



METROPOLITAN
TRANSPORTATION
COMMISSION

Agenda Item 4a

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Memorandum

TO: Legislation Committee

DATE: January 4, 2019

FR: Executive Director

RE: Impact of Federal Government Partial Shutdown on Transportation & Housing

Background

Since 1976, when the current federal budget and appropriations process was established, there have been 22 gaps in budget funding, 10 of which led to federal employees being furloughed. In the latest shutdown, roughly 800,000 workers have been furloughed or won't see paychecks until the government fully reopens. Overall, 40 percent of U.S. Department of Transportation (DOT) employees are furloughed, another 46 percent are working without the guarantee of being paid, and just 14 percent continue to work and be paid as normal. The impact is more severe at the Department of Housing & Urban Development (HUD) where 95% of employees are furloughed. On a positive note, Congress completed action on the [2019 Transportation-HUD appropriations bill](#) several months ago and it has bipartisan support. What's at risk for transportation and housing is the potential for the budget impasse to delay projects rather than *how much* funding will ultimately be provided.

Disparate Impact on Transportation Programs

Generally speaking, the only programs affected during a government shutdown are those that are funded by the general fund. As such, Federal Highway Administration (FHWA) funding is largely exempt from delays due to the shutdown because it primarily draws from the user-fee supported Highway Trust Fund. Other FHWA infrastructure accounts, however, are at risk, such as the Better Utilizing Investments to Leverage Development, or BUILD, grants (formerly TIGER grants). However, even though most FTA grants are funded by the Highway Trust Fund, 90 percent of Federal Transit Administration's (FTA) staff are furloughed so no grants, agreements or contracts will be executed and no FTA funds will be reimbursed during the shutdown. By contrast, no FHWA staff are furloughed and no delays are anticipated for FHWA programs, as shown in the attachment. This is just another instance where the highway program enjoys better treatment than its poorer cousins in public transit.

Impact on Housing Programs

Community Development Block Grant funding is all funded by the General Fund so is frozen until the budget impasse is resolved. In addition, Low-income housing tax credits are at risk *if* they are expiring *and* a finance deal needs to happen during the shutdown period. According to a HUD budget contingency plan, "The Office of Public Housing Investments (OPHI) will only be able to close tax financing deals on an emergency basis during a government shutdown. Any PHA involved in such a deal should work with its development partners to contact its investor and determine how to proceed."



Steve Heminger

Attachment:

- Attachment A: Impact of Federal Government Partial Shutdown on Transportation & Housing Plans by Operating Administration

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DEPARTMENT OF TRANSPORTATION

**Operations During a Lapse in Annual Appropriations
Plans by Operating Administration**



December 2018

Office of the Assistant Secretary for Budget and Programs, and CFO

DEPARTMENT OF TRANSPORTATION
SUMMARY OF PERSONNEL AFFECTED BY A LAPSE IN ANNUAL APPROPRIATIONS

Operating Administration	Excepted Activities 1/		Support Activities 2/	Presidentially Appointed Senate	Funded From Other Sources	Total Staff at Work	Furloughed Staff	Total
	Presidential Duties and Powers	Life/Safety						
Federal Aviation Administration	62	24,208	571	0	2,297	27,138	17,791	44,929
Federal Highway Administration	0	0	0	0	2,682	2,682	0	2,682
National Highway Traffic Safety Administration	0	0	8	0	245	253	331	584
Federal Motor Carrier Safety Administration	0	0	0	0	1,156	1,156	0	1,156
Federal Transit Administration	0	9	6	0	50	65	493	558
Federal Railroad Administration	0	497	23	1	0	521	408	929
Pipeline and Hazardous Materials Safety Administration	0	262	15	1	0	278	285	563
Maritime Administration 3/	10	27	15	1	287	340	419	759
Saint Lawrence Seaway Development Corporation	0	0	0	0	126	126	0	126
Office of the Secretary	0	21	71	5	971	1,068	406	1,474
Inspector General	0	104	5	1	0	110	309	419
Total	72	25,128	714	9	7,814	33,737	20,442	54,179

1/ Under the Antideficiency Act

2/ Activities Necessarily Implied By Law

3/ Winter Break at the US Merchant Marine Academy is December 19, 2018 - January 2, 2019. MARAD Furloughed Staff totals include 224 personnel who would be furloughed if a lapse occurs during this time. If a lapse occurs when classes are in session, additional staff will resume working.

FEDERAL HIGHWAY ADMINISTRATION

Personnel Summary

Staff at Work

• Life and Safety Excepted Staff:	0
• Staff funded by multi-year appropriations, indefinite appropriations, or contract authority:	2,682
• Staff supporting lawful continuation of other functions (e.g., support for Life and Safety positions):	<u>0</u>
Total Staff at Work	2,682

Staff to be Furloughed: 0

Total Staff: 2,682

Summary of Continuing Operations

All operations continue as normal during a lapse in annual appropriations.

Highway Trust Fund operations would continue during a lapse in annual appropriations. FHWA positions are primarily funded by authorized contract authority and paid out of the Highway Trust Fund.

