

THE PRACTITIONER

A monthly newsletter of the Energy Facility Contractors Group's
Project Delivery Working Group



EFCOG

Issue 51

October 2023

Happy New (Fiscal) Year!

Happy New Year Energy Facility Contractors Group (EFCOG) Project Delivery Working Group (PDWG), and a hearty welcome to all our new members!

As with most new fiscal years, we enter 2024 under a Continuing Resolution (CR). While another CR is not uncommon, this month the *Practitioner* takes a focused look at CRs in general, to better understand “Everything you Should Know” about potential government shutdowns.

So let's pull back the curtain...



What is a Continuing Resolution? ([Definition from the Committee for a Responsible Federal Budget](#))

A continuing resolution temporarily funds the government in the absence of full appropriations bills, often by continuing funding levels from the prior year. Traditionally, CRs have been used to give lawmakers a short period of time to complete their work on remaining appropriations bills while keeping the government open. CRs sometimes apply to only certain appropriations, but they can also be used to fund all discretionary functions for as long as the entire year.

CRs differ from normal appropriations bills in that they often “continue” funding allocations from previous bills at the prior year's level, or through a formula based on the prior year's level. Even when overall funding levels have differed, lawmakers have often simply scaled-up all accounts by a percent change in spending, rather than making individual decisions on spending accounts. However, CRs often do include certain “anomalies,” where specific items are increased or decreased to work around some problems that would occur from continuing the previous year's policies, or “policy riders,” where certain funding restrictions are specified in order to dictate policy. Colloquially, a “clean CR” does not contain policy riders or politically motivated changes to funding levels.

Continues on next page

Continuing Resolutions

Continued from previous page

Appropriations Watch: FY 2024

SEP 30, 2023

OTHER SPENDING

Updated 9/30/2023: The new fiscal year begins on October 1, and Congress needed to enact either a continuing resolution (CR) or regular appropriations for FY 2024 by the end of the week to avoid a government shutdown. The Senate has been trying to advance a three-bill “minibus” appropriations package and also [released a CR](#) on Tuesday, Sept. 26, that would extend funding and certain program authorizations through Nov. 17. On Sept. 30, the House also passed a [CR through Nov. 17](#), but it lacked the supplemental funding for Ukraine that was in the Senate CR. The Senate ended up clearing the House-passed seven-week CR the night of Sept. 30, averting a government shutdown.

The House is also continuing to debate full-year appropriations bills. Previously, House leaders introduced a [one-month CR](#) with border security provisions attached and later [modified it](#) with additional reductions to nondefense, non-veterans, non-Homeland Security spending, as well as provisions to create a fiscal commission, but the CR failed on a floor vote.

With the enactment of the [Fiscal Responsibility Act](#) (FRA), appropriations bills were marked up in the House and Senate in June and July. The FRA caps total base discretionary spending at \$1.590 trillion for FY 2024, with base defense spending capped at \$886 billion (a 3 percent increase from FY 2023) and base nondefense spending capped at \$704 billion (up to a 9 percent decrease from FY 2023, depending on how it is measured).

As we did [last year](#), we’ll be tracking the bills as they move from committee to the House and Senate floor and onto the President’s desk.

The table below shows the status of each appropriations bill. To learn more about the appropriations process, read our [Appropriations 101](#) paper.

Appropriations will be one of several deadlines Congress will face over the coming months. See a list of the [upcoming fiscal deadlines here](#).

Item	House	Senate
Continuing Resolution through Nov. 17 (House version)	Passed by a 335-91 vote on Sept. 30	Passed by an 88-9 vote

Continues on next page

THE PRACTITIONER

Published monthly for the EFCOG’s Project Delivery Working Group by:

Craig Hewitt
(writer/editor)
(509) 308-2277
[Craig T Hewitt@rl.gov](mailto:Craig_T_Hewitt@rl.gov)

Adam Russell
(writer/publisher)
(509) 376-5742
[Adam Russell@rl.gov](mailto:Adam_Russell@rl.gov)

Tony Spillman
(managing editor)
(509) 372-9986
[Anthony W Spillman@rl.gov](mailto:Anthony_W_Spillman@rl.gov)

For questions, comments, story ideas or other correspondence, call or e-mail Craig Hewitt at the contact information above.

Continuing Resolutions

Continued from previous page

How does Congress determine the total level of appropriations?

After the President submits the Administration's budget proposal to Congress, the House and Senate Budget Committees are each directed to report a budget resolution that, if passed by their respective chambers, would then be reconciled in a budget conference (to learn more, see [Q&A: Everything You Need to Know About a Budget Conference](#)).

