

# USDA-FOOD SAFETY AND INSPECTION SERVICE

September 2013

## Operations Plan for Absence of Appropriations—Major Provisions

In accordance with the provisions of U.S.C. 1341, the Agency will begin implementation of this plan on the morning of the first working day following the lapse of appropriations. All Agency personnel will be advised to report to their assigned duty stations to prepare for the orderly cessation of operations no longer funded or not specifically excepted by the provisions of 31 U.S. C. 1342, as interpreted by OMB Bulletin 80-14 dated August 28, 1982.

### OMB Guidelines:

The Office of Management and Budget (OMB) provides agencies with annual instructions on how to prepare for and operate during a funding gap in *Circular No. A-11*. The circular establishes two policies regarding the absence of appropriations:

- (1) A prohibition on incurring obligations unless the obligations are otherwise authorized by law and
- (2) Permission to incur obligations “as necessary for orderly termination of an agency’s functions,” but prohibition of any disbursement (i.e., payment).

OMB requires shutdown plans to include:

- An estimate of the time to complete the shutdown, to the nearest half-day;
- The number of employees expected to be on-board (i.e., filled positions) before implementation of the plan; and
- The total number of employees to be “excepted” under the plan (i.e., not subject to furlough), because:
  - 1) *Their compensation is financed by a resource other than annual appropriations;*
  - 2) *They are necessary to perform activities expressly authorized by law;*
  - 3) *They are necessary to perform activities necessarily implied by law;*
  - 4) *They are necessary to the discharge of the President’s constitutional duties and powers;*
  - 5) *They are necessary to protect life and property.*

OMB Circular No. A-11, section 124.3, specifies that *OMB will monitor the status of congressional actions on appropriations bills and will notify agencies [e.g., Department of Agriculture] if shutdown plans are to be implemented.*

## FSIS Excepted Activities under Continuing Operations:

### Appropriated Activities

Those direct functions excepted to ensure that the Nation's commercial supply of meat and poultry products is safe as required under the authority of the Federal Meat Inspection Act (FMIA), as amended; the Poultry Products Inspection Act (PPIA), as amended; and the Egg Products Inspection Act (EPIA) as amended. This includes the daily on-site inspection presence, regulatory enforcement and product testing in the laboratories. In addition, in cases where these functions are performed by State employees (under the Federal State Cooperative Act, Talmadge-Aiken), the activities are considered excepted. These activities are excepted as necessary to protect health.

### Reimbursable Work for Industry

The agency performs reimbursable work for industry (non-federal partners) as authorized by the Agricultural Marketing Act of 1946; the Federal Meat Inspection Act (FMIA), as amended; the Poultry Products Inspection Act (PPIA), as amended; and the Egg Products Inspection Act (EPIA) as amended. None of these reimbursable activities are funded under an appropriation prior to reimbursement, and, therefore, are not affected. The agency will continue to offer those services to industry and will maintain the appropriate supervisory, administrative and technical support as necessary.

## Designation of Excepted Functions for Continuing Operations<sup>1</sup>

Based on OMB Circular No. A-11, 2013, two of the five categories of employees apply to FSIS and are excepted from being furloughed.

- Category 1: Their compensation is financed by a resource other than annual appropriations;
- Category 5: They are necessary to protect life and property.

Based on Departmental feedback following OGC consultation, the Agency is sorting FSIS positions into three groups:

**Excepted, on duty.** This includes employees *retained to protect life*. FSIS was advised by the Department that food safety activities fall under OMB category 3 rather than OMB category 1.

**Not paid by appropriated funds.** This includes positions *whose compensation is financed by a resource other than annual appropriations*. Hence, they are not affected by a furlough. This is synonymous with OMB Category 2.

All other FSIS employees are **Non-excepted, on call**. The Antideficiency Act prohibits voluntary services and employment of personal services exceeding what has been authorized by law. By law, therefore, all personnel not designated as excepted will be furloughed.

