

# ISSUE BRIEF

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## Continuing Resolutions Invariably Harm National Defense

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The agreement on the Bipartisan Budget Act of 2018 to raise the Budget Control Act's defense limits came attached to the fifth continuing resolution (CR) of fiscal year (FY) 2018.<sup>1</sup> The CR—hopefully the last of the year—will last from February 9, 2018, to March 23, 2018.

The necessary budget to execute the National Defense Strategy is described as being “sustained,” “predictable,” and “increased.”<sup>2</sup> However, the federal budget process has largely failed to provide stable annual budgets for the Department of Defense (DOD). As Secretary of Defense James Mattis stated in his testimony before the House Committee on Armed Services, the defense budget situation has been “worsened by operating in 10 of the last 11 years under continuing resolutions of varied and unpredictable duration.”<sup>3</sup>

CRs invariably harm the capability and capacity of the U.S. military to maintain the nation's national defense. Congress and those in the Executive Branch responsible for the federal budget must stop relying on CRs as the funding mechanism for the DOD and reform the budget process.

### What Is a Continuing Resolution?

A continuing resolution is a temporary funding mechanism that reflects congressional failure to

approve a budget on time. The ideal timeline for the federal budget process is that the President presents his budget proposal to Congress, which then evaluates and appropriately alters it into the actual budget. This process should take place between early February and late September. October 1 begins a new fiscal year that is governed by the budget that was theoretically already approved.<sup>4</sup>

**CRs Are a Stopgap Solution.** Designed to maintain the government operating while lawmakers finish the negotiations on the coming fiscal year's budget, these resolutions are usually formulaic and based on the amount that Congress appropriated for the previous fiscal year. Lynn Williams from the Congressional Research Service has stated:

Under current practice, a CR is an appropriation that provides either interim or full-year funding by referencing a set of established funding levels for the projects and activities that it funds (or covers). Such funding may be provided for a period of days, weeks, or months and may be extended through further continuing appropriations until regular appropriations are enacted, or until the fiscal year ends.<sup>5</sup>

**CRs by Design Are Lacking in Detail.** Lack of specificity assures that few lawmakers will oppose CRs and will preserve legislative prerogatives over policy changes. Nonetheless, a small number of policy changes are usually incorporated into each CR. These anomalies are either absolutely necessary for government operations, or serve as incentives for lawmakers to vote for the resolution.<sup>6</sup> Anomalies are often needed because CRs usually prohibit the initiation of new

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programs and changes in production levels at departments.<sup>7</sup> Thus, the DOD effectively cannot implement the changes that it deemed necessary for the new fiscal year. The current year's first four months of CRs were responsible for prohibiting the start of 48 new programs and 24 production increases at the DOD alone.<sup>8</sup>

### Continuing Resolutions: The New Normal

In the past 17 years, the DOD started the fiscal year under a CR 13 times, including every year since FY 2010.<sup>9</sup> Since FY 2010, the DOD has spent an average of 126 days per year under a CR. This average has already been passed in FY 2018. The DOD has tried to adapt to this reality. When Admiral John Richardson, the Chief of Naval Operations, discussed CRs, he stated: "The services are essentially operating in three fiscal quarters per year now. Nobody schedules anything important in the first quarter."<sup>10</sup>

When educating the country's acquisition workforce, Gregory Martin, an instructor at the Defense Acquisition University, stated that "[m]embers of the OSD, the Services, and the acquisition community

must consider late enactment to be the norm rather than the exception and, therefore, plan their acquisition strategy and obligation plans accordingly" (original emphasis).<sup>11</sup> However, CRs were never designed to be the norm, but rather the exception when the process breaks down.

### Effects of CRs on the Department of Defense

During a hearing by the House Committee on Armed Services, Richard Spencer, the Secretary of the Navy, described the effects of CRs on the Navy since 2011: "It has cost us \$4 billion. That's not lost opportunity; that's \$4 billion in cash in a trash can with lighter fluid, burn it."<sup>12</sup> Much of these lost billions come from three different factors: lost time, compressed timeline for expenditures, and duplicated contract and budget work.

**Lost Time.** Time is the only resource that can never be recovered. It is reflected in lost training, maintenance, development schedules, and individuals not being able to join the ranks.<sup>13</sup> All these activi-

