September 25, 2015

MEMORANDUM FROM THE ASSISTANT ADMINISTRATOR FOR MANAGEMENT

TO: Principal Officers, Assistant Administrators and Heads of Independent Offices

SUBJECT: Guidance on USAID Operations during a Lapse in Appropriations

The purpose of this memorandum is to provide an updated integrated reference guide concerning the U.S. Agency for International Development operations before and during a lapse in appropriations. (This supersedes all previous guidance.) Please note that all dates in the guidance are subject to change based on the status of the most current legislative action.

The Agency will continue to operate until all appropriated balances are insufficient to continue. While many appropriated funds expire after one year, all Agency accounts, including approximately 15 percent of the Operating Expense account, are multi-year.

If there is no appropriation or continuing resolution enacted before October 1, 2015, Agency operating units (OU) using multi-year or no-year appropriations (with remaining available balances), trust funds, and any other funding source will continue operations until their respective balances are insufficient to continue. The attached guidance has been split into two chapters to ensure clear operating instructions for: a) a period of operations using residual balances (Chapter 1), and b) operations during a lapse in new appropriations (Chapter 2).

The Agency will continue as many normal operations as possible; operating status and available funding will need to be monitored closely and continuously, and planning for a lapse in appropriations must be continued.

If you have any questions, please send an email to shutdown_info@usaid.gov.

Chapter 1

Chapter 1 applies to a scenario where there is no new appropriation or continuing resolution for FY 2016. If there is no new appropriation or continuing resolution on or after October 1, 2015, the Agency will continue operating using residual balances in multi-year and no-year accounts until these funds are insufficient to continue. During this time, operations will be restricted.

Funding will be subject to apportionment and allotment requirements. Those balances can be reprioritized and reallocated for use during a lapse in appropriations through the financial plan process. Such resources remain subject to any spending plans or notifications previously submitted to Congress on their functions; as well as statutory requirements regarding the reprogramming or transfer of funds, guidance from OMB, and any other relevant guidance.

Bureaus and offices must work with the Bureau for Management (M) and the Office of Budget and Resource Management (BRM) to identify residual balances available for continued operations in absence of an appropriation.

When operating using residual balances, these rules and restrictions apply:

- Bureaus may not exceed residual balances identified by M or BRM;
- OUs managing multi-year foreign assistance programs can make new obligations with FY 2015 and prior year funds in coordination with BRM and the Office of U.S. Foreign Assistance Resources (F);
- Commitments and obligations to new programs should not be made except to protect life and property;
- No new purchases of equipment, services, or supplies for operational purposes may be made;
- No new travel should be arranged; no one should make new arrangements to attend conferences;
- Previously approved travel (prior to October 1, 2015), using FY 2015 funds may continue (M Bureau will review all approved travel in E2 and contact the OU if there are questions/issues);
- No new offers of employment may be made as of September 30, 2015;
- Prospective employees with a final offer letter may report to work;
- For medical emergencies, medical travel and services obligations can be incurred;
- Previously scheduled and funded training may continue as planned;
- No representational events may be held;
- No speeches should be made unless approved by Assistant Administrator, Bureau for Legislative and Public Affairs;
- Petty cash reimbursements may be filed, but no money can be disbursed until appropriations or a continuing resolution have been enacted;
- The metro check program will continue throughout the month of October;
- No overtime is authorized;
- Compensatory time may be accrued; and
- Time and attendance procedures will continue as normal.

Until there is an appropriation or a continuing resolution, any exceptions to the above must be approved by the Assistant Administrator, Bureau for Management in writing.

For USAID employees on details to other agencies affected by a lapse in appropriations, they should coordinate with their operating unit to determine if they should return to their home duty station.

Other agencies with a presence overseas may enter into a lapse of appropriations sooner because they operate under single-year appropriations. If an agency has determined that certain of its positions overseas do not meet the criteria of "excepted" in the absence of appropriations, and that determination conflicts with that of the Chief of Mission, then the Chief of Mission should attempt to resolve the matter directly with the parent agency concerned (see Chapter 2, Section I.).

If funds later become insufficient to continue operations, then the shutdown plan detailed in Chapter 2 becomes effective.

Chapter 2

Chapter 2 applies to a scenario in which a single-year appropriation has lapsed or the residual balances in multi-year and no-year accounts are insufficient to continue operations.

If your operating unit is instructed to deliver furlough letters to non-excepted personnel, only excepted functions will be continued until appropriations are restored.

Chapter 2 contains a detailed plan for operating during a lapse in appropriations. For ease of use, Chapter 2 guidance is provided in tabular form:

I. Determination of Excepted Functions and Positions
II. Orderly Shutdown of Non-Excepted Functions
III. Personnel
IV. Travel
V. Training
VI. Allowances
VII. Contracts
VIII. Obligations and Disbursements
IX. Time and Attendance Reporting
X. Speech-Making
XI. Representation Events

I. Determination of Excepted Functions and Positions

Definition of Excepted Functions: "Excepted" functions that may be continued in an absence of appropriations include those necessary to protect life and safeguard government property and records, to conduct foreign relations essential to national security, to carry out the orderly shutdown of operations, and to provide essential administrative support to excepted employees.

Employees performing "excepted" functions will continue to report to work and perform their duties, as will employees performing activities for which funds are still available. For example, functions that USAID chooses to fund with multi or no-year appropriations or through adequately funded mechanisms. Under a lapse in funding, it is possible that personnel funded through these funding sources may continue to work as long as adequate funding is available and there is adequate oversight/supervision. Similarly, Operating Expense (OE) funded administrative services contracts, which are fully funded through any potential shutdown period, may also continue.

