

Trade and
Foreign
Agricultural
Affairs

2021

Agency
Contingency Plans

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.

Foreign Agricultural Service Shutdown Procedures

Introduction:

A government shutdown is caused by an absence of appropriation. In recognition that it takes time to shutdown in an orderly manner, certain activities are allowed to continue past the appropriations lapse. Accepted practice and previous guidance instruct agencies to take steps to protect both life and property and determine excepted functions and the excepted personnel needed to carry out those functions as a part of an orderly shutdown. In the absence of further guidance FAS intends to follow this instruction in making its contingency preparations.

The following assumptions are provided to assist offices in implementing an orderly shutdown. The word “excepted” is used below to refer to activities that would not be affected by the lapse in annual appropriation.

Assumptions:

1. All Washington staff are to report to work on the first business day of the shutdown. Tasks would include the identification of activities remaining to be addressed and communicating those things to those in the office designated as excepted personnel. These include:
 - a. Activities that are financed from available funding sources (see 5 and 6 below);
 - b. Travelers who may be en-route home who need to be accounted for;
 - c. Foreign travelers that need to be administratively supported;
 - d. Outstanding time and attendance/payroll functions;
 - e. Activities relating to shutdown, e.g. notification of contractors;
 - f. Verifying property inventories are in hand; and
 - g. Securing and storing records, files or work in progress.
2. FAS will determine who among FAS Foreign Service personnel posted overseas, are to be excepted personnel at a U.S. Embassy, Consulate, or other U.S. facility. FAS, in consultation with FA, determines those individuals excepted from furlough on post. Instructions for all LES and FSNs will be issued by FAS/FA based on local labor laws.
3. Employees should plan travel to return to home immediately following a lapse in funding.
4. Network communications by excepted personnel are exempt from non-use rule. Email and access to network files and applications will remain available so that necessary actions can be completed. Non-excepted personnel may not use government equipment or access network files during the shutdown period.
5. Activities funded through reimbursable agreements with entities other than the Commodity Credit Corporation are not considered excepted and would not continue during a lapse in annual appropriation. Staff funded by USAID (Participating Agency Service Agreements (PASA) and other Schedule B (excepted service) are generally not excepted. Exceptions may be made in cases where staff are assigned overseas and therefore, fall under the Chief of Mission or where staff are assigned to an office within USAID where functions are considered essential. In those cases, FAS will work with the funding office to make that determination prior to the shutdown date. However, as a condition, administrative support and supervision, if required,

funding must be available and in place for the work to continue. If administrative support or supervision is needed and no funds are available, the Schedule B employees may not continue to work during the shutdown regardless of funding source.

6. Personnel to carry out mandatory, multi-year, no-year, or carryover funded programs may be excepted if the following test is satisfied: the suspension of the [work of the employee] would prevent or significantly damage the execution of the terms of the statutory authorization or appropriation. In other words, would “the terms of the statutory provision ... be significantly damaged in the absence of immediate performance of the unfunded, related activity,” i.e., salaries and expenses.
7. Personnel to support activities excepted from the shutdown would remain on duty; other non-excepted personnel would be released following further guidance on shutdown furloughs from Human Resources or Office of Personnel Management.
8. Announcements relating to shutdown including return to work notifications would be available from Office of Personnel Management, web sites, and other media/news outlets.
9. Official telephone communications by excepted personnel are allowable. Non-excepted personnel are not to use government phones, PDAs, or computers while in shutdown furlough status. Any “on-call” or “re-called” employees are to be contacted via personal phones or email addresses during this time.
10. Contracts in support of excepted activities may continue. If the contract requires administrative support or supervision, that administrative support or supervision must be excepted and available during the period of shutdown, otherwise work cannot continue.
11. Personnel would be excepted on an intermittent basis to make timely payments to contractors, grantees, and other entities. These activities would be limited to making payments on multi-year, no-year, or previously obligated amounts.

Logistical preparations that each office should be working on in advance of shutdown:

1. Contact lists for all office staff which would include alternative means for getting in touch with employees after they have been released. Lists would also include those employees posted overseas.
2. List of contracts, agreements, and/or grants and the systems needed to oversee them, with a focus on any upcoming events in the instrument’s life cycle that will be occurring on or around this time period, (e.g., renewals, exercising option years, closures, monitoring /review processes, etc.).
3. Inventory of property including information technology (IT) equipment, other specialized equipment that is FAS-owned and the listing and location of all electronically held inventories.
4. Identification of excepted functions in your office necessary in an orderly shutdown process, relating to activities such as travel, financial certification, or other functions requiring an action.

5. Updating a list of individuals with knowledge and skills pertinent to a government shutdown with understanding of how to access and use required systems, including those with the authority to take certain actions (e.g. approvals, certifications, etc.).
6. Contact lists of grantees, contractors, cooperators and others that may need to be contacted if the period of shutdown becomes extended.
7. List of those on travel status. This list would eventually become a list of those who still may be on travel that need to be assisted in returning home.
8. Back-ups or alternate personnel to support excepted functions should be identified in case of illness of first line excepted staff.

