1	0	1	1	0	1	0	1	1
Discretionary Grants (TF)	28	196	45	297	55	448	47	749	48	1,243	66	1,947
Formula and Bus Grants (TF)	29	0	0	0	0	0	0	0	0	0	0	0
Trust Fund Share of Expenses (TF)	0	0	29	0	29	0	29	0	29	0	18	0

DEPARTMENT OF TRANSPORTATION
OBLIGATED AND UNOBLIGATED BALANCES FY 2000-2005
IN MILLIONS OF DOLLARS

	FY 2005		FY 2004		FY 2003		FY 2002		FY 2001		FY 2000	
MODE/ACCOUNT	UNOBL	OBL BAL	UNOBL	OBL BAL	UNOBL	OBL BAL	UNOBL	OBL BAL	UNOBL	OBL BAL	UNOBL	OBL BAL
SLSDC												
Saint Lawrence Seaway Development Corp. (PEF)	14	6	15	4	15	3	14	3	14	3	13	3
Operations & Maintenance (HMTF)	0	0	0	0	0	0	0	0	0	0	0	0
PHMSA/RSPA												
Research & Special Programs	2	25	2	27	2	19	56	25	1	17	1	76
Hazardous Materials Safety	0	0	0	0	0	0	0	0	0	0	0	0
Administrative Expenses	0	0	0	0	0	0	0	0	0	0	0	0
Pipeline Safety (OSLTF)	14	38	17	34	17	30	3	47	7	31	4	18
Emergency Preparedness Grants (EP Fund)	0	22	0	22	0	21	0	22	20	21	14	19
Trust Fund Share of Pipeline Safety (OSLTF)	9	0	8	1	7	1	3	1	1	1	0	1
RITA												
Research & Development	1	-3	0	0	0	0	0	0	0	0	0	0
Working Cap. Fund, Volpe Nat'l Transp. Sys. Center	145	-95	178	-112	182	-113	174	-111	158	-96	154	105
OIG												
Salaries and Expenses	0	8	0	7	0	10	0	10	0	6	0	4
STB												
Salaries and Expenses	0	4	1	3	1	3	1	6	1	5	1	3
MARAD												
Operations and Training	11	51	3	36	7	31	7	23	4	25	1	40
Ship Disposal	12	16	8	12	5	6	0	0	0	0	0	0
Maritime Security Program (Defense, F054)	1	11	3	9	3	9	3	8	1	8	0	8
Ship Construction	2	0	2	0	4	0	2	0	4	0	2	0
Operating-Differential Subsidies	0	14	0	14	141	14	125	32	125	37	125	45
Ocean Freight Differential	0	0	0	1	0	1	164	0	113	134	52	0
Ready Reserve Force	3	1	3	2	3	3	4	6	10	6	15	4
Vessel Operations Revolving Fund	13	82	9	74	5	28	8	39	68	65	22	196
War Risk Insurance Revolving Fund	41	0	39	0	37	0	36	0	34	-1	32	0
TOTAL	43,402	69,429	40,592	67,664	32,357	65,416	32,028	62,681	36,852	61,425	30,060	56,639

NOTE: Items in red are grant accounts.

Department of Justice

STATEMENT

OF

LEE J. LOFTHUS
DEPUTY ASSISTANT ATTORNEY GENERAL/CONTROLLER

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT,
GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY
UNITED STATES SENATE

CONCERNING

UNOBLIGATED BALANCES AT FEDERAL AGENCIES

PRESENTED ON

MAY 18, 2006

STATEMENT OF
LEE J. LOFTHUS
DEPUTY ASSISTANT ATTORNEY GENERAL/CONTROLLER
U. S. DEPARTMENT OF JUSTICE
BEFORE THE
UNITED STATES SENATE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT
INFORMATION, AND INTERNATIONAL SECURITY

MAY 18, 2006

Mr. Chairman and Members of the Subcommittee:

Good afternoon. I appreciate the opportunity to appear before you today to discuss how unobligated balances are managed at the Department of Justice, and how the treatment of unobligated balances affects budgeting for the Department's programs and funding needs.

First, let me say that sound financial management is of great importance to Attorney General Gonzales, to all the Department's financial officers, and especially to me as the Controller for the Department of Justice. Our commitment to strong financial management was demonstrated in the Department's successful financial audit last year. Wise use of unobligated balances is an important part of the financial operations and budgeting practices at DOJ.

