

GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

ADM 4220.1R
November 7, 2023

GSA ORDER

SUBJECT: Operations in the Absence of Appropriations

1. Purpose. This Order updates the U.S. General Services Administration's (GSA) plan for conducting an orderly shutdown in the event of the absence of appropriations.
2. Cancellation. This Order cancels and supersedes [GSA Order ADM 4220.1Q](#).
3. Revision.
 - a. Updated numbers of employee by fund and expected status during a shutdown
 - b. Added language specifying how the Office of Government-wide Policy's, Office of Inspector General's, and Civilian Board of Contract Appeal's carryover funding could be utilized under a lapse in appropriations
 - c. Clarified language about when GSA personnel supporting a Presidential Transition could be considered exempt or excepted for the purposes of supporting transition activities
4. Background.
 - a. The language and legislative history of the Antideficiency Act unambiguously prohibit agency officials from incurring obligations in the absence of appropriations. This is supported by opinions from the United States Attorney General and the Office of Legal Counsel of the U.S. Department of Justice (DOJ).
 - b. In the absence of appropriations, Federal officers may not incur any obligations that cannot lawfully be funded from prior appropriations unless such obligations are otherwise authorized by law. Federal officers may incur obligations as necessary for orderly termination of an agency's functions, but funds may not be disbursed.
 - c. To ensure compliance with these directives, Office of Management and Budget (OMB) Circular No. A-11, Section 124, "*Agency Operations in the Absence of*

Appropriations," requires all agency heads to develop and maintain plans for an orderly shutdown in the event of the absence of appropriations.

d. The Office of the Chief Financial Officer (OCFO), Office of Budget (BB) is responsible for maintaining and updating this Order; coordinating activities to ensure proper implementation of this policy; and reporting plans and activities to the Administrator and to OMB. BB will work with OMB to resolve funding questions and concerns in the absence of appropriations. In the event of a lapse in appropriations, OCFO will also be responsible for requesting a full year apportionment for the Federal Buildings Fund's (FBF) Rental of Space account.

5. Summary of Agency Activities Under a Lapse in Appropriations.

a. GSA was established to provide facilities and services to Federal agencies Governmentwide to enable them to better focus on their core missions and improve economies and efficiencies by leveraging the buying power of the Government (see Title 40, U.S.C. § 501 *et seq.*). GSA is the Federal agency responsible for managing assets of the United States, including acquisition, operation, and disposal of real and personal property, and providing Governmentwide policy guidance and information to citizens.

b. GSA provides workspace for over 1 million Federal employees through over 8,800 owned and leased properties and maintains a variety of personal property, including over 200,000 Federal motor vehicles. GSA provides over 12 million products and services necessary for other agencies to perform their missions. GSA's role as an aggregator of large numbers of Government assets and a supplier of critical tools, equipment, and supplies to other Federal agencies requires that GSA retain adequate staffing under a lapse in appropriations in order to protect Federal property under GSA's custody and control and to continue to provide critical support to other Federal agencies' exempt and excepted activities necessary for the protection of life and Federal property.

c. In the absence of appropriations, GSA-controlled federally owned and leased buildings will remain open to building occupants, but depending on the operating status of occupant agencies, may or may not be open to the public. The services provided in those buildings will also depend on the operating status of occupant agencies and may be reduced from regular service levels. GSA will continue to coordinate with the Federal Protective Service regarding building security.

d. Because GSA is the Government's property manager, GSA personnel will be responsible for maintaining, protecting, and preserving that property to a greater extent than many other agencies that are not responsible for property and asset management Governmentwide. Excepted GSA employees will be responsible for protecting life and/or Federal property and providing necessary support to other Government agencies to enable them to perform excepted activities.

6. Implementing Action. All GSA units will follow procedures in the plan. It goes into effect only when directed by the Administrator.

