



# **Department of Justice**

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**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 5<sup>th</sup> 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.