USAID's Principal Officers at post are responsible for providing all due assistance to the Chief of Mission in developing plans for the conduct of business and the attendance of employees in the absence of an appropriation or continuing resolution. In order to facilitate this process, as well as to ensure that USAID's requirements are fully considered and incorporated, USAID Principal Officers are expected to participate fully with the Chief of Mission and representatives of other agencies in this country team task. Only those operations determined to be "excepted" pursuant to the above criteria would be excluded from the shutdown and permitted to operate with only the minimum staff necessary during the funding hiatus.

In the case of Foreign Service National (FSN) personal service contractors, and FSN Direct Hires, if host country labor laws provide that FSNs must be paid regardless of attendance (i.e., local labor law explicitly or in effect prohibits furloughing FSNs); these employees may be authorized to report to work and treated as excepted employees or they may be placed on administrative leave if mission is unable to provide adequate supervision with other excepted staff. Supervisory Americans of FSNs may not be automatically excepted on the basis of their supervisory role. Their excepted status must be independently justified based on the above mentioned criteria.

II. Orderly Shutdown of Non-Excepted Employees

All employees scheduled to work on the first workday following a lapse in appropriations should report to work. Non-excepted employees should perform only those tasks necessary to safeguard property, records, and information and to complete administrative functions such as processing payroll for pay through the last workday before a lapse in appropriations. In addition, non-excepted personnel are expected to take measures to secure files; make external contacts necessary to communicate the office's status, such as notifying parties of the cessation of normal business; and cancelling non-essential meetings, conferences, and other previously arranged business; taking necessary action to protect confidential information; and processing unpaid bills for obligations incurred prior to the last workday before a lapse in appropriations. These activities may take up to four hours for employees.

After performing the functions necessary for an orderly suspension of non-excepted operations, employees performing "non-excepted" functions will be furloughed. Managers are reminded that the Government cannot accept voluntary services; therefore, no employee may work if he or she is in a non-excepted status. Employees are advised that "work" includes reporting to work as well as accessing the Agency's network using a remote access token or blackberry and teleworking. These employees should be advised to monitor the news for information on an additional continuing resolution and should report back to work on their next scheduled workday once another continuing resolution or an appropriation bill is enacted (passed by the House and the Senate and signed by the President), unless told to do so earlier (i.e., for rotation or other purposes).

The Office of Human Capital and Talent Management (HCTM) staff will scan and send electronically furlough notices and Form SF-8, Unemployment Compensation for Federal Employees Program, to Bureau/Independent Office Administrative Management Staff (AMS) and Executive Officers. In an email from HCTM attaching the furlough notice and Form SF-8, AMS and Executive Officers will be instructed to forward in electronic format using delivery receipt the furlough notices and Form SF-8 to individual non-excepted employees as quickly as possible on the day of the shutdown. AMS and Executive Officers will need to maintain copies of deliveries/receipt for the record.

The responsible AMS office will be instructed to send a copy of the furlough notice and Form SF-8 to non-excepted employees who are not at work. Executive Officers should advise the Chief, HCTM/FSP/FSS of the names of non-excepted employees on leave or travel in the U.S. who will not return to post within two weeks of the furlough. Executive Officers should also provide a contact or email address for these employees, and HCTM/FSP/FSS will attempt to forward the furlough notice and Form SF-8 to each employee. Executive Officers should confirm with each of these employees as they return to post that they have received notification of the furlough. If any employees are on temporary duty at other overseas posts, the Executive Officer should contact that mission for assistance in delivering the furlough notice and getting an acknowledgement of receipt, citing this guidance in support of the request.

For other non-excepted employees who cannot be notified within two weeks due to lack of a contact or email address, the responsible AMS or Executive Officer should advise HCTM/CSP or HCTM/FSP/FSS of their names and their expected date of return to their Bureau/Independent Office or post of assignment. If possible, HCTM staff will try to locate these employees.

III. Personnel

American Employees

An immediate hiring freeze will apply during a lapse in appropriations.

Entry-on-board dates for prospective employees with employment offers will be suspended until the funding lapse is over. No new job offers may be made.

A review of the text of any subsequent appropriation or continuing resolution will be required to determine if Congress has authorized retroactive pay and allowances. All non-excepted personnel support activities should be suspended including unfunded security investigations.

Foreign Service Nationals (FSNs)

Under local labor law, if FSN personal services contractors or FSN direct hires are required to be paid, whether or not they work, they may work if they can be properly supervised. Supervisory American staff may not be justified as excepted employees merely because of their supervisory role; their excepted status must be independently justified. If supervisors are determined to be non-excepted and FSN staff cannot operate without such supervision, FSNs must be placed on administrative leave. During any lapse of appropriations, missions should obligate benefits and allowances for those FSNs who are required to work. However, any such obligations will be liquidated only after USAID receives a new appropriation covering their activities.

Part-Time Employees

In defining the number of furlough days for part-time employees, the furlough days are computed in the same proportion to those days scheduled for fulltime employees, based on work schedules. (The hours might be computed as a percentage of the work schedule for full-time employees.)

Intermittent and When Actually Employed (WAE) Employees

Intermittent and WAE employees are non-fulltime employees without a regularly scheduled tour of duty and called to duty, as needed. Intermittent and WAE employees who are not non-excepted will also be furloughed. If an intermittent or WAE employee is called into work during a furlough, it must be to perform excepted functions.

Employees on Alternative Work Schedules (AWS)

Employees under AWS would be furloughed for the number of hours they were scheduled to work on the days for which there was a lapse in appropriations.

Rotation of Personnel

Managers may rotate personnel to perform excepted functions. However, the following factors should be considered when making a decision on staff rotations:

- Managers should take into account the impact the rotation schedule may have on unemployment compensation eligibility for the employee, based on local jurisdictions' unemployment insurance policies.

