Testimony Submitted for the Record
House Committee on Appropriations
Hearing on Funding Lapses: Analyzing Shutdown Reform
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Chairman Cole, Ranking Member DeLauro and members of the Committee, thank you for the opportunity to submit testimony for today's hearing.

Citizens for Responsibility and Ethics in Washington (CREW) is a nonpartisan nonprofit organization dedicated to ethics, transparency and accountability. Our mission is to build and preserve a durable, ethical democracy defined by interbranch checks and balances and adherence to the rule of law. Today, we write to urge the committee to explore options for enhancing oversight of government spending during lapses in appropriations and express deep concerns with any proposal that would implement automatic continuing resolutions absent enactment of annual appropriations bills, and thereby cede legislative branch power to the executive branch.

I. The committee should consider additional statutory controls to protect its power of the purse during government shutdowns.

Article I of the Constitution gives Congress exclusive power over the federal purse[1]: "the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people."[2] The discretionary funding process—through which the committee analyzes the president's annual budget request, engages in extensive interbranch coordination and negotiations, conducts hearings and ultimately develops bicameral appropriations legislation with participation of members of Congress from different parties—represents a fundamental exercise of this Article I power. In the past 50 years, however, discretionary funding has lapsed 23 times, with three funding gaps totaling 120 days in this fiscal year alone.[3] The resulting shutdowns affect individuals who rely on government services, create uncertainty for uncompensated federal workers and impose demonstrable costs and negative economic effects.[4]

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[1] U.S. Const. art. I, § 9, cl. 7 (Appropriations Clause); *id.* § 8, cl. 18 (Necessary and Proper Clause); *United States v. MacCollom*, 426 U.S. 317, 321 (1976); *Cf. also* U.S. Const. art. I, § 8, cls. 1, 2, 5.
[2] The Federalist No. 58 (James Madison).
[3] James V. Saturno, *Federal Funding Gaps: A Brief Overview*, CRS, at 2–3 (May 26, 2026), https://www.congress.gov/crs-product/RS20348.
[4] Congressional Budget Office, *The Effects of the Partial Shutdown Ending in January 2019* 1, 2 (Jan. 2019), https://www.cbo.gov/system/files/2019-01/54937-PartialShutdownEffects.pdf; *see, e.g.*, Meg Kinnard, *What to know about the Homeland Security shutdown*, AP (Feb. 14, 2026), https://apnews.com/article/homeland-security-shutdown-ice-funding-7bf62bc50ca0a6a6013a714bee2ffdb4; ; Carolyn Jones, *Head Start programs begin closing in California due to shutdown* CalMatters (Oct. 31, 2025), https://calmatters.org/education/2025/10/california-head-start/.

Beyond those impacts, however, shutdowns also cause harm by shifting immense power from the peoples' representatives to the executive branch. Agencies create their own plans for operations during a lapse—under guidance that also is developed by the executive branch—and decide which functions they consider "excepted."[5] Over the years agencies have taken significant liberties with this responsibility during funding gaps by continuing to obligate funds for myriad programs and activities for which Congress has not yet appropriated funds.[6] And as explained by a federal court, this fiscal year the executive branch appears to have "taken advantage of the lapse in government spending and government functioning to assume that all bets are off, that the laws don't apply to them any more and that they can impose the structures that they like."[7]

CREW encourages the committee to be thoughtful and particular as it considers how to prevent or mitigate the specific harms and significant costs caused by shutdowns. In that regard, we urge the committee to explore additional transparency provisions and statutory controls to prevent and facilitate oversight of unauthorized spending during future lapses in appropriations. The committee may wish to consider requiring executive branch agencies to provide an accounting, program-by-program, of obligations incurred during a lapse,[8] outlining in statute requirements to develop, maintain and publish contingency plans that

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[5] OMB, Circular No. A-11: Preparation, Submission, and Execution of the Budget § 124.2 (Aug. 2025), https://www.whitehouse.gov/wp-content/uploads/2025/08/a11.pdf.