---

<sup>1</sup> All staffing numbers are subject to change as more information becomes available.

**Note:** The agency has an agreement with the Department of Health and Human Services to compensate them for approximately 20 Commissioned Corps Officers; all are identified as excepted.

Following is summary information on the excepted functions. More detail is available in Annex 4.

**Field inspection of meat, poultry and egg products:** The following direct field staff functions will be performed to ensure the safety of human life for the duration of a government shutdown:

1. Inspecting before and after slaughter those birds and animals intended for use as food for humans and supervising the further processing of meat and poultry products.
2. Ensuring that meat, poultry, and egg products are safe and preventing the movement or sale in commerce of any meat or poultry products which are adulterated.
3. Applying foreign governments' inspection requirements and procedures to verify that products exported from the United States are safe.
4. Conducting emergency operations in connection with the voluntary recall of meat or poultry products contaminated with drug or chemical residues, other adulterants, or microbial contamination.
5. Conducting epidemiological investigations based on reports of food-borne health hazards and disease outbreaks.
6. Monitoring allied industries to prevent uninspected or adulterated meat, poultry and egg products from illegally entering channels of commerce.
7. Providing pathological, microbiological, chemical, and other scientific examination of meat, poultry and egg products for disease, infection, contamination, or other types of adulteration.
8. Conducting a microbiological monitoring and surveillance program.

**Support of excepted activities.** The following functions are excepted because they are necessary to support excepted activities:

Agency-wide: The agency must ensure adequate senior level management of and coordination of the agency's public health responsibilities during a shutdown.

- Agency-wide. Excepted activities include responding to intentional and unintentional food safety events. A small number of individuals will support these activities for the duration of the shutdown, while others will be available on-call if such an event occurs, including recall staff, scientists; recall communication specialists, and food defense specialists.
- Office of Public Health Sciences/Field Laboratories. In addition to those excepted activities identified above, a number of supporting activities must be excepted; for example, laboratory equipment maintenance and repair and sample handling. Personnel at the three field laboratories will largely be considered excepted for the duration of the shutdown.

- Office of Management/Office of Human Resources (OHR)/Human Resource Operations Division. Excepted functions are those necessary to maintain and support personnel performing excepted activities to protect human life.
- Office of Management /Office of Administrative Services (OAS). Excepted functions include procurement actions necessary to support the excepted activities for the duration of the shutdown. These activities will be limited to those actions for which an obligation has already been made (e.g., providing instructions to a vendor to ship inspection supplies to a specific plant) or those “emergencies involving the safety of human life or the protection of property.” The Antideficiency Act prohibits federal officials from obligating funds before an appropriations measure has been enacted, so generally no new contracts can be awarded during a shutdown. OAS also manages activities related to the protection of Federal property and records. Inventories of Federal property and records must be taken and arrangements made to transfer their custody to GSA and OPM. OMB Bulletin 80-14 prohibits such transfer custody until 30 days of lapsed funding has transpired. OAS will also oversee management of purchase cards and fleet vehicles (only by those excepted employees carrying out excepted functions.)
- Office of the CFO/Financial Services Center. Excepted functions include payroll processing for reimbursable work for non-federal partners, as well as billing and collections for reimbursable services for the duration of the shutdown. This billing is for work done by employees in positions paid by appropriated funds as well as in positions that are directly charged to the reimbursable program.
- Office of the CIO. Excepted functions include continued operation of information systems necessary to support excepted activities, including inspection and enforcement systems, maintaining connectivity to the field, maintaining help desk support, among others. While most of the work is performed by contractors (paid for with FY 2013 funds in this case), a small number of personnel will be required for the duration to provide direction and oversight of these key functions.
- Office of Policy and Program Development. Excepted functions include provision of expertise on regulatory issues. A small number of personnel will be required to be on-call to respond as needed.
- The agency has identified its Talmadge Aiken program as an excepted function. All employees in the Talmadge Aiken program are State employees who perform field inspection of meat, poultry and processed egg products in Federal plants. The agency has identified these activities as excepted commensurate with the identical activities performed by Federal employees. This creates an on-going obligation for the agency, which will need to be funded when an appropriation is received. The agency anticipates current availability of approximately 30 days of operation for its Talmadge Aiken activities.

