From: Office of Management and Budget (OMB)

Last updated October 3, 2025

Frequently Asked Questions During a Lapse in Appropriations

Each operational decision during a lapse in appropriations requires individual, and often difficult and rapid, judgments about facts and the law. The information below is meant to address the most frequently asked questions by agencies that arise during a lapse in appropriations. If you have further questions, please consult your agency counsel or your appropriate points of contact within the Office of Management and Budget (OMB).

Below is an outline of the general principles that govern an agency's operations during a lapse in appropriations. Following this outline are Q&As based on these principles that frequently arise during a lapse in appropriations.

The outline and Q&As are based on the legal opinions issued by the Department of Justice (DOJ), and the guidance issued by OMB, regarding agency operations during a lapse in appropriations (see generally, OMB Circular A-11, Section 124). For further guidance, consult your agency counsel, who may in turn consult with OMB and DOJ.

I. Basic Principles of Agency Operations during a Lapse in Appropriations.

The Antideficiency Act prohibits agencies from incurring obligations that are in advance of, or that exceed, an appropriation, with certain limited exceptions.

A. Excepted activities under the Antideficiency Act (express statutory authorizations, emergency circumstances, and the President's constitutional authorities).

As DOJ has explained in its opinions, an agency may incur an obligation in the absence of an appropriation in certain "excepted" situations:

1. A statute or other legal requirement expressly authorizes an agency to obligate funds in advance of appropriations.

In very rare situations, an agency has express statutory authority to incur obligations in advance of appropriations. The best-known example is the Civil War-era Feed and Forage Act (41 U.S.C. § 6301), which provides authority to the Department of War to contract for necessary clothing, subsistence, forage, fuel, quarters, transportation or medical and hospital supplies in advance of appropriations. Other examples are the authorities provided by 25 U.S.C. § 99 (Bureau of Indian Affairs contracts for goods and supplies) and 41 U.S.C. § 6302 (Army contracts for fuel).

2. The function addresses emergency circumstances such that the suspension of the function would imminently threaten the safety of human life or the protection of property.

As DOJ has explained, the emergency exception of the Antideficiency Act (31 U.S.C. § 1342) permits an agency to obligate in advance of appropriations 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 reasonably said to be near at hand and demanding of immediate response.

As the Antideficiency Act states, the emergency exception does not authorize the continuation of ongoing, regular functions of government, the suspension of which would not imminently threaten the safety of human life or the protection of property.

3. The function is necessary to the discharge of the President's constitutional duties and powers (e.g., Commander-in-Chief, conduct of diplomacy, supervising and controlling the Executive Branch, taking care that the laws are faithfully executed, and making legislative recommendations to the Congress, including work on development of the President's Budget).

B. Activities that an agency should continue in the absence of appropriations because their continuation is "necessarily implied" from the authorized continuation of other activities.

In addition, as DOJ has explained, there are a limited number of government activities that an agency can otherwise continue despite a lapse in their appropriations because the lawful continuation of other funded or excepted activities "necessarily implies" that these additional activities will continue as well. A "necessary implication" can arise when an agency needs to incur obligations, even though there has been a lapse in the appropriation against which those obligations would be charged, to implement:

1. An "orderly shutdown" when there has been a lapse in appropriations (as DOJ has explained, "authority may be inferred from the Antideficiency Act itself for federal officers to incur those minimal obligations necessary to closing their agencies"),

2. One of the "excepted" activities in I.A. above, or

3. A function for which funding 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 funded function.

As DOJ has explained, an example of a "necessarily implied" activity for which obligations can continue to be incurred despite a funding lapse are the administrative activities (funded out of annual appropriations) that are necessary to disburse benefit payments for which a permanent indefinite appropriation provides the funding for the benefits. Other examples include:

- Publication of documents in the Federal Register – Publication may be excepted, even if the Federal Register itself is not funded, because publication may be necessary to support funded agencies or activities or an excepted activity of unfunded agencies.

- Payroll processing – Agencies may except staff to liquidate payroll obligations incurred prior to the lapse or, for payroll obligations incurred by indefinite, multiyear, or no-year appropriations, during a lapse. See question 8 below. Unfunded agencies that provide payroll services for funded agencies or activities may also continue this function to support the funded agencies or activities.

However, as DOJ has also explained, a "necessary implication" may not ordinarily be inferred simply from the kind of broad, categorical authority that often appears in the organic statutes of government agencies, in the absence of continued funding for such activities.

