

Expired Federal Grants

The \$994,000,000 Question

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Federal Reforms Initiative 16-01

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Introduction

The federal government uses grants to achieve a variety of national objectives. In 2015, \$115 billion in project grants and cooperative agreements were competitively awarded to public and private organizations (source: USAspending.gov). During a grant's lifecycle, payments to grantees are managed by several federal systems—the largest of which is the Department of Health and Human Services' (HHS) Payment Management System (PMS). Seventy-seven percent of all grant payments are processed by the PMS.

As of September 30, 2015, the Payment Management System is holding approximately **\$994 million** in 8,800 expired grant accounts according to the Government Accountability Office (GAO)¹. Expired grants are those beyond a project's end date but not yet officially closed by the federal government. Until these grants are closed, the unspent funds are unavailable to be used for other projects. This money is in limbo.

Three GAO reports since 2008², analyzing more than ten years of data, identified excessive numbers of expired grants with unspent balances. Despite numerous recommendations, however, the expired balances continued to increase from \$600 million in 2003 to \$994 million in 2015.

The Grants Oversight and New Efficiency Act (GONE Act) was signed into law in January 2016 to address this problem but it fails to require departments to expedite the closure of their expired grants. The GONE Act delays the creation of a true solution while Congress continues to study the issue.

Grant closeout needs to be a higher priority. Our solution involves forming a task force with a singular objective: closing all expired grants. Reclaimed funds will either be used for new projects or returned to the U.S. Treasury. The task force will identify the greatest challenges with closing grants and propose solutions to the Office of Management and Budget (OMB).

Let's get started...

Dave Farley, 19 December 2016
Las Vegas, Nevada

¹ *Grants Management: Actions Needed to Address Persistent Grant Closeout Timeliness and Undisbursed Balance Issues*, GAO-16-362, April 14, 2016.

² GAO-16-362 (April 14, 2016), GAO-12-360 (April 16, 2012) and GAO-08-432 (August 29, 2008).

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Problem

Federal grants, like everything else, have a lifecycle: they're born, they live for a few years and then they expire. The federal government and grant applicants each have a role in the lifecycle as shown in the table below.

Stage	Federal Funding Agency Actions	Applicant/Grantee Actions
Pre-award	<ul style="list-style-type: none"> Announce funding opportunity Receive applications Review applications Select grant recipients 	<ul style="list-style-type: none"> Find grant opportunities Prepare and submit application Check application status
Award	<ul style="list-style-type: none"> Notify recipients and Congress 	<ul style="list-style-type: none"> Receive notification of grant award
Implementation	<ul style="list-style-type: none"> Grantee management and oversight Disburse payments to grantees 	<ul style="list-style-type: none"> Implement grant project Submit performance reports Request and receive payments
Closeout	<ul style="list-style-type: none"> Review and reconcile final reports and audits 	<ul style="list-style-type: none"> Submit final performance report, audits and other reports as necessary

The pre- and post-award phases are straightforward: funds become available; applicants submit proposals; successful applicants implement their projects according to program guidelines and regulations; and the awarding agency monitors performance and compliance.