The DOJ appropriations act provides the ability to reprogram current year funds within programs, projects, and activities in our appropriations. We also have an appropriations provision that permits us to transfer funds across appropriations within certain limits. Both these capabilities require OMB clearance and Congressional notification. Reprogrammings and transfers are beneficial flexibilities which allow us to maximize the use of our current year balances. However, we also have two important means or categories of funds that provide us capabilities for using funds beyond a single fiscal year's limitations.

The first category is explicit in the language of our annual appropriations act, that being funding provided in the form of multi-year and no-year appropriations. For several of our components, Congress has acknowledged the need to provide obligational flexibility by including appropriations language that makes funds available to DOJ components over multi-year timeframes, or available until expended (what we call "no-year" funding). The multi-year or no-year authority is component-specific, and typically is targeted for specific program needs such as information technology improvements, automated litigation support, or construction. This authority recognizes that certain programs have operational needs that go beyond the temporal limits of a fiscal year, and that sound business practices dictate the need to have a degree of flexibility in our ability to obligate funding for projects or purposes that extend beyond the end date of a given appropriation's fiscal year.

The other authority provided to DOJ by the Congress is more subtle, but of tremendous importance to our ability to manage our operations efficiently. As with most agencies, we receive the substantial portion of our funding in annual appropriations that expire if they are unobligated at the end of a fiscal year. In accordance with 31 USC §1552(a), such expired funds maintain their fiscal year identify for another 5 years, and may be used for obligation adjustments and liquidations, but not new obligations. Agencies often describe expired funds as "lapsed money" since the funds are no longer available for new program purposes. During the 5-year span when expired funds are accounted for, accounting transactions may continue to be posted against the appropriation, such as cash outlays related to the processing of bills, and other necessary adjustments to established obligations. For example, expired balances are adjusted when an invoice comes in for a legitimately higher amount than originally obligated, or to pay a judgment not anticipated when the appropriation was current, or when refunds are received. All of these transactions continue to affect the balances in expired appropriations. These transactions can occur up to the day the funds are cancelled. Therefore, the unobligated balance is a changing variable throughout the annual appropriation's 6-year life cycle. At the end of the last year, the 5th expired year, annual appropriations are closed, and all remaining balances of any kind are canceled and "returned" to the Treasury.

Importantly, with regard to expired balances, in FY 1992 the Congress gave the Department of Justice the authority to "re-capture" the expired unobligated balances prior to their cancellation and return to the Treasury. Public Law 102-140 (codified in 28 USC §527 note), allows us to transfer unobligated balances to the DOJ Working Capital Fund (WCF) within the last five years of the six year life cycle when we are sure that all original obligations are covered and the remaining balances are not required for adjustments or outlay. These transfers are made to a specific Working Capital Fund account that we call the Unobligated Balance Transfer account, known by its initials "UBT."

The WCF is a no-year fund, so after the component's unobligated balances are transferred to the UBT account, the funding remains available until expended. The law specifies that the unobligated balances being transferred are available only for Department-wide acquisition of capital equipment, for law enforcement or litigation-related information technology systems, and for financial and payroll/personnel systems. We do not co-mingle the UBT balances with other WCF balances. Our use of the UBT resources is subject to congressional notification.

Since 1992, approximately $1.8 billion has been transferred to the WCF and "re-used" for various Congressionally-approved purposes. The Federal Prison System and the Federal Bureau of Investigation (FBI) have accounted for over half of the funding transferred into this account. Once the funds are "deposited" in the WCF UBT account, the funding is used for purposes approved by the Attorney General, or his designee, and with Congressional notification. Over time, the FBI has been the single biggest recipient of the reused balances.

The Working Capital Fund UBT authority has proven to be a valuable Departmental management tool. It ensures that any funds appropriated to the Department stay within the Department and are used for high priority needs. In recent years, we have used UBT funding for such critical information technology projects such as the FBI's fingerprint identification system, the FBI's Project Sentinel, and the Law Enforcement National Data Exchange (N-DEx) system. We also employ this funding source to finance the costs of Departmentwide systems that cut across the boundaries of individual component appropriations, such as the Joint Automated Booking System (JABS) project and the Justice Consolidated Office Network (JCON). In addition to the beneficial uses approved at the Department's request, our appropriations committees sometimes have rescinded unobligated balances to permit them to fund initiatives of specific interest without increasing new budget authority.

