

Office of the Chief Information Officer 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.

In the event of a lapse in appropriations for the Department of Agriculture (USDA), the following procedures will be followed by the Office of the Chief Information Officer (OCIO).

Office of the Chief Information Officer: 74 total

The Office of the Chief Information Officer has identified a total of 74 federal employees. The Chief Information Officer and Deputy Chief Information Officer (2) are excepted in addition to the following leadership and functions:

- Client Executive Center (CEC) 28
CEC provides end user support for the Secretary, National Capital Region (NCR) as well as state and field locations. CEC provides phone and in-person support for computers, Voice Over IP, enterprise VPN, LincPass/E-Authentication logical and digital support.
- Digital Infrastructure Service Center (DISC) 10
DISC provides USDA enterprise infrastructure support for USDA agencies necessary to maintain technology supporting USDA programs, specifically Enterprise Network Services and Enterprise Data Center services and support.
- Information Security Center (ISC) 34
ISC provides critical cyber security support for USDA, ensuring a critical and safe cyber security posture for USDA. The Federal CIO has determined that cyber security services are excepted work to ensure the safe guarding of the federal government network and digital environment.

The IT services supported by the operational units identified above are required to ensure agencies continuing to provide services to USDA customer and public can continue to function properly.

Activities not related to continued operation of information systems necessary to support excepted activities, (inspection and enforcement systems, cyber security, maintaining connectivity to the field, maintaining help desk support) will cease.