7. Signature.

/S/ _____
ROBIN CARNAHAN
Administrator

TABLE OF CONTENTS

Section	Page Number
Lapse Plan Summary Overview	4
1. Funds Control in the Absence of Appropriations	5
2. Implementation Plan	8
3. General Framework	9
4. Excepted Activities	11

LAPSE PLAN SUMMARY OVERVIEW

Estimated time (to the nearest half day) required to complete shutdown activities	½ day
Total number of agency employees expected to be on board before implementation of the plan	12,732
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	6,202
Compensation is financed by carryover funds*	6,308
Necessary to perform activities expressly authorized by law	0
Necessary to perform activities necessarily implied by law	0*
Necessary to the discharge of the President's constitutional duties and powers	0
Necessary to protect life and property	33
*This number will decrease as carryover funds are exhausted and some staff move from exempt to excepted.	
Brief summary of significant agency activities that will continue during a lapse:	
Current-year accounts, excepted activities are protecting life and Federal property; performing contract obligations under no-year, multi-year, or other funds remaining available for these purposes; and supporting, providing services to, or otherwise enabling others to perform excepted functions.	
Brief summary of significant agency activities that will cease during a lapse:	
GSA will no longer be able to support real and personal property disposal efforts. GSA will also delay Governmentwide Intra-Governmental Payment and Collection (IPAC) collections during a lapse in appropriations. Additionally, depending on the length of a shutdown and GSA's availability of funds, other activities may need to cease as well.	

OPERATIONS IN THE ABSENCE OF APPROPRIATIONS

1. Funds Control in the Absence of Appropriations. If appropriations lapse, the following authorities and directives will govern operations. They reflect laws and regulations enacted by Congress, the Office of Management and Budget (OMB), the Office of Personnel Management (OPM), and other authorities.

a. Under the Antideficiency Act, it is a felony to obligate the U.S. Government in advance of appropriations unless this is otherwise authorized by law (31 U.S.C. 1341), except for emergencies involving the safety of human life or the protection of property (31 U.S.C. §§ 1342 and 1515(b)(1)(B)).

b. The Attorney General's opinion, "*Applicability of the Antideficiency Act Upon a Lapse in an Agency's Appropriations*" (1980) held that, under a lapse in appropriations, agencies could not incur any obligation that was not legally funded from prior appropriations or otherwise authorized by law. The opinion also held that authority may be inferred from the Antideficiency Act for Federal officers to incur those minimal obligations necessary for terminating operations.

c. The subsequent Attorney General opinion, "*Authority for the Continuance of Government Functions During a Temporary Lapse in Appropriations*" (1981), provided more detail on possible exceptions, including those necessarily incident to presidential initiatives undertaken within the President's constitutional powers and those authorized as emergencies involving the safety of human life or the protection of property. Generally, with regard to emergencies, there must be a reasonable connection between the function and the safety of human life or the protection of property; second, there must be a reasonable likelihood that the safety of human life or protection of property would be compromised by delay in performance of the function.

d. Section 13213(b) of the Omnibus Budget and Reconciliation Act of 1990, Pub. L. 101-508 Title 13 is also known as the Budget Enforcement Act of 1990), amended 31 U.S.C. § 1342.

(1) It added a sentence to clarify that "...the term 'emergencies involving the safety of human life or the protection of property' does not include ongoing, regular functions of Government the suspension of which would not imminently threaten the safety of human life or the protection of property."

(2) As explained in the conference report on the bill, this action was taken to 'guard against what the conferees believe might be an overly broad interpretation of an opinion of the Attorney General...regarding the authority for the continuance of Government functions during the temporary lapse of appropriations, and affirm that the constitutional power of the purse resides with Congress.'

e. In an August 16, 1995, memorandum to the Director of OMB, the Department of Justice (DOJ) Office of Legal Counsel reaffirmed the validity of previous legal opinions and interpretations and provided two clarifications.

