

Lapse in Appropriations Contingency Plan Agricultural Marketing Service

Purpose

Establish a plan of action to execute an orderly shutdown of Agriculture Marketing Service (AMS) operations in the event of a lapse in appropriations. This contingency plan will be implemented after direction from the U.S. Department of Agriculture (USDA).

Scope

The functions and activities described in this plan will be performed in accordance with all applicable statutes, regulations, policies and delegations of authority.

Authority

Operations Plan for Absence of Appropriations—Major Provisions

In accordance with the provisions of 31 U.S.C. 1341, the Agency will begin implementation of this plan on the morning of the first working day following the lapse of appropriations. All Agency personnel will be advised to report to their assigned duty stations to prepare for the orderly cessation of operations no longer funded or not specifically excepted by the provisions of 31 U.S.C. 1342.

OMB Guidelines

The Office of Management and Budget (OMB) provides agencies with annual instructions on how to prepare for and operate during a funding gap in OMB Circular A-11. The circular establishes two policies regarding the absence of appropriations:

- (1) A prohibition on incurring obligations unless the obligations are otherwise authorized by law; and
- (2) Permission to incur obligations “as necessary for orderly termination of an agency’s functions,” but prohibition of any disbursement (i.e., payment).

OMB requires shutdown plans to include:

- An estimate of the time to complete the shutdown, to the nearest half-day;
- The number of employees expected to be on-board (i.e., filled positions) before implementation of the plan; and
- The total number of employees to be “exempt” and “excepted” under the plan (i.e., not subject to furlough), because:
 - Their compensation is financed by a resource other than annual appropriations;
 - They are necessary to perform activities expressly authorized by law;
 - They are necessary to perform activities necessarily implied by law;
 - They are necessary to the discharge of the President’s constitutional duties and powers; and
 - They are necessary to protect life and property.

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OMB Circular A-11, section 124.3, specifies that *OMB will monitor the status of congressional actions on appropriations bills and will notify agencies [e.g., Department of Agriculture] if shutdown plans are to be implemented.*

AMS ACTIVITIES DURING A LAPSE IN APPROPRIATIONS

AMS activities during a lapse in appropriations fall into four categories:

- Exempt activities – fully financed from available funds (resources other than annual appropriations, i.e. funded by user fees, reimbursements, or mandatory appropriations)
- Partially exempt activities – partially financed from available funds and partially financed by appropriated funds
- Excepted activities – meet the OMB criteria noted above
- Furloughed – no available funding source to continue the activity and does meet the requirements to be excepted

Exempt Activities

Employees that are fully funded by funds that are available during a lapse in appropriations are exempt employees. Examples of these funds are:

- Mandatory appropriations (e.g. Commodity Procurement, Farm Bill-funded programs)
- Reserve balances and/or revenues collected for user funded activities (e.g. Grading, Classing, PACA, etc.)
- Reimbursements – advanced collections will be required to continue these operations (e.g., oversight of R&P Boards)

Partially Exempt Activities

Employees that are funded by multiple funding sources may be partially exempt to the extent their salaries are paid with non-appropriated funding. The following are examples of partially exempt employees.

- Administrator, Associate Administrators, and Staff Offices
- Deputy Administrators and their Staff Offices (*excludes the National Organic Program and Transportation and Marketing Program Deputy Administrators whose activities are fully financed with appropriated funds*)
- Information Technology Services
- Compliance and Analysis Program

Excepted Activities

Employees that are partially funded or fully funded by appropriated funds may be considered “excepted” if the activity they support meets OMB’s criteria.

- The Administrator and Associate Administrators will be fully excepted to the extent their salaries are supported by appropriated funds so they can manage the orderly shutdown process and ongoing exempt or excepted activities. Excepted activities include disaster response (for protection of life and property).

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- Deputy Administrators and appropriate staff who are fully supported by appropriated funds (National Organic and Transportation and Market Development Programs) will be changed to excepted status on an as needed basis to respond to specific issues such as disaster response, food safety support, or agricultural transportation emergencies that arise during their furlough status. The Administrator or an Associate Administrator will determine when an employee is brought out of a furlough status and the duration.
- Deputy Administrators and appropriate staff who are partially supported by appropriated funds (partially exempt) will also be excepted on an as needed basis during their furlough periods to respond to specific issues such as disaster response, food safety support, or agricultural transportation emergencies that arise during their furlough status. The Administrator or Associate Administrators will determine when an employee is brought out of a furlough status and the duration.