**Guidelines for filling excepted functions.** Consistent with Reduction in Force (RIF) and Furlough guidelines, seniority and the ability to perform the excepted function will be the primary consideration by managers in filling positions for excepted functions.

In the process of making determinations for excepted and non-excepted designation of employees, all supervisors should also utilize equitable Equal Opportunity guidelines to ensure that one or more groups of employees are not unintentionally impacted by the selection process. Management must consider the importance of workplace diversity when making these personnel decisions in order to avoid the appearance of discriminatory practices.

On an annual basis, approximately 8,415 staff years (including those whose time is reimbursable) are required for this effort. The agency will support these activities through its permanent full-time workforce and use of intermittent personnel as necessary to provide coverage.

The chart below summarizes the numbers of positions in each category and the estimated percentage of positions subject to furlough v. total staff. More detail is included in Annex 4.

		<b>Summary of FSIS Activities in the Event of a Government Shutdown</b>						
<b>Day</b>	<b>Current Staff</b>	<b>Estimated Employment by OMB Category</b>						<b>Total as % of Staff</b>
		<b>I</b>	<b>II</b>	<b>III</b>	<b>IV</b>	<b>V</b>		
2	9,633	8	0	0	0	8,407		87%
3-5	9,633			It is difficult to predict numbers because of emergent circumstances that may require additional personnel to be excepted.				

## **FSIS Activities Prior to a Shutdown**

FSIS activities prior to a shutdown may be summarized as preparing as much as possible to implement a shutdown, once OMB has notified USDA and USDA has notified FSIS. The following are critical preparatory activities consistent with USDA guidance issued in April 2011.

- The Administrator will ensure that a review of available funding and excepted functions and positions is conducted, based on the current state of the agency. See Annex 4.
- The Administrator will ensure that a shutdown action plan, in chronological order, is developed to support this plan. For more detail, see Annex 1.
- The Assistant Administrator (AA) for the Office of Public Affairs and Consumer Education will prepare a Communication Plan for internal and external stakeholders. Employee communication will include questions about rights under grievance procedures, access to benefits, eligibility for workman's compensation and unemployment benefits and other concerns. External communication will include disposition and/or postings to hotlines, social media, web resources, and other tools. More detail is provided in Annex 2.
- The OHR will prepare a comprehensive Human Resources Plan, including guidance on bargaining unit requirements, activities that must be performed to implement a furlough, and systems and processes that must be maintained to support excepted activities. More detail is provided in Annex 3.
- The Chief Financial Officer (CFO) will coordinate with the Department's CFO on access to financial and feeder systems including WebTA, payroll, FMFI, SmartPay, and IAS to ensure timely support for excepted activities as appropriate.
- The OHR and CFO will, consistent with Departmental guidance, develop agency-specific guidance for time and attendance reporting and payroll processing.
- The Director, Office of Management /Office of Administrative Services (OAS) will develop a plan for procurement, including notifying contractors of their excepted and non-excepted status; and maintaining excepted procurement functions, including those necessary to support the excepted activities for the duration of the shutdown. These will be limited to those that actions for which an obligation has already been made (e.g., providing instructions to a vendor to ship inspection supplies to a specific plant) or those "emergencies involving the safety of human life or the protection of property." The Antideficiency Act prohibits federal officials from obligating funds before an appropriations measure has been enacted, so generally no new contracts can be awarded during a shutdown. OAS also manages activities related to the protection of Federal property and records. Inventories of Federal property and records must be taken and arrangements made to transfer their custody to GSA and OPM. OMB Bulletin 80-14 prohibits such transfer custody until 30 days of lapsed funding has transpired. OAS will also develop a plan for overseeing management of purchase cards and fleet vehicles (only by those excepted employees carrying out excepted functions.)

