



Overview of the Authorization- Appropriations Process

Bill Heniff Jr.

Analyst on Congress and the Legislative Process

November 26, 2012

Congressional Research Service

7-5700

www.crs.gov

RS20371

CRS Report for Congress

Prepared for Members and Committees of Congress

A primary avenue for exercising Congress’s power of the purse is the authorization and appropriation of federal spending to carry out government activities.¹ While the power over appropriations is granted to Congress by the U.S. Constitution, the authorization-appropriation process is derived from House and Senate rules. The formal process consists of two sequential steps: (1) enactment of an authorization measure that may create or continue an agency, program, or activity as well as authorize the subsequent enactment of appropriations; and (2) enactment of appropriations to provide funds for the authorized agency, program, or activity.

The authorizing and appropriating tasks in this two-step process are largely carried out by a division of labor within the committee system. Legislative committees, such as the House Committee on Armed Services and the Senate Committee on Commerce, Science, and Transportation, are responsible for authorizing legislation related to the agencies and programs under their jurisdiction; most standing committees have authorizing responsibilities. The Appropriations Committees of the House and Senate have jurisdiction over appropriations measures. As discussed below, House and Senate rules generally prohibit the encroachment of these committee responsibilities by the authorizers and appropriators.

Agencies and programs funded through the annual appropriations process, referred to as *discretionary spending*, generally follow this two-step process. Not all federal agencies and programs, however, are funded through this authorization-appropriations process. Funding for some agencies and programs is provided by the authorizing legislation, bypassing this two-step process. Such spending, referred to as *direct (or mandatory) spending*, currently constitutes about 55% of all federal spending. Some direct spending, mostly entitlement programs, is funded by permanent appropriations in the authorizing law. Other direct spending (referred to as appropriated entitlements), such as Medicaid, is funded in appropriations acts, but the amount appropriated is controlled by the existing authorizing statute.

Authorizing Legislation

An authorizing measure can establish, continue, or modify an agency, program, or activity for a fixed or indefinite period of time. It also may set forth the duties and functions of an agency or program, its organizational structure, and the responsibilities of agency or program officials.

Authorizing legislation also authorizes, implicitly or explicitly, the enactment of appropriations for an agency or program. If explicit, the amount authorized to be appropriated may be specified for each fiscal year or may be indefinite (providing “such sums as may be necessary”). The authorization of appropriations is intended to provide guidance regarding the appropriate amount of funds to carry out the authorized activities of an agency.

Appropriations Measures

An appropriations measure provides budget authority to an agency for specified purposes. Budget authority allows federal agencies to incur obligations and authorizes payments to be made out of

¹ For further information on the authorization of appropriations specifically, see CRS Report R42098, *Authorization of Appropriations: Procedural and Legal Issues*, by Jessica Tollestrup and Brian T. Yeh.

the Treasury. Discretionary agencies and programs, and appropriated entitlement programs, are funded each year in appropriations acts.

The subcommittees of the Appropriations Committees of the House and Senate are each responsible for one of the *regular appropriations acts*. The regular appropriations acts generally provide budget authority for the next fiscal year, beginning October 1. Congress usually adopts one or more *supplemental appropriations acts* to provide additional funding for unexpected needs while the fiscal year is in progress. If the regular appropriation acts are not completed by October 1, Congress typically adopts a *continuing appropriations act*, commonly referred to as a continuing resolution, to provide stop-gap funding. In some years, instead of adopting the regular appropriation measures individually, Congress may include several in an omnibus appropriations measure, or a continuing appropriations bill providing funding for the full fiscal year.

Enforcing the Authorization-Appropriations Process

Longstanding rules of the House and Senate attempt to retain the separation between the authorization and appropriations tasks within this process, and these rules may be enforced through points of order. The application of these rules can be complicated, and the following merely summarizes their main provisions.² First, the House and Senate place restrictions on appropriations for agencies and activities not authorized by law. The House (Rule XXI, clause 2) prohibits any appropriation, whether in a reported appropriations bill or offered as an amendment, for an expenditure not authorized by law. The Senate (Rule XVI, paragraph 1) prohibits floor amendments proposing appropriations for an agency or activity not authorized by law, with certain exceptions. In contrast to the House, the Senate does not prohibit committee amendments or measures reported by the Appropriations Committee from including an appropriation for an agency or activity not authorized by law. Second, the House (Rule XXI, clause 2) and Senate (Rule XVI, paragraphs 2 and 4) prohibit the inclusion of legislative language (such as an authorization) in an appropriations measure. Third, the House (Rule XXI, clause 4), but not the Senate, prohibits appropriations in authorizing legislation.

While the rules are intended to encourage the adherence to this process, a point of order must be raised to enforce the rules. In addition, the rules may be waived by suspension of the rules, by unanimous consent, or, in the House, by a special rule. Further, the Senate, in some cases, may allow legislative language in an appropriations act if it determines, by an affirmative vote, that such language is germane to legislative language already in the act as passed by the House.³ Unauthorized appropriations or legislative provision in an appropriations act signed into law would have, in most cases, full force and effect (e.g., an agency may spend the entire amount of an unauthorized appropriation), regardless of these congressional restrictions.

² For further information on the House and Senate rules, see William Holmes Brown, Charles W. Johnson, and John V. Sullivan, *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* (Washington: GPO, 2011), pp. 69-151, and Floyd M. Riddick and Alan S. Frumin, *Riddick's Senate Procedure: Precedents and Practices*, 101st Cong., 2nd sess., S. Doc. 101-28 (Washington: GPO, 1992), [hereafter *Riddick's Senate Procedure*], pp. 150-213.

³ For further information on this exception (referred to as the defense of germaneness), see *Riddick's Senate Procedure*, pp. 161-171.

Author Contact Information

Bill Heniff Jr.
Analyst on Congress and the Legislative Process
wheniff@crs.loc.gov, 7-8646