DOJ has used this unique authority wisely in solving unforeseen funding problems that occur in the course of our operations. We have scrupulously used this authority in the manner intended by the Congress and have made sure that our intentions for employing this funding flexibility were openly stated and approved by the Department's leadership and the Office of Management and Budget, and that our Congressional appropriations committees were notified, before we proceeded with our intended purpose.

Conclusion

In closing, I want to stress that the Department of Justice highly values the authorities we have been given to manage our resources. This includes both the ability to carry forward specifically enacted amounts as unobligated balances into succeeding fiscal years, as well as the unique authority we have been given to transfer expired unobligated balances into our Working Capital Fund and use this funding, with Congressional notification, for addressing key agency funding needs. Most importantly, from a taxpayer standpoint, we are able to use these balances to support our mission programs rather than allowing the funds to sit as unused expired balances while forcing us to request new funds from Congress.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions you or the other subcommittee members may have.

Testimony

of

Mr. John P. Roth
Deputy Comptroller (Program Budget)
Office of the Under Secretary of Defense (Comptroller)

before the

Senate Committee On Homeland Security and Governmental Affairs
Subcommittee on Federal Financial Management, Government Information and International Security

May 18, 2006

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Mr. Chairman, and distinguished members of the subcommittee, I welcome the opportunity to testify on the Department of Defense unobligated balances, their treatment, and how they affect our budgeting and programming.

As you are aware, the Department of Defense budget is large and complex. In FY 2006, we are executing programs from 110 different military accounts. Of this number, 80 are funded by appropriations from the Congress, and 30 are funded from other sources, such as permanent indefinite appropriations (such as the Health Care Trust Fund payments for Medicare-Eligible Military Retirees), receipts (such as gift funds), or revolving funds sales.

These accounts vary as to purpose and obligation life. Approximately 39 percent are available for incurring new obligations for only one year. The majority of these are military personnel and operation and maintenance accounts. Investment accounts are available for new obligations for multiple years, ranging from two years (Research, Development, Test and Evaluation) to five years (Military Construction and Shipbuilding and Construction, Navy). For the most part, the Congress appropriates the total funding for a given quantity of items or a program activity, even though the funding will obligate over a number of years.

Lastly, a few of our accounts (such as the Defense Working Capital Fund and the Base Realignment and Closure account) are "no year" accounts, meaning that the funds are available for new obligations for an indefinite time period.

Accounts "expire" for new obligations at the end of the period of obligation availability stated in the relevant appropriations act. Any unobligated balance remaining after the account expires can only be used to adjust previously recorded obligations – we cannot write new contracts or start new projects after the account expires. For example:

A contract amendment for cost growth (price redetermination) or claims that are within the scope of the original contract are chargeable to the same account that originally funded the contract. Adjustments up to $4 million may be approved by the component requesting the change, and adjustments between $4 million and $25 million may be approved by the Defense Comptroller. Any adjustment over $25 million requires congressional notification in accordance with 31 USC 1553.

Accounts "cancel" five years after they expire for new obligations. When an account is cancelled, all remaining balances (unobligated balances and obligated balances not yet paid) are written off Treasury's books. No obligation adjustments and no further payments can be made from the account. In certain cases, this process prevents us from making payments on valid obligations of the Federal government. In these cases, the Congress has provided us with special authority which allows the use of up to 1 percent of our current year funds to pay these bills.

The Department monitors obligations and unobligated balances carefully. Obligation rates are one of our key financial metrics – are programs utilizing the funding provided in accordance with their plan? During the active life of an appropriation, unobligated balances not required for their original purpose can be shifted to other programs in accordance with established reprogramming procedures and statutory transfer authorities.

Flexibilities – Unexpired Accounts

The Congress has long recognized that the Department needs some flexibility to move funds among these 80 accounts and the several thousand individual programs contained in our budget in order to satisfy urgent requirements, and to accommodate fact-of-life changes after appropriation action is complete. We can group these flexibilities into two categories: reprogramming and transfers.

