



WASHINGTON, D.C.



FLRA Policy No. 1911.1

CONTINGENCY PLAN FOR SHUTDOWN OF OPERATIONS IN THE ABSENCE OF APPROPRIATIONS	Issue Date: September 24, 2021
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A. LAPSE PLAN SUMMARY OVERVIEW

Lapse Plan Summary Overview	
Estimated time (to nearest half day) required to complete shutdown activities:	<i>1/2 day</i>
Total number of agency employees expected to be on board before implementation of the plan:	<i>116 FTEs</i>
Total number of employees to be retained under the plan for each of the following categories:	
Compensation is financed by a resource other than annual appropriations:	<i>0 FTEs</i>
Necessary to perform activities expressly authorized by law:	<i>0 FTEs</i>
Necessary to perform activities necessarily implied by law:	<i>0 FTEs</i>
Necessary to the discharge of the President's constitutional duties and powers:	<i>0 FTEs</i>
Necessary to protect life and property:	<i>4 FTEs</i>
Brief summary of significant agency activities that will continue during a lapse:	
<p>The Federal Labor Relations Authority (FLRA) will investigate to resolve disputes involving a strike, work stoppage, slowdown, or picketing of an agency in a labor-management dispute that interferes with an agency's operations (5 U.S.C. § 7116(b)(7)) and that involves employees/agencies who protect life and property (e.g., border patrol agents, air traffic controllers, meat inspectors, health care personnel, national-defense personnel).</p>	
Brief summary of significant agency activities that will cease during a lapse:	
<p>During a shutdown, most of the Agency will cease to operate. All FLRA activities, except as described above, will be paused.</p>	

B. GENERAL PROVISIONS

1. **Purpose.** The purpose of this policy is to establish procedures to govern the operations of the FLRA in the event of a lapse in appropriations. Office of Management and Budget (OMB) Bulletin 80-14, dated August 28, 1980 (and amended by the OMB Director’s memorandum of November 17, 1981), requires all agencies to maintain contingency plans in the event of an appropriations hiatus.

2. **Cancellation.** This policy cancels and supersedes FLRA Instruction No. 1911, Contingency Plan for Shutdown of Operations in the Absence of Appropriations, dated August 20, 2019.

3. **Definitions.**

a. “Chairman.” “Chairman,” as used herein, is the Chairman of the FLRA.

b. “Executive Director.” “Executive Director,” as used herein, is the Executive Director of the FLRA or his or her designee.

4. **References.**

a. OMB Bulletin 80-14, dated August 28, 1980.

b. Antideficiency Act, 31 U.S.C. §§ 1341–1342.

c. “Authority for the Continuance of Government Functions During a Temporary Lapse in Appropriations,” 5 Op. Office of Legal Counsel (OLC) 1 (1981).

d. Department of Justice (DOJ) Advisory Opinion, dated August 16, 1995, Government Operation in the Event of a Lapse in Appropriations.

e. Federal Service Labor-Management Relations Statute, 5 U.S.C. §§ 7101-7135.

f. OMB Circular A-11, Section 124 – Agency Operations in the Absence of Appropriations (2021)

C. POLICY. In the event of an appropriations hiatus, it is the FLRA’s policy to:

1. Commence the process of expeditiously shutting down the FLRA by securing files, property, and office facilities.

2. Ensure that the FLRA meets its responsibilities to the parties under the Federal

Service Labor-Management Relations Statute, consistent with the requirements of the Antideficiency Act.

3. Ensure that FLRA employees are fully informed as to the reasons for the shutdown; that there are avenues of communication for contacting employees when agency operations are to resume; and that payroll and other employee-benefit responsibilities are met.

D. **RESPONSIBILITIES**

1. **The Chairman**, as the FLRA's chief executive and administrative officer, is responsible for ensuring that all determinations are made that are necessary to operate the FLRA during an appropriations hiatus.

2. **The Executive Director**, or his or her designee, is responsible for ensuring the development, coordination, issuance, and maintenance of the FLRA Contingency Plan, and for ensuring that appropriate action is taken regarding the orderly shutdown of agency activities.

3. **The General Counsel (GC)** is responsible for ensuring that regional offices take all actions necessary related to shutdown activities.

4. **The Chairman of the Federal Service Impasses Panel** is responsible for ensuring that Panel activities are shut down in accordance with this plan.

5. **Managers and supervisors** are responsible for taking appropriate action, consistent with management guidance on suspension of operations in the absence of appropriations, which will be updated as needed, regarding the orderly shutdown of activities.

