



September 30, 2013

Dear Friend,

With a potential government shutdown looming, I wanted to take a moment to assure the residents of the Second District that I have supported measures in the House to keep our government running as well as a measure that would ensure our troops and those who support our armed forces are paid in the event of a shutdown. In an effort to keep you fully informed, I want to share with you how services could be affected in the event of a government shutdown.

Yours in Freedom,

Scott Rigell

Member of Congress

## Veterans:

*For additional information please see the Veterans Field Guide to Government Shutdown as provided by the US Department of Veterans Affairs.*

### **1) How would a shutdown affect veterans' pensions?**

According to the Department of Veterans Affairs, disabled veterans in receipt of disability compensation or pension checks should continue to receive those payments. However, this funding will run out by late October. Veterans with new or pending claims may be impacted with a delay in their claims until funding for claims processors is appropriated.

### **2) How would a shutdown affect veterans' claims processing?**

The VA has exempted VBA claims processors so that it can continue to process claims and beneficiaries will continue to receive their payments. However, those benefits are provided through appropriated mandatory funding, and that funding will run out by late October. At that point VA will be unable to make any payments.

### **3) How would a shutdown affect survivor benefits?**

According to the Department of Veterans Affairs, survivor benefits are similar to disability/pension benefits paid to veterans. Thus, survivors currently in receipt of Dependency and Indemnity Compensation or Survivors' Pension will continue to receive those payments. New claims may be delayed.

### **4) How would a shutdown affect veterans' educational assistance?**

According to the Department of Veterans Affairs, educational assistance will not be impacted.

### **5) How would a shutdown affect veterans' disability compensation and claims processing?**

Disability compensation would be the same for survivor, education, and pension benefits. Those checks would go out, but no new claims would be adjudicated.

**6) How would a shutdown affect veterans health services through VA hospitals, and reimbursement for other services?**

According to the Department of Veterans Affairs, the VA received a full year appropriation to operate its healthcare system. Therefore, veterans' medical care would not be affected. Hospitals, clinics, vet centers, and homeless domiciliaries would remain open.

**7) What would happen to VA hospitals and clinics? Would they still operate and could veterans receive treatment, including pharmacological? If there was an emergency and the VA Offices were closed would the VA pay the bill if a Veteran went to a civilian hospital for treatment?**

According to the Department of Veterans Affairs, medical care is already fully funded and is not an issue; however additional information has not been released by the Administration.

## **Military:**

*[For additional information please see this guide provided by the Department of Defense.](#)*

### **8) Would members of the military be paid?**

Military personnel would serve without pay until funds are appropriated by Congress and signed into law by the President. In any shutdown plan, all military personnel would be deemed exempt and would not be subject to furlough. Accordingly, military personnel on active duty, including reserve component personnel on Federal active duty, would continue to report for duty and carry out assigned duties. Generally, they would accrue pay but not receive a paycheck for any days worked after October 1 until an appropriation bill is passed. Once an appropriation bill is passed, service members would be paid for the days for which they received no pay.

However, the House passed H.R. 3210 (Pay Our Military Act) on September 28, 2013, by a vote of 423-0. This legislation provides that in the event short-term or full-year appropriations are not in effect (i.e. a government shutdown), appropriated funds are available to: (1) provide pay and allowances to members of the Armed Forces, including reserve components, who are performing active service, (2) provide pay and allowances to civilian personnel at the Department of Defense (and the Coast Guard under the Department of Homeland Security) whom the Secretary of Defense determines are providing support to the Armed Forces, as defined in the bill, and (3) provide pay and allowances to DOD contractors whom the Secretary concerned (either the Secretary of Defense or the Secretary of Homeland Security) determines are providing support to members of the Armed Forces, as defined in the bill. These special appropriations are made available until either a regular appropriation for the same purposes outlined above is passed or January 1, 2015, whichever comes first.

Should the Senate pass H.R. 3210 prior to a government shutdown, military and civilian pay, as outlined above, would not be affected.

### **9) Would military operations overseas be affected? How would it impact operations in the three war theaters?**

In developing the Department's shutdown plan, the Secretary of Defense would ensure mission accomplishment of critical activities that are needed to prosecute the war in Afghanistan and to ensure safety of human life and protection of property including operations for the security of our nation. These activities would be considered "exempt" from shutdown. The Service Secretaries, under the DOD guidance, would also have flexibility to determine what activities should be exempt.