Shutdown Procedures:

1. Prior to the Shutdown:
 - a. The Administrator will issue a memorandum to employees and/or forward a Department memorandum, if available, reporting the status of funding. If a shutdown occurs, any remaining annually appropriated funded travelers will be instructed to return to their duty station.
2. First half of Day 1 (First day in the absence of appropriation):
 - a. All employees are directed to report to their supervisors to receive assignments of duties or other pertinent information for an orderly shutdown. For those employees teleworking, "reporting-in" may be done by telephone.
 - b. Based on guidance from OMB and or the Department and/or OBPA, the Administrator will instruct managers to implement cessation of activities based on this plan as revised or updated per further guidance.
 - c. Managers and supervisors will coordinate the following activities intended to terminate Agency's operations:
 - i. Communicate shutdown instructions and procedures to all employees.
 - ii. Contact any employees on leave and communicate that their leave is cancelled.
 - iii. Any employee unexpectedly in travel status (for example, due to flight cancellation) will be contacted and assisted in returning to their duty station as soon as possible.
 - iv. Ensure all employees to be released complete timesheet entry and submit to approving official.
 - v. Ensure all records, personal property and real property are secured.
 - vi. Cancel all meetings, hearings, and previously arranged business.
 - vii. Validate existing communication strategy and employee contact information for future communication need.
 - viii. Distribute guidance and notices at headquarters to all employees who have not been excepted from the shutdown process. Notices should be provided to all overseas posts as well informing posts about headquarters activities and methods for contacting excepted employees.

- d. Business Operations will contact external service providers to ensure continuance of communication, network and human resource services.
3. Subsequent Workdays of Shutdown [Days 2-5]:
 - a. Only excepted employees so notified will report to work.
 - b. Employees will engage in approved activities only.
 - c. Depending on the length of the shutdown, and remaining required activities, the number of excepted personnel may be modified. Affected employees would be placed on immediate furlough.
 - d. There will be daily communications by FAS on the status of the close down procedures with the Department contacts previously identified.

Specific Program Activities - Excepted Functions:

Office of the Administrator (OA)

- a. Excepted Functions:
 - Required to carry out agency decision-making during shutdown are the Administrator who has full delegated authority, the Associate Administrator and General Sales Manager who has specific statutory delegations and oversight relating to GSM 102 and mandatory programs, the Associate Administrator who has oversight over critical international trade negotiations, and the Chief of Staff who coordinates with TFAA, OGC, and program areas on excepted functions.
 - Security Office: The agency requires instant access to internal, Departmental, and Government-wide information and contacts to respond to any and all security and national security clearance issues that may arise during a temporary shutdown. Additionally, the agency requires immediate response to coordinate emergency and continuity of operation services during a shutdown event.
 - During the course of a shutdown, adjustments in excepted activities for USDA agencies or other U.S. Government agencies may occur. Examples include updated guidance from OMB, USDA, or State Department. When these adjustments affect FAS activities, FAS excepted employees may engage in these activities unless a specific prohibition exists.
- b. Excepted Personnel = 5
 - Administrator
 - Associate Administrator and General Sales Manager
 - Associate Administrator
 - Chief of Staff
 - Emergency Preparedness Coordinator
- c. On Call Personnel = 1
 - Security Officer
- d. Activities Funded by Resources Other Than FAS Salaries and Expenses Appropriated:
 - NONE

Business Operations (BizOps)

- a. Excepted Functions:
 - Provides oversight of shutdown procedures.
 - Oversight and managerial controls are required to coordinate multiple services provided by the staff offices of the BizOps.
 - Communication during the shutdown is an excepted function in an international organization with staff members still at overseas posts. Coordination is needed to keep specific FAS applications operational and network services including e-mail up and running. These services include email, smartphones, support for excepted employees, and Citrix and VPN. Critical systems consist of PSD, GSM, UES, IPATTS, OASIS, IMART, GAIN, and ESR.
 - Excepted functions include program area activities that are required to support the administration of excepted mandatory, multi-year, no-year, or carryover funded programs.
 - Budget Division: Budget Certification and administrative control requirements continue for two-year and non-appropriated funding. The following are excepted functions for the division:
 - a. Ensure funds available for incurring commitments, obligations or expenditures in the financial system,
 - b. Provide reports on spending and funds availability to program areas and management, (applicable only if FMMI is operational)
 - c. Provide information to management, OBPA, OCFO, OSEC/USEC and OMB if requested
 - d. Serve as system liaison to WebTA for accounting codes, (applicable only if WebTA and FMMI are operational)
 - e. Assist in preparing billing analyses and provide accounting service provider agreement information, (applicable only if FMMI is operational).
 - Financial Management, Contracts and Grants Division
 - a. Coordinate with OCFO and OGC on permissibility of transactions and services
 - b. Provide proper accounting codes for use by personnel in program areas, overseas activities,
 - c. Create FMMI elements needed for multiyear year funds and reimbursable/cooperative agreements (applicable only if FMMI is operational)
 - d. Provide information to management, OBPA, OCFO, OSEC/USEC and OMB if requested
 - e. Serve as system liaisons for Concur, IAS, ezFedGrants and assist program areas with accounting, vouchers, payments on obligations that occur prior to shut down, reconciliation issues, (applicable only if FMMI is operational)
 - f. Provide pipeline analyses, reconciliations, service to reimbursable customers' agreements/cooperatives, (applicable only if FMMI is operational)
 - g. Assist in preparing billing analyses and provide accounting service provider agreement information, (applicable only if FMMI is operational)