[6] *See, e.g.*, U.S. Gov't Accountability Off., B-331092, *U.S. Department of Agriculture—Operations of the Farm Service Agency during the Fiscal Year 2019 Lapse in Appropriations* 2 (June 29, 2020), https://www.gao.gov/assets/b-331092.pdf (farm programs); U.S. Gov't Accountability Off., B-333281, *Smithsonian Institution—Application of the Antideficiency Act to Employee Travel during a Lapse in Appropriations* 4 (Oct. 19, 2021), https://www.gao.gov/assets/b-333281.pdf (employee salary); U.S. Gov't Accountability Off., B-331132, *Office of Management and Budget—Regulatory Review Activities during the Fiscal Year 2019 Lapse in Appropriations* 1 (Dec. 19, 2019), https://www.gao.gov/assets/710/703496.pdf (regulatory reviews); U.S. Gov't Accountability Off., B-331094, *U.S. Department of Agriculture—Early Payment of SNAP Benefits* 2 (Sept. 5, 2019), https://www.gao.gov/assets/b-331094-d20753.pdf (Supplemental Nutrition Assistance Program benefits); U.S. Gov't Accountability Off., B-331093, *U.S. Department of the Treasury—Tax Return Activities during the Fiscal Year 2019 Lapse in Appropriations* 1 (Oct. 22, 2019), https://www.gao.gov/assets/b-331093-d20946.pdf (tax returns); U.S. Gov't Accountability Off., B-330776, *Department of the Interior—Activities at National Parks during the Fiscal Year 2019 Lapse in Appropriations* 1 (Sept. 5, 2019), https://www.gao.gov/assets/b-330776-d20751.pdf (national park maintenance).

[7] Hassan Ali Kanu, *Judge blocks Trump admin from laying off federal workers during government shutdown*, Politico (Oct. 15, 2025), https://www.politico.com/news/2025/10/15/trump-administration-layoffs-order-00609833; *see also* Anastasia Obis, *Is it legal to use R&D money to pay troops during shutdown?*, Federal News Network (Oct. 14, 2025), https://federalnewsnetwork.com/management/2025/10/is-it-legal-to-use-rd-money-to-pay-troops-during-shutdown/.

[8] GAO, GAO-21-538T, *Testimony before the House Committee on the Budget—Proposals to Reinforce Congress's Constitutional Power of the Purse* 7 (Apr. 29, 2021), https://www.gao.gov/products/gao-21-538t; *see also* Congressional Power of the Purse Act, H.R. 5220, § 213, 119th Cong. (2025).

include specific information about the number and types of exempt and excepted employees,[9] redefining or otherwise restricting the scope of the limited exceptions under the Antideficiency Act,[10] or explicitly prohibiting the use of unexpired amounts from gift or fee collection authorities absent a specific statutory exception.[11]

II. Automatic continuing resolutions also harm government operations and would constitute an extraordinary shift of Congress's power of the purse to the executive branch.

Considering the substantial harm caused by government shutdowns, an automatic continuing resolution—which prevents a funding gap by automatically appropriating the prior year's funding level for a certain time period—may appear to be a deceptively reasonable alternative.[12] But putting the government on autopilot is not a silver bullet. An automatic continuing resolution does not solve the political disagreements that drive funding gridlock and, at the same time, disincentivizes negotiations, creates many of the same disruptions caused by funding gaps, and risks further institutional damage to Congress's power of the purse. At worst, officials could manipulate the funding process by relying on automatic continuing resolutions—purportedly a temporary tool—to effect extended across-the-board cuts and give the executive branch authority to operate programs without regular oversight or approval by Congress.

Continuing resolutions cause inefficiency and impede agencies' abilities to carry out mission-critical functions.

In multiple studies on continuing resolutions, the Government Accountability Office (GAO) has outlined the decreased productivity and increased costs agencies suffer when they need to operate with only a portion of their funding and without certainty as to the final amount

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[9] U.S. Gov't Accountability Off., *FY 2019 Government Shutdown: Selected Agencies Could Improve Contingency Planning for Potential Shutdown Scenarios and Strengthen Some Internal Controls* 34–35 (June 2020), https://www.gao.gov/assets/710/707371.pdf.
[10] U.S. Gov't Accountability Off., *Shutdowns/Lapses in Appropriations*, https://www.gao.gov/legal/appropriations-law/lapses-in-appropriations (last visited July 18, 2026).
[11] *See, e.g.*, *Department of the Interior—Activities at National Parks*, *supra* note 6, at 1–2 (improper use of recreation fees during shutdown).
[12] *See, e.g.*, S. 4632, 119th Cong. (2026); H.R.5870, 119th Cong. (2025); S. 2806, 119th Cong. (2025); H.R. 5552, 119th Cong. (2025).

