



Community Transportation and the Federal Government Shutdown

January 2018

In what looks very much like an inside-the-Capitol-Beltway game of “chicken,” January 19 has turned into one of those days when many people’s eyes are on Congress and the White House, wondering if the federal government will have to shut its doors when the clock strikes midnight. If history is any precedent, the chances are that some last-minute deal will have been struck, maybe not until sometime over the weekend, and Monday morning will see federal employees reporting to their jobs as usual, and a bunch of political reporters and analysts will rehash the week’s drama to examine the issues, the deals, the partisanship, and the political compromises that ultimately are necessary for the federal government to carry out its business.

Even if there is a federal shutdown that lasts into the workweek or beyond, it’s not likely that public and community transit providers would see more than a modest impact on their activities. The most noticeable effects would be in the Washington DC area and other places with concentrations of federal employees, as many of these men and women would have to report to their places of work on Monday morning, carry out the steps of an “orderly shutdown,” and then go home, awaiting any news of renewed federal funding, which could come in hours, days, or even weeks, as was the case with the two-week government shutdown in 2013. Also, most federal offices and facilities would be closed to the public, which is why the effects on national parks and other federal landmarks receive so much attention from the news media. Those transit agencies in communities with a lot of federal workers or federal activity may see a decline in ridership, and those areas who depend on tourists visiting parks or other closed federal facilities will suffer a temporary dip in their local economy. These are unfortunate steps, since most of the nation’s public and most of the federal government’s employees are not directly responsible for the actions that lead to a federal shutdown.

CTAA respects the fact that political differences and significant issues sometimes make a shutdown unavoidable, but we nevertheless regret the confusion these circumstances create for grantees and customers of the federal government’s programs. Providing public and community transportation is challenging enough in the best of times, and adding all the extra uncertainty and disruption of a shutdown only makes it harder for our members and

our nation's transit providers to do their work of getting Americans to their jobs, their doctors, their schools and their other destinations of life, regardless of political affiliation or partisan identity.

Here are a few questions CTAA have heard with respect to the possible shutdown of January 2018, as well as from what was experienced in the shutdowns of October 2013, January 1996, and earlier.

Is this any way to run the government?

That's a political question, and one that's best addressed through conversations between you and your elected legislators. While shutdowns are disruptive to the regular flow of routine federal government business, the bigger challenge that frequently faces public and community transportation providers is the moment-by-moment fiscal uncertainty of lurching from one short-term funding bill to another, or the month-to-month fits and starts of interrupted authorizing legislation. Decades ago, it seems we could look forward to getting a year's worth of funding at a time, but more recently, we've all had to learn how to divide things into fractions, as federal funds get allocated a month or two at a time.

Why do these shutdowns happen?

Politics aside, the main reason the federal government has to close some of its doors traces its way back to a determination in the early 1980s by then-President Reagan's attorney general, that a piece of 19th-century legislation called the Antideficiency Act prohibits federal agencies from spending funds until they've been appropriated, whether through a Congressionally passed appropriations act, an authorization of mandatory federal spending, or through the collection of fees, fines or other revenues not requiring Congressional appropriations. As a result, the annual process of appropriating federal funds occasionally leads to these cliff-hanging moments of partisan wrangling over must-pass legislation.

What happens to the Federal Transit Administration and its grants?

In the absence of an appropriation, the Federal Transit Administration (FTA) gets caught up in the orderly shutdown of the federal government. Every shutdown is different, but the basic thing to expect is that there will not be any FTA staff at their jobs during the shutdown. In the last shutdown, a very limited number of FTA staff remained on duty in their counsel's office at the FTA office of safety, but that was it.

In general, FTA funds that already have been awarded can be spent during a shutdown, but grantees should know that there won't be anyone at FTA who can deal with any grant-related paperwork or other processes until the government is "back in business." Obviously, federal agencies – including FTA – cannot make any new grant awards or other

funding decisions during a shutdown. Federal contractors with already-executed contracts probably can continue working under those contracts during a shutdown, although any contractors whose work places them inside a federal building facility may be physically prevented from carrying out their work during a shutdown period.

Even in past years' two- and three-week shutdowns, Congress retroactively approved lapsed funding, and provided back pay to federal workers. These steps are not required, but are customary, so it's unlikely any FTA grantee or recipient of other federal funds will experience an actual loss of revenue. Instead, the main burden could be the inconvenience of interrupted funding and a short-term loss of program management or guidance from federal agencies.

If I have an urgent need to contact a federal employee, what do I do?

"Essential" federal employees are determined on an agency-by-agency basis, and typically are those involved with matters of safety, security or things that really are "life or death" issues. This will include most federal law enforcement and security staff, air traffic controllers, military personnel, health care workers, etc. During a shutdown, these essential workers are on duty, but are not being paid, unless their pay has been approved retroactively once the government resumes operation. In emergencies or other essential circumstances, you'll be able to reach these employees during a shutdown.

During a shutdown, non-essential federal employees are prohibited from reading or responding to emails, carrying on conversations that are government business, or the like. Some agencies go so far as to require their employees to turn in laptop computers and government-issued phones as part of the "orderly closure" procedures mentioned above. So, even if you have the personal phone number or email for a federal employee, don't contact him or her during the shutdown to discuss government business. Meeting up to commiserate or socialize may be okay, but don't ask that person about anything that resembles government-related work until he or she is "back on the clock."

When the federal government closes down, do grantees stop working, too?

No. As long as you're able to continue your grant-supported activities, they do not cease while government offices are closed. The longest government shutdown in history was the 22-day period from December 16, 1995 through January 6, 1996. During that time, no grantees are known to have gone out of business because of lapsed funds. Even with hundreds of thousands of furloughed federal employees and shuttered museums, parks and federal offices, the activities of most grantees and contractors continued without interruptions in service.

Why do some federal employees work during a shutdown, but not others?

As mentioned above, the Antideficiency Act provides for “essential” employees to remain in service, even though it does not provide for them to be paid. Other federal functions are able to continue without interruption because they are self-funded (e.g., some activities of the federal judiciary system, the delivery of mail by the Postal Service, or the ability of the Smithsonian Institution and some other federal cultural facilities to use non-appropriated revenue to remain in business for a few days into any government shutdown), or because they’re mandatory spending that doesn’t require federal employees to be directly involved in the transaction (most notably, the direct deposit of social security benefits). In the October 1995 shutdown, employees of the Federal Highway Administration were able to remain at their posts, because their salaries at that time derived from the Highway Trust Fund, but FTA’s employees had to stay home, since their salaries depended on Congressional appropriations of general revenues.

How long will a shutdown last, and what will it cost?

If the federal government shuts down, it will remain closed until an appropriations bill, such as a “continuing resolution,” is signed into law. That can be a matter of hours, days or weeks, and is a result of the political dynamics within Congress and with the White House.

Until 1995, federal shutdowns were rare and brief: there were four such shutdowns, the longest of which was over a federal holiday weekend. Since 1995, federal shutdowns have remained rare, with only three shutdowns, but weren’t so brief: six days in November 1995, the aforementioned 22 days in December 1995/January 1996, and the 13-day shutdown in October 2013.

The net costs of each of these longer shutdowns have been estimated by the Congressional Research Service and the Government Accountability Office as being in the billions of dollars. Most of these costs were connected with the need for safe and orderly shutdowns of federal activity, and then restoring operations, whether physically securing and reopening buildings and offices, the costs of reprogramming websites and phone systems to reflect the shutdown, or the other costs that arise from disruptions in the work that’s performed by hundreds of thousands of federal employees.