- Decisions on rotations for specific positions should balance the Agency's need for continuity and equity to the employees.

- Managers should determine on what basis rotations will occur (i.e., daily or for longer periods), but due consideration should be given to continuity and fairness.

- Personnel rotated into and out of an excepted function must have the requisite qualifications to perform the function.

Management decisions to rotate personnel into and out of an excepted function must be documented in writing.

Employees detailed from (or to) USAID to (or from) another Federal agency who are performing excepted functions in their current position are "excepted." However, these employees should coordinate with their home Operating Units (OU) in case they are needed to perform "excepted" functions there, and to ensure compliance with home OU shutdown guidance. For more information and details involving non-Federal agencies, refer to OPM guidance.

IV. Travel

Travel should be limited to that necessary for emergencies involving the safety of human life or the protection of property, or that necessary for the conduct of foreign affairs essential to national security. This may include, but is not limited to, attending significant bilateral or multilateral meetings; maintaining excepted post operations; disaster relief efforts, emergency visitation, medical, other ordered evacuation; or providing food, medicine, or other essential services to displaced persons. All travel authorizations must be approved by the Bureau or Independent Office Head or the Mission Director.

Reassignment of personnel already planned may be continued, such as changes in posts of assignments, only if funds have been previously obligated.

Personnel in domestic or overseas travel status who are performing excepted functions may continue to do so. If personnel are in travel status at the time of the lapse but are not performing excepted activities, they should stop work and await further instructions. Because funding for overseas travel is obligated when the travel commences or when any cost was incurred for the travel (i.e., prior to the lapse) and because it is expected that any hiatus in funding will be temporary, personnel in non-excepted travel status should be instructed not to return immediately to their home duty stations. If such persons are not performing an excepted activity, they should be furloughed. Per Diem will be payable on furlough days when in authorized travel status. However, salary will not be paid.

Employees in training and on authorized travel orders should make arrangements to return to their regular work site as soon as informed by the Foreign Service Institute (FSI) or other training entity. On a limited basis, some training may continue if it otherwise pertains to the safety and security of personnel.

V. Training

In accordance with the Department of State's shutdown plan, the Foreign Service Institute (FSI), FSI field offices, and all other domestic facilities will be closed, except those portions of the Diplomatic Security Training Center and FSI's National Foreign Affairs Training Center campus housing employees performing excepted functions. Crisis Management Training and Antiterrorism Assistance Training that has already started at overseas posts may continue if posts are open, subject to the approval of the Chief of Mission since this pertains to the safety and security of personnel. Domestically, the following courses will continue as scheduled since they pertain to the safety and security of personnel going to Afghanistan, Iraq and other posts of heightened danger: Afghanistan Familiarization (RS415); Iraq Familiarization (FT610); and for those deploying to posts where it is mandatory, the Diplomatic Security Training Foreign Affairs Counter Threat Course (OT610).

All other class attendance, domestically and overseas, will be suspended. This applies to all training, except as noted above, whether conducted by USAID employees or contractors. Other security-related training may be continued subject to the specific written approval of the Assistant Administrator, Bureau for Management.

Those domestic personnel in training who are designated as necessary to perform "excepted functions" should return to their positions. Those not so designated will be furloughed. Overseas personnel in a "non-excepted" status and in training in the U.S. will be furloughed. Personnel in domestic travel status who are not performing "excepted functions" should make arrangements to return or deploy to their duty site as soon as told to do so by their operating units. Personnel in domestic travel status who are performing excepted functions may continue to do so.

Similarly, employees enrolled in training conducted by entities outside the Agency should not attend class and should be treated as stated above.

See Section IV. Travel for questions regarding funding for personnel in long-term training.

VI. Allowances and Differentials under the Standardized Regulations

USAID adheres to Department of State Standardized Regulations (DSSR) pertaining to allowances and differentials. Section 030 of the DSSR states that: "Any provision in these regulations that limits the payment of allowances to an employee because the employee is in a non-pay status shall not apply to any employee who is in a non-pay status solely due to a lapse of appropriations."

Allowances for persons in excepted positions will continue, except for the following allowances, which will be suspended:

- Representation Allowance
- Education Allowance
- Educational Travel will be provided only if necessary for human safety (e.g. if the school closes for a holiday and the student must vacate the dorm)

For persons in non-excepted positions, allowances related to the protections of life or property will continue. This mean that, for persons in non-excepted positions the following allowances will continue during a furlough:

- Living Quarter Allowance
- Post Allowance (COLA)
- Home Service Transfer Allowance
- Foreign Transfer Allowance
- Temporary Quarters Subsistence Allowance (TQSA)
- Separate Maintenance Allowance
- Subsistence Expense Allowance (paid in the event of an evacuation)

For persons in non-excepted positions, the following allowances will not be paid during a furlough:

- Post Differential
- Danger Pay (The Agency assumes that all or nearly all positions at danger pay posts would be excepted.)
- Representation Allowance
- Education Allowance
- Educational Travel will be provided, as is the case for persons in excepted positions, only if necessary for human safety (e.g. if the school closes for a holiday and the students must vacate the dorm)

VII. Grants and Contracts

As the Government Accountability Office has long recognized, funding gaps due to lapses in appropriations raise particularly thorny issues in the area of contractual commitments, where generally applicable Anti-Deficiency Act requirements may be in apparent conflict with orderly shutdown activities and with continuation of excepted functions. The following guidance is directed toward providing a framework for consistent treatment of contract and grant commitments by Agency Operating Units that is consistent with the overall Agency shutdown plan and that will minimize ultimate costs and disruptions.