Furloughed Employees

Furloughed employees include those that work in any programs that are funded 100% with appropriated funds.

Shutdown Guidance

- **Reporting to Work** – Unless otherwise instructed by their supervisor, all employees will report to work at their normal reporting time on the first work day following the expiration of a continuing resolution with no subsequent authorization. Employees will be instructed to either begin their excepted activity work or complete any necessary close-down activities and leave their worksite as directed by their supervisor or competent authority.
- **Shutdown activities during 1st Day** – AMS employees will primarily need ½ of a day to complete shutdown activities. However, there are some employees that may need more than 4 hours to close down their activities. Dairy Program's Marketing Agreements and Orders staff will need one full day to coordinate with the Milk Market Administrators on their continuing operations.

Supervisors will make the necessary assignment of duties to ensure an orderly shutdown occurs. Contracting officers will notify contractors of their operating status and AMS managers will notify cooperating agencies as needed. Shutdown activities will include preparing all records for transfer to the appropriate records holding area, issuing notices of cancellation of ongoing program activities, and inventorying and preparing all personal and real property and facilities for appropriate disposition.

In order to ensure the continuity of operations for exempt activities, program managers will provide a shutdown impact report to the Administrator which will include each Program's budget activities, staff years, location, operating status, activity impact as a result of furloughed staff in other programs or agencies, and any issues with administrative support as a result of reduced support from APHIS or Department offices.

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Specific activities to shutdown program operations include, but are not limited to the following:

✓ **Employee Responsibilities:**

- Protect sensitive and personally identifiable information by securing it in locked files or offices (*includes all PII information*)
- Ensure that all property and records assigned to furloughed employees are accounted for and are appropriately secured
- Cancel meetings and other previously arranged business; inform parties who are involved in Agency matters, such as State governments, other Federal agencies, contractors and private entities of the cessation of normal business
- Cancel any travel in the Concur travel system that was scheduled after the start date of the funding hiatus
- Document the status of assignments and projects so they can be resumed, transferred or otherwise handled when the furlough ends
- Activate standardized 'out of office' message in email to indicate the employee is out of the office until further notice
- Update voice mail to indicate employee is out of the office until further notice
- Record all time worked during the pay period properly in WebTA and submit to approving authority prior to leaving on furlough
- Ensure there is no open food in the work area; place trash outside of any locked space
- Ensure all lights, fans, heaters, etc. are turned off
- Post signage on office doors indicating closure due to a lapse of funding
- Stop using transit benefits while in furlough status during the lapse of funding
- Employees will not use government-owned computers and electronic devices while in furlough status

✓ **Supervisor Responsibilities:**

- Cancel annual and sick leave scheduled for furloughed employees during the lapse of appropriation (*including leave already started*). Employees with paid leave (*annual, sick, credit, compensatory, etc.*) scheduled and approved for days designated as furlough days, will not be allowed to take the leave, since furloughs are considered to be non-workdays. Exempted employees may be allowed to take leave as they would at any other time, since funds are available to pay their salaries
- Advise employees being furloughed that the agency will not accept their voluntary services during a funding hiatus as it is prohibited in the Antideficiency Act
- Advise employees who are furloughed they are not authorized to use Government equipment (laptops, cell phones, etc.) or transit benefits

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during the funding hiatus as they are not in work status and cannot work voluntarily

- Ensure shutdown activities have been appropriately completed; secure the facility, as applicable
- Ensure that emergency contact information for employees is current
- Employees in travel status, who are impacted by a funding hiatus, will be advised to return home prior to the expiration of funding authority. Travel agents will be instructed not to issue airline tickets for activities impacted by a shutdown unless they receive certification from travel coordinators that funds are available. For those employees funded from multiple sources, only travel directly related to programs not impacted by a shutdown should continue and be charged directly to that activity (no distributed accounting should be used)
- Advise travelers that travel may need to be resubmitted in Concur for approval and/or ticketing if applicable
- Certify that all T&As are properly recorded in WebTA before departure
- Suspend transit benefits for furloughed employees

AMS Website Information

- Information Technology will modify the AMS website to allow public access to information (guidance, forms, etc.) for those AMS programs that continue in operation during a lapse in appropriations.
- AMS will keep at least one cyber-security specialist on duty during each workday of a funding lapse period to respond to cyber incidents identified by the Agency or reported to AMS by the Department or DHS.