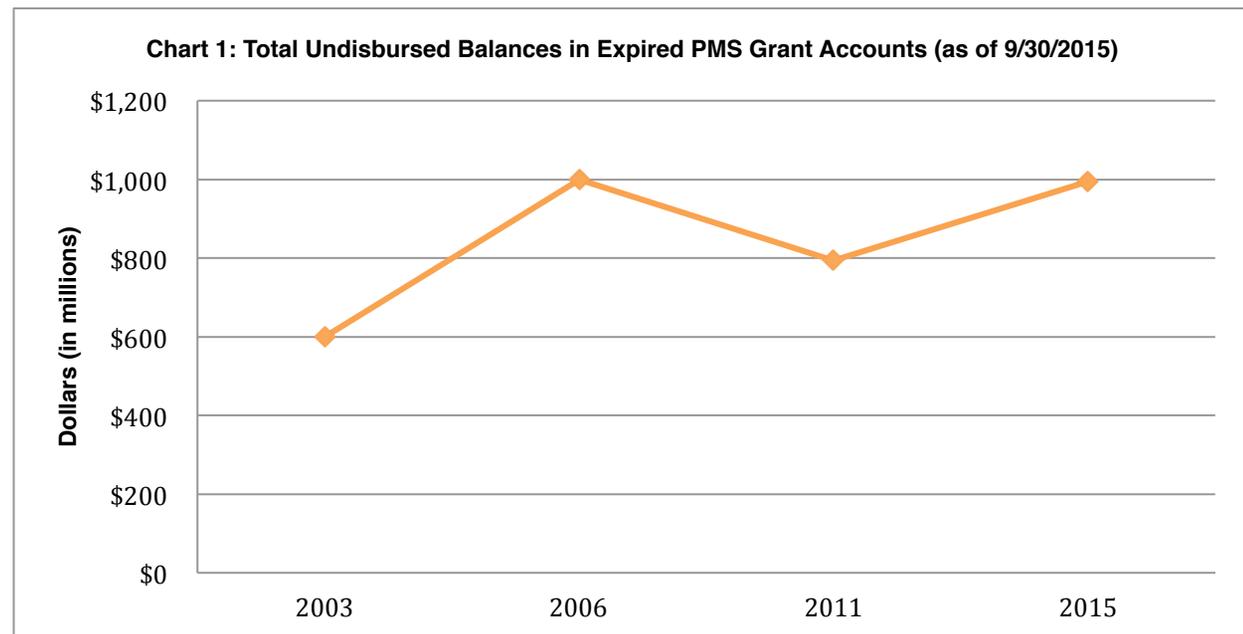
The closeout phase, on the other hand, can be murky. Regulatory language in the Uniform Guidance makes closeout sound simple: (1) grantees have 90 days after their grant ends to submit their final performance and financial report; (2) federal agencies have 12 months to review the report, reconcile the account and close the grant. By this timetable, grants should be officially closed no more than 15 months after they end, but the process does not always go this smoothly. In its April 2016 report (GAO-16-362, page 23), the GAO noted that “grant closeout delays can occur for a number of reasons that may be placed into several larger categories, and sometimes these reasons can be attributed to more than one category:

