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Transportation Update from Peyser Associates

Shutdown Grinds On - Attempt to Build Off-Ramp Fails for Now

This was another week with no discussion between congressional leaders and the White House about how to end the government shutdown. Instead, it was a week when the Administration continued to take steps to threaten funding for Democratic-supported projects, layoff some federal workers and ensure the military and ICE agents receive paychecks while other federal workers do not. OMB Director Russell Vought gave voice to his strategy by saying the Administration is “making every preparation to batten down the hatches and ride out the Democratic intransigence.”

The most recent Administration actions started last Friday after this report came out when OMB announced they had laid off about 4,000 workers. Hardest hit were the Treasury Department, HHS and the Centers for Disease Control. Early this week, the Administration called back about half the CDC workers who received layoff notices, saying they had been laid off by mistake. The Administration indicated this was the first wave of layoffs that would eventually total 10,000. A judge on Wednesday put a stop to the layoffs temporarily while she reviews briefs filed in a lawsuit from the federal employees’ union.

The President this week turned up the heat on the previously announced pause in funding flows to the Hudson Tunnels Project and the Second Avenue Subway Extension in New York City. On Monday he said he had “terminated” the project. Yesterday, he said the project was “pretty much dead.” Both times, he referenced Sen. Chuck Schumer’s (D-NY) strong support for the project. The President’s comments do not appear to reflect any additional action by DOT beyond the previously announced freeze in funding to the projects while the agency reviews the projects sponsors’ contracting processes for violations of the Administration’s DEI policies. However, they serve as a strong signal to Transportation Secretary Sean Duffy of the President’s desired outcome.

For their part, Democrats continued to dig in and showed no signs of backing down from their insistence that Obamacare premium subsidies be extended and Medicaid cuts be reversed as a condition to re-opening the government.

On Capitol Hill, Senate Majority Leader John Thune (R-SD) continued to put the Senate through the exercise of repeated votes on the same House-passed CR they first rejected before the shutdown. As of this writing, he has staged 10 votes on the bill with the same results. The Leader this week did attempt to build what he described as an “off-ramp” he hoped Democrats might take to start re-opening parts of the government. He put before the Senate a procedural motion to facilitate consideration of the Defense Appropriations bill for FY 2026 on Thursday and indicated that bill would be a building block for creating a “minibus” spending bill that could include other spending bills – including possibly the Transportation-HUD spending bill. The vote on that was the same as the earlier vote yesterday on the

House CR. This outcome appears to leave no path forward at this time to untie the Gordian knot that is keeping the government shut down.

Fight Over New York Area Projects is A Major Test for the CIG Program

While the battle over funding for transit projects in New York/New Jersey appears on the surface to be a localized one, it has potential to lead to a court case that could either solidify or weaken the credibility of Full Funding Grant Agreements from FTA's Capital Investment Grant program.

For decades, the FTA, project sponsors and Congress have viewed FFGA's as a contractual obligation of the United States government subject only to the availability of appropriated funds to make payments under them. President Trump is now signaling that he wants FTA to cancel those agreements based on policy and/or political factors. If FTA takes that step, the Gateway Development Commission and the New York MTA are certain to sue the Administration to ensure the agreements remain in force.

If the courts decide the Administration can cancel an FFGA, the result will be a significant weakening of a major pillar supporting the development of public transit in the U.S. It will mean that a presidential election will pose significant political risk to the federal funding of a project. The impact on project sponsors and the transit industry's engineers, builders and suppliers will be substantial. Project sponsors will need to prepare contingency plans to make up for lost federal funds if they want to complete their projects. This will require them to tie up debt capacity that could be used for additional projects. The industry that partners with agencies to develop projects will build in more significant political risk premiums to their bids – thereby driving up costs.

If the Administration persists in its move to cancel existing FFGAs on this basis, Congress may seek to intervene through either the appropriations process or the reauthorization process. There is precedent for appropriators and authorizers to approve statutory language directing FTA to administer the CIG program as intended by Congress.

October 10, 2025

Transportation Update from Peyser Associates

Both Parties Content to Let Shutdown Politics Play Out For The Time Being

This week saw no meaningful work being done on any front to end the federal government shutdown. All parties involved in the dispute, the White House and congressional leaders in both parties, recited rhetorical points that are now well-worn and no one seemed particularly eager to seek resolution.

The week passed with no more dramatic announcements from the Administration on funding pauses or withdrawals and no action on layoffs of federal workers.