Existing Contracts

Previously awarded contracts (including leases) that continue in performance during a lapse in appropriations and have adequate funding previously obligated to permit continued performance during a shutdown period should generally be permitted to continue unless the Operating Unit cannot provide "adequate oversight of contract performance" during a shutdown period or there is no need for the supplies or services during this period. If adequate monitoring of contractor performance cannot be provided, suspension or reduction in performance of non-excepted services should be considered if authorized by the terms of the contract. Care should be taken not to incur unnecessary costs or jeopardize the Government's future contractual rights by unilateral stop work orders or directions to reduce the scope of work that are not authorized by the terms of the contract or that will cause the contractor to incur costs that could subsequently be charged to the government. If circumstances require further guidance, consult the Office of General Counsel (GC) or the Regional Legal Officer (RLO).

Previously awarded contracts and leases that would, in the absence of funding, require renewal or modification during a lapse in appropriations to obligate additional funds for continued performance may be authorized to continue only if necessary to support excepted activities authorized for continuance under the Agency's shutdown plan or if genuinely needed to protect Government property or human safety. Before the Contracting Officer may obligate additional funds under this circumstance, the Bureau Budget Office or Mission Controller (overseas) must certify that funds are available within the annual financial plan targets. Incurring unfunded obligations for such services during a funding gap does not violate the Anti-Deficiency Act, but payment of such unfunded obligations must be deferred until appropriations are provided by the Congress. See Section VIII - Obligations and Disbursements for additional certification requirements and further guidance on funding excepted contracts.

The chart found at Attachment 2 outlines the general process for determining whether to continue performance of an existing contract.

New Contracts

New contractual commitments (including leases) during a lapse in appropriations may be made only if necessary to support excepted activities authorized for continuance under the Agency's shutdown plan or if genuinely needed to protect Government property or human safety. The same principle applies to exercising options. Before making a final decision to not exercise an option that could expose the Government to delays or disruptions, the contracting officer should consult with GC or the RLO. Before the Contracting Officer may obligate additional funds under this circumstance, the Bureau Budget Office or Mission Controller (overseas) must certify that funds are available within the annual financial plan targets. Unfunded contractual commitments should be kept to the minimum in cost and duration that will meet the essential need. See Section VIII Obligations and Disbursements for additional certification requirements and further guidance on funding excepted contracts.

Existing Grants and Cooperative Agreements

Recipients may continue their activities under an existing award if they have adequate funding previously obligated. In order to incrementally fund an existing award, the following issues should be considered:

- Does the award support activities that are authorized under the Agency's shutdown plan, genuinely needed to protect Government property or human safety, or critical to the conduct of foreign affairs?
- Does funding exist under an available appropriation to continue the activity?
- Does the operating unit have adequate staffing to administer the activities during the shutdown?

Before the Agreement Officer may obligate funds under this circumstance, the Bureau Budget Office or Mission Controller (overseas) must certify that funds are available within the annual financial plan targets. See Section VIII Obligations and Disbursements for additional certification requirements and for further guidance on obligations and disbursements.

Under assistance awards, the Government generally cannot terminate for convenience but is not obligated to provide funding beyond the current obligation in the award. Should the Operating Unit decide not to continue funding, the Agreement Officer should notify the recipient that no additional funds will be provided at this time.

New Grants and Cooperative Agreements

Any new grants or cooperative agreements during the period of a lapse in appropriations, unless award of the grant or cooperative agreement is necessary to support emergency activities or is critical to the conduct of foreign affairs should not be awarded. Before the Agreement Officer may obligate funds under this circumstance, the Bureau Budget Office or Mission Controller (overseas) must certify that funds are available within the annual financial plan targets. See Section VIII Obligations and Disbursements for additional certification requirements and for further guidance on obligations and disbursements.

Personal Services Contracts

Personal Services Contractors (PSCs) performing "excepted" functions will continue to report to work, as will PSCs performing activities for which funds have already been obligated and are still available. Positions that the Agency funds with multi-year or no-year appropriations (with remaining available balances), trust funds, and other permanent appropriations will continue as long as there is funding available and work to be performed. OE-funded PSCs may continue to work as long as sufficient funds are obligated to their contracts. If funds for these activities later become insufficient, then the applicable shutdown plan will become operative and only excepted functions will be continued.

Furloughs of PSCs are accomplished through a partial termination for the convenience of the Government. A termination for convenience requires a minimum notice of 15 calendar days before it is effective. Contracting Officers must notify PSCs of the partial termination of their contracts 15 days before funding will be exhausted under their award.

If local labor laws prohibit placing a local hire PSC who would otherwise be furloughed in an unpaid non-work status, the PSC will be placed on administrative leave and notified that they will be paid as soon as funds become available.

VIII. Obligations and Disbursements

Dates in this section will be updated to reflect the actual date on which residual funding is insufficient to continue operations.

Obligations

During any lapse of appropriations, obligations may continue to be incurred for excepted activities. Bureaus, offices and missions must operate under strict constraints that ensure USAID is in compliance with OMB and GAO guidelines. Specific guidance is as follows:

During a lapse in appropriations, USAID has legal authority to incur obligations to continue excepted activities. However, the incurred obligations should not be formally recorded (posted) in GLAAS and/or Phoenix as there are no appropriations against which to record the obligations.

Per OMB guidance, payments cannot be disbursed against lapsed appropriations for obligations incurred after the lapse begins. Disbursements may be made for obligations incurred before the lapse period (in this case, on or before insert date when known); however payment operations are not deemed essential to meet payment terms.

All obligations and obligating documents issued during the lapse period must be approved by the Mission Director, Assistant Administrator or Independent Office Director for each respective operating unit and the following statement shall be affixed and signed by the Mission Director, Assistant Administrator or Independent Office Director, as applicable: "This obligation is necessary to carry out excepted activities in the absence of an appropriation or to perform activities for which funds are otherwise available."

