



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

HONORABLE JOHN D. BATES
Director

WASHINGTON, D.C. 20544

September 24, 2013

MEMORANDUM

To: All United States Judges
Circuit Executives
Federal Public/Community Defenders
District Court Executives
Clerks, United States Courts
Chief Probation Officers
Chief Pretrial Services Officers
Senior Staff Attorneys
Chief Preargument/Conference Attorneys
Bankruptcy Administrators
Circuit Librarians

From: Judge John D. Bates 

RE: STATUS OF JUDICIARY FUNDING AND GUIDANCE FOR JUDICIARY OPERATIONS
DURING A LAPSE IN APPROPRIATIONS (**IMPORTANT INFORMATION**)

I write to provide you with an update on the judiciary's fiscal year 2014 funding, which includes the interim financial plans approved by the Executive Committee, as well as guidance on Judiciary operations in the event Congress does not enact a continuing resolution (CR) by October 1, 2013. I recognize that this memorandum is lengthy, but there is much information to share.

Status of Fiscal Year 2014 Funding

Congress has not completed work on any of the 12 appropriations bills that fund the operations of the federal government. Consequently, Congress is currently considering a short-term CR through December 15, 2013, for all federal entities. The CR passed the House on September 20 and is currently under consideration in the Senate. The CR would provide flat funding at sequestration levels for most of the federal government. The House-passed CR includes a \$26 million funding anomaly (exception) above a hard freeze for the judiciary's Defender Services account, primarily to pay Criminal Justice Act (CJA) panel attorney vouchers that have been suspended for the remainder of fiscal year 2013 due to sequestration cuts. The

House-passed CR also includes a controversial provision that would defund the Affordable Care Act (often referred to as "Obamacare"). The Senate majority leadership has indicated the Senate will not pass a CR with the defunding provision, and the President has vowed he would veto such legislation. At the time of this memorandum, the prospects of the CR are uncertain. If Congress and the President do not come to agreement on a CR prior to October 1, the entire federal government will be in a shut-down status. Should this occur, the Judiciary will be operating under the terms of a lapse in appropriations as described later in this memorandum. I remain hopeful that Congress and the President will ultimately come to agreement prior to October 1 on a short-term CR to fund the federal government, including the Judiciary. But we cannot be confident that will happen.

Interim Fiscal Year 2014 Financial Plans

On September 16, 2013, the Executive Committee approved interim fiscal year 2014 financial plans for the Salaries and Expenses, Defender Services, Court Security, and Fees of Jurors and Commissioners accounts. These plans are based on a funding assumption of a CR at current, post-sequestration levels with no anomaly.

Within the Salaries and Expenses account, after funding requirements in the "must-pay" portion of that account – such as judges and chambers compensation and benefits, rental payments to the General Services Administration (GSA), and benefits for court support staff – the interim plan provides funding for decentralized court allotments that is approximately three percent less than what was provided to the courts in fiscal year 2013. To provide you with funds necessary to continue operations, the AO will issue to each court unit interim allotments equal to six months' funding under this interim plan. The Budget Division will issue more detailed information about the interim plan in late September to accompany these interim allotments.

Consistent with the Executive Committee's decision at its August 2013 meeting, the interim plan for Defender Services contains sufficient funding to maintain on-board staffing levels in federal defender organizations, while leaving in place the reduced CJA panel attorney rates for all of fiscal year 2014. Without additional funding from Congress, we estimate that CJA panel attorney payments would have to be deferred for approximately four weeks at the end of fiscal year 2014. Similar to how the courts will be funded, the AO will issue six months' funding under this interim plan to Federal Defender Organizations (FDOs) before October 1, 2013.

For Court Security, the interim plan reduces hours per Court Security Officer (CSO), and eliminates some CSOs in overstaffed districts. Further guidance from the United States Marshals Service will be forthcoming on the reduction in CSO hours. Absent additional funding from Congress, the final plan will have to make some reductions from requirements in order to balance a projected shortfall in this account of \$23 million. Similarly, the interim plan for the Fees of Jurors and Commissioners account contains sufficient funding to pay petit and grand jurors only through August 2014. Without additional funding from Congress, we would have to transfer funding from other judiciary accounts to ensure adequate funding in this account.