(1) In determining excepted functions for the safety of life or the protection of property, there must be some reasonable likelihood that the safety of human life or the protection of property would be compromised "in some significant degree" by delay in the performance of the function.

(2) The use of the word "imminent" in the 1990 amendment serves "to emphasize and reinforce the requirement that there be a threat to human life or property of such a nature that immediate action is a necessary response to the situation."

f. Based on the Attorney General's 1980 and 1981 opinions, and reaffirmed by the 1995 DOJ opinion, OMB has cited the following as primary examples of activities authorized to continue during a funding lapse: providing for the national security; providing benefit payments and performing contract obligations under no-year, multi-year, or other funds remaining available for these purposes; and conducting activities that protect life and property. The list includes:

- (1) Providing medical care of inpatient and emergency outpatient care;
- (2) Ensuring continued public health and safety, including safe use of food, drugs, and hazardous materials;
- (3) Continuing air traffic control and other transportation safety functions and protecting transportation property;
- (4) Continuing border and coastal protection and surveillance;
- (5) Protecting Federal lands, buildings, waterways, equipment, and other U.S. property;
- (6) Caring for prisoners and other persons in U.S. custody;
- (7) Pursuing law enforcement and criminal investigations;
- (8) Providing emergency and disaster assistance;
- (9) Preserving the essential elements of the U.S. money and banking system, including Treasury borrowing and tax collection activities;
- (10) Ensuring production of power and maintaining the power distribution system;
- (11) Protecting research property; and

(12) Making timely payments to a contractor or grantee in accordance with a contract or grant for which an award was made and available funding previously obligated.

g. Within these guidelines, the Administrator may determine which activities are excepted to operate during a lapse in appropriations.

h. Usually, activities and employees directly supported in full by permanent or no-year appropriations and revolving funds are exempted if funds are available for obligation in the accounts, and at levels required to accomplish valid customer orders. However, the Federal Buildings Fund (FBF) receives most of its current obligational authority in annual appropriations acts, so its activities and employees are more limited during an appropriations lapse than other revolving fund activities.

i. Under the U.S. General Services Administration's (GSA) current-year accounts, excepted activities are protecting life and Federal property; performing contract obligations under no-year, multi-year, or other funds remaining available for these purposes; and supporting, providing services to, or otherwise enabling others to perform excepted activities, as discussed and defined in the legal authorities cited above. In other words, an employee must be either protecting life or Federal property; performing contract obligations for contracts funded by money that remains available; or providing necessary services or support to others who are performing those activities. The mere fact that work is considered important or critical is not sufficient to justify designating an activity as excepted. Reimbursable personnel or services may or may not be affected, depending on the status of the ordering components' funding sources. Excepted personnel may assist with "mission critical" exempt activities only to the extent that failing to do so would prevent an exempt activity from accomplishing its core mission and cause serious harm to the mission. It is important to note, however, that an employee must be determined to be excepted, as discussed and defined in the legal authorities cited above, based on their own job. A non-excepted employee does not become excepted simply because that employee assists mission critical exempt activities.

j. For non-excepted activities, obligations may be incurred only for suspending normal agency operations. Once appropriations are no longer available, it is illegal for non-excepted employees to do regular work. It also violates the Antideficiency Act to accept voluntary services of employees for non-excepted activities (31 U.S.C. § 1342).

k. Although obligations are incurred for excepted activities and for shutting down operations, expenditures cannot be made against lapsed appropriations; new appropriations must be enacted to liquidate the obligations. Obligations incurred against exempt accounts not affected by the lapse may be liquidated.

l. GSA will delay agency-wide Intra-Governmental Payment and Collection (IPAC) collections during a lapse in appropriations. GSA will work with customer agencies to

determine the extent to which agencies and agreements are impacted by the shutdown. GSA may continue to IPAC specific funded agencies and agreements based on this determination.

