

NASFAA's "Off the Cuff" Podcast – Episode 337 Transcript

OTC Inside the Beltway: September Deadlines Are Piling Up

Melanie Storey:

Hello, hello and welcome back to "Off the Cuff". As for this podcast, what's going on in Washington, D.C. Not surprisingly, lots of activity continuing here in Washington. Let's kick off today and talk about the appropriations process, getting a lot of attention as we hurdle towards October 1 and the threat of another shutdown, but some activity in the House this week. Hugh, you want to take us through it?

Hugh Ferguson:

Yeah, it's been very active the last couple of weeks as we previewed with the members coming back in September, after their August recess. And yeah, we had the House come back, worked through the committee process on their education funding bill, which made it through a marathon markup. I think it was around 11 or 12 hours with a lot of amendments and debates. Not too much of the bill changed, but we have a write-up that we'll include in the show notes just to highlight what specific provisions were in there, kind of high level, it was closer in line with what the White House's budget request was and came in lower than what the Senate has put forward.

But just in terms of dynamics, to give a highlight of where the process stands, both the House and the Senate have introduced legislative text and have advanced those through committee. So, we're waiting to see what the floor does with those bills, but we're approaching the September 30th spending deadline, so there's only a handful of legislative days left before some sort of funding proposal needs to be pushed through to keep the government operational. And so, we've been through this cycle I think every time this is what happens, we get close to-

Karen McCarthy:

Yes. Yeah.

Melanie Storey:

And sometimes more than once in a cycle now.

Hugh Ferguson:

Yeah, we basically get up to that final, or not final due date, but the expected due date of when this process is supposed to wrap up and there's still a lot more work to be done, because even though these things moved through committee, there's still some disagreements within each party about what they want in a final bill. And we're currently operating under a previous continuing resolution because the previous session was unable to come to an agreement as to what they wanted the spending levels to be.

And so, what we've seen right now is a two different short-term proposals that I've seen as of this morning. One was from House Republicans, one was from House Democrats. The Republican one is the one we're likely to see on the floor and see whether or not Republicans can align and push this forward. But essentially, it has a couple of anomalies in it and would extend the funding deadline until, I believe close to Thanksgiving was the date that they chose, which would essentially give them a few more weeks to try and work through some sort of final spending deal that would take them through next September.

But as we get closer to new deadlines, a new deadline pops up and we still have to work through whether or not we're going to meet the September 30 deadline of the next year.

Melanie Storey:

Thanks. So, I know we've been around this bend a few times, whether it is for the October 1, September 30 deadline or a CR deadline when we kick the can down the road for the next adventure. Just to remind folks the implications of a shutdown, if we do experience a shutdown, FAFSA processing and loan processing continues.

Really a shutdown means that most of the staff of the Department of Education are no longer working until a budget agreement is reached, but the systems that process FAFSA that create ISIRs and the loan processing systems will continue to work. So usually, we don't anticipate a problem there.

An interesting thing, a little twist we're trying to, we were talking a little bit about is what will happen? As folks know, we have a negotiated rulemaking starting on September 29th and continuing the Rise committee, that's the loan committee, it starts on September 29th and continues to October 3rd.

And so, it is unclear to us exactly what the consequences of a shutdown might be for the process of a negotiated rulemaking that has already started and that folks are in place. It really, I think, would ultimately depend on who was considered essential staff and whether or not they would have the people in place to continue with that negotiation. So, they're an interesting wrinkle for us [inaudible 00:05:00] around.

Karen McCarthy:

Yeah, we were talking about the fact that this isn't our first rodeo with the shutdown, and Hugh, for our communications department, will be dusting off all of our previous coverage to remind folks of what happens if there is a potential shutdown, but I can't recall that we've had a shutdown or the possibility of shutdown, and there's NegReg spanning that date before. So, I feel like that is definitely a new twist. Melanie, you've been following NegReg for quite some many years also, and you also couldn't remember any kind of [inaudible 00:05:39].

