

**Court Services and Offender Supervision Agency**  
**Pretrial Services Agency for the District of Columbia**  
**Orderly Shutdown Plan in the Absence of Appropriations**

**July 28, 2017**

**I. Introduction**

The Anti-Deficiency Act, 31 U.S.C. 1341 and 1342, narrowly restricts the conduct of operations by agencies during a lapse of appropriations. In a lapse of appropriations, the agency must shutdown those activities and furlough those staff not otherwise legally authorized to continue within the legal guidance established by the Office of Management and Budget (OMB) and the Department of Justice (DOJ).

OMB Circular A-11 Section 124 (Agency Operations in the Absence of Appropriations) requires agency heads to develop and maintain plans for an orderly shutdown of agency operations in the event of absence of appropriations. Shutdown plans must be submitted to OMB either when first prepared or revised. Updated plans should be submitted to OMB at least every two years, effective August 1, 2015, or whenever there is a significant change in agency funding or activities.

Agency heads must decide what agency activities are excepted (or legally authorized to continue) and non-excepted (or not legally authorized to continue) during a lapse in appropriations. During a lapse in appropriations, agencies should only engage in activities consistent with the principles set forth in their shutdown plan. Shutdown plans should describe agency actions to be taken during a short lapse of funding (1-5 calendar days) and anticipated changes necessary should the lapse exceed five (5) calendar days.

**II. Policies**

- A. The Anti-Deficiency Act prohibits agencies from incurring obligations that are in advance of, or that exceed, an appropriation. Thus, with certain limited exceptions, an agency may not incur obligations when the funding source for the obligation is an appropriation that has lapsed.

- B. In the absence of appropriations:
  - a. Federal officers may not incur any obligations that cannot lawfully be funded from prior appropriations unless such obligations are otherwise authorized by law; and
  - b. Federal officers may incur obligations as necessary for orderly termination of an agency's functions, but funds may not be disbursed.
- C. OMB and DOJ guidance authorize agency heads to except program activities from shutdown (requiring new obligations), only when:
  - a. Operations are financed by a resource other than annual appropriations;
  - b. Operations are necessary to perform activities expressly authorized by law;
  - c. Operations are necessary to perform activities necessarily implied by law;
  - d. Operations are necessary to discharge the President's constitutional duties and powers; or
  - e. Operations are necessary to protect life and property (emergency circumstances).
- D. The 'protect life and property' or emergency exception authorization applies when both of the following exist:
  - a. A reasonable and articulable connection between the obligation and the safety of life or the protection of property; and
  - b. Some reasonable likelihood that either the safety of life or the protection of property would be compromised in some significant degree by failure to carry out the function in question; and that the threat to life or property can be said to be near at hand and demanding of immediate response.
- E. During a funding lapse, the performance of routine, on-going oversight, inspection, accounting, payment, contracting and other administrative functions should not continue. There are limited circumstances where these administrative functions may continue when such activities are 'necessarily implied' to carry out:
  - a. An orderly shutdown of agency operations;
  - b. An agency excepted function; or
  - c. A congressionally authorized or appropriated function for which Congress has provided funding that remains available during the lapse, 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 'necessarily implied' administrative activity must be absolutely critical to performance of one or more of the above functions. These situations are expected to be limited, and the employee may be excepted from furlough only for the bare minimum of time necessary to carry out the activity.

- F. During a lapse in appropriations, agencies should only engage in excepted activities pursuant to applicable legal requirements and consistent with the principles set forth in their OMB-approved Shutdown Plan.

### **III. Definitions**

- A. **Shutdown Furlough:** In the event that funds are not available through an appropriations law or continuing resolution, a 'shutdown' furlough occurs. A shutdown furlough is necessary when an agency no longer has the necessary funds to operate and must shut down those activities which are not excepted pursuant to the Anti-deficiency Act. Furloughed employees are placed in a temporary, non-duty, non-pay status.
- B. **Excepted Employees:** In the context of shutdown furloughs, the term 'excepted' is used to refer to employees who are funded through annual appropriations who are nonetheless excepted from the furlough because they are performing work that, by law, may continue to be performed during a lapse in appropriations. Excepted employees include employees who are performing emergency work involving the safety of human life or the protection of property or performing certain other types of excepted work.
- C. **Emergency Employees:** Employees who must report for work in emergency situations (e.g., severe weather conditions, air pollution, power failures, interruption of public transportation, and other situations) in which significant numbers of employees are prevented from reporting for work or which require agencies to close all or part of their activities. Emergency employees are not automatically deemed excepted employees for purposes of shutdown furloughs. Each agency must determine which employees are excepted employees pursuant to the Anti-deficiency Act.
- D. **Agency Shutdown Plan:** OMB Circular A-11 Section 142.2 requires agency directors to develop and maintain plans for an orderly shutdown in the event of a lapse in appropriations. The Shutdown Plan shall describe agency actions to be taken prior to and during a lapse of appropriations, designate agency excepted activities and positions, and identify actions necessary to resume normal operations once the lapse has ended.