The resulting budget resolution, which is a concurrent resolution and therefore not signed by the President, includes what is known as a **302(a) allocation** that sets a total amount of money for the **Appropriations Committees** to spend. For example, the conferenced Fiscal Year (FY) 2016 budget between the House and Senate set the 302(a) limit for that year at \$1.017 trillion.

In the absence of a budget resolution, each chamber may enact a deeming resolution that sets the 302(a) allocation for that chamber. Leaders of the House and Senate Budget Committees may propose deeming resolutions at whatever level they find necessary to fund discretionary priorities and to officially set 302(a) allocations for the fiscal year. Deeming resolutions for FY 2024 had been expected to adhere to the \$1.590 trillion level included in the [Fiscal Responsibility Act](#), but the House may [draft its appropriations bills to the \\$1.471 trillion level from FY 2022](#) and set its 302(a) allocations accordingly. In the House, this can be done by a simple majority vote, which is how the [FY 2023 deeming resolution passed](#). However, in the Senate such a resolution does not have privileged consideration, making it vulnerable to a filibuster.

The appropriations process for the current fiscal year, FY 2023, was completed in December 2022. The House adopted a deeming resolution for FY 2023 in June 2022 and passed six appropriations bills over the summer, while the Senate released its bills in late July and passed none before the new fiscal year. Lawmakers ultimately agreed to an [FY 2023 omnibus appropriations bill](#) in December 2022 that provided \$1.602 trillion in base discretionary spending, an increase of 8.9 percent from comparable FY 2022 level.

How does Congress allocate appropriations?

Once they receive 302(a) allocations, the House and Senate Appropriations Committees set 302(b) allocations to divide total appropriations among the 12 subcommittees dealing with different parts of the budget. The subcommittees then decide how to distribute funds within their 302(b) allocations. The 302(b) allocations are voted on by the respective Appropriations Committees, but they are not subject to review or vote by the full House or Senate. The table below lists the FY 2023 regular (non-emergency) appropriations along with the House and Senate FY 2024 302(b) allocations. The table will be updated as both the House and Senate Appropriations Committees release their 302(b) allocations for FY 2024.

The table below compares [actual funding for FY 2023](#) with the FY 2024 302(b) allocations from the House and Senate.

Concludes on next page

Continuing Resolutions

Concluded from previous page

Budget Authority Allocations to Appropriations Subcommittees (billions)				
Subcommittee	FY 23 Enacted Level	President's FY 24 Budget	House FY 24	Senate FY 24
Agriculture	\$25.5	N/A	\$17.8	\$26.0
Commerce, Justice, Science	\$82.4	N/A	\$58.7	\$69.6
Defense	\$797.7	N/A	\$826.4	\$823.3
Energy and Water Development	\$54.0	N/A	\$52.4	\$56.7
Financial Services and General Government	\$27.6	N/A	\$11.3	\$17.0
Homeland Security	\$60.7	N/A	\$62.8	\$56.9
Interior, Environment	\$38.9	N/A	\$25.4	\$37.9
Labor, HHS, Education	\$207.4	N/A	\$147.1	\$195.2
Legislative Branch	\$6.9	N/A	\$6.7 (\$5.3 House-only spending formally approved)	\$6.8
Military Construction, VA	\$154.2	N/A	\$155.7	\$154.4
State, Foreign Operations	\$59.7	N/A	\$41.4	\$58.4
Transportation, HUD	\$87.3	N/A	\$65.2	\$88.1
Undistributed Changes in Mandatory Programs	N/A	-\$30.6*	N/A	N/A
Total, Base Discretionary	\$1.602 trillion	\$1.695 trillion*	\$1.471 trillion[^]	\$1.590 trillion[^]

Sources: [House Appropriations Committee](#), [Senate Appropriations Committee](#), [CBO estimate of H.R. 2617 \(FY 2023 omnibus\)](#), [Office of Management and Budget](#), [CQ](#).

*The President's FY 2024 budget proposes \$1.726 trillion in discretionary funding partially offset by \$30.6 billion in changes in mandatory spending programs (CHIMPs).

[^]The Senate 302(b) totals reflect the cap as enacted in the Fiscal Responsibility Act; the House is expected to limit its total to the FY 2022 level. New Senate allocations with [emergency spending and other revisions that were filed on September 12](#) total \$1.652 trillion and include \$36.7 billion for emergency spending, \$20.4 billion for disaster relief, and \$2.65 billion for wildfire suppression. Emergency spending is distributed as follows: \$10.8 billion for Transportation-HUD, \$8 billion for Defense, \$4.5 billion for Labor-HHS-Education, \$4.3 billion for Homeland Security, \$3.25 billion for State-Foreign Operations, \$2.25 billion for Commerce-Justice-Science, \$2.195 billion for Interior-Environment, and \$1.365 billion for Energy-Water. Disaster relief is spending is allocated to Homeland Security (\$20.261 billion) and Financial Services-General Government (\$143 million). All \$2.65 billion in fire suppression spending is allocated to Interior-Environment.

