

**Manatt Government Affairs and Public Policy Practice
U.S. Federal Government Shutdown 101**

Overview

Federal government shutdowns occur when Congress and the President fail to pass interim or full-year budget appropriations. In the absence of a budget, a stopgap continuing resolution (CR) can be used to maintain spending at current levels. The fiscal year ends at midnight on September 30, 2013. If Congress has not passed a CR by that point, the federal government will shutdown until one can be passed and signed by the president.

During a federal government shutdown, non-essential government agencies and programs temporarily stop receiving funding. This means that employees deemed non-essential will be furloughed and non-essential programs, such as the National Park Service, will be shut down.

History

Since 1976, the federal government has shutdown 17 times for an average of about six and half days. The last shutdown occurred in December 1995 to January 1996 (FY1996), lasting 21 days and becoming the longest shutdown on record. While only a partial government shutdown (9 of the 13 necessary appropriations bills had passed and become law) the FY1996 shutdown had an estimated cost of \$1.4 billion.

2013 Shutdown

The current standoff is over the conservative Republican effort to defund or delay the Affordable Care Act (ACA), otherwise known as “Obamacare”. Senate Democrats have vowed to reject any bill that cut funding for the ACA while House Republicans have pledged not to pass a bill unless it defunds the ACA. President Obama has informed Congress that he will veto any measure that would delay or defund the ACA. Other provisions related to the ACA’s implementation have also been considered or attached to the CR, further complicating the negotiations. These provisions include a one-year delay of the ACA’s individual mandate, a repeal of the medical device tax, and a ban on health care subsidies for Members of Congress and their staffs. Democrats refuse to accept these provisions and the White House has condemned them.

As the shutdown approached, signs of fracturing were visible in the Republican party as some more moderate Members argued for a clean continuing resolution to prevent the shutdown. Even short-term extensions designed to avert the shutdown for a few days were unable to garner enough support. The House and the Senate passed bills back and forth but were unable to reach a compromise.

Appropriations Bills

As part of the normal budget process, Congress is supposed to approve twelve unique appropriations bills that each fund specific federal agencies and set spending priorities. During the FY1996 shutdown, Congress had already passed multiple appropriations bills.

Those bills funded the agencies under them and allowed those agencies to keep operating during the government shutdown.

The current Congress failed to pass any of the twelve appropriations bills. Consequently, this shutdown will affect every federal agency and a greater range of services, likely resulting in a more widespread impact.

Estimated Economic Impact

There are more than two million federal employees, of which an estimated 800,000 could be deemed non-essential. Economist Mark Zandi has estimated that a short shutdown could shave 0.3 percentage points off economic growth in the fourth quarter of 2013.¹ It could also affect the stock market; during the last government shutdown, the S&P 500 fell 3.7%.²

According to the Washington Post, the Washington area could lose an estimated \$200 million a day if the government shuts down Monday night, affecting more than 700,000 jobs.³ Stephen Fuller, an economist, projected that 60% of the region's 377,000 federal workers would be furloughed and 20% of the government contractors would be impacted. In Maryland alone, state officials estimate lost income tax revenue from furloughed workers could cost up to \$5 million a day.

FAQs

Is a government shutdown the same thing as a default?

No, a government shutdown occurs when Congress and the President do not pass interim or full-year budget appropriations. A default occurs when the government reaches the debt limit and can no longer borrow money to finance its obligations.

Why do the agencies have to shut down?

The Constitution states "no money shall be drawn from the Treasury, but in consequence of appropriations made by law." Furthermore, the Anti-Deficiency Act makes it a possible felony to spend taxpayer money without an appropriation from Congress.

Would a government shutdown save money?

Probably not. Developing and implementing contingency plans costs money and the government shutdown disrupts multiple streams of revenue (uncollected user fees, etc.). A report by the Committee for a Responsible Federal Budget states, "evidence suggests that government shutdowns tend to cost, not save, money."

¹ <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/09/30/absolutely-everything-you-need-to-know-about-how-the-government-shutdown-will-work/?hpid=z1>

² <http://www.usatoday.com/story/news/politics/2013/09/29/questions-and-answers-about-the-shutdown/2888419/>

³ http://www.washingtonpost.com/local/washington-area-could-lose-200-million-a-day-if-shutdown-occurs-economist-says/2013/09/29/3cf17d22-2933-11e3-97a3-ff2758228523_story.html

Will a shutdown kill Obamacare?

