

SUBJECT: LIMITED CHANGE TO DOE O 137.1B, *OPERATING IN THE EVENT OF A LAPSE IN APPROPRIATIONS*

1. EXPLANATION OF CHANGES. This Order was updated to reflect current operations, provide clarifications to existing language, and includes new requirements mandated under the Government Fair Treatment Act of 2019. Additionally, the revised Order provides clarity on the process and responsibilities for developing the detailed biennial plan mandated by OMB Circular A-11.
2. LOCATIONS OF CHANGES:

Page	Paragraph	Changed	To
	Throughout.	Attorney General	U.S. Attorney General
1	Title	PLAN FOR OPERATING IN THE EVENT OF A LAPSE IN APPROPRIATIONS	OPERATING IN THE EVENT OF A LAPSE IN APPROPRIATIONS
1	2.	2. CANCELLATION. DOE O 137.1A, Plan for Operating in the Event of a Lapse in Appropriations, dated 08-30-99.	2. CANCELS/SUPERSEDES. DOE O 137.1B, Plan for Operating in the Event of a Lapse in Appropriations, dated 9-30-2011.
1	3.a.(1)	The National Nuclear Security Administration (NNSA) Administrator will assure that NNSA employees comply with their respective responsibilities under this directive. Nothing in this Order will be construed to interfere with the NNSA Administrator's authority under Section 3212(d) of Public Law (P.L.) 106-65 to establish Administration-specific policies, unless disapproved by the Secretary.	The Administrator of the National Nuclear Security Administration (NNSA) must assure that NNSA employees comply with their responsibilities under this directive. Nothing in this directive will be construed to interfere with the NNSA Administrator's authority under section 3212(d) of Public Law (P.L.) 106 65 to establish Administration specific policies, unless disapproved by the Secretary.
1	3.b.(2)	BPA...	Bonneville Power Administration (BPA)...
2	4.a.	Initial Approved Funding Programs (AFPs) for the upcoming fiscal year are developed prior to October 1....	First sentence removed.

Page	Paragraph	Changed	To
2	4.b.	Treasury Appropriations Fund Symbol	Treasury Appropriation Fund Symbol
2	4.b.(1)	Prior to the beginning of the fiscal year, AFPs are prepared based on the most conservative funding levels for the new fiscal year. The “Advice of Allotment” (HQ F 2260.2) is issued in conjunction with the AFP but is restricted to the amount permitted under the terms of the continuing resolution.	The Advice of Allotment (HQ F 2260.2) is restricted to the amount permitted under the terms of the continuing resolution and consistent with OMB guidance.
2	4.b.(1)(b)	exceed any obligation control levels established in the AFP; or	exceed any obligation control levels established; or
2	5.a.	The Attorney General of the United States issued an opinion on 4-25-80, that the language and legislative history....	The Attorney General of the United States issued an opinion on 4-25-80, stating that the language and legislative history....
3	5.a.(1)	If neither regular appropriations nor a continuing resolution is enacted, only funds currently obligated to the contractors and available balances will be available for current fiscal year operations. Under this situation, each organization must carefully manage the funds available to ensure that only mandatory requirements (e.g., payroll, contracts, etc) are funded until an appropriation or continuing resolution is passed. Payroll and related fixed costs must be given the highest priority.	If neither regular appropriations nor a continuing resolution is enacted, only funds currently obligated and available unobligated prior year balances will be available for current fiscal year operations. Under this situation, each organization must carefully manage the funds available to ensure that only mandatory requirements (e.g., payroll, contracts, etc.) are funded until an appropriation or continuing resolution is passed.
4	5.a.(4)	The actual timetable for shutdown depends on the type and amount of funding carried over and available (available balances) to the organization, function, program, or activity.	The actual timetable for shutdown depends on the type and amount of funding carried over and available to the organization, function, program, or activity.
5	5.b.(1)(b)	The CFO will notify organizations that funds have been reallocated below the appropriation and fund account level (such as between allottees, between obligation control levels,	The CFO will notify organizations that funds have been reallotted below the appropriation and fund account level. Such changes must be documented and/or immediately