## IV. Shutdown Summary

A. The Court Services and Offender Supervision Agency (CSOSA) is a law enforcement agency comprised of two programs:

a. Community Supervision Program:

The Community Supervision Program (CSP) is a law enforcement agency playing a vital role in public safety within the District of Columbia. CSP is responsible for supervision of adult offenders released by the D.C Superior Court or the U.S. Parole Commission on probation, parole or supervised release, as well as monitored Civil Protection Orders and deferred sentencing agreements. The CSP strategy emphasizes public safety, successful re-entry into the community, and effective supervision through an integrated system of comprehensive risk assessment, close supervision, routine drug testing, treatment and support services, and graduated sanctions and incentives. CSP also develops and provides the Courts and the U.S. Parole Commission with critical and timely information for probation and parole decisions.

All CSP core offender supervision/law enforcement activities will continue throughout the lapse period; select CSP offender support and sanctions activities necessary to ensure public safety will also continue throughout the lapse period. Limited administrative support functions will also continue through all or part of the lapse period to perform activities 'necessarily implied' to support excepted functions.

b. Pretrial Services Agency:

The Pretrial Services Agency (PSA) is a law enforcement agency playing a vital role in public safety within the District of Columbia. PSA assists judicial officers in both the Superior Court of the District of Columbia and the United States District Court for the District of Columbia by conducting a risk assessment for every arrested person who will be presented in court and formulating release or detention recommendations based upon the arrestee's demographic information, criminal history, and substance use and/or mental health information. For defendants who are placed on conditional release pending trial, PSA provides supervision and treatment services that reasonably assure that they return to court and do not engage in criminal activity pending their trial and/or sentencing. PSA core defendant assessment and supervision functions necessary to ensure public safety will continue throughout the lapse period. Limited administrative support functions will also continue through all or part of

the lapse period to perform activities ‘necessarily implied’ to support excepted functions.

- B. CSOSA activities (staff and contracts) are typically supported by annual, appropriated funding. CSOSA plans to continue to perform identified offender and defendant supervision, sanctions and support services throughout the lapse period under authority provided to continue operations of those operations necessary to protect life and property (emergency circumstances). The close supervision of offenders and defendants is necessary to protect life and property.
- C. CSOSA Law Enforcement Partners: CSOSA’s shutdown plan assumes the Federal Bureau of Prisons, U.S. Parole Commission, U.S. Marshals Service, D.C. Metropolitan Police Department, D.C. Superior Court, U.S. District Court for D.C. and D.C. Department of Corrections continue core public safety operations throughout a lapse in Federal appropriations.
- D. Summary Employee Information

	Estimated On-Board Employees Prior to Implementation of Shutdown Plan <sup>1</sup>	Employees to be Retained to Protect Life and Property (Excepted Employees) [Days 1-5] <sup>1</sup>	Employees to be Retained to Protect Life and Property (Excepted Employees) [Days 6+] <sup>1</sup>
CSP	875	715	726
PSA	362	294 <sup>2</sup>	294 <sup>2</sup>
<b>TOTAL</b>	<b>1,237</b>	<b>1,009</b>	<b>1,020</b>

<sup>1</sup> Does not include estimated vacant positions.

<sup>2</sup> Includes 34 employees who will be placed in an intermittent or rotating excepted status to perform ‘necessarily implied’ administrative functions to support excepted functions. These employees will be placed in a furlough status when they are not performing excepted activities.

- E. CSOSA Shutdown Time Period: CSP and PSA require approximately one-half of the business day following the date of the appropriation lapse to complete the initial shutdown of non-excepted operations.
- F. CSOSA Shutdown Plan Points of Contact:

- a. CSP:  
 Paul Girardo, Associate Director, Office of Financial Management  
 (202) 220-5718  
[Paul.Girardo@CSOSA.GOV](mailto:Paul.Girardo@CSOSA.GOV)

- b. PSA:  
Wendy Miller, Director, Office of Finance and Administration  
(202) 220-5680  
[Wendy.Miller@PSA.GOV](mailto:Wendy.Miller@PSA.GOV)