Each AA is responsible for ensuring that all employees are designated by name as excepted or non-excepted employees so that they can be notified of their status.

- Consistent with Departmental and agency guidance, the OHR will be responsible for processing all furlough documents, including updates to furlough notices when on-call employees are returned to excepted service. In addition, the OHR will undertake a review of all outstanding offers with an effective date likely to be impacted by a shutdown and ensure that appropriate actions are taken. The OHR is also responsible for ensuring continuing availability of information to employees, bargaining unit and non-bargaining unit, on their administrative rights during a furlough.
- The CFO is responsible for ensuring payroll processing occurs for compensable time prior to the shutdown, including having the requisite financial staff in place to monitor funds availability.

### **FSIS Activities under an Orderly Shutdown**

The following are the Agency's plans for implementing an orderly shutdown, contingent on OMB and USDA approval to implement a shutdown.

- The Administrator will be responsible for ensuring that communication to the Management Council addresses the full scope of their responsibilities under a shutdown scenario as soon as appropriate after notification by the Department.
- Each day during the shutdown, the Assistant Administrator of each office, or an excepted employee who has been designated by the AA, is to prepare a short (less than one page) status report on developments in that office that day. The report is to be prepared and delivered to the Administrator by 4 p.m. and is to recount any major events that occurred; whether any employees who had been on-call had been called back, the names of those employees; why it was necessary to call them back; and whether any employees who had been at work were released and placed on on-call status and their names. The Administrator will gather all the reports into a single document and forward it to the Under Secretary before close of business that day.
- The Administrator is responsible for ensuring that the agency's plan is implemented as established or updated to reflect new requirements.
- The Administrator or his/her designee will verify through contacts with each of the Assistant Administrators that they, their managers, and the employees in their Office have received notification of the shutdown, of whether they are excepted or non-excepted, and of what they are to do on the first day of a shutdown.
- If a manager decides that he/she needs to return to duty an employee who is in on-call status, the manager is to contact the Office of Human Resources to obtain any necessary form to make the request and to document concurrence with it. The manager will need to obtain the concurrence of the Assistant Administrator or his/her excepted designee and of

the Administrator. If the Administrator agrees, the manager is allowed to contact the employee.

- Consistent with Departmental and agency guidance, the AAs will ensure that, for their program areas:
  - All non-excepted travelers have returned to their duty station, unless the return disrupts an excepted activity;
  - All time and attendance records are complete;
  - All workstations, records and property are secured;
- Other actions as identified.
- Consistent with Departmental and agency guidance, the CFO will be responsible for ensuring availability of all financial systems necessary to support excepted activities.
- Consistent with Departmental and agency guidance, the Chief Information Officer will be responsible for ensuring availability of all information technology systems necessary to support excepted activities and/or the orderly shutdown of systems that do not support excepted activity.

For succeeding days after a government shutdown, and on a daily basis, supervisors of employees performing excepted activities will assess the continued need for such employees and release them from duty if necessary, effective with the close of business.

This plan includes several Annexes.

**Annex 1** outlines Agency shutdown activities in chronological order.

**Annex 2** outlines the Agency's shutdown communication plan.

**Annex 3** outlines the Agency's human resources plan for a shutdown.

**Annex 4** includes a further breakdown of all FSIS personnel, grouped into Excepted on duty, Excepted on duty not paid by appropriations, and Non-exempt (furlough).

**Annex 5** describes the agency's programs in support of State Meat and Poultry Inspection programs.

## Annex 1

### FSIS Draft Operational Plan for Lapse of Appropriations

This annex summarizes in chronological order the basic actions necessary to cease operation of non-excepted activities and maintain operation of excepted activities during a lapse in appropriated funding. It supports the FSIS Draft Operational Plan for Lapse of Appropriations.

We estimate that it will take the agency 5 days to complete orderly close down procedures. This plan is subject to OMB and USDA guidance.

