CHAPTER 1:

INTRODUCTION TO FISCAL LAW
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I. INTRODUCTION.

A. The Appropriations Process.

1. U.S. Constitution, Art. I, § 8, grants Congress the power to “. . . lay and collect Taxes, Duties, Imports, and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States . . . .”

2. U.S. Constitution, Art. I, § 9, provides that “[N]o Money shall be drawn from the Treasury but in Consequence of an Appropriation made by Law.”

B. The Supreme Court’s Fiscal Philosophy: “The established rule is that the expenditure of public funds is proper only when authorized by Congress, not that public funds may be expended unless prohibited by Congress.” United States v. MacCollom, 426 U.S. 317 (1976).

C. Historical Perspective.

1. For many years after the adoption of the Constitution, executive departments exerted little fiscal control over the monies appropriated to them. During these years, departments commonly obligated funds in advance of appropriations, commingled funds and used funds for purposes other than those for which they were appropriated, and obligated or expended funds early in the fiscal year and then sought deficiency appropriations to continue operations.

2. Congress passed the Antideficiency Act (ADA) to curb the fiscal abuses that frequently created “coercive deficiencies” that required supplemental appropriations. The Act actually consists of several statutes that mandate administrative and criminal sanctions for the unlawful use of appropriated funds. See 31 U.S.C. §§ 1341, 1342, 1350, 1351, and 1511-1519.
II. Key Terminology.

A. Fiscal Year. The Federal Government’s fiscal year begins on 1 October and ends on 30 September.

B. Period of Availability. Most appropriations are available for obligation for a limited period of time, e.g., one fiscal year for operation and maintenance appropriations. If activities do not obligate the funds during the period of availability, the funds expire and are generally unavailable for obligation thereafter. DoD Financial Management Regulation 7000.14-R, Glossary, p. xviii [hereinafter DoD FMR].

C. Obligation. An obligation is any act that legally binds the government to make payment. Obligations are amounts representing orders placed, contracts awarded, services received, and similar transactions during an accounting period that will require payment during the same or a future period. DoD FMR, Glossary, p. xvii.


1. Examples of budget authority include appropriations, borrowing authority, contract authority, and spending authority from offsetting collections. OMB Cir. A-11, Preparation, Submission and Execution of the Budget (June 2002), § 20.4 [hereinafter OMB Cir. A-11], available at http://www.whitehouse.gov/omb/circulars/a11/02toc.html.

2. “Contract Authority,” as noted above, is a limited form of budget authority. Contract authority permits agencies to obligate funds in advance of appropriations, but not to pay or disburse those funds absent some additional appropriations authority. DoD FMR, Glossary, p. viii. See, e.g., 41 U.S.C. § 11 (Feed and Forage Act); DoD FMR, vol. 3, ch. 19, para. 190206 (contract authority with respect to Working Capital Fund).


1. An authorization act is a statute, passed annually by Congress, which authorizes the appropriation of funds for programs and activities.
2. An authorization act does not provide budget authority. That authority stems from the appropriations act.

3. Authorization acts frequently contain restrictions or limitations on the obligation of appropriated funds.

F. Appropriations Act.

1. An appropriations act is the most common form of budget authority.

2. An appropriation is a statutory authorization “to incur obligations and make payments out of the Treasury for specified purposes.” The Army receives the bulk of its funds from two annual appropriations acts:

   a. The Department of Defense Appropriations Act; and


2. GAO was established by the Budget and Accounting Act of 1921 (31 U.S.C. § 702) to audit government agencies.

3. GAO issues opinions and reports to federal agencies concerning the obligation and expenditure of appropriated funds.
4. Comptroller General decisions and opinions are identified by a B-number and date. Some decisions predating 1995 were published in Decisions of the Comptroller General of the United States. Those decisions have B-numbers but are generally identified by volume, page number, and the year the decision was issued (e.g., 73 Comp. Gen. 77 (1994)).

