

Departmental Administration Contingency Plan

Scope

This plan of action is developed based on the latest guidance for shutdown planning and activities for this organization, as relayed by the Office of Management and Budget (OMB) and the Department. This plan is subject to amendment as developments require and provided such amendments are consistent with applicable law.

The Department is subject to seasonal variations and at one time up to 80 percent of employees may need to report to work during a furlough, but this would be on an intermittent basis. When Category I funding is no longer available those employees listed in this category will either be furloughed or moved to either Excepted or Exempted and will show in either Category III or Category IV.

The functions and activities described herein are to be executed in accordance with all applicable statutes, regulations, policies, and delegations of authority.

OMB provides guidance 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).

The Anti-Deficiency Act (<http://www.gao.gov/legal/lawresources/antideficiency.html>) prohibits agencies from incurring obligations in advance of, or that exceed, an appropriation. Thus, with certain limited exceptions, an agency cannot incur obligations when the funding source for the obligation is an appropriation that has lapsed. Any activities that would incur a new obligation must be suspended and are prohibited. Activities that are under way that would lead to an increased obligation or incurred costs must cease.

There are, however, limited exceptions to this general rule, including obligations incurred performing activities that protect life and/or property, incurred to accomplish an orderly shutdown of the normal functions of the agency, or where such payment activity is necessarily implied.

An agency must otherwise continue certain activities despite a lapse in their appropriations because the lawful continuation of other funded or excepted activities “necessarily implies” that these additional activities will continue as well. A "necessary implication" can arise when an

agency needs to incur obligations, even though there has been a lapse in the appropriation against which those obligations would be charged, in order to implement:

- 1) An “orderly shutdown” when there has been a lapse in appropriations (as the Department of Justice has explained, “authority may be inferred from the Anti-deficiency Act itself for federal officers to incur those minimal obligations necessary to closing their agencies”);
- 2) "Excepted" activities including functions:
 - a. Authorized by statute or other legal requirement expressly authorizing an agency to obligate funds in advance of appropriations;
 - b. That address emergency circumstances such that the suspension of the function would imminently threaten the safety of human life or the protection of property;
or
 - c. That are necessary to the discharge of the President’s constitutional duties and powers.
- 3) Congressionally authorized or appropriated functions for which Congress has provided funding that remains available during the lapse (including funds already obligated from the current fiscal year) where the suspension of the related activity (during the funding lapse) would prevent or significantly damage the execution of the terms of the statutory authorization or appropriation.

This plan assumes that some Agency activities will continue and are essential to protect life and property and are excepted from closed down procedures, such as:

1. Security personnel and all necessary equipment costs to protect life and property, including the security of the Secretary of Agriculture.
2. Emergency and Natural Disasters Response (i.e., floods).
3. Protection of Federal lands, buildings, waterways, equipment and other property and investments owned by the United States when the suspension of such activities would cause an imminent threat to human life and property.
4. All contracts in support of cyber security and infrastructure operations to support key positions and essential personnel.
5. Collection and Payment activities for previous legal obligations.
6. Excepted positions and support of excepted personnel as needed for closed down procedures (see attachment 1).
7. Emergency and Defense Preparedness.

Employees required to support excepted activity:

Assistant Secretary for Administration: 3 total

This would include three leadership staff to oversee overall management and coordination for Departmental Administration.

Office of Human Resources (HR) Management: 12 total

This would include the Chief Human Capital Officer, the Deputy Chief Human Capital Officer, Chief of Staff, and employees required to cover Policy, HR systems, Employee Relations, Labor Relations, T&A Pay/Benefits/Retirement/Health Insurance for the OHRM servicing population, and limited staffing support for exempt customers and critical excepted hiring.

Office of Homeland Security: 8 total

The Office of Homeland Security (OHS) will except a total of 8 employees and 1 contract in support of the Departmental Administration Contingency Plan for Lapsed Appropriations.

The function addresses emergency circumstances, such that the suspension of the function would imminently threaten the safety of human life or the protection of property^{5F}^[1].

- **National defense and homeland security readiness**
 - 1 employee for leadership/advice to the Secretary on national and homeland security issues, liaison with White House National Security Council and Department of Homeland Security, and coordination with the Intelligence Community. This team also responds immediately to no-notice incidents, leading USDA's first-hour response actions to intentional, accidental, and naturally-occurring emergencies.
 - 4 employees to operate the USDA Operations Center 24/7, maintain situational awareness, and execute immediate actions to save life/property, and serve as the USDA focal point for coordination of emergency management actions.