Melanie Storey:

Yeah, we've come up to the precipice of shutdowns. We like to appear over the edge a little bit. Then, we have last minute deals and then things proceed. Interestingly, it's also hard because all the agencies have to do a lot of work in preparation for a shutdown. So, with it, so those dates during NegReg of the 29th and 30th, when you have people in town and you have lots of Department of Education and FSA staff who are engaged in the negotiated rulemaking, they also have lots of responsibilities in terms of preparing for a shutdown. So yeah, there's just a lot of complexity there. But yeah, I am hard-pressed, I cannot remember a time when we were mid-negotiation at this point.

Karen McCarthy:

I've often thought about the scramble as leading up to a possible shutdown and all the work that EDSTA, well all the government agencies have to do, and it may have just all be for naught because there would be a last-minute deal and you just did all that work for nothing.

Melanie Storey:

Yeah, we're being fair. There's a little bit of dust off the plans.

Karen McCarthy:

Yeah, I was going to say, although they probably do similar.

Melanie Storey:

We dust off our stuff, the agencies dust off theirs too, right?

Karen McCarthy:

Yes.

Melanie Storey:

There are clear processes and things, but the lists of who would be considered essential and those kinds of things obviously vary, but you're right. There still is a tremendous amount of work and-

Karen McCarthy:

Springing around and you might not need it.

Melanie Storey:

Right. And then, you put it back in the drawer and wait for the next opportunity.

Karen McCarthy:

This might be near Thanksgiving, as Hugh said.

Melanie Storey:

Right. Could just be a few short months away. So, the more things change, the more they stay the same. Here we are. Speaking of which, things that keep coming around, let's talk about GE/FVT.

Karen McCarthy:

Yes. Yes.

Melanie Storey:

Karen, I know we've got some encouraging deadlines coming up on GE/FVT. I'm not sure if you want to chat a little bit about that.

Karen McCarthy:

Yeah. As folks may recall, we've talked a lot about GE and financial value transparency reporting over the last, I don't know, year, year and a half so or so, in that the last launch of it didn't go so well. There were some tech issues, there were complaints about lack of guidance and support from the Department of Ed and ultimately, the Department of Ed several times, postponed the reporting deadline for the 2024 cycle.

And it was, I'm trying to think of the last few postponements. There was a date in January, and then I believe right before the inauguration, the prior administration, because I thought this was all very curious, the prior administration, on their way out the door, postponed it one more time into February.

So then, now, we have a new administration. The new administration came in trying to get their bearings, okay, what are we doing with this? What should we do with this deadline? And ultimately, where they landed was to postpone it. What they said was one last time until September 30th. So, the last postponement was all the way from February to September 30th, and that was for the reporting for the 2024 cycle.

And what we already had in place was a due date of October one for reporting for 2025, the 2025 cycle. So, what we have right now is two different reports due on consecutive days, September 30th and then October 1st. And I'm bracing myself. We did have, especially since we had so many questions that came in during the prior, as we approach the prior deadlines before they got postponed, is how will it go this time and do schools have their feet under them? We don't know if there have been a lot of technical changes on the back end. There were some technical challenges the last time.

So far, I've been bracing myself for the onslaught of questions and issues from schools. And what I have seen so far are some questions that indicate that schools are on the ball in terms of their questions that indicate they are working on their reporting. So, their questions asking about do I report these people? Do I report those people? So, they're in there.

I do think, since we are a few weeks out from the deadline, we probably haven't seen the bulk of institutions that have actually gotten to that final step of submitting. And that seems last time there were some challenges once they got to that point. So, we haven't heard of them yet, but I'm also wondering how many schools have even gotten to that point.

Melanie Storey:

Yeah, there's no news like a deadline, right?

Karen McCarthy:

Right.

Melanie Storey:

It is a lot of work to put this reporting together. August is an incredibly busy time for our members. September is the fallout from everything that is happening in August, and they've got significant reporting. So, I think you're right. I mean, the good news is we know, as you said, institutions are working at putting the data together. They're asking the right questions around the details of what the reporting should be. But as this typical of almost all reporting, the bulk of it comes in, in the last few days before the deadline. And so, hoping that once we get to the final week of September that we don't have any system, the system [inaudible 00:11:20].