- h. Coordinate collection and preparation of checks received from refunds/returns and send to NFC for processing, (applicable only if FMMI is operational)
 - i. Grants office provides direct administrative oversight and excepted, immediate resolution to frequently arising issues related to the stewardship and protection of USG property involved with assistance transactions
 - j. Oversee active cooperative agreements where it is necessary to fully protect life and USG property/resources
 - k. All other activities necessary for administration of the funds oversight for reimbursable/cooperative agreements.
- On-call, excepted personnel are permitted to review and complete action on reimbursement requests and invoices under Federal financial assistance agreements and contracts. These actions are limited to agreements or contracts that were funded with previously obligated funds or multiyear or no-year funds.
 - Human Resources Division communicates information from the Department and addresses urgent personnel actions related to protection of life or property. On-call personnel would implement critical operations on benefits and non-hiring functions.
 - Representatives in International Travel Services Travel protect passports and provide international travel services to exempted and excepted USDA employees.
 - During the course of a shutdown, adjustments in excepted activities for USDA agencies or other U.S. Government agencies may occur. Examples include updated guidance from OMB, USDA, or State Department. When these adjustments affect FAS activities, FAS excepted employees may engage in these activities unless a specific prohibition exists.
- b. Excepted personnel = 14
- Executive Director
 - Chief Information Officer
 - Managing Director
 - Communication/Information Systems
 - Communication/Information Systems
 - Communication/Information Systems
 - Communication/Information Systems
 - Travel
 - Travel
 - Chief Financial Officer
 - Budget Analyst
 - Accountant
 - Senior Director of Budget Division
 - Senior Director of Human Resources
- c. On Call Personnel = 6
- Budget Analyst
 - Budget Analyst
 - Budget Analyst
 - Grants Officer
 - Communication/Information Systems
 - Communication/Information Systems

- d. Activities Funded by Resources Other Than FAS Salaries and Expenses Appropriated:
- Cochran Fellowship and Borlaug Fellows - Funded by no year funds for program activities, administration of program is funded from annual appropriation only
 - McGovern-Dole - Funded by no year funds for program activities/agreements, administration of program is funded from appropriation of yearly amount
 - Capacity Building - Funded by multiple year and single year funds from USAID, State and other federal and non-federal entities (FAS needs to bill and collect revenues to match up with expenditures)

Trade Policy and Geographic Affairs (TPGA)

- a. Excepted Functions:
- Excepted functions for core activities are preparation for and participation in critical international trade negotiations that cannot be postponed or cancelled. Excepted functions would also include critical actions following the negotiating sessions. These negotiations would include multilateral negotiations that cannot be covered effectively by post, formal WTO dispute proceedings, bilateral negotiations with other governments, or other trade-related engagements with foreign governments. Determinations on “critical international negotiations” will be made in consultation with the U.S. Trade Representative and/or the Department of State.
 - Excepted functions include program area activities that are required to support the administration of excepted mandatory, multi-year, no-year, or carryover funded programs.
 - On-call, excepted personnel are permitted to review and complete action on reimbursement requests and invoices under Federal financial assistance agreements and contracts. These actions are limited to agreements or contracts that were funded with previously obligated funds or multiyear or no-year funds.
 - During the course of a shutdown, adjustments in excepted activities for USDA agencies or other U.S. Government agencies may occur. Examples include updated guidance from OMB, USDA, or State Department. When these adjustments affect FAS activities, FAS excepted employees may engage in these activities unless a specific prohibition exists.
- b. Excepted Personnel = 2
- Deputy Administrator
 - Managing Director of TPGA
- c. On Call Personnel = 6
- TPGA management or staff to support traveling teams or critical international negotiations.
 - TPGA management or staff with grants management or contract officer representative duties.
- d. Activities Funded by Resources Other Than FAS Salaries and Expenses Appropriated:
- NONE

Foreign Affairs

- a. Excepted Functions:
- Headquarters: Support overseas Foreign Service personnel officially assigned to U.S. Embassies or U.S. consulates. Staff must be available to communicate and respond to daily issues and crises that may arise from activities in these posts, as well as continue to perform administrative activities such as reporting, time and attendance and various

types of necessary travel, e.g., medical evacuation. Additionally, to ensure proper ongoing management of these operations, FA must monitor budgets and expenditures for single-year and multiyear funds and advocate and ensure International Cooperative Administrative Support Services (ICASS) policy and regulations are followed. Medical services, medical evacuations, emergency actions, or any action deemed necessary for the safety of life or property by the COM or FAS excepted personnel at post may continue during a shutdown period.

- Overseas: Supervise Locally Employed Staff and address critical issues and crises. Support critical trade negotiations and support Embassy in government-to-government discussions that implement the President’s foreign policy or address trade issues. Protect life, property, and health. Protection of assets includes assisting exporters with shipments held at port. Overseas Foreign Service Officers (FSOs) must not spend or obligate current year funds that have lapsed. Public-facing events or announcements should be postponed unless they are related to a critical or emergency situation. Involvement of FSOs in marketing or promotion events are not permitted.
 - Excepted personnel are permitted to support the administration of excepted mandatory, multi-year, no-year, or carryover funded programs.
 - Excepted personnel are permitted to review and complete action on reimbursement requests and invoices under Federal financial assistance agreements and contracts. These actions are limited to agreements or contracts that were funded with previously obligated funds or multiyear or no-year funds.
 - During the course of a shutdown, adjustments in excepted activities for USDA agencies or other U.S. Government agencies may occur. Examples include updated guidance from OMB, USDA, or State Department. When these adjustments affect FAS activities, FAS excepted employees may engage in these activities unless a specific prohibition exists.
- b. Excepted Personnel = 457
- Deputy Administrator
 - Managing Director
 - Senior Director, Global Services
 - Director, Planning and Resourcing (Overseas Operations: Payroll and ICASS)
 - Director, Administrative Management
 - Senior Analyst, Global Services
 - 119 Foreign Service Officers stationed overseas (FAS will consider Chief of Mission guidance in making final determination)
 - Approximately 332 Locally Employed Staff who are funded with multiyear funds (as required by local law) (FAS will consider Chief of Mission guidance in making final determination)
- c. On Call Personnel = 4
- Area Director
 - Area Director
 - Overseas Operation technical staff
 - Overseas Operation technical staff
- d. Activities Funded by Resources Other Than FAS Salaries and Expenses Appropriated:
- FAS has two-year funding available to cover overseas operations, which includes critical rents, travel, Medevacs, and salaries and expenses of Locally Employed Staff.

