

# SHUTDOWN OF AGENCY OPERATIONS UPON FAILURE BY CONGRESS TO ENACT APPROPRIATIONS

## I. Purpose

This directive establishes the Inter-American Foundation's (IAF) procedures for closing the agency in the event that the Foundation's regular annual appropriation or a continuing resolution is not enacted by the beginning of a fiscal year.

## II. Applicability

The provisions of this directive are applicable to all Foundation organizational elements.

## III. Authority

- a. Office of Management and Budget Bulletin No. 80-14
- b. Office of Management and Budget Bulletin No. 80-14, Supplement 1
- c. Anti-Deficiency Act (31 USC §§ 1341-1342, §§ 1511-1519)
- d. Opinion from the Office of the Attorney General on the Anti-Deficiency Act, dated January 16, 1981
- e. Article 1, section 9, clause 7 of the Constitution
- f. Chapters 13 and 15, Title 31, United States Code

## IV. Background

From time to time, the Congress fails to enact appropriation bills by the beginning of the fiscal year. As an interim measure, Continuing Resolutions are passed which allow agencies to continue their operations on a limited basis until the enactment of an annual appropriation. In some cases, an agency may be required to operate under a Continuing Resolution for the entire fiscal year. There have been other cases where neither an appropriation nor a continuing resolution was enacted in time to prevent a lapse in the current appropriations. When this happens, agencies, by law, may only provide services to protect the lives and safety of its employees and to protect government property. All other activities must cease and an orderly shutdown of the agency must start. Because it was necessary for some agencies to start the shutdown process in the past, and some confusion arose, the Office of Management and Budget required each agency to develop procedures to be followed for an orderly shutdown in the event of an appropriation hiatus.

## V. Procedures

The President of the IAF will order the initiation of preparations for the orderly shutdown of Foundation activities when there is either an impending appropriated funds shortfall or an absence of new appropriations. At that time the President will establish the target date for commencing shutdown activities. Employees will be notified and actions will be taken in accordance with the following guidance.

## **A. Authorized Activities during the Orderly Suspension of Agency Activities**

As a general rule, the only activities authorized for IAF employees if appropriations are about to be, or are, exhausted are those that contribute to an orderly suspension of Foundation activities. Such activities include:

1. Activities required to plan, control, and maintain orderliness throughout the shutdown of operations, including the development of plans and schedules for the preparation of personnel, grant, property and financial files for appropriate transfer and for the inventory of IAF property.
2. Activities required to meet all the legal responsibilities of the IAF, such as processing personnel actions, payments of compensation owed to employees and taking necessary administrative actions related to contracts, and purchase orders for which funds were obligated prior to the determination of a shutdown requirement. Such activities should be finalized to the maximum extent possible prior to the shutdown date.
3. Fiscal and accounting activities required to maintain accountability and reporting with respect to obligations and expenditures.
4. Activities required to inform employees, volunteers, the public, and the IAF's grantees, fellows, and contractors of the effect of shutdown.
5. Emergency situations involving the safety of human life; and
6. Services necessary to protect Federal property, which include:
  - a) Necessary security service to protect Federal property.
  - b) Continuance of leases of property which contain Federal property.
  - c) Cost of any special maintenance required to protect computer equipment or magnetic computer tapes because without such maintenance data could be unreliable or be destroyed.

## **B. Prohibited Activities**

The following activities are prohibited, except to the extent they are essential to directly support activities authorized to continue:

1. Awards of grants, contracts, fellowships, or other forms, and memoranda of agreement.
2. Hiring of personnel, extension of appointments, or other personnel action which involve obligating funds.

3. Travel of persons or transportation of things. Persons in travel status on the target date will return to their duty stations as soon as possible. To the extent that a shutdown has been identified as reasonably likely to occur, travel should not be planned or authorized for the period in which a shutdown may occur.
4. Training classes or activities.
5. Use of equipment and utilities not related to authorized activities.
6. Cash expenditures of any kind even if related to authorized activities. If employees who are identified as essential to the orderly shutdown of agency activities as described below wish to expend their own cash in connection with authorized shutdown activities they may be authorized by their supervisor to do so, with the expectation of reimbursement for otherwise allowable expenses if an appropriation or continuing resolution is passed.