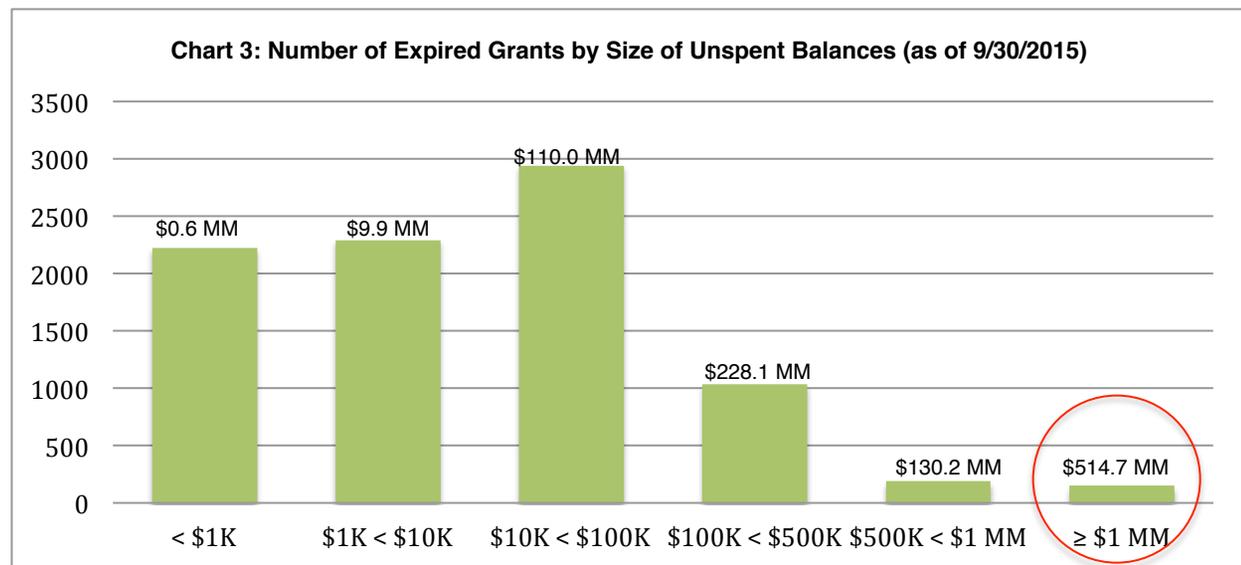
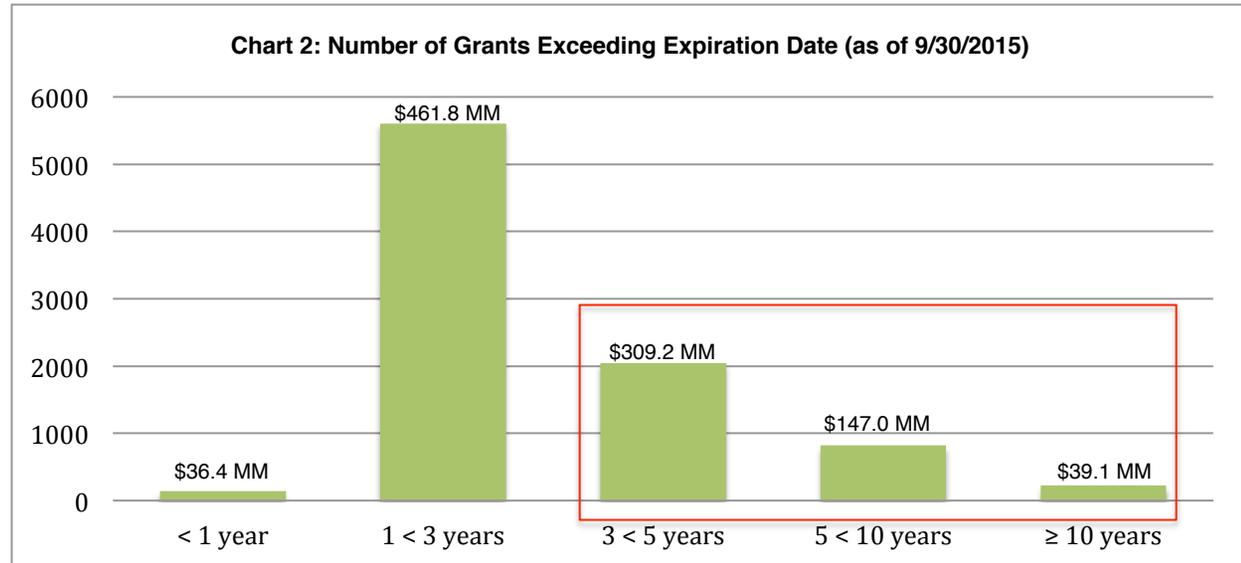
- **Grantee** failure to submit final reporting in a timely manner;
- **Agency** failure to review, process, and reconcile final reporting in a timely manner; and
- **External** processes or factors.”

This is not a new issue. The GAO’s 2008 report (GAO-08-432) identified grant closeouts as “a long-standing problem.” Internal department audits attributed the problem to inadequate grant management processes; low management priority for closing grants; inconsistent closeout procedures; poor communication with grantees; and insufficient enforcement or compliance. *OMB supported GAO’s report but did not commit to implementing any of GAO’s recommendations.*

GAO’s follow-up report in 2012 (GAO-12-360) revealed the problem persisted and noted that some agencies lacked adequate systems or policies to properly monitor grant closeout. OMB agreed with GAO’s recommendations and indicated they would be considered while the grant regulations were being streamlined. (When the 2012 report was published, OMB was in the process of consolidating the grant management circulars into the Uniform Guidance.)

The update in 2016 (GAO-16-362) showed that expired grant balances in the Payment Management System had once again increased to record levels. The total as of September 30, 2015 was approximately \$994 million.





The age of expired grants shown in Chart 2 (source: GAO-16-362) is important for a key reason: record retention. Grantees are required to keep their project's documentation for three years after they submit their final report (the retention period). The longer a grant remains open after the retention period ends, the more difficult it is for an awarding agency to reconcile a grantee's account. Unless a grantee is notified in writing to hold its documentation beyond the retention period—because of an investigation or an audit, for example—a grantee can destroy the files three years and one day after their final report is submitted (assuming the grantee's policies and procedures do not require a longer retention period).

As of September 30, 2015, more than 3,000 grants (amounting to \$495 million) have been expired for three years or longer; more than 1,000 grants (amounting to \$186 million) have been expired more than five years.