Global Market Analysis (GMA)

- a. Excepted Functions:
 - Excepted functions in GMA include support for critical international negotiations or other engagements with foreign governments on trade-related issues.
 - Excepted functions include program area activities that are required to support the administration of excepted mandatory, multi-year, no-year, or carryover funded programs.
 - Processing of information submitted through the Export Sales Reporting system is needed to preserve critical trade and economic information and to support international trade negotiations and engagements with foreign governments. Exporter data will be collected on a weekly basis provided the government keeps ESRMS OPEN, however, the weekly Export Sales Reports will not be published until the government reopens.
 - On-call, excepted personnel are permitted to review and complete action on reimbursement requests and invoices under Federal financial assistance agreements and contracts. These actions are limited to agreements or contracts that were funded with previously obligated funds or multiyear or no-year funds.
 - During the course of a shutdown, adjustments in excepted activities for USDA agencies or other U.S. Government agencies may occur. Examples include updated guidance from OMB, USDA, or State Department. When these adjustments affect FAS activities, FAS excepted employees may engage in these activities unless a specific prohibition exists.
- b. Excepted Personnel = 1
 - Deputy Administrator
- c. On Call Personnel = 3
 - Representative of Office of Deputy Administrator
 - Staff to support analyses for trade negotiations or with contract officer representative duties
 - Staff to maintain ESRMS
- d. Activities Funded by Resources Other Than FAS Salaries and Expenses Appropriated:
 - NONE

Global Programs (GP)

- a. Excepted Functions:
 - FAS may implement the following programs during a lapse in current year appropriations: Market Access Program, Foreign Market Development Program, GSM-102 Program, Facility Guarantee Program, and the Agricultural Trade Promotion Program. FAS will generally implement these programs when apportionments of CCC program funds have been executed and when the suspension of program activity would prevent the completion of mandatory requirements under a statute (i.e., Farm Bill).
 - Regardless of the status of apportionments and risks of meeting mandatory requirements, minimal monitoring activities for the GSM-102 Program would continue during a lapse in funding. These activities would be limited to the absolute minimum requirements to preserve U.S. government assets and to maintain the integrity of existing payment guarantees (issued with the full faith and credit of the U.S. Government), as well as to protect the underlying commercial export of U.S. agricultural commodities.

- Excepted functions are minimal oversight of Food Aid, Cochran and Borlaug Fellows at US Universities and other non-USG training providers, and some reimbursable agreements. The following presumes no new applications, agreements, amendments or allocations under any of the food aid, exchanges, or capacity building programs and the absolute minimum requirements to preserve U.S. government assets and to maintain the integrity of existing programs.
 - Excepted function is monitoring and reporting to Department of State any infractions or violations by J-1 visa holders. In the event that FAS is notified by U.S.-based Cochran and/or Borlaug training providers that any OCBD-sponsored international participant has violated the terms of the J-1 visa, the excepted personnel must officially notify Department of State via the SEVIS J-1 visa system. This function cannot be delegated.
 - Excepted functions include program area activities that are required to support the administration of excepted mandatory, multi-year, no-year, or carryover funded programs.
 - On-call, excepted personnel are permitted to review and complete action on reimbursement requests and invoices under Federal financial assistance agreements and contracts. These actions are limited to agreements or contracts that were funded with previously obligated funds or multiyear or no-year funds.
 - During the course of a shutdown, adjustments in excepted activities for USDA agencies or other U.S. Government agencies may occur. Examples include updated guidance from OMB, USDA, or State Department. When these adjustments affect FAS activities, FAS excepted employees may engage in these activities unless a specific prohibition exists.
- b. Excepted Personnel = 8
- Deputy Administrator
 - Managing Director
 - Representative of Office of Deputy Administrator
 - Management and staff to administer credit guarantee programs (2)
 - Management and/or staff to administer MAP, FMD, and ATP
 - Grants management staff
 - SEVIS responsible officer
- c. On Call Personnel = 36
- Representatives of Office of Deputy Administrator (2)
 - Management and staff to administer credit guarantee programs (21)
 - Management and staff to administer MAP, FMD, and ATP (9)
 - Management and staff to administer food-aid and exchange programs (4)
- d. Activities Funded by Resources Other Than FAS Salaries and Expenses Appropriated:
- Authorizing legislation for all export credit guarantee activity: Section 202 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. 5622). The Facility Guarantee Program is authorized in 7 U.S.C. 5622 note. GSM-102 is a mandatory program. Program funding source: Permanent and indefinite authority (non-appropriated)
 - Authorizing legislation for the Market Access Program and Foreign Market Development Program is Section 203 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. 5623). These programs are mandated within the statute. Program funding source is CCC funding.
 - The Agricultural Trade Promotion Program is authorized under the CCC Charter Act and funded with CCC funds.