#### **At least 7 Calendar Days Prior to Day 1, the following actions will be completed:**

- The Administrator ensures that communication to the Management Council addresses the full scope of responsibilities under a shutdown scenario as soon as appropriate after notification by the Department.
- The Administrator ensures identification of appropriate Department contacts for communications purposes and orderly close down of the agency; e.g., who at USDA will notify who at FSIS to initiate shutdown procedures in motion or to confirm that a shutdown will not be necessary.
- The Administrator ensures that a review of available funding and excepted functions is conducted, based on the current state of the agency. A summary of applicable authorities for functions is prepared. See Annex 4.
- The Administrator ensures identification of excepted positions necessary to carry out excepted functions. Consistent with RIF and Furlough guidelines, seniority and the ability to perform the excepted function are the primary considerations used by managers to identify excepted positions. This is to be done in a consistent and fair manner in compliance with applicable personnel regulations and Equal Employment Opportunity Commission guidance to ensure that one or more groups of employees are not unintentionally impacted by the selection process. Management also is to consider the importance of workplace diversity when making these personnel decisions in order to avoid the appearance of discriminatory practices. Positions are identified by job title, classification and any other information, such as pay band and duty station, needed to distinguish excepted positions from similar non-excepted positions. See Annex 4.
- The Administrator ensures that a thorough assessment of the practical implications of a shutdown on non-excepted and excepted activities is conducted; e.g., impacts on labor management relationship, contracting, hiring. This assessment is used to inform planning and communication. See Annex 4.
- The Administrator ensures that procedures are defined for communicating with State Meat, Poultry, and Egg Inspection Agencies so that they can administer programs in a manner to effectuate programs as defined in the Federal and State Cooperation provisions of the Federal Meat Inspection, Poultry Products Inspection and Egg Products Inspection Acts, Talmadge-Aiken Act, and Cross Utilization agreements during an emergency shutdown; so that the cost for providing this service to the Agency under an emergency shutdown can be determined; and so that the Agency can appropriately reimburse the State Agency for work done under an emergency shutdown. See Annex 5.

- The Assistant Administrator (AA) for the Office of Public Affairs and Consumer Education prepares a Communication Plan for employees and other internal and external stakeholders on Agency operations and critical issues. External communication includes postings to hotlines, social media, web resources, and other tools. More detail is provided in Annex 2.
- OM's Director of Human Resources, consistent with OPM and Department guidance, prepares a comprehensive Human Resources Plan, including guidance on bargaining unit requirements, activities that must be performed to implement a furlough, and systems and processes that must be maintained to support excepted activities. Employee and supervisor HR communication materials will address questions about rights under grievance procedures, access to benefits, eligibility for workman's compensation and unemployment benefits and other concerns. The Agency will notify all employees of their excepted or non-excepted status. See Annex 3.
- The Chief Financial Officer (CFO) coordinates with the Department's CFO on access to financial and feeder systems including WebTA, payroll, FMFI, SmartPay, and IAS to ensure timely support for excepted activities as appropriate.
- The Chief Information Officer (CIO) identifies what system support is needed to maintain essential services and information technology infrastructure.
- The Director, Labor and Employee Relations, in consultation with the Administrator and the Assistant Administrator for Management, defines a strategy for addressing any issues raised by bargaining unit employees.
- The OM Administrative Services Director identifies measures to secure records, personal property, real property, and facilities that will be maintained and protected until appropriate disposition is accomplished.
- Each AA identifies all potential meetings, hearings, and other previously arranged Agency business that may need to be cancelled.
- Each AA identifies all employees that are to be in travel status on Day 1 of anticipated closedown, so that they can be quickly alerted if they need to return to duty station.
- Each AA updates emergency telephone lists for the units in their program.

### **3 Days Before Day 1:**

- OHR (LERD and HROD) begin preparing furlough notification letters for all employees to be furloughed.
- Alert all employees of possible furlough and their status. Because of the geographic dispersal of the workforce, FSIS will send a brief, one-page alert to all employees signed by the Administrator or Under Secretary and including only the most basic information: why we may need to take this action; categories of excepted employees; categories of non-excepted employees; how employees will be notified if they are actually furloughed; instructions for Day 1 – report to duty station or, if teleworking, report in to supervisor.