Government Shutdowns Q&A: Everything You Should Know

The new fiscal year (FY) begins on October 1, 2023, and Congress has so far enacted none of the 12 appropriations bills setting discretionary spending levels. Lawmakers have until midnight on the final day of the fiscal year – September 30 – to enact legislation to fund the programs covered by the appropriations process, or the government will shut down. A continuing resolution (CR) to allow lawmakers more time to complete work on spending bills is likely to be considered. A shutdown in FY 2024 would affect all federal activities covered by discretionary appropriations, as opposed to the most recent FY 2019 shutdown that began in late 2018 and extended into early 2019 that affected only departments and agencies [covered by the seven appropriations bills](#) that Congress had not yet enacted.

What is a government shutdown?

Many federal government agencies and programs rely on annual funding appropriations passed by Congress. Every year, Congress must pass and the President must sign budget legislation for the next fiscal year, consisting of 12 appropriations bills, one for each Appropriations subcommittee. Congress has not yet enacted any of the 12 bills for FY 2024 that make up the discretionary spending budget. In a “shutdown,” federal agencies must discontinue all non-essential discretionary functions until new funding legislation is passed and signed into law. Essential services continue to function, as do mandatory spending programs.

What services are affected in a shutdown and how?

Each federal agency develops its own shutdown plan, following guidance released in previous shutdowns and coordinated by the Office of Management and Budget (OMB). The plan identifies which government activities may not continue until appropriations are restored, requiring furloughs and the halting of many agency activities. Essential services – many of which are related to public safety – continue to operate, with payments covering any obligations incurred only when appropriations are enacted. In prior shutdowns, border protection, in-hospital medical care, air traffic control, law enforcement, and power grid maintenance have been among the services classified as essential, while some legislative and judicial staff have also been largely protected. Mandatory spending not subject to annual appropriations, such as for Social Security, Medicare, and Medicaid, also continues. Other examples of activities that continue are those funded by permanent user fees that are not subject to appropriations, such as immigration services funded by visa fees. Certain programs that are funded through advance appropriations, such as those within the Veterans Health Administration, have been minimally affected during recent shutdowns.

Continues on next page

Government Shutdown

Continued from previous page

Although many programs are exempt, the public is still likely to feel the impact of a shutdown in several ways. For example, in a full shutdown:

- Social Security and Medicare: Checks are sent out, but benefit verification as well as card issuance would cease. While unlikely to happen again, during the 1995-1996 shutdown, [more than 10,000 Medicare applicants were temporarily turned away](#) every day of the shutdown.
- Environmental and Food Inspection: During the 2013 shutdown, the Environmental Protection Agency (EPA) halted site inspections for 1,200 different sites that included hazardous waste, drinking water, and chemical facilities, and the Food and Drug Administration (FDA) delayed almost 900 inspections. During the 2018-2019 shutdown, the FDA restored some food inspections a few weeks into the funding lapse for products that were considered high-risk.
- National Parks: In 2013, the National Park Service (NPS) turned away millions of visitors to more than 400 parks, national monuments, and other sites. NPS estimated that the shutdown led to more than \$500 million in lost visitor spending nationwide. Many parks remained open during the 2018-2019 shutdown, though no visitor services were provided, and damage and trash build-up were reported at many sites.
- Air Travel: During the 2018-2019 shutdown, [air travel was strained](#) as a result of air traffic controllers and Transportation Security Administration (TSA) agents working without pay. Travelers faced longer lines as some TSA agents did not report to work and security checkpoints were closed, while [the absence of ten air traffic controllers](#) temporarily stopped travel at LaGuardia Airport and caused delays at several major airports.
- Health and Human Services: The National Institutes of Health (NIH) would be prevented from admitting new patients or processing grant applications. In 2013, states were [forced](#) to front the money for formula grant programs such as Temporary Assistance for Needy Families (TANF, sometimes described as “cash welfare”).
- Internal Revenue Service (IRS): As a result of funds provided in the Inflation Reduction Act, [normal IRS operations would continue](#) and all 83,000 employees would be exempt from furlough. In 2013, a backlog of 1.2 million income and Social Security number verification requests delayed mortgage and other loan approvals, and billions of dollars of tax refunds were also delayed. At least 26,000 furloughed IRS employees were recalled to work during the 2018-2019 shutdown in preparation for tax season, but [14,000 did not show up](#) to work without pay.
- Supplemental Nutrition Assistance Program (SNAP): Though funding for the SNAP program is mandatory, the ability to send out “food stamp” benefits could be affected by a shutdown, since continuing resolutions have generally only authorized the Agriculture Department (USDA) to send out benefits for 30 days after a shutdown begins. During the 2018-2019 shutdown, the USDA paid February SNAP benefits early on January 20, just before the 30-day