Bureaus, offices, and missions should maintain detailed records of all obligations incurred that cannot be recorded during the lapse period. As soon as obligation authority is obtained, all obligations should be recorded immediately.

Disbursements

Authorized certifying officers may certify vouchers and authorize payments against valid obligations established against available prior-year annual, no-year or multi-year appropriations, and for FY 2015 obligations established before October 1, 2015.

Upon determination that a lapse in appropriation is imminent and furloughs may be executed, the Chief Financial Officer (CFO) will exercise a waiver of the Prompt Payment Act to advance all approved and certified vouchers for payment. Even though activities funded with a prior year annual, no-year or multi-year appropriation may

continue during a furlough, OE-funded personnel required to process related payments are generally not considered excepted personnel unless the payments function is essential for the activity to continue. Certifying officers may not certify and authorize payments against USAID obligations incurred after September 30, 2015, unless specifically approved by the CFO, in consultation with the Office of General Counsel to determine if payments are necessary as "excepted" functions. While obligations or disbursements may be incurred for excepted activities, neither type of transaction may be posted (formally recorded) in USAID's financial systems.

Specific Situations

The following are typical bureau/mission obligation/payment categories and how they should be handled (the dates below will be updated to reflect the actual date upon which residual balances are insufficient to continue operations):

1.**LE Staff and FSN Pay/Allowances:** Standard procedures to process Locally Engaged (LE) Staff payroll must be followed. Under no circumstances should alternate means be used to pay LE Staff and FSPSC salaries, such as using petty cash. As per the above general guidance for obligations after September 30, 2015, no obligations for payroll after that date should be recorded as official accounting transactions, even for excepted activities. More detailed guidance on submitting time and attendance during the period of the lapse will be provided prior to the deadline for the next submission of time and attendance.

2. **American Salaries, Benefits, and Allowances:** While obligations can continue to be established for payrolls for persons performing "excepted" and shutdown activities, payments for salaries and allowances may only be made for services rendered through September 30, 2015. Payroll activities for salaries earned prior to lapse of appropriation are deemed "excepted," and therefore, payroll personnel will fully support payment of earned salaries prior to appropriation lapse.

3. **Travel:** Only travel in fulfillment of excepted activities can be initiated after a lapse of appropriations. Per guidance above, even in cases of travel in this category, obligations made after any lapse of appropriations should not be recorded in USAID accounting systems even though obligations may have been incurred. Blanket travel orders issued prior to October 1, 2015 are not valid during the lapse period, unless in the case of overseas travel, travel commenced prior to the shutdown. No travel advances may be issued unless the obligation for overseas travel was incurred prior to October 1, 2015. Travel voucher reimbursements can be processed against obligations incurred and recorded for prior years, or for FY 2016 (if obligated prior to October 1, 2015) multi-year or no-year appropriations for which funds remain available; however, such processing shall not be an "excepted" activity. Travelers who hold Citibank Travel Cards may charge advances against these cards for any approved trips as travel card advance charges do not create advances to official accounts. As part of GSA Smart Pay cards, Citibank Travel Cards will continue to function normally and banks will continue to provide service. Cardholders, as usual, should contact the bank customer service organization should they experience problems with their cards.

4. **Utilities:** As with other categories of payments, utility payments for obligations established prior to October 1, 2015 may be processed for payment. Obligations for utility costs after September 30, 2015 should not be recorded in USAID accounting systems even though incurred and utility payments for periods after September 30, 2015 cannot be made from lapsed appropriations. Missions confronted with any emergencies in this regard should contact CFO as soon as possible.

5. **Representation:** Representation events are not authorized after a lapse of appropriations.

6. **Purchase Orders:** Generally, purchase order obligations and payments are to be governed by the above guidance. Obligations for purchase orders prior to October 1, 2015 should have been recorded.

7. **Petty Cash Payments:** Similar guidance applies to all categories of miscellaneous petty cash payments. A voucher can be paid if the obligation supporting it was incurred prior to October 1, 2015. For example, a petty cash reimbursement for taxi fares incurred prior to October 1, 2015 can be paid. No petty cash reimbursement can be made for taxi fares or other· purposes incurred after September 30, 2015 unless against an available multi-year or a no-year appropriation. The absence of appropriations does not affect accommodation exchange.

8. **Collections:** Embassy cashiers can continue to process all collections as usual.

9. **Certifying Officer Responsibility:** Post financial management and certifying officers have the responsibility to ensure that only authorized obligations are recorded, and only payments against authorized obligations are certified for payment and forwarded for disbursement. Edits in the Agency's overseas financial systems should ensure that payments are not processed unless a valid obligation has been recorded. Posts should not de-obligate funds previously obligated prior to October 1, 2015 and re-obligate to new obligations after September30, 2015.

10. **Absolutely Necessary Payments:** To reiterate, and consistent with OMB guidance, we have authority to incur some types of obligations during the lapse period. If such obligations require special payment handling during the lapse period, a special request and justification should be coordinated with the CFO.

11. **Emergency Medical Services:** If the concurrence of Department of State Office of Medical Services (MED) is received, emergency medical travel and services obligations can be incurred but not recorded. Accordingly, payments may be made in consultation with the CFO. Please coordinate with MED and follow guidance in paragraph 12 in emergency situations where payment is required immediately. For medical services funding requests, the post should cable MED and coordinate with the CFO.

IX. Time and Attendance Reporting

Reporting Hours During the Furlough Period

During the lapse in appropriations, employees must be either: (1) at work performing excepted activities, or (2) furloughed. They, therefore, cannot be in a paid leave status (i.e., annual leave, sick leave, other paid leave, or using earned compensatory time off) during that period.