^[1] OMB Memorandum 18-05 dated January 19, 2018

- 1 employee for Continuity of Operations (COOP) readiness and activation of USDA and Agency COOP plans:
- 1 Emergency Operations Center Contract: to provide USDA emergency notification and response capabilities supporting all USDA emergency and security programs worldwide.

Activities that an agency must continue, in the absence of appropriations, because their continuation is "necessarily implied" from the authorized continuation of other activities^{6F}^[2].

- **In support of national defense and homeland security readiness**

- 2 employees to provide access to secure facilities and communications systems that support secure networks, store classified materials, and provide for the secure communications in support of the USDA senior leadership (i.e., excepted staff) and are prepared necessary to respond immediately to national security threats.

Agriculture Buildings Facilities: 52 total

Agriculture Buildings Facilities will except a total of 52 federal employees (17 federal employees will initially be excepted and 35* federal employees would be considered intermittent excepted to perform certain functions as the need arises) and 38 contract employees in support of the Departmental Administration Contingency Plan for Lapsed Appropriations to provide critical mission support, facility maintenance and management for the USDA Headquarters Complex, George Washington Carver Center and the Materiel Management Service Center, Beltsville, MD. These employees will ensure that USDA have the necessary operations and maintenance, custodial services, pest control, hazardous material abatement, landscaping, mail services, and other support services during the shutdown. This is critical to ensure that USDA functions operationally and provide a safe and secure environment for the federal employees and contractors responsible for delivering the Department's missions and objectives to support the American people. The breakdown of the excepted activities and employees are listed below.

- In support of Executive Leadership, Oversight and Management Controls
 - 2 federal employees
- In support of Administrative Services for the Office of the Secretary
 - 5 federal employees
 - 1 contract employee
- In support of Building Operations and Maintenance
 - 8 federal employees
 - 36 contract employees
- In support of Mail and Copier Services
 - 27 federal employees (*intermittent excepted)
- In support of Food Safety Inspection Services Field Supply Requirements
 - 8 federal employees (*intermittent excepted)
- In support of Safety
 - 2 federal employees 1 contract employee

^[2] Ibid.

Office of Contracting and Procurement: 15 total

In support of contracts, acquisition, policy and charge card services.

- Support of the Integrated Acquisition System
- Support of Procurement Policy matters
- Support of Purchase and Fleet Card services
- Support of Contracts in OCIO, OCFO, DA, and other agencies some with no funding and some with.

This is all based on the workload we encountered during the last lapse.

Hazardous Materials Management : 2 total

The Hazardous Materials Management has identified two federal employees that would be excepted: the Chief of the Environmental Management Division (EMD) and an EMD employee required to coordinate the Department's environmental response and restoration activities and coordinate with the U.S. National Response Team for emergencies of national significance.

Office of Safety, Security, and Protection: 27 total

The Office of Safety, Security, and Protection will except a total of 26 federal employees. They will be excepted to perform functions relative to life safety, security, and emergency preparedness efforts aligned with Departmental Administration Contingency Plan for Lapsed Appropriations to provide critical mission support, facility safety, security, and management for the USDA Headquarters Complex (South, Whitten, and Yates Buildings), and the George Washington carver Center, Beltsville, MD. These employees will ensure that USDA have the necessary safety, security, and emergency preparedness compliancy requirements and other support services during the shutdown. This is critical to ensure that USDA functions operationally and provide a safe and secure environment for the federal employees and contractors responsible for delivering the Department's missions and objectives to support the American people. The breakdown of the excepted activities and employees are listed below.

The functional components address emergency circumstances, life safety, security such that the suspension of the function would imminently threaten the safety of human life or the protection of property¹.

- In support of Executive Leadership, Oversight and Management Controls
 - 2 federal employees
- In support of Executive Protective Operations
 - 13 federal employees

¹ OMB Memorandum 18-05 dated January 19, 2018

- In support of Security Services Division and Building Access in the National Capital Region
 - 5 federal employees
- In support of Facility Protection Division and Building in the National Capital Region
 - 5 federal employees
- In support of Safety, Training, and Emergency Preparedness (STEM)
 - 2 federal employees

Plan for activities not excluded from closed down procedures:

Prior to Day 1, the following actions will be completed:

The Assistant Secretary for Administration (ASA) and Departmental Administration (DA) Directors will identify those functions that need to be performed that are solely associated with an orderly interruption of normal activities. Such functions may include, but are not limited to:

- Identifying measures to secure records, personal property, real property, and facilities that will be maintained and protected until appropriate disposition is accomplished.
- Drafting communications strategy for communicating with staff office employees.
- Drafting communication strategy for making contacts outside the offices that is necessary to communicate our status, i.e. that USDA is shut down and providing an explanation for the hiatus.
- Identify all potential meetings, hearings and other previously arranged business that must be cancelled.
- Identify all essential employees and ensure these employees have been identified consistently, fairly and in compliance with applicable personnel regulations.
- Identify employees whose presence at work will be required to perform functions associated with the orderly cessation of program activities. This includes employee name, title and function the employee will perform.
- Identify all employees in International travel status and issue recall orders
- Identify what instructions and procedures Human Resources Management will provide to employees for the closed down period.
- Identify appropriate Department contacts for communications purposes and orderly closed down of all offices.
- Initiate bargaining with unions and other employee representatives over furlough related topics.

First half of Day 1 (First Day funds are not available):

All employees will be directed to report to their supervisors to receive assignments of duties or other pertinent information for an orderly shutdown. For those employees teleworking, “report” may be done by telephone or email.

Managers and supervisors will coordinate the following activities intended to terminate Agency's operations:

- Communicate closed down instructions and procedures to all employees.
- Distribute furlough notices at headquarters and all field units to all employees who have not been determined to be necessary for the Agency's termination activities.
- Contact any employees on leave and communicate that their leave is cancelled.
- Contact any employees in travel status, inform of shutdown status, and direct to return to duty station.
- Ensure all employees to be released complete timesheet entry and submit to approving official.
- Cease any employee transfer of station.
- Ensure all records; personal property and real property are secured.
- Cancel all meetings, hearings and previously arranged DA business.
- Validate existing communication strategy and employee contact information for future communication need.

There will be daily communications by the ASA's Office on the status of the closed down procedures with the Department contacts previously identified.

The ASA will be responsible for:

- Providing instructions and procedures to managers and supervisors for all employees during the closed down period. This will include provisions for call back of employees in the event it is determined they are needed to complete closed down procedures.
- Providing specific instructions for employees to complete final time and attendance report.
- Ensuring individual furlough notices will be prepared, reviewed and approved.
- Ensure all employees timesheets are processed by the National Finance Center.
- Delay hiring of new employees and notify new hires of the reason for the delay.
- Coordinating with all contracting officers and contracting officer technical representatives to notify all contractors and vendors that work is suspended for the duration of the shutdown.

Second half of Day 1:

Managers and supervisors will coordinate the following activities intended to terminate Agency's operations:

- Document the status of cases and projects so that they can be resumed, transferred, or otherwise appropriately handled when DA's ultimate funding situation is determined.
- Prepare files for permanent storage, transfer to related agencies, or other disposition.
- Complete identification of employees whose presence at work will be required to perform functions associated with the orderly cessation of program activities.

This includes:

- Name of each employee required to continue shutdown operations.
- Title of each employee identified.
- Office where employed, and
- The termination function that each identified employee is to perform.
- A finalized listing of employees required for shutdown operations will be submitted by the Staff Office Directors to the ASA no later than the end of Day 2.
- Contracting Officers and contracting officer technical representatives will continue to contact all contractors and vendors to let them know work is suspended.

Day 2:

Only employees who were previously identified as required to perform functions necessary for orderly shutdown of program activities will report for work.

Employees leading, directing and performing work identified as “excepted” from closed down procedures on page 1, will continue to work.

Employees will be directed to perform only those activities as enumerated earlier.

As each shutdown function is completed, each Staff Office Director notifies the Chief of Staff for the ASA and NFC, of completion and identifies those employees who were responsible for the task.

Each employee whose shutdown functions are completed will be furloughed immediately and formally notified by their supervisor or appropriate Director if the supervisor is not available.

There will be daily communications by the ASA’s Office on the status of the closed down procedures with the Department contacts previously identified.

Day 3 and until completion of closed down procedures:

Only employees who were previously identified as required to perform functions necessary for orderly shutdown of program activities will report for work.

Employees leading, directing and performing work identified as “excepted” from closed down procedures on page 1, will continue to work.

Employees will be directed to perform only those activities as enumerated earlier.

Employees completing closed down functions, continue tasks as outlined under Day 2 for each succeeding day until the Chief of Staff for ASA determines the shutdown is complete.

There will be daily communications to and from the ASA’s Office on the status of the closed down procedures.