

United States Department of Agriculture (USDA)

Risk Management Agency (RMA) Shutdown Plan

As of April 7, 2011

Operations during Lapse of Appropriations

RMA activities that can be continued rely on Office of Management and Budget (OMB) Memorandum, *Agency Operations in the Absence of Appropriations*, November 17, 1981. Where it says in part “Primary examples of activities agencies may continue are those which may be found under applicable statutes to:… 2. Provide for benefit payments and the performance of contract obligations under no-year or multi-year or other funds remaining available for those purposes.”

Further defined by the 1981 Civiletti opinion (1981 Civiletti opinion, reprinted in U.S. GAO, *Funding Gaps Jeopardize Federal Government Operations*, p. 82 or for legal analysis of funding gaps, see U.S. Government Accountability Office (formerly the General Accounting Office; hereafter “GAO”), *Principles of Federal Appropriations Law*, 3rd ed., vol. II, GAO-06-382SP, February 2006, ch. 6, pp. 6-146 - 6-159.) It states in part “As set forth in the 1981 Attorney General opinion, the exceptions fall into two broad categories. The first category is obligations “authorized by law.” Within this category, there are four types of exceptions: ...

- Activities “**authorized by necessary implication from the specific terms of duties that have been imposed on, or of authorities that have been invested in, the agency.**” To take the example given in the opinion, there will be cases where benefit payments under an entitlement program are funded from other than 1-year appropriations (*e.g.*, a trust fund), but the salaries of personnel who administer the program are funded by 1-year money. As long as money for the benefit payments remains available, administration of the program is, by necessary implication, “authorized by law,” unless the entitlement legislation or its legislative history provides otherwise or Congress takes affirmative measures to suspend or terminate the program.

Based on the guidance above, RMA would have to maintain staff sufficient to pay escrow, underwriting gains, and monthly settlement.

Communications

RMA has developed communications plans that include notifications to:

- Employees
- Cooperative Agreement Partners
- Information Technology Contractors
- Other Contractors
- Approved Insurance Providers (AIPs)
- Web Page Users
- General Public

There is a shutdown checklist for managers which instructs them on what activities should take place the first day of a shutdown. The list includes completing personnel responsibilities and closing up the office. These activities should be completed by mid day on the first day of the shut down.

Re-start instructions will be included in shutdown communications.

No political employees are essential to RMA operations in a save money furlough therefore they will not be excepted from furlough.

Activities to Be Continued

The following outlines the activities to be continued, the estimated number of positions that they would require and a high level plan for continuing the activities on a short and long term basis.

Category	Activity	Number of Positions
III – Protect Life and Property	Pay Contract Obligations	4 part time to process payments 1 part time staff to track obligations incurred. 1 part time staff to manage payments process.
	Information Technology Support to run Payment Programs	4 part time Contractor Staff
	Administration of Agency Business	1 Agency Administrator – Part time to coordinate shutdown and continuing activities as necessary
	TOTAL	11

The category III employees would work two days a week to process payments necessary in the short term. If a long term shutdown would need to be staffed, more employees may be needed to support the data processing of information received about payments from the Approved Insurance Providers.

Preparation for Activities to be Continued

For Federal employees, supervisors will submit through the related Deputy Administrator to the Administrator a listing of:

- The name and title of each individual required for authorized activities and,
- A brief statement of the function of that each employee is to perform.

This information will be forwarded to the Director of Human Resources Division at Farm Service Agency where RMA obtains personnel services.

- In addition, detailed work plans including number of hours per week per employee for part time employees, a list of required outside contacts, and any dependencies should be submitted.

Supervisors will instruct employees to carry out authorized activities only.

If any activities are determined by the Administrator to be necessary in the midst of a shutdown, those persons would be recalled to work. The management of those persons would develop a detailed list of who will be working and what tasks they will be performing and provide those to FFAS Human Resources contacts as required. Any re-activation will include someone performing the task of tracking time spent working and appropriate personal actions.

When either unforeseen circumstances or an emergency dictates that employees would return to duty, they would no longer be furloughed and personnel actions should be processed to put the employees in a work status. Employees would be returned to furlough status when it is determined that they are no longer needed and would remain in that status until the shutdown is discontinued.

