

CRS Report for Congress

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Shutdown of the Federal Government: Causes, Effects, and Process

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Summary

When federal agencies and programs lack appropriated funding, they must cease operations, except in emergency situations. The failure of the President and Congress to reach agreement on funding measures has caused government shutdowns, the longest of which was from December 16, 1995, to January 6, 1996. Government shutdowns have necessitated the furloughing of several hundred thousand federal employees and affect all sectors of the economy. It is necessary to either enact temporary funding legislation at the close of the fiscal year or to shut down the activities that are not funded at that time. This report provides a brief overview of the causes and effects of federal government shutdowns. **Table 1** shows the dates for the 17 federal government funding gaps beginning in FY1977. Most of these were not government-wide.

FY2003

As FY2003 rapidly approaches, three of the regular appropriations bills have passed both the House and Senate and are pending conferences. Two others have passed the House. A second continuing resolution,¹ P.L. 107-244 (October 18, 2002; 116 Stat. 1503) funds the government through November 22, 2002.

FY1999–FY2002

As of October 1, 1998, only one of the 13 FY1999 appropriations bills had been enacted into public law. The government was funded through a continuing resolution, which then was extended by five further continuing resolutions, until an omnibus funding bill (P.L. 105-277) was enacted October 21. As FY2000 began on October 1, 1999, four of the 13 appropriations bills had been enacted. Subsequently, seven continuing resolutions were enacted before P.L. 106-113, the FY2000 Consolidated Appropriations

¹ See CRS Report RL30343, *Continuing Appropriations Acts: Brief Overview of Recent Practices*, by Sandy Streeter.

Act, was approved on November 29, 1999. From October 1, 2000 to late December, those accounts not covered by enacted FY2001 regular appropriations were covered by a continuing funding resolution and 20 further continuing funding resolutions. From October 1, 2001 to late December, there were eight continuing resolutions enacted to cover the accounts not funded through regular appropriations. P.L. 107-97 (December 21, 2001) provided funding through January 10, 2002. The final appropriations measures were signed by the President on that date.

Causes of Federal Shutdowns

Shutdowns of the federal government have occurred in the past because of failure to pass regular appropriations bills by the October 1 deadline; lack of an agreement on stop-gap funding for federal government operations through a continuing resolution;² and other impasses, for example, in 1995, the lack of an agreement on lifting the federal debt ceiling.

There have been Attorney General opinions holding that the Antideficiency Act (31 U.S.C. 1341, *et seq.*), as amended, prohibits the federal government from spending during lapsed appropriations, entering into contracts or other obligations, and providing government services and employees beyond those essential “to emergency situations, where the failure to perform those functions would result in an imminent threat to the safety of human life or the protection of property.”³ Emergency situations under which federal employees may work, without compensation, do not include ongoing, regular functions of government, the suspension of which would not imminently threaten the safety of human life or the protection of property (31 U.S.C. 1342).

Recent Shutdown Experiences

The most recent shutdowns occurred in FY1996. There were two during the early part of the fiscal year. The first, November 14-19, 1995, resulted in the furlough of an estimated 800,000 federal employees. It was caused by the expiration of a continuing funding resolution (P.L. 104-31) agreed to on September 30, 1995, and by President Clinton’s veto of a second continuing resolution and a debt limit extension bill.

The second FY1996 partial shutdown of the federal government, and the longest in history, began on December 16, 1995, and ended on January 6, 1996, after the White House and Congress agreed on a new resolution (P.L. 104-94) to fund the government through January 26, 1996. On January 2, 1996, the estimate of furloughed federal

² For information on funding gaps and proposals to establish automatic funding, see CRS Report RS20348, *Federal Funding Gaps: A Brief Overview*, by Robert Keith and CRS Report RL30339, *Preventing Federal Government Shutdowns: Proposals for an Automatic Continuing Resolution*, by Robert Keith.

