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 (https://www.gao.gov/legal/appropriations-law/resources) 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).

<u>Office of the Chief Information Officer:</u>

The Office of the Chief Information Officer has identified a total of 558 federal employees (189 excepted and 369 excepted intermittent) that are considered excepted and are critical to the operations of excepted functions of USDA. In addition, there is contract support for identified excepted contracts to support the USDA mission and OCIO operations. It is important to note, that only 189 OCIO staff would be working during any lapse in appropriations. If a National Disaster were to occur that is when the 369 (excepted intermittent) would be called in to protect human life, necessary to protect property by supporting the Mission Areas, Agencies and Staff Offices.

The Chief Information Officer and Deputy Chief Information Officer (2) are excepted in addition to the following leadership and functions:

- Client Experience Center (CEC) 225 Federal (72 excepted and 153 excepted intermittent) - 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, and Continuity of Operations support for OCIO.
- Digital Infrastructure Service Center (DISC) 223 Federal (60 excepted and 163 excepted intermittent) - DISC provides enterprise-class infrastructure solutions, support, and services for USDA agencies to operate mission critical IT systems that enable USDA program delivery. The technology portfolio includes maintain the operational readiness for enterprise network services and enterprise hosting solutions (i.e., USDA Data Centers and commercial cloud providers) and support.
- Cybersecurity and Privacy Operations Center (CPOC) 100 Federal (51 Excepted and 49 excepted intermittent) - CPOC provides critical cyber security support for USDA, ensuring a critical and safe cyber security posture for USDA. CPOC cyber services include cyber incident response, threat hunting and analysis, firewalls, network access control, intrusion detection and prevention, anti-virus/malware, logging, end point detection and response, and LincPass/E-Authentication support.
- Information Resource Management Center (IRMC) 2 Federal (excepted intermittent) - Provides management of enterprise IT resources across all Mission Areas and OCIO, including capital planning, and IT contract/investments.
- DA Information Technology Office (DAITO) 6 Federal (4 excepted and 2 excepted intermittent) - DAITO maintains the operational readiness and system support across the mission areas and staff offices. (i.e., Integrated Acquisition System (IAS) and Enterprise Web Application Platform & Services.)

OCIO's roles/responsibilities as well as federal/contract staff have increased exponentially as a result of multiple IT functional consolidations over the previous five years including IT End User Consolidation, Security Operations Consolidation, and Network Consolidation. The OCIO expanded roles resulted in an increase in the IT support functions requiring attention, such as the

protection of property, even during a shutdown. OCIO's scope is now USDA wide compared to a much smaller structure during previous shutdowns. Concurrent with this growth in size and complexity has been a growth in demand as well.

The increase in OCIO staff required during a government shutdown is predicated upon recent experience during past shutdowns, expansion of OCIO responsibilities, real world events and Continuity of Operations exercises. These data points have provided better insight into the number of OCIO staff needed to support USDA. OCIO did consult with USDA Mission Areas to ensure staff levels are sufficient to support critical programs in the event of a government shutdown.

As an example, OCIO's foundational supporting role to USDA's Emergency Support Functions Four and Eleven has grown as the Unites States has experienced an increase in wildfires and severe storms requiring activation of FEMA's Emergency Support Functions. OCIO supports the USDA agencies activated under Emergency Support Function Four (Forest Service fire fighting) and eleven (APHIS, FSIS, and FNS). Much of that OCIO growth is supporting the USDA IT Infrastructure that is needed to protect human life, necessary to protect property via the Emergency Support Functions – Fire Fighting & Agriculture/Natural Resources (ESF 4 and ESF 11) and the USDA Continuity of Operations program. These programs in the Mission Areas and Agencies are directly linked to OCIO via IT Infrastructure and High Value Assets that must be operational during emergencies.

Overall OCIO plays a critical role in protecting and maintaining the infrastructure needed to enable the Mission Areas and Agencies to meet their legal obligations to the American public. USDA Mission Areas and Agencies have "Maximum Tolerable Downtime" (in some cases as little as 12 hours) for their Misson Essential Functions. OCIO must ensure that the supporting infrastructure such as the Data Center, VPN, cyber security services are fully functioning before they are needed either for day-to-day operations or in the event of a national emergency.

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.