Continues on next page

Government Shutdown

Continued from previous page

window ended, but it would have been unable to pay March benefits had the shutdown continued. In addition, during any shutdown, stores are not able to renew their Electronic Benefit Transfer (EBT) card licenses, so those whose licenses expire would not be able to accept SNAP benefits during a shutdown.

Is the government preparing for a shutdown?

OMB [maintains a list](#) of the various contingency plans federal agencies will follow during a shutdown. Most have been updated within the past three years, but some have not been updated since the last full shutdown in early 2018.

How would federal employees be affected?

A full shutdown would be more extensive than the partial shutdown that started in December 2018, when Congress had enacted five of the 12 appropriations bills. A full shutdown would likely be similar to recent ones in 2013 and early 2018, when approximately 850,000 out of 2.1 million non-postal federal employees were furloughed. In 2013, most of the 350,000 civilian employees at the Defense Department who had been furloughed were summoned back to work within a week. Furloughed employees are not allowed to work and do not receive paychecks, but are guaranteed back pay due to [legislation passed in January 2019](#).

At the beginning of the partial 2018-2019 shutdown, an [estimated 380,000 employees](#) were furloughed, a smaller number than usual since large federal employers such as the Veterans Affairs and Defense Departments were already funded. Another 420,000 employees reported to work but did not receive pay until the shutdown ended. As the 2018-2019 shutdown continued, departments and agencies such as the IRS and State Department recalled an increasing number of employees.

How and why do mandatory programs continue during a shutdown?

Whereas discretionary spending must be appropriated every year, mandatory spending is authorized either for multi-year periods or permanently. Thus, mandatory spending generally continues during a shutdown. However, some services associated with mandatory programs may be diminished if there is a discretionary component to their funding. For instance, during the 1996 shutdowns and the 2013 shutdown, Social Security checks continued to go out, but staff who handled new enrollments and other services, such as changing addresses or handling requests for new Social Security cards, were initially furloughed in 1996. In 2013, certain activities were discontinued, including verifying benefits and providing new and replacement cards, but the processing of benefit applications or address changes continued. During the 2018-2019 shutdown, USDA had to rely on a special authority included in the previous CR to allow it to continue issuing SNAP benefits.

Continues on next page

Government Shutdown

Continued from previous page

How many times has the government shut down?

Since Congress introduced the modern budget process in 1976, there have been 20 “funding gaps,” including the 2018-2019 shutdown and the one in January 2018, when funds were not appropriated for at least one day. (The hours-long lapse in appropriations in February 2018, though sometimes characterized as a shutdown, did not result in federal employee furloughs.) However, before 1980, the government did not shut down, but rather continued normal operations through six funding gaps. Since 1981, ten funding gaps of three days or fewer have occurred, mostly over a weekend when government operations were only minimally affected.

There have now been four “true” shutdowns where operations were affected for more than one business day. The first two happened in the winter of 1995-1996, when President Bill Clinton and the Republican Congress were unable to agree on spending levels, causing the government to shut down twice, for a total of 26 days. The third was in 2013, when a House and Senate standoff over funding for the Affordable Care Act (ACA) resulted in a 16-day shutdown. The fourth shutdown in December 2018 and January 2019 – technically only a partial shutdown because five of the 12 appropriations had previously been enacted – centered on a dispute over border wall funding and was the longest-lasting shutdown at 35 days.

Does a government shutdown save money?

While estimates vary widely, evidence suggests that shutdowns tend to cost – not save – money for several reasons. For one, putting contingency plans in place has a real cost. In addition, many user fees and other charges are not collected during a shutdown, and federal contractors sometimes include premiums in their bids to account for uncertainty in being paid. While many federal employees are forced to be idle during a shutdown, they have historically received and are now guaranteed back pay, negating much of those potential savings. OMB [official estimates](#) of the 2013 government shutdown found that \$2.5 billion in pay and benefits were paid to furloughed employees for hours not worked during the shutdown, as well as roughly \$10 million in penalty interest payments and lost fee collections.