Guidance for Operating Under a Lapse in Appropriations

If Congress fails to enact a CR by October 1, 2013, most federal entities will have to implement shut-down plans effective immediately. The Judiciary, however, will not shut down immediately. We will continue operations utilizing fees and no-year appropriations for an estimated 10 business days (through approximately October 15, 2013).

During these first 10 business days of a lapse in appropriations, the Judiciary will use available fee and no-year balances to pay judges, court employees and FDO employees, and to maintain court and federal defender operations. Courts and FDOs will continue to operate, but funding should be conserved as much as possible by delaying or deferring expenses not critical to the performance of your Constitutional responsibilities. **All Judiciary and FDO employees should continue reporting to work and they will be in full-pay status during this period.**

After the 10-day period, if there is still no appropriation, the Judiciary will operate under terms of the Anti-Deficiency Act, which allows “essential work” to continue during a lapse in appropriations. Among the definitions of “essential work” are powers exercised under the Constitution, which include activities to support the exercise of Article III judicial powers, specifically the resolution of cases. Each court and FDO will determine the court staff, probation and pretrial services officers and FDO staff necessary to support the exercise of Article III judicial powers. Staff performing essential functions will report to work in a non-pay status. Other staff will be furloughed. **Staff who are furloughed cannot work voluntarily or be required to work. Staff performing essential functions and working in a non-pay status should expect to be paid once appropriations are enacted; Congress will have to take affirmative action to authorize pay for staff who are furloughed.**

We do not provide specific guidance as to exactly which functions should be considered essential because it is the prerogative of each court and FDO to make that determination. Local circumstances may differ in courts and FDOs across the country. Attached for your information is the section in the *Guide to Judiciary Policy*, [Volume 13, Chapter 2](#), that provides guidance on operating under a lapse in appropriations (Attachment 1).

Jury trials should continue as necessary. Payments to jurors will be made during the initial 10-day period. If funds are not available beyond that point, courts may continue to call jurors and assure them they will be paid, although the payment may be delayed.

Should a lapse in appropriations occur, fiscal year 2014 CJA panel attorney payments would be suspended beginning October 1, 2013; the deferred payments from fiscal year 2013 would continue to be deferred as well. Once government operations resume, panel attorney payments would be made in full in the order in which they were entered in the system. During this temporary suspension, judges should continue to appoint CJA panel attorneys for eligible

defendants, authorize expert and other services as appropriate, and approve vouchers for payment. Courts and defender organizations should continue to process CJA vouchers submitted by panel attorneys, experts, service providers, court reporters or for any other eligible CJA expense.

I encourage each court to contact its district's FDO, U.S Attorney, U.S. Marshal, GSA Building Manager, Federal Protective Service staff, and other Executive Branch agencies as needed to discuss service levels required to maintain court and FDO operations. I have also included talking points (Attachment 2) and frequently asked questions (Attachment 3) which may prove useful when discussing Judiciary operations during a lapse in appropriations with others.

We appreciate your continuing support and perseverance during these challenging times.

Attachments

cc: Jeffrey P. Minear, Counselor to the Chief Justice
John S. Cooke, Deputy Director, Federal Judicial Center
Kenneth P. Cohen, Staff Director, U.S. Sentencing Commission

Court Operations Under a Lapse in Appropriations

Guide to Judiciary Policy

Vol. 13: Finance and Budget

Ch. 2: Budget

§ 220.30 Lapse in Appropriations

- (a) A lapse in appropriations occurs when neither an appropriations bill nor a continuing resolution (CR) is enacted. The Executive Committee of the Judicial Conference can authorize the continuation of judicial branch operations with funding derived from all possible sources of fees and no-year appropriations. This is subject to any necessary approval of congressional reprogramming requests, until such time as those funds are exhausted, and under such guidance and direction as the Director of the AO may deem appropriate ([JCUS-SEP 97](#), p. 49).
- (b) During the period when balances from fees and no-year appropriations are being used to fund judiciary operations, courts should delay or defer expenses not critical to the performance of essential activities.
- (c) Once balances from fees and no-year appropriations are exhausted, the judiciary will operate under terms of the Anti-Deficiency Act ([31 U.S.C. §§ 1341, 1342](#)), which allows “essential work” to continue during a lapse in appropriations.