H. Legacy Accounting Classification (Fund Cites). Accounting classifications are codes used to manage appropriations. They are used to implement the administrative fund control system and to ensure that funds are used correctly. An accounting classification is commonly referred to as a fund cite. DFAS-IN 37-100-XX, *The Army Management Structure*, provides a detailed breakdown of Army accounting classifications. The following is an example of a fund cite:

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21 9 2020 67 1234 P720000 2610 S18001
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1. The first two digits represent the military department. In the example above, the “21” denotes the Department of the Army. For the Air Force, these two digits will be 57; for the Navy, 17; and for the Department of Defense, 97.

2. The third digit shows the fiscal year/period of availability of the appropriation. The “9” in the example shown indicates FY 2009 funds. Installation contracting typically uses annual appropriations. Other fiscal year designators encountered less frequently include:

   a. Third Digit = X = No year appropriation. This appropriation is available for obligation indefinitely.

   b. Third Digit = 9/0 = Multi-year appropriation. In this example, funds were appropriated in FY 2009 and remain available through FY 2010.
3. The next four digits reveal the type of the appropriation. The following designators are used within DoD fund citations:

<table>
<thead>
<tr>
<th>Appropriation Type</th>
<th>Army</th>
<th>Navy</th>
<th>Marine Corps</th>
<th>Air Force</th>
<th>OSD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Military Personnel</td>
<td>21*2010</td>
<td>17*1453</td>
<td>17*1105</td>
<td>57*3500</td>
<td>N/A</td>
</tr>
<tr>
<td>Reserve Personnel</td>
<td>21*2070</td>
<td>17*1405</td>
<td>17*1108</td>
<td>57*3700</td>
<td>N/A</td>
</tr>
<tr>
<td>National Guard Personnel</td>
<td>21*2060</td>
<td>N/A</td>
<td>N/A</td>
<td>57*3850</td>
<td>N/A</td>
</tr>
<tr>
<td>Operations &amp; Maintenance</td>
<td>21*2020</td>
<td>17*1804</td>
<td>17*1106</td>
<td>57*3400</td>
<td>97*0100</td>
</tr>
<tr>
<td>Operations &amp; Maintenance, Reserve</td>
<td>21*2080</td>
<td>17*1806</td>
<td>17*1107</td>
<td>57*3740</td>
<td>N/A</td>
</tr>
<tr>
<td>Operations &amp; Maintenance, National Guard</td>
<td>21*2065</td>
<td>N/A</td>
<td>N/A</td>
<td>57*3840</td>
<td>N/A</td>
</tr>
<tr>
<td>Procurement, Aircraft</td>
<td>21*2031</td>
<td>17*1506</td>
<td></td>
<td>57*3010</td>
<td>N/A</td>
</tr>
<tr>
<td>Procurement, Missiles</td>
<td>21*2032</td>
<td>17*1507</td>
<td>(not separate – the combined appropriation is entitled Weapons Procurement)</td>
<td>17*1109</td>
<td>57*3020</td>
</tr>
<tr>
<td>Procurement, Weapons &amp; Tracked Vehicles</td>
<td>21*2033</td>
<td>17*1507</td>
<td></td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Procurement, Other</td>
<td>21*2035</td>
<td>17*1810</td>
<td></td>
<td>57*3080</td>
<td>97*0300</td>
</tr>
<tr>
<td>Procurement, Ammunition</td>
<td>21*2034</td>
<td>17*1508</td>
<td></td>
<td>57*3011</td>
<td>N/A</td>
</tr>
<tr>
<td>Shipbuilding &amp; Conversion</td>
<td>N/A</td>
<td>17*1611</td>
<td></td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td>Res., Develop., Test, &amp; Eval.7</td>
<td>21*2040</td>
<td>17*1319</td>
<td></td>
<td>57*3600</td>
<td>97*0400</td>
</tr>
<tr>
<td>Military Construction</td>
<td>21*2050</td>
<td>17*1205</td>
<td></td>
<td>57*3300</td>
<td>97*0500</td>
</tr>
<tr>
<td>Family Housing Construction</td>
<td>21*0702</td>
<td>17*0703</td>
<td></td>
<td>57*0704</td>
<td>97*0706</td>
</tr>
<tr>
<td>Reserve Construction</td>
<td>21*2086</td>
<td>17*1235</td>
<td></td>
<td>57*3730</td>
<td>N/A</td>
</tr>
<tr>
<td>National Guard Construction</td>
<td>21*2085</td>
<td>N/A</td>
<td>N/A</td>
<td>57*3830</td>
<td>N/A</td>
</tr>
</tbody>
</table>

* The asterisk in the third digit is replaced with the last number in the relevant fiscal year. For example, Operations & Maintenance, Army funds for FY2009 would be depicted as 2192020.