### **C. Phase-down Plan**

During the period before actual shutdown, each office will review its activities to ensure that no unauthorized activities will take place after the shutdown date. If there is no Continuing Resolution or other new funding before that date, the following general actions will be taken.

Each office will identify activities which must be carried out to permit an orderly shutdown of activities. Offices will also provide information on a continuing basis to staff, grantees, fellows, and the public on the status phase-down activities.

Each office head will notify their employees of the IAF's shutdown policy and general furlough process. Employees being furloughed will receive formal notice from the Personnel office once the Continuing Resolution or appropriation lapses.

Inventorying property and reviewing files for appropriate disposition are considered an integral part of phase-down. Specific instructions for these and other similar functions will be issued when necessary.

### **D. Voluntary Services**

Based on an Attorney General's opinion, the IAF cannot accept the voluntary services of employees to work in periods of lapsed appropriations with the expectation that their services would be compensated after an appropriation is received. The only activities in which employees or volunteers may engage after the target date for shutdown are those which are authorized in connection with the shutdown of agency operations or in connection with the safety of life or protection of property. Additionally, IAF employees are to remain on duty the day the actual shutdown goes into effect *only as described below in Section E*. Authorizing any other kind of activity risks the very real possibility that the IAF will be unable to compensate the individual for such services at a later date, as well as the possibility of committing a violation of the Anti-deficiency Act, which could have administrative and/or criminal consequences for the employee(s) and/ or officer(s) involved in addition to the agency.

## **E. Day of the Agency Shutdown**

Consistent with the policy and justifications discussed above, the only IAF employees to be considered excepted from furlough under a lapse of appropriation are those necessary to effectuate the orderly suspension of agency activities – i.e., the IAF President (or his designee), General Counsel, Chief Operating Officer and Director of Information and Management Systems.

1. If neither an appropriation nor a continuing resolution is enacted in time to prevent a lapse in appropriation, all IAF employees will report for work on the first business day of the shutdown. Non-excepted employees will have no more than a half day to wind down the agency activities for which they are responsible, including notifying the grantee, proponent and/or contractor organizations in their portfolios. After completing their shutdown-related activities, employees will receive an official furlough notice and then be dismissed until the shutdown has ended. Beyond the first half day of the shutdown, only excepted employees may conduct any work, and their activities during that time will be limited to the activities necessary to effectuate the orderly suspension of agency activities as described below.
2. The President or his designee will notify the Office of Management and Budget, the Office of Personnel Management, the U.S. Treasury and the General Services Administration that a shutdown of the agency has begun and will be expected to be completed by the end of the first day of the shutdown.
3. In addition to the President or his designee, the Chief Operating Officer, the Personnel Officer, and the General Counsel will remain on duty as necessary to provide for an orderly shutdown of the agency's operations by close of business on the first day of the shutdown.
4. The Personnel Officer will forward time sheets to the payroll office at the National Business Center Department of Interior and issue the paperwork effecting the furlough of all agency employees. The Personnel Officer will ensure that all affected IAF employees receive formal notice of the furlough. Additionally, as each employee necessary for agency shutdown activities completes his shutdown function, he is to be furloughed immediately and formally notified. The Office of Personnel Management will be contacted to provide guidance for the custody of personnel records after the agency's operation is shutdown.
5. The Chief Operating Officer will also serve as the Property Officer, will notify the General Services Administration that the agency has shutdown. It is expected that disposition of property will not occur for at least 30 days after the beginning of the agency's shutdown operations and then only after a determination is made that the funding hiatus will continue indefinitely.
6. The General Counsel will notify all major agency contractors of the actual shutdown of operations of the agency based on previous notification given by the Contracting Officer with the Bureau of Public Debt in preparation and anticipation of a shutdown. The General Counsel will make a legal assessment and provide a legal opinion on matters arising from the shutdown of agency operations.

## **F. Subsequent Actions**

If there is no new appropriation within 30 days after the lapse of funding, the President or his designee, the Chief Operating Officer, the Personnel Officer and the General Counsel will return to the IAF offices to arrange for final disposition or protection of agency properties and records.

During the furlough period, employees should closely monitor media coverage as well as the Office of Personal Management's website for notice that an appropriation has been or will shortly be approved and agency operations may resume. In addition, the President of the IAF or his designee(s) will notify employees if and when funds to resume operations become available. Such notification will include the date and time that employees are expected to return to duty.