Reprogramming actions move funds between different programs within an appropriation account. We control programs at the "Program, Project, and Activity", or line item level, as specified in the relevant oversight committee reports.

Transfers move funds between appropriation accounts. For example, the Congress provides us with General Transfer Authority. General Transfer Authority allows us to move funds between accounts up to a certain aggregate dollar limit. Transfers under this authority must be for higher priority purposes, based on unforeseen military requirements, when determined to be necessary in the national interest. If the transfer changes the purpose for which the funds were originally appropriated, we obtain Congressional approval. All transfers under this authority require the approval of the Office of Management and Budget.

Flexibilities – Expired Accounts

Once funds have expired, it is important note that, except in very limited cases, the Department has no authority to transfer funds, nor can we transfer funds between different fiscal years. The major exception is our authority to transfer unobligated balances to accommodate fluctuations in foreign currency rates. The Department does have standing authority to transfer expired funds in the Operation and Maintenance, Military Personnel, and Construction accounts to the foreign currency transfer accounts to fund foreign currency variances.

Conclusion

Unobligated balances are part of the federal financial management process. The Department is very conscious of its accountability responsibilities. As good stewards of taxpayer funds, the Department manages unobligated balances carefully to maximize the utility of the funding provided by the Congress and to ensure that all relevant policy and procedures are properly followed.

Thank you.

TESTIMONY

BEFORE THE SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY
UNITED STATES SENATE

STATEMENT BY

THE HONORABLE CHARLES E. JOHNSON
ASSISTANT SECRETARY FOR BUDGET, TECHNOLOGY AND FINANCE
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

For release on
Thursday, May 18, 2006
at 2:30 P.M

Good afternoon, Mr. Chairman and Members of the Subcommittee. Thank you for inviting me here today. It is a pleasure and honor for me to have the opportunity to represent Secretary Leavitt and to discuss with you how the Department uses its unobligated balances.

As the Chief Financial Officer for the Department of Health and Human Services (HHS), I have a responsibility to ensure that our Department follows the principles of appropriations law. We appreciate and welcome your desire to explore possibilities for flexibility in the use of unobligated balances, which would need to be consistent with these principles and with the need for accountability.

Congress appropriates funds for different periods of availability. These periods of availability can either be fixed; that is, for one or two years (or more) -- or indefinite. For example, traditionally the language appropriating HHS administrative expenses has made these types of resources available for only one fiscal year ("annual" accounts) such as our Salaries and Expenses account for the Food and Drug Administration. Activities that take more than one year to accomplish, but can be time-limited ("multi-year" accounts) -- such as the White House Conference on Aging or Global AIDS funding for international organizations -- receive appropriations that last two or three years. In contrast, since the construction of buildings and facilities takes a much longer period of time, the language appropriating funds for these purposes (such as Indian Health Facilities) has traditionally made these types of resources available indefinitely or "until expended" ("no-year" or "X" accounts).

Annual and multi-year appropriations expire at the end of their period of availability. Once expired, these unobligated balances cannot be used for any new activity – they can only be used for making adjustments to obligations already incurred or for recording previously unrecorded obligations related to the specific expired fiscal year. They are maintained in the accounting system for an additional five years after expiration. At the end of the five years, these funds are cancelled and returned to Treasury.

This distinction between fixed and indefinite periods of availability establishes two very different types of unobligated balance. The first type is the expired unobligated balance that is no longer available to obligate and the second type is the unexpired unobligated balance that remains available to obligate.

Let me give you some actual HHS figures as of September 30, 2005 to put the discussion into perspective. At the end of the last fiscal year, HHS had a total of 531 accounts established in Treasury.

- During FY 2005, 150 (28%) of these 531 accounts had available funding. Of this number:
    - 59 were "annual" accounts,
    - 23 were "multi-year" accounts, and
    - 68 were "no-year" accounts.