## V. Excepted and Non-Excepted Activity Detail

- A. Only those activities that are excepted by the agency head pursuant to applicable legal requirements may continue to be performed during a lapse in appropriations. CSOSA (CSP and PSA) has deemed the following activities to be excepted from shutdown as a necessity to protect life and property.
  - i. CSP Excepted Activities
    - 1. Offender Supervision: CSP staff and contractors performing direct offender supervision functions will be excepted and continue to perform excepted duties at pre-appropriation lapse levels throughout the entire shutdown period.
      - a. Offender Intake Processing
      - b. Offender Investigations
      - c. Offender Assessments
      - d. Offender Supervision
      - e. Offender Drug Testing
    - 2. Offender Sanctions: CSP requires continuation of staff and contractors performing offender sanctions to enforce offender supervision violations. Offender sanctions and interventions are ordered by the Courts, the U.S. Parole Commission or CSP (with the approval of the releasing authority) as a condition of supervision. CSP staff and contractors performing the following sanctions activities will be excepted and continue to operate throughout the entire shutdown period.
      - a. Global Positioning System (GPS) monitoring
      - b. Halfway Back Residential Sanctions
      - c. Secure Residential Treatment Program (SRTTP)
      - d. Community Service
    - 3. Offender Support: CSP requires continuation of staff and contractors performing critical offender support activities:
      - a. CSOSA Re-entry and Sanctions Center (RSC)
      - b. Day Reporting Center
      - c. Offender Substance Abuse Treatment
      - d. Offender Transitional Housing
      - e. Mental Health Assessments

- f. Sex Offender Assessments and Treatment
      - g. Young Adult Program
    - 4. Agency administrative employee and contract support functions meeting strict 'necessarily implied' requirements.
  - ii. CSP Non-Excepted Activities (subject to cease upon lapse of appropriations):
    - 1. Offender Support
      - a. Vocational Opportunities, Training, Education and Employment (VOTEE)
      - b. Offender Faith-Based Mentoring
      - c. Victim Services
      - d. Violence Reduction Program
    - 2. Agency Administrative Support:
      - a. The administrative functions below are deemed non-excepted, except for limited positions performing 'necessarily implied' functions:
        - i. Human Resources
        - ii. Training and Career Development
        - iii. Office of Legislative, Intergovernmental and Public Affairs
        - iv. Information Technology
        - v. Research and Evaluation
        - vi. Procurement
        - vii. Office of Financial Management
        - viii. Security
        - ix. Facilities
        - x. General Counsel
        - xi. Freedom of Information Act
        - xii. Quality Improvement Unit
        - xiii. Equal Employment Opportunity
        - xiv. Alternative Dispute Resolution

**CSP Estimated On-Board Excepted/Retained Employees by Shutdown Duration**

	Employees to be Retained to Protect Life and Property (Excepted Employees) [Days 1-5]	Employees to be Retained to Protect Life and Property (Excepted Employees) [Days 6+] <sup>1</sup>
Offender Supervision	492	492
Offender Sanctions	23	23
Offender Support Services	114	114
Agency Administrative Support (Necessarily Implied)	86	97
<b>Total Excepted/Retained</b>	<b>715</b>	<b>726</b>

<sup>1</sup> The number of employees retained under excepted status on Days 6+ may exceed the figure(s) above based on the need for specific excepted functions (e.g., the CSP Office of the Director deems additional employees are necessary to perform emergency, excepted functions).

iii. PSA Excepted Activities:

1. Defendant Assessment, Supervision and Support: PSA will continue defendant assessment, supervision and directly related functions at pre-appropriation lapse levels throughout the entire shutdown period. These functions include:
  - Risk assessment of defendants in preparation of bail reports for the courts
  - Specimen collection, drug testing and laboratory analysis and expert witness testimony
  - Supervision, including electronic monitoring of defendants on pretrial release
  - Case management of defendants on pretrial release including on-going risk assessment
  - Referrals of defendants to city services
  - Reporting violations of release conditions to the court and requesting revocation of release where appropriate
  - Substance use and/or mental health disorder treatment

iv. PSA Non-Excepted Activities (subject to cease upon lapse of appropriations):

1. Agency Administrative Support:



- a. The administrative functions below are deemed non-excepted, except for limited positions performing ‘necessarily implied’ functions:
  - i. Human Resources
  - ii. Training and Career Development
  - iii. Information Technology
  - iv. Accounting
  - v. Payment Services
  - vi. Budget Formulation and Execution
  - vii. Forensic Research
  - viii. Strategic Development
  - ix. Procurement
  - x. Facilities
  - xi. Attorney Advisor
  - xii. Freedom of Information Act

**PSA Estimated On-Board Excepted/Retained Employees by Shutdown Duration**

	Employees to be Retained to Protect Life and Property (Excepted Employees) [Days 1-5]	Employees to be Retained to Protect Life and Property (Excepted Employees) [Days 6+]
Defendant Assessment, Supervision and Support	248	248
Agency Administrative Support (Necessarily Implied)	46 <sup>1</sup>	46 <sup>1</sup>
<b>Total Excepted/Retained</b>	<b>294</b>	<b>294</b>

<sup>1</sup> Includes 34 employees who will be placed in an intermittent or rotating excepted status to perform ‘necessarily implied’ administrative functions to support excepted functions. These employees will be placed in a furlough status when they are not performing excepted activities.