Shutdown Implementation Procedures

Prior to Day 1, the following actions will be completed:

In advance of Anticipated Shutdown supervisors will

- Become familiar with shutdown functions including but not limited to:
 - Making necessary contacts outside the Agency to communicate status
 - Cancelling meetings, hearings and other previously arranged Agency business
 - Issuing notices to headquarters and field offices regarding termination of activities
 - Protecting confidential information
 - Documenting the status of projects so they can be resumed or otherwise appropriately handled when funding becomes available
 - Inventorying and preparing all records, personal property, real property and facilities to maintain and protect until disposition is accomplished
 - Performing requisite administrative function such as processing payroll for that period until the expiration of funds, and taking measures necessary to ensure that employees are accorded all due personnel rights.
- Identify functions and/or employees that may later become essential on a one-time or intermittent basis (e.g. for emergencies or in support of another agency's allowable activities).
- Develop procedures required for orderly cessation of activities;
 - Measures needed for brief suspension of activities
 - Comprehensive steps required for lengthy shutdown.
- Obtain clearance for shutdown functions expected to require more than one workday to complete.
- Identify employees whose presence at work will be required to perform functions associated with the orderly cessation of program activities. This includes employee name, title and function the employee will perform.
- Identify the employees required to perform the functions that will continue and those that are necessary for an orderly shutdown. Decisions will be based on
 - The need to limit the number of employees to the minimum necessary to achieve orderly shutdown

- The need for both professional and support services
- Consideration of the individuals who are closest to the matters being terminated.
- Identify what Chief Information Officer systems support is needed to maintain essential services and information technology infrastructure.
- Acquaint their employees with procedures for both short-term and long-term shutdown and assign potential shutdown tasks.
- Ensure that they have an accurate employee contact list and phone tree to include phone numbers, addresses and e-mail addresses.
- Determine what contracts would continue and to what extent they would be active. Also, that information would be in the communications to the contractor at the earliest possible moment.

Human Resources Division at FSA will prepare a memo to employees advising them of potential furlough and providing answers to frequently asked questions.

Budget Office will prepare

- Estimates of funding for staff needed to continue non-terminating activities
- Updated information on the impact of the shutdown
- Other information requested by USDA, Office of Budget and Program Analysis (OBPA)
- A Notice containing instructions to headquarters and field offices.

Days Before Anticipated Shutdown

The Administrator will issue a memo to employees and/or forward a Department memo, if available, reporting on the status of funding.

Supervisors will instruct all employees in travel status to return to the duty station by midnight the day that funding authorization will expire.

Communications Plans will be activated to include the following:

Notifications	Responsible Party	Time Table of Release	Trigger for Release
Union Representatives	Farm and Foreign Agriculture (FFAS) Human Resources	Draft plans are to be shared with Union representatives for comment as soon as practical.	Completion of a Draft Plan.
Employees – Notification letter to discuss pay, benefits, unemployment, time and attendance procedures, telework, and return to work. This notice should be acknowledged via	FFAS Human Resources will develop a memorandum to be signed by the Administrator	Delivered to employees by the morning of day 1 of a shutdown.	Release upon notification by HR.

Notifications	Responsible Party	Time Table of Release	Trigger for Release
signature or electronic means.			
Employees – Questions and Answers sheet	FFAS Human Resources	Release along with letter to employees	Release upon notification by HR.
Cooperative Agreement Partnerships	Program Managers for Partnerships Activity	Letter to be released one or two days before shutdown	Notification by Agency Administrator
Contracts through outside Agencies including Information Technology Contracts	Contracting Officers' Technical Representative (COTR) will work with Contracting Officer to draft and release notification	Notification of plan is needed at least 4 days prior to shutdown	Notification by Agency Administrator
Other Contracts through FFAS Procurement	COTR will work with CO to draft notification	Notification to be released by CO one or two days before shutdown	Notification by FFAS
Approved Insurance Providers	Insurance Services Standard Reinsurance authors will prepare and clear with Office of Government Counsel (OGC)	Notification to be released or phone call or letter (TBD) one to two days before and anticipated shutdown	Notification by Agency Administrator
Travel and Purchase Card Holders – Card holder do's and don'ts	Office of the Chief Financial Officer	One to two days before anticipated shutdown	Notification by Agency Administrator
General Public (including producers and policy holders) – via Web with a standard USDA wide Notification of Agency Closure	External Affairs	One to two days before anticipated shutdown	Notification by Agency Administrator

- The first day, all employees will report to work in person or via telework to receive assignments of duties or other information for an orderly shutdown. For those teleworking, report may be done via telephone or e-mail.

Managers and supervisors will coordinate the following activities intended to terminate Agency's operations:

- Communicate close down instructions and procedures to all employees.
- Supervisors will inform their employees of the activities in which they should engage.