Furlough Notice to Employees

- Furlough notices will follow the guidance and timeline as prescribed by the Department
- In general, each employee to be furloughed will be notified orally and in writing of the decision to furlough. In addition, affected employees will be provided copies of the SF-8 Form (Unemployment Compensation for federal Employees) and questions and answers for furloughed employees, which provide information on a variety of topics, including continuation of benefits coverage. The supervisor will document each employee's receipt of written or verbal notification. The written notice may or may not be provided in advance of the actual furlough date; however, all furloughed employees will receive written notification at some point.
- Employees should be instructed not to report back for duty unless they are notified by official notification (supervisor, OPM) or media sources, that appropriations legislation or a Continuing Resolution has been enacted. Supervisors should ensure that they have a means of contacting employees.

Activities Identified to Continue Operations during a Shutdown:

As a result of the way in which certain AMS programs are funded, a lapse in appropriations will have varying impacts on our ability to continue AMS activities. The following AMS programs

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will continue to operate during the furlough because they are either sustained with non-appropriated funds, mandatory funds (not annually appropriated), or the activity provided from a program is needed for the protection of property:

1. Funded by User Fees & Assessments

- | | |
|--|------------------------------------|
| ✓ Cotton Classing | ✓ Poultry Grading |
| ✓ Cattles Futures | ✓ Tobacco Grading |
| ✓ Dairy Grading | ✓ Plant Variety Protection Program |
| ✓ Laboratory Operations | ✓ Seed Inspection |
| ✓ Meat Grading | ✓ Quality Assessments and Audits |
| ✓ Perishable Agricultural Commodities (PACA) | ✓ Specialty Crop Inspections |
| | ✓ Milk Market Administration |

2. Funded by Mandatory Appropriations

- ✓ Commodity Purchase Services
- ✓ Farm Bill-funded Activities

3. Funded by Reimbursements

- ✓ Research and Promotion Programs

Activities Identified to Not Operate During Shutdown:

The following AMS programs are 100% funded with annually appropriated funds and will not be continued during a government shutdown:

- | | |
|---|---------------------------------------|
| ✓ Country of Origin Labeling | ✓ National Organic Program |
| ✓ Federal Seed | ✓ Pesticide Data Program |
| ✓ Federal-State Marketing Improvement Program | ✓ Shell Egg Surveillance |
| ✓ Market News | ✓ Standardization |
| ✓ Marketing Agreements & Orders | ✓ Transportation & Market Development |

Offices Identified as Partially Funded Operate During Shutdown:

The following AMS offices are identified for partial furlough based on appropriated funding, but will continue during a government shutdown to the extent their salaries are paid with excepted or exempt funding:

- ✓ Administrator, Associate Administrators, and associated staff
- ✓ Deputy Administrators whose programs include exempt and excepted activities and their management staff
- ✓ Information Technology Services
- ✓ Compliance & Analysis Program

External Inter-Agency Administrative Support

AMS will work with the other USDA agencies that provide administrative services through reimbursable agreements to confirm what services will be available for AMS excepted/exempted employees during a government shutdown.

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Short and Long-Term Impacts for Activities Not Operating During Shutdown:

Short-term (1-5 days): Agricultural industry stakeholders, who depend on Market News information for marketing decisions and contracts, will be significantly affected as soon as a Market News report is not issued due to Government shutdown. The lack of information will become more critical in proportion to the length of the shutdown. Legislation pending in Congress requires continuation of Livestock Mandatory Reporting during a lapse in appropriations.