Shutdowns also carry [a cost](#) to [the economy](#). The Congressional Budget Office (CBO) estimated that the 2018-2019 shutdown reduced Gross Domestic Product (GDP) by a total of \$11 billion, including \$3 billion that will never be recovered. On top of that effect, CBO notes that longer shutdowns negatively affect private-sector investment and hiring decisions as businesses cannot obtain federal permits and certifications or access federal loans. A 2019 Senate report found that the three government shutdowns in 2013, 2018, and 2019 [cost taxpayers nearly \\$4 billion](#).

Continues on next page

Government Shutdown

Continued from previous page

How can Congress avoid a shutdown?

There are essentially two ways to avoid a government shutdown – by passing appropriations or a continuing resolution (see question on “What is a Continuing Resolution?”). Theoretically, the House and Senate Appropriations committees are supposed to pass 12 different appropriations bills that are broken up by subject area and based on funding levels allocated in a budget resolution. Often, these bills are combined into larger “omnibus” or “minibus” legislation.

To avoid a shutdown, Congress would need to pass all 12 appropriations bills through both chambers and get them signed by the President by the end of the day on September 30. This could be done by enacting each bill individually, or by packaging them together through an omnibus or minibus. Neither the House nor the Senate has yet acted on a CR for FY 2024, hoping to resolve disagreements over whether discretionary spending levels should adhere to the spending caps enacted in the Fiscal Responsibility Act (FRA) this summer along with the debt limit suspension. Supplemental appropriations, [including funds for disaster relief and for additional Ukraine support](#), may be another point of contention as Congress considers a fall CR. For more about the status of specific appropriations bills, see [Appropriations Watch: FY 2024](#).

How often does Congress pass CRs?

Congress frequently passes CRs when lawmakers are unable to agree on appropriations before a deadline. Occasionally, multiple CRs are necessary to fund the government for an entire fiscal year. Congress also sometimes relies on CRs during presidential transition years. In FY 2001, a series of intense Congressional negotiations leading up to the 2000 election led to a series of ten, one-day CRs. In total, Congress funded the first three months of that fiscal year with 21 CRs.

Not surprisingly, CRs have been quite prevalent recently and were used to fund the government entirely in FY 2011, when eight CRs were passed, and in FY 2013, when two CRs were passed. In fiscal years 2012, 2014, 2015, 2016, 2020, 2021, and 2023, CRs were used to fund the government for roughly a quarter of each year. For FY 2023, the current fiscal year, appropriations were [completed in December](#), nearly one-fourth of the way through the fiscal year, requiring three CRs. Stopgap measures were used for nearly half of the year in [FY 2022](#), more than one-third of the year in [FY 2019](#), nearly half the year in [FY 2018](#), and more than half the year in [FY 2017](#). The most recent year when all full-year appropriations bills passed before the fiscal year began and no CRs were necessary was FY 1997.

What are the disadvantages of using CRs?

Continuing resolutions have [several negative implications](#) for the budget’s overall efficiency. CRs usually continue funding at the past year’s level without any regard for changing

Continues on next page

Government Shutdown

Continued from previous page

policy needs or the value of each program within an agency. Using a CR wastes hundreds of hours of careful consideration and program evaluation incorporated into each agency's budget submission. For instance, the President's annual budget proposes a list of eliminations and reductions of programs that are duplicative or ineffective; a CR will continue to fund these unwanted programs. Finally, the use of CRs disrupts activities within agencies, makes it difficult to plan or start future projects, and costs staff time to revise work plans every time the budget changes.

How is Congress addressing funding?

Congress has not yet enacted any appropriations bills as of early September, and the House has passed just one out of 12 FY 2024 appropriations bills. The Senate Appropriations Committee approved all 12 of its bills, but none have passed the full chamber. The major dispute remains over topline funding levels, with the House preferring to fund the government at FY 2022 levels and the Senate opting for the levels agreed to in the FRA. The House and Senate would have to agree on and pass the same versions of the bills before they are presented to the President for his signature. Congress is expected to consider a CR that would extend funding, largely at current levels, to allow more time to complete appropriations. For more about the status of specific appropriations bills, see [Appropriations Watch: FY 2024](#).

How does a shutdown differ from a default?

In a shutdown, the federal government temporarily stops paying employees and contractors who perform government services, whereas in a default the list of parties not paid is much broader. In a default, the government exceeds the statutory debt limit and is unable to pay some of its creditors (or other obligations). Without enough money to pay its bills, all the federal government's payments are at risk — including all government spending, mandatory payments, interest on our debts, and payments to U.S. bondholders. While a government shutdown would be disruptive, a government default could be disastrous. For more on a default, see our [Q&A: Everything You Should Know About the Debt Ceiling](#).

How does a shutdown differ from “sequestration” or “sequester”?