- B. Determination of whether a current contract should be discontinued or may be excepted (retained) throughout some or all of the shutdown period is dependent upon several factors.
  - i. If the contract is awarded and funded prior to the shutdown, the contract may continue in the shutdown period if it is directly related to CSP and PSA excepted activities outlined in the Shutdown Plan or is required to meet an emergency circumstance.

1. Contracts deemed directly related to excepted activities must support the activity to the point where their discontinuation would prevent or significantly hinder performance of the activity.
  2. Contracts deemed necessary to address an emergency need or situation must be directly related to the protection of life or property.
  3. An absolute minimum number of Agency staff may be retained in the shutdown time period to perform contract oversight of excepted/emergency contracts as a 'necessarily implied' function.
- ii. If the contract is awarded and funded prior to the shutdown, yet is not directly related to an excepted activity or deemed an emergency, it should generally be discontinued in the shutdown period.
    1. In certain circumstances, funded contracts performing non-excepted or non-emergency activities may continue in the shutdown if it is advantageous to the Agency and there is adequate contractor oversight.
      - a. Agency staff must not be retained in the shutdown period to perform oversight of contractors performing non-excepted or non-emergency activities.
  - iii. Contracts awarded, yet not funded, prior to the shutdown may continue in the shutdown period only if they are directly related to excepted activities outlined in the Shutdown Plan or are required to meet an emergency circumstance.
    1. The Agency may incur new obligations in the shutdown period to support such contracts meeting excepted and emergency criteria.
  - iv. Contracts awarded, yet not funded, prior to the shutdown, and that are not directly related to an excepted activity or are not deemed an emergency, must not continue in the shutdown period.
    1. The Agency must not incur new obligations in the shutdown period that are not directly related to excepted (or emergency) activities.

## **VI. Implementation of Shutdown Plans**

- A. *Pre-Shutdown (7-10 calendar days prior to possible lapse of appropriations)*
- i. CSP Office of Human Resources (OHR) and PSA Office of Human Capital Management (OHCM) make necessary notifications to the American Federation of Government Employees (AFGE) local representatives [OMB approval required].
  - ii. CSP Office of the Director (OD) and PSA OD issue general notice to all employees concerning possible shutdown [OMB approval required].
  - iii. Procurement offices (CSP and PSA) issue general notice to all contractors concerning possible shutdown [OMB approval required].
  - iv. Procurement offices (CSP and PSA) generate list of all active contracts, funded periods of performance and assigned Contracting Officer Representatives (CORs).
  - v. Finance offices (CSP and PSA) generate list of all employees planned to be in TDY travel status on or around the date of possible shutdown.
  - vi. Training offices (CSP and PSA) generate a list of all employees planned to attend external training on or around the date of possible shutdown.
  - vii. CSP Office of Financial Management (OFM) and PSA OHCM generate list of all excepted/non-excepted positions and current employees occupying these positions.
  - viii. CSP and PSA designated shutdown coordinators obtain and review current Shutdown Plans from the Federal Bureau of Prisons, U.S. Parole Commission, U.S. Marshals Service, D.C. Metropolitan Police Department, D.C. Superior Court, U.S. District Court for D.C. and D.C. Department of Corrections to ensure coordination of planned activities.
- B. *Pre-Shutdown (3-6 calendar days prior to possible lapse of appropriations)*
- i. CSP OD reviews and approves specific excepted/non-excepted CSP employees and informs respective Executive Staff of designations. PSA OD reviews and approves specific excepted/non-excepted PSA employees and informs respective management staff of designations.
  - ii. CSP OD reviews and approves specific contractors in line with the excepted activities outlined in the Shutdown Plan, funded periods of performance and contract oversight and informs CSP Procurement, OFM and respective Executive Staff of whether the contractor is deemed excepted (retained) or will be discontinued. PSA Director, Office of Finance and Administration (OFA) reviews and approves specific

excepted/non-excepted contractors and informs PSA Procurement and respective management staff of designations.

- iii. CSP OHR and PSA OHCM contact respective employees on detail to other entities with instructions in case of a lapse of appropriations.