- Prepare to contact any employees on leave and communicate that their leave is cancelled.
- Contact any employee in travel status and direct to return to duty station by COB on the day before the anticipated shutdown.
- All travel will be discontinued.
- Ensure all records; personal property and real property are secured.
- Cancel all meetings, hearings and previously arranged business.
- Validate existing communication strategy (call trees) and employee contact information for future communication need.
- Based on guidance from OMB and OBPA, the Administrator will instruct managers to implement procedures for either short-term or long-term cessation of activities.
- Human Resources Division in FSA will draft a memo from the Administrator informing them of immediate furlough upon completion of assigned shutdown activities and advising them of the appropriate source of information on when to return to work.
- Contracting officers will notify contractors of their operating status.
- As employees are about to be released, the employee should complete time sheet entry and submit to approving authority. Timesheets will be submitted by master timekeepers at the appropriate time.
- Each cost center manager will send recurring daily status reports through the management chain reporting on the status of the shutdown.
- For continuing activities, status reports will be provided to the Administrator on a regular basis for his review and information to provide to the Secretary.
- The Administrator will provide the Secretary reports on the status of the shutdown daily.

Shutdown staffing

At full employment in February of 2011, RMA has 530 employees. Most of those would be sent home immediately upon reporting. Approximately, 50 supervisors and managers would remain to accomplish the orderly shutdown of offices while protecting the property and facilities of the agency. That activity would take through mid day on the first shutdown day. Additionally, headquarters and field office managers would need to monitor Office of Personnel Management (OPM) and OMB sources for startup instructions periodically throughout the shutdown period.

Shutdown Checklist

Supervisors will Perform all Personnel Responsibilities Including

- **Instruct employees to fill out Time and Attendance**
- **Approve Time and Attendance**
- **Obtain signatures if necessary on shutdown memorandum**

All employees will turn off

- **Printers**
- **Faxes**
- **Computers**
- **Fans**

- **Any auxiliary heat or air conditioning**

Employees will secure all Personally Identifiable Information (PII).

Employees will record a standard (USDA provided) message on office and cell phones.

Employees will remove all food items and take trash to central collection locations to prevent insect and rodent infestations during shutdown.

Field Officer Managers will adjust heating ventilation and air-conditioning to conserve energy but sufficient to prevent damage of property.

Field Office Managers will contact the landlord on leased buildings or the security in government buildings and notify them of temporary vacancy of the building due to a government shutdown.

Supervisors will turn off all lighting and close and lock all doors.

Supervisors will turn on alarms if installed.

Return to Work Procedures will be addressed in the Human Resources Letter.

First half of Day 1 (First Day funds are not available):

There will be daily communications by the Administrator on the status of the close down procedures with the Department contacts previously identified.

Supervisors will complete the Shutdown Checklist above.

The Director of Human Resource Management will be responsible for:

- Providing instructions and procedures to managers and supervisors for all employees during the close down period. This will include provisions for call back of employees in the event it is determined they are needed to complete close down procedures.
- Providing specific instructions for employees to complete final time and attendance report.
- Ensuring individual furlough notices will be prepared, reviewed and approved.
- Ensure all employees timesheets are processed by the National Finance Center.
- Delay hiring of new employees.

The Director of Acquisition Management will be responsible for:

- Coordinating with all contracting officers and contracting officer technical representatives to notify all contractors and vendors that work is suspended.

Subsequent Workdays of Shutdown

Only employees so notified will report to work.

Employees will engage in approved activities only.

As each shutdown function is completed, the supervisor of that function, through their respective Deputy Administrator will notify the Administrator. Affected employees will be placed on immediate furlough.

The Administrator will provide the Under Secretary reports on the status of the shutdown.

Furloughed employees are **prohibited** from engaging in certain activities as listed below.

- Blackberry usage – Do not respond to any e-mails.
- Laptop usage – Do not use the laptop at all.
- Office Phone messages – Do not check your office land line phone or your office cell phone for messages.
- Any work at all unless instructed directly from your supervisor as part of a recall or back to work activity.

Per the Government Accountability Office (GAO), Principles of Appropriations Law—Vol. II Chapter 6 page 36, the Anti-deficiency Act prohibits:

...Accepting voluntary services for the United States, or employing personal services in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property. 31 U.S.C. § 1342.

Penalties for violation of the act can include administrative discipline, fines, and imprisonment.

Plan Maintenance

This plan should be reviewed and documentation submitted to the Department Office of Budget and Program Analysis (OBPA) prior to a potential shutdown to ensure a current understanding of available funding and other impacts on the plan.