m. "Excepted" is not the same as "essential." Employees may be essential for conducting regular operations, and may even be required to report to work during hazardous weather conditions, but they are not necessarily excepted when those regular operations cease under a funding lapse. To be designated as excepted, personnel must be performing the specific functions allowed by law and defined in this Order.

n. It is a principle within GSA to minimize the number of executive, management, and supervisory personnel designated as excepted, concentrating instead on employees delivering excepted services to Federal customers. This applies equally to Services, Staff Offices, and Regions.

o. Individuals serving in positions not covered by a leave system are uniquely situated during a funding lapse. Individuals in those positions are entitled to pay because of their status as an office holder regardless of the hours worked. Because they are leave-exempt, they cannot be furloughed during a funding lapse and can perform work regardless of whether the work is excepted. While such individuals may continue to work, they are subject to delayed pay if the lapse in funding affects their position. At GSA, the individuals serving in positions not covered by a leave system are the Administrator and the Inspector General.

2. Implementation Plan.

a. Number of employees expected to be on-board before implementation of the plan: 12,732. Number of employees expected to be on-board before implementation of the plan, excluding the Office of Inspector General: 12,463.

b. GSA employees generally require ½ day or less to complete a shutdown. However, some employees will have activities that require more time to complete. In addition, the organizations funded through the Acquisition Services Fund (ASF), Transportation Audits Fund, Acquisition Workforce Training Fund (AWTF), Working Capital Fund (WCF), and Technology Modernization Fund (TMF) may perform phased shutdowns through administrative furloughs due to their status as exempt funding sources (see 40 U.S.C. § 321).

c. Total number of employees to be retained under the plan because (1) they are engaged in military, law enforcement, or direct provision of health care activities: 0, or (2) their compensation is financed by a resource other than annual appropriations: 6,202; 2,147 employees for the WCF, 4,011 employees for the ASF and Transportation Audits, 18 employees for the AWTF, and 26 employees for the TMF.

d. Additional employees who may be exempt based on available carryover and agency determination: 5,563 Public Buildings Service (PBS) employees, 248 Federal Citizen Services Fund employees, 187 Office of Government-wide Policy employees, 269 Office of Inspector General employees, and 41 Civilian Board of Contract Appeals employees.

e. Number of employees funded through other sources not otherwise exempt, to be retained to protect life and property: 33.

f. If a lapse occurs during a Presidential Transition cycle, number of employees to be retained to support the Presidential Transition, including both exempt and excepted employees: 20 (estimate based on Fiscal Year 2021).

g. Number of individuals in positions not covered by a leave system: 2.

3. General Framework. The following is the general framework for responding to a temporary lapse in appropriations. Although "temporary" is defined as 30 consecutive days or less for adverse employee actions, in this part it means only the relatively short period, often not longer than 5 days, normally required for Congress to provide funds. If a lapse is extended or an activity is terminated, additional instructions will be issued by OCFO, Office of Budget (BB).

a. Unless notified otherwise, all employees should start their work day as they normally would on the first business day of a temporary lapse. Once all employees have completed shutdown operations, personnel are released from duty, except for those required for excepted functions. Paragraph 3 of this Order identifies excepted functions.

(1) Heads of Services and Staff Offices (HSSOs) must identify the employees who are to perform excepted functions and compile a list of names on an annual basis. The list must be kept current and is sent to the Office of Human Resources Management (OHRM).

(2) The number of excepted employees will vary with local conditions. HSSOs must determine the minimum number of personnel required to support the excepted function within the limits provided in paragraph 3.

b. Released non-excepted employees are placed in non-duty, non-pay status by use of furlough under the adverse plan procedures in title 5 of the Code of Federal Regulations (C.F.R.) part 752.

(1) All employees will be provided with written notice of their status as excepted or non-excepted employees. If there is no time for written notice, oral notice is acceptable (5 C.F.R. § 752.404(d)(2)), with later written notice to confirm the action. All personnel actions must be documented by OHRM. This notice will include when the employee is expected to return to work, if that date is known.