§ 220.30.10 Continuation of Activities During a Lapse in Appropriations

In the event that balances from fees and no-year appropriations are exhausted, a limited number of employees would be called upon to perform essential work, while all others would be furloughed until new funding is provided. Also, depending on the nature of each contract, the services of contractors would have to be similarly curtailed.

- (a) Under the Anti-Deficiency Act, “essential work” in this context is interpreted very narrowly. For the judiciary, the only work that would be considered essential and thus permissible to perform during a shutdown period includes:
 - (1) Activities necessary to support the exercise of the Article III judicial power, i.e., the resolution of cases in which there is a constitutional or statutory grant of jurisdiction;
 - (2) Emergency activities necessary for the safety of human life and the protection of property; and

- (3) Activities otherwise authorized by law, either expressly or by necessary implication, including:
 - (A) Items guaranteed by the Constitution (e.g., Article III judges' salaries);
 - (B) Activities funded with available no-year appropriations (e.g., jury system and federal defender program);
 - (C) Entitlement programs (e.g., Judicial Survivors Annuities System, which is partly funded by judges' salaries); and
 - (D) Minimal activities needed for an orderly shutdown of other official functions.
- (b) Article III and bankruptcy activities should continue. Most activities of probation offices will continue. Attorneys and support staff performing essential work in federal defender offices and court-appointed counsel will continue to provide defense services, as needed.
- (c) Each court should exercise its discretion in determining performance that is sufficiently related to the above activities. All other activities should be deferred or suspended. The decisions for retention of personnel is delegated to each court.
- (d) Courts may not incur any new obligations unless they are absolutely essential to carry out the activities described above in [§ 220.30.10\(a\)](#). Courts will continue to operate but need to conserve as much as possible by delaying or deferring expenses not critical to the performance of such essential work.
- (e) Court units should have a shutdown plan. As part of a shutdown plan, court units are encouraged to consider on a weekly basis which activities are essential for that week and which employees are needed to perform those activities. This can help clarify which staff are to report to work and which are to be furloughed. The plan may include:
 - (1) staff positions necessary to perform essential work;
 - (2) essential contractor support services that will be required;
 - (3) specific activities that will and will not be performed during a lapse in appropriations; and
 - (4) estimated time to complete an orderly shutdown.
- (f) Judiciary employees not performing essential activities will not be able to work, volunteer for the court unit, or take any annual or sick leave during a lapse in

appropriations. Once the court unit's shutdown plan is in effect, all employees not performing essential activities are furloughed. Employees performing essential functions will report to work in a non-pay status.

- (g) Judges should continue to appoint CJA panel attorneys for eligible defendants, authorize expert and other services as appropriate, and approve vouchers for payments as they were doing prior to the lapse of appropriations. Courts and defender organizations should continue to process CJA vouchers submitted by panel attorneys, experts, service providers, court reporters, or for any other eligible CJA expense. Once funding is available, the submitted vouchers will be paid.

§ 220.30.15 Article III Judges and Their Staffs

- (a) Under the Constitution, Article III judges are entitled to their salary and will continue to work regardless of any lapse in appropriations. The judiciary must seek authorization from the Secretary of the Treasury to issue salary payments to Article III judges during a government shutdown.
- (b) Each judge may employ staff, such as law clerks and secretaries, and utilize court reporters, who are not part of the judge's staff, which in the court's opinion are essential to the resolution of cases. Generally, any staff needed to perform regular case-resolution activity will be on a non-pay status and must perform their duties as usual.
- (c) Conferences, hearings, jury trials, non-jury trials, and appellate arguments will continue to be conducted, and new cases will be accepted. Apart from pre-existing criteria such as the Speedy Trial Act, no distinctions or priorities should be drawn between criminal and civil cases. An exception may arise if U.S. attorneys are instructed to limit their appearances to those cases essential to the protection of life or property. Judges are urged to be sympathetic to requests for continuances or other motions necessitated by phase-down activities in the executive branch.

