Q&A: Everything You Should Know About Government Shutdowns
September 24, 2013

It's déjà vu all over again – Congress seems deadlocked in the face of several looming fiscal crises. The first obstacle is just around the corner: if lawmakers fail to pass legislation to fund federal programs before September 30, the government will shut down. Below, we offer a brief primer to describe what that would mean.

What is a government shutdown?

Many federal government agencies and programs rely on annual funding appropriations made by Congress. Since the government's fiscal year starts on October 1, a government shutdown will occur if Congress has not passed appropriations bills for next fiscal year by September 30. In a "shutdown," federal agencies must discontinue all non-essential discretionary functions until new funding legislation is passed and signed into law. Essential services continue to function, as do mandatory spending programs.

What services are affected in a shutdown and how?

Each federal agency develops its own shutdown plan, following guidance from previous cases and coordinated by the Office of Management and Budget (OMB). The plan identifies which government activities may not continue until appropriations are restored, requiring furloughs and the halting of many agency activities. However, "essential services" – mainly those related to public safety – continue to receive funding. In prior shutdowns, border protection, medical care of inpatients, air traffic control, law enforcement, and power grid maintenance have been among the services classified as essential, while legislative and judicial staff have also been largely protected. Mandatory spending on programs like Social Security, Medicare and Medicaid also continue.

Although a number of programs are exempt, the public is still likely to feel the impact of a shutdown in a number of ways. For example:

- <u>Social Security and Medicare</u>: Checks are sent out, but new applicants likely will not have their applications processed until funding resumes. In 1996, over 10,000 Medicare applicants were turned away every day of shutdown.
- <u>Law Enforcement</u>: Although public safety generally continues to be funded, some functions are delayed. In 1996, applications to the Bureau of Alcohol, Tobacco, and Firearms were not processed, bankruptcy cases were suspended, hiring of law enforcement officers was postponed, and delinquent child support cases were delayed.

- National Parks: In 1995, the National Parks Service turned away 9 million visitors to more than 350 parks and dozens of national monuments.
- Passport Processing: Passport processing employees will be sent home during the shutdown. In 1995, 200,000 U.S. applications for passports went unprocessed. More than 20,000 applications by foreigners for visas went unprocessed each day; airlines and the tourist industry lost millions.
- Federal Housing Administration: In the event of a shutdown, the FHA, which guarantees many mortgages, would not be able to guarantee housing loans. In 2011, a senior administration official said that "would have significant impact on the housing market."

Is the government preparing for a shutdown?

On September 17, the Office of Management and Budget told federal departments and agencies to begin making plans for the government shutdown. In the memo, OMB Director Sylvia Burwell said that although there was enough time for Congress to prevent a shutdown, "prudent management requires that agencies be prepared for the possibility of a lapse." Federal departments and agencies are now updating their contingency plans in case the government does shut down, including the determination of which functions will and will not operate, consistent with existing law and past legal opinions.

How would federal employees be affected?

If agency shutdown plans are similar to those in place in 2011, the last time there was a possibility of a shutdown, approximately 800,000 of 2.1 million federal employees would be furloughed. These employees would not be allowed to work, and would not receive paychecks. Although Congress has historically granted back pay, it is not guaranteed.

How and why do mandatory programs continue during a shutdown?

Whereas discretionary spending must be appropriated every year, mandatory spending is authorized either for multi-year periods or permanently. Thus mandatory spending generally continues during a shutdown. However, some services associated with mandatory programs may be diminished if there is a discretionary component. For instance, in the 1996 shutdowns, Social Security checks continued to go out, but staff who handled new enrollments and other services, such as changing addresses or handling requests for a new Social Security card, were initially furloughed – though this decision was ultimately reversed when they were deemed necessary to administer the mandatory program.

How many times has the government shutdown?

Since Congress introduced the modern budget process in 1976, there have been 17 "funding gaps," where funds had not been appropriated for at least one day. However, before 1980 government did not shut down, but continued normal operations through six funding gaps. Between 1981 and 1994, all nine funding gaps occurred over a weekend, and government operations were only minimally affected. The only "true" shutdowns happened in the winter of

1995-1996, when President Bill Clinton and the Republican Congress were unable to agree on spending levels and shut down the government twice for a total of 26 days.

Does a government shutdown save money?

While estimates vary widely, evidence suggests that shutdowns tend to cost, not save, money. For one, putting contingency plans in place has a real cost. In addition, a number of user fees and other charges are not collected during a shutdown. Contractors sometimes include premiums in their bids to account for uncertainty in being paid. And although many federal employees are forced to be idle during a shutdown, they have historically received back pay, negating much of the potential savings on that front. OMB official estimates of the 1996 government shutdown found that it cost the taxpayer $1.4 billion (over $2 billion in 2013 dollars), and some estimates have put an even greater price tag on a shutdown.

How can Congress avoid a shutdown?

There are essentially two ways to avoid a government shutdown – by passing appropriations or through a continuing resolution (see below question on "What is a Continuing Resolution"). Theoretically, the House and Senate Appropriations committees are supposed to consider 12 different appropriations bills, broken up by subject area, and based on funding levels allocated in a budget resolution. Often these bills are combined into a larger "omnibus" or "minibus" set of appropriations. And sometimes, when the House and Senate fail to agree to a concurrent budget resolution, the levels in these measures must be "deemed" by each house.