(2) If possible, labor unions will be notified before implementing furloughs. The Labor Relations Division (CPL), OHRM, notifies national unions, American Federation of Government Employees and National Federation of Federal Employees, and each region is responsible for notifying regional and local unions under this policy and any collective bargaining agreements. Additional guidance will be provided by OHRM.

(3) Furloughed career Senior Executive Service (SES) employees are entitled to the procedures in 5 C.F.R. part 359, subpart H. OHRM can explain furlough procedures for career SES, non-Presidential appointees, schedule C, temporary, and non-career SES employees.

c. Employees who perform excepted activities must report for duty as directed. During an appropriations lapse, they are still in a paid status, but are working for delayed pay; they are not rendering gratuitous services and must report to work.

d. Non-excepted employees will report for duty on the first business day after the lapse in appropriations. They will be provided notice of furlough and additional instructions, and will be released from duty no later than 12 p.m. that day. Once released, non-excepted employees should monitor the media to determine when the lapse is over and when they should return to duty.

e. During a lapse in appropriations, annual or sick leave may not be used by employees in place of furlough.

(1) Since 1985, GSA policy and labor agreements have stated that employees may be on paid leave during a furlough when the leave had been approved before the furlough began. While this position was based on guidance from OPM, that agency has now determined that, in its legal opinion, use of paid leave during a furlough would constitute a violation of the Antideficiency Act and that, in the case of a furlough due to the lapse of appropriations, "leave is automatically canceled because the necessity to furlough supersedes leave rights."

(2) In the case of an appropriations lapse, annual, sick, court, bone marrow, and organ donation leave is canceled. Military leave will continue to be charged even though furlough days are considered non-work days. Employees serving as witnesses or jurors would be able to retain all moneys received from the court.

(3) Canceled or interrupted annual or sick leave is not forfeited, but can be used later.

f. Persons on official travel when funds lapse are handled case-by-case.

(1) Travelers performing excepted functions, or supported by funds not affected by the lapse, remain on duty.

(2) Non-excepted employees are placed on furlough. Although some obligations for travel costs are incurred before a funding lapse, the employees must be recalled to their duty station because there is no authority to incur new per diem obligations. Decisions will be made on a case-by-case basis as determined by the appropriate HSSOs to incur obligations necessary for orderly termination of functions.

g. Goods and services may not be purchased under lapsed appropriations except when required to support excepted activities or when purchased with funds that are exempt from a lapse in appropriations.

(1) New contracts may not be awarded except in support of excepted activities or when using an exempt funding source. Contract options for additional quantities or to extend the term of the contract may not be exercised unless it is determined that the additional goods or services are needed to continue or support excepted activities or if the options may be exercised without an obligation of funds or if funded by an exempt funding source. Contracting personnel should consult with program and legal personnel before making a final decision not to exercise an option when this could expose the Government to financial liability or other damages.

(2) Contracting personnel should consult with GSA's Senior Procurement Executive to identify and utilize appropriate class deviations in order to award contracts for the purpose of protecting human life or property. The Chief Acquisition Officer's guidance providing detailed instruction on the continuation of contract operations during the shutdown will be posted on the acquisition portal.

(3) If a contract is fully obligated before the lapse in appropriations and the goods or services are still required, the contract is in full force and effect, and no additional actions are required. However, if the contract is for recurring services, contracting personnel must verify whether the goods and services are needed at the same levels during a shutdown of Government operations and may, if applicable, issue a stop work order or termination for convenience (full or partial). Contract terminations must be reviewed by the Office of General Counsel (OGC) prior to issuance.

h. Each Service and Staff Office must establish procedures to notify released employees when to return to duty. The recall system will be used when the lapse is over or when other circumstances require changed instructions. Once funding is restored, exempt and excepted managers will use local Continuity of Operations telephone alert rosters to instruct furloughed employees to return to work. Furloughed employees will return to work on their next regular duty day after the lapse is over.