C. Pre-Shutdown (*1-2 calendar days prior to possible lapse of appropriations*)

- i. CSP Executive Staff informs employees of their excepted/non-excepted designations at least one calendar day prior to Shutdown Day [upon approval by OMB and the CSP OD]. PSA management staff informs employees of their excepted/non-excepted designations at least one calendar day prior to Shutdown Day [upon approval by OMB and PSA OD].
  - 1. Inform excepted and non-excepted staff individually of their designations.
  - 2. Inform non-excepted staff that their designation is based solely on a legal interpretation of shutdown requirements and not a reflection of their performance or importance to the Agency.
  - 3. Inform non-excepted staff to notify their supervisor of their requested work location and any changes in reporting schedule for Shutdown Day.
- ii. CSP OHR and PSA OCHM generate Furlough Notices for non-excepted staff.
  - 1. CSP OHR distributes Furlough Notices to respective CSP Executive Staff at least one calendar day prior to Shutdown Day. PSA OCHM distributes Furlough Notices to respective PSA management staff at least one calendar day prior to the Shutdown Day. Furlough Notices will not be provided to non-excepted employees until Shutdown Day.
- iii. CSP OD issues guidance to CSOSA staff concerning Shutdown Day responsibilities [upon approval by OMB]. PSA OD issues guidance to PSA staff concerning Shutdown Day responsibilities [upon approval by OMB].
- iv. Procurement offices (CSP and PSA) inform contractors of their excepted/non-excepted designations [upon approval by OMB and decisions of respective ODs].
- v. CSP Procurement and OFM issue joint guidance to contractors and CORS regarding payment prohibitions in the shutdown time period. PSA Procurement issues guidance to contractors and CORS regarding payment prohibitions in the shutdown time period.

- vi. Procurement offices (CSP and PSA) generate Stop Work orders for non-excepted contractors.
  - 1. Note that Stop Work orders will not be issued to vendors until Shutdown Day.
- vii. Finance offices (CSP and PSA) coordinate travel arrangements and cancellations with employees currently on or with planned TDY travel.
- viii. Training offices (CSP and PSA) coordinate cancellations for employees currently on or with planned external training.
- ix. CSP and PSA designated shutdown coordinators post Agency Shutdown Plan on Agency websites [upon approval by OMB].
- x. CSOSA (CSP and PSA) begins execution of Agency Shutdown Plan [upon approval by OMB].

#### D. Shutdown Day

- i. Shutdown Day is the first regular business day following the lapse of appropriations.
  - 1. If the lapse of appropriations takes place on a Friday, Shutdown Day is the following (non-holiday) Monday.
  - 2. Once the lapse of appropriations is effective, non-excepted staff will not work, use Agency electronic devices or access the network except to perform orderly shutdown activities on Shutdown Day.
- ii. CSP Executive Staff (or their designees) and PSA management staff provide Furlough Notices to non-excepted employees.
  - 1. CSP Executive Staff and PSA Director (or designee) must sign the Furlough Notice as the 'Deciding Official'.
  - 2. Non-excepted staff must sign the Furlough Notice.
  - 3. Furlough notices will not be issued to or received from personal contact information (e.g., personal email accounts).
  - 4. CSP Executive Staff and PSA management staff advise non-excepted (or furloughed) staff to watch the media and OPM/CSOSA/PSA websites for the notification to return to work.
  - 5. CSP Executive Staff forwards signed Furlough Notices to CSP OHR to be maintained in e-OPF. PSA management staff forwards signed Furlough Notices to OHCM to be maintained in e-OPF.
  - 6. CSP Executive Staff informs OHR of any issues or impediments for completing the Furlough Notice process for all non-excepted staff. PSA management staff informs OHCM of any issues or

impediments for completing the Furlough Notice process for all non-expected staff.

- iii. Non-expected employees report to work as scheduled on the Shutdown Day for orderly shutdown.
  1. Planned AWS or leave will be cancelled and the non-expected employee will place themselves in work status at or around their scheduled start time.
    - i. Non-expected employees on pre-approved leave and who are traveling outside the local commuting area may be exempted from reporting to work.
    - ii. Non-expected employees on pre-approved extended sick leave or otherwise sick on Shutdown Day may be exempted from reporting to work.
      1. Non-expected employees on pre-approved leave or who are sick on Shutdown Day, and who do not have a telework agreement or access to telework equipment, will be unilaterally placed in furlough status by CSOSA and PSA until furlough forms can be signed by the non-expected employee.
  2. Non-expected employees who have a valid Agency telework agreement and scanning capability may conduct Shutdown Day activities from an approved alternate worksite.
    - a. Employees who wish to shutdown remotely must inform their supervisor in writing at least one calendar day prior to the lapse of appropriations.
  3. Non-expected employees will have up to four (4) hours on Shutdown Day to:
    - a. Activate out of office voicemail and email messages:
      - i. 'Due to a lapse in Federal appropriations, the Federal government is partially shut down and I am not in a duty status. Please contact \_\_\_\_\_ on \_\_\_\_\_ with any matters that need immediate attention.'
    - b. Secure all documents as appropriate.
    - c. CSP employees shall receive, acknowledge (sign) and return Furlough Notice to Executive Staff member (or their designee). PSA employees will return signed Furlough