No. Most of the funding for the Affordable Care Act, “Obamacare,” comes from new taxes and fees as well as from other sources of funding that will continue despite a government shutdown. The health insurance exchanges are expected to begin operating as scheduled on October 1.

Who decides which employees work and which go home?

Each agency is responsible for coming up with its own contingency plan, with guidance from the Office of Management and Budget. The federal government is required by law to maintain functions that:

- Provide for national security, including the conduct of foreign relations;
- Provide for benefit payments and the performance of contract obligations under no-year or multi-year contracts; and
- Protect life and property.

Are the President and Members of Congress paid during a shutdown?

Yes, although there may be delays processing their paychecks.

Would furloughed employees get paid retroactively?

Not necessarily. In the FY1996 shutdown, Congress granted retroactive pay to furloughed workers after the shutdowns but it is not guaranteed.

Will non-furloughed (“essential”) employees get paid?

They will most likely not receive a paycheck until Congress funds the government again. They should, however, receive retroactive pay.

Selected programs that will shut down:

- Head Start programs
- National Park Service
- The Smithsonian Museums, National Zoo, etc.
- Department of Homeland Security’s E-Verify system
- Federal Communications Commission
- Federal Trade Commission
- Federal Election Commission
- The Export-Import Bank of the United States
- National Science Foundation
- Office of Government Ethics
- Chemical Safety and Hazard Investigation Board
- Equal Employment Opportunity Commission

Selected programs that will keep operating:

- Social Security payments
- Unemployment benefits
- Supplemental Nutrition Assistance Program payments (food stamps)
- IRS tax collection
- U.S. Postal Service
- Amtrak
- Air traffic control
- Affordable Care Act state-run insurance exchanges
- Food Safety and Inspection Service – continue all safety-related activities
- The Federal Reserve

Additional Reading:

Congressional Research Service Report: <http://www.fas.org/sgp/crs/misc/RL34680.pdf>

White House website: <http://www.whitehouse.gov/omb/contingency-plans>

<http://www.washingtonpost.com/wp-srv/special/politics/2013-shutdown-federal-department-impact/>

<http://www.cnn.com/interactive/2013/09/politics/government-shutdown-impact/>

<http://www.nytimes.com/2013/10/02/us/politics/us-government-shutdown.html?hp&r=0>

<http://www.nytimes.com/2013/10/02/business/international/daily-stock-market-activity.html>

http://www.nationaljournal.com/congress/state-of-play-the-government-is-shut-down-20130930?mrefid=LeadStoryTiles_normal

<http://www.nationaljournal.com/politics/the-beginning-of-the-end-for-washington-20131001?mrefid=mostread>

http://www.politico.com/story/2013/10/government-shutdown-2013-97621.html?hp=t1_s

<http://www.washingtonpost.com/blogs/wonkblog/wp/2013/09/30/absolutely-everything-you-need-to-know-about-how-the-government-shutdown-will-work/?hpid=z1>

<http://www.nbcwashington.com/news/local/What-You-Can-and-Cant-Do-During-a-Government-Shutdown-225824691.html>

<http://www.latimes.com/nation/politics/politicsnow/la-pn-government-shutdown-q-and-a-20130930,0,5564531.story>

<http://www.latimes.com/business/la-fi-shutdown-economy-20131001,0,155302.story>

<http://www.npr.org/2013/09/30/227292952/a-short-history-of-government-shutdowns>

<http://www.usatoday.com/story/news/politics/2013/09/29/questions-and-answers-about-the-shutdown/2888419/>

http://www.washingtonpost.com/local/washington-area-could-lose-200-million-a-day-if-shutdown-occurs-economist-says/2013/09/29/3cf17d22-2933-11e3-97a3-ff2758228523_story.html

<http://www.csmonitor.com/USA/DC-Decoder/2013/0925/Government-shutdown-101-12-ways-it-could-affect-you/Would-a-shutdown-save-the-government-money>

For the latest updates:

<http://www.washingtonpost.com/blogs/post-politics-live/liveblog/live-updates-the-shutdown-showdown/?hpid=z2>