The fact that an agency has unobligated balances (appropriated in a prior fiscal year on a multi-year or no-year basis) that continue to remain available for funding a program does not, in itself, demonstrate that the incurring of obligations for related activities for which there has been a lapse in appropriations is necessarily implied. Agencies may have discretion with respect to when the agency engages in activities for which funding is available. Depending on the duration of the lapse and the programs involved, obligations of such funds, and excepting staff to make such obligations, may be appropriate. As described above, making social security payments is an example. Agencies should evaluate each category of funds to determine whether delaying the obligation or expenditure of the funds would "prevent or significantly damage the execution of those funded functions." 19 O.L.C. 337, 338 (1995).

OMB is aware of Government Accountability Office (GAO) opinions that provide an interpretation of "necessary implication" that is not consistent with DOJ's legal opinions on this issue. The Executive Branch is not bound by the views of Legislative Branch agencies. Instead, agencies are required to follow DOJ opinions on this issue.

DOJ's Office of Legal Counsel (OLC) has also interpreted the necessary implication exception to allow, in certain circumstances, unfunded agencies to incur obligations to support the funded activities of another agency or branch of the U.S. Government. For example, OLC concluded in a 1995 legal opinion that DOJ staff could continue to prepare DOJ witnesses to appear for testimony at congressional hearings, even while the Department experienced a lapse in appropriations, where appropriations were available for the congressional hearings themselves and the DOJ's participation was necessary for

the hearing to be effective.

OLC did not limit its application of the necessary implication exception to inter-branch activities. Instead, OLC stated that "[a] similar implication can also be supported by the specific decisions that Congress has made to fund other agencies and departments of government so that their functions are to continue during a funding lapse." In other words, where the activities of an unfunded agency are necessary to the effective execution of functions by a funded agency, such that a suspension of the former agency's functions for the duration of the funding lapse would "prevent or significantly damage" the execution of latter agency's activities, the narrow set of unfunded activities may continue. Accordingly, consistent with OLC's reasoning, OMB determined the following activities to be permissible based on the necessary implication doctrine:

- When a program is funded through a permanent indefinite appropriation, an implication may be drawn that Congress did not intend for that program to shut down, such that the services of employees whose salaries are paid by annual appropriations that have lapsed are necessarily implied by law to continue during a lapse in appropriations.

- Where the non-performance of an unfunded action (such as one agency's review of another agency's proposed actions) would directly and significantly compromise the execution of the latter agency's legally authorized and funded programs, and would harm the litigating posture of such funded activity, obligations for the unfunded actions may be incurred to the extent necessary to prevent such compromise to the funded agency's activities.

As noted above, GAO's opinions are not binding on Executive Branch agencies. OLC opinions are binding on Executive Branch agencies, and OMB's determinations are supported by this binding OLC analysis.

II. Contracts and Grants.

The following Q&As address principally the impact on contract and grant activity of a lapse of appropriations, with respect to an agency incurring obligations for the contract or grant itself as well as for the administrative activities in support thereof.

Normally, routine, ongoing operational and administrative activities relating to contract or grant administration cannot continue when there is a lapse in funding. Therefore, agency employees who are paid with annual appropriations and who perform an activity associated with contract or

grant administration (including oversight, inspection, or accounting) should generally not continue work during a lapse in appropriations.

Of course, in the situation in which performance under an already-issued contract or grant is not impacted by such a lapse, the contractor or grantee may continue to proceed with its work during the lapse period. An example is the situation where an agency has already obligated funds representing the entire price under a contract or task order before the funding lapse began, or where the agency may use multi-year or no-year funds to incur new obligations for the contract or grant. The question of what to do if necessary activities related to the contract or grant are funded out of lapsed appropriations is addressed in Question 5 below.

A. Incurring New Obligations for Contracts or Grants.

Q1. When an appropriation has lapsed, may an agency incur a new obligation – by signing a new contract or grant, or by extending a contract or a grant, or by exercising a renewal option – when the funding source for that obligation would be the lapsed appropriation?

A1: No – except under certain circumstances.

The Antideficiency Act prohibits agencies from incurring obligations that are in advance of, or that exceed, an appropriation. Thus, except in certain limited circumstances, an agency may not incur obligations when the funding source for the obligation would be an appropriation that has lapsed. As outlined above in I.A.-B., these limited circumstances are when:

1. A statute expressly authorizes an agency to obligate funds in advance of appropriations.

2. The function addresses emergency circumstances, such that the suspension of the function would imminently threaten the safety of human life or the protection of property.