A government shutdown closes non-essential government operations due to a lack of funding, whereas a sequester or sequestration is shorthand for a process in which broad areas of government spending are reduced to make up for spending exceeding a certain threshold. In recent years, it has been associated with the reductions in discretionary spending caps that were in place up until FY 2021 that constrained the total amount of funding for annually appropriated programs. The sequestration mechanism for the next two years would work the same way as it

Concludes on next page

Government Shutdown

Concluded from previous page

did during the years the Budget Control Act (BCA) of 2011 was in effect, with OMB issuing sequestration reports calculating the amounts of needed cuts at the end of each congressional session if discretionary spending exceeds the caps.

The first example of sequestration was included in the Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985, and it is also used to enforce statutory pay-as-you-go (PAYGO). The BCA, which resolved the 2011 debt ceiling negotiations, created a Joint Select Committee on Deficit Reduction (the “Super Committee”) to identify at least \$1.5 trillion of deficit reduction over 10 years and set in motion the sequester if it did not identify at least \$1.2 trillion. The failure of the Super Committee triggered sequestration, causing discretionary spending caps to be automatically lowered for both defense and nondefense. Congress never allowed to take effect, passing partial sequester relief [in 2013](#) and [2015](#), and more-than-fully reversing the sequester in [2018](#) and [2019](#). If appropriations bills violated the increased spending caps, then across-the-board cuts would have been triggered.

For more information, see the following:

- Committee for a Responsible Federal Budget – [Appropriations Watch: FY 2024](#)
- Committee for a Responsible Federal Budget – [What Happens in a Partial Government Shutdown?](#)
- Committee for a Responsible Federal Budget – [Maya MacGuineas’s Testimony on Continuing Resolutions, Omnibuses, and Shutdowns](#)
- Congressional Budget Office – [The Effects of the Partial Shutdown Ending in January 2019](#)
- Congressional Research Service – [Federal Funding Gaps: A Brief Overview](#)
- Congressional Research Service – [The FY2014 Government Shutdown: Economic Effects](#)
- Congressional Research Service – [Shutdown of the Federal Government: Causes, Processes, and Effects](#)
- Government Accountability Office – [Uncertainty Limited Management Options and Increased Workload in Selected Agencies](#)
- Office of Management and Budget – [Agency Contingency Plans](#)
- Office of Management and Budget – [Impacts and Costs of the October 2013 Federal Government Shutdown](#)
- Office of Management and Budget – [Planning for Agency Operations During a Potential Lapse in Appropriation](#)
- Roy T. Meyers – [Late Appropriations and Government Shutdowns: Frequencies, Causes, Consequences, and Remedies](#)
- Senate Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations – [The True Cost of Government Shutdowns](#)

It Is Not One World

Who is checking the checkers?

With all that we see and hear from national level news media today, it's no surprise when we come across a story like the one featured in the article below. What is surprising, is how often we hear of those responsible for oversight drifting into areas diametrically opposed to their intended purpose. Let's have a look at...

'Tone at the Top' Led to Fraud, Bribes at Department of Building Inspection, Report Finds

Written by Annie Gaus

Published Sep. 16, 2021

[The San Francisco Standard](#)

The Department of Building Inspection (DBI) cultivated a culture of cronyism and corruption that festered for years ahead of the indictments of high-level department officials, according to a new report, enabling preferential treatment and "routine" conflicts of interest at the department.



A report published on Thursday by the Controller's Office found major flaws in DBI's protocols for building permitting and inspections, including the absence of any system for monitoring "red flag" activities such as improper approvals of project plans or inspections that fell outside of an employee's purview. Former DBI director Tom Hui further encouraged the abuses, the report said.

Those weaknesses, combined with a negative "tone at the top" during Hui's tenure, led to several alleged instances of bribery and favoritism. As part of a local corruption probe last year, the City Attorney found that Hui abused his position to help his son and his son's girlfriend obtain city jobs and accepted bribes from Walter Wong, a "permit expediter" who regularly worked with DBI.

"We welcome this review and appreciate the Controller's recommendations which we intend to fully implement as part of our larger, ongoing Reforms Initiative," said Patrick O'Riordan, interim Director at DBI. Hui resigned last year following accusations that he took bribes in exchange for preferential treatment of Wong's client, Li Zhang, developer of a mixed-use project at 555 Fulton Street.

The Controller's report noted that Hui, and possibly other DBI employees, had the ability to unilaterally assign specific staff—including themselves—to specific inspections, opening the door for preferential treatment and even bribery. DBI has more than 200 employees who issue permits

Concludes on next page

Checking the Checkers

Concluded from previous page

and conduct inspections. The department conducted more than 118,000 inspections of building, electrical, plumbing and housing construction, and issued more than 50,000 permits last year.