Normal hours worked during the furlough period by excepted employees are reported in USAID's electronic time and attendance system known as webTA as regular duty hours. Absences resulting from the furlough of non-excepted employees are reported in webTA as "Furlough." The transaction code for "Furlough" is found under the dropdown menu under Annual Leave. FSNs are processed in a separate payroll system but the same reporting requirements and questions and answers below apply.

Questions and Answers Regarding Time and Attendance

The following questions and answers on reporting time and attendance during a lapse in appropriations are based on guidance from the U.S. Office of Personnel Management (OPM).

Q. How should hours worked by excepted employees during the furlough be reported?

A. Hours worked by excepted employees should be reported in webTA as regular duty hours. If an excepted employee is unable to work during the furlough period, he or she must be placed in a furlough status until such time as the employee reports for work.

Q. How should furlough time for non-excepted employees be reported?

A. Absences resulting from the furlough of non-excepted employees should be reported in webTA as "Furlough." This transaction code is found under the dropdown menu under "Annual Leave."

Q. Can annual leave, sick leave, or earned compensatory time off be charged during a furlough?

A. No. Furloughs place employees in a non-pay, non-duty status. Employees may not be carried in a paid leave status during the furlough period.

Q. If an employee was on approved leave without pay (LWOP) during the furlough, would LWOP continue?

A. Yes. LWOP will continue and should be reported as LWOP for time and attendance purposes.

Q. How do you record the time for an employee who had previously scheduled sick or annual leave that fell within the furlough period?

A. Employees may not be in a paid leave status during the furlough period. Consequently, all sick and annual leave must be cancelled and is not reported. If an excepted employee is unavailable for work and performing his or her duties, then he or she should be furloughed and the hours for which he or she did not work would be reported in webTA as furlough.

X. Outside Activities

Public Affairs Activities

As a general rule, all public affairs and community relations activities such as speeches to the public and participation in university seminars and media events should be cancelled and no invitations for participation in these activities should be accepted during the shutdown period. Any exceptions require the explicit approval of the Bureau for Legislative and Public Affairs (LPA).

LPA staff may need to communicate with the media regarding events and issues related to excepted activities; i.e., those which involve the safety of human life or the protection of property, or those necessarily related to national security, including the conduct of foreign affairs.

Outside Employment

Even while on furlough, an individual is an employee of the Federal Government. Therefore, the Executive Branch-wide standards of ethical conduct at 5 CFR Part 2635, which includes rules on outside employment, continues to apply to employees on furloughs. Additionally, there are statutes which prohibit certain outside activities. Employees must consult with and obtain approval from the Office of the General Counsel, Ethics and Administration (GC/EA), before engaging in outside employment.

XI. Representation Events

As a general rule, no representation events should be held during the shutdown period. Events already scheduled should be cancelled and no new events planned until the shutdown is over. In exceptional cases, Mission Directors in coordination with the Chief of Mission may authorize a representational event overseas only if it is necessary to support excepted activities. Mission Directors should consider the perception of a representational event during an Agency shutdown.

Attachment 1

All documentation related to shutdown in this attachment will be updated as needed to reflect the exhaustion of the residual balances of multi-year funds.

The text of the Notice of Furlough is as follows: (EXOs copy and send as email per above to FS and any GS staff not being excepted)

NOTICE TO ALL AGENCY EMPLOYEES OF SHUTDOWN AND DECISION TO FURLOUGH:

USAID appropriations expired at midnight on Thursday, October 1, 2015. We have no indication yet whether Congress will act soon to pass a Continuing Resolution (CR) or appropriation, or that the President will sign it. Therefore, the only financial obligations USAID may incur are those that are necessary for the orderly suspension of Agency operations or performance of excepted activities as defined in the Office of Management and Budget memoranda for Heads of Executive Departments and Agencies dated November 17, 1981. The excepted activities are extremely restrictive and limited to "1) those necessary for emergencies involving the safety of human life or the protection of property; and 2) those necessary for activities essential to the national security, including the conduct of foreign relations essential to the national security."

This action is being taken because of sudden emergency requiring curtailment of the Agency's activities; therefore, no advance notification is possible. The customary 30-day advance notice period and opportunity to answer are suspended under the provisions of 5 CFR 752.404 (d) (2) and 5 CFR 359.806(a).

Because you are not engaged in one of the excepted functions, I must regretfully inform you that you are being placed in a furlough status effective [Insert date when known]. Your Administrative Officer will inform you of the exact time you are to be released today. This furlough will most likely be short-lived. We do not reasonably anticipate it to last more than a month and are in hopes that a much earlier return will be the case. Accordingly, this current furlough expires on [Insert date when known], unless funds are appropriated at an earlier date.

If other USAID employees are being retained in your office, it is because they are required for orderly suspension of Agency operations or they are performing one of the excepted activities (and/or are multi-year or prior-year funded employees, as applicable). The numbers of these individuals have been kept to a minimum and some of them may also be furloughed as activities are suspended.

During the furlough, you are in non-pay, non-duty status. Accordingly, annual, sick, home or court leave which has been approved for anytime during the furlough period is cancelled. During the furlough, you may not volunteer your services to the Agency and must remain away from your workplace. Telework is also prohibited and you should

refrain from using any of the work-related electronic devices. Supervisors will not allow employees who are not on the excepted list to be at the work site. You should contact your Administrative Officer if there are questions in this area.