3. The function is necessary to the discharge of the President's constitutional duties and powers.

4. The agency must continue the function, in the absence of appropriations, because its continuation is "necessarily implied" from the continuation of other authorized activities.

In these circumstances, an agency may incur the obligation (e.g., by awarding a contract to support an emergency activity, such as the minimal necessary guard services to protect a facility), but the agency cannot pay the contractor until appropriations are enacted. Agency staff should work with agency counsel to establish whether such an exception may be appropriately invoked.

Q2. May an agency incur a new contractual or grant obligation to address emergency circumstances, even though the annual appropriation against which the obligation would be charged has lapsed?

A2: Yes, if the new obligation is necessary to address emergency circumstances that imminently

threaten the safety of human life or the protection of property. See I.A.2., above, and the DOJ opinions that address the emergency exception.

Q3. May an agency incur a new contractual or grant obligation, if the appropriation for the salary of the employee(s) making the obligation has lapsed, but the contract or grant is funded through an appropriation that remains available?

A3: That depends on whether the authority to incur the obligation for the employee's salary during the lapse is a "necessary implication" of the program (or whether another exception to the Antideficiency Act applies) (see I.B. above).

Q4: May an agency incur a new contractual or grant obligation that would be charged against an appropriation that remains available for obligation if the agency would not incur any related obligations (such as for administrative activities by agency employees) for which the appropriation has lapsed?

A4: Yes. In this situation, the agency may incur the new contractual or grant obligation, since both the contract or grant obligation itself, as well as the obligations for necessary related activities (e.g., the administrative actions that are needed in order for the agency to incur the contract or grant obligation), may be charged against an available appropriation.

B. Continued Performance of Administrative, Supervisory, or Support Activities During a Funding Lapse in Connection with a Previously Awarded Contract or Grant.

Q5: The agency has previously awarded a contract or grant, and the contractor or grantee is in the midst of performance. If there has been a lapse in the appropriation that funds the Federal employees who supervise or support the performance of the contract or grant, can the Federal employees continue these activities during the funding lapse?

A5: There are some circumstances under which such work may continue, notwithstanding the lapse in appropriations. As is further explained in I.B. above, these circumstances are when the continued performance of the contract or grants administration is "necessarily implied" for carrying out:

1. An "orderly shutdown" when there has been a lapse in appropriations,

2. One of the "excepted" activities in I.A. above (i.e., express statutory authorizations, emergency circumstances, and the President's constitutional authorities), or

3. A function for which funding 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.

For example, in the situation where an agency has awarded a contract to provide services that are necessary to address emergency circumstances that pose an imminent threat to life or property, some contract administration might well be necessary in order to enable this "excepted" activity to accomplish its objective (e.g., where a contractor cannot perform an emergency service unless

the contractor receives direction from the contracting officer regarding how and where to proceed). In that situation, that direction by the contracting officer would also be an excepted activity, and thus could occur even though there has been a lapse in the appropriation that funds contract administration.

Another example is a grant program that cannot proceed to the next milestone under the previously awarded grant unless the grant administrator provides approval to the grantee for its continued performance. If the funds for the grant program itself have not expired, and if failing to proceed to that next milestone during the period of the funding lapse would prevent or significantly damage the funded function, then in that case the review and approval by the grant administrator would be a "necessarily implied" activity, and thus could occur even though there has been a lapse in the appropriation that funds grant administration. Again, the touchstone of the analysis is determining whether execution of the funded function would be prevented or significantly damaged in the absence of performance of the unfunded activity.

Conversely, however, if the funds for the contract or grant were obligated prior to the lapse but have since expired, the mere fact that the funds are obligated does not itself give rise to a "necessary implication" that Federal employees may continue to supervise or support performance of the grant or contract. Rather, the agency must determine whether another exception to the Antideficiency Act applies, whether the contractor or grantee may continue performance without Federal supervision, or whether there is some statutory authority indicating that Congress intended the funded function to continue during the lapse and unfunded Federal activity is necessary to avoid preventing or significantly damaging the performance of the funded activity. See Q6.

Q6: The agency has previously awarded a contract or grant, and the contractor or grantee is in the midst of performance. In addition, the agency has determined that the Federal employees who supervise or support the performance of the contract or grant cannot continue these activities during the funding lapse. In the absence of such supervision or support, may the contractor or grantee nevertheless continue performance?