** A complete and updated listing of these and other fund account symbols and titles assigned by the Department of the Treasury are contained in *Federal Account Symbols and Titles: The FAST Book*, which is a supplement of the Treasury Financial Manual. The FAST Book is available online and may be downloaded in Word or pdf format, at http://www.fms.treas.gov/fastbook/index.html
III. LIMITATIONS ON THE USE OF APPROPRIATED FUNDS.

A. General Limitations on Authority. The authority of executive agencies to spend appropriated funds is limited.

1. An agency may obligate and expend appropriations only for a proper purpose.

2. An agency may obligate only within the time limits applicable to the appropriation (e.g., O&M funds are available for obligation for one fiscal year).

3. An agency must obligate funds within the amounts appropriated by Congress and formally distributed to or by the agency.

B. Limitations -- Purpose.

1. The “Purpose Statute” requires agencies to apply appropriations only to the objects for which the appropriations were made, except as otherwise provided by law. See 31 U.S.C. § 1301. See also DoD FMR, vol. 14, ch. 2, para. 020103.D.

2. The “Necessary Expense Doctrine.” Where a particular expenditure is not specifically provided for in the appropriation act, it is permissible if it is necessary and incident to the proper execution of the general purpose of the appropriation. The GAO applies a three-part test to determine whether an expenditure is a “necessary expense” of a particular appropriation:

   a. The expenditure must bear a logical relationship to the appropriation sought to be charged. In other words, it must make a direct contribution to carryout out either a specific appropriation or an authorized agency function for which more general appropriations are available.

   b. The expenditure must not be prohibited by law.
c. The expenditure must not be otherwise provided for; that is, it must not be something that falls within the scope of some other appropriation or statutory funding scheme.


C. Limitations -- Time.

1. Appropriations are available for limited periods. An agency must incur a legal obligation to pay money within an appropriation’s period of availability. If an agency fails to obligate funds before they expire, they are no longer available for new obligations.

   a. Expired funds retain their “fiscal year identity” for five years after the end of the period of availability. During this time, the funds are available to adjust existing obligations or to liquidate prior valid obligations, but are not available for new obligations.

   b. Five years after the funds have expired, they become “cancelled” and are not available for obligation or expenditure for any purpose. 31 U.S.C. § 1552(a); DoD FMR, vol. 3, ch. 10, para. 100201.B.


D. Limitations -- Amount.

1. The Antideficiency Act, 31 U.S.C. §§ 1341-42, 1511-19, prohibits any government officer or employee from:

   a. Obligating, expending, or authorizing an obligation or expenditure of funds in excess of the amount available in an appropriation, an apportionment, or a formal subdivision of funds. 31 U.S.C. §


c. Accepting voluntary services, unless otherwise authorized by law. 31 U.S.C. § 1342. See also, DoD FMR, vol. 14, ch. 2, para. 020103.B.

2. Formal subdivisions of funds are subdivisions of appropriations by the executive branch departments and agencies. These formal limits are referred to as apportionments, allocations, and allotments.

3. Informal subdivisions are subdivisions of appropriations by agencies at lower levels, e.g., within an installation, without creating an absolute limitation on obligational authority. These subdivisions are considered funding targets, or “allowances.” These limits are not formal subdivisions of funds, and incurring obligations in excess of an allowance is not necessarily an ADA violation. If a formal subdivision is breached, however, an ADA violation occurs and the person responsible for exceeding the target may be held liable for the violation. DFAS-IN Reg. 37-1, ch. 3, para. 031402. For this reason, Army policy requires reporting such overobligations. DFAS-IN Reg. 37-1, ch. 4, para. 040204.L.

IV. CONCLUSION.