## **2 Days Before Day 1:**

- Provide all managers with an Agency alert (OPACE) on the possible upcoming closedown and HR information packages (OHR) to disseminate to their subordinate supervisors. Packages include samples of all materials that will be provided to employees: for example; sample furlough letter, sample letter confirming employee will not be furloughed; procedures for call-back if furloughed employee is required to work).
- Hold teleconference with managers and supervisors to alert them of a possible furlough; go over package, address questions and confirm understanding.
- Supervisors alert employees in travel status that they may need to return to duty station in 2 days; confirm how they will be reached or who they should call or final instructions on Day 1 if travel cannot be concluded before Day 1.
- Managers and supervisors coordinate activities to prepare for potential shutdown, such as: Document the status of cases and projects so that they can be resumed, transferred, or otherwise appropriately handled when the Agency's ultimate funding situation is determined; identify and stage files for potential boxing and storage or transfer.

## **1 Day Before Day 1:**

Resolve and document answers to new questions and concerns; dialogue among managers, supervisors, to minimize confusion. (All)

- Supervisors notify employees as to their furlough or non-furlough status: face-to-face, telephone, e-mail notification. This notification will be complemented by written notification.
- Finalize processing of materials for internet, intranet posting, e-mail dissemination, phone message from Administrator or Under Secretary. (OPACE)

## **Day 1**

- The Administrator is responsible for ensuring that the agency's plan is implemented as established or updated to reflect new requirements.
- Each day during the shutdown, the Assistant Administrator of each office, or an excepted employee who has been designated by the AA, is to prepare a short (less than one page) status report on developments in that office that day. The report is to be prepared and delivered to the Administrator by 4 p.m. and is to recount any major events that occurred; whether any employees who had been on-call had been called back, the names of those employees; why it was necessary to call them back; and whether any employees who had been at work were released and placed on on-call status and their names. The Administrator will gather all the reports into a single document and forward it to the Under Secretary before close of business that day.
- Hiring and relocation actions can be delayed but not halted/frozen.

- Verify that all public notification materials and employee guidance materials are posted on internet, intranet as appropriate. (OHR/OPACE) (To enable at least 4 hours of viewing by employees.)
- Director, OAS, coordinates with all contracting officers and contracting officer technical representatives to notify all contractors and vendors that work is suspended. This work may continue into Day 2.
- All employees report to their supervisors to receive assignments of duties or pertinent information for an orderly closedown. For those employees teleworking, “report” may be done by telephone.
- Supervisors begin close down tasks, including ensuring that:
  - All records, personal property and real property , including workstations, are secured ;
  - All employees, excepted or not excepted, complete appropriate T&As for pay period involving furlough using Agency-specific instructions consistent with Departmental guidance; and
  - All non-excepted employees leave the worksite as they complete shutdown activities.
- Supervisors contact any employees on leave and communicate that employee leave is cancelled.
- Supervisors contact any employee in travel status and direct employee to return to duty station.
- Managers, supervisors and employees cancel all meetings, hearings and previously arranged Agency business for Week 1 of closedown.
- Validate existing communication strategy and employee contact information for future communication need. Employee notification begins: Telephone and e-mail notification.
- Excepted CFO employees record all FY 2013 and prior year budget authority available for expenditure and all FY 2014 budget authority and other reconciliations; review and adjust as necessary all apportionment and allocations, particularly for the reimbursable programs; confirm internal processes for interim payroll processing are complete; and oversee/sign-off on all financial reporting data and allocations.
- OHR begins preparing and distributing formal written notices to all employees regarding their furloughed status using previously developed plan (“bundling,” home addresses, etc.). This work will continue into Day 2 and perhaps beyond.
- OHR begins preparing and processing Personnel Actions for furloughed employees and for furloughed employees returned to work.