§ 220.30.20 Bankruptcy Judges and Their Staffs

- (a) These courts, as "units" of the district courts, should continue those operations that may be considered part of the exercise of the judicial power of the United States or which preserve life or property.
- (b) Bankruptcy judges' salaries are fixed by statute ([28 U.S.C. § 153](#)); hence, they may not be furloughed without pay and should continue to work during an appropriations lapse. The judiciary must request the Secretary of the Treasury to authorize

bankruptcy judges' salaries during a government shutdown. If not authorized, bankruptcy judges' salaries would be paid retroactively upon the enactment of the judiciary's appropriations act.

- (c) The court may determine the degree to which bankruptcy judges' staff is needed to continue the performance of essential functions.
- (d) Each bankruptcy judge should, to the extent practical, hear arguments and issue orders and judgments only in adversary proceedings, other controversies, or where essential to protect property.

§ 220.30.25 Magistrate Judges and Their Staffs

- (a) Magistrate judges may not be furloughed without pay since their salaries are fixed by statute ([28 U.S.C. § 634](#)) and therefore should continue to work during an appropriation lapse. The judiciary must request the Secretary of the Treasury to authorize magistrate judges' salaries during a government shutdown. If not authorized, magistrate judges' salaries would be paid retroactively upon the enactment of the judiciary's appropriations act.
- (b) The court may determine the degree to which magistrate judges' staff is needed to continue the performance of essential functions. Staff whose services are not essential, as defined in [§ 220.30.10\(a\)](#) should be furloughed. All routine judicial activities performed by magistrate judges, from the conduct of preliminary hearings to the exercise of delegated trial authority, will continue.

§ 220.30.30 Clerks of Court and Their Staffs

- (a) The court may determine what portion of the clerk's office staff is needed to support the court in case-resolution activity, including the proper and timely processing of all filings, motions, orders, emergency applications, and other litigation documents. Fees and costs will continue to be collected and deposited into the Treasury. New cases, including both civil and criminal, will be accepted and processed in the normal manner. Clerks and their staffs will continue regular administration of the jury system and provide all necessary services to both petit and grand juries, including payment of jurors in accordance with pre-existing procedures.
- (b) Clerk's office functions that are not related to essential activities are not to be performed.

§ 220.30.35 Probation Offices

- (a) Most activities of probation offices should continue. If delayed, certain activities would pose a threat to the safety of human life and the protection of property. Thus, supervision of potentially dangerous offenders (*individuals under supervised release, probation, or parole*)* should be maintained and needed treatment services should be provided. Even in non-emergency situations, however, a probation office should continue to handle new cases or maintain existing cases, as necessary, to assist the courts in implementing their orders and judgments.
- (b) Each probation office may determine the number of probation staff necessary to maintain service to the courts in support of essential functions.
- (c) As with clerks' offices, functions not related to the exercise of essential activities should be suspended.

**This language is added for clarification purposes only at this time.*

§ 220.30.40 Pretrial Services Offices

Each pretrial services office may designate personnel, if deemed essential, to produce reports on bail or release, or provide other services required by judges in the performance of their constitutional duties. Ancillary administrative tasks, non-essential training, and other similar activities will be suspended after an orderly phase-down.

§ 220.30.45 Juries

The jury system will operate as necessary to assist the courts in the performance of Article III duties. Clerks and other personnel will provide their normal level of assistance. It is likely, however, that the termination of activity in the executive branch will substantially decrease all grand jury activity, and any court personnel whose primary services are for grand juries should be furloughed. If there are citizens selected on a grand jury, court personnel should provide all routine assistance.