Although FHWA positions are mostly funded from the Highway Trust Fund, FHWA employees working on certain projects and activities may be paid from non-Highway Trust Fund funding sources, including multi-year appropriations (allocations of BUILD Transportation Grants funding and advances from other agencies through the Miscellaneous Trust Funds account) and reimbursable authority.

Summary of Suspended Activities

None. Activities funded with contract authority, carryover multi-year appropriated budget authority, or reimbursable authority.

Assessment of Liquidating Cash

FHWA has sufficient liquidating cash to continue operations during a lapse in annual appropriations.

Special Circumstances

- Not applicable.

Shutdown Checklist

- Plans are up-to-date and approved by the Administrator.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Personnel Summary

Staff at Work

- Life and Safety excepted staff: 0
- Staff funded by multi-year appropriations, indefinite appropriations, or contract authority 1/ 245
- Staff supporting lawful continuation of other functions (e.g., support for Life and Safety positions): 8

Total Staff at Work 253

Positions to be Furloughed: 331

Total Staff: 584

1/ Highway Trust Fund operations would continue during a lapse in annual appropriations.

Summary of Continuing Operations

- NHTSA Highway Safety Research & Development activities (e.g., occupant protection, alcohol, motorcycles) and grants managed under the Highway Traffic Grants account would continue. Additionally, NHTSA's cybersecurity functions are excepted to the extent necessary for the safety of life and preservation of property.

Summary of Suspended Activities

- NHTSA's annually appropriated Vehicle Safety activities, including rulemaking, enforcement, research, data analysis, and consumer testing programs.
- Important rulemakings, including those with Congressional deadlines, would be delayed.
- New car assessment testing and related star ratings to consumers may be delayed.

FEDERAL TRANSIT ADMINISTRATION

Personnel Summary

Staff at Work

- Life and Safety excepted staff: 9

- Staff funded by multi-year appropriations, indefinite appropriations, or contract authority:

Program Oversight	23
Hurricane Sandy Recovery	25
<u>Lower Manhattan Recovery Office</u>	<u>2</u>
Total	50

- Staff supporting lawful continuation of other functions (e.g., support for Life and Safety positions): 6

- Total Staff at Work 65

Staff to be Furloughed: 493

Total Staff: 558

Summary of Continuing Operations

- In the absence of appropriations, limited functions funded from prior year unexpired appropriations would continue. These would include Hurricane Sandy activities funded from the 2013 Disaster Relief Appropriations Act (25 staff), program oversight (23 staff) authorized under 49 U.S.C. 5327 and 49 U.S.C 5338(f) funded with prior year contract authority, and activities in the Lower Manhattan Recovery Office (2 staff) funded by emergency supplemental appropriations after 9/11.

- FTA would also have 15 excepted staff to perform life and safety activities authorized in MAP-21 and oversee the lawful continuation of other functions, including 7 available for Washington Metropolitan Area Transit Authority (WMATA) safety incident notification and response. FTA also has contract support funded from prior year unexpired appropriations for WMATA safety oversight.

Summary of Suspended Activities

- FTA would not continue any of its unfunded core agency functions. No grants, cooperative agreements, contracts, purchase orders, travel authorizations, or other documents obligating funds would be executed.
- FTA would discontinue reimbursements to transit agencies for ongoing operations and construction projects to enable them to provide transit services and pay employees and contractors.
- FTA would not obligate grant funds for projects carried out by approximately 1,300 grantees throughout the country as FTA staff that perform these functions are not considered excepted employees. FTA grants primarily fund operating expenses and capital projects.
- For projects under development, FTA staff would not carry out environmental, legal, civil rights, and other reviews essential for advancing projects to the point of obligation, since these are not related to immediate issues of life and safety.
- FTA would not make grant payments using FTA's Financial Management Systems or vendor payments to contractors using the DELPHI accounting systems regardless of the fiscal year cited since appropriations would not be available to pay the salaries of the staff certifying the payments.
- Program oversight activities would continue but only with funds provided by prior year appropriations. Most oversight activities are performed by contractors.
- FTA would also not obligate or outlay funds for research and technical assistance activities because appropriations would not be available to pay the salaries of the staff executing the payments.

Assessment of Liquidating Cash

- FTA has sufficient liquidating cash to support several months. However, FTA would not outlay funds because appropriations would not be available to pay the salaries of staff executing payments.

Special Circumstances

- Certain contract support functions funded with prior year or other available appropriations would continue unless contracting officer representatives (CORs) are needed to supervise on-site contract staff. CORs are generally not considered excepted employees, unless they are required to enable the continuance of an otherwise authorized or exception function that would be significantly impaired without such services.

Shutdown Checklist

- Shutdown plans are up-to-date and will be approved by the Administrator and senior staff prior to implementation.
- The Office of Human Resources has identified each position subject to a furlough, and preparations are in place to notify affected staff.
- Logistics are in place to provide for an orderly recall of employees and a return to normal operations, once annual appropriations are restored.