#### **Day 2 -5**

- The Administrator is responsible for ensuring that the agency’s plan is implemented as established or updated to reflect new requirements.

- For succeeding days after a government shutdown, and on a daily basis, supervisors of excepted/on duty employees assess the continued need for such employees and release them from duty if necessary, effective with the close of business as shut-down tasks are completed.
- If a manager decides that he/she needs to return to duty an employee who is in on-call status, the manager is to contact the Office of the Human Resources to obtain any necessary form to make the request and to document concurrence with it. The manager will need to obtain the concurrence of the Assistant Administrator or his/her excepted designee and of the Administrator. If the Administrator agrees, the manager is allowed to contact the employee. Only employees in on-call status are eligible to return to duty.
- Only excepted employees report for work to perform excepted duties.
- Consistent with Departmental and agency guidance, the Chief Information Officer is responsible for ensuring availability of all information technology systems necessary to support excepted activities and/or the orderly shutdown of systems that do not support excepted activity.
- Consistent with Departmental and agency guidance, the AA for OPACE is responsible for maintaining appropriate internal and external communication.

Consistent with Departmental and agency guidance, the CFO is responsible for ensuring availability of all financial systems necessary to support excepted activities.

## Annex 2

### Absence of Appropriations Communications Plan for Shutdown Day One

#### Mission Area/Agency

Office of Food Safety/Food Safety and Inspection Service

#### High line message #1

Food safety continues in absence of appropriations

#### **Related USDA Strategic Plan Goal and Objective**

Strategic Goal 4: Ensure that all of America's Children Have Access to Safe, Nutritious, and Balanced Meals

Objective 4.3: Protect public health by ensuring food is safe

#### Message

The first priority of the Food Safety and Inspection Service is to prevent foodborne illness. If a government shutdown occurs, USDA food inspection will not stop. We are committed to continuing fulfilling our mission to protecting public health through food safety.

#### Communications Goals and Target Audiences

<u>Goal</u>	<u>Overall Target Audiences</u>
<ul style="list-style-type: none"><li>Reassure that inspection of FSIS regulated products will continue even if gov't shut down occurs.</li></ul>	<b>All</b>
<ul style="list-style-type: none"><li>Provide clear and accurate information to excepted employees about their duties so employees can fulfill mission.</li></ul>	<b>Employees</b>
<ul style="list-style-type: none"><li>Provide clear and accurate information to non-excepted employees about their actions during a shutdown.</li></ul>	<b>Employees</b>
<ul style="list-style-type: none"><li>Provide clear and accurate information regarding continuation of inspection so industry understands impacts on their businesses.</li></ul>	<b>Industry/foreign gov'ts</b>
<ul style="list-style-type: none"><li>Provide clear and accurate information regarding continuation of inspection and /or contracts so state programs understands impact</li></ul>	<b>States/Industry</b>
<ul style="list-style-type: none"><li>Reassure consumers that meat, poultry and egg products will still be inspected for safety and wholesomeness; possible furloughs have no impact on safety of food supply</li></ul>	<b>Consumers/Consumer Groups</b>

<ul style="list-style-type: none"> <li>• Provide concise, clear information regarding the constancy of USDA inspection and food safety</li> </ul>	<b>Media</b>
<ul style="list-style-type: none"> <li>• Emphasize the seriousness of our actions to comply with statute and direction of Congress with both exempt and furloughed employees.</li> </ul>	<b>Congress</b>