1. Bipartisan Budget Act of 2018, Public Law 115-123.
2. U.S. Department of Defense, *Summary of the 2018 National Defense Strategy of the United States of America: Sharpening the American Military's Competitive Edge*, January 2018, <https://www.defense.gov/Portals/1/Documents/pubs/2018-National-Defense-Strategy-Summary.pdf> (accessed February 6, 2018).
3. James N. Mattis, "Written Statement for the Record on the National Defense Strategy and the Nuclear Posture Review," testimony before the Committee on Armed Services, U.S. House of Representatives, February 6, 2018, <http://docs.house.gov/meetings/AS/AS00/20180206/106833/HHRG-115-AS00-Wstate-MattisJ-20180206.pdf> (accessed February 6, 2018).
4. Bill Heniff Jr., "Introduction to the Federal Budget Process," Congressional Research Service *Report for Congress* No. 98-721, December 3, 2012, <https://fas.org/sgp/crs/misc/98-721.pdf> (accessed February 5, 2018).
5. Lynn M. Williams, "Defense Spending Under an Interim Continuing Resolution: In Brief," Congressional Research Service *Report for Congress* No. 44636, December 26, 2017, <https://fas.org/sgp/crs/natsec/R44636.pdf> (accessed February 5, 2018).
6. James V. Saturno and Jessica Tollestrup, "Continuing Resolutions: Overview of Components and Recent Practices," Congressional Research Service *Report for Congress* No. 42647, January 14, 2016, <https://fas.org/sgp/crs/misc/R42647.pdf> (accessed February 5, 2018).
7. Clinton T. Bass, "Interim Continuing Resolutions (CRs): Potential Impacts on Agency Operations," Congressional Research Service *Report for Congress* No. 34700, March 16, 2010, <http://www.dtic.mil/get-tr-doc/pdf?AD=ADA517371> (accessed February 6, 2018).
8. Scott Maucione, "DOD Ready, But Not Happy About Another Continuing Resolution," *Federal News Radio*, December 21, 2017, <https://federalnewsradio.com/defense/2017/12/dod-ready-but-not-happy-for-shutdown-or-cr/> (accessed February 6, 2018).
9. Lynn M. Williams, "Defense Spending Under an Interim Continuing Resolution: In Brief."
10. Admiral John Richardson, "Long-Term Military Budget Challenges," testimony before the Committee on Armed Services, U.S. Senate, September 15, 2016, <http://plus.cq.com/doc/congressionaltranscripts-4956449?3> (accessed February 6, 2018).
11. Gregory Martin, "Teaching Note—President's Budget Submission and the Congressional Enactment Process," Defense Acquisition University, C-127, June 2017, [https://www.dau.mil/cop/fm/DAU%20Sponsored%20Documents/BCF301%20Student%20Book%20Jun%202017%20\(002\).pdf](https://www.dau.mil/cop/fm/DAU%20Sponsored%20Documents/BCF301%20Student%20Book%20Jun%202017%20(002).pdf) (accessed February 5, 2018).
12. Richard V. Spencer, "Surface Warfare: At A Crossroads," testimony before the Subcommittee on Readiness and the Subcommittee on Seapower and Projection Forces, Committee on Armed Services, U.S. House of Representatives, January 18, 2018, <https://armedservices.house.gov/legislation/hearings/surface-warfare-crossroads> (accessed February 5, 2018).
13. James N. Mattis, "Letter to Senator John McCain on the Potential Impacts of a New Continuing Resolution," *USNI News*, September 8, 2017, <https://news.usni.org/2017/09/13/document-secdef-mattis-letter-mccain-effects-new-continuing-resolution-pentagon> (accessed February 6, 2018).

ties are central to a ready military force and are highly dependent on a schedule with little flexibility. Regardless of how much money is dedicated to training, humans still require time to become proficient at any given skill, and time is limited.

**Compressed Timeline for Expenditures.** During a CR, the DOD has access only to new funding for that small period and at a level that does not reflect its funding level for the year. It gains access only to the resources for the whole fiscal year after a budget is approved. This creates the need to spend all the new resources under a compressed timeline, due to lack of authority to retain funds to spend during the next year. This leads to a spending push at the end of the fiscal year that can decrease the quality of these decisions.<sup>14</sup> It also incentivizes the department to spend on items that can be procured quickly, regardless of their actual priority.<sup>15</sup>

**Duplicative Contract and Budget Work.** Every new contract established during a CR can last only the duration of that resolution. Thus, the contract has to be redone whenever there is a new CR or a new budget. This is time that these workers do not spend on other projects, but rather on doing and re-doing work. The same applies to the budget guidance that has to be issued across the department and its agencies.

### Improve the Budgeting Process

In order to improve how the federal budget is determined and, along with it, how the Department of Defense is funded, Congress should:

- **Stop using CRs to fund the Department of Defense.** CRs squander time, which the department cannot recoup and is reflected in missed training, maintenance, contracts, and hiring. CRs are specially damaging to the DOD because of time sequencing associated with training and maintenance activities. A budgeting process that

did not rely on exceptional funding measures such as CRs would truly benefit the DOD.

- **Empower the DOD with carry-over authority.** The authority to reserve of the funds of one fiscal year to be spent on the next fiscal year would alleviate the pressure to spend all the resources in a compressed window of time. This authority would allow for the DOD to soften the impact of multiple CRs—if such an event occurred.
- **Reform the federal budget process.** When all but three years since FY 1977 (when the fiscal year moved to October 1) have seen the failure to pass a federal budget by the start of the fiscal year, it is safe to say that there is a problem with the process.<sup>16</sup> Congress needs to reform the budget process. The work of the newly established Joint Select Committee on Budget and Appropriations Process Reform should be indicative of how serious Congress is about fixing the budget process.<sup>17</sup>

### Conclusion

The constant reliance on continuing resolutions guarantee that the U.S. military will not be making the best use of time in preparing to carry out their duties. CRs waste time—the one resource money cannot buy. Consequently, regardless of how many dollars are available, considerable time is still required for training, repairing, and building up the military. If the U.S. is to rebuild its military in a meaningful way, the federal budget process must stop creating self-inflicted wounds with such comprehensively poor mechanisms like continuing resolutions.

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14. Jason J. Fichtner and Robert Greene, “Curbing the Surge in Year-End Federal Government Spending: Reforming ‘Use It or Lose It’ Rules,” Mercatus Center Working Paper, September 2014, <https://www.mercatus.org/system/files/Fichtner-Year-End-Spending.pdf> (accessed February 6, 2018).

15. Heather Krause, “Continuing Resolutions and Other Budget Uncertainties Present Management Challenges,” testimony before the Subcommittee on Federal Spending Oversight and Emergency Management, Committee on Homeland Security and Government Affairs, U.S. Senate, February 6, 2018, <https://www.gao.gov/assets/690/689914.pdf> (accessed on February 7, 2018).

16. The three fiscal years that did not require any CRs were 1989, 1995, and 1997. For more information, see Saturno and Tollestrup, “Continuing Resolutions: Overview of Components and Recent Practices.”

17. Bipartisan Budget Act of 2018, Public Law 115-123.