ADDITIONAL EXCEPTIONS:

Excepted personnel listed above should maintain critical activities within FAS. If other critical needs arise, FAS must seek written approval from USDA to carry out the activities.

The U.S. Codex Office (USCO) Shutdown Procedures

Shutdown Communication

USCO activities will be suspended during a shutdown. USCO activities during a shutdown will be limited to the following agency excepted duties.

Supervisors/Employees: Furlough communication will be provided to all USCO employees via an all employee email. Excepted employees will receive information from the Under Secretary's office.

USCO Director is to notify applicable stakeholders of the status of the shutdown on the first day of the shutdown in accordance with office and USDA guidance.

Excepted Functions:

- Excepted functions for core activities are preparation for and participation in critical international negotiations that cannot be postponed or cancelled. Excepted functions would also include critical actions following the negotiating sessions. Examples include regular and extraordinary sessions of the Codex Alimentarius Commission and/or subsidiary bodies and previously scheduled and funded multilateral engagements with foreign governments related to Codex issues.
- Excepted functions include program area activities that are required to support the administration of excepted mandatory, multi-year, no-year, or carryover funded programs.

Exempt Position

U.S. Manager for Codex Alimentarius

START-UP OF FAS OPERATIONS PLAN

AUGUST 2020

Purpose

This document establishes a plan of action to execute an orderly start-up of Foreign Agricultural Service (FAS) operations following enacted appropriation.

Scope

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

High-Level Summary

- The FAS Shutdown Plan and furlough notices to each employee instruct employees to monitor the status of the government shutdown and agency operations via the Office of Personnel Management (OPM) website (www.opm.gov), USDA website (www.usda.gov), and news sources.
- Unless it is a regularly scheduled non-duty day or an employee is on approved leave or leave without pay under the Family and Medical Leave Act (FMLA), employees are expected to return to work the next work day following the President signing a bill funding the agency. Any delay in reporting for duty requires a request for leave that must be approved by the supervisor.
- An orderly start-up of agency operations is expected to take place as expeditiously as possible, so that service to customers can resume quickly.

Initial Communications Timeline

FAS has prepared for an agency start-up following an enacted appropriation for the fiscal year. In order to keep the agency informed during this start-up process the following communications will occur (note: Day 1 is the first full day of operations upon restoration of funding):

- Following the enacted appropriation: Federal employees receive notification either from the OPM website or the news media that they should report for work on the next workday.
- Day 1: 9:00 am EST – Administrator will meet with Associate Administrators and Business Operations to receive updates and to prepare for Executive Leadership Council meeting.
- Day 1: 10:00 am EST – Business Operations will issue time-sensitive information on time sheets or other operational items to all employees and the unions (as required by collective bargaining agreements).
- Day 1: 1:00 pm EST – Meeting of the FAS Executive Leadership Council to review the Start-Up of FAS Operations Plan and to identify priorities.
- Day 2: 10:30 am EST – Business Operations will provide any new guidance for human resources and other information from the Department.
- Day 2: 1:00 pm EST – Administrator may call a FAS Executive Leadership Council Meeting to continue implementation of the Start-Up of Operations Plan.
- Day 3: 1:00 pm EST – Administrator may call a FAS Executive Leadership Council Meeting to continue implementation of the Start-Up of Operations Plan.
- Other Communications:
 - Letter to partners and stakeholders from the Administrator.
 - Additional teleconferences as needed with state leaders.

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 for your Outlook email.
- Reset your voice mail message.
- Remove all signage indicating the office was closed because of the funding lapse.
- Restart computers and other IT devices according to guidance outlined in the Information Technology section of this plan.
- Resume use of transit benefits.
- Resume use of government-issued mobile devices, including cell and smart phones, tablets, and/or laptops for approved purposes.
- Resume use of government purchase and travel cards for appropriate government use.

Customer Service for Start-Up of FAS Operations

The re-start of FAS operations will be accompanied by many employee, customer, and partner questions and concerns. It is important for FAS to provide timely and consistent information that is in keeping with statute, regulation, and policy, and that this information is accessible throughout FAS.

Guidance for the Start-Up of FAS Operations

The FAS Executive Leadership Council (ELC) will guide the agency's transition from shutdown to full operational status. The ELC will be responsible for overseeing the implementation of the start-up plan; providing related policy and procedural direction; ensuring coordination and consistency across functional areas (human resources, financial management, information technology, property and procurement, programmatic, etc.); troubleshooting system and unique challenges; and monitoring progress related to restoring full operational status and in addressing employee, partner, and customer concerns.

The ELC may meet on a daily basis to assess progress and issues. As issues are resolved and progress continues, meetings may be less frequent. The ELC also will assess lessons learned from the shutdown and start-up and apply those to normal operations where applicable, and to plans prepared in the event of a future shutdown/start-up. The ELC will resume its normal meeting schedule to review new and ongoing work proposals for recommended action by the Administrator, when the Administrator has determined operations are back to normal and any major issues/challenges related to the shutdown have been resolved.

The Administrator chairs the FAS ELC. The complete membership of the ELC and its responsibilities are provided in Appendix A.