A6: If the continued supervision or support during the lapse period is not critical to the contractor's or grantee's continued performance during that period, then the contractor or grantee may continue to proceed with its work. This is the case, for example, if an agency had obligated funds representing the entire price for a good or service under a contract or task order before the funding lapse began. In that example, the agency would not have to issue an affirmative direction to the contractor or grantee to continue performance, such as a notice to proceed.

Instead, the contractor or grantee could continue to engage in performance. (It is always prudent to be in communication with the contractor or grantee to avoid a misunderstanding.)

However, depending on the duration of a funding lapse, the absence of available Federal employee oversight may lead an agency to reconsider whether the contract or grant activity should continue to be performed. If the continued supervision or support during the lapse period is critical to the contractor's or grantee's continued performance during that period, then – where consistent with law and the terms of the contract or grant – the agency should instruct the contractor or grantee to suspend performance.

The same would be true if continued performance depends on the participation of other Federal

agencies or the availability of other Federal facilities that would be precluded by the lapse of appropriations.

Q7: The agency has previously awarded a contract or grant, and the contractor or grantee is in the midst of performance. In addition, the agency has determined that the continued performance of the contract or grant during a lapse in appropriations does not require the supervision or support of Federal employees who may not continue to perform these activities during the funding lapse. In that case, should performance of the contract or grant always continue during the funding lapse?

A7: The first consideration is whether continued performance of the contract or grant is required in order for the agency to comply with its authorization or appropriations statute.

If it is the case that continued performance is statutorily required, then performance should proceed.

If continued performance is not statutorily required, then the agency should consider whether having the contract move forward is a sensible use of taxpayer funds in light of the lapse of appropriations. In this regard, there might be situations in which the continued performance of a contract would be wasteful due to the impact that the funding lapse is having on other agency activities. For example, if a Federal building is closed due to the funding lapse, it might be wasteful to have a contractor perform its normal duties of emptying trash cans every day in the building's offices. In that situation, the agency should consider whether to have the contractor suspend performance.

If an agency decides that continued performance would be wasteful and thus should be suspended during the funding lapse, the agency should take appropriate contractual action (which would be part of the agency's orderly shutdown activities). Contracting staff will need to work closely with agency counsel in making and implementing these decisions to minimize costs to the government.

C. Making Payments to Contractors and Grantees during a Lapse in Appropriations

Q8: In the case of a contract or grant that has been previously awarded (and thus for which available funds were obligated), may Federal employees be excepted from furlough in order to make timely payments to the contractor or grantee in accordance with the contract or grant?

A8: Yes, where such payment activity is "necessarily implied" by the multi-year or no-year period of availability of the funds obligated on the grant or contract—or, if such funds have lapsed, by the continued availability of funding, as provided in 31 U.S.C. § 1553(a), for making disbursements on amounts previously obligated—because failing to make the payment would prevent or significantly damage the agency's execution of the funded function. Section 1553(a) states, "[a]fter the end of the period of availability for obligation of a fixed appropriation account and before the closing of that account under section 1552(a) of this title, the account shall retain its fiscal-year identity and remain available for recording, adjusting, and liquidating obligations properly chargeable to that account."

As discussed in the answer to question I.B., above, a necessary implication can arise when an agency needs to incur obligations, even though there has been a lapse in the appropriation against which those obligations would be charged, to implement a function for which funding 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 funded function. In the case of previously obligated funds that have expired, even though the funds are no longer available for new obligations, the previously obligated amounts remain legally available for liquidating valid obligations. Not performing unfunded activities that are necessary to disburse obligated funds that remain available for expenditure could, in certain circumstances, likewise prevent the funded function from being carried out, or significantly damage such funded function.

In such circumstances, excepting the personnel who are needed to disburse previously obligated amounts is akin to the well-established practice of excepting personnel who are needed to make benefits payments. The administrative activities (funded out of annual appropriations) that are necessary to disburse benefit payments under entitlement programs, such as social security benefits (funded out of an indefinite appropriation), are excepted activities. This is because the action of making the payment is necessarily implied by the continued availability of funding for the benefits payments themselves, and the fact that the statute directing that the payments be made would be significantly damaged were the payments not made. The same may hold true for the disbursement of other valid obligations, including payments to contractors and grantees.

Q9: Is the duration of a funding lapse a factor in the analysis in Q&As 5-8?