Karen McCarthy:

And this GE/FVT connects back to the conversation about NegReg because GE and FVT is one of the topics on the agenda. We have this major, we're having a lot of timing issues, I would say, because we have all the bulk of this reporting that's due now, but they're also negotiating GE/FVT. We don't know exactly what the administration's plans are to do, what they're going to do moving forward with GE/FVT because that is purely a regulatory framework.

They have full reign over what, they could kill the whole thing, change it, keep it exactly the same, completely kind of on the administration through the negotiated rulemaking process, and we're not sure exactly what their plans are in negotiated rulemaking. We do know though that they now have this statutory accountability framework. So, they have to do that because that was in the one big beautiful

bill. So, they have a lot to sort out in terms of how they plan to move forward with GE and FVT now given that we do have the statutory framework.

Melanie Storey:

Right. Given that we now have a statutory framework, and just to remind everyone that the accountability portion of the negotiated rulemaking is in the second table.

Karen McCarthy:

Yeah.

Melanie Storey:

The head table.

Karen McCarthy:

Even later.

Melanie Storey:

And so, that is on a later timeline that goes, I believe it's in December and then into January, if I'm not mistaken. And so, we still got a little bit of time before we get some clarity, but we have submitted our comments. And one of the things that I think we can hopefully all agree on is that we don't want duplicative systems here. So let us work toward a goal of strong accountability, but in a streamlined fashion. We have this regulatory framework and now we have some statutory requirements. Let's try to bring those together.

So, a lot of things have continued to change, as you have said, but we have more changes ahead on both GE/FVT and then how it will dovetail with the new accountability. So, stay tuned. We'll be talking more about that. We've been talking about it for a long time and we will continue to be talking about it for some time ago.

So, another thing just worth mentioning, and mostly because I wanted to note the headline is that this week, the government accountability officer, GAO, issued a report that indicated that the FAFSA processing system, the headline I believe, was that it was still at risk of not sort of properly functioning. And I thought, "Oh boy, that's something to be said there."

So let me just take a little time to say a little bit about what a GAO report is, how they are pulled together and really level set that particular report. But most importantly, the current FAFSA system and the '26, '27 FAFSA that is about to launch is stable, and it is not at risk of not processing. So, I thought that a lot of the characterization and headlines of it were somewhat unfortunate and maybe a little disconcerting given the timing that we are about to head into a new FAFSA season.

So, the GAO report, this is actually a GAO report that has been under development for, gosh, I want to say maybe two years, really since really we were the thick of the issues with FAFSA simplification. That's not atypical of GAO. They are an oversight entity, particularly with something quite as public and clearly problematic as the FAFSA simplification implementation and it is not uncommon for GAO to get involved. It involves interviews with all of the relevant staff, with partners with, I mean, they can really be quite broad and far-reaching.

What you're seeing here in this report is the result of those interviews and things that were done, like I said, 18 months, 2 years ago. You may recall, there was actually a congressional hearing, an interim

report that was done about a year ago. I believe it was on the House side where they had testifying a couple of the GAO examiners that were part of the report.

So, this really is more of a looking back at where we were. And I think what you see and really why that sort of headline of still at risk is because what GAO is pointing out is something that I think it has been now widely discussed, and the GAO report makes a mistake that has been somewhat typical of other evaluations and other conversations in that it really just focuses on the FAFSA processing system or FPS, and under FAFSA simplification, everyone will remember there were multiple systems implicated.

It wasn't just the FPS, there was digital customer care and there were a number of systems that all had to work together to deliver FAFSA simplification and these contracts also had different vendors. And I think one of the core issues with the struggles with the implementation of FAFSA simplification was the lack of integration across all of these systems and vendors. And quite frankly, even the staffing at the Department of Education, which was somewhat siloed by contract.

And so, what you see both in the GAO report is focused on a single contract, not significant attention to the integration and the other contractors implicated, but even the recommendations are somewhat siloed. I think there's some good and important recommendations around better contract management, better vendor oversight. That's sort of universal good practice, and I think it's important to hold the department accountable for that.