§ 220.30.50 Public Defenders and Criminal Justice Act Attorneys

Attorneys and essential support staff in federal defender offices and court-appointed counsel will continue to provide defense services, as needed. Compensation of court-appointed counsel will be paid in accordance with existing procedures. To the extent that public defenders and their staff experience a lack of work because of the termination of prosecutions by U.S. attorneys, they should be furloughed. The federal defender in each court will determine what personnel, if any, will not be needed.

§ 220.30.55 Other Court Personnel

Interpreters, librarians, circuit executives, and other court personnel and their staffs will continue to be employed only if necessary and consistent with the guidelines outlined above. Each court may determine which personnel in these categories are necessary to perform essential functions. If any employees in these categories are furloughed, they must first have sufficient opportunity to protect and secure court property.

Talking Points for Judges/Courts in the Event of a Lapse in Appropriations for the Federal Judiciary

1. If the government shuts down because of a lapse in appropriations, the Judiciary would use available fee balances and other “no-year” funds to pay judges and court employees and maintain operations for up to 10 business days.
2. Courts have been urged to delay or defer all possible expenses during this period.
3. After that 10-day work period, the Judiciary would operate under the Anti-Deficiency Act, which allows “essential work” to continue during a lapse in appropriation. Among the definitions of essential work are powers exercised under the Constitution, which includes activities to support the exercise of Article III judicial powers – the resolution of cases.
4. Appellate, district and bankruptcy courts will continue those operations that are part of the exercise of judicial powers. While each court would have some leeway in defining essential work, essential Judiciary work would include activities necessary to support the exercise of the Article III judicial power and emergency activities necessary for the safety of human life and the protection of property.
5. Each court will determine the court staff and probation and pretrial services officers necessary to maintain service to the court in support of the exercise of judicial powers. Courts may wish to post on their local internet website what operations will continue during the 10-day period and after the 10-day period.
6. Courts have been urged to contact their district’s U.S. Attorney, U.S. Marshal, the General Services Administration Building Manager, Federal Protective Service staff, and others needed to operate the court to ensure they are aware of the minimal level of service necessary to maintain continuing operation of their court.
7. Jury trials will continue to operate as necessary to assist the courts in the performance of judicial duties. Payments to jurors will be made as long as funds are available. If funds are not available, courts may continue to call jurors and assure them they will be paid, although the payment may be delayed.
8. Lawyers appointed under the Criminal Justice Act (CJA) to represent indigent criminal defendants will be paid as long as funds are available. If funds are not available, courts may still appoint CJA attorneys, but their compensation will be deferred.
9. A shutdown will worsen an already grave judicial crisis, caused by a \$350 million cut in FY 2013 caused by sequestration, which has placed unprecedented pressure on the Federal Judiciary and the administration of justice.
10. Sequestration has caused employee lay-offs, reduced funds for probation and pretrial services officers, cut funding for drug testing, and substance abuse and mental health treatment, and reduced funds for court security officers and equipment.
11. Particularly hard hit has been the program that provides legal representation to indigent offenders. The \$52 million shortfall in this account meant that both federal public defenders and private panel attorneys experienced severe and long-term funding reductions.

Questions and Answers Fiscal Year 2014 Appropriations Lapse Planning

1. Where can I find policies related to a lapse in appropriations?

See the *Guide to Judiciary Policy*, [Volume 13, Chapter 2, § 220.30](#).

2. How long will a lapse in appropriations last in the Judiciary, if it occurs?

A lapse in appropriations will last until Congress passes a continuing resolution or an appropriation that is signed into law by the President.

3. If there is a lapse in appropriations (a "government shutdown"), will the Judiciary have to cease operations immediately?

No. The Judiciary can continue operations with funding derived from all possible sources of fees and no-year appropriations as previously authorized by the Executive Committee of the Judicial Conference. At this time, we estimate those funding sources would be available to continue operations for approximately 10 working days. During this 10-day period, efforts should be made to implement an orderly shutdown to take effect after these funding sources are exhausted.