Expired Balances

- During FY 2005, the remaining 381 (72%) of these 531 accounts had expired funding. Of this number:
    - o 306 were expired "annual" accounts and
    - o 75 were expired "multi-year" accounts.
- With the expiration of the 59 FY 2005 annual appropriations, the number of accounts with expired unobligated balances increased to 440.
- The expired balances for these 440 accounts totaled $4.8 billion. By fiscal year, the balances were:
    - o FY 2000 -- $0.6 billion
    - o FY 2001 -- $1.2 billion
    - o FY 2002 -- $1.0 billion
    - o FY 2003 -- $0.7 billion
    - o FY 2004 -- $0.6 billion
    - o FY 2005 -- $0.7 billion
- Of the total $4.8 billion, $3.0 billion was in mandatory programs ($2.8 billion of which was in one open-ended appropriated entitlement program).
- Having reached the end of the five-year period after expiration, 64 of these 440 accounts had expired balances cancelled as of September 30, 2005. Once cancelled, these funds were returned to the Treasury.

Unexpired Balances

- 91 accounts remained with unexpired unobligated balances (23 of these were "multi-year" and 68 were "no-year"). These unexpired balances totaled $11.2 billion -- $9.5 billion of which was for mandatory programs. Of this $9.5 billion, almost two-thirds ($6.1 billion) was an anomaly caused by the early appropriation of Temporary Assistance for Needy Families and Child Care Entitlement funding to help with Katrina relief.

Let me take a few minutes to describe the principles that apply to the use of unobligated balances. First, I'll describe the principles that affect the use of expired unobligated balances.

The key piece of legislation affecting expired balances was passed in the National Defense Authorization Act of 1991. This legislation, popularly known as the "M Account" legislation, requires expired fixed appropriations to retain their fiscal-year identity in an expired account for five years. During this five-year period, the expired account is available only to record previously unrecorded obligations and to make upward adjustments in previously under-recorded obligations. Unobligated balances in these expired accounts cannot be used to satisfy an obligation properly chargeable to current appropriations, according to a GAO Comptroller General decision. At the end of the five-year period, any remaining balances are cancelled and the account is closed.

There are several principles of appropriations law that apply to our unexpired unobligated balances. The first is the "**necessary expense**" doctrine contained in section 1301(a) of title 31 of the U.S. Code that requires that we use unobligated balances only for the purposes stipulated in the original appropriation.

The second principle of appropriations law that must be considered is the **augmentation principle**. This is a corollary of the "necessary expense" doctrine. Since Congress has the "power of the purse," it is presumed that not only must agencies spend funds only as described in appropriation language, but also an agency is limited to spending only the amount provided by Congress. Funds in excess would be considered an improper augmentation of the appropriation.

The third principle of appropriations law that must be considered is the **prohibition against transferring funds** between appropriations without specific statutory authority. This is discussed at some length in GAO's Principles of Federal Appropriations Law (Volume II, p. 2-24). In addition, section 513 the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006, specifically prohibits transfers not authorized in an appropriations Act. (One example of an exception authorized by an appropriations Act is the limited authority provided to the Secretary in section 208 of that Act).

The last principle of appropriations law I want to mention is related to the treatment of **reappropriations of unobligated balances** under section 1301(b) of title 31 of the U.S. Code. This requirement directly relates to how the movement of unobligated balances from one purpose to another (even when done by statute) results in the funds being counted (scored) as a new appropriation.

Let me give you some examples of how we use unobligated balances.

As required by the "M Account" legislation, expired unobligated balances are only used to record previously unrecorded obligations and to make upward adjustments in previously under-recorded obligations. For example, in FY 2005, we had to reimburse the Department of the Treasury's Judgment Fund for the settlement of a contract dispute under the Contract Dispute Act. This payment to the Judgment Fund was made from expired unobligated balances available from FY 2003 -- the fiscal year the dispute was settled. This qualified as an "unrecorded obligation" and was legitimately chargeable to expired unobligated balances in the relevant accounts of the affected agencies. Many administrative obligations (such as utilities or travel) are recorded based on estimated costs. When a bill comes in after a fiscal year has ended for more than the estimate, these obligation "adjustments" must be made from expired unobligated balances from the year the estimate was recorded. These types of adjustments are reflected in the President's Budget Appendix in the Program and Financing Schedules as "adjustments in expired accounts."