Information Technology

The FAS Assistant Chief Information Officer (ACIO) is responsible for ensuring that Information Technology (IT) Systems are available and operating with a high level of confidence

to perform agency business operations across the enterprises. Upon restoration of funding for the agency:

- ACIO will restore all FAS production IT systems, business tools, and websites to their last known state in order to conduct official FAS business.
- ACIO will coordinate with the Department IT Service Providers, USDA-OCIO-WCTS and NITC, to ensure all interdependent and enterprise IT systems are online and available.
- Employees should retrieve all IT equipment (laptops, iPhone, iPads, etc.) from their secured location in order to conduct official FAS 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.
- Reset any expired passwords, and ensure that any associated equipment (e.g., smart phone, notebooks, iPad) is also updated.
- 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 for several days this process may take up to 4 hours to complete. Do not turn off computers while the updates are in progress.
- ACIO will work with USDA-OCIO-WCTS to ensure technical issues submitted to the IT helpdesk are addressed completely and in a timely manner.
- ACIO will provide ongoing monitoring to ensure availability and proper functionality of IT systems throughout the start-up and recovery process.
- The CEC will provide help desk support for all FAS IT systems that support official business and all other user technical issues. The number for the CEC call center is 202-720-6763.

Human Resources

The Human Resources Director is responsible for ensuring that all Human Resources (HR) services and guidance is provided to FAS employees, including HR Specialists, in order to return to operations after a government shutdown due to a lapse in appropriations. The following attachments includes Human Resources Guidance (Appendix C), Frequently Asked Questions (FAQs) (Appendix D), and Case File Note (Appendix E). In addition, the Start-Up Customer Service Team referred to previously is available to provide additional assistance.

- Return to Duty After Shutdown
 - Generally, employees are expected to return to work the next business day or scheduled work day following the approval of a budget or a continuing resolution.
 - 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/>
- Time and Attendance

- Timekeepers must follow up with supervisors and employees to determine if a corrected timesheet need to be prepared for pay periods affected by the furlough.
- Guidance for HR Staffing Specialist and Assistants
 - Proceed to process outstanding personnel actions.
 - Review expiration dates of certificates of eligible applicants and document the case file with the “Note to Case File” provided in Appendix E of this document.
 - If a vacancy announcement closed during the furlough, please work quickly to rate, rank, and notify applicants of their eligibility.
 - Issue certificates of eligible applicants to the hiring managers, when appropriate.
 - For case files that were affected by the furlough, please be sure to add the “Note to Case File” document, Appendix E for future auditing purpose.
- Performance Management
 - If the shutdown is at the beginning of a fiscal year, then FAS will secure approval from The Department to provide an extension on rating performance for the prior fiscal year as well as issuing new performance plans for current fiscal year. Once the extension dates are received from the Department, all FAS employees and supervisors will be notified.
- Training and Development
 - Determine vendor status and policies for rescheduling and/or refunds, both for government (OPM) and private sector vendors.
 - Reschedule events in progress, including:
 - Internal contracted training sessions
 - 360-degree feedback sessions
 - FAS career guides development sessions

Travel

The Executive Director of Business Operations and the FAS Chief Financial Officer are responsible for providing coordinated guidance to authorized agency travelers on issues that may have arisen because of the shutdown and furlough.

- Travelers should complete any outstanding travel vouchers immediately after FAS has confirmed the operational status of all associated IT systems.
- The FAS CFO is working with the Department’s Office of the Chief Financial Officer to determine policy regarding timely payment of travel card balances since FAS employees did not have access to the travel system during the government shutdown. Once the Department makes its determination, the FAS CFO will communicate the Department’s policy and guidance via Conference call

Contracts, Grants, Agreements, and Asset Management

The Mission Area Senior Contracting Officer (MASCO) and the FAS CFO is responsible for managing the resumption of functions related to acquisitions and procurements; contracts, grants, and agreements; and asset management (i.e., real and personal property). The expectation is that these activities will resume within two (2) working days following agency start-up.

- **Contracts, Grants and Agreements Guidance:**
 - Contracts, Grants and Agreements under FAS authority, and requiring FAS support, oversight, assistance, will resume as determined by the appropriate Contracting Officer and Grants/Agreements signatory officials.
 - Contracting Officers will issue resume work orders (modifications) for those contracts that were suspended/stopped during the furlough.
 - Interagency and other agreements will resume under the existing terms of the agreement.
- **Asset Management Guidance:**
 - Personal property (vehicles, survey equipment, copiers, etc.) owned or leased by FAS will be made safe, ready, and available for use by authorized Federal and non-Federal personnel.
 - Real property (buildings/office space) owned or leased by FAS will be made safe and available for use by authorized Federal and non-Federal personnel and reopened to the public as appropriate.

Financial Management

The Executive Director of Business Operations, the Senior Director of Budget, and the FAS CFO are responsible for ensuring that funding for agency operations is made available in a timely manner, and for ensuring that agency financial operations are properly resumed, including close-out of the fiscal year and completion of the financial audit.

- **Financial Management Modernization Initiative (FMMI) Accessibility:**
 - The FMMI system is managed by the Department's Office of the Chief Financial Officer. It is anticipated that FMMI will be made available to all USDA agencies within the first business day after operations resume. The interface between FMMI and agency IT systems will be evaluated to ensure that it is functioning properly.
 - Questions about FMMI access should be directed to the Financial Policy, Training and Systems Division at FAS.fmmi@wdc.usda.gov for resolution.
- **Posting Prior fiscal year Obligations:**
 - Valid and signed obligations for that were not entered into FMMI prior to the close of operations on September 30 cannot be entered directly by FAS personnel. FAS CFO will coordinate with NFC to have these obligations posted in FMMI.
 - The FAS CFO will issue instructions within 48 hours after operations resume on how and by whom prior-year obligation information will be collected for entry by NFC.