6. **Employees** are responsible for performing their orderly shutdown agency activities, encouraged to monitor local radio and television, and official Government websites, for information regarding recall for work after the suspension of agency activities.

E. **ORDERLY SHUTDOWN ACTIVITIES**

1. **Upon notification of an appropriations hiatus**, agency employees will be advised to immediately begin an orderly shutdown of agency activities. The process of communicating the shutdown order, securing files and physical facilities, notifying parties of the cancellation of hearings, and canceling court appearances and meetings will take approximately one-half workday. After completion of shutdown activities, employees who are not necessary to perform essential agency activities or shutdown operations will be furloughed.

2. **Employees who are in a travel status** when a funding hiatus occurs should communicate with their supervisor(s) immediately for instructions.

3. **OMB and DOJ guidance** define essential employees as those necessary "to protect life and safeguard property and records." Within this context, protection of life and

property by the FLRA occurs:

To resolve disputes involving a strike, work stoppage, slowdown, or picketing of an agency in a labor-management dispute that interferes with an agency's operations (5 U.S.C. § 7116(b)(7)) **and** that involves employees/agencies who protect life and property (e.g., border patrol agents, air traffic controllers, meat inspectors, health care personnel, national-defense personnel).

4. In the limited situation described above, a limited number of essential FLRA employees must be available:

a. To investigate work stoppage situations and make recommendations to the GC for issuance of an unfair-labor-practice complaint and the appropriateness of seeking temporary relief (including a restraining order) (5 U.S.C. § 7123(d)); and

b. If the GC issues a complaint, and the Authority grants the GC permission to seek such injunctive relief, to process the district court injunction action.

5. **Only four of the FLRA's employees are deemed necessary** to perform the above tasks: the Chairman, the two Authority Members, and the GC. These four employees are each appointed by the President with the advice and consent of the Senate, under 5 U.S.C. § 7104(b) and (f)(1). Attachment A lists these excepted staff that the FLRA has designated as essential to maintain the operations of the agency during an appropriations hiatus.

6. During a shutdown period, an employee may not volunteer to do his or her job on an unpaid basis, nor may an agency accept such voluntary services of an individual, unless otherwise authorized by law (31 U.S.C. § 1342).

F. **GENERAL SHUTDOWN ACTIVITIES**

1. All materials of a confidential nature will be identified and secured.

2. Emergency situations (e.g., current or imminent labor disputes that are seriously adverse to the public interest) requiring immediate attention will be identified and brought to the attention of the appropriate management official.

3. Telephone and email contacts will be made whenever required to advise parties in active cases, court personnel, contractors, and other members of the public of agency shutdown, and appropriate arrangements will be made for each situation. Incomplete contacts of this nature will be identified for follow-up by those staff members retained to operate the agency during a shutdown.

4. Outgoing telephone messages should be recorded at all main-number extensions throughout the FLRA (e.g., Case Intake and Publication, Regional Offices, etc.) indicating to the public that the agency is temporarily closed due to a lapse in appropriations. A similar message

will be posted on the FLRA website and on the main, outside doors of HQ and Regional Offices.

5. These messages will advise the public of the shutdown and will specify that any unfair-labor-practice charges involving a strike, work stoppage, slowdown, or picketing of an agency in a labor-management dispute that interferes with an agency's operations (5 U.S.C. § 7116(b)(7)) **and** employees/agencies who protect life and property (e.g., border patrol agents, air traffic controllers, meat inspectors, health care personnel, national-defense personnel) must be filed with the GC's National Office. Such notices will include necessary contact information for that office.

6. No obligations may be incurred unless strictly required to effect shutdown or for protection of life and property. Although these obligations may be incurred, no funds may be disbursed. The Chairman will determine whether an obligation is required to effect shutdown or for the protection of life and property.

7. Equipment will be made secure to the maximum extent possible.

8. Managers and supervisors will secure files.

9. Managers and supervisors will compile contact information, including personal telephone numbers or personal email addresses, for all employees for which they are responsible in order for management and employees to disseminate information regarding return to work or the latest developments regarding agency appropriations.

This policy is effective on September 24, 2021.


Michael Jeffries
Executive Director

ATTACHMENT A

Excepted Staff Deemed Necessary

Chairman	1
Authority Members	2
General Counsel	1
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Total number of employees necessary to operate the agency during an appropriations hiatus.	4*

* In the event that the Chairman - or the GC for the OGC - determines that any FLRA employee needs to be contacted to resolve a dispute or other issue, the employee(s) would be contacted (at home) and designated as "essential" solely for the purpose of resolving the specific dispute or issue.