- Notice to their office or program director (or their designees).
- d. Shut down all Agency electronic devices (phone, laptop, etc.)
    - i. Non-expected employees do not have to surrender Agency electronic devices. However, such devices must not be used during the shutdown time period.
  - e. Advise supervisor or expected staff of any pending assignments that may require attention during their absence.
  - f. Complete time and attendance in webTA, if required.
- iv. Expected staff report to work as scheduled on the Shutdown Day.
1. Expected employees who are scheduled to be on AWS or have planned, pre-approved leave scheduled for Shutdown Day will report to work on Shutdown Day.
    - a. AWS may be postponed to another day in the Pay Period, if possible.
    - b. Expected employees on pre-approved leave and traveling outside the local commuting area may be exempted from reporting to work.
    - c. Expected employees on extended sick leave or otherwise sick on Shutdown Day may be exempted from reporting to work.
    - d. Expected employees who are not in work status after a lapse of appropriations are placed in a furlough (non-paid) status.
  2. Expected status employees with a valid Agency telework agreement, and who are already scheduled to telework on the Shutdown Day may continue to telework on the Shutdown Day.
- v. Employees designated as expected on an intermittent or rotating basis may be required to adjust their AWS or telework schedules, depending upon when they are needed to cover mission-critical functions. Supervisors will provide additional guidance on this issue when reporting instructions are provided.
- vi. Procurement offices (CSP and PSA) issue Stop Work orders to contractors performing non-expected functions.

- vii. Procurement offices (CSP and PSA) issue instructions to contractors performing excepted functions.
  - 1. Contractors will be informed that payments in the shutdown period are generally prohibited.
- viii. CSOSA and PSA external websites shall remain in operation on Shutdown Day and throughout the shutdown time period to enable communication with offenders and defendants, public safety/community partners and non-excepted employees (e.g., unemployment forms, creditor letters, shutdown FAQs).
- ix. CSP and PSA will prominently post the following at all agency locations and on Agency websites:
  - 1. 'CSOSA's supervision and drug testing offices will remain OPEN for business during a Federal Government shutdown and offenders should continue to report for scheduled supervision and drug testing appointments. However, many CSOSA administrative and support organizations will be operating with significantly reduced staff'.
  - 2. 'PSA supervision and drug testing offices will remain OPEN for business during a Federal Government shutdown and defendants should continue to report for scheduled supervision and drug testing appointments and group sessions. However, many PSA administrative and support organizations will be operating with significantly reduced staff'.
- x. The Office of Management and Budget will issue an automatic funding apportionment to CSOSA providing authority as provided by the Anti-deficiency Act necessary to incur excepted obligations in accordance with the CSOSA Shutdown Plan throughout the duration of the lapse in appropriations.

## **VII. Shutdown Detail**

### **A. Employee Salaries, Leave and Benefits:**

- i. Presidential Appointees: Individuals appointed by the President, with or without Senate confirmation, who are not covered by the leave system in 5 U.S.C. Chapter 63, or an equivalent formal leave system, are not subject to furlough.



- ii. Employee Paid Leave (Annual Leave / Sick Leave): All planned and approved leave is cancelled during the shutdown period. Paid time off creates a debt to the Government that is not authorized by the Anti-deficiency Act. When an excepted employee is not working or not performing excepted activities in compliance with the Anti-deficiency Act, he or she cannot be in a pay status. Excepted employees must be either performing excepted activities or furloughed during any absence from work. The furlough must be documented by a furlough notice.
- iii. Excepted employees should continue to request advance supervisory approval for planned leave and inform their supervisor (or designee) of un-planned leave (e.g., sick leave) in a timely manner during the shutdown time period. Excepted employees will be in furlough status for any planned or unplanned absence from work.
- iv. Alternate Work Schedule (AWS): Excepted employees may continue an existing AWS schedule in the shutdown period.
- v. Federal Holidays (e.g., Columbus Day): Most excepted employees are not expected to work and will be placed in furlough status on Federal holidays that take place in the shutdown period.
  - 1. Excepted staff who would regularly work on a Federal holiday (e.g., RSC employees, PSA diagnostic staff) will continue to work on the holiday and do not require a furlough notice.
  - 2. Excepted staff participating in AWS and whose scheduled AWS day is a Federal holiday will follow regular rules for an 'in lieu of' holiday, by taking the holiday the work day immediately preceding the holiday. The excepted employee will be placed in furlough status for their AWS day and the holiday.
- vi. CSOSA Employee Details: Depending on the excepted/non-excepted designation of the CSOSA position:
  - 1. CSOSA employees on reimbursable detail to another agency may be subject to furlough if the provider agency's funding lapses. If the funding source of the provider agency does not lapse, the detail may continue in the shutdown period.
  - 2. CSOSA employees on non-reimbursable detail to another agency may be subject to furlough.
- vii. Employees on Leave Without Pay (LWOP) Status: Non-excepted employees on LWOP status at the time of appropriation lapse, and who are not expected to return to work status throughout the shutdown, are

not required to be placed on furlough; such employees may remain on LWOP status.