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		and/or between Reporting Entities, etc.). Such changes must be documented and/or immediately reflected in formal written revisions to DOE F 2260.2, "Advice of Allotment," as provided in the DOE Financial Management Handbook.	reflected in formal written revisions to DOE F 2260.2, Advice of Allotment.
5	5.b.(1)(c)	DOE will use available reprogramming and transfer authority...	DOE will seek approval to use available reprogramming and transfer authority...
5	5.b.(1)(d)	As provided in OMB Bulletin 80-14, amounts contained in OMB apportionments may be adjusted without submission of a reappropriation request.	As provided in OMB Bulletin 80-14 (Shutdown of Agency Operations Upon Failure by the Congress to Enact Appropriations, August 28, 1980), as amended, amounts contained in OMB apportionments may be adjusted without submission of a reappropriation request.
5	5.b.(2)(a)	Departmental elements must identify excepted activities to be continued during a no-funds emergency shutdown...	Departmental elements must identify excepted activities to be continued during a no-funds shutdown...
6	5.b.(2)(e)	Supervisors must contact any employee on travel status and advise him or her to return to the duty station immediately, unless the employee volunteers to be furloughed at the travel site and such arrangement is in the best interest of the Federal Government. Travelers should return in accordance with normal Federal Travel Regulations.	<p>Mission-critical travel is permitted during a lapse at the discretion of each program until available balances are exhausted.</p> <p>Once available balances have been exhausted, supervisors must contact any employee on travel status and advise him or her to either return to the duty station immediately, or volunteer to be furloughed at the travel site when such arrangement is in the best interest of the Federal Government, see section 5.c.(2)(c) Travelers who return to their duty stations should return in accordance with normal Federal Travel Regulations.</p>

Page	Paragraph	Changed	To
7	5.b.(2)(f) <u>5</u>	...including all papers to be accorded classified status...	...including all papers to the accorded classified status...
7-8	5.c.(1)(a)	Excepted employees also perform functions to orderly cease non-excepted functions as expeditiously as possible and will not be dismissed or excused from work due to emergency situations described in OMB Memorandum, “Shutdown of Agency Operations Upon Failure by the Congress to Enact Appropriations,” dated 8-28-80 (amended by OMB Memorandum, “Agency Operations in the Absence of Appropriations,” dated 11-17-81, and further updated by Department of Justice memorandum, “Government Operations in the Event of a Lapse in Appropriations,” dated 8-16-95).	Excepted employees also perform functions to orderly cease non-excepted functions as expeditiously as possible and will not be dismissed or excused from work due to emergency situations described in OMB Memorandum, “Shutdown of Agency Operations Upon Failure by the Congress to Enact Appropriations,” dated 8-28-80 (amended by OMB Memorandum, “Agency Operations in the Absence of Appropriations,” dated 11- 17-81, further updated by Department of Justice memorandum, “Government Operations in the Event of a Lapse in Appropriations,” dated 8-16-95), and other applicable OMB guidance.
8-9	5.c.(1)(f)	<p>1 Individuals from non-Federal organizations on appointments to DOE are subject to furlough in the same manner as other employees.</p> <p>2 Individuals on detail to Federal agencies from non-Federal organizations may continue working, provided the non-Federal organizations pay the total costs of the detail.</p> <p>3 Personnel on detail to Federal agencies from non-Federal organizations that share the costs of the detail may continue to work, if the Federal portion of the cost was obligated from prior appropriations at the time of the Intergovernmental Personnel Act mobility agreements. If a furlough takes place in the second year of the agreement and no funds are</p>	<p>1 Employees on detail to agencies affected by the lapse in appropriations should return to DOE, provided that DOE has sufficient funding for that employee.</p> <p>2 Employees on detail to agencies not affected by the lapse of appropriations should remain at their detail agency.</p> <p>3 Employees on detail to DOE are subject to furlough in the same manner as other DOE employees, and should contact their home agency for additional instructions during a lapse in appropriations.</p>

