

Office of Partnerships and Public Engagement (OPPE) 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.

The Director of the Office of Partnerships and Public Engagement (OPPE) requires maximum flexibility in managing an orderly shutdown of the agency. In the event of an interruption of fund availability, all functions and resources of OPPE including all mission areas would be centralized into the Office of the Director on the 5th floor of the Whitten Building.

The Director will assign priorities and shift resources as needed to address national concerns utilizing discretionary and mandatory funding. Decisions on the size and specialties of the staff pool will be made on an as needed basis.

On the first day of the shutdown, all OPPE employees will report for duty as scheduled and proceed with orderly shutdown including securing files, cancelling schedules, and certifying orderly shutdown procedures. OPPE employees will be notified by call or automated system with future instructions for reporting to work, if any. Up to 4 FTEs may continue operations through the mandatory Farm Bill funding for continued activities to include: the Program staff for 2501 grants and other positions specifically mentioned in law (Farmworker Coordinator, Youth Outreach Coordinator, Director, etc).”

OPPE employees are to follow these special instructions:

- Employees in travel status must return to their duty station.
- Issue notices of cancellations of ongoing scheduled activities until further notice.
- All phones will be programmed with an appropriate message once shutdown is complete.
- Employees should not be using handheld electronic devices, e.g. iPhones, Blackberries, Droids, etc., for communications during shutdown for official business other than for the purposes of shutdown or as required by the Director.

Excepted employees at the end of orderly shutdown:

Day one of the shutdown week

Director – Category I. Report to duty station and communicate shutdown instructions and procedures to all employees

Chief of Staff – Category I. Report to duty station and communicate shutdown instructions and procedures to all employees

Acting Chief Operating Officer - Category I. Report to duty station and communicate shutdown instructions and procedures to all employees

Up to 4 FTEs may continue operations through the mandatory Farm Bill funding for continued activities to include: the Program staff for 2501 grants and other positions specifically mentioned in law (Farmworker Coordinator, Youth Outreach Coordinator, Director, etc).”

Day two of the shutdown week

All programs will cease to operate excluding the mandatory Farm Bill 2501 Grants program.

Day five of the shutdown week

All programs will cease to operate excluding the mandatory Farm Bill 2501 Grants program.

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