Hui appears to have rationalized preferential treatment of Wong by labeling it “good customer service,” according to the report. The report also noted a friendship between Wong and former Mayor Ed Lee, who appointed Hui as head of DBI, that may have created pressure to give favorable treatment. Lee passed away in 2017.

Two other officials connected to DBI, Rodrigo Santos and Bernard Curran, were criminally charged with building permit fraud as part of a federal corruption probe in August. Santos, an engineer and former Building Inspection Commission president, was accused of stealing more than \$400,000 from clients at his engineering firm. Curran, a former building inspector at DBI, was accused of giving favorable treatment to Santos’ clients in exchange for payments to favored nonprofits.

More recently, local policymakers have linked DBI’s practices to dangerous code violations.

At one apartment complex at 2861-2899 San Bruno Ave., a developer was found to have illegally crammed 30 units into a building intended to have no more than 10. The building was rife with fire and safety violations, including an illegal and hazardous “temporary” scaffolding that remained in place for two years. That housing project was inspected and approved by Curran under the direction of Hui, O’Riordan testified at a Board of Supervisors hearing on Monday.

“We at DBI have a long ways to go to earn the public’s trust,” O’Riordan told the Board of Supervisors Land Use & Transportation Committee. “We have reforms in place, we have a lot of work to do, and this is going to take time.” O’Riordan said the department had begun auditing projects that may have been impacted by unethical practices.

Shortly after the report was published, Mayor London Breed issued an executive directive requiring DBI to prevent further misconduct.

“The Controller’s report issued today documents an unacceptable pattern of misconduct and systemic failures under the previous leadership of the Department of Building Inspection,” said Breed in a statement. “The people of San Francisco deserve better.”

The directive requires DBI to more regularly disclose conflicts of interest, make technical changes to its permitting and inspection processes, and to retain a third-party entity to weed out further fraud risks.

The mayor’s directive was consistent with a number of recommendations issued by the Controller’s office as part of the report. Those recommendations included creating a strong compliance program, using data to monitor fraud risks, and better educating the public on proper and improper practices within the department.

**Check out the latest DOE
Project Management
newsletter!**
(Click on the banner)



Or have it delivered directly to your inbox every month!

1. Click [HERE](#) and a new email will open.
2. Just press SEND – Do not edit anything.
3. Click the provided link in the confirmation email you receive.

(An unsubscribe link is provided in each newsletter email.)

Just for Fun: October's Notable Events and Famous Birthdays

1 — Yosemite National Park was established (1890), President Jimmy Carter was born (1924), the People's Republic of China was established (1949), Roger Maris broke Babe Ruth's single-season home run record with his 61st (1961), and 58 people were killed in a mass shooting in Las Vegas (2017).

2 — The Texas Revolution began (1835), **Bob Gibson set the World Series single-game strikeout record with 17** (1968), TV personality Kelly Ripa was born (1970), and actor Rock Hudson died of AIDS (1985).



3 — Thanksgiving became an official holiday (1863), Iraq became an independent nation (1932), Britain successfully tested an atomic bomb (1952), and O.J. Simpson was acquitted of murder (1995).

4 — President Rutherford B. Hayes was born (1822), construction of Mount Rushmore began (1927), the Soviet Union launched *Sputnik*, the first artificial satellite, into orbit (1957), and Pope Paul VI became the first pope to visit the U.S. (1965).

5 — President Chester Arthur was born (1829), President Harry Truman delivered the first televised presidential speech (1947), the New York Yankees won a record fifth consecutive World Series title (1953), the first NC-17 film rating was given for *Henry & June* (1990), and Apple founder Steve Jobs died (2011).

6 — The first train robbery in the U.S. was staged (1866), and the Yom Kippur War between Israel and Egypt/Syria began (1973).

7 — The assembly line made its debut in a Ford factory (1913), East Germany was established (1949), rock star John Mellencamp (1951) and music judge Simon Cowell (1959) were born, and Operation Enduring Freedom began in Afghanistan (2001).

8 — Automobile inventor Frank Duryea was born (1869), the Great Chicago Fire began (1871), civil rights leader Jesse Jackson (1941) and actor Chevy Chase (1943) were born, Don Larsen pitched the only perfect game in World Series history (1956), actor Matt Damon was born (1970), and impeachment proceedings against President Bill Clinton began (1998).

9 — **Hoover Dam began transmitting electricity** (1936), and Beatle John Lennon was born (1940).



10 — The U.S. Naval Academy was established (1845), the first major operation of the Vietnam War began (1965), quarterback Brett Favre was born (1969), and stock car racer Dale Earnhardt Jr. was born (1974).

