



September 21, 2020

### **Congress Returns From August Break**

The House and Senate returned from a somewhat nontraditional August recess. Political party conventions and some maneuvering that kept Congress in the headlines, but ultimately these efforts did not result in any progress. **There are only about 8 more days that both chambers of Congress are in session before the end of the fiscal year.** The House leaves town on October 2 until after the election. The Senate is officially still in session the following week, but without the House, no major developments are expected. **The lame duck session begins on November 16.**

The only meaningful development since Congress returned this month was that the Senate seemingly closed the door on one key item of the fall agenda – an additional COVID-19 stimulus. Through a regular parliamentary procedure, the Senate failed to secure 60 votes to move their plan forward. According to several senators, this effectively kills any additional stimulus before the election. The Senate plan was scaled back to primarily include only small business relief and additional unemployment. The version did not include many of the potential add-ons that previous stimulus packages contained, such as paycheck protection, industrial sector relief (including for defense sector, which has not yet been supported by Congress), association relief, and individual stimulus checks. There is no hint of consensus on these issues and while discussions continue, no progress is expected until after the election at the earliest.

Additionally, talks are underway on a short-term Continuing Resolution (CR) to keep the government open at the start of the new fiscal year on October 1. It has been a foregone conclusion that a CR will be necessary, as the Senate has yet to move any appropriations bills and there is no desire by either political party to shut down the government before the election. **Congress will pass and the President will sign at least one CR until Congress returns for its lame duck session after the election.** The only questions are how long will the CR extend funding and what happens after the first CR expires?

CRs in election years are now commonly accepted. There has been at least one (1) CR every election year for the past 20 years. **Table 1 shows the date to which the first CR extended federal funding and the total number of CRs until agreement on complete funding of the federal government.**

**Table 1: History of 1st CRs**

Fiscal Year	Election	1st CR Extension	# of CRs
FY 1999	1998 Mid-term	10/10/10	6
FY 2001	2000 Presidential	10/6/10	21
FY 2003	2002 Mid-term	10/04/10	8
FY 2005	2004 Presidential	11/20/10	3
FY 2007	2006 Mid-term	11/17/10	4
FY 2009	2008 Presidential	3/06/09	1
FY 2011	2010 Mid-Term	12/03/10	8
FY 2013	2012 Presidential	3/07/13	1
FY 2015	2014 Mid-term	12/15/14	6
FY 2017	2016 Presidential	12/09/16	3
FY 2019	2018 Mid-term	12/07/18	8

A few points to highlight from the table. First, after 2002, Congress basically abandoned hope of negotiating a budget agreement before an election. In fact, FY 1999 was the last election year that the entire federal government budget was approved before December 1. Second, except for FY 2009 and FY 2013 (both Presidential Election years), which provided funding through March the next year, the first CR extension has gradually moved later. **It is likely that the first CR this year will run until December 11 or 18.** There has not yet been any public discussion about a CR running until early next year, so it is unlikely at this point; however, it is not completely off the table.

Finally, each appropriations bill moves at a different pace. Sometimes they are bundled, but sometimes they move singularly. In our August 10 [newsletter](#), we looked at the history of defense spending in Presidential election years and found that only once, FY 2001, was defense spending finalized before the start of the next administration.

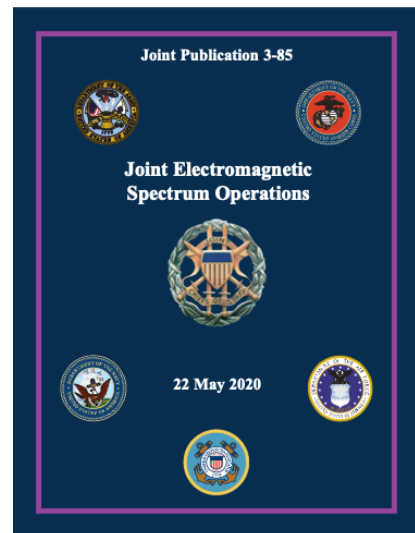
Therefore, while it's safe to assume a first CR will run until mid-December, it is also likely that Congress will not complete consideration of the FY 2021 budget, including defense spending, by that date and require another stop gap measure to avert a shutdown. Depending on the results (contested or otherwise) of the Presidential election and the balance of power in the Senate, a full or partial government shutdown is still a distinct possibility. That said, it's probably more likely a second long-term CR will kick funding through March or April 2021. There are simply too many variables at this point to speculate on an endgame before the election on November 3. AOC will keep you posted on developments in future newsletters.

### **Joint Electromagnetic Spectrum Operations (JEMSO) in the Driver's Seat**

Back on May 22 of this year, the Department of Defense (DoD) released [Joint Publication 3-85](#) on JEMSO. The publication is notable for several reasons. First, JP 3-85 determines the **EMS to be a "maneuver space essential for facilitating control within the operational environment (OE) and impacts all portions of the OE and military operations."** Since the DoD's release of its 2017 EW Strategy, there has been an often contentious discussion, especially among senior DoD officials, as to whether or not the EMS is major warfighting Domain. While there is no formal definition of a Domain, the EMS meets the scientific and strategic criteria shared by all other Domains. Still, such a designation would dramatically alter how we organize, train, equip and fight in the EMS and intensify concerns over leadership, authorities and resources. This document, for all intents and purposes, closes the door on the

Domain discussion by reinforcing that EMSO is a necessary operational responsibility shared by all combatant commanders. It provides a clear launching point from which to address other persistent gaps in the EMSO enterprise.