### **10) How would services and benefits for military families be impacted?**

According to guidance issued by the Department of Defense, among the exempt activities that would continue are:

- Inpatient care in DOD hospitals and acute and emergency outpatient care in DOD hospitals and treatment facilities, but not things like elective surgeries or other procedures.
- Department of Defense schools, "to the extent required by law."
- Legal assistance for deploying and deployed service members.
- Morale, Welfare and Recreation activities supporting exempt activities. For example, operation of mess halls, physical training, and child care activities required for readiness; and any activity funded solely through non-appropriated funds.

### **11) What would happen to military installations? Would they be closed?**

The Department of Defense and each of the Service Secretaries would have latitude in determining which operations and activities are exempt from the shutdown. According to DOD guidance, military operations and activities determined necessary for national security, including administrative, logistical, medical, and other activities in direct support of such operations and activities would be exempt.

### **12) Would defense contract operations continue?**

DOD guidance is that contractors performing under a contract that was fully obligated prior to the expiration of appropriations may continue to provide contract services, whether in support of exempt activities or not. However, new contracts may not be executed unless the contractor is supporting an exempt activity.

## Benefits:

### **13) Would Social Security checks still go out? If the checks are stopped, would all monies due be paid eventually?**

Because Social Security benefits are not subject to appropriation, the Social Security Administration has told the House Committee on Ways and Means that the checks would go out.

### **14) Would state and federal healthcare exchanges (as created under the Affordable Care Act) be able to operate during a shutdown?**

Yes, other sources of funding besides annual discretionary appropriations are available in the FY2014 and beyond to support exchange operations.

### **15) Would Medicare payments be made to doctors and hospitals, including emergency hospitalization and ER visits?**

In the short term, Medicare services for current beneficiaries will continue without interruption.

### **16) Would Medicaid/SCHIP payments be made?**

Because Medicaid allotments are paid to states in advance on a quarterly basis, it is likely states will not see an immediate impact from a temporary government shutdown and consequently, nor will providers who serve the Medicaid and SCHIP populations.

### **17) What would happen with disability benefits (SSDI)?**

Disability benefits would continue to be paid. New benefit applications for retirement, disability, and survivors benefits may be delayed depending on the staffing plan Social Security develops, as the number of staff on hand would determine the amount of work processed.

### **18) What would happen with Unemployment Benefits?**

Benefits weren't affected during the 1996 shutdown, and as mandatory spending, they are not expected to be.

## **19) What would happen with Welfare (TANF)?**

Federal welfare funding is continued in the CR so federal funding would temporarily cease in the event of a government shutdown. However, many states have funding available for carryover into the new fiscal year. The amount of money – and the number of days it would cover in a shutdown – varies by state. If the shutdown is short-term, welfare funding would most likely continue.

## **21) How would Food Stamps be affected?**

The USDA Food and Nutrition Service Administrator has tentatively determined that no additional federal funds would be available to support several Food and Nutrition Consumer Service (FNCS) Programs beginning on October 1 if continuing appropriations are not provided. States may make the decision to continue operations for some period, but they will be doing so at their own risk with the understanding that Federal funds may not be forthcoming.

Specific program impacts of a lapse in funding are provided below. These impacts assume that the lapse is of short duration (i.e., less than one month). Should the funding lapse be longer, the FNCS contingency plan and these associated impacts will be re-visited and updated:

- The Supplemental Nutrition Assistance Program (SNAP) will continue operations and eligible households will still receive monthly benefits for October. The authority to make October benefit payments comes from the Recovery Act [American Recovery and Reinvestment Act of 2009 (ARRA), P.L. 111-5, Section 101, as amended by P.L. 111-226 and P.L. 296], through which Congress provided “such sums as are necessary” to finance the SNAP benefit provided for in the Recovery Act. In addition, about \$2 billion in contingency funding will be available and could be used to support State Administrative activities essential to continue the program and issue/process benefits. These contingency funds were provided in the FY 2013 appropriation and do not expire until the end of FY 2014.