This year, a budget resolution has not been passed and neither chamber of Congress has had success getting appropriations bills passed by the full body, even as they have been moving through committees. The House Appropriations Committee has passed ten out of twelve bills, but only four – Defense, Military Construction-VA, Energy-Water, and Homeland Security – have made it through the full House. Meanwhile, the Senate Appropriations Committee has passed eleven bills (all but Interior-Environment), but the full Senate has not passed any of them.

What is a Continuing Resolution (CR)?

A continuing resolution temporarily funds the government in the absence of full appropriations bills, often by continuing funding levels from the prior year. Traditionally, CRs have been used to give lawmakers a short period of time to complete their work on remaining appropriations bills while keeping the government operating. CRs sometimes apply to only a few categories of spending, but can also be used to fund all discretionary functions.

CRs differ from normal appropriations bills in that they often "continue" the funding allocations from previous bills. Even when overall funding levels have differed, lawmakers have often simply scaled up all accounts by a percent change in spending rather than making individual decisions on spending accounts. However, CRs often do include certain "anomalies" where select accounts are increased or decreased or "policy riders," specifying certain statements of policy.

How often does Congress pass CRs?

Congress frequently passes CRs during periods of political turmoil, and occasionally, many CRs are necessary to fund the government for an entire fiscal year. They have also sometimes been relied on during Presidential transition years. In FY 2001, for instance, a series of intense congressional negotiations leading up to the 2000 elections led to a series of ten one-day CRs. In total, Congress funded the first three months of that fiscal year with 21 continuing resolutions. Not surprisingly, they have been quite prevalent in the past few years, being used to fund the government entirely in FY 2011, when 8 CRs were passed, and FY 2013, when 2 CRs were passed. The most recent year when a full-year appropriations bill passed and no CRs were necessary was 1997.

What are the disadvantages of using CRs?

Continuing Resolutions have several negative implications on the budget's overall efficiency. CRs usually continue funding at the past year's level without any regard for changing policy needs or the value of each program within an agency. Using a continuing resolution wastes hundreds of hours of careful consideration and program evaluation incorporated into each agency's budget submission. For instance, the President's Budget annually proposes a list of eliminations and reductions of programs which are duplicative or ineffective. A continuing resolution will continue to fund these unwanted programs. Finally, the use of continuing resolutions disrupts activities within agencies, makes it difficult to plan future projects, and costs staff time to revise work plans every time the budget changes.

What would the recently passed House CR do?

The House passed a CR on September 20, which would avert a government shutdown and appropriate funds through December 15. The House CR sets appropriations at an annual level of $986 billion, approximately equal to last year's post-sequester level with minor adjustments. This level is $19 billion dollars higher than allowed under the sequester—with all of the additional funding going to the defense department. In other words, if this CR became law and were extended into next year, a $19 billion across-the-board defense cut would be implemented in mid-January.

Importantly, the House CR, in addition to setting spending levels, includes language to "defund Obamacare," preventing any discretionary funding from being used to implement the Affordable Care Act. However, many of the law's functions are funded with mandatory funds and would continue.

What is the Senate's plan to avoid a shutdown?

The Senate-passed budget resolution would reverse the discretionary reductions called for under sequestration and fund government at $1,058 billion, compared to $988 billion last year.

Given the temporary nature of a CR, however, Senate Majority Leader Harry Reid has said the Senate will consider the House-passed CR, though it will strip out the language relating to the

Affordable Care Act. The Senate would have to make it over several procedural hurdles to pass such a bill, and then the House would have to pass that piece of legislation.

How does a shutdown differ from "sequestration"?

A government shutdown closes down non-essential government operations due to lack of funding, whereas sequestration keeps agencies open, but automatically reduces funding levels to enforce budgetary targets. The first example of sequestration was included in the Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985. The current version of sequestration is a product of the Budget Control Act (BCA) that resolved the 2011 debt ceiling negotiations. The BCA called on a Joint Select Committee on Deficit Reduction (the "Super Committee") to identify at least $1.5 trillion in deficit reduction over ten years, and set in motion a "sequestration" if it did not identify at least $1.2 trillion. After a two-month delay, this sequestration went into effect on March 1, cutting discretionary programs and certain non-exempt mandatory programs across-the-board. Under sequestration, government remains "open," but must operate at lower funding levels.

How does a shutdown differ from a default?

In a shutdown, government temporarily stops paying employees and contractors who perform government services, whereas the list of parties not paid in a default is much broader. In a default, the government exceeds the statutory debt limit and is unable to pay its creditors (or other obligations). Without enough money to pay its bills, any of its payments are at risk—including all government spending, mandatory payments, interest on our debts, and payments to U.S. bondholders. Whereas a government shutdown would be disruptive, a government default could be disastrous.

For more information, see the following:

- Congressional Research Service – Shutdown of the Federal Government: Causes, Processes, and Effects
- Committee for a Responsible Federal Budget – What We Hope To See From Government Funding Negotiations
- Roy T. Meyers – Late Appropriations and Government Shutdowns: Frequencies, Causes, Consequences, and Remedies
- Office of Management and Budget – Planning for Agency Operations During a Lapse in Government Funding [FAQ for how a shutdown would have proceeded in April 2011]
- Congressional Research Service – Shutdown of the Federal Government: Effects on the Federal Workforce And Other Sectors
- Congressional Research Service – Federal Funding Gaps: A Brief Overview
- Government Accountability Office –Uncertainty Limited Management Options and Increased Workload in Selected Agencies
- Committee for a Responsible Federal Budget - Appropriations Update: Sequester Looms Large in the Process
- Committee for a Responsible Federal Budget - Appropriations Update: Progress Beginning to Slow