A9: Yes. In evaluating whether, and to what extent, Federal employee activities (including making payments under previously awarded contracts and grants) and contractor or grant performance should continue during a lapse in appropriations, agencies should consider whether these activities or the performance can be postponed until after appropriations are enacted.

In some cases, activities and performance would not qualify for continuation during a very brief funding lapse (under the analysis in Q&As 5-8), but they would qualify if the duration of the funding lapse became longer.

In other cases, the opposite conclusion should be reached, namely, that activities or performance which would qualify for continuation at the outset of a funding lapse, or at some point during a funding lapse, become unnecessary – having been discharged – and thus should be discontinued (e.g., in the case of an agency's initial shutdown activities, or in the case of the one-time, grant-administrator approval that is discussed in the answer to Question 5).

Another situation in which the duration of a funding lapse can have a significant impact on the analysis is where the agency had previously awarded a contract or grant, and – under the analysis in Q&As 5-7 – the contractor or grantee could continue to perform during the initial period of the funding lapse. However, if the funding lapse extended for a sufficiently long period, a situation might arise in which continued performance could occur only if the agency obligated additional funds to the contract or grant. Whether the agency could obligate such additional funds would depend on whether the lapse of appropriations includes the funding for the contract or grant payments, and/or for the contract or grants administration, and whether the continued performance would be wasteful because of the impact of the funding lapse on other agency activities. The agency would therefore need to undertake the analysis under Q&As 2-8 to

determine how to proceed in that situation. If the agency determines that the contract or grant performance should discontinue due to the funding lapse, then the agency would not obligate additional funds to the contract or grant, and the contactor or grant would cease work when the previously-obligated funds run out. (Agencies would be well advised to communicate with contractors to avoid any misunderstanding.)

Q10: Can an agency pay a contractor or grantee during a funding lapse for performance under a contract or grant that the agency awarded during the funding lapse under one of the exceptions to the Antideficiency Act (see Q&As 1-2)?

A10: No. As is the case with federal employees who are excepted from furlough to perform authorized activities during a funding lapse, the agency will incur obligations for the excepted work that a contractor or grantee is authorized to perform during a funding lapse. However, as with the pay of the excepted federal employees, the agency cannot liquidate those contract and grant obligations until an appropriation is enacted.

Q11: The agency has excepted from furlough employees who are performing necessary contract or grant support functions for an "excepted" activity or under the "necessarily implied" standard. Can these employees also continue to perform other work (that is not for an excepted activity and is not "necessarily implied") during the remaining hours of the workday?

A11: If the non-furlough ("excepted') support function can be performed in less than an entire day, the employee is required to resume furlough status after completing the function.

However, there may be cases in which an employee is required to perform this "excepted" support function intermittently throughout the course of the day, and the intervals in between are too short to enable the employee to be furloughed and then recalled in time to perform the function. In such cases, the employee may remain at work, and may perform non- "excepted" functions during these intervals. In such situations, agencies must minimize the number of employees who are performing "excepted" functions on an intermittent basis, by consolidating the "excepted" functions, to the extent possible, for performance by a smaller number of employees (e.g., agencies should not except, from furlough, multiple employees in order to perform intermittent "excepted" work, when instead the agency could have fewer employees perform the "excepted" work on more of a full-time basis). In this way, the agency properly minimizes its reliance on the Antideficiency Act to incur obligations for which the applicable appropriation has lapsed.

III. Information Technology

Q12: What is the controlling consideration for the continuity or suspension of IT operations for an agency during a lapse in appropriations?

A12: The consideration governing all determinations concerning continuity or suspension of Federal activities funded through lapsed appropriations is that such activities, including IT operations, may continue only if they are excepted activities under the Antideficiency Act, or where their continuation is necessarily implied from the lawful continuation of other functions.

In making the necessary determinations for the continuity or suspension of information technology operations, agencies must take into consideration the agency's cybersecurity risk posture and avoid making determinations that would result in any imminent threat to Federal property, including:

- any permanent disruption to agency information systems or loss of agency information;
- any potential threats to the security, confidentiality and integrity of agency information and information systems.

Generally, agency cybersecurity functions are excepted as these functions are necessary to avoid imminent threat to Federal property. Agencies must also ensure the preservation of agency information, including electronic records, and maintain the security, integrity and confidentiality of such information.

Q13: Should agencies suspend information technology operations if doing so would introduce cybersecurity risk?