The President did make news a couple of times this week in ways that roiled the waters with unclear effects. On Monday morning he indicated a readiness to negotiate with Democrats on the health care issues at the heart of the shutdown discussion, saying to reporters: "We have a negotiation going on right now with the Democrats that could lead to very good things... good things with regard to health

care.” This comment sent shock waves through Washington, but Senate Minority Leader Chuck Schumer (D-NY) quickly responded by saying: “Trump’s claim isn’t true — but if he’s finally ready to work with Democrats, we’ll be at the table.” For a few hours it seemed like the President’s strong belief in his deal-making powers had moved him to step into the breach and seek a solution. Those hopes were dashed in the early evening when the President posted on social media that: “I am happy to work with the Democrats on their Failed Healthcare Policies, or anything else, but first they must allow our Government to re-open. In fact, they should open our Government tonight!” This put him squarely in line with the position Republican leaders on Capitol Hill have been stating.

The President’s initial comments on Monday appeared to validate a Democratic strategy to wait out the White House in hopes the President would grow impatient with the shutdown story and its political effects on the GOP and seek to move past it by making a deal. It was assumed by most Democratic observers that the comment about negotiations reflected his true feelings and the walk-back later in the day was a result of pressure from GOP congressional leaders. Democrats may now feel that if they wait a little longer, what they believe to be the President’s true feelings may once again bubble to the surface.

On Wednesday, President Trump further stirred the pot when he told reporters that not all federal workers would receive back pay for their time on furlough after the shutdown ends. This is despite a provision which guarantees the back pay that President Trump signed into law along with the bill that ended the 2018-2019 federal shutdown. The Office of Management and Budget supplied the President with a memo this week saying that law was deficient in its drafting and could be circumvented unless Congress specifically appropriates the back pay money. GOP Senators, such as Appropriations Committee Chair Susan Collins (R-ME) and Sen. Thom Tillis (R-NC), quickly expressed their displeasure with the President’s statement. The effect of that byplay was to embolden Democrats to hang tough while the White House takes positions that – in their view – are politically damaging.

As these bursts of activity around presidential comments occurred, Senate Majority Leader John Thune (R-SD) engaged in some theater of his own by scheduling repeated votes on the same Continuing Resolution proposal that failed at the end of September. Votes on Monday, Wednesday and Thursday all produced the same results as previously.

These votes and public comments from senators this week indicate that, on the Democratic side, senators are sticking with the message that negotiations over health care issues are needed to re-open the government. The more moderate Democrats who the GOP has hoped would weaken in their resolve to sustain the shutdown have not yet moved.

All of this drama is playing out against a political backdrop that is muddled at best. After initial polling last week that appeared to show a clear plurality of voters blaming the GOP for the shutdown, polling that came out this week from a variety of sources indicated that “a plague on both your houses” vibe is emerging in the public mind.

For now, both sides appear willing to let the politics play out and see if the other side decides to budge. In these times, and with this cast of characters, it is impossible to predict how long it might take for that dynamic to change.

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Shutdown Begins with Aggressive Steps by the Administration

As this report is written, the federal government is on Day 3 of a shutdown that could challenge the current shutdown record of 35 days. The previous record was set during the first Trump Administration from December 2018 to January 2019. The early days have featured aggressive moves by the Trump Administration to show the Democrats how painful the shutdown might be for them and by Democrats to ramp up their messaging about the Republicans' creating a "health care crisis."

The Administration's moves have been particularly aggressive. They started hours before the shutdown began at 12:01am on Wednesday when President Trump posted a deep fake video on social media showing House Minority Leader Hakeem Jeffries (D-NY) sporting a thick mustache and wearing a sombrero while standing next to Senate Minority Leader Chuck Schumer (D-NY) as a voice sounding Schumer-esque made derogatory statements about Democrats and mariachi music accompanied the scene. That video – decried as racist by many Democrats – was a precursor for the words and actions to come.

By dawn Wednesday, official U.S. Government websites were displaying banners on their landing pages decrying the "Radical Left" for shutting down the Government and touting the Administration's desire to help those in need. Click [HERE](#) and [HERE](#) to see examples. Democrats charge that these websites violate the Hatch Act, which prevents federal employees from engaging in political activities while at work.