- Year-end guidelines for adjustments in period 13 are still valid and should be followed if needed.
- Financial Audit:
 - FAS CFO is working with the Office of Inspector General, which oversees the Departmental Financial Statement Audits, to assess how to bring the financial audit to closure.
 - Any outstanding audit samples should be completed and returned to Quality Assurance as soon as possible, following previously established procedures.
 - Once final plans have been developed, FAS CFO will communicate those plans by an FM communication as well as making it a topic for an FM conference call.
- Discretionary funding:
 - New discretionary funding made available will be loaded into FMMI, reflecting the terms and conditions of the appropriations language and automatic apportionment by the Office of Management and Budget (OMB) as necessary.
 - Carryover authority – Allowance holders are **NOT** to obligate carryover funding. Unobligated balances will be swept to the unallocated level in FMMI and made available for use during the shutdown period. The funds will be used for agency priorities as determined by the Administrator, including:
 - Unobligated balances to be used for obligation during the shutdown period (see Posting Prior Year Obligations above).
 - Unobligated balances designated for previously approved specific purposes.
- Mandatory funding (Farm Bill programs):
 - The FAS CFO will review the terms and conditions of the current OMB-approved apportionment and load authority into FMMI.
 - Mandatory funding will be made available based on terms and conditions of the appropriations language and OMB’s automatic apportionment, as applicable.
- Current fiscal year Allocations:
 - The Senior Director of Budget will provide approved allocations within five (5) days of resumption of full operations.
 - Allowance holders will need to work with their budget analyst to align resources as needed to ensure that critical obligations, including payroll, can be processed timely.

Appendix A: Start-Up Committee

The roles and responsibilities of the Management Council are as follows:

Administrator

- Serve as chair of Committee

Senior Director, Office of Strategic Operations

- Serve as secretariat of Committee

Executive Director, Business Operations:

- Guide implementation of start-up and post shutdown plan;
- Ensure coordination across functional areas;
- Ensure Administrator is kept informed and elevate issues, challenges, and opportunities, as appropriate;
- Lead the application of lessons learned to normal operations, as appropriate; and
- Ensure communication and coordination in a timely manner with agency leadership.

Chief of Staff:

- Lead development of any short- and/or long-term assessment of the impacts of shutdown;
- Facilitate communication with TFAA, OBPA, OCR, other Departmental Offices, and Congressional staff; and
- Identify issues/opportunities for improvement.
- Ensure coordination within Management Deputy Chief area;
- Facilitate communication with ASA, OHRM, OPPM, and other Departmental Offices as necessary;
- Assign resources to address employee questions as a result of being furloughed; and
- Identify issues/opportunities for improvement with State Administrative Officers (SAOs).

Chief Financial Officer:

- Ensure coordination with the Departmental Office of the Chief Financial Officer;
- Provide overarching guidance to the agency related to availability of funding based on approved funding levels;
- Facilitate the coordination of funding or financial system issues/opportunities with Department offices; and
- Coordinate with FAS CIO and Deputy Chief for Programs on IT systems start-up and interoperability.

Senior Director, Budget:

- Ensure coordination with OBPA; and
- Provide overarching guidance to the agency related to availability of appropriated funding based on approved funding levels.

Associate Chief Information Officer:

- Ensure communication with the Departmental Office of the Chief Information Officer;
- Lead the start-up of IT systems, secure PII and sensitive data;

- Coordinate with OCIO–ITS and NITC on the orderly start-up of interdependent and enterprise IT systems, assets and resources;
- Monitor FAS IT Systems, tools and website to ensure they are functioning appropriately; and
- Coordinate with other agency leaders on IT systems start-up and interoperability.

Appendix B: Human Resources Guidance

Appeals

Federal employees have the right to appeal a shutdown furlough to the Merit Systems Protection Board (MSPB) within 30 calendar days after the effective date of the furlough.

- **Appeal Rights**
 - Employees who have completed a probationary or trial period or one year of current continuous employment in the competitive service under other than a temporary appointment may appeal this action to the MSPB. Employees in the excepted service who have veteran’s preference may appeal to MSPB if they have completed one year of current continuous service in the same or similar positions as the one they now hold. Employees in the excepted service who do not have veteran’s preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service may appeal to MSPB if they have completed two years of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment limited to two years or less.
 - Career SES appointees (except reemployed annuitants) who believe the requirements of Title 5, Code of Federal Regulations, Part 359, Subpart H, have not been correctly applied may also appeal to MSPB.
- **Appeal Process**
 - If you have the right of appeal to MSPB, and wish to appeal this action, you must file the appeal within 30 calendar days after the effective date of your furlough. If you wish to file an appeal, you may obtain information about the appeals process and a copy of the appeals form from the MSPB website at <http://www.mspb.gov/appeals/appeals.htm>. MSPB requires an appeal to be filed with the MSPB regional or field office serving the area where your duty station was located when the action was taken. MSPB also offers the option of electronic filing at <https://e-appeal.mspb.gov/>. Employees have a right to representation in this matter and may be represented by an attorney or other person of their choosing.

- **Bargaining Unit Employees**

- Bargaining unit employees may grieve this action in accordance with their applicable negotiated agreement or may appeal to MSPB in accordance with the procedures outlined above, but not both.