4. Excepted Activities. The following defines excepted functions and personnel levels that continue during a lapse in appropriations. Activities not discussed are not excepted within the meaning of the law. If there are organizational changes, these instructions apply to the organizational unit that has been newly assigned the functions.

- a. Office of the Administrator (A). The Administrator is not covered by a leave system and continues to work with delayed pay. In addition, excepted Central Office personnel are the Deputy Administrator and the minimum necessary Office of the Administrator employees.
- b. Offices of the Regional Administrators (A). In the regions, the minimum necessary additional employees in the Regional Administrator's Office to perform excepted functions.
- c. The Technology Modernization Fund (TMF). Employees in the Office of the Administrator that are funded out of the TMF are exempt, as the TMF is a no-year fund. The TMF may initiate a phased shutdown based on available resources.
- d. Office of the Chief Financial Officer (B). This office is completely funded through the WCF, which is an exempt funding source. The office may initiate a phased shutdown based on available resources.
- e. Office of Human Resources Management (C). This office is completely funded through the WCF, which is an exempt funding source. The office may initiate a phased shutdown based on available resources.
- f. Office of Mission Assurance (D). Employees funded through the WCF are exempt. These employees may be included in any phased shutdown. For positions funded through the Operating Expenses appropriation, the minimum necessary additional employees to continue excepted functions, including ensuring that GSA maintains a constant state of readiness to perform its essential functions, are excepted.
- g. Office of Small and Disadvantaged Business Utilization (E). This office is completely funded through the WCF, which is an exempt funding source. The office may initiate a phased shutdown based on available resources.
- h. Civilian Board of Contract Appeals (G). CBCA activities that are funded by the Civilian Board of Contract Appeals appropriation are subject to a shutdown furlough unless there is sufficient carryover available during a shutdown. These activities may initiate a phased shutdown based on the available resources. In the event of a shutdown, excepted personnel are the Chair, Vice Chair, and the Board's Clerk, and the minimum necessary additional employees to support exempt activities, including the support of the independent IT network of the Board of Contract Appeals.
- i. Office of Administrative Services (H). This office is completely funded through the WCF, which is an exempt funding source. The office may initiate a phased shutdown based on available resources.

j. Office of GSA IT (I). This office is completely funded through the WCF, which is an exempt funding source. The office may initiate a phased shutdown based on available resources.

k. Office of Inspector General (J). The Inspector General is not covered by a leave system and continues to work with delayed pay. OIG activities that are funded by the Office of the Inspector General appropriation are subject to a shutdown furlough unless there is sufficient carryover available during a shutdown. These activities may initiate a phased shutdown based on the available resources. In the event of a shutdown, excepted personnel are the Deputy Inspector General and any other personnel designated by the Inspector General or the Deputy Inspector General that may be needed to conduct essential activities to protect life and/or property, including pursuing or directly supporting law enforcement and criminal investigations or other legal proceedings that cannot be deferred. Specific details, including the number of excepted employees, are maintained in the OIG's shutdown plan.

l. Office of General Counsel (L). This office is completely funded through the WCF, which is an exempt funding source. The office may initiate a phased shutdown based on available resources.

m. Office of Government-wide Policy (M). OGP activities that are funded by the Office of Government-wide Policy appropriation are subject to a shutdown furlough unless there is sufficient carryover available during a shutdown. These activities may initiate a phased shutdown based on the available resources. In the event of a shutdown, excepted personnel are the minimum number necessary to support excepted activities. For activities funded through the Government-wide Policy appropriation, excepted personnel are the Associate Administrator, the Chief Acquisition Officer, and the minimum necessary employees to continue excepted activities. Excepted functions are as follows:

(1) Carrying out Governmentwide policy and travel related issues necessary to enable employees Governmentwide to perform excepted activities;

(2) Supporting contracting activities of excepted and exempted activities, Governmentwide; and

(3) Providing acquisition support, including compliance, ethics, and integrity in contracting in order to protect the Government's interests in excepted contracting activities during the lapse in appropriations.