Appeal Procedures for Civil Service Employees

Employees, who have completed a probationary or trial period or one year of current continuous employment in the competitive service under other than a temporary appointment, may appeal this action to the Merit System Protection Board (MSPB). Employees in the excepted service who have veteran's preference may appeal to the MSPB if they have completed one year of current continuous service in the same or similar positions as the one they now hold. Other employees in the excepted service who do not have veterans preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service, may appeal to the MSPB if they have completed two years of current continuous service in the same or similar position in other than a temporary appointment limited to two years or less. SES career appointees adversely affected may also appeal. AD and Schedule C employees do not have the right to appeal this furlough. Employees have a right to be represented by an attorney or other person of their choosing.

If you have the right of appeal to MSPB and wish to appeal this action to the MSPB, you must file the appeal within 30 calendar days of the effective date of your furlough. If you wish to file an appeal, notify the Office of the Director, Human Capital and Talent Management (HCTM) to obtain a copy of the MSPB regulations and appeal form. Appeals may also be filed online at https://e-appeal.mspb.gov/. Following is the address of the MSPB Regional Office having jurisdiction:

Regional Director
Merit Systems Protection Board
Washington Regional Office
1901 S. Bell Street, Suite 950
Arlington, VA 22202
https://e-appeal.mspb.gov/

The MSPB Acknowledgment Order and copies of the appeal should be sent to HCTM/ELR at the address at the end of this notice. If an employee does not submit an appeal within the time set by statute, regulation, or order of a judge, the appeal will be dismissed as untimely filed, unless a good reason for the delay is shown. The judge will provide the party an opportunity to show why the appeal should not be dismissed as untimely.

If you do not have a right to appeal to the MSPB, you may be eligible to file a grievance under the Agency's Administrative Grievance procedure. ADS Chapter 490 contains further information on the administrative grievance procedure.

If you are a bargaining unit employee, you may file a grievance in accordance with the negotiated agreement procedure. You may elect either to grieve under the negotiated

procedure or file an appeal to MSPB. You may not do both. If you file a grievance, you may be represented by the Union, or you may elect to represent yourself. The procedures applicable to grievances may be found in Article 31 of the Collective Bargaining Agreement between the American Federation of Government Employees (AFGE) and USAID.

Allegations of Discrimination

If you believe that this action is based on race, color, religion, national origin, sex (including pregnancy and gender identity), age, disability, genetic information, reprisal, sexual orientation, you may choose only one of the following forums in which to proceed:

a. File a mixed case appeal to the MSPB if you have appeal rights to MSPB (as noted above). In addition to the bases noted above, you may also file an MSPB appeal if you believe the action is based on marital status or political affiliation.
b. File either 1) an equal employment opportunity complaint or 2) a mixed case complaint pursuant to 29 CFR 1614.302, if you have appeal rights to MSPB. You must contact the Agency's Office of Civil Rights and Diversity (OCRD) within 45 days of the action.
c. File a grievance through the negotiated grievance procedure (Article 31 of the Collective Bargaining Agreement). THIS OPTION IS ONLY AVAILABLE IF YOU ARE A BARGAINING UNIT EMPLOYEE. In a mixed case, you have the right to appeal a final decision on such a grievance to the MSPB, pursuant to 5 CFR 1201.155.

Grievance Procedures for Foreign Service Employees:
You have the right to grieve this decision under the Foreign Service Grievance Procedures (ADS Chapter 486 and 3 FAM 4400). Your grievance must be submitted within two years after the effective date of the furlough. You have the right to be represented in this matter by the American Foreign Service Association (AFSA), an attorney, or other person of your choice. Your grievance should be submitted to:

Vanessa Prout, Chief
HCTM/ELR, 2.7-016
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20523

We fully recognize the difficult personal financial implications of any furlough, no matter how limited its length, and regret that this has come to pass. Please remain alert to announcements in the local media. Responsibility has been placed on individual employees to listen to public broadcasts and when you hear that a CR or an FY 2016 appropriation for USAID has been approved, you will be expected to return to work on your next regular duty day.

Thank you for your cooperation in this matter.

_____ _____

Erin McKee Date
Acting Chief Human Capital Officer
Deciding Official
Office of Human Capital
and Talent Management

The following notice will be posted PRIOR to the start of the furlough providing instructions to staff.

NOTICE TO ALL AGENCY EMPLOYEES OF IMPENDING SHUTDOWN AND DECISION TO FURLOUGH

Subject: Possible Furlough

On Thursday, October 1, 2015, the appropriation for FY 2015 which is presently authorizing USAID operations expired. If the Congress and the Administration do not agree on the terms for authorization and appropriation of FY 2016 funding for USAID or a continuing resolution (CR), USAID's funding may be temporarily interrupted starting [insert date when known].

If this happens, it would be necessary for most of the Agency operations in Washington and many of those overseas to be suspended, and all employees who have not been designated as "excepted" from furlough, or those employees performing those functions for which funding is still available and which the Agency has determined should continue, will be placed in "non-duty and non-pay status."

The approved list of "excepted" personnel is available from each Bureau and Independent Office Administrative Management Services (AMS) Officer. Any changes to this list must be approved by the Deputy Administrator and Chief Operating Officer, Alfonso E. Lenhardt. The approved list of overseas staff is available from the USAID Mission Director or EXO Office. Any changes to the overseas list must be approved by the Chief of Mission after coordination with the respective regional Bureau. Changes must be communicated to the respective Bureau/Office and Office of Human Capital and Talent Management.

Instructions to staff: If USAID funding continues to be temporarily suspended and residual balances of multi-year and no-year funds are insufficient for continued operations, all "non-excepted" employees will be furloughed and may take up to four hours to shut down their activities (this should occur by no later than [insert day when known]12 noon). Employees who wish to complete shutdown by [insert day when known] evening, the next workday, or by telework on [insert day when known] may exercise one of those options. "Excepted" employees must report to work on [insert date when known].

