



United States
Department of
Agriculture

Office of the
General
Counsel

Washington,
D.C.
20250-1400

April 7, 2011

MEMORANDUM FOR MICHAEL L. YOUNG
DIRECTOR
OFFICE OF BUDGET AND PROGRAM ANALYSIS

FROM: Ramona E. Romero 
General Counsel

SUBJECT: OGC Shutdown Plan – FY 2011

In the event of a lapse in appropriations for the Department of Agriculture (USDA), the Office of the General Counsel (OGC) will initiate the following actions:

- Provide direction to all employees in travel status to return to their duty stations;
- Issue notices of cancellation of ongoing activities with the assistance of the Office of Human Resources Management and the Office of Operations;
- Secure all personal and real property for appropriate disposition;
- Review court calendars, litigation deadlines, and other commitments in order to seek their cancellation or postponement as necessary;
- Determine whether it is necessary to engage in bargaining with OGC's bargaining unit with respect to impact and implementation of any furlough affecting bargaining unit members; and
- Adopt and implement a communications plan by which all OGC managers and staff, in Washington, D.C., and all field office locations, will be kept informed of developments during the course of any necessary furlough of employees.

Upon completion of the above, all personnel who have not been determined to be excepted from furlough requirements, *i.e.*, all personnel who are not required for the performance of functions necessary for emergencies involving the safety of human life or the protection of property, who are not funded by user fees or no-year funds, or who are not required to accomplish an orderly shutdown of the normal functions of OGC, will be placed on immediate furlough. We anticipate working with other USDA agencies and offices to identify areas of legal services required to be

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continued in support of major excepted functions. Individual OGC attorneys, administrative personnel, and support staff will be excepted from the shutdown in areas where (1) their continued service is required for the provision of legal services to the Office of the Secretary, the Deputy, Under, and Assistant Secretaries, and other general officers concerning the shutdown; (2) the provision of legal services is required to support USDA functions related directly to activities respecting the safety of human life or the protection of property; (3) the provision of legal services is required for the continued performance of particular excepted functions of the Department; and (4) continued service is required to accomplish the orderly shutdown of the Office of the General Counsel.

After the steps described above have been taken, we anticipate that not more than 10 OGC employees agency-wide will remain to provide the required legal services for the Department, and that a number of additional employees – not to exceed 8 FTE's – may continue to provide services in support of user fee funded programs which require no appropriation in advance and thus fall within Category II.

Specific Actions to be Taken When OGC Appropriations Have Lapsed

First half of day 1 (first day funds are not available).

All employees will be directed either to report to their duty stations or to report to their supervisors by telephone to receive assignments of duties or other pertinent information to assure an orderly shutdown of activities. Managers and supervisors will coordinate the following activities intended to effect an orderly shutdown of OGC's operations:

- Communicate shutdown instructions and procedures to all employees.
- Distribute furlough notices at OGC headquarters and all OGC field offices to all employees who have not been determined to be necessary for OGC's shutdown activities.
- Contact any employees on leave and inform them that their leave is cancelled.
- Contact any employee in travel status and direct them to return to their duty stations.
- Ensure all records, personal property, and real property are secured.
- Cancel all meetings, hearings, and other previously scheduled OGC business.
- Validate existing OGC communications strategy and employee contact information for future communications requirements.

Second half of day 1.

Managers and supervisors will coordinate the following activities intended to effect an orderly shutdown of OGC's operations:

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- Document the status of cases and projects so they can be resumed, transferred, or otherwise handled as required when OGC's ultimate funding situation is determined.
- Complete identification of employees whose presence at work will be required to perform functions associated with the orderly cessation of OGC functions, including:
 - Name of each employee required to continue shutdown operations.
 - Title of each employee identified.
 - The shutdown functions that each identified employee will perform.

Day 2.

- Only employees who have been identified previously as required to perform excepted functions, or functions necessary for orderly shutdown of OGC functions and activities, will report to work.
- Employees performing work identified as excepted from shutdown procedures will continue to work.
- Employees will be directed to perform only those activities identified earlier.
- The General Counsel will report to appropriate Departmental contacts regarding the status of OGC's shutdown procedures.

Day 3 and continuing until completion of shutdown procedures.

- Only employees who have been identified previously as required to perform excepted functions, or functions necessary for orderly shutdown of OGC functions and activities, will report to work.
- Employees performing work identified as excepted from shutdown procedures will continue to work.
- Employees will be directed to perform only those activities identified earlier.
- There will be daily communications by the General Counsel with appropriate Departmental contacts regarding the status of OGC's shutdown procedures.