Chart 3 (source: GAO-16-362) reveals an interesting figure: 151 grants, with undisbursed balances of more than \$1 million, account for nearly \$515 million of the \$994 million in expired grant accounts. In other words, 2% of the expired grants represent 52% of the expired total.

Systems fail for one of two reasons: process or people. In this situation, there are breakdowns in both elements. Examples are littered throughout each GAO report. 8,800 expired grants valued at nearly \$994 million is prima facie evidence of multiple system failures that need to be corrected.

Grants Oversight and New Efficiency Act

The Grants Oversight and New Efficiency Act (GONE Act) was signed into law on January 28, 2016³. Members of Congress tout it as a solution to the ongoing problem of federal departments not closing their expired grants. It's not a solution.

In reality, the GONE Act delays implementing a true solution for three to four years while Congress continues to study the issue. Nowhere in the legislation is a requirement to expedite the closure of expired grants. The only deliverables required by the GONE Act are three reports to Congress between now and 2019 (see table).

GONE Act Deliverables		Deadline
Report #1	Each federal agency to submit to Congress and the Secretary of Health and Human Services a report that: <ul style="list-style-type: none"> • Lists each federal grant held by their agency; • Provides the total number of federal grants, including the number of grants— <ul style="list-style-type: none"> – By time period of expiration; – With zero dollar balances; and – With undisbursed balances; • For agencies with federal grants, describe the challenges leading to delays in grant closeout; and • For the 30 oldest federal grants of each agency, provide an explanation why the grants have not been closed. 	31 DEC 2017
Report #2	The Secretary of Health and Human Services will submit a report to Congress indicating (1) if the expired grants in Report #1 have been closed and (2) which federal grants have not been closed out.	31 MAR 2019
Report #3	The Director of Office of Management and Budget and the Secretary of Health and Human Services shall submit a report to Congress on recommendations (if any) for legislation to improve grants management accountability and oversight, including the timely closeout of federal grants.	30 SEP 2019

³ Public Law 114-117 (January 28, 2016).

PROS

- At least one member of Congress recognized the importance of excessive expired grant balances. Senator Deb Fisher (Nebraska) deserves credit for sponsoring the legislation.
- The GONE Act is a good first step. Congress now recognizes a problem exists.

CONS

- Report #1 requests information that is already available. This could be prepared immediately.
- Report #2 is merely a checklist to show which grants were closed and which grants remain open.
- Report #3 asks the OMB Director and the HHS Secretary to suggest legislation that could improve grants management and the grants closeout process. New legislation isn't needed. Regulations in the Uniform Guidance (and previously the OMB Circulars) clearly define the timeline in which closeout should occur and the responsibilities of the awarding agencies and the grantees. Departments need to follow the existing regulations and hold their program officers, and their grantees, accountable for closing grants in a timely fashion. Grants that aren't closed within 15 months of their end date need to be red-flagged for immediate action.
- The Congressional Budget Office estimates that implementing the GONE Act will cost \$8 million between 2016-2020 (approximately \$2 million per year) for additional administrative expenses related to the new reports. How is this possible? Departments already have the staff and the data to prepare the requested reports.
- By the time the first report is submitted in late 2017, a new President, a new Secretary of Health and Human Services and a new Director of the Office of Management and Budget will be in place. Will this issue be a priority for them? It hasn't been a priority since the initial GAO report in 2008; it's difficult to imagine things will change.

Our Solution

Phase I – Preparation

- Assemble a task force of 15-20 federal grant program officers—representing every major grant-making department—focused exclusively on closing expired grants. Task force members empowered to work across departments when necessary. No silos or turf battles.
- Assess current status. Update data from GAO’s April 2016 report. How many grants are still open and how much unexpended funding does it represent?
- Define the task force’s mission and workload. Task force members will assume responsibility for closing grants that expired before a date certain (e.g., September 30, 2015). All other grant program officers will be responsible for closing grants after that date.

Phase II – Get after it!