Those not on the excepted lists will be required to safeguard property, records and information and otherwise secure their work sites in collaboration with their supervisors. Non-excepted staff will also receive their official notice of furlough and their SF-8 from their AMS Officers via email, with receipt request, on [insert day when known] morning. Those who will not come in on [insert day when known] should be sure to receive these documents by email. We anticipate these activities will take a maximum of four hours for employees. After performing the functions above, non-excepted personnel must depart the workplace and cannot perform any further work, even on a voluntary basis, until funding is received.

As in the past, it is difficult to predict how long an interruption in funding might last. It could be for only a few days or for a longer period. Employees are encouraged to review the Questions and Answers on Furloughs at the OPM web page at: https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Shutdown-Furlough

For further information concerning this Notice, please submit your questions to email box Shutdown info@usaid.gov.

The following notice will be posted once the Agency has received instructions to begin the shutdown of operations.

NOTICE TO ALL AGENCY EMPLOYEES OF AGENCY SHUTDOWN AND FURLOUGH NOTIFICATION (insert date when known)

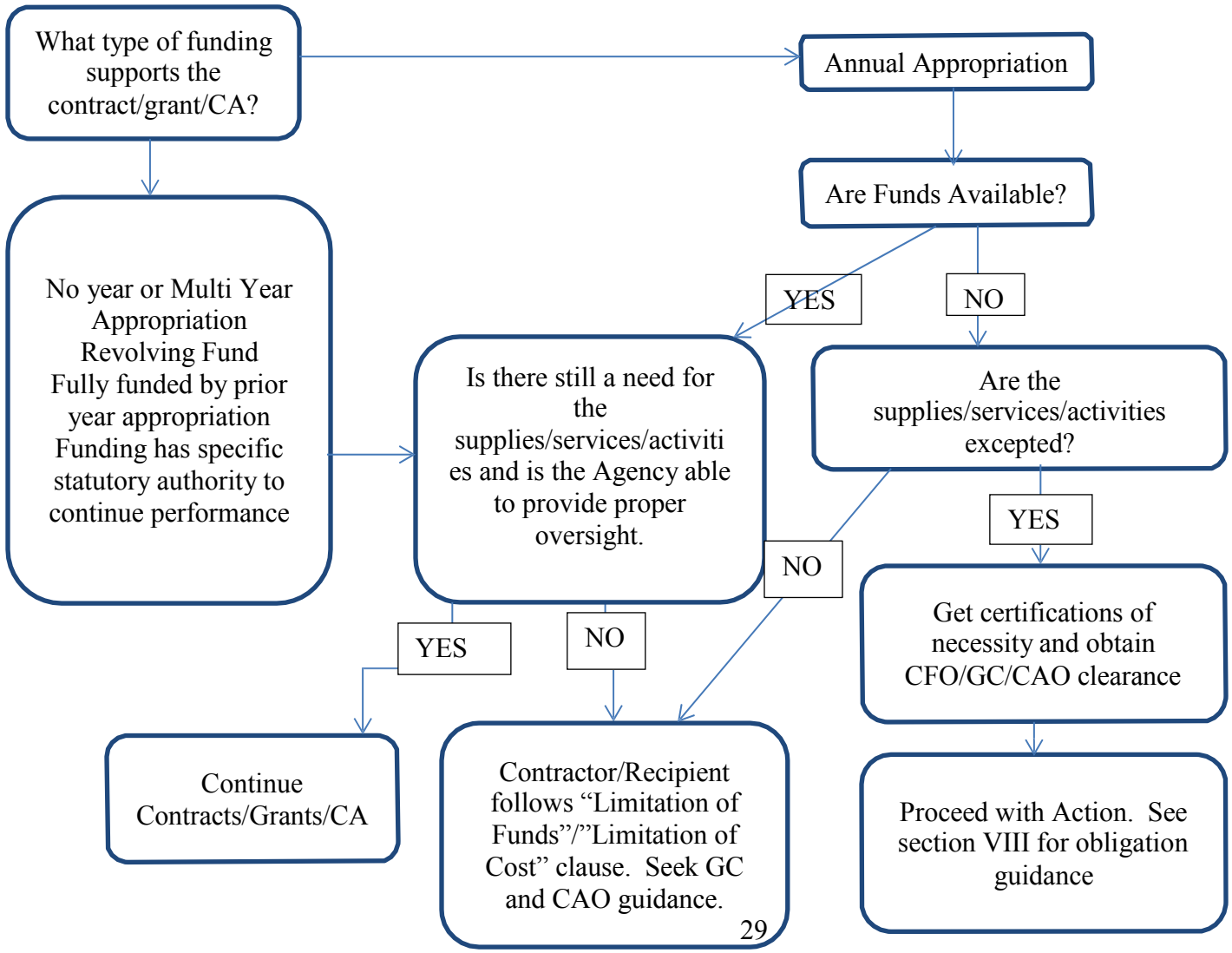
SUBJECT: Furlough Notice

Due to an interruption in government funding and that there is insufficient multi-year funding the Agency operations will be shutdown. This closure will be carried out promptly and in an orderly manner by each USAID Bureau and Independent Office.

Prior to departure, all non-excepted personnel must consult with their AMS in order to receive their official furlough notification and Form SF-8, Unemployment Compensation for Federal Employees (UCFE) Program. Employees must acknowledge receipt by signing and dating the last page of their furlough notification.

Further developments concerning the resumption of normal operations will be announced by the news media.

POINT OF CONTACT: Questions regarding this Notice may be directed to [insert name here] on [insert phone number] or email box shutdown_info@usaid.gov.

Attachment 2

Determining Whether to Continue Performance of an Existing Contract/Grant/Cooperative Agreement (CA)