



Government Shutdown Impacts on Public Transportation

December 7, 2023

Executive Summary

On November 16, 2023, Congress enacted the Further Continuing Appropriations and Other Extensions Act, 2024 (P.L. 118-22). The Continuing Resolution (CR) prevents a government shutdown. For the U.S. Department of Transportation (DOT) and some other Departments (e.g., Department of Agriculture, Department of Veterans Affairs), the CR expires on January 19, 2024. For other agencies, the CR expires on February 2. At this point, it is unclear if Congress will reach a bipartisan, bicameral agreement on annual appropriations acts or a subsequent CR. If Congress is unable to reach a future agreement, there would be a lapse in appropriations of DOT programs on January 19.

The impacts of a government shutdown on DOT agencies vary considerably. Federal Transit Administration (FTA) operations will continue and none of its 700 employees will be furloughed. FTA will be able to reimburse transit agencies for previously approved projects. However, it is unlikely that FTA will be able to approve new grants.

Conversely, 350 employees (35 percent) of the Federal Railroad Administration (FRA) would be furloughed during a government shutdown. Remaining FRA personnel would be focused primarily on activities necessary to protect life and property (e.g., FRA safety inspections). Similarly, 455 employees (25 percent) of the Office of the Secretary of Transportation would also be furloughed.

Background

The Antideficiency Act (31 U.S.C. §§ 1341-1342, 1511-1519) generally bars the obligation or expenditure of federal funds in the absence of appropriations. As a result, Congress must enact appropriations acts to provide budget authority and prevent a government shutdown. If a funding gap occurs, federal agencies are generally required to begin a shutdown of affected projects and activities, which includes the prompt furlough of non-excepted personnel.¹

¹ See Congressional Research Service, [Federal Funding Gaps: A Brief Overview](#), Report No. RS20348 (September 7, 2023).

The impacts of a government shutdown on DOT agencies vary considerably. Agencies are allowed to continue activities involving the safety of human life or the protection of property.² For instance, FRA safety inspectors and other personnel necessary to protect life and property continue to work during the government shutdown. In addition, the personnel of some agencies, such as FTA and the Federal Highway Administration, are financed by budget resources other than annual appropriations (e.g., the Highway Trust Fund). These employees are not subject to a government shutdown.

Federal Transit Administration

According to DOT, during a government shutdown, FTA operations will continue because the personnel are financed by the Highway Trust Fund or advance appropriations under the Infrastructure Investment and Jobs Act (IIJA).³ Therefore, none of FTA's 700 employees will be furloughed.⁴

The impact on FTA activities is less clear. FTA has sufficient liquidating cash to support several months of reimbursements for previously approved projects.⁵ In addition, activities funded from IIJA advance appropriations will continue during a lapse in annual appropriations.⁶ However, it is unlikely that FTA will be able to approve new grants. In particular, to the extent that FTA activities involve other agencies, the personnel of those agencies (e.g., Environmental Protection Agency, U.S. Department of Labor (DOL), U.S. Department of the Interior) may be furloughed, which could stop progress on projects. For instance, according to DOL, during a government shutdown, the Office of Labor-Management Standards will furlough all employees and suspend all operations,⁷ which could affect DOL's certification of Section 13(c) employee protective arrangements for FTA grants pursuant to 49 U.S.C. § 5333(b)).

² The Antideficiency Act includes certain exceptions, such as activities involving the "safety of human life or the protection of property." *Id.*

³ U.S. Department of Transportation, [Plans for Operations During a Lapse in Annual Appropriations And/or Federal Aviation Administration Authorization Plans by Operating Administration](#) (DOT Plans for Operations During a Lapse in Appropriations) (August 3, 2023) at 13.

⁴ *Id.*

⁵ *Id.* at 14.

⁶ *Id.* at 13-14.

⁷ U.S. Department of Labor, [Plan for the Continuation of Limited Activities During a Lapse in Appropriations](#) (September 27, 2023) at 44-45.

Federal Railroad Administration

According to DOT, 350 (35 percent) of FRA's 1,006 employees would be furloughed during a government shutdown.⁸ Remaining FRA personnel would be focused primarily on activities necessary to protect life and property. For instance, FRA staff that manage rail accident/incident investigations would continue working. The continuous inspector presence on railroad property allows for the proactive review and identification of unsafe operations. When safety hazards are identified, FRA railroad safety personnel ensure uniform and consistent feedback to railroads on noncompliance violations of federal safety laws and regulations. These activities would continue during a lapse in appropriations.⁹ Employees of the Office of Railroad Development would also continue working during a lapse in appropriations on activities funded under FRA's Oversight account related to the award, administration, oversight, and technical assistance of FRA programs.¹⁰

FRA would not continue any of its unfunded core agency functions. No contracts, purchase orders, or other documents obligating funds would be executed. FRA would not advance any rulemakings, including those related to railroad safety.¹¹

⁸ DOT Plans for Operations During a Lapse in Appropriations at 15.

⁹ *Id.* at 15-16.

¹⁰ *Id.* at 16.

¹¹This limitation does not apply to regulatory activity funded from FRA's Oversight account. *Id.* at 17.