- Group expired grants into four categories:
 - < 3 years past expiration date
 - 3 < 5 years
 - 5 < 10 years
 - ≥ 10 years
- Begin with grants < 3 years beyond expiration. Work from the most recently expired grants to the oldest grants.
- Go after the low-hanging fruit: 151 expired grants, with undisbursed balances of over \$1 million, represent approximately \$515 million of the \$994 million expired grants total.
- Identify why each grant has not been closed: (1) grantee-related or (2) federal government-related.
- **Find the logjam and break it!**
- For grantees that have not submitted their final report(s), have an outside technical assistance provider help them with the report(s). If the closeout delay is due to a federal office, provide assistance resolving the issue and moving the process forward.
- Initiate unilateral closeouts for grantees that are no longer in business.
- Grants five years or more beyond their expiration date should be unilaterally closed if the grantees submitted final performance reports. As mentioned earlier, these grants are well past the record retention period; it’s unlikely the grantees will have documentation to support their reports. (Also consider unilaterally closing grants for which a final report has not been submitted. The number of grants in question is too few to invest much time—move on and reform the process going forward.)
 - Exception: grants required to stay open for an audit, investigation or legal action.

Phase III – Culture change

- Prepare a report identifying the 3-5 most frequently occurring closeout challenges and propose actionable solutions.
 - Did the grantees or federal employees cause the delays?
 - If grantees caused delays, what additional support or technical assistance do they need?
 - If federal employees caused delays, how can the process be improved? Map/diagram the closeout process, if necessary, to identify opportunities.
 - Share findings with all program officers.
 - The report is intended to fix problems, not to place blame. It's not a "gotcha."
- Submit recommendations to the OMB Director, or designee, for review and action.
- Chart a new direction for grant management.
 - Department kickoff meetings for agency directors, managers and grant program officers.
 - Professional development on the Uniform Guidance, new department closeout procedures and the importance of closeout in the context of a grant's lifecycle (and the potential reuse of undisbursed funds).
 - Share new accountability measures described in Phase IV.

Phase IV – Ongoing accountability

- Form internal grant review committees within departments and their agencies. Quarterly meetings of grant program officers, and supervisors, to discuss open grants and any issues—an information-sharing/problem-solving forum.
 - Current status of all grant closeouts should be a standing agenda item.
- Regular (i.e., annual) department reports to OMB and Congress on the current number, and balance, of expired grants with undisbursed funds. The GONE Act and GAO reports do not provide the timely information necessary for sufficient administrative and Congressional oversight.
- Automated alerts to grant program officers and their supervisors/managers if grants are still open 15 months past their end dates.
 - Corrective measures (e.g., re-training or disciplinary action) for program officers and/or supervisors whose grants are open an unreasonable amount of time beyond expiration (e.g., 24 months).
- Automated alerts to the OMB Director, or designee, and members of the House and Senate government oversight committees when the total expired grant balance exceeds an amount determined by OMB (e.g., \$300 million).

Conclusion

Bottom line

It is not acceptable to annually have hundreds of millions of dollars in expired federal grants sit idle because department officials are unable to close them in a timely manner. At this point, with 8,800 expired grants waiting to be closed, how can federal grant program officers possibly catch up while managing their existing workload? There needs to be an aggressive and concerted effort to close the grants and to release any unspent funds for other projects.

Take action!

Your elected officials likely don't know about this problem because—let's be honest—it's an obscure issue and, in the context of the entire federal budget, \$994 million is small change.

- Contact your Representative and Senators. Educate them. Share this e-paper with them and/or encourage them to read the GAO reports: 16-362 (April 14, 2016); 12-360 (April 16, 2012); and 08-432 (August 29, 2008).
- Ask your representatives to review and amend the GONE Act (PL 114-117): give it some teeth (i.e., agency accountability).

With so many national priorities in need of solutions and resources, it's ridiculous to have almost one billion dollars trapped in federal payment management systems.

We need to fix this.

About The Grant Doctors®

The Grant Doctors® is a full service federal grants consulting and governmental relations firm for urban and rural local educational agencies, municipalities, nonprofit corporations and healthcare providers. Our professionals have secured over \$199 million and managed \$350 million in federal grants.

Dave Farley, founder and CEO, is an authority on public funds management, accountability, fund development, ethics and governance. He has more than 25 years of experience serving local governments, corporations, community-based organizations and governing boards. Dave has worked on over \$169 million in public/private projects; successfully managed the regulatory compliance of \$150 million in federal funds; and secured \$21 million for new projects. He has an extensive background involving organizational development, strategic planning, financial assessments, grant writing, feasibility studies, program design and governmental relations. His projects have been featured in national publications including *Forbes* and the *Chronicle of Philanthropy*.

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