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		<p>appropriated at that time, the assignment should be terminated.</p> <p>4 Personnel on detail to Federal agencies from non-Federal organizations that do not pay or share the costs of the detail are subject to furlough in the same manner as other employees.</p> <p>5 Personnel on detail to Federal agencies from Federal agencies which are continuing full reimbursement are not subject to furlough. Because that employee is continuing to have his or her costs paid by his or her originating agency, the furlough will not apply to that individual.</p>	
10	5.c.(2)(c)	travel of persons and transportation of things; persons in travel status on the first day of a lapse in appropriations will return to their duty stations as soon as possible, as provided in Paragraph 5b(2)(e);	travel of persons and transportation of things; an exception to this prohibition is that persons in travel status on the first day of a lapse in appropriations will return to their duty stations as soon as possible or volunteer to be furloughed at the travel site, as provided in Paragraph 5b(2)(d);
10	5.c.(2)(g)	use of equipment and utilities (including the use of Government issued blackberries, tokens, and other devices) not related to authorized activities where their use creates liabilities for the Government beyond those existing on the date of the funding lapse;	use of equipment and utilities (including the use of Government issued devices) not related to authorized activities where their use creates liabilities for the Government beyond those existing on the date of the funding lapse;
10-11	5.c.(3)	Added paragraph.	The Government Fair Treatment Act of 2019 makes the legal requirement to pay furloughed and excepted employees affected by the lapse in appropriations permanent. The Act does not affect the pay of contractors. Back pay will be consistent with OPM and OMB guidance.

Page	Paragraph	Changed	To
11	6.a.	Designate the CHCO, the CFO, and the General Counsel or his or her designee to coordinate activities associated with the shutdown plan. The designated group will coordinate all activities and information through the designated point of contacts.	Designates the CHCO, the CFO, the General Counsel, and the Director, Office of Administration (MA), or his or her designee(s) to coordinate activities associated with the shutdown plan. The designated group will coordinate all activities and information through the designated points of contact.
11-13	6.a.-e.	Previously numbered incorrectly.	6.b.-f.
12	6.d.(1)	Added paragraph.	Update the Department's Plan for Operating During a Lapse in Appropriations as required by OMB Circular No. A-11 and post the plan on the DOE website.
12-13	6.d.(1)-(4)	Renumbered.	6.d.(2)-(5)
13	6.e.(4)-(7)	Previously numbered incorrectly.	6.e.(3)-(6)
13	6.g.	Added section.	<p>g. <u>Director, Office of Administration, Office of Management (MA).</u></p> <p>(1) In conjunction with the CFO and the General Counsel, provide guidance on travel during a lapse of appropriation to the designated Program and Field officials.</p> <p>(2) Respond promptly to requests made by the CFO and the General Counsel for travel-related information or guidance.</p>
13-15	6.f.-j.	Previously numbered incorrectly. Section 6.g. added.	6.h.-l.
14	6.k.(3)	In coordination with CFO and in accordance with DOE M 135.1-1A, Department of Energy Budget Execution Funds Distribution and Control Manual, work with program and procurement officials to obligate and de-obligate funding in STRIPES, expedite contract actions as necessary, and process	In coordination with CFO, work with program and procurement officials to obligate and de-obligate funding in STRIPES, expedite contract actions as necessary, and process the necessary financial plan and funding documents.

Page	Paragraph	Changed	To
		the necessary financial plan and funding documents.	
15	7.c.	Title 5 U.S.C., Section 6301, “Federal Employees Family Friendly Leave Act,” which governs leave in the Federal service.	Title 5 U.S.C., 6301 et seq., “Federal Employees Family Friendly Leave Act,” which governs leave in the Federal service.
15	7.f.	Added section.	f. The Government Fair Treatment Act of 2019, which makes the legal requirement to pay furloughed and excepted employees affected by the lapse in appropriations permanent.
15-16	7.f.-p.	Renumbered.	7.g.-q.
16	7.n.	OMB Circular No. A-11 (2010), Section 124...	OMB Circular No. A-11 (2019), Section 124...