



Week Ending 11-21-25

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This Week in Congress!

This week, the House voted on eight measures including resolutions to disapprove of regulations issued by the Bureau of Land Management during the last weeks of the Biden administration; two bills that would modify criminal justice laws in Washington, D.C.; a couple of energy bills; and a resolution denouncing socialism. The House also voted on fourteen bills that came out of the Homeland Security Committee related to terrorism prevention, cybersecurity, and border security. Finally, the House voted 427-1 to compel release of the Epstein files. Meanwhile, the Senate unanimously voted to release the Epstein Files and considered a new minibus appropriations package for December, along with confirmation votes of administration nominees. Congress will recess next week in observance of the Thanksgiving holiday.

Legislative Action Planned for the Remainder of This Year

As noted above, Congress is out of session next week for the Thanksgiving holiday, and the legislative calendar contemplates the year-end holiday recess will begin on December 18 in the House/December 19 in the Senate. That leaves just four weeks to tackle a long to-do list, including the items listed below.

- Amendment of FY 2026 Legislative Branch Appropriations Bill. The Legislative Branch appropriations bill enacted last week included language that retroactively grants senators a private right of action to sue the United States for at least \$500,000 per instance if the government searched or subpoenaed their electronic data without notification. The provision could result in large monetary awards to several Republican senators whose phone records were subpoenaed as part of the Department of Justice's January 6th investigations. Many House Republicans strongly object to the provision – Rep. Steube (R-FL) cited it as a reason for his “no” vote on the CR. The House voted this week on a bill (H.R. 6019) to overturn it. It is not likely to get a vote in the Senate, but supporters will try to enact it by attaching the language to an upcoming appropriations bill.
- FY 2026 Appropriations. Congress has yet to enact nine of the 12 FY 2026 appropriations bills that together comprise 90 percent of federal operations. The House and Senate remain far apart on top-line spending totals for those bills. More specifically, some of the measures involve contentious spending issues, and Democrats could delay a vote on spending measures in the Senate if they do not include some guardrails against future rescissions by the White House. Despite these hurdles, appropriators and congressional leaders hope to advance a second minibus funding package that could include Commerce-Justice-Science, Defense, Labor-Health and Human Services, Transportation-Housing and Urban Development, and perhaps also Interior, appropriations bills.
- National Defense Authorization Act (NDAA). Negotiations to reconcile differences between the versions of the NDAA passed by the House and Senate might finish by Thanksgiving, which would allow for a House vote in early December, followed by a Senate vote before Congress recesses at the end of the year.
- Healthcare. Majority Leader Thune promised a Senate vote in December on a Democratic-led bill to extend the ACA enhanced premium tax credits, but House Speaker Johnson (R-LA) has not committed to a vote in the House. Many moderate House Republicans, particularly those in competitive districts, favor an extension combined with reforms to the program like lowering the qualifying income cap. But a majority of Republicans in both chambers want to kill the subsidies and instead address healthcare

cost issues via other reforms, including by funding taxpayer-advantaged accounts for individuals to pay directly for healthcare. Democrats are circulating a discharge petition to try to force a House vote before the end of the year on a bill that would extend the subsidies for three years with no reforms to the program. (A discharge petition is a procedural tool that permits rank-and-file House members to force a floor vote on a measure if a majority of the House – 218 members – sign on. But the process takes a while, and it would require some Republicans to publicly buck leadership, so it faces long odds for success.) A bipartisan group of Senators are working on a potentially broader bill to deal with skyrocketing health insurance premiums. House Republican committee chairs began “listening sessions” this week, to solicit suggestions for legislative changes to healthcare policy. And Ways and Means Committee Republicans are preparing to brief committee members on proposals designed to lower healthcare costs. But Republican members have not yet agreed on whether to try for a bipartisan solution or pursue their own agenda via a second budget reconciliation process. Either way, work on these issues will consume a significant amount of legislative time and attention.

- **Ban on Congressional Stock Trading.** Rep. Luna (R-FL) has been threatening to use a discharge petition to force a vote on a contentious bill to ban lawmakers, their spouses, and dependent children from trading individual stocks. Multiple versions of legislation are pending. A House committee will hold a hearing on the issue this week. Supporters will push leadership to bring a bill to the floor this year.

New House Party Ratios

Last week, Adelita Grijalva (D-TX) was sworn in as the new Representative for Arizona’s 7th Congressional District. Party ratios in the House are now 219 Republicans and 214 Democrats, and Speaker Johnson (R-LA) continues to hold a two-vote majority.

Revolutionary FAR Overhaul Includes Change Order Reform

Reform regarding change orders in federal contracting is part of the ongoing, comprehensive "**Revolutionary FAR Overhaul**" (RFO) initiated by a series of Executive Orders in early 2025. This initiative, led by the Office of Federal Procurement Policy (OFPP) and the Federal Acquisition Regulatory Council (FAR Council), aims to streamline the entire Federal Acquisition Regulation (FAR) by removing non-statutory requirements. Key updates and implications for change orders:

- **Focus on Statutory Roots:** The primary objective is to return the FAR to its statutory requirements, eliminating over 1,000 non-statutory rules in total. This may lead to fewer explicit, non-statutory clauses related to contract modifications and change orders within the main FAR text.
- **Revised FAR Parts:** Revisions have been made to several FAR parts, including parts 6, 10, 31, and 43, the latter of which specifically addresses change orders. These changes aim to simplify the rules governing acquisitions and potentially reduce administrative burdens on contractors.
- **Increased Agency Discretion:** The overhaul encourages contracting officers to use "good business judgment" and innovative approaches, which might provide greater flexibility in handling change orders and evaluating equitable adjustments.
- **Non-Regulatory Guidance:** Many of the removed non-statutory rules and best practices will be placed in a non-regulatory "FAR Companion" or "Practitioner Albums". While not legally binding regulations, these resources will still offer practical advice and may influence how agencies process changes.
- **Uncertainty and Transition:** The rapid implementation and move away from detailed regulatory guidance have created some uncertainty for contractors regarding specific performance obligations and pricing for changed work. Contractors are advised to monitor agency-specific deviations and guidance closely.