A13: No, agencies should avoid making any determinations that would result in imminent threat to Federal property. As noted above, cybersecurity functions are excepted as these functions are necessary to avoid imminent threat to Federal property. In making the determination to suspend information technology operations, including websites, agencies must take into consideration cybersecurity risk.

At a minimum, agencies must avoid any threat to the security, confidentiality, and integrity of the agency information and information systems maintained by or on behalf of the Government. Agencies should maintain appropriate cybersecurity functions across all agency information technology systems, including patch management and security operations center (SOC) and incident response capabilities.

Q14: How should agencies determine what systems, including linked interoperable systems, are to be maintained and operated during an appropriations lapse?

A14: If a single system must operate to avoid significant damage to the execution of authorized or excepted activities, including activity necessary to avoid imminent threat to Federal property, as discussed above, this system should maintain operations. Support for the continued operation of the single system (whether by agency IT staff or by a contractor) should be the minimum necessary to maintain functionality and ensure the security and integrity of the system and any other necessary agency information technology resources during the period of the lapse.

If the integration of that single system with other systems makes it infeasible to maintain operation of the single system without maintaining others with which it is integrated, an agency must manage its information technology resources consistent with avoiding any imminent threat to Federal property (including avoiding any permanent disruption to agency information systems, avoiding any threat to the security, confidentiality and integrity of agency information and information systems, and ensuring preservation of agency electronic records).

Q15: What is the guidance on keeping Government websites up during a lapse in appropriations if the costs of maintaining the website are funded by a lapsed appropriations source?

A15: The same standards described above would apply. The mere benefit of continued access by the public to information about the agency's activities would not warrant the retention of personnel or the obligation of funds to maintain (or update) the agency's website during such a lapse. However, if maintenance and updating of the website is necessary to avoid significant damage to the execution of authorized or excepted activities (e.g., maintenance of a website may be necessary to allow funded or excepted activity to continue or to communicate with the public about the status of an agency's operations), then the website should remain operational even if its costs are funded through appropriations that have lapsed. If it becomes necessary to incur obligations to ensure that a website remains available in support of excepted activities, it should be maintained at the level of functionality necessary to support those excepted activities.

As discussed specifically in Q13 above, in making the necessary determinations for the continuity or suspension of a website, agencies must also take into account whether suspending the website or functionality would introduce risk into its cybersecurity risk posture. Agency determinations must avoid any imminent threat to Federal property, including:

- any permanent disruption to agency information systems or loss of agency information;
- any potential threats to the security, confidentiality, and integrity of agency information and information systems.

If shutting down or suspending a website would increase cybersecurity risk, an agency may elect to keep the website operational but suspend non-cybersecurity related updates for websites that are not necessary to avoid significant damage to the execution of authorized or excepted activities.

Q16: What notice should agencies provide to the public regarding the status of their websites during a lapse of appropriations?

A16: If an agency's website is shut down or is operating at a reduced functionality, users should be directed to a standard notice that the website or service is unavailable during the period of government shutdown. If any part of an agency's website is available, agencies should include a standard notice on their landing pages that notifies the public of the following: (a) information on the website may not be up to date, (b) transactions submitted via the website might not be processed until appropriations are enacted, and (c) the agency may not be able to respond to inquiries until appropriations are enacted.

Q17: What if the cost of shutting down a website exceeds the cost of maintaining services?

A17: The determination of which services continue during an appropriations lapse is not affected by whether the costs of shutdown exceed the costs of maintaining services.

Nevertheless, agencies should ensure the shutting down of a website or other functionality does not introduce or invite potential threats to the security, confidentiality, or integrity of the agency information resources as described in the preceding questions.

Q18: If websites are down, will agencies be able to extend deadlines for applications that would otherwise have been due during the lapse in appropriations?

A18: To the extent permitted by law, agencies may extend deadlines for activities, as necessary to compensate for the period of the lapse in appropriations and the unavailability of the website.

Q19: What is the guidance regarding furloughed employees' use of government-issued mobile devices or remote access to work email?

A19:A furloughed employee may use government-issued equipment only for limited purposes related to orderly shutdown, such as:

- Accessing their personal employee records;
- Completing a background investigation;
- Checking the status of the shutdown furlough;
- Checking for any Reduction in Force (RIF) updates, or providing additional RIF information;
- Updating personal contact information;
- Completing or submitting Federal Employee Health Benefit changes; and
- Completing or submitting a retirement application.