- No additional federal funds would be available to support the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)'s clinical services, food benefits and administrative costs. States may have some funds available from infant formula rebates or other sources, including spendforward authority, to continue operations for a week or so, but States would likely be unable to sustain operations for a longer period. Contingency funds will be available to help States – but even this funding would not fully mitigate a shortfall for the entire month of October.
- The Child Nutrition (CN) Programs, including School Lunch, School Breakfast, Child and Adult Care Feeding, Summer Food Service and Special Milk will continue operations into October. Meal providers are paid on a reimbursement basis 30 days after the end of the service month. Limited carryover funding will be available during a lapse to support FY 2014 meal service. Once an appropriation is enacted, we expect additional resources will be available to reimburse October performance. In addition, most State agencies will continue to have FY 2013 funds available for State Administrative Expenses (SAE). SAE funds are awarded to States for a two year grant period and they are permitted to carryover up to 20 percent of their allocation into the second year of the grant period.
- No additional federal funds would be available to support the Commodity Assistance Programs (CAP) including the Commodity Supplemental Food Program (CSFP), The Emergency Food Assistance Program (TEFAP) administrative funding, and the WIC Farmers' Markets Nutrition Program (FMNP). Similarly, no new funds will be available to support the Food Distribution Program on Indian Reservations (FDPIR). While there would be some inventory available for use in food packages, no carryover, contingency or other funds would be available to support continued operations.

**22) How would student loans/work study be affected? Would funding be released? Would repayment checks be cashed?**

According to the Education and Workforce Committee, a shutdown should have a minimal effect on federal financial aid programs, including student loans and work study, as these programs have already been funded for this school year. Additionally, most student loans have been disbursed into student accounts by this point so it is up to the schools to issue reimbursement checks. As for the workforce training programs, it depends on if they've already received funding for their program year. The majority of job training programs under WIA start their program year on July 1 so they're funded with FY 2013 appropriations and shouldn't be affected.

**23) Would Federal Housing Administration (FHA) Mortgage loans be affected?**

Under a temporary government shutdown, FHA will no longer have the commitment authority to endorse/insure new loans. Lenders offering FHA loans may choose to go forward with the loan at closing, but they would have to assume the risk that FHA would normally take on. Some lenders' internal governance does not allow that, others does; it depends on the individual lender. Therefore, while the FHA endorsement process does not come until a couple of weeks after closing, a temporary shutdown could disrupt closings.

**24) How would the National Flood Insurance Program be affected in terms of mortgage closings and payment of claims?**

NFIP would continue to pay claims and sell policies in the event of a shutdown. Responses to day-to-day questions would be curtailed due to only essential personnel being on the job.

## **Federal Services:**

### **25) Would the mail be delivered? Would post offices be open?**

The U.S. Postal Service would continue mail delivery, retail service, and other operations in the event of a government shutdown. The Postal Service is primarily funded through the sale of postage.

### **26) Would National Parks and Museums (Smithsonian) be shutdown?**

Parks would be closed to public use. “Critical” personnel would be kept in place for resource protection (and to tell people that arrive that they are closed). According to the Congressional Research Service, while not indicative of future behavior, 368 National Park Service sites (loss of 7 million visitors) reportedly occurred in a previous shutdown.

## Administration:

**27) What is being done to ensure consistency from agency to agency in the designation of essential personnel? (i.e. what if one agency only deems emergency/first responder type personnel essential where another might take a broader liberal view and consider someone who is conducting research?)**

Under OMB's current instructions from Circular No. A-11, agency heads are to use the DOJ opinions and the circular, in consultation with the agencies' general counsels, to "decide what agency activities are excepted or otherwise legally authorized to continue during an appropriations hiatus." Furthermore, plans are to address agency actions in two distinct time windows of a shutdown: an initial period of one to five days, which OMB characterized as a "short" hiatus, and a second period if a shutdown were to continue. Among other things, a shutdown plan is required to include

- a summary of agency activities that will continue and those that will cease;
- an estimate of the time to complete the shutdown, to the nearest half-day;
- the number of employees expected to be on-board (i.e., filled positions) before implementation of the plan;
- the total number of employees to be retained, broken out into five categories of exceptions to the Antideficiency Act, including employees:
  - who are paid from a resource other than annual appropriations;
  - who are necessary to perform activities expressly authorized by law;
  - who are necessary to perform activities necessarily implied by law;
  - who are necessary to the discharge of the President's constitutional duties and powers; and
  - who are necessary to protect life and property.

After a plan provides this information for an agency as a whole, the plan is required to further break out some of the information by major "component" (e.g., bureau-size entity within a department).