Unexpired unobligated balances are a much different story. Since Congress deliberately appropriates these funds to remain available for longer periods of time, these balances play a very important role in helping us carry out the programs we are responsible for. For example, at the end of FY 2005, HHS had $11.2 billion in unexpired unobligated balances. Of this amount, $9.5 billion was in mandatory accounts, $0.8 billion was in business-type operations accounts, and $0.9 billion was in discretionary accounts. Of the $9.5 billion in mandatory accounts, as I mentioned earlier, $6.1 billion was an anomaly caused by the early appropriation (on September 21, 2005) of Temporary Assistance for Needy Families and Child Care Entitlement funding to help with Katrina relief. These funds were obligated immediately on October 1, 2005, but were counted in the total unobligated balance available as of September 30. $1.9 billion was for the Contingency Fund for State Welfare Programs originally appropriated in FY 1996 under Welfare Reform and recently extended by its reauthorization in the Deficit Reduction Act. These funds were appropriated as fall-back funding for states that, under Welfare Reform, were using capped amounts for welfare programs. The remaining $1.5 billion in balances helps finance such mandatory programs as Medicaid, Child Support Enforcement, and State Grants and Demonstrations. Most of our mandatory accounts have "no-year" authority in order to ensure the availability of a steady flow of funding from year-to-year.

The $0.8 billion in unexpired unobligated balances for business-type operations is made up of user fees (such as for Prescription Drug approvals and Clinical Laboratory inspections); Cooperative Research and Development Accounts (CRADAs) in the Food and Drug Administration (FDA), Centers for Disease Control and Prevention (CDC), and

National Institutes of Health (NIH); Indian Health Service (IHS) Medicare and Medicaid collections; Health Resources and Services Administration (HRSA) data banks; and other central-service revolving funds. Unobligated balances that carry over from year-to-year are essential to efficiently carry out these business-type operations.

On the discretionary side, $0.7 billion of the $0.9 billion is represented by buildings and facilities accounts in FDA, NIH, CDC, and IHS. Since in most cases the entire cost of a building or facility needs to be appropriated in order to start a project, these funds were appropriated to remain available "until expended" to ensure the completion of these projects. The remaining $0.2 billion in discretionary balances is spread over a number of programs. Each of these programs also has a specific purpose that is met by the extended availability of funds.

How do these unobligated balances affect our budgeting and programming? Expired unobligated balances generally have no effect on our budgeting and programming since these funds are not available for new obligations. Unexpired unobligated balances, however, are integral to the budget process. These resources are factored into the program level reflected in the President's Budget and have a major bearing on the amount of appropriations requested. In addition, we constantly monitor the status of these unexpired balances and, when balances are excess to a particular program need, we let Congress know through OMB so future appropriation requests can be reduced or funds can be reallocated to a higher priority. For example, in FY 2005, $58 million was found to be excess to the programmatic needs of a CMS Grants and Demonstrations project.

Based on this, Congress rescinded those funds and appropriated them to our Emergency Fund for the purchase of influenza antiviral drugs.

In summary, while we appreciate the subcommittee's interest in providing some flexibility in the use of unobligated balances, there are many existing laws that have established boundaries for their use (both unexpired and expired). We have some flexibility, and in general would always prefer more, but we acknowledge that flexibility has to be balanced with accountability. We look forward to working with the committee on any ideas they may have that would increase flexibility while maintaining accountability.

Thank you again for the opportunity to describe how unobligated balances fit into the financial picture at HHS. I will be happy to answer any questions.

Department of Health and Human Services
Unexpired Unobligated Balances, End of FY 2005
dollars in millions

Business-type Operations (User Fees, Revolving Funds, etc.)...	$825
Mandatory Programs	
TANF & Child Care (October 2005 Grants)...	$6,061
TANF Contingency Fund...	1,900
Other Mandatory Programs...	1,532
Subtotal, Mandatory Programs...	$9,493
Discretionary Programs	
Buildings and Facilities (FDA, IHS, NIH & CDC)...	$719
Other Discretionary Programs...	160
Subtotal, Discretionary Programs...	$879
Total Unobligated Balances...	$11,197

STATEMENT OF THE HONORABLE ROBERT J. HENKE

ASSISTANT SECRETARY FOR MANAGEMENT

FOR PRESENTATION BEFORE THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

MAY 18, 2006

Mr. Chairman and members of the committee, good afternoon. I am pleased to be here today to discuss the Department of Veterans Affairs' (VA) experience in carrying over unobligated funds from one fiscal year to the next and what impact this practice has on our budgeting and program management activities. I will also address the statutory authority permitting these financial management practices and will describe what impact this authority has on our ability to deliver benefits and services to our nation's veterans and their families.