³ U.S. Congress, House, Committee on Government Reform and Oversight, Subcommittee on Civil Service, *Government Shutdown I: What’s Essential?*, hearings held December 6 and 14, 1995, 104th Congress, 1st sess. (Washington: GPO, 1997), p. 102. See full text of Deputy Attorney General Walter Dellinger’s opinion, *Government Operations in the Event of a Lapse in Appropriations*, August 16, 1995, appearing on pages 100-108. (Hereafter referred to as *Government Shutdown: What’s Essential?*)

employees was 284,000.⁴ Another 475,000 federal employees, rated “essential,” continued to work in a non-pay status. The shutdown was triggered by the expiration of a continuing funding resolution enacted on November 20 (P.L. 104-56), which funded the government through December 15, 1995. There were several short-term continuing resolutions between January 6, 1996, and April 26, 1996, when P.L. 104-134 was enacted to fund any agencies or programs not yet funded through FY1996.

Effects of a Federal Government Shutdown

Effects on Federal Staffing. An immediate and critical shutdown effect is the furloughing (placing in a temporary, non-duty, non-pay status) of federal employees. Exempted from furloughs are presidential appointees, Members of Congress, uniformed military personnel, and federal employees rated “essential.” “Essential” employees, required to work during a shutdown, are those performing duties vital to national defense, public health and safety, or other crucial operations. Shutdown furloughs are not considered a break in service and are generally creditable for retaining benefits and seniority. Also, federal employees who have been affected by the shutdown have received their salaries retroactively.

Federal Employee Health Benefit Program (FEHBP) benefits continue for a year in a non-pay status, and the government continues to be obligated for its share of their health plan premium. Employees may continue to pay their share while on furlough, or they may elect to have their premium costs accumulate and have them deducted from their pay in a lump-sum when they return to work.

Essential Services and Personnel

A 1980 Office of Management and Budget (OMB) memorandum defines “essential” government services and “essential” employees as those:

- ! providing for the national security, including the conduct of foreign relations essential to the national security or the safety of life and property;
- ! providing for benefit payments and the performance of contract obligations under no-year or multi-year or other funds remaining available for those purposes;
- ! conducting essential activities to the extent that they protect life and property, including:
 - medical care of inpatients and emergency outpatient care;
 - activities essential to ensure continued public health and safety, including safe use of food, drugs, and hazardous materials;
 - continuance of air traffic control and other transportation safety functions and the protection of transport property;

⁴ Fewer employees, agencies, and programs were affected because some funding bills were enacted during the period between the two shutdowns.

- border and coastal protection and surveillance;
- protection of federal lands, buildings, waterways, equipment and other property owned by the United States;
- care of prisoners and other persons in the custody of the United States;
- law enforcement and criminal investigations;
- emergency and disaster assistance;
- activities that ensure production of power and maintenance of the power distribution system;
- activities essential to the preservation of the essential elements of the money and banking system of the United States, including borrowing and tax collection activities of the Treasury; and
- activities necessary to maintain protection of research property.⁵

During the 1995-1996 shutdown experience, policymakers substantially followed these definitions. Pursuant to that memorandum and White House directions to agencies through OMB, agencies are required to determine which jobs fit these definitions and enumerate them in agency shutdown plans. Those employees rated “essential,” although guaranteed to be paid retroactively, did not receive compensation until funding for their agencies was enacted.

Effects on the Public

The long shutdown that began in December 1995 had ripple effects through all sectors of the economy. A few examples, taken from congressional hearings, press and agency accounts, follow:

- ! **Health.** New patients were not accepted into clinical research at the National Institutes of Health (NIH) Clinical Center; the Centers for Disease Control and Prevention ceased disease surveillance (information about the spread of diseases, such as AIDS and flu, were unavailable); hotline calls to NIH concerning diseases were not answered; and toxic waste clean-up work at 609 sites stopped, resulting in 2,400 “Superfund” workers being sent home.
- ! **Law Enforcement/Public Safety.** Delays occurred in the processing of alcohol, tobacco, firearms, and explosives applications by the Bureau of Alcohol, Tobacco, and Firearms; work on more than 3,500 bankruptcy cases was suspended; cancellation of the recruitment and testing of federal law-enforcement officials occurred, including the hiring of 400 border patrol agents; and delinquent child-support cases were suspended.
- ! **Parks/Museums/Monuments.** Closure of 368 National Park Service sites (loss of 7 million visitors) occurred, with local communities near national parks losing an estimated \$14.2 million per day in tourism revenues; and closure of national museums and monuments (estimated loss of 2 million visitors) occurred.

