



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington D.C. 20250



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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.

Lapse Plan Summary Overview	
Estimated time (to nearest half day) required to complete shutdown activities:	.5 days
Total number of agency employees expected to be on board before implementation of the plan:	445
Total number of employees to be retained under the plan for each of the following categories:	
Compensation is financed by a resource other than annual appropriations:	5 FTEs ¹
Necessary to perform activities expressly authorized by law:	0 FTEs
Necessary to perform activities necessarily implied by law:	12 FTEs ²
Necessary to the discharge of the President's constitutional duties and powers:	0 FTEs
Necessary to protect life and property:	0 FTEs
<p>¹ Please note that certain OIG personnel in the Offices of Audit, Analytics and Innovation, and Investigations may be actively engaged in activities funded by no-year disaster appropriations and/or Coronavirus Aid, Relief, and Economic Security (CARES) Act supplemental funding and, therefore, exempted during a shutdown. OIG would be able to identify any exempted employees on the day prior to any shutdown.</p> <p>² Includes an appropriate number of Criminal Investigators in the Office of Investigations who are required to work in an ad hoc capacity because of their involvement in specific law enforcement activities that occur during the period of the shutdown. For planning purposes, we anticipate <i>five</i>; however, there could be as many as 50 if the agents are engaged in judicial proceedings as directed by a court, which include activities such as serving arrest and search warrants or testifying in court proceedings such as before a grand jury or in a trial. These employees would work only for the duration of the specific activity in which they are involved.</p>	
Brief summary of significant agency activities that will continue during a lapse:	
<p>During a lapse in appropriations, OIG would continue performing essential law enforcement-related activities, albeit at a dramatically reduced level. The level of support would vary based on the specific needs, which cannot be easily predicted. OIG would also continue monitoring incoming complaints to the USDA OIG Hotline for any allegations involving immediate loss of life and property. Finally, OIG would manage and continue orderly shutdown and residual operations in support of the ongoing law enforcement and Hotline activities.</p>	
Brief summary of significant agency activities that will cease during a lapse:	
<p>During a lapse in appropriations, OIG would significantly reduce its law enforcement and COVID-19 related activities, while suspending all audit and data science-related activities, as well as all mission support activities except for those supporting ongoing law enforcement and Hotline activities, as set forth above.</p>	

Shutdown Plan in the Absence of Appropriations

The Office of Inspector General's (OIG) mission is to promote economy, efficiency, effectiveness, and integrity in the delivery of United States Department of Agriculture (USDA) programs. OIG auditors, investigators, and other staff work toward three primary goals.

1. Strengthen USDA's ability to implement safety and security measures to protect the public health, as well as agricultural and Departmental resources.
2. Reduce program vulnerabilities and strengthen program integrity in the delivery of program assistance.
3. Provide USDA with oversight to help it achieve its results-oriented performance.

Based on its mission, OIG has identified only activities needed to manage and continue orderly shutdown, continue residual operations, and ensure safety and security against loss of life as those activities that would continue during any Government shutdown.

This document describes how these functions would be implemented during a shutdown, as well as the procedures to be used to inform excepted/exempted employees and implement a shutdown due to a lapse of appropriations.

Implementation of Shutdown

I. Identifying Employees' Excepted/Exempted Status

A. Excepted /Exempted Employees (Excepted/Exempted from Shutdown) – The following 17 employees will be the initial OIG employees working during the shutdown.¹ The employees are:

1. The Inspector General (IG), a Presidential Appointee, is exempted from a shutdown.
2. The Assistant Inspector General for Management is responsible for managing the shutdown and residual continuing operations. This person will be assisted by the following Office of Management staff:
 - The Human Resources Management Division (HRMD) Director and one HRMD Human Resources (HR) Payroll Specialist;
 - The Financial Management Division (FMD) Director/Chief Financial Officer (CFO) and two FMD Branch Chiefs (Budget and Accounting); and

¹ Please note that certain OIG personnel in the Offices of Audit, Office of Data Analytics and Innovation, and Investigations may be actively engaged in activities funded by no-year disaster and COVID-19 appropriations therefore, exempted during a shutdown. OIG would be able to identify any exempted employees on the day prior to any shutdown.

- The Information Technology Division (ITD) Branch Chief for Client Support Services Branch (or designee) and one ITD Information Technology Specialist.
- 3. The Special Agent-in-Charge, Investigations Liaison and Hotline Division, and two Hotline Analysts, who are responsible for monitoring incoming complaints to the USDA Hotline for any allegations involving immediate loss of life and property.
- 4. An appropriate number of Criminal Investigators in the Office of Investigations who are required to work in an ad hoc capacity because of their involvement in specific law enforcement activities that occur during the period of the shutdown. For planning purposes, we anticipate *five*; however, there could be as many as 50 if the agents are engaged in judicial proceedings as directed by a court, which include activities such as serving arrest and search warrants or testifying in court proceedings such as before a grand jury or in a trial. These employees would work only for the duration of the specific activity in which they are involved.