In general, the OMB circular refers to employees who are to be furloughed as "released," and employees who will not be furloughed as "retained" or "excepted." OMB's circular also instructs agencies to take personnel actions to release employees according to applicable law and Office of Personnel Management (OPM) regulations.

OMB documents and guidance from previous funding gaps and shutdowns may provide insights into current and future practices. OPM has provided links to, and retyped copies of, previous OMB bulletins and memoranda for reference. These and other OMB documents also have been reproduced in several legislative branch documents.

## **28) Does the President get paid?**

Under current law, the President continues to receive a paycheck during a federal government shutdown. His salary is paid through mandatory spending rather than through the appropriations process.

## **29) What essential agencies would be in operation during the shutdown?**

Essential government functions spread across agencies and departments will continue. Employees responsible for imminent threats to human life or property will continue to work, as determined by their agency.

Relevant guidance includes the OMB Memorandum of November 17, 1981, that counseled:

“Beginning [on the first day of the appropriations hiatus], agencies may continue activities otherwise authorized by law, those that protect life and property and those necessary to begin phase down of other activities. Primary examples of activities agencies may continue are those which may be found under applicable status to:

- Provide for the national security, including the conduct of foreign relations essential to the national security or the safety of life and property.
- Provide for benefit payments and the performance of contract obligations under no-year or multi-year or other funds remaining available for those purposes.
- Conduct 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 and drugs and safe use of hazardous materials;
  - The continuance of air traffic control and other transportation safety functions and the protection of transport property;

- 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 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;
- Activities that ensure production of power and maintenance of the power distribution system; and
- Activities necessary to maintain protection of research property.

### **30) Would the FDA be affected – for example food inspection, drug approvals?**

The Congressional Research Service (CRS) notes that essential services, such as, “activities essential to ensure continued public health and safety, including safe use of food and drugs and safe use of hazardous materials,” would likely be preserved. This is up to the agencies, but if in the interest of public health, it is likely that those activities would continue, even if streamlined. According to CRS, they cannot comment specifically on the status of food safety inspections by FDA during a funding gap. The situation may be slightly different from that for meat and poultry (regulated by USDA Food Safety and Inspection Service), for which inspection is required in order for a product to be introduced into commerce. In both cases, however, it is up to the agencies and OMB to determine "excepted" positions.

### **31) Does the interest on the debt still get paid?**

Interest on the debt would still be paid in the event of a government shutdown. Revenues would still come into Treasury to cover interest payments and it could still issue debt to make payments. A shutdown would be different than breaching the debt limit. If the debt limit was breached and the government was prevented from legally borrowing money, then interest payments could go unpaid and the government could "default."

## **Law Enforcement and Federal Assistance:**

### **32) Would FBI agents get paid?**

FBI personnel may be exempt from furlough and thus continue to perform their assigned duties. In accordance with OMB Circular No. A-11, the FBI prepares an annual plan which guides agency activities in the absence of appropriations. This includes a breakdown of employees that would be retained in absence of appropriations because they are “engaged in military, law enforcement, or director provision of health care activities.”

### **33) Would CIA officers get paid?**

CIA officers may be considered excepted employees and required to work during a shutdown. Consistent with OPM guidance, CIA officers who qualify as excepted employees would continue to earn pay, but would not receive pay until the enactment of appropriated funds.

### **34) Would FEMA and disaster assistance be affected?**

Disaster assistance would likely not be affected because the Disaster Relief Fund is categorized as “no year money.”

## **Travel:**

### **35) Would the passport offices still be open to receive applications/process passports since they are a fee for service operation?**

During the mid-1990s shutdown processing was cut back to just emergency passport and visa issuance. Normal passport and visa processing was put on hold. Consular Affairs stated that while those activities are largely fee-for-service funded – not all of the links in the issuing chain are fee-funded. Also though not necessarily indicative of future shutdown effects, in the past approximately 20,000-30,000 applications by foreigners for visas reportedly went unprocessed each day; 200,000 U.S. applications for passports reportedly went unprocessed; and U.S. tourist industries and airlines reportedly sustained millions of dollars in losses.

### **36) How would the Transportation Security Administration and Customs and Border Protection be affected?**

Customs and Border Protection agents and TSA screeners would likely be deemed essential personnel and that they would continue to be operational.

