



*Week of 10-30-23
Volume 23 | Issue 31*

Congressional Overview

Both chambers of Congress were in session this week. With a House Speaker once again in place and no immediate government shutdown looming, both chambers scheduled a fairly routine legislative schedule. The House voted on 2024 spending bills for the Departments of Interior, Transportation-HUD and the Legislative Branch. These votes were part of the plan Speaker Mike Johnson (R-LA) crafted to advance eight appropriations bills by Nov. 17, when the continuing resolution currently funding the federal government expires.

Supplemental Funding Request

This week, Secretary of Defense Lloyd J. Austin III and Secretary of State Antony J. Blinken testified on the Administration's \$106 billion package for Israel, Ukraine, Taiwan, and border security funding. Republicans raised questions about whether assistance for Israel should be sectioned off and voted on as a stand-alone bill. House Speaker Johnson told Senators that the House would pass the Israel aid package separately, and then take up an additional measure for Ukraine funding.

The House passed a \$14.3 billion aid package for Israel, but it is offset by cuts to the IRS, which drew Democratic ire. The House's package has very little chance of passing the Senate, where Senators remain insistent that Israel and Ukraine's aid should be passed together. Additionally, President Biden said he would veto the House's aid package if it made it to his desk. The Congressional Budget Office (CBO) estimated that the House package would add \$26 billion to the national deficit.

Government Funding Beyond Nov. 17

With the current continuing resolution (CR) expiring on Nov. 17, there will need to be another funding extension to avoid a government shutdown. Speaker Johnson (R-LA) said he was prepared to back a CR through Jan. 15 to allow enough time to complete full-year bills and avoid the specter of another omnibus measure just before Christmas. The length of a CR could become a sticking point. While Speaker Johnson wants to push it into 2024, Senate Democrats seem to favor a shorter-term bill, hoping to wrap up final appropriations before Christmas.

Attaching "conditions" to a CR, as Johnson put it, would be another obstacle. Some conservative Republicans have pushed for a border security package and/or spending cuts as part of a funding extension, which Democrats will likely resist. Johnson said he was considering moving up the start date of 1 percent across-the-board spending cuts to January, coinciding with the CR deadline, rather than April 30 as required under the debt ceiling law, and said "there may be some conditions put on that, perhaps that 1 percent spending cut across the board, instead of becoming effective in April, maybe we make that Jan. 15 to incentivize the Senate to do their work."

NLRB Announces Final Joint Employer Rule

The National Labor Relations Board (NLRB) issued its final rule altering the standard for determining joint employer status under the National Labor Relations Act (NLRA). The rule replaces the Board's 2020 final rule, which had addressed the standard adopted by the Obama-era Board in *Browning Ferris Industries (BFI)*.

The final rule appears to be very closely aligned with the Board's notice of public rule making (NPRM) and represents an expansion to joint employer status for purposes of the Act. Notably, the final rule explicitly states that either possessing the authority to control one or more essential terms and conditions of employment (regardless of whether it is exercised) or exercising the power to control indirectly one or more essential terms and conditions of employment (regardless of whether the power is exercised directly) is sufficient to establish an entity's status as a joint employer. This means that either indirect or reserved control may stand alone as basis for the finding of a joint employer relationship, and the existence of either – without regard to the extent of the reserved or indirect control – indicates joint employer status. This standard extends beyond the policy adopted in BFI.

Congressional Action on AI

A group of senators led by Majority Leader Chuck Schumer (D-NY) met with President Biden to discuss next steps in Artificial Intelligent (AI) regulations. The President issued an executive order to set a standard on safety, security, and transparency of artificial intelligence systems. Under the order, companies that train AI through foundational models that may pose national security and public health risks must reveal the safety results to U.S. agencies. The Senate held hearings and forums this week with business and tech leaders to discuss AI's impact on the workplace, health care, financial services and the justice system. Sen. Schumer said the forums are making clear to senators that government must play an active role as AI takes off. "AI development is moving quickly. Adversaries like the Chinese government are moving quickly. So Congress has to act quickly, too."

FY 24 Federal Procurement Spending Exceeds \$762 Billion

Federal procurement spending for FY 24 is estimated to be between \$762 billion and \$870 billion, marking an approximate 7.9% increase from the FY 22 total of \$707 billion. Due to Defense Department delays, there is not complete procurement data for fiscal 2023. Using seasonally adjusted historical spending trends, the FY 23 procurement total is estimated to be around \$728 billion. 2024 Market Forecast projects that the largest increase over the estimated FY 23 figure will be in the IT (at \$80.5 billion), security and protection (at \$11.3 billion), and office management (at \$2.4 billion) markets. Federal spending in all of those markets is expected to grow by more than 5.5% from FY 23 to FY 24. Estimates from the Office of Management and Budget (OMB) predict spending in the research and development market to be \$154.5 billion. OMB's figure would be a 139% increase over FY 22 (\$64.5 billion).