



# Shutdown likely to drag on as issues grow more complicated

Federal Affairs Alert

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The federal government shutdown, now in its fourth day, appears likely to continue a while longer as the list of issues under discussion between the President and Congressional leaders, and within the Congress, becomes longer and more complex.

**Congress faced two major fiscal deadlines as October approached:** the expiration of funding for most government operations on **October 1**, and the **October 17** deadline reported by Treasury Secretary Jack Lew at which the United States is at risk of defaulting on its obligations absent the authority to borrow above the current debt limit of US\$16.7 trillion. While discussions in late September focused on the spending deadline, **the proximity of the October 17 deadline has forced a practical merger of the two issues.** A resolution of the spending shutdown appears virtually unachievable without a formula on the debt issue as well.

Legislative efforts by House Republicans to pass temporary funding for the government have combined temporary spending authority (generally through December 15) with provisions to repeal or modify provisions of the Affordable Care Act, and have met with rejection in the Democratic-controlled Senate. The President and Senate Democrats have equally rejected attempts by House Republicans to fund small parts of the government, such as the National Parks Service and the National Institutes of Health, while larger negotiations go forward. With close to twenty House Republicans stating publicly their willingness to join Democrats to vote for a clean funding bill with no policy provisions, it appears that there may be sufficient votes in the House to pass a clean bill. However, that formula would likely result in a vote in which the majority of supporters could be Democrats and the Speaker so far has been reluctant to bring the measure to the floor under these circumstances.

**An alternative approach that may be gaining some traction is for the President and senior Congressional negotiators to put both spending and debt on the table as part of a larger discussion of fiscal issues.** In a letter from Senate Majority Leader Harry Reid (D-Nevada) to Speaker John Boehner (R-Ohio) dated October 2, the Majority Leader proposes a broad conference discussion of budgetary issues including tax reform, healthcare, agriculture, and discretionary spending. In the letter, however, Reid's offer has as **a precondition** the adoption by the House of the Senate-passed legislation to fund the government **through November 15** at the spending levels that House Republicans have previously approved and that are lower than the levels that Senate Democrats support. While the parties appear still to be far apart, **the Reid letter may be an opening**, given that it proposes to open up a larger discussion of policy and fiscal priorities, essentially the approach that House Republicans have been discussing for the debt ceiling negotiations.

**There are, however, major impediments**, not only with the substance of a larger deal but also with the issue of how to proceed. In his letter to the Speaker, Majority Leader Reid proposes that the budget talks take place after the House has adopted legislation to reopen the federal government, a sequence that some Republicans might see as giving up their leverage. An alternative might be to agree to a short-term spending extension, with negotiations to begin almost immediately, towards a larger deal, as a precondition to the debt ceiling deadline. **But, given the failure of Congress to reach such a deal in 2011 after lengthy negotiations, it seems unlikely that a major debt agreement could be worked out in less than two weeks.** A variation would be to also extend the debt ceiling for a short time period while negotiations continue, and, while the President has rejected this approach, **it may provide a path forward** as part of a larger deal.

Yesterday afternoon, House Majority Leader Eric Cantor (R-Virginia) advised Republican members that **over the next few days the House would take up smaller bills to fund particular agencies of government, a tactic that the Senate Democrats and the President so far have rejected out of hand.**

The chairmen of the tax writing committees in both houses of Congress have indicated that they would welcome the opportunity to include tax reform as part of a larger budget deal, but while a great deal of work has been done by the majority staffs to develop tax reform bills in both the House Ways and Means and Senate Finance Committees, there is still much work to be done in the drafting process and in vetting the drafts with Members both on and off the Committee.

Ways and Means Chairman Dave Camp (R-Michigan) has held a series of briefings for Republican members on his likely tax reform draft plan, but as yet no briefings have been held with Democratic Members. Although some progress has been reported in drafting on the Senate Finance Committee where there appears to be more bipartisan interaction, indications are that there is a long way to go before the proposal is ready for circulation. That is, it seems close to impossible for tax reform to be a substantive component of a budget deal.

If tax reform is included, it would instead be as a set of instructions and timetables for the tax committees to act on, possibly with some agreed upon general principles around which tax reform would be structured (i.e., lower rates, simplification, more competitive international system).

As of now, **there are indications that Ways and Means Committee Democrats may be reluctant to support the chairman's expected tax reform draft, and there are issues that separate the parties as well on the Finance Committee**, most notably the disagreement over whether reform should be revenue neutral. In the event that instructions mandating tax reform are included in a budget agreement, that dynamic will need to change. There will need to be a formula that creates some bipartisanship on tax reform or the instructions will lead to failure.

While a formula to avoid the shutdown has failed to materialize and at least as of now, the end to the budget dispute is not in clear sight, **elements have been offered that could provide an eventual way out.** However, because those elements involve a wide set of issues that have proven difficult to address in the past, the shutdown could be prolonged.

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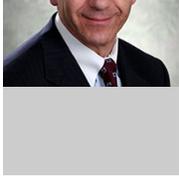
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