The Office of Executive Councils is funded through collections from participating agencies that are available for Executive Council use in the year of collection and the following fiscal year. Management may decide based on the availability of previous collections to continue full operations for programs funded through these collections for

some length of time after a lapse of appropriations. Programs funded through these collections include the Office of Unified Shared Services Management.

Employees funded out of the appropriation's reimbursable account may be exempt to the extent that there are sufficient reimbursable agreements in place with the necessary funds obligated to support them during a shutdown. Individuals on detail to GSA through the Intergovernmental Personnel Act are considered to be working under a contract and may continue to work to the extent GSA has obligated funds to cover the costs associated with those individuals.

The Office of Governmentwide Acquisition Policy, the Federal Advisory Committee Act Office, and Electronic Capital Planning and Investment Control activities funded through the WCF are exempt. Federal Acquisition Institute activities funded through the AWTF are exempt. These employees may be included in any phased shutdown.

n. Public Buildings Service (P). The FBF depends on enactment of new obligational (spending) authority in annual appropriations acts, and is affected by a lapse in funding authority in a similar manner as annually appropriated accounts. Management may decide, based on the availability of previously enacted budget (carryover) authority, to continue full operations for some length of time after a lapse of appropriations.¹ In such a case, PBS operations remain exempt from the funding lapse. In the event that sufficient carryover resources are not available to continue operations, PBS will initiate a phased shutdown. During shutdown operations, life safety and property protection activities, including related contracting and communications activities, will continue and are considered excepted activities. Other excepted activities, which may continue regardless of the availability of previously enacted budget authority, include:

(1) Activities necessary to permit the continued performance of design and construction contracts in federally owned facilities obligated from prior-year resources and performed by private contractors. Activities necessary to permit the continued performance of leases awarded in prior fiscal years and performed by private contractors. A minimum level of personnel will be excepted to support these activities when GSA determines, on a case-by-case basis, that the failure to except such personnel will substantially impair the execution of a design and construction or lease project that has been appropriated by Congress.

(2) Activities funded through valid reimbursable work authorizations are excepted, and employees may remain on duty at the minimum level needed to meet customer requirements, provided that the requesting agencies certify in writing continued fund availability.

¹ The availability of previously enacted budget authority may be subject to certain restrictions, including advance Congressional approval for transfers between budget activities and reprogramming within a budget activity.

(3) Administrative activities that are necessary to support GSA PBS's excepted workforce and for the disbursement of previously obligated amounts. Such activities include personnel necessary to review receiving reports in support of prior obligations before payments may be disbursed.

(4) Work that is necessary to the continued performance of excepted functions. Thus, for example, if the U.S. Customs and Border Protection (CBP) makes a determination to except its own federal employees in order to protect the borders, PBS may except personnel to support, provide services to, or otherwise enable CBP to perform the excepted function. As a best business practice, PBS should work with the other agency to identify that other agency's excepted activities, what work or services are being requested of PBS, and which work PBS may perform during the lapse.

(5) As determined on a case-by-case basis in consultation with the Office of the Chief Financial Officer (B) and the Office of General Counsel (L), providing support to a mission-critical, exempt activity of another agency that, if not provided, would prevent or significantly damage or hamper the execution of the ongoing exempted activity at that agency. Any such support from PBS must relate to an activity of the other agency that is exempt during the lapse, where the suspension of PBS's support for such activity would prevent or significantly damage the execution of the program or activity at the other agency. In determining whether PBS may provide services for an exempt function during a funding lapse, PBS may request a written statement from the other agency that (i) funding is available to the agency for the applicable activity during the lapse, (ii) the other agency's execution of the exempt activity will be prevented or significantly damaged if PBS does not provide the requested service during the lapse, and (iii) the activity at the other agency relates to the agency's core mission. For the avoidance of doubt, PBS will evaluate such requests during the lapse on a case-by-case basis and will not necessarily provide support (*i.e.*, by excepting PBS employees) for an exempted activity that is **not** related to the core mission of the other agency.

