

DHS BUDGET UPDATE: December 7, 2018

Congress pushes CR deadline to December 21, threatening holiday shutdown: Negotiations to wrap FY 2019 Homeland Security appropriations remain at a standstill as Congress passed a Continuing Resolution for an additional two weeks past the latest December 7th deadline. Contention over funding a border wall being the primary hang up.

A recap of the issue: President Trump nearly triggered a federal shutdown last March when he almost rejected a FY 2018 funding package of \$1.6 billion for border fortifications, short of his promised concrete border wall. Trump let the bill pass into law, but his White House reiterated its request for border wall funding in the FY 2019 cycle. President Trump then stunned GOP appropriators this summer when he abruptly raised his border wall demand from \$1.6 billion to \$5 billion. In fact, [CQ Roll Call noted](#) the White House has never filed an official request for \$5 billion, leaving even President Trump's supporters guessing on how the Administration would spend the money. House Appropriations Homeland Security Subcommittee Chairman Kevin Yoder (R-KS) met President Trump's demand in the House's draft DHS funding bill, delivering \$5.5 billion to U.S. Customs and Border Protection's (CBP)'s procurement account including \$3.27 billion supporting "200 miles of new barriers" but few other details. The Senate Appropriations Committee has so far stuck with the earlier \$1.6 billion figure. President Trump has insisted he will block any funding bill that doesn't meet his \$5 billion wall demand, threatening a partial federal shutdown.

On December 6, both chambers passed a two-week continuing resolution keeping the Department of Homeland Security (DHS) and several other federal agencies funded at FY 2018 levels through December 21. The move puts off a threatened December 7 shutdown, but it also threatens Congress' holiday plans. The new shutdown threat could raise the pressure on negotiators to reach a deal, but it could just as easily mean Congress will simply pass another CR to head home early instead of hammering out a deal.

The next step in negotiations will be 11:30 AM on December 11, when House Democratic Leader Nancy Pelosi (D-CA) and Senate Democratic Leader Chuck Schumer (D-NY) will meet with President Trump at the White House. Senate Appropriations Chairman Richard Shelby (R-AL), who has emerged as the lead negotiator of the wall fight, said the Democratic leaders will push Trump to compromise and avoid a shutdown.

Chairman Shelby in November offered a potential compromise to split the \$5 billion across two years: \$2.5 billion in FY 2019, and \$2.5 billion in FY 2020. This would be \$900 million above the \$1.6 billion already approved by Shelby's committee. However, Sen. Shelby is also demanding offsets – corresponding cuts—for this increase. Even minor cuts to federal spending guarantees a backlash. For example, many news outlets pointed to a \$750 million Coast Guard icebreaker ship funded in the Senate's draft DHS funding bill that could be scrapped to help pay for a wall. This idea demonstrates how all federal spending has its own constituency, and powerful members like Sen. Lisa Murkowski (R-AK), who fought for the icebreaker, could turn against a plan with these cuts.

Mirroring their GOP counterparts, Democrats struggled to get on the same page on a border wall in November. Senate Democrats have already backed the Senate Appropriations Committee's draft DHS funding bill supporting the Trump Administration's original figure of \$1.6 billion, so Leader Schumer announced that would be a starting point for negotiations. House Democrats took a harder line and insisted on zero funding for a wall. [Inter-chamber differences spilled into the open in late November](#), when House Appropriations Committee member Rep. Henry Cuellar (D-TX) and Rep. Vicente Gonzalez (D-TX) both publicly accused Leader Schumer of undercutting House negotiators by agreeing to

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the \$1.6 billion figure. Schumer's office insisted Democrats are united in opposing border WALL funding, but may be open to higher non-wall border security funding.

Your Ferox-CT Strategies team will report on a final FY 2019 funding bill should it materialize in late December.

House shifts to Democratic control in 2019-2020: November's 2018 midterm election prompted historic interest, turning out more voters than any midterm election since 1966. House Democrats managed to gain nearly forty seats, winning back the House majority for the 116th Congress beginning in January 2019. The transition to a Democratic majority has been relative smooth for Democratic appropriators. House Minority Leader (and likely incoming Speaker) Nancy Pelosi announced months ago that current House Appropriations Ranking Member Nita Lowey (D-NY) would take over as Chairman. For House Appropriations' Homeland Security Subcommittee, Rep. Lucille Roybal Allard (D-CA) is primed for a similar shift from ranking member to chair.

For House Republicans, however, the story was very different. Current Defense Subcommittee Chair Kay Granger (R-TX) emerged as the top candidate for Ranking Member slot of the full House Appropriations Committee thanks to her seniority and experience managing the massive Defense portfolio, but faced stiff challenges from the less-experienced Rep. Tom Graves (R-GA) and several others. Granger eventually prevailed in a closed-door party meeting, reportedly by a single vote on the third ballot. Granger's elevation to lead the full committee, coupled with losses like soon-to-be-former Homeland Security Subcommittee Chairman Kevin Yoder (R-KS), could produce a difficult-to-predict domino effect among the Republican subcommittee leaders.

The House shift to Democratic control will alter the Appropriations Committee's "ratio," pushing off Republican members and adding Democrats to reflect the Democratic majority. Less-senior House GOP appropriators are most likely to be pushed off. Members hoping to join House Appropriations face stiff odds: because appropriations remain one of the few "must-pass" annual vehicles, and because of the sheer scope and power of the federal funding process, many members are eager to join. Seniority is one factor in joining the committee, though internal Democratic politics may be another. Plum committee spots were a typical bargaining chip in the Democrats' leadership elections that played out in November. For example, progressive [Rep.-elect Rashida Tlaib \(D-MI\) told The Intercept](#) that she would only support Pelosi's bid to be Speaker of the House if she could join House Appropriations, which would be extremely unusual for a freshman. It remains unclear if Tlaib will get her wish: final committee line-ups may not be announced until mid-December or later as Congress prepares for the new year.

Not much change for Senate appropriators in 116th Congress: While the midterms brought dramatic change for the House, the Senate Appropriations Committee's lineup remains mostly intact. Senate Appropriations Committee Chairman Richard Shelby and Vice Chair Patrick Leahy (D-VT) will remain atop the committee. Homeland Security Subcommittee Chair Shelley Moore Capito (R-WV) is likely to keep her post, and after barely winning re-election in November, Ranking Member Jon Tester (D-MT) is likely to return as the Homeland Security Subcommittee's top Democrat. One change to watch: because Senate Democrats lost two seats overall, here too changing committee "ratios" may force off the most junior member of the minority party, Sen. Chris Van Hollen (D-MD).

Dems to debate earmark revival: The incoming 116th Congress could bring another debate over "earmarks," congressionally-directed spending. Earmarks were once a popular tool for individual members of Congress to direct funding to favored and local priorities such as infrastructure, but Congress banned the practice in 2010 amid concerns about misuse. Some senior members have complained that the ban made legislating more difficult because earmarks could no longer grease the proverbial wheels for major legislation. Earmarks were thought dead until the 115th Congress (2017-2018) when the House Republican Conference surprised its leadership by nearly voting to revive the practice, forcing Speaker Paul Ryan (R-WI) to halt the vote. House Appropriations Ranking Member Nita Lowey (D-CA) has said she would be open to reviving earmarks if the majority of House Democrats agreed. However, the idea will likely meet resistance from fiscal conservatives in the Senate. Earmark proponents may also struggle to convince newer members elected after 2010, who would be totally unfamiliar with the earmark process.