- viii. Promotion/Within Grade Increase (WIGI): Within-grade and step increases for General Schedule (GS) and Federal Wage System employees are awarded on the basis of length of service and individual performance. Such increases should not be denied or delayed solely because of lack of funds.
- ix. Employee Time and Attendance (T&A): In most circumstances, the recording of T&A activity in the Agency's payroll system will not take place in the shutdown period. However, excepted staff and their supervisors should keep accurate records of time in work and furlough (e.g., leave, AWS) status in the shutdown period to aid the processing of accurate T&A and payroll transactions, post shutdown.
- x. Employee Salaries:
  - 1. CSOSA may issue payments during the shutdown period to employees for time in official work status prior to the shutdown.
    - a. Processing of such payroll payments is dependent upon the shutdown operations of CSOSA's payroll shared services provider.
  - 2. CSOSA is prohibited from issuing payments during the shutdown period to staff for work performed after the appropriation lapse, to include work performed by excepted and non-excepted staff on Shutdown Day.
    - a. All excepted and non-excepted status employees should be assured that the United States will not contest its legal obligation to make payment, post shutdown, for allowable and appropriate work performed in the shutdown period. Agencies will incur obligations to pay for services performed by excepted employees during a lapse in appropriations, and those employees will be paid after Congress passes and the President signs a new appropriation or continuing resolution.
  - 3. Congress will determine whether furloughed employees receive pay for the furlough period.
- xi. Employee Benefits: Information concerning employee pay, benefits and leave throughout the shutdown period will be issued by CSOSA based on OPM guidance.

1. Most federal health insurance and life insurance remains in effect for a set period of time following a non-excepted employee's placement into furlough (non-pay) status.
  2. Employee payroll deductions (to include Thrift Savings Plan deductions and Agency contributions) cease during the shutdown period.
- xii. Employee Overtime: Excepted staff may request and earn overtime in the shutdown period. Overtime should only be approved to perform critical, time-sensitive excepted activities that cannot be accomplished within the employee's regular work schedule. Payment for properly requested and approved overtime will not take place until the shutdown is ended.
  - xiii. Employee Compensatory Time (Comp Time) and Credit Hours: Excepted staff may request and earn Comp Time and/or Credit Hours in the shutdown period. Comp Time should only be approved to perform critical, time-sensitive excepted activities that cannot be accomplished within the employee's regular work schedule. Properly requested and approved comp time may not be recognized or used until the shutdown is ended.
  - xiv. Employee Monetary Awards: Employee monetary awards will be postponed until after the shutdown has ended.
  - xv. Transit Subsidy: The employee transit subsidy is not an excepted activity. CSOSA may not incur a new obligation while under the shutdown to fund the employee transit subsidy. Transit subsidies obligated prior to the shutdown may continue to be used throughout the shutdown period to support the work commute of excepted staff only.
  - xvi. Agency New Hires: By law, individuals do not become Federal employees until they report for work and are sworn in. CSOSA should consider delaying the enter-on-duty date for new employees who are scheduled during a shutdown furlough. Only new employees performing excepted functions critical to public safety should be considered for hire in the shutdown period.
  - xvii. Creditor Letter: CSOSA and/or OPM may develop and distribute documentation outlining the furlough and payment delay issues caused by the shutdown for use by employees. A copy of such documentation, will be accessible via CSOSA and PSA web sites in the shutdown time period.

- xviii. TDY Travel: TDY travel is allowable in the shutdown to perform critical, time-sensitive excepted activities. TDY travel for employee training or Agency presentations does not usually meet these criteria.
- xix. Unemployment: It is possible that non-excepted (furloughed) employees may become eligible for unemployment compensation. Unemployment compensation requirements differ by location. Unemployment information should be accessible via CSOSA and PSA websites in the shutdown time period.
- xx. Outside Employment: While on shutdown furlough, an individual remains an employee of the Federal Government. Therefore, Executive Branch-wide standards of ethical conduct and rules regarding outside employment continue to apply when an individual is furloughed. Before engaging in outside employment, employees should obtain necessary Agency approvals. CSOSA outside employment policy, instructions and forms should be accessible on CSOSA and PSA websites in the shutdown time period.

## B. Obligations and Payments

- i. Obligations: During an absence of appropriations, CSOSA must limit new obligations to only the following:
  - 1. Necessary obligations for the orderly shutdown of agency operations on Shutdown Day; and
  - 2. Obligations incurred throughout the shutdown period in the performance of excepted activities.
    - a. Obligations incurred in the shutdown period should continue to be recorded and processed in the Agency's financial management system.
- ii. Payments: During an absence of appropriations, CSOSA must limit vendor payments and employee reimbursements:
  - 1. CSOSA is strictly prohibited from making payments for obligations incurred and funded in the shutdown period.
  - 2. CSOSA is generally prohibited from making payments for obligations incurred and funded prior to the shutdown.
    - a. CSOSA may make a payment for an obligation incurred prior to the shutdown only when failure to do so would directly result in termination of a current, excepted contract activity.