(6) Activities funded through statutory authority not dependent upon enactment of an annual appropriations act appropriating funds from the FBF (for example, energy management programs funded under 40 U.S.C. § 592(d)(4), recycling related programs under 40 U.S.C. § 592(e); support of the Cooperative Use out-lease function funded by revenues under 40 U.S.C. § 581(h)(3); and historic preservation activities that are funded pursuant to 54 U.S.C. §§ 306121 and 306122 must consult with the OCFO (B) and OGC (L) to determine if their positions can be funded as an overhead expense payable from the program revenues or must be considered a GSA direct salary expense for which the lapse of appropriations applies.

(7) Real property utilization and disposal activities that are funded by the Operating Expenses appropriation are subject to a shutdown furlough. Employees will be excepted only to the extent necessary to support excepted activities relating to the disposal of excess or surplus real property. Employees funded out of the appropriation's reimbursable account may be exempt to the extent that there are

sufficient reimbursable agreements in place with the necessary funds obligated to support them during a shutdown.

o. Federal Acquisition Service (Q).

(1) FAS activities that are funded through the ASF are exempt as the ASF is a revolving fund that is not immediately affected by a lapse in appropriations. These activities may initiate a phased shutdown based on available resources.

(2) Transportation Audit activities, which are funded through a permanent authority, not the ASF, are also exempt. These activities may initiate a phased shutdown based on available resources.

(3) Personal property utilization and donation activities that are funded by an Operating Expenses appropriation are subject to a shutdown furlough. Employees will be excepted only to the extent necessary to support excepted activities relating to the disposal of excess or surplus inventories. Employees funded out of the appropriation's reimbursable account may be exempt to the extent that there are sufficient reimbursable agreements in place with the necessary funds obligated to support them during a shutdown. Property sales, funded by ASF, will retain property disposal specialists (marketing) to support customer inquiries and completion of previously scheduled sales.

(4) FAS activities that are funded by an annual appropriation, the Federal Citizen Services Fund (FCSF), and are subject to a shutdown furlough unless there is sufficient carryover in the FCSF during a shutdown. These activities may initiate a phased shutdown based on the available carryover resources. In the event of a shutdown, excepted personnel are the minimum number necessary to support excepted activities through the national call centers and USA.gov. Employees funded out of the appropriation's reimbursable account may be exempt to the extent that there are sufficient reimbursable agreements in place with the necessary funds obligated to support them during a shutdown.

(5) FAS activities funded through the WCF, such as eRulemaking, are exempt as the WCF is a revolving fund. These employees may be included in any phased shutdown.

p. Office of Congressional and Intergovernmental Affairs (S). The minimum necessary employees will remain on duty to monitor progress of appropriations enactment and to provide support to Congress as required.

q. Office of Strategic Communication (Z). This office is completely funded through the WCF, which is an exempt funding source. The office may initiate a phased shutdown based on available resources.

r. Office of Civil Rights (AK). This office is completely funded through the WCF, which is an exempt funding source. The office may initiate a phased shutdown based on available resources.

s. Office of Customer Experience (O). This office is completely funded through the WCF, which is an exempt funding source. The office may initiate a phased shutdown based on available resources.

t. Presidential Transition. Employees supporting the presidential transition and funded through the WCF, the ASF, or other sources of funding that are available are exempt. These employees may be subject to a phased shutdown based on available resources. For positions funded through an annual appropriation or through another source of funding that is not available, to the extent employees are conducting excepted activities as set forth in the legal authorities cited in paragraph 1, these functions are excepted and will continue regardless of the availability of previously enacted budget authority.