4. What activities, if any, should continue to be performed during a lapse in appropriations?

If, after 10 days, the alternate sources of funds are exhausted before a continuing resolution or appropriations bill is enacted, operations would be confined to the essential work that may legally occur in the absence of appropriations. In that event, a limited number of employees would be called upon to perform essential work while all others would be furloughed until new funding is provided. Depending on the nature of each contract, the services of contractors would have to be similarly curtailed. Under the Anti-Deficiency Act, "essential work" in this context is interpreted very narrowly. For our purposes, the only work that would be considered essential and thus permissible to perform during a shutdown period includes:

- (1) activities necessary to support the exercise of the Article III judicial power, i.e., the resolution of cases in which there is a constitutional or statutory grant of jurisdiction;
- (2) emergency activities necessary for the safety of human life and the protection of property; and

- (3) activities otherwise authorized by law, either expressly or by necessary implication, including:
- items guaranteed by the Constitution;
 - information technology resources, jury system, federal defender program;
 - judges' retirement and survivor annuity programs; and
 - minimal activities needed for an orderly shutdown of other official functions.

This means that Article III and bankruptcy activities should continue. Most activities of probation offices should continue; see the *Guide to Judiciary Policy*, [Volume 13, Chapter 2, § 220.30.35](#). Attorneys and support staff performing essential work in federal defender offices and court-appointed counsel should continue to provide defense services, as needed. For further details, see the *Guide to Judiciary Policy*, [Volume 13, Chapter 2, § 220.30.50](#).

Each court should exercise its discretion in determining which work is sufficiently related to the above activities to continue during a shutdown. All other activities should be deferred or suspended until funding is restored.

5. What types of issues should be considered in a “shutdown plan?”

A shutdown plan may include:

- the staffing positions considered necessary to perform essential work under the activities identified in question 4;
- essential contractor support services that will be required;
- the specific activities that will and will not be performed during a lapse in appropriations; and
- an estimate of the time to complete an orderly shutdown.

6. How is “orderly shutdown” defined if a shutdown occurs?

An orderly shutdown is defined as having sufficient opportunity to protect and secure court property, typically of a three-hour or less duration. It is not defined as having sufficient opportunity to complete assigned tasks, projects, etc. If a shutdown occurs and employees are furloughed, all work of those employees ceases, court property is protected and secured, and employees are released.

See question 16 for continuing operations by Federal Protective Service guards and Court Security Officers. Where Article III activities proceed, these protective services would continue as well.

7. Can I continue to incur obligations during a shutdown?

Courts should not incur any new obligations unless absolutely essential to carry out activities identified in question 4. This includes, but is not limited to, the purchase of supplies, equipment and contractual services, travel, personnel hiring and related pay actions, and training. It is important to note that even if a contract is currently in place, any actions that would result in further expenses under the contract should be curtailed unless they are clearly in support of designated essential activities. Further, any goods and services acquired during a lapse in appropriations could have payment delayed until funds become available through another continuing resolution or an appropriation.

8. Will those employees who are required to do essential work during a lapse in appropriations be paid as normal?

The AO's Office of General Counsel has issued an opinion that the salaries of Article III, bankruptcy and magistrate judges would be payable notwithstanding a lapse in appropriations. The Judiciary would need to seek authorization from the Secretary of the Treasury to continue to pay these judges' salaries during a government shutdown. The AO is confident that the Secretary of the Treasury would authorize such prompt payment for Article III judges. It is less certain whether the Secretary of the Treasury would authorize the prompt payment of non-Article III judges' salaries during a government shutdown. If that was not authorized, the non-Article III judges' salaries would be paid retroactively upon the enactment of the judiciary's appropriation act. It is expected that retroactive payment of salaries for government employees who perform essential work will occur. It is unclear whether Congress would authorize such payments to employees who are furloughed.