- b. Processing of allowable payments in the shutdown period is dependent upon CSOSA's financial systems services provider and Treasury payment operations in the shutdown period. Such payments should be approved, in advance, by the CSP OFM AD or PSA OFA Director.
    - 3. All CSOSA vendors with outstanding amounts due for obligations incurred prior to the lapse of appropriations and excepted obligations incurred throughout the lapse of appropriations should be assured that payments will be issued, post shutdown, for valid and allowable goods/services provided and accepted.
    - 4. Vendors should continue to send invoices to CSOSA throughout the shutdown period.
      - a. Automated responses to electronic invoice submissions should be adjusted to describe the Agency's shutdown period payment policy.
      - b. Proper invoices submitted by vendors in the shutdown time period will be considered 'received' on the actual business day they are received by the Agency either electronically or via mail.
  - iii. Government Purchase Credit Card:
    - 1. CSP and PSA excepted employee cardholders may make purchases of goods and services in direct support of excepted activities, only. Such purchases must support immediate and critical needs, only.
      - a. CSP excepted employee cardholders must receive advance approval from an OFM Budget Analyst prior to making a purchase with their assigned purchase card.
      - b. PSA excepted employee cardholders must receive advance approval from the OFA Director prior to making any purchases of goods and services with their assigned purchase card.
      - c. Excepted employee cardholders with 'convenience check' authority may issue convenience checks for excepted purchases meeting convenience check criteria. Advance approval is required by respective finance office.
    - 2. CSOSA (CSP and PSA) will not pay the Purchase Credit Card contractor in the shutdown period for credit card purchases made prior to or after the appropriation lapse.

- iv. Government Travel Card (GTC): Excepted employees may make purchases with their assigned GTC in the shutdown period for approved TDY travel.
  - 1. Employees are responsible for paying the Travel Card contractor in a timely manner for valid charges placed on their GTC. While in shutdown status, CSOSA is generally prohibited from reimbursing employees for authorized and allowable travel expenses. Lack of Agency reimbursement is not justification for employees not meeting Travel Card contractor payment deadlines.

C. Other

- i. Formal External or Internal Communications: Agency formal communications concerning the shutdown should be presented to OMB for approval.
- ii. Changes in the Agency Shutdown Plan: Any changes to the Agency's Shutdown Plan should be presented to OMB for review in advance of implementing the change.
  - 1. The CSOSA and PSA Directors have authority to recall a non-excepted employee to work status to perform imminent and excepted activities, as deemed necessary in the shutdown time period. Such recall actions do not require OMB approval unless it would cause the number of retained employees to exceed that estimated in the Shutdown Plan.
- iii. Freedom of Information Act (FOIA) Requests: CSOSA may only fulfill FOIA requests in the shutdown time period which are directly related to ongoing law enforcement functions (e.g., FOIA requests directly related to offender violation hearings).
- iv. Agency Legal Cases: CSOSA may perform activities related to Agency legal cases in the shutdown time period such as hearings, testimony or other case deadlines that cannot otherwise be delayed or postponed.

## **VIII. Restoration of Operations (Re-Start)**

- A. Employees should monitor media outlets and the OPM/CSOSA/PSA websites on at least a daily basis for notification that a continuing resolution or appropriation has been signed by the President and that the shutdown is over.

- B. OPM will issue guidance concerning the effective date that the government will re-open. Non-excepted (furloughed) employees are expected to return to work status on the re-start date identified by OPM, which is typically the employee's next scheduled workday after the furlough has ended. However, supervisors should provide workforce flexibilities, such as telework and unscheduled leave, as needed, to ensure a smooth transition back to work for employees.
  - i. Employees requesting workforce flexibilities on the re-start date should contact their supervisor, in advance.
- C. Vendor Payments: Allowable and authorized payments will resume upon restoration of operations. Prompt Payment Act (PPA) interest penalties will be applied for properly prepared and valid invoices and vouchers for which payment was delayed solely due to the appropriation lapse.
- D. Employee Payroll: Employee payroll will resume upon restoration of operations.
  - i. Excepted and non-excepted employees will be paid for Shutdown Day activities.
  - ii. Excepted employees will be paid for work performed in the shutdown period.
  - iii. Congress will determine whether furloughed employees receive pay for the furlough period.
- E. Suspended Contracts: Procurement offices (CSP and PSA) shall engage with contractors who were issued Stop Work orders during the shutdown to begin restoring normal contracted operations.