⁵ U.S. Executive Office of the President, Office of Management and Budget, Memorandum from the Director of OMB to the Heads of Executive Departments and Agencies, Agency Operations in the Absence of Appropriations. (Washington: September 30, 1980), pp. 1-2.

- ! **Visas/Passports.** 20,000-30,000 applications by foreigners for visas went unprocessed each day; 200,000 U.S. applications for passports went unprocessed; and U.S. tourist industries and airlines sustained millions of dollars in losses.

- ! **American Indian/other Native Americans.** All 13,500 Department of Interior Bureau of Indian Affairs (BIA) employees were furloughed; general assistance payments for basic needs to 53,000 BIA benefit recipients were delayed; and estimated 25,000 American Indians did not receive timely payment of oil and gas royalties.

- ! **American Veterans.** Major curtailment in services, ranging from health and welfare to finance and travel was experienced.

- ! **Federal Contractors.** Of \$18 billion in Washington area contracts, \$3.7 billion (over 20%) were managed by agencies affected by the funding lapse;⁶ the National Institute of Standards, was unable to issue a new standard for lights and lamps, scheduled to be effective January 1, 1996; and employees of federal contractors were furloughed without pay.

Shutdown Process

The Office of Management and Budget (OMB) is responsible for issuing instructions to agencies on implementing a federal shutdown, including the furloughing of “non-essential” federal employees. Throughout a shutdown period, agencies are apprised of the latest developments in resolving the budgetary impasse. The Office of Personnel Management (OPM) provides guidance and technical assistance to the agencies regarding personnel management issues, especially pay and benefits administration, during a federal furlough. Hearings held by the House Committee on Government Reform and Oversight in December 1995 detailed the process followed by OMB and other agencies. The process appears to have begun during the previous August with the OMB Director receiving an Attorney General’s opinion on the potential shutdown, OMB and OPM communicating with the agencies, and the agencies developing contingency plans.⁷

⁶ Peter Behr, “Contractors Face Mounting Costs from Government Shutdowns,” Washington Post, January 23, 1996, p. C1.

⁷ Government Shutdown: What’s Essential?, pp. 80-183, documents these communications and provides the full package of documentation from the experience of the Veterans Administration. The hearing record also provides documentation on other agency experiences.

Table 1. Appropriations Funding Gaps: FY1977-FY2000

Fiscal Year	Date Gap Commenced ^a	Full Day(s) of Gaps	Date Gap Terminated ^b
1977	Thursday 09-30-76	10	Monday 10-11-76
1978	Friday 09-30-77	12	Thursday 10-13-77
	Monday 10-31-77	8	Wednesday 11-09-77
	Wednesday 11-30-77	8	Friday 12-09-77
1979	Saturday 09-30-78	17	Wednesday 10-18-78
1980	Sunday 09-30-79	11	Friday 10-12-79
1982	Friday 11-20-81	2	Monday 11-23-81
1983	Thursday 9-30-82	1	Saturday 10-2-82
	Friday 12-17-82	3	Tuesday 12-21-82
1984	Thursday 11-10-83	3	Monday 11-14-83
1985	Sunday 9-30-84	2	Wednesday 10-3-84
	Wednesday 10-3-84	1	Friday 10-5-84
1987	Thursday 10-16-86	1	Saturday 10-18-86
1988	Friday 12-18-87	1	Sunday 12-20-87
1991	Friday 10-5-90	3	Tuesday 10-9-90
1996	Monday 11-13-95	5	Sunday 11-19-95
	Friday 12-15-95	21	Saturday 1-6-96

Source: CRS Report RL30339, *Preventing Federal Government Shutdowns: Proposals for an Automatic Continuing Resolution*, by Robert Keith.

- a. Gap commenced at midnight of the date indicated.
- b. Gap terminated during the date indicated because of enactment of regular appropriations or further continuing appropriations measures.