

# What a Government Shutdown Means for You

Client Alert | February 27, 2024

*FAQs about Government Shutdowns* The U.S. Government is rapidly approaching a partial shutdown this week, which can be averted only if Congress passes funding legislation by Friday, March 1. If it fails to pass funding legislation by March 8, the government will go into a full shutdown. After a meeting between congressional leadership and the President today, House Speaker Mike Johnson (R-LA) said he was committed to avoiding a shutdown, but no details have emerged as to how Congress will accomplish that. Gibson Dunn's [Public Policy Practice Group](#) is closely monitoring the funding negotiations and their potential effects on our clients. Here, we address the questions our clients have been asking us most frequently.

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### 1. Which agencies would be affected by a shutdown and when?

In January, Congress passed a “laddered” continuing resolution (“CR”), which broke apart the 12 government funding divisions into two units. Congress provided funding for one unit until March 1, and the other until March 8. [Pub. Law No. 118-35](#). On **March 1**, funding will expire for the Departments of Agriculture, Energy, Veterans Affairs, Transportation, and Housing & Urban Development; the Food & Drug Administration; the Commodity Futures Trading Commission; and military construction. *Id.* On **March 8**, all of the other agencies’ funding will expire, including the Departments of Justice, Treasury, Commerce, Labor, Defense, Homeland Security, State, Education, Interior, and Health & Human Services; the Environmental Protection Agency; the Social Security Administration; many independent agencies (*e.g.*, the Securities and Exchange Commission, Federal Election Commission, Federal Trade Commission); and the judicial and legislative branches. *Id.*

### 2. What will happen if there is a shutdown?

Each agency has different procedures in the event of a shutdown, but generally, all non-essential government functions will cease. Essential functions will continue—but the personnel performing them will be working without pay, which can cause morale to suffer and employees to skip work. All federal government employees will receive backpay once Congress breaks its impasse, but federal contractors likely will not. Essential functions—many of which relate to safety—include:

- Air traffic control and inspections
  - Note that during previous shutdowns, air travel became challenging because some TSA workers and air traffic controllers did not report to work: plan for long lines.
- Food safety inspections
- Veterans’ health care workers
- Functions related to nuclear reactors
- Law enforcement
- Power grid maintenance
- Essential IRS operations
  - During a previous shutdown, 14,000 IRS workers did not show up when they were recalled to work; this could present a challenge for the ongoing U.S. tax season should this scenario repeat itself. Refund delays would be

likely.

Mandatory spending for Social Security, Medicare, and Medicaid also will continue. Non-essential functions that will cease include things like:

- Agency rulemaking
- Consideration of applications for various permits or approvals
  - This includes everything from Committee on Foreign Investment in the United States (“CFIUS”) reviews to passport renewals.
- Many judicial processes
  - Civil cases may be postponed, but criminal case likely will proceed.
  - If a government attorney who has been furloughed is involved in the case, however, hearing and filing dates may be postponed.
- Issuing new loans or grants
  - Distribution of funds under major programs like the CHIPS and Science for America Act will be impeded.
- The running of national parks

Many government subsidy programs will run out of funds (although some, such as SNAP food stamp benefits, have enough funding to continue through March).

### 3. What are the chances of a shutdown?

This is the fourth time in four months that we have come close to a federal government shutdown. Congress has averted the previous ones by passing short-term CRs, which keep funding levels the same as the previous year (as opposed to passing the 12 individual appropriations bills that would change funding levels). Today, President Biden, House Speaker Mike Johnson (R-LA), Senate Majority Leader Chuck Schumer (D-NY), House Minority Leader Hakeem Jeffries (D-NY), and Senate Minority Leader Mitch McConnell (R-KY) met. Speaker Johnson said he was committed to avoiding a shutdown, but the challenge will be finding a path forward that appeases both Democrats and the far right members of the Republican caucus. The options for keeping the government open now include passing a short-term CR to allow for further negotiations, a long-term CR to finish out the fiscal year, or a combination of some portion of the 12 spending bills for some agencies, and a CR for the remainder. The current political dynamics, however, are making it increasingly difficult for Congress to pass any funding legislation. Republicans are willing to consider a long-term CR because if there is no new budget by April 30, it will trigger a government-wide 1% spending cut negotiated in last year’s debt-ceiling agreement. That makes Democrats equally unwilling to consider a long-term CR. But Speaker Johnson working with the Democrats to pass a short-term CR that would allow additional time for negotiations is anathema to House Republicans, who have already proven themselves willing to jettison a speaker over a spending deal they don’t like. Although today’s meeting signals hope that congressional leaders are committed to avoiding a shutdown, until a specific deal emerges, the near-term future of government funding will be uncertain. On March 13, at 12:00PM EDT, the Public Policy Practice Group will present a webcast on the federal legislative and policy outlook for 2024. Register [here](#)

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The following Gibson Dunn lawyers assisted in preparing this update: Michael Bopp, Roscoe Jones, Jr., Amanda Neely, and Daniel Smith.

Gibson Dunn’s Public Policy Practice Group is available to assist clients as they navigate the uncertain and rapidly changing dynamics of a potential partial or full government shutdown. Our practice group members provide strategic counseling; real-time intelligence gathering; development and enhancement of policy positions; legislative text drafting; and lobbying services. Please contact the Gibson Dunn lawyer with whom you usually work, any leader or member of the firm’s Public Policy practice group, or the following: Michael D. Bopp – Co-Chair, Washington, D.C. (+1 202.955.8256, [mbopp@gibsondunn.com](mailto:mbopp@gibsondunn.com)) Mylan L. Denerstein – Co-Chair, New York (+1 212.351.3850,

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