Let me begin by expressing our appreciation for the statutory authority Congress has provided VA to carry over unobligated funds and to shift resources between accounts during the year. These authorities are sufficient to allow us the flexibility we need to ensure resources appropriated for veterans' programs are managed in a way that maximizes the delivery of timely, high-quality benefits and services to those who have defended and preserved freedom around the world. The carryover authorities also allow us to place increased emphasis on managing the Department's resources to achieve programmatic results rather than to spend down an account prior to the end of a given fiscal year.

Unobligated Balances

VA carried over approximately $21.6 billion from fiscal year 2005 into fiscal year 2006. About 89 percent, or $19.2 billion, of this total unobligated balance pertains to resources for entitlement programs (including revolving and trust funds) that can be used only for benefits specifically mandated by law. These have all been authorized by Congress as no-year funds, i.e., funds that do not expire. The remaining 11 percent, or $2.4 billion, of the funds carried forward into fiscal year 2006 is from unobligated balances in our discretionary accounts.

Unobligated Balances in Mandatory Accounts

Three accounts collectively comprised 83 percent of the $19.2 billion in mandatory funds carried forward to this year.

First, approximately $9.1 billion of our unobligated balance is accounted for by funds in the National Service Life Insurance Fund. Started in 1940 to finance life insurance for World War II veterans, income placed in this trust fund is derived primarily from premiums and interest on investments. The Department oversees this trust fund on behalf of veterans who have paid life insurance premiums, and by law, these resources must remain available to meet future needs of the program.

In our housing program, VA carried over about $5.7 billion. Almost all of these funds are associated with our off-budget Guaranteed Loan and Direct Loan

Financing accounts. These unobligated balances are used to cover the cost of future liabilities resulting from defaults on loans, to fund new obligations, or are returned to the Treasury General Receipt Account. These activities are authorized under the Federal Credit Reform Act of 1990.

Finally, VA carried over an unobligated balance of nearly $1.1 billion into this fiscal year in the Compensation and Pensions account. This account provides for compensation payments to service-connected disabled veterans and their survivors, pension payments to war-time veterans who are permanently and totally disabled from nonservice-connected causes and to their survivors, and burial and other benefits to veterans and their survivors. Monthly compensation and pension payments to veterans and their families total nearly $3 billion per month. The unobligated balance carried forward from fiscal year 2005 to fiscal year 2006 was used to make compensation and pension benefit payments to veterans in 2006.

Unobligated Balances in Discretionary Accounts

Two accounts comprised the overwhelming majority of the $2.4 billion in discretionary funds carried over into fiscal year 2006.

The Department carried forward $996 million in major construction funding from last year to this year. VA's major construction account is a no-year appropriation and unobligated balances are carried over each year. This account is for constructing, altering, extending, and improving any VA facility, including planning, assessments of needs, architectural and engineering services, and site acquisition, where the estimated cost of a project is $7 million or more. Major construction projects require 12 months to make design awards, on average, and another 18 to 24 months to make construction awards. As a result, a large share of the unobligated balance is derived from projects started in previous years. Funds are obligated as key project milestones are achieved in the construction process. Having the authority granted by Congress to carry over funds in major construction is vital to ensure that these multi-year projects are completed on time, without interruption, and at the lowest possible cost.

VA carried over more than $1.1 billion in health care funds from fiscal year 2005. While the Department typically carries over medical care funds, the unobligated amount at the close of fiscal year 2005 was unusually large. This resulted from the fact that VA received $1.5 billion in supplemental funds for health care in late 2005. Given the timing with which these funds were received, much of the supplemental amount was carried over and is being used to provide health care services to veterans in 2006.

VA's health care system is the largest unified medical care system in the nation. Financing of this system has been specifically designed to provide VA management with the flexibility needed to oversee such a large and complex enterprise. Recent appropriations acts funding VA, including Public Law 109-

114, the Military Quality of Life and Veterans Affairs Appropriations Act, 2006, have provided the Department with the authority to carry over funds from one fiscal year to the next for our medical care program, including third-party insurance collections.

VA employs numerous financial management practices to ensure the Department minimizes the amount of funds that expire for those accounts that have a limited period of availability. The potential for expiring funds does not present a significant problem for VA. In those few instances in which funds do expire, the resources are returned to the Treasury. For example, in fiscal year 2005, only $13 million, or less than one percent, of the $21.6 billion unobligated balanced lapsed.