IV. Orderly Shutdown

Q20: When does an agency begin "orderly shutdown?"

A20: While agencies should be prepared to implement their contingency plans, they must wait to execute an orderly shutdown until the Director of OMB directs agencies to operate in accordance with the contingency plans that agencies have prepared under OMB Circular A-11, section 124, and apportions the amounts necessary for obligations required to carry out agencies' contingency plans. Agencies should not begin orderly shutdown prior to such direction and apportionment by OMB. (Note: Individual employees may be allowed to engage in some orderly shutdown preparatory activities in anticipation of a possible lapse, as provided in Q21.)

Q21: How long should "orderly shutdown" take?

A21: Ordinarily, furloughed employees should take no more than three or four hours to provide necessary notices and contact information, secure their files, complete time and attendance records, pay invoices for obligations incurred prior to the lapse, and otherwise prepare to preserve their work. Agencies should use this time to provide written notices of the decision to furlough if notice has not already been provided to employees. OMB Circular A-11 requires agencies to provide OMB with written justification for the conduct of orderly shutdown activities in excess of a half-day. While it may be appropriate in limited circumstances for some employees to take longer to assist in shutdown activities (e.g., seeking court continuances or stop-work orders on pending contracts), these may not be necessary in the event that a very short period of a lapse in appropriations is anticipated.

Agencies should make every effort to prepare for these needs in advance of a lapse so that orderly shutdown activities are minimized.

In the event of a longer lapse in appropriations, agencies may extend the orderly shutdown principle throughout the period of the lapse to include incurring the minimal obligations necessary to perform the work of timekeeping and payroll tracking, issuing and delivering furlough notifications to employees, and interpreting, applying, or communicating any guidance either internally or externally to the agency to mitigate or address the effects of the lapse on Federal employees.

Q22: In the event of a lapse commencing on a day of the week when a furloughed employee is not scheduled to work, when should that employee conduct orderly shutdown activities?

A22: Unless the furloughed employee's agency specifically directs otherwise, furloughed employees should generally report to work to conduct necessary orderly shutdown activities on the next day on which the employee would have been scheduled to work. Agencies should take into consideration an employee's previously scheduled leave, alternative work schedule (AWS) day off or other non- workday, or holiday(s) that take place during the furlough period, and generally allow the employee to complete orderly shutdown activities on the workday on which the employee had been scheduled to return to work.

For example, if the employee was scheduled to be on paid leave and out of the office on the next workday after the commencement of a lapse in appropriations, the employee would not report to work to complete orderly shutdown activities until the workday on which the employee had been scheduled to return to duty. Even though an employee's scheduled paid leave is cancelled during a lapse in appropriations, agencies should generally allow the employee to continue planned periods of absence. Agencies should provide clear instructions to employees who have planned periods of absence regarding when they are expected to report to work to perform orderly shutdown activities. If an employee is teleworking or working remotely, he or she may, but is not required to, perform orderly shutdown activities prior to his or her next regularly scheduled workday.

Generally speaking, an employee should be able to conduct orderly shutdown activities on the next regularly scheduled work day. However, if an agency directs an employee to perform orderly shutdown activities on a weekend off day, a holiday, or an AWS day off, any hours performing orderly shutdown activities would count as hours in applying applicable premium pay

rules (e.g., for holiday premium pay or overtime pay) when retroactive pay is calculated after the lapse has ended.

Q23: Does this mean that an employee can continue to work remotely until he or she reports to duty to perform orderly shutdown activities?

A23: No. Following a lapse in appropriations, the Antideficiency Act bars non-excepted work by such employees other than to perform orderly shutdown activities.

Q24: In the event of a lapse commencing on a Saturday or Sunday, when would employees whose work is funded by annual appropriations and whose regular work schedule includes workdays on a weekend (i.e., on a Saturday or Sunday) be expected to conduct orderly shutdown activities?

A24: A non-excepted employee whose regular work schedule includes workdays on a weekend generally should report to work for the purposes of conducting orderly shutdown activities on the first day on or after the lapse commences on which the employee would have been scheduled to work. Agencies should take into consideration an employee's previously scheduled leave, AWS day off or other non-workday, or holiday(s) that takes place during the furlough period and generally allow the employee to complete orderly shutdown activities on the next workday on which the employee had been scheduled to return to work. For example, if a lapse commences on a Sunday and if an employee had been scheduled to work on that day, the employee would report to perform orderly shutdown activities on that Sunday. If the employee was scheduled to be on paid leave on the days right after the lapse commenced, the employee would report to perform orderly shutdown activities on the first workday after the planned period of leave—even though the leave was cancelled by the lapse.