Long-term (2-4 weeks): Suspension of regulatory and oversight activities for longer than a week will impact the organic industry (National Organic Program), and the specialty crop and dairy industries (Marketing Agreements and Orders). State cooperators that support the Pesticide Data, Country of Origin Labeling, and Federal Seed Act programs will be impacted by suspended operations and halted Federal reimbursements. Reporting on agricultural transportation and market development activities that strongly support communities and smaller farmers/ranchers will not be available. As the timeframe expands, the suspension of appropriated marketing support activities will negatively affect marketing for all agricultural sectors served by AMS.

Timing of Shutdown:

Commodity grading and other fee based services operate year-round, but shutdown of operations will have a major impact on producers (farmers/ranchers) when agricultural commodities are ready to move into the marketplace. For example, industry relies heavily on Market News reporting to establish fair prices as well as procuring transportation support.

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AMS Start-Up Activities

Initial Communication

The AMS shutdown plan instructed employees to monitor the status of the government shutdown and agency operations via the Office of Personnel Management (www.opm.gov) and news sources. Following approval of an annual or partial budget, AMS employees will receive notification either from the OPM website, the news media or their immediate supervisors on when to return to work. *Employees should not wait to hear from their supervisor if news and other sources (e.g., OPM, USDA website) are reporting that the Federal government is open.*

General Start Up Procedures

All employees are responsible for taking necessary actions to restore the agency to a fully operational status. Key items to address include, but are not limited to:

- Turn off the out-of-office message in Outlook email
- Reset voice mail message
- Remove all signage indicating the office was closed due to a lapse of funding
- Resume use of transit benefits, if available where you work
- Resume use of government-issued mobile devices, including cell phones, tablets, and/or laptops for approved purposes
- Resume use of government fleet and travel cards for appropriate government use

Information Technology

The AMS Chief Information Officer (CIO) is responsible for ensuring that Information Technology (IT) Systems are available and operating with a high level of confidence to perform agency business operations. Upon restoration of funding for the agency:

- AMS CIO will restore all AMS production IT systems, business tools and websites to their last known state in order to conduct official AMS business
- Employees should retrieve all IT equipment (laptops, cell phones, tablets, etc.) from their secured location in order to conduct official AMS business
- Employees will restart their computers and other IT devices to ensure all memory, temporary files and caches, are cleaned – giving the computer a fresh start
- Employees should connect computers and laptops to the IT network to ensure all systems are updated with the appropriate security patches and system updates. As a result of IT systems being offline, this process may take up to 4 hours to complete. Do not turn off computers while the updates are in progress
- AMS CIO will work with USDA-OCIO-ITS to ensure technical issues submitted to the IT Service Center are addressed completely and in a timely manner
- AMS CIO will provide ongoing monitoring to ensure availability and proper functionality of IT systems throughout the start-up and recovery process

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Human Resources

- If an employee received unemployment compensation and is paid retroactively for time during furlough, the employee will be required to repay the unemployment compensation. For further guidance, please visit <https://www.nfc.usda.gov/>
- Timekeepers must follow up with supervisors and employees to determine if corrected timesheets need to be prepared for pay periods affected by the furlough

**UNITED STATES DEPARTMENT OF AGRICULTURE
 FY 2016
 SUMMARY OF EMPLOYMENT TO BE CONTINUED IN THE EVENT OF A GOVERNMENT SHUTDOWN**

Agency Name:

Agricultural Marketing Services (AMS)

Current On-Board Staff	Estimated Employment for Category One						Total After Day 20	Total as % of Staff
	2nd Half Day One	Day 2	Day 5	Day 10	Day 15	Day 20		
0	0	0	0	0	0	0	0	0%

KEY:

Category I: Military, Law Enforcement and Direct

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FY 2016
SUMMARY OF EMPLOYMENT TO BE CONTINUED IN THE EVENT OF A GOVERNMENT SHUTDOWN

Agency Name:**Agricultural Marketing Services (AMS)**

Current On-Board Staff	Estimated Employment for Category Two						Total After Day 20	Total as % of Staff
	2nd Half Day One	Day 2	Day 5	Day 10	Day 15	Day 20		
2,473	2,015	1,983	2,015	1,983	2,015	1,983	2,015	81%

Description of Activities to Be Continued:Commodity Purchases:

AMS will purchase non-priced supported commodities (meats, fish, fruits, poultry, and egg products) to stabilize market conditions pursuant to Section 32, and in support of entitlement program needs within USDA.