Congress will provide.[13] These consequences include a reduction in services, higher costs for delayed contract awards, lower quality grant applications due to compressed timelines and a decreased ability to fulfill the agency's mission due to hiring constraints.[14] Automatic continuing resolutions—some of which provide less than two percent of an agency's funding every 14 days—will only prolong and exacerbate the challenges of operating with significant funding constraints.[15]

Continuing resolutions require agencies to spend conservatively at a time when the executive branch may already seek severe cuts to programs it dislikes.

Continuing resolutions typically include standard provisions that require agencies to take only limited funding actions and prevent them from spending funds for certain grants or other programs "that would impinge on final funding prerogatives."[16] By including these provisions in automatic continuing resolutions,[17] which renew until Congress passes full-year appropriations acts, Congress would be providing the executive branch a tool to justify restricting funds for disfavored programs at a time when it may already be seeking, or attempting to implement, unilateral cuts.[18]

Automatic continuing resolutions do not account for current needs.

Even when Congress provides short-term funding through a continuing resolution, it does not do so in a vacuum. Rather, Congress may consider the status of full-year appropriations bills, agencies' emergent funding needs, budgetary or inflationary changes that warrant a higher or lower amount of funding across the board, or other circumstances warranting immediate congressional action. Through legislative "anomalies," Congress responds to these needs by changing the amounts appropriated or terms for certain programs to ensure

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[13] U.S. Gov't Accountability Off., GAO-18-368T, *Budget Issues: Continuing Resolutions and Other Budget Uncertainties Present Management Challenges* 4-5 (Feb. 2018), https://www.gao.gov/assets/gao-18-368t.pdf; U.S. Gov't Accountability Off., GAO-26-107065, *Defense Budget: Effects of Continuing Resolutions on Selected Activities and Programs Critical to DOD's National Security Mission* 8 (Jan. 2026), https://www.gao.gov/assets/gao-26-107065.pdf (reporting "delays, increased costs, operational challenges, spending challenges, and administrative burdens as a result of" continuing resolutions); U.S. Gov't Accountability Off., GAO-22-104701, *Federal Budget: Selected Agencies and Programs Used Strategies to Manage Constraints of Continuing Resolutions* 16–18 (June 2022), https://www.gao.gov/assets/gao-22-104701.pdf.
[14] *See Budget Issues: Continuing Resolutions*, *supra* note 13, at 4.
[15] *See id.* at 5 ("Shorter and more numerous CRs can lead to more repetitive work.").
[16] James V. Saturno, et al., *Continuing Resolutions: Overview of Components and Practices*, CRS, at 6–8 (Mar. 2025), https://www.congress.gov/crs_external_products/R/PDF/R46595/R46595.7.pdf; *see also* Making continuing appropriations for fiscal year 2027, and other purposes, H.R. 9770, §§ 109–110, 119th Cong. (2026).
[17] *See, e.g.*, S. 4632, 119th Cong. (2026).
[18] Catie Edmondson & Carl Hulse, *Trump's Unilateral Spending Cuts Complicate Shutdown Deal*, N.Y. Times (Oct. 16, 2025), https://www.nytimes.com/2025/10/16/us/politics/trump-unilateral-spending-cuts-shutdown.html.

that, even when other funding temporarily remains flat, Congress provides sufficient amounts and any needed flexibility. Automatic continuing resolutions contain no such mechanism, potentially leaving programs such as wildfire management, veterans' healthcare and benefits, and disaster relief without critical support.[19] We urge the committee not to adopt automatic continuing resolutions as a "solution" to the problem of government shutdowns.

We thank the committee for the opportunity to submit this statement and look forward to working with committee members to explore oversight options and legislative solutions for enhancing Congress's power of the purse.

[19] *See Budget Issues: Continuing Resolutions*, *supra* note 13, at 6; *see also Continuing Resolutions: Overview of Components and Practices*, *supra* note 16, at 6.