### **37) Would there be disruptions in the aviation system? Would air traffic controllers be affected?**

Air Traffic Controllers would continue operating as normal. Almost all ATCs are considered essential/exempt.

### **38) Would Amtrak run?**

Amtrak should continue to operate.

## Federal Projects and Operations:

### **39) Would federal courts shutdown? How would pending cases be treated? Would timelines keep running?**

According to the House Committee on the Judiciary, the Administrative Office of the U.S. Courts (AO) has said that the Federal Judiciary would not have to shutdown immediately because of the availability of other sources of funds. During previous shutdowns, the Judiciary used fee revenues and “carryover” funds from prior years to support what it considered its essential function of hearing and deciding cases, including payment of salaries and benefits of all judges and court employees, as well as support and administrative. These funds should sustain Judiciary activities for approximately ten working days after an appropriations lapse. Once these balances are exhausted, if a lapse in appropriations still exists, each court will need to limit its operations to mission-critical activities, but the AO expects most judicial functions should continue during any appropriations lapse.

- U.S. courts should continue to hear and decide cases without interruption. Thus, all cases including civil and criminal, old and new should be processed and argued, and judgments should be issued and enforced, according to normal schedules and priorities. Judicial activity should be limited to those functions necessary and essential to continue the resolution of cases.
- Most activities of probation and pretrial services office staff will continue. Supervision of potentially dangerous probationers and parolees will be maintained and needed treatment services should be provided. In non-emergency situations, probation and pretrial services should continue to handle new cases or maintain existing cases.
- The jury system will operate as necessary to assist the courts in the performance of Article III duties, though juror payments may be delayed.
- Attorneys and essential support staff in federal defender offices and court-appointed counsel will continue to provide defense services, as needed.
- Interpreters, librarians, circuit executives, and other like personnel will continue to be employed only if necessary. Recently, an AO spokesperson said serious disruptions could occur if a shutdown were prolonged.

This could mean that the district and circuit courts couldn't afford to pay jurors, court reporters, clerks, probation officers, or security personnel. At that point, each court would have to determine which employees are "essential" for furlough purposes. Obviously, litigation conducted by Federal agencies could be delayed, even if the Federal courts remain open, because agency lawyers may not be considered exempt employees. That could delay certain types of litigation against the government, including claims for Social Security disability benefits, veterans' benefits, claims for medical injuries, and the like. Bankruptcy courts should continue those operations that may be considered part of the exercise of the judicial power of the United States or which preserve life or property. During the 1996 shutdowns, work on many bankruptcy cases was suspended.

#### **40) What would happen to NASA and civil servants in the event of a shutdown?**

NASA has not provided Congress with their plans in the event of a shutdown. When the Federal government shutdown previously, NASA established the critical support personnel necessary for continued safe operation of space assets, including the International Space Station, Space Shuttle, TDRS communications satellites, deep space, and earth observation satellites. Those employees provided the necessary functions to keep things safe. Historically, the contractor workforce (which is a significant percentage of the total) was not affected because the shutdowns were not lengthy. They continued to come to work without interruption.

#### **41) Would prisons be secure?**

Care of prisoners and other persons in the custody of the United States is considered an excepted activity, as are personnel, in the event of a shutdown. Everyone who works at a the Bureau of Prisons is considered a federal law enforcement officer and expected to help with safety, even if their daily focus is on food preparation, health services, or something of the sort. Thus, during the 1996 shutdown all prison employees were treated as essential. However, there will likely be some furloughs at the administrative offices, but employees working on intelligence and monitoring will likely also be considered essential. The same is likely to be true for pre-trial detainees held in the custody of the U.S. Marshals Service.

#### **42) What would happen with federal contracts?**

According to the Congressional Research Service, federal employees and contractors cannot be paid, for example, if appropriations have not been enacted. It would still be possible under the Constitution, nevertheless, for the government to make contracts or other obligations if it lacked funds to pay for these commitments. The so-called Antideficiency Act prevents this, however. The act prohibits federal officials from obligating funds before an appropriations measure has been enacted, except as authorized by law. The act also prohibits acceptance of voluntary services and employment of personal services exceeding what has been authorized by law. Exceptions are made under the act to the latter prohibition for "emergencies involving the safety of human life or the protection of property." Therefore, the Antideficiency Act generally prohibits agencies from continued operation in the absence of appropriations. Failure to comply with the act may result in criminal sanctions, fines, and removal.