But I do think that a fundamental flaw that is missed both in the report is around this integration and that when we now have these large, complex, technical systems and big projects that the Department of Education or the government writ large is developing, that we need to have more seamless integration if you are going to have these kind of multiple contractors, which is certainly the purview of the department. So, I mean, there's some important things in the report, but I think it does miss on some core and fundamental issues.

As part of a GAO report, it is typical, it is common, it is, in fact, part of the regular process, that the agency that's being reviewed has an opportunity to preview the recommendations and provide a response to the recommendations or to any of the findings of the report. That is, like I said, common typical practice of GAO report.

On this report, though, we saw a little bit of an atypical response from the department. Generally, you'll find the responses to be GAO recommendation, department response, GAO recommendation, department response. And then, there's kind of a, okay, we've all done this now and we have a plan going forward, and GAO will ask the agency to provide regular updates on the recommendations. But this one was a little atypical and the Department of Education wrote a slightly different response. And so, I don't know, Karen, you want to talk a little bit about some of the things that we saw in the department [inaudible 00:19:00]?

Karen McCarthy:

Yeah, and I'm not sure, you mentioned how this was a little bit different, I think I'm used to seeing like what you described, just agency response and there's a little paragraph, yes, we agree with this, or B, we agree with this, but we have since fixed it. So, no problem anymore, just incorporated as part of the GAO report and FSA, there is that in the report, but then they also posted this separate, it's nine pages, their response to the GAO, and they touched on a little bit of what you said, about the narrow focus and the fact that what they are attesting is that there are new ways of developing these large-scale government technology process and that they are not so rigid like you talked about in the siloed.

And that, historically, evaluating with the success of these projects has been really rigid, constrained to the deliverables on the exact timeline that were set up in the contract that you say signed multiple years

in the past. And that, it's just a kind of a too narrow, overly rigid way of doing government technology, and that we really should be focusing much more on the outcomes, like the overall success of the project rather than the specific outputs as laid out in the contract.

So that's not really my area of expertise. So, I don't really have an opinion on whether that, I mean, it makes sense to me. That is one of the main point that FSA is providing and its response was basically this disagreement with how the GAO approached the whole report like you mentioned.

They also mentioned, you harken back to the timeline on this and that the report is now, because it takes so long to put one of these things out, several years old, and there's been a lot of change in the FAFSA land and the Department of Ed in FAFSA land since that time. So, they pointed out a lot of that, a lot of the significant operational changes that they've made to FSA to get the FAFSA to a much better place, and we have all seen some coverage of all of those changes that have been going on.

And then, and they also did clarify GAO's understanding in around their focus specifically on the FPS system and looped GAO into all of these other systems that touch on that main FAFSA system as well. So, it was a little bit of a different kind of response to a GAO report than we're used to seeing. And, I mean, I learned some things.

So, I think it's interesting if you're a geek into how the tech works all behind the scenes in FAFSA land, it might be interesting for anyone to check out, and it is linked in the article that we ran. So, you can see the GAO report and then go out to the separate nine-page report, if you want, that's the response.

Melanie Storey:

Yeah, so agreed. So, it's a little bit different, but I think it's valid for the department to say, we've already addressed some of these changes and are working on integration and are working on breaking through those silos. The interesting part will be what next in terms of GAO oversight of this issue. Oftentimes, there are follow-ups. It's not clear to me what will happen, but it'll be worth following up.

But GAO and their concerns about risk aside, I think it's important that we do say that the '26, '27 FAFSA is now fully open in its beta. It is now an open beta. You no longer have to get special access. Any student can now access the '26, '27 FAFSA and file in anticipation of what they will call full opening or public release or however it's being phrased now on October 1. And so, GAO report aside, we are grateful and glad, and we talked about the secretary's certification of the FAFSA being ready last week, but no changes to that. So, while we are looking toward the potential government shutdown, the FAFSA will be ready on October 1.

Karen McCarthy:

It's an important point to make. Yes.

Melanie Storey:

Yeah. Yeah. It's hard when we always are operating in multiple years and now, we're looking at reports that are looking at things a couple of years old. It's sometimes hard to keep track of the timelines. Well, great. Well, thanks again. Thanks Hugh. Thanks Karen. Thanks to everyone for joining us "Off the Cuff". We look forward to talking again with you soon.