Shifting Funds between Accounts

Public Law 109-114 also provides VA with the authority to transfer funds between certain appropriated accounts. Resources may be moved 30 days after the Department has notified Congress of its intent to transfer funds. I would like to highlight the transfer authorities that have the most significant impact on our program operations.

The Act provides funds for VA medical care through three accounts—medical services, medical administration, and medical facilities. This medical care account structure is still relatively new as it was initially implemented by

Congress in fiscal year 2004. Prior to that, all medical care funds were appropriated through a single account. The medical services appropriation provides funding for health care services for eligible veterans and beneficiaries through a comprehensive, integrated system of medical centers, outpatient clinics, contract hospitals, state homes, and outpatient programs on a fee-for-service basis. The medical administration account provides funds for the management, security, and administration of VA's health care system, including quality of care oversight, legal services, billing and coding activities, as well as procurement, financial management, and human resource management. And finally, the medical facilities account provides for the operations and maintenance of the Department's health care capital infrastructure. This includes funding for utilities, engineering, capital planning, leases, laundry and food services, facility repair, fire protection, and other related activities.

Section 216 of Public Law 109-114 states that amounts made available for fiscal year 2006 under these three accounts may be transferred among the appropriations to the extent necessary to implement the restructuring of these three accounts. For example, Congress recently approved VA's request to transfer $370 million from medical services to medical administration. The Department needed to make this transfer of funds because VA received $1.5 billion in supplemental resources in 2005 and an additional $1.452 billion from a 2006 budget amendment entirely in the medical services account. The $370 million transfer to medical administration was required to meet the resource needs associated with the business operations of our health care system. As VA gains additional experience with this relatively new account structure, we will be able to more accurately estimate the resource needs for each of the three appropriations. But until we gain this experience, the authority to transfer funds among the three medical care accounts is a vital mechanism to ensure that all aspects of VA health care are funded at a level that ensures efficient and effective delivery of health care services.

In fiscal year 2006, Congress established a new Information Technology (IT) systems account. This new appropriation consolidates all non-payroll IT resources into a single account. Prior to this year, non-payroll IT funding was contained within the accounts that funded each of the Department's programs. Congress has granted VA appropriate transfer authorities to ensure the successful establishment of this new IT appropriation.

For example, Public Law 109-114 states that funds may be transferred to or from the IT systems account from any of six specified VA appropriations. Given the IT account is new, we benefit greatly from the transfer authority Congress provided to us through this Act. This critical management tool helps us ensure the most appropriate funding balance is achieved to address the Department's non-payroll IT costs as well as to meet our critical programmatic needs funded through other accounts.

Transfer authority pertaining to IT funds is also provided which allows amounts made available for IT systems to be transferred between specific IT projects provided that the total cost of any individual project is not changed by more than $1 million. This authority is important to ensure that each IT project identified in the new IT systems account is funded at the most appropriate level. This gives the Department the management flexibility to shift funds among projects in response to changing conditions throughout the year, such as the pace at which IT development projects are progressing compared to the initial schedules presented in the budget.

Summary

Mr. Chairman, I once again want to thank you and the committee for the opportunity to appear before you today to discuss VA's financial management practices associated with unobligated balances and the impact this has on our budgeting and program operations. We continually strive to ensure that every dollar devoted to veterans' programs is used in a manner that will maximize the efficient and effective delivery of the benefits and services earned by those who have served this country in uniform.

FY'05 Unobligated Balances Government-Wide

- $54.265 Billion at the least is EXPIRED*
- $376 Billion is AVAILABLE**

Witness Agencies

Justice	Expired: $468 million Available: $2.216 billion	Expired: $585 million Available: $2.595 billion
HHS	Expired: $4.1 billion Available: $9.55 billion	Total: $4.8 billion Available: $11.197 billion
DoT	Total: $43.402 billion	Total: $40.592 billion Available: $7.175 billion
Defense	Expired: $8.1 billion Available: $64.2 billion	Expired: $10.1 billion Available: $53.4 billion
Vet. Affairs	Available: $19.942 billion	Available: $21.601 billion

Source: * Treasury FACTS II report
** OMB 2007 Budget Balances