Fee-Funded Services:

AMS will deliver fee-funded agricultural marketing support activities, including grading, certification, inspections, classing and verification services requested by agricultural industry stakeholders. AMS will verify the uniqueness of variety and certify intellectual property protection under the Plant Variety Protection Program. Under the Perishable Agricultural Commodities Act, Federal activities will protect producers, shippers, distributors and retailers from loss due to unfair and fraudulent practices in the marketing of fresh and frozen fruits and vegetables. We will also continue the sample testing activities in our laboratory that support commodity purchases, export certification, grading and quality assurance.

Research and Promotion Oversight:

AMS will continue to ensure proper marketing practices and provide guidance on industry-sponsored commodity research and promotion activities. AMS is reimbursed for Federal oversight of commodity research and promotion programs (checkoff programs) which are established under Federal law at the request of the respective industry for coordinated programs of research, promotion, and consumer information to improve, maintain and develop markets for their products. Checkoff programs derive their funding through industry assessments.

Farm Bill Activities:

AMS will administer ongoing grants and support grantees for Farm Bill-funded programs: Specialty Crop Block Grants, Organic Cost-Share, and the Farmers Market Promotion and Local Food Promotion Programs.

Authorized by Annual Appropriations (Day 1):

Most annually appropriated activities will be shutdown during first half of day 1. Dairy Marketing Order program shutdown is estimated to require a full day so that employees can complete coordination with Milk Market Administrators.

KEY:

Category II: Financed from Available Funds

**UNITED STATES DEPARTMENT OF AGRICULTURE
FY 2016
SUMMARY OF EMPLOYMENT TO BE CONTINUED IN THE EVENT OF A GOVERNMENT SHUTDOWN**

Agency Name:

Agricultural Marketing Services (AMS)

Current On-Board Staff	Estimated Employment for Category Three						Total After Day 20	Total as % of Staff
	2nd Half Day One	Day 2	Day 5	Day 10	Day 15	Day 20		
0	0	0	0	0	0	0	0	0%

Description of Activities to be Continued:

KEY:

Category III: Protect Life and Property; Authorized by Law; Implied by Law; or Constitutional Duties and Powers

**UNITED STATES DEPARTMENT OF AGRICULTURE
 FY 2016
 SUMMARY OF PROGRAMS/ACTIVITIES TO BE CONTINUED IN THE EVENT OF A GOVERNMENT SHUTDOWN
 (Dollars in Thousands)**

Agricultural Marketing Service

<u>Program/Activity</u>	<u>Is the Program/ Activity Exempt</u>	<u>Funding Source</u>	<u>Amount Available</u>	<u>Number of Days Funds Support</u>	<u>Total Number of Staff Supported</u>	<u>Total Number of Excepted Supported*</u>	<u>Program Impacts</u>			
							<u>1</u>	<u>Week 2</u>	<u>3</u>	<u>4</u>
Commodity Purchase Program	Y	Permanent Appropriation	33,799	Ongoing	61	0	None, purchasing operations will continue			
Grading/Certification/ Verification, Plant Variety Protection, Perishable Agricultural Commodity Act Program, Fee-funded testing	Y	Carryover funds and service revenues available in no-year accounts	226,692	Ongoing	1,849	0	Will continue services to customers. Reduced inter-agency services could delay financial (billings and collections, payments) and personnel actions (including seasonal hiring) that support exempt operations			
Research & Promotion Programs	Y	Non-Federal Reimbursement	4,473	Amount collected in advance by month	27	0	None, oversight activities will continue			
Agency and Program Management and Administrative Personnel	Partial	Mixed	Proportional to available resources	Ongoing	46	5	AMS management and administrative activities will continue to support exempt and excepted programs			
Employees Continued					1,983					
* Senior management may be moved to excepted status when not exempt, on an as-needed basis, at discretion of Administrator or Associate Administrators										