Beyond those rhetorical steps, the Administration took three actions since the shutdown. The first two actions were directed at FTA projects in New York and Chicago. Early Wednesday morning, DOT announced it is stopping payments to the sponsors of the two most important infrastructure projects in the New York/New Jersey area – the Hudson Tunnels Project and the Second Avenue Subway extension. Both projects are of great importance to the Democratic leaders of the House and Senate. Likewise, this morning, the OMB Director Russell Vought posted on X that the Administration is withholding \$2.1 billion in funding to the CTA in Chicago for the Red and Purple Line Modernization project and the Red Line Extension. These projects are priorities for Illinois Governor and frequent Trump critic J.B. Pritzker and Senate Minority Whip Dick Durbin. In both cases the Administration says their action represents a pause in reimbursement while they investigate if the sponsors are carrying out unconstitutional practices. But the inference in their statement is that if they find such practices are in place, they may take action to ensure no additional federal dollars go to the project.

The third action was taken by the Energy Department when it announced yesterday it is cancelling grant awards for more than 220 projects adding up to more than \$7.5 billion. The Department's announcement did not specify which projects were cut, but media reports late yesterday indicated that the cuts were in 16 states – all of which are viewed by the Administration as Democratic controlled. Among the larger projects shelved were energy grid upgrades in California, Minnesota and Oregon and hydrogen hubs in California and the Pacific Northwest. Again, this action could have been done in the absence of the shutdown

Next up may be significant layoffs of federal workers. OMB Director Russell Vought has directed federal agencies to accelerate their layoff plans and new reports indicate a significant round of layoffs could

occur at any time. Vought met with the President yesterday, where the President talked about how the shutdown creates an “unprecedented opportunity” to cut waste from “Democrat Agencies.” As with the actions taken by DOT and Energy Department, the potential layoffs could be attempted with or without a shutdown. Their timing and magnitude appear designed to put pressure on Democratic Senators, especially the four from Maryland and Virginia, to cave in and vote for a CR.

The path out is hard to discern at the moment. A standard procedural gambit the Senate uses in cases like this would be to get agreement among the two parties on a procedure and timeline for having a vote on the central issues of dispute – in this case, health care funding and health insurance premium tax credits. Democrats would likely insist that the process for considering their proposal would be to have a reconciliation bill for fiscal year 2026 considered this Fall so that only 51 votes would be needed to pass it. They may think it is within reach to pick up four GOP senators. If that process were to be agreed to, a timeline for a CR could be set and the government could reopen. But given the animosity and lack of trust between the parties at this point, it will be difficult to get to that kind of agreement anytime soon.

Both parties are likely to let this issue percolate in the public for a week or two to see how voters are reacting. An initial poll by the Washington Post released yesterday indicated that 47% of voters blame the President and Republicans in Congress for the shutdown and 30% blame the Democrats. If numbers like that hold up over time, Democrats are likely to feel emboldened and some GOP Senators may start to feel the pressure. But for now, both sides are hunkered down for a potentially long siege.

DOT Rule Would Stop Presumptive Race and Gender Based DBE Certification

The Department of Transportation issued an Interim Final Rule effective immediately to strip Minority and Women-Owned small businesses of their presumptive disadvantaged status under DOT’s DBE program. It is likely that litigation will follow this move, as the key justification for the change is the Administration’s interpretation of the due process clause of the Fifth Amendment to the Constitution. This issue is already being adjudicated in the federal court system and the organizations seeking to defend the current DBE rule may seek an injunction to block this move by DOT so the court can have its say.

In the meantime, however, DOT is likely to move quickly to push grantees to comply with the new process for decertifying DBE’s who achieved that status based solely on the race or gender of their owners and then recertifying those who can demonstrate their disadvantaged status on a case-by-case basis. The reverberations of this process on contracts and contract compliance will be extensive.

September 26, 2025

Transportation Update from Peyser Associates

Shutdown A Virtual Certainty as Finger-Pointing Continues

Shutdown drama is not a new thing in Washington. In fact, it is practically an annual occurrence. But this time around, there is a particularly non-dramatic feel to the approach of the shutdown. The main reason for that is that both sides appear to want one, thinking the political blame will fall on the other one.

Last week, the Democratic leaders upped the ante on the discussion about a Continuing Resolution by insisting that a short-term CR include a long-term extension of the Affordable Care Act premium subsidies and the roll-back of health program budget cuts approved in the “One Big Beautiful Bill” earlier this year. The week concluded with Democratic senators holding firm to scuttle a House-approved “clean” CR. The Administration responded this week with a threat of mass firings of federal employees if a shutdown occurs. This threat came on the same day the President cancelled a previously agreed-to meeting with Democratic leaders saying their policy demands were “ridiculous.”

Democratic congressional leaders refer to the approaching shutdown as a “Trump Shutdown” and claim voters will blame the President and his congressional supporters. The White House and Republican leaders of the House and Senate call it a “Democrat Shutdown.” In the past this kind of finger-pointing occurred concurrently with ongoing private and public talks seeking to find a compromise. There is no indication that any conversations like that are currently taking place either at the staff or principal level.