9. Will furloughed employees be paid as normal?

Furloughed employees will not be paid unless Congress authorizes funding. After the shutdowns in 1995 and 1996, Congress enacted legislation specifically authorizing retroactive pay for federal employees who worked in non-pay status as well as for furloughed federal employees. However, there is no guarantee that the current Congress will authorize retroactive pay for furloughed federal employees in the event of a shutdown.

10. Can all court activities be designated essential with employees reporting to work as normal during a shutdown?

No. Only those employees in positions performing those essential activities identified in question 4 may report to work; all others must be furloughed. Clerk's office functions that are not related to case disposition are not to be performed.

11. What happens to employee benefits during a shutdown?

Shutdown furloughs are not considered a break in service and are generally creditable for retaining benefits, except in long periods of absence. A furlough does place the employee in a non-pay status, thus possibly impacting payment of premiums for certain benefits if a shutdown is prolonged. The fact sheet “Effects of Extended Leave Without Pay” <http://jnet.ao.dcn/human-resources/human-resources-management/leave-administration/effects-extended-leave-without-pay-lwop> may be used in counseling employees about benefits and the impact of a furlough.

12. May employees choose to work if they are not performing essential activities?

No, unless the person is already serving as a volunteer. Paid employees who are not performing essential activities may not volunteer to work while on furlough and cannot be required to work.

13. May employees choose to take annual or sick leave instead of being furloughed?

No. If they did, employees would still be in a pay status but funds would not be available during a lapse in appropriations to pay them.

14. Are employees entitled to unemployment compensation while on furlough?

It is possible that employees may be eligible for unemployment compensation. State unemployment compensation requirements differ. Employees should contact their local state unemployment office for questions on unemployment compensation benefits.

15. Will financial and other systems be operating during a shutdown?

Systems absolutely necessary to support the resolution of cases will be operating during a shutdown.

16. What is the impact on my court if other local federal agencies who provide services to the court, such as United States Marshal Service (USMS), General Services Administration (GSA) or the Federal Protective Service also have a lapse in appropriations?

Courts should work with other federal agencies that provide services to the court, such as the District U.S. Marshal, the GSA Building Manager, and/or the Federal Protective Service area commander, in order to ensure they are aware of the minimal level of services necessary to maintain continuing operation of the court. While at the discretion of the court, after-hours and weekend work should be limited as much as possible.

17. What notification should contractors receive if there is a lapse in appropriations?

The Procurement Management Division recommends that a general notification be provided to support contractors of the potential appropriations lapse. If an appropriations lapse does occur, the applicable Contracting Officer must issue a partial or full stop-work order on all applicable contracts unless those contracts have been identified as an essential activity as defined in question 4. For partial stop-work orders, contracting officials must identify portions of the contract that are considered an essential activity and provide technical direction to the contractor for any required continued performance.

Contracting actions that might be affected include new fiscal year 2014 contracts, task orders, interagency agreements and modifications for new work involving fiscal year 2014 funds.

Contracts that will generally not be impacted by an appropriations lapse include contracts, task orders, interagency agreements, options and modifications awarded prior to October 1, 2013, and funded with fiscal year 2013 or prior year funding.

18. For those Court personnel who are on travel status or had previously planned to travel during the shutdown period, what should be done?

In general, court personnel should conclude their travel and return to their normal duty station prior to shutdown. Travel can continue if it is deemed absolutely necessary to the performance of essential work (e.g., case resolution activities) as described in the answer to question 4. If the travel is not required for purposes of an orderly shutdown, or if the individual is not performing essential work on travel, then the travel should not occur if it would incur further expense to the government.

19. Is there additional guidance available that may be of assistance in planning for furloughs?

Yes, there is guidance in [Volume 12, Chapter 12](#) of the *Guide*, and in [Chapter 12](#) of the Human Resources Manual.

Additional questions can be directed to the following AO staff:

Budget: Austin Matthews, 202-502-2131

Human Resources: Janice Chiverton, 202-502-3180

Procurement: Donald Parkins, 202-502-1330