B. Non-Excepted/Exempted Employees (Furloughed Personnel)

1. IG's Staff (including Office of Counsel, Office of Compliance and Integrity, Office of Diversity and Conflict Resolution) – All personnel except the Inspector General as identified in I.A., above.
2. Office of Audit – All personnel.²
3. Office of Investigations – All personnel except those specifically identified in I.A.3. and I.A.4.³
4. Office of Management – All personnel except those specifically identified in I.A.2.
5. Office of Analytics and Innovation – All personnel.⁴

II. Shutdown Procedures

A. Identification of Excepted/Exempted Employees – Each Assistant Inspector General/staff office Director will provide HRMD, the day prior to the potential

² Please note that certain Office of Audit personnel may be actively engaged in activities funded by no-year disaster appropriations and/or CARES Act supplemental funding and, therefore, exempted during a shutdown. OIG would be able to identify any exempted employees on the day prior to any shutdown.

³ Please note that certain Office of Investigations personnel may be actively engaged in activities funded by no-year disaster appropriations and/or CARES Act supplemental funding and, therefore, exempted during a shutdown. OIG would be able to identify any exempted employees on the day prior to any shutdown.

⁴ Please note that certain Office of Analytics and Innovation personnel may be actively engaged in activities funded by no-year disaster appropriations and/or CARES Act supplemental funding and, therefore, exempted during a shutdown. OIG would be able to identify any exempted employees on the day prior to any shutdown.

shutdown, a list of excepted/exempted employees along with an explanation for the exception/exemption.

- B. Initial notification that a shutdown appears likely will be given via one-on-one discussion, email, fax, and/or telephone, to all employees and contractors, including those in travel or training status, on the day prior to the potential shutdown. OIG will have all employees on travel return to their duty stations on the day after the shutdown.⁵ All offices within OIG will provide confirmation to HRMD by close of business the day before the potential shutdown that employees have been notified of their status during the shutdown period.
- C. Official notification and implementation will take place on the day after the shutdown. Non-excepted/non-exempted employees will receive a letter that will explain their rights and responsibilities during the shutdown and will only be allowed to work half of the day on shutdown activities. All employees that have an approved telework agreement in place (ad hoc or recurring) may elect to sign their letter and complete their WebTA timesheet remotely. Employees on approved full-time telework agreements should also remotely sign their letter and complete their WebTA timesheet. All other employees will be asked to report to their official duty station or telework location, depending on OIG's COVID-19 reopening phase.
- D. Employees on extended or approved leave during the time of the shutdown will be notified of the change in their leave status, returned to duty, and placed in a nonpaid furlough status. All approved paid leave will be returned to the employee's leave account.
- E. Per USDA guidance, excepted employees listed in I.A. will report to their supervisors at their regular start time on the day after the shutdown to receive assignment of duties to complete. For those employees on prescheduled or full-time telework, "reporting" may be done by telephone.
- F. Each OIG manager is responsible for ensuring that each of his/her direct reports is aware of the shutdown and has been given the Letter of Information appropriate to the employee's status under the shutdown. HRMD is responsible for preparing the Letter of Information and providing it to the OIG managers and supervisors the day after the shutdown.
- G. Contracting Officers in the Office of Management will notify contractors of the shutdown. OIG has not identified any of the current contractors as essential to OIG's operations during a shutdown.
- H. All official OIG or USDA records, personal property, real property, and facilities within OIG's control and custody will be maintained and protected until appropriate disposition is accomplished.

⁵ Depending on OIG's COVID-19 reopening phase, employees may need to telework instead of reporting to their official duty station.

- I. When it is determined that an excepted/exempted employee is no longer needed to perform excepted/exempted activities, the employee will be notified and placed in a nonpaid furlough status.
- J. Certain employees, whose functions may prove to be excepted, will be placed in an “on call as needed” status while furloughed. “On call as needed” shall mean they may be contacted to return to duty to support the excepted functions and activities of OIG as needed. If requested to return to duty, the supervisor or manager will notify employees by contacting them using a personal phone number/email. These employees must return any contact by their supervisor or manager within 2 hours and, if requested, be available to return to duty as soon as possible. If they are requested to return to duty, their furlough notice will be corrected to reflect the dates during which they are not in a furlough status.
- K. Employees will be required to monitor the status of the government shutdown and agency operations via the Office of Personnel Management (OPM) website (www.opm.gov), the USDA Office of Operations website (www.dm.usda.gov/beprepared), news sources, the OIG website (www.usda.gov/oig), and the OIG Emergency Number, at 877-644-8732.
- L. Information Technology Operations

ITD will shut down the user accounts for all non-excepted/non-exempted personnel who enter furlough status. Throughout any shutdown period, ITD will also manage the user access for any individuals who enter or exit excepted/exempted status (e.g., Criminal Investigators who are temporarily needed to perform excepted law enforcement activities).