In meetings with staff members on both sides of the Capitol this week, it was clear that virtually everyone expects the shutdown to begin at 12:01am next Wednesday. It is likely that the shutdown will last at least long enough for a direction of public sentiment about it to become evident. Observers will be watching social media and polling data closely to discern on whom the blame for the shutdown is falling. When a pattern emerges, and/or as the Administration takes steps to affect public sentiment through its actions during the shutdown, that is when drama will ensue as politicians gauge the public’s tolerance for continuing stalemate.

At the Department of Transportation, the shutdown will not cause widespread furloughs at the Federal Transit Administration or Federal Highway Administration. The administrative functions of both of those agencies are funded through the Highway Trust Fund and are thus not subject to annual appropriations. The Federal Railroad Administration’s office that manages grant programs will remain open because the IIJA advance appropriations for fiscal year 2026 contain an administrative take-down from grant program funding. There will, however, be furloughs for most officials in the Office of the Secretary. This could have the effect of slowing down or stopping altogether the announcement of new grant awards or issuance of NOFO’s during the shutdown. An early test of the severity of shutdown impacts at DOT will be whether or not FTA announces discretionary bus program awards as scheduled on or about October 15, which is a statutory deadline.

Shutdown May Jeopardize Pending Grants

Signals are emerging from DOT that the Administration may use the end-of-year shutdown as a rationale for cancelling the grant awards of projects without executed grant agreements. While certain grants have statutory deadlines at the end of this fiscal year for their execution, many pending grant awards do not have deadlines at all or have deadlines in the future. Even those grants may be in jeopardy once the shutdown occurs, according to the rumors circulating around town. It is important to note that in threatening mass layoffs once the shutdown occurs, the Office of Management and Budget is using the rationale that layoffs are justified because there is no funding for programs some employees administer. That same rationale could be applied to grant awards from programs that no longer have appropriated funds.

DOT Puts Chicago and Boston “On Notice” to Improve Safety and Security

As part of his sustained campaign to focus on pushing transit agencies to improve safety and security on their systems, Secretary Sean Duffy last Friday announced that he has recently written the leaders of the Chicago Transit Authority and the Massachusetts Bay Transportation Authority demanding that they put in place more safeguards for passenger and operator safety and report to FTA on the actions they are taking and how they plan to spend funds from all sources to improve safety, security and fare enforcement. As he has in previous letters to transit agencies, Duffy threatened the potential withholding of federal funds to the agencies if they are not making sufficient progress in this area.

Click [HERE](#) to see the letter Duffy sent to Chicago. The Boston letter is similar.

FRA Releases Federal-State Partnership Program NOFO Including De-Obligated California High-Speed Rail Funds

The Federal Railroad Administration on Monday released a Notice of Funding Opportunity (NOFO) for the Federal-State Partnership for Intercity Passenger Rail – National program. The NOFO would allocate \$ 5 billion in funds including funds appropriated for fiscal years 2025 and 2026 and \$2.4 billion in funds from FY 2022-2025 previously part of an executed grant to the California High Speed Rail authority that was cancelled by the Administration in July.

The California Attorney General is seeking an injunction to block the re-allocation of funds as part of its pending lawsuit to block the cancellation of the grant.

The NOFO is a re-issue and expansion of a NOFO for FY 2024 released last September by the Biden Administration. In addition to adding funds from FY 2025 appropriations and the California de-obligation, the NOFO tracks with Trump Administration policy on DEI programs and on “the Administration’s focus on the American family.” The NOFO encourages projects that include “adding mothers’ rooms, expanding waiting areas, adding new family restrooms, creating children’s play areas, and other projects improving overall travel for families in U.S. intercity passenger rail stations.” The NOFO also says the Administration will emphasize grade crossing safety projects.

Applications under the NOFO are due on January 7. Click [HERE](#) to see the NOFO.

Transportation For America Backs Major CIG Reform

Transportation for America, a leading transportation advocacy group this week updated its proposals for reauthorization of surface transportation to call for a significant reform of the process for advancing projects through the FTA CIG program. The updated policy says reauthorization should “streamline the CIG process by eliminating the ratings process and the project justification criteria, while also collapsing the project development process from three to two steps—Project Development and Full Funding Grant Agreement.”

The T4A position is consistent with a proposal developed by Sound Transit which is currently being discussed within the transit industry and on Capitol Hill.