- **Definitized Change Orders (UCOs):** Existing rules regarding limitations on obligations for definitized change orders (e.g., the 50% limit before definitization, potentially increasing to 75% upon a qualifying proposal) remain in force under the Defense Federal Acquisition Regulation Supplement (DFARS).
 - **Goal of Efficiency:** The overarching goal is faster acquisitions, greater competition, and better results for the government. Streamlining the change order process is likely a component of this broader efficiency push.
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U.S. Department of Transportation Revised DBE Program

The U.S. Department of Transportation (DOT) significantly revised its Disadvantaged Business Enterprise (DBE) Program as of October 3, 2025, eliminating race- and gender-based presumptions and requiring individualized proof of disadvantage. Here's a detailed breakdown of the key changes introduced by the Interim Final Rule (IFR):

Major Structural Changes

- **Presumption Removed:** The DOT eliminated automatic race- and sex-based presumptions of social and economic disadvantage. Now, *all applicants must provide individualized evidence* that their business needs DBE status to redress the economic effects of past discrimination.
- **Certification Reevaluation:** A *one-time, nationwide reevaluation* of all existing DBE and Airport Concessions DBE (ACDBE) certifications is mandated. During this process, contract goals and DBE participation counting are temporarily suspended.

Program Rules and Definitions

- **No Quotas or Set-Asides:** The new rule *explicitly prohibits quotas and set-asides*, except in extreme cases to remedy egregious discrimination.
- **Goal Flexibility:** Recipients will *not be penalized* for failing to meet DBE goals, reinforcing that goals are aspirational rather than mandatory.
- **Updated Definitions:** Several program definitions were revised to align with the new individualized approach and to clarify eligibility criteria.

Legal and Constitutional Context

These changes were driven by *constitutional concerns* and recent judicial rulings questioning the legality of race- and gender-based presumptions in federal programs.

Timeline and Implementation

If you're involved in federal transportation contracting or certification, these changes could significantly impact how DBE status is determined and maintained.

- **Effective Date:** The IFR was published and became effective on *October 3, 2025*.

NOTE: Contracts Will Not Be Canceled or Invalidated - The rule does **not retroactively change existing contracts**. All current agreements — including those involving DBE subcontractors — must be fulfilled according to their terms.

Impact on Construction Projects: The recent changes to the Department of Transportation's DBE program could significantly delay construction projects and disrupt subcontractor relationships due to mandatory recertification and stricter eligibility requirements. Here's a breakdown of how these changes may affect construction projects:

- **Subcontractor Disruption:** Prime contractors may lose access to previously certified DBE subcontractors until they are recertified. This could delay procurement and bidding processes.
- Even though new goals are paused, **nondiscrimination, fair dealing, and good-faith efforts** remain in effect. Contractors should continue to treat all subcontractors — DBE, MBE, or otherwise — fairly and document outreach and engagement efforts.
- **Project Delays:** If DBE goals are part of the contract requirements, delays in recertification could stall project approvals or require renegotiation of subcontractor roles.
- **Increased Administrative Burden:** Contractors must now vet DBE partners more thoroughly, ensuring they meet the new criteria. This adds complexity to compliance and reporting.
- **Risk of Non-Compliance:** Projects already underway may face scrutiny if DBE participation no longer meets updated standards, potentially affecting funding or oversight.
- **Strategic Shifts:** Firms may need to adjust their outreach and partnership strategies to identify newly certified DBEs or support existing partners through the recertification process.

What Contractors Should Do

- **Identify Which of Your Contracts Receive Any Federal Funding:** Only federally funded projects are immediately affected by the USDOT rule. State-only projects are not.
- **Continue to Honor Your Existing Subcontracts:** Do not alter current agreements unless directed by the contracting agency.
- **Audit Current DBE Partners:** Confirm which firms are recertified and eligible under the new rule.
- **Maintain Documentation:** Keep records of outreach, solicitations, subcontractor selection, and payment activity. This will be essential if compliance questions arise later.
- **Plan for Contingencies:** Build flexibility into project timelines to accommodate potential delays.
- **Engage Early:** Help DBE partners navigate the new certification process to minimize disruption.
- **Support Your DBE Partners:** Encourage certified firms to prepare for re-evaluation by gathering documentation and writing personal narratives describing their disadvantage.
- **Stay Informed:** Monitor DOT updates and FAQs for evolving guidance.
- **Stay Engaged with FCA Updates:** We will continue to share new information from USDOT as it becomes available.

Jobs Report

An overdue report from the Labor Department on Thursday showed U.S. employers added 119,000 jobs in September (more than double initial market projections, indicating stronger-than-anticipated hiring activity across the private sector), while the unemployment rate inched up to 4.4%. The Trump Administration used the government shutdown to delay the jobs report for both September and October.

Death of the U.S. Penny

The American penny was officially discontinued last week after 232 years of circulation, marking the end of its use in an era increasingly dominated by digital payment methods such as Venmo and Apple Pay. First introduced in 1793 during Alexander Hamilton's tenure as Secretary of the Treasury, the penny has played a significant role in U.S. currency history. While some pennies remain in public circulation, the majority are stored in various locations. The discontinuation leaves the nickel, dime, and quarter as the primary coins in regular use. Individuals are encouraged to use any remaining pennies at their discretion.