

## Government Shutdown 2011

### Service

Public Policy,  
Regulatory &  
Government Affairs

### Professional

KYLE J. GILSTER

WASHINGTON:

202.378.2303

OMAHA:

402.964.5030

KYLE.GILSTER@

HUSCHBLACKWELL.COM

A budget deal in Washington remains elusive as legislators in the House and Senate fail to reach consensus on a measure to fund the federal government for the remainder of fiscal year 2011. Current authorization funding the federal government expires at midnight tonight and unless a deal can be brokered, non-essential federal government activities will be affected. Notably, the government shutdown would be partial, with a significant number of the 4.4 million federal employees halting work but nonetheless, many government services will slow or stop completely. The following is a snapshot of how a government shutdown might affect you.

#### **What does this budget fight mean for the business community?**

We are potentially seeing a shift in the way government policy is made and enacted. It is increasingly likely that the budget process is becoming a vehicle to create or change government policy. In the latest round of budget fighting, for example, funding cuts have been proposed to the Environmental Protection Agency and to the Dodd-Frank Wall Street Reform and Consumer Protection Act. Some Members of Congress see the budget process as a way to roll back or slow the implementation of legislation.

#### **What does the shutdown mean for government contractors?**

While a prolonged government shutdown seems unlikely, government contractors may be severely impacted if the budget impasse continues for an extended period of time. Approval of new contracts will be put on hold. Some contractors will be required to stop work altogether or have the delivery of their payments delayed. Additional analysis of the shutdown's effect on contractors appears on *The Contractor's Perspective*, a blog published by Husch Blackwell's Government Contracts Practice Group.

#### **What does the shutdown mean for the general public?**

The government shutdown would have little impact over the weekend, as most government offices are typically closed. Starting Monday, affected federal workers will begin furlough and the operations, services and programs performed by the federal government will slow. Services that are critical to the safety of life and protection of property will continue to operate. The postal service, air traffic control and military operations in Afghanistan, Iraq and Libya will continue to operate. The federal courts will stay open for at least two weeks, operating on funds generated from filing fees. The Federal Housing Administration, which provides loan guarantees to more than 30 percent of all mortgages, will cease processing new loans. Social security checks will continue to be distributed, but new applications for benefits may not be processed. Passport offices nationally will shut down.

## **What does the shutdown mean for state governments?**

State governments have less liquidity than they did during the government shutdowns of 1995 and 1996 and will likely have a difficult time continuing services without income from the federal government. State programs funded by the federal government, including higher education, research and law enforcement training, will be stopped or delayed. States will also have to grapple with unpaid government contractors and closed federal facilities. States will have a difficult time working with the federal government, and they may see a loss in tax revenue from tourists if they depend on revenue from visitors to national parks or monuments.

## **Why are we close to a government shutdown?**

The fiscal 2011 budget should have been enacted into law by October 1, 2010. However, with the midterm elections in full swing in September of last year, members of the 111th Congress did not complete the annual budget process. While it is not uncommon for Congress to miss their annual budget deadline, it is more rare that the budget is pushed to the next Congress. Effectively, since October 1, 2010, the federal government has been running on a series of Continuing Resolutions to fund the federal government at fiscal 2010 levels. This has made it difficult for some federal agencies to function, as they have been allocated their budgets in one-month increments instead of annual funding allotments. Conservative Republicans elected in November have demanded significant spending reductions, which consequently set up the first major political battle in the new Congress, where Democrats retain control of the Senate.

## **What happens next?**

Negotiations will continue over the weekend. At the end of the day, the majority in both parties would like to avoid a prolonged government shutdown. The three primary players in the negotiation process include Senate Majority Leader Harry Reid, House Speaker John Boehner and President Obama. Once a compromise is reached, the bill will need to be passed in both the House and Senate and signed by President Obama.

At the time this alert was posted, there was no agreement; however, there were indications that some progress was being made on reaching an agreement.

## **Contact Info**

Husch Blackwell's Government Affairs team monitors these developments and advocates on behalf of clients with an interest in the legislative process. Please contact your Husch Blackwell attorney or any of our Governmental Affairs attorneys for more information.

Husch Blackwell LLP regularly publishes updates on industry trends and new developments in the law for our clients and friends. Please contact us if you would like to receive updates and newsletters, or request a printed copy.

Husch Blackwell encourages you to reprint this material. Please include the statement, "Reprinted with permission from Husch Blackwell LLP, copyright 2011, [www.huschblackwell.com](http://www.huschblackwell.com)" at the end of any reprints. Please also email [info@huschblackwell.com](mailto:info@huschblackwell.com) to tell us of your reprint.

This information is intended only to provide general information in summary form on legal and business topics of the day. The contents hereof do not constitute legal advice and should not be relied on as such. Specific legal advice should be sought in particular matters.