Benefits

- **Federal Employee Health Benefits (FEHB) Program**

- FAS employee's FEHB coverage will continue even if an agency does not make the premium payments on time. Since the employee will be in a non-pay status, the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status. The government contribution continues while employees are in nonpay status
- FAS employees in a non-pay status due to a lapse of appropriations (shutdown furlough) will not have the opportunity to terminate or cancel FEHB coverage. The employee will remain covered; the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status.
- New enrollments or changes in enrollment due to a Qualifying Life Event do not take effect until the employee has been back in pay status for any part of the prior pay period.

- **Federal Employees' Group Life Insurance (FEGLI) Program**

- Coverage continues for 12 consecutive months in a nonpay status without cost to the employee or to the agency. Neither the employee nor the agency incurs a debt during this period of nonpay.

- **Flexible Spending Account (FSAFEDS) Coverage**

- Payroll deductions will cease for any employee that does not receive pay. The employee remains enrolled in FSAFEDS, but eligible health care claims incurred during a non-pay status will not be reimbursed until the employee returns to a pay status and allotments are successfully restarted. The remaining allotments are recalculated over the remaining pay periods to match the participant's election amount.
- Eligible dependent care expenses incurred during a non-pay status may be reimbursed up to whatever balance is in the employee's dependent care account—as long as the expense incurred during the non-pay status allows the employee (or spouse if married) to work, look for work or attend school full-time.

- **Federal Long Term Care (FLTCIP) Program**

- Payroll deductions will cease for any employee that does not receive pay. Coverage will continue so long as premiums are paid. If Long Term Care Partners does not receive payment for three consecutive pay periods, they will begin to direct bill the

- enrollee. The enrollee should pay premiums directly billed to him/her on a timely basis to ensure continuation of coverage.
-
- **Federal Dental and Vision (FEDVIP) Program**
 - Payroll deductions will cease for any employee that does not receive pay. BENEFEDS will generate a bill to enrollees for premiums when no payment is received for two consecutive pay periods.
- **Thrift Savings Plan (TSP) (contributions, investments, and loan)**
 - Please see attached for details related to TSP accounts while in nonpay status. Also, FAS employees should refer to the TSP website for more detailed information. Be sure to have your account number or log-in ID and password when accessing your TSP Account on the website. <https://www.tsp.gov/index.shtml>
- **Processing Disability Benefits**
 - Disability, reconsideration, and appeals employees at OPM will continue working on your case. If the application requires additional information from other agencies, expect delays during a government furlough.
- **Processing Court Ordered Benefits**
 - OPM employees will continue working to process court ordered benefits. If the application requires additional information from other agencies, delays may occur during a government furlough.
- **High-3 Average Salary**
 - Generally there will be no effect on the high-3 average salary unless the furlough causes the employee to be in a nonpay status for more than 6 months during the calendar year.

Details

The supervisor of record will be responsible for communicating all start-up guidance to employees on detail, including when he/she will return her his/her detail assignment.

Employee Assistance Program (EAP)

The Sand Creek Employee Assistance Program can be helpful in providing confidential counseling and coaching has experienced, licensed counselors ready to assist all FAS employees and FAS family members, 24 hours a day/7 days a week at 1-800-632-7643. The EAP is a free, confidential counseling service that can assist in helping cope with stressful and challenging situations.

Sand Creek offers assistance and guidance on many life and wellness items including health, financial assistance, managing stress, offerings from the EAP are available online by going to <http://www.sandcreekeap.com/members.aspx> and logging-in under worklife wellness: **Username: USDA Password: employee.**

Intergovernmental Personnel Act (IPA)

The specific authority for furloughing personnel who are working under mobility agreements pursuant to the Intergovernmental Personnel Act (IPA), either inside the FAS or with other organizations, will depend upon the nature of individual agreements, the status of the appointments, and/or the funding arrangements for the assignments.

Retirement

If an FAS employees would have retired during the furlough and submitted notice of their desired retirement date prior to the furlough, HR Specialist should, when the lapse in appropriations ends, make the retirement effective as of the date requested. The retirement request may be informal (such as a letter requesting retirement) and can be either mailed or personally submitted. Any additional required paper work, such as the formal retirement application form, may be completed when the agency reopens. No time spent by the retiree in such actions after the effective date of the retirement may be considered as duty time, since the individual would no longer be an employee of FAS.

Return to Duty After Shutdown

- Generally, employees are expected to return to work the next business day or scheduled work day following the approval of a budget or a continuing resolution.
- However, guidance concerning when furloughed employees should come back to work at the conclusion of the shutdown has to be tailored to the employee's specific situation. FAS will apply a rule of reason in requiring employees to return to work as soon as possible, taking into account the disruption to the lives and routines of furloughed employees that a shutdown has caused.

Time and Attendance

FAS or its HR Servicing Agency will provide guidance on timesheets prior to and after the shutdown. Any excepted employee who worked during the shutdown must keep a record of hours worked during the shutdown. Excepted employees will not be paid for the hours worked during the furlough status until after Congress passes and the President signs a new appropriation or continuing resolution. Congress will determine whether furloughed employees receive pay for the furlough period. All employees will be notified once this decision is made.

Transit Subsidy Program

All employees will have received their monthly allowance for transit subsidy when government operations resume. Only excepted employees were authorized to utilize the allowance while in furlough status.

Appendix C: Frequently Asked Questions (FAQs)

Critical information on the shutdown and frequently asked questions is posted on the OMB, OPM, and USDA websites and included in furlough notices to employees. USDA employees are encouraged to monitor the following USDA website for the latest information:

<https://www.dm.usda.gov/beprepared/index.php>