

6 April 2011

The Honorable Jacob Lew
Director
Office of Management and Budget
Executive Office of the President
Washington, DC 20503

Dear Director Lew:

This letter transmits the Executive Office of the President's Contingency Plan. This plan will be implemented in the event that agency shutdowns and furloughs become necessary due to a lapse in appropriations for Fiscal Year 2011.

Sincerely,

Bradley J. Kiley
Assistant to the President for
Management and Administration

Enclosure

EXECUTIVE OFFICE OF THE PRESIDENT
Contingency Shutdown Plan
Operations in the Absence of Appropriations

A. Introduction

In the absence of an appropriation or a continuing resolution, the Executive Office of the President (EOP) will implement a Contingency Plan for shutdown and furloughs. Until a continuing resolution or other spending authority is enacted, the EOP will be without authority to incur any financial obligations except for very limited activities.

This plan provides the general framework for responding to a temporary lapse in appropriations. The EOP's Contingency Plan for shutdown will be implemented as early as possible upon determination that there is a lapse in appropriations.

Approximately 435 employees in total will be designated as excepted to perform emergency or excepted functions, are Presidentially Appointed Senate Confirmed (PAS) or otherwise exempt from the Antideficiency Act, or are alternatively funded during a shutdown. The remaining staff (approximately 1,346 as of 2/11/11) will be placed in furlough status once they have concluded activities necessary to shut down their office which is expected to take no more than four hours. Other government employees will also be present during a shutdown in some instances, as determined by their respective home agencies.

B. Shutdown Implementation

Once it has become clear that neither an appropriations bill nor a continuing resolution will be enacted, the EOP will notify agencies to begin an orderly shutdown of unfunded functions. Employees on the EOP payroll will receive shut-down and furlough notices. Other government employees will be notified by their home agencies or employers.

Emergency staff will report for duty on the first business day following the lapse in funding (or the next day even if it is a Saturday or Sunday, if Saturday or Sunday is a regular workday). Based on the situation at that time regarding the likelihood of passage of an acceptable continuing resolution or other spending authority, employees will be notified about what activities are permissible. Should the decision be made to initiate shutdown, non-excepted staff will be expected to complete their activity during the first four hours of the workday, and then be released by furlough. Each EOP agency will issue instructions to their employees for orderly shutdown.

Concerning excepted staff, the EOP has carefully reviewed its personnel needs to complete orderly shutdown activities and to ensure that the mission of EOP agencies is carried out without significant interruption. During and after completion of shutdown activities, EOP agencies will continue with a limited number of employees to sustain minimal emergency or excepted operations.

C. Specifics of EOP Agency Plans

White House Office

Certain Presidential appointees on the White House and EOP staff are exempt from the provisions of the Annual and Sick Leave Act, *see* 5 U.S.C. 6301(2)(x)-(xi), 5 C.F.R. §630.211. As such, they are entitled to compensation based on their status as Officers, *see* 5 U.S.C. 5508, *United States v. Grant*, 237 F.2d 511 (7th Cir. 1956). This entitlement means that the government is “authorized by law” within the meaning of 31 U.S.C. 1341 to incur obligations for these officers’ pay, and such Officers may be paid “for work performed in the absence of funds.” *See Copyright Royalty Tribunal – Commissioners’ Pay During Funding Gap*, 61 Comp. Gen. 586 (1982). As such, the White House will maintain minimal staffing consistent with supporting the President in the discharge of his constitutional duties including staff required to work with the Congress in the enactment of appropriations. A total of 120 staff will be required [including a few staff from the Office of Policy Development (DPC and NEC, respectively)]. Other staff may be called in as necessary to assist in these functions.

Office of the Vice President

The Office of the Vice President will require staff to support the Vice President in the discharge of his constitutional duties. A total of 12 staff will be required.

Official Residence

The Executive Residence provides for the care and maintenance of the Executive Residence at the White House and for official expenses of the President. A total of 15 staff will be required to provide minimum maintenance and support.

Official Residence of the Vice President

The one (1) staff person who is responsible for the Vice President’s Residence will be required.

Office of Administration (OA)

The Office of Administration provides administrative support functions to all agencies of the EOP. All support activities will be suspended with the exception of the following basic services: 1) information systems and technology services (IT) to EOP agencies with designated emergency functions (IT will be at the minimum level required to provide secure IT services in support of the President and emergency activities of the EOP including PRA requirements); 2) receipt of

mail, courier packages, parcels, and mail delivery of only emergency related correspondence (will be provided only to the extent necessary to support the President and other emergency activities of the EOP); and, 3) personnel related functions to ensure continued support for emergency personnel and dissemination of information related to furlough and shutdown. A total of 35 staff will be required.

Office of National Drug Control Policy (ONDCP)

The Office of National Drug Control Policy will retain a staff to carry out duties related to national security, including the conduct of foreign relations essential to national security. A total of eight (8) staff will be required.

Office of Science and Technology (OSTP)

The Office of Science and Technology will retain staff to carry out archiving classified information, disposition of records and computer support. A total of seven (7) staff will be required.

Council on Environment Quality (CEQ)

The Council on Environmental Quality will maintain staff to catalogue and secure official records and to oversee cancellation of non-essential activities. A total of three (3) staff will be required.

National Security Staff (NSS)

The National Security Staff will retain only those employees required to support the President and coordinate U.S. government policy and actions on national security, foreign policy, and homeland security issues. A total of 42 staff will be required.

Council of Economic Advisors (CEA)

The Council of Economic Advisors will have the Chair and two staff (a total of three) to carry out emergency activities of the organization.

Office of Management and Budget (OMB)

The Office of Management and Budget assists the President in the discharge of budgetary, management, and other executive responsibilities. OMB has identified an initial group of 128 staff required to secure enactment of appropriations and related measures and to assist in providing general direction to the Executive Branch for the duration of any shutdown. Other staff may be called in as necessary to assist in these functions.

United States Trade Representative (USTR)

The United States Trade Representative is responsible for developing, coordinating, and advising the President on U.S. trade policy, and 1) to maintain the national security through a range of

activities in support of U.S. interests, chiefly in an international and foreign relations setting; and, 2) to protect federal property. A total of 61 staff will be required. This requirement may be adjusted upwards or downwards as necessary to assist in these functions.

EOP-Wide Shutdown Plan	Current FTE ¹	Excepted		PAS or other exempt from the ADA	Other Funding	Staff during a Shutdown
	Total	Total	% of Total FTE	Total	Total	Total
<i>Component</i>						
<i>WHO</i>	432	14	3.2%	106	0	120
<i>Exec. Residence</i>	90	15	16.7%		0	15
<i>OVP</i>	23	2	8.7%	10	0	12
<i>Official Residence of the VP</i>	1	1	100%		0	1
<i>OA</i>	219	33	15.1%	2	0	35
<i>OMB</i>	534	115	21.5%	6	7	128
<i>Office of National Drug Policy</i>	101	5	5.0%	3	0	8
<i>OSTP</i>	32	2	6.3%	5	0	7
<i>CEQ</i>	24	1	4.2%	2	0	3
<i>CEA</i>	27	2	7.4%	1	0	3
<i>NSS</i>	72	30	41.7%	12	0	42
<i>USTR</i>	226	56	24.8%	5	0	61
TOTAL	1781	276	15.5%	152	7	435

¹ FTE represents Full-time Equivalent number of employees rather than the number of staff on board at any single point in time.