



Furloughs Likely If FAST Act and Transportation Appropriations Not Extended by September 30

September 21, 2020

On September 30, 2020, federal surface transportation programs face the expiration of both the authorizations provided in the Fixing America's Surface Transportation Act (FAST Act; P.L. 114-94) and appropriations provided in the Further Consolidated Appropriations Act, 2020 (P.L. 116-94). A continuing resolution is currently under consideration in Congress to extend the FY2020 Appropriations Act. The continuing resolution may be the legislative vehicle for extension of the FAST Act authorizations. Not extending the FAST Act would have a larger impact in terms of surface transportation program shutdowns and furloughs than an appropriations lapse. The largest impact on surface transportation programs would result from a lapse in both authorization and appropriations simultaneously.

How the two expirations would affect transportation programs depends on whether a program or activity is funded through the Highway Trust Fund (HTF) or with appropriated budget authority from the Treasury's general fund. The Anti-Deficiency Act (ADA; 31 U.S.C. §1341) prohibits agencies from incurring obligations that are in advance of appropriations except in certain circumstances. This means that transportation programs and activities funded by general funds must be appropriated. In contrast, HTF funding is a form of budget authority that by law may be obligated prior to an appropriation, and is effectively an exception under the ADA. HTF funds must be authorized, however, and that authorization expires September 30, along with authorizations for various programs funded through the HTF.

If the FAST Act is not extended or replaced, all HTF-funded personnel not needed to fulfill excepted activities under the ADA (such as life, safety, and the protection of property), or funded with appropriations, would be furloughed. Approximately 3,500 to 4,000 employees in the five Department of Transportation surface transportation agencies discussed below would be affected. Under a [lapse of annual appropriations](#), all appropriations-funded non-excepted programs and activities in the Department of Transportation would shut down. Roughly 900 to 1,000 non-excepted surface transportation program employees would be furloughed.

If both a FAST Act extension and a continuing resolution are not enacted by September 30, 2020, all surface transportation programs would shut down and all non-excepted employees would be furloughed. The total number of employees furloughed would be in the range of 4,400 to 5,000.

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Federal Highway Administration (FHWA)

If the FAST Act expires, approximately 2,600 of FHWA's employees would be furloughed. Based on past experience, about 60 of its HTF-funded staff and roughly 70 non-HTF-funded staff would continue to work. All Federal-Aid Highway programs would shut down. Payments from the HTF to states and other grant recipients would cease. There would be no authority to obligate new funds or reimburse grantees for previously obligated projects. Some states might continue their existing federal-aid highway projects for a few weeks with the hope of future reimbursement, but without current repayments they might experience cash flow problems. Projects directly overseen by the FHWA (mostly projects on federal lands) would halt.

If the FAST Act is extended but annual appropriations lapse, FHWA's programs and activities would continue, there would be no furloughs, and the obligation of and payments from the highway account of the HTF would continue. If the FAST Act expires and annual appropriations lapse, the impact would be similar to the expiration of the FAST Act except that at least some of the 70 non-HTF-funded FHWA employees would be subject to furlough.

Federal Transit Administration (FTA)

Under a FAST Act expiration, FTA would continue to operate and would not furlough any of its roughly 560 employees, because the agency's administrative costs are paid through appropriations. However, FTA would not be able to reimburse transit agencies for new costs under its formula programs, which are HTF-funded. Payments for construction projects supported by the general-funded Capital Investment Grants (CIG) Program could continue.

In the case of a lapse of annual appropriations (assuming a FAST Act extension is enacted), most of FTA's programs and activities would cease and all but about 75 of the agency's roughly 560 employees would be furloughed. HTF funding for the formula programs would exist, but there would be no one to administer new grants. The CIG Program (funded from appropriations) would cease making new grants. Overall, no new grants, cooperative agreements, contracts, or documents obligating funds would be executed.

If both the FAST Act expires and the annual appropriations lapse, the impacts on FTA would be similar to a lapse in appropriations. The number of employees excepted from furlough would be roughly the same (75 of roughly 560 employees), but the employees who remain at work would have no new HTF or general fund money to administer.

Other DOT Surface Transportation Administrations

The operations of the Federal Motor Carrier Safety Administration (FMCSA) and the National Highway Traffic Safety Administration (NHTSA) would continue under an appropriations lapse but would be shut down under a FAST Act expiration. Under an appropriations lapse none of FMCSA's roughly 1,100 employees or NHTSA's roughly 600 employees would be furloughed because they are funded with HTF funds. Under a FAST Act expiration, however, all non-excepted employees would be furloughed, although NHTSA might use appropriated funds to pay some employees. FMCSA and NHTSA have not released estimates of the number of excepted employees under HTF shutdown conditions.

The Federal Railroad Administration (FRA) is entirely funded with appropriations. Consequently, a FAST Act expiration would have little effect as long as appropriated funds are available to FRA. According to DOT, not enacting a continuing resolution could lead to the furlough of 422 of FRA's 927 employees.

The National Railroad Passenger Corporation (Amtrak) is a wholly U.S. owned corporation and is not a federal agency. Although it is reliant on appropriated federal subsidies, it has other revenue sources, and its operations would not be immediately affected by an [appropriations lapse](#).

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