Second, JP 3-85 immediately eliminates both JP 3-13.1, Electronic Warfare, and JP 6-01, Joint Electromagnetic Spectrum Management Operations. This replacement not only formally brings EW and Spectrum Management together in a new construct, but it also changes how we think about each individually. Prior to JP 3-85, joint doctrine framed EW as an activity to utilize electromagnetic energy in relative isolation to achieve a desired effect. Likewise, JP 6-01 looked narrowly at Spectrum Management techniques through a technology lens. That is no longer the case. **JP 3-85 shifts EW and Spectrum Management to an operational imperative and puts the warfighter more in control of the JEMSO mission.**



Finally, JP 3-85 delineates the relationships between JEMSO actions and related missions. JEMSO rests on five (5) key missions: EW, EMS Management, Intelligence, Space, and Cyberspace. Therefore, JEMSO is not subordinate to any of these missions, but the harmonization of them. JP 3-85 reiterates that nearly all military systems and operations rely on maneuver in Cyberspace and the EMS. Thus, the success of military operations depends upon the integration of both JEMSO and Cyberspace capabilities.

### **DoD CIO Release Spectrum Enterprise Policy**

On September 4, the DoD CIO released a revealing new policy directive on the EMS Enterprise. [DoD Directive 3610.01](#) states it is **DoD policy that an enterprise approach be applied to all activities necessary for DoD EMSO, to ensure that DoD maintains access to and control of the EMS.** Specifically, the Directive stipulates that EMSO is an operational imperative that leverages all necessary intelligence processes and authorities to discern electromagnetic environments (EMEs) globally, requires EMS-dependent systems today and in the future to operate in both congested and contested EMEs, and prioritizes the achievement of EMS superiority through the full range of military operations. This Directive, albeit brief, clearly seeks to align policy with the new JEMSO doctrine discussed above.

Another key section in the Directive is the stipulation that the **EMS Enterprise “will span all DoD business processes, enabling agile and resilient EMSO,” and it places executive governance of the EMS Enterprise under the DoD Chief Information Officer (DoD CIO).** In light of the above Joint Doctrine and possible reforms based upon S. 4049, Section 173 (the Senate’s version of the FY 2021 National Defense Authorization Act, which would designate EMSO as a Chairman’s Controlled Activity), this Directive establishes a clear stake in EMSO governance by the DoD CIO, who, under Section 173 would be expected to coordinate with the Vice Chairman of the Joint Chiefs of Staff on the implementation of the forthcoming EMS Superiority Strategy.

This directive reinforces the long-standing question of who in OSD should be in charge of the EMS Enterprise? Where should EMSO governance - focusing on the related business processes - reside within OSD so that there is proper coordination with the warfighting responsibilities of EMSO under the leadership of the Joint Chiefs of Staff? **The EMSO Enterprise needs an enduring governance structure and a custodian with authority and**

**resources to move EMSO beyond mere expectations of incremental progress.** What makes this Directive interesting at this time is that it is equal parts preemptive, complimentary, and precautionary as DoD continues to evolve the concept of an EMS Enterprise.

### **Congressional Research Service (CRS) In Focus: JADC2**

The CRS, the research arm for the US Congress, recently released an issue brief by defense analyst John Hoehn on [Joint All Domain Command and Control \(JADC2\)](#), the Department of Defense's (DOD's) concept to connect sensors from all of the military services—Air Force, Army, Marine Corps, Navy, and Space Force—into a single network. The issue brief walks through the lines of effort to implement JADC2 in accordance with the National Defense Strategy. JADC2 is foundational to achieving EMS Superiority. The ability to collect and share ISR data across sensors and seamlessly integrate actionable analysis to provide the warfighter a clear picture of the operating environment is critical to mission success. This new concept of operations does come with significant planning and integration challenges. DoD request \$302 million in FY 2021 for multi-domain C2 and ABMS. The House, however, cut funding for this effort by \$85 million, driving congressional consideration of this initiative into Conference Committee with the Senate.

### **Industry Opportunity: Air Combat Training Systems (ACTS) Operations, Maintenance, and Engineering (OM&E)**

On September 11, the United States Air Force (USAF), Air Combat Command Acquisition Management Integration Center (ACC AMIC) released an announcement that it is in the process of determining the acquisition strategy to obtain non-personal services for the Air Combat Training Systems (ACTS) Operations, Maintenance, and Engineering (OM&E) support at up to 20 ACTS sites. This is a small business contract opportunity worth up more than \$100 million if the contract covers all the ACTS sites. There are currently two incumbents covering select sites with an average annual obligation of \$7 million per site. Responses are due by October 30.

### **Industry Opportunity: USMC Electronic Warfare Support Man-Packable Service**

On September 9, Marine Air Ground Task Force Training Command (MAGTF-TC) released a pre-RFP announcing a requirement for tactical Electronic Warfare (EW) support (ES) services in support of Adversary Forces Exercise (AFX) and MAGTF Warfighting Exercises (MWX). The purpose is to effectively train an advisory force how to utilize and exercise the use of EW operators at the tactical level via man-packable ES equipment. The services will include equipment and training on this equipment to be used primarily by Marines with prior exposure to tactical electronic warfare fundamentals and equipment. The man-packable ES capability must be sufficient to outfit three independent teams to passively identify and locate MAGTF communication assets across a wide spectrum of tactical communications. Pre-RFP responses are due September 30.