11 — Quarterback Steve Young was born (1961), the first manned Apollo mission launched (1968), and *Saturday Night Live* debuted (1975).

12 — Christopher Columbus reached the New World (1492), and singer John Denver died in a plane crash (1997).

13 — The Continental Navy was established (1775), the cornerstone of the White House was laid (1792), singer/songwriter Paul Simon (1941) and rocker Sammy Hagar (1949) were born, Bill Mazeroski hit the first ever World Series-winning walkoff home run (1960), and football Hall of Famer Jerry Rice was born (1962).

14 — General and President Dwight Eisenhower was born (1890), **USAF Capt. Chuck Yeager broke the sound barrier** (1947), the Cuban Missile Crisis began (1962), and rapper/singer Usher was born (1979).



15 — TV chef Emeril Lagasse was born (1959), and Wayne Gretzky broke the NHL career scoring record with 1,851 points (1989).

16 — Dictionary author Noah Webster was born (1758), China successfully tested its first nuclear bomb (1964), "Baby Jessica" was rescued from a well on live TV (1987), and 84 people died in a stampede at a World Cup match in Guatemala (1996).

17 — Motorcycle daredevil Evel Knievel (1938) and rapper Eminem (1972) were born, OPEC enacted an oil embargo on the U.S. and other nations (1973), and a 7.1 magnitude earthquake hit the Bay Area, postponing Game 3 of the World Series for 10 days (1989).

18 — The Mason-Dixon Line was established (1767), the U.S. took possession of Alaska (1867) and Puerto Rico (1898), singer Chuck Berry (1926), and NFL coach Mike Ditka and JFK assassin Lee Harvey Oswald (1939) were born.

19 — The American Revolutionary War ended with the British surrender at Yorktown, Va. (1781), and Maurice Richard became the first NHL player to score 500 goals (1957).

20 — The Louisiana Purchase was ratified (1803), baseball Hall of Famer Mickey Mantle (1931), rocker Tom Petty (1953) and rapper Snoop Dogg (1972) were born, and **three members of Lynyrd Skynyrd died in a plane crash** (1977).



21 — Jazz trumpeter Dizzy Gillespie (1917) and actress Carrie Fisher (1956) were born, and about 100,000 antiwar protesters marched on the Pentagon (1967).

22 — Actor Christopher Lloyd was born (1938), the U.S. suffered its first casualties in Vietnam (1957), President John F. Kennedy ordered a blockade of Cuba (1962), and Lance Armstrong was stripped of his 7 Tour de France titles (2012).

23 — TV personality Johnny Carson (1925) and musical parodist Weird Al Yankovic (1959) were born, and a car bomb exploded at the U.S. Marines barracks in Beirut, Lebanon, killing 241 (1983).

24 — The first transcontinental telegraph line was completed (1861), the United Nations was formally established (1945), Toronto won Canada its first World Series title (1992), and the supersonic Concorde jet made its last flight (2003).

25 — **Artist Pablo Picasso was born** (1881), and the U.S. invaded Grenada (1983).



26 — The Erie Canal opened (1825), the Shootout at the OK Corral occurred (1881), TV game show host Pat Sajak and politician Hillary Clinton (1947), and actor Dylan McDermott (1962) were born, and President George W. Bush signed the Patriot Act (2001).

27 — President Theodore Roosevelt was born (1858), New York's subway system began operation (1904), the Cuban Missile Crisis ended (1962), and the Boston Red Sox won their first World Series title in 86 years (2004).

28 — The Statue of Liberty was dedicated (1886), Congress overruled President Wilson's veto and enacted Prohibition (1919), rich guy Bill Gates (1955), PM guru and *Practitioner* editor Craig Hewitt (1959), and actress Julia Roberts (1967) were born, and the Digital Millennium Copyright Act was signed (1998).

29 — The stock market crashed, touching off the Great Depression (1929), actor Richard Dreyfuss was born (1947), the Suez Crisis began when Israel invaded Egypt (1956), and guitarist Duane Allman died in a motorcycle crash (1971).

30 — President John Adams was born (1735), "The War of the Worlds" was broadcast, causing a nationwide panic (1938), actor Henry Winkler was born (1945), and Muhammad Ali beat George Foreman for the heavyweight title in the "Rumble in the Jungle" (1974).

31 — Nevada became a state (1864), Magician/escape artist Harry Houdini died (1926), **Earl Lloyd broke the color line in the NBA** (1950), rapper Vanilla Ice was born (1967), and Indian prime minister Indira Gandhi was assassinated (1984).



Remember: **C**ompliant data is **C**urrent,
Accurate, **C**omplete, **R**epeatable and
Auditable.®

©2019, CT Hewitt Consulting