Q25: In the event of a lapse commencing on a Saturday or Sunday, when should excepted employees report for duty?

A25: Unless the employee's agency specifically directs otherwise, excepted employees should generally report for duty on the next day on which they are scheduled to work. Agencies should take into consideration an employee's previously scheduled leave, AWS day off or other non-workday, or holiday(s) that takes place during the lapse period and generally allow the employee to be excused from duty through a furlough action on the days the employee had planned to be absent—unless the agency determines there is a need for the employee to report to work. An excepted employee must be furloughed if excused from duty on a holiday or regular workday. If an agency directs an excepted employee to work on a holiday or the employee's AWS, non-workday, or other regular day off, any hours performing work would count as hours in applying applicable premium pay rules (e.g., for holiday premium pay or overtime pay). Excepted employees will be paid for any earned overtime pay or holiday premium pay when appropriations are enacted.

V. Travel

Q26: If employees funded through appropriations that have lapsed are on temporary duty assignments away from their normal duty stations at the time of an appropriations lapse, can they make arrangements to return home sooner than planned?

A26: They are encouraged to do so wherever reasonable and practicable. However, agencies should make a determination of reasonableness and practicality based on the length of the assignment and the time required for return travel, compared to the anticipated length of the lapse, so as to minimize the burdens of doing so.

VI. Entitlement to Payment for Excepted Work

Q27: How will excepted employees be paid for excepted work required during the lapse in appropriations?

A27: All excepted employees are entitled to receive payment for their performance of excepted work during the period of the appropriations lapse when appropriations for such payments are enacted.

VII. Carryover Funds

Q28: Must an agency use available carryover funds if its other appropriations have lapsed?

A28: Agencies have discretion to utilize prior year appropriations. Agencies should consider factors such as the duration of the lapse, implications of exhausting available balances in the near term vs. the long term, and potential additional expenses that may be required if funds are exhausted too quickly, working in consultation with their OMB RMO. It is always prudent for agencies to retain sufficient unobligated funds to address upward adjustments to obligations.

Q29: What happens to apportioned unobligated amounts provided under a continuing resolution (CR) during a lapse?

A29: Unobligated amounts provided under a CR and apportioned by OMB, including amounts apportioned to multi-year or no-year account pursuant to section 101 of the CR, do not carry over during a lapse unless those amounts have a clear period of availability extending beyond the last day of the CR (e.g., a full-year appropriation provided in an anomaly).

VIII. Use of Charge Cards

Q30: Can I still use my GSA SmartPay or other charge card during the partial lapse in appropriations?

A30: It depends. When an employee makes a purchase on a GSA SmartPay or other charge card, the agency incurs an obligation. The charge card itself is not an independent source of budget authority. Rather, the agency must consider: (1) whether there is budget authority available in the appropriations account(s) associated with that charge card; and (2) whether, if the salary for the employee using the charge card has lapsed, an exception to the Antideficiency Act (as described in I.B., above) permits the obligation of funds.

- If there is budget authority available in the appropriations account(s) associated with the charge card to incur and liquidate the specific obligations, and the salary for the employee using the card has not lapsed, then the employee can continue to use the card as usual.

- If there is budget authority available in the appropriations account(s) associated with the charge card to incur and liquidate the specific obligations, and the salary for the employee using the card has lapsed, then the employee may only continue to do work and use the card to incur obligations if obligations for the employee's work are "necessarily implied," i.e., if failure to do so would prevent or significantly damage the execution of the terms of the statutory authorization or appropriation associated with the charge card, or if one of the other Antideficiency Act exceptions applies.

- If there is no budget authority available in the appropriations account(s) associated with the charge card to incur and liquidate the specific obligations, and the salary for the employee using the card has not lapsed, then the employee may only use the card to incur obligations if such obligations meet one of the Antideficiency Act exceptions.

- If there is no budget authority available in the appropriations account(s) associated with the charge card to incur and liquidate the specific obligations, and the salary for the employee using the card has lapsed, then the employee may only continue to work and use the card to incur obligations if obligations for the employee's continued work and obligations incurred on the charge card meet one of the Antideficiency Act exceptions.