**Action Items**

<b><u>Deliverable</u></b>	<b><u>Audience</u></b>	<b><u>Date</u></b>	<b><u>Notes</u></b>
<ul style="list-style-type: none"> <li>• Congressional Outreach</li> </ul>	Congressional Staff	TBD	No information is sent until we are given express direction by Dept to do so.
<ul style="list-style-type: none"> <li>• Blogger Outreach</li> </ul>	Industry Blogs (i.e. meatingplace.com etc)	TBD	No information is sent until we are given express direction by Dept to do so.
<ul style="list-style-type: none"> <li>• Press release, statement, web posting</li> </ul>	Industry, consumer advocacy groups	TBD	No information is sent until we are given express direction by Dept to do so.
<ul style="list-style-type: none"> <li>• Constituent Alert</li> </ul>	Industry/consumer groups	TBD	No information is sent until we are given express direction by Dept to do so.
<ul style="list-style-type: none"> <li>• Twitter</li> </ul>	Consumers, food wonks	As soon as the press release issues	No information is sent until we are given express direction by Dept to do so.
<ul style="list-style-type: none"> <li>• Stakeholder Calls</li> </ul>	Industry	As early as possible	No information is sent until we are given express direction by Dept to do so.
<ul style="list-style-type: none"> <li>• Intranet posting</li> </ul>	Employees	As early as possible	No information is sent until we are given express direction by Dept to do so.
<ul style="list-style-type: none"> <li>• Employee town hall</li> </ul>	Employees	TBD	Previously scheduled but should expect questions about a shutdown to be asked.
<ul style="list-style-type: none"> <li>• Talkers for supervisors</li> </ul>	Employees	As early as possible	No information is sent until we are given express direction by Dept to do so.

## **Annex 3**

### **Employee Notification and HR Guidance for Excepted and Non-Excepted Employees**

The Agency's Office of Human Resources (OHR) is well prepared for an emergency furlough situation. We are using or customizing information provided to all USDA HR Directors and developing plans and materials for aspects not covered by the USDA materials.

**USDA materials developed or being customized are listed below.**

- Timeline for furlough action
- T&A processing procedures (pending possible revision).
- Template: Memorandum to (non-excepted) employees. FSIS will also notify excepted employees.
- Q&A for shutdown (for all employees)
  - What is a furlough and who can be furloughed
  - Procedural rights of employees covered and not covered under Title 5; grievance or appeal rights.
  - Presence in the office or telework for orderly shutdown
  - Payment for excepted employees
  - Retroactive payment for non-excepted employees
  - Other employment while on furlough (Ethics issue)
  - Illegality of volunteering
  - Unemployment compensation (affected by length of furlough, state laws vary)
  - Order of deductions if employee's pay is not sufficient to cover all
  - Effect of furlough/nonpay status on:
    - health benefits, dental and vision insurance plans, flexible spending accounts, federal life insurance; TSP
    - leave (AL, SL, LWOP), Family & Medical Leave Act
    - within-grade increases, career tenure, probationary period, qualification standards (duration), time-in-grade;
    - RIF, severance pay
    - military duty, workers' compensation, continuity of pay
    - pay on holiday (or day before or after)
    - payment of performance awards, SES performance awards payments
    - travel and per diem for furloughed employees to return to duty station for shutdown;
    - Retirement.
- Supervisory guidance for hiatus (Advance activities, Day One shutdown activities, prohibited activities, procedures when funding is approved)
- Listing of Merit Systems Protection Board Regional offices
- SF-8 (Employment Compensation)
- TSP Effect of Nonpay Status on your TSP account
- Employee Assistance Program guidance (to be provided).

OHR also has developed or is developing plans for maintaining services to excepted employees and/or preparing for an orderly shutdown. These are listed below.

- **Labor-Management and Employee Relations Impact.** Bargaining has already taken place on shutdown related issues.
- **Human Resources processing activities** (e.g., hiring of new inspectors could be delayed but not halted/frozen). Plan follows the Labor-Management and Employee Relations plan.
- **Workplace violence prevention.** We are requesting that 1 position be exempted to answer workplace violence calls and respond to those that reflect imminent danger to human life.
- **Worker’s Compensation.** FSIS has a large Workers’ Compensation Program. Approximately 1,631 current or former employees receive this compensation benefit, at a cost of more than \$17 million.
  - Employees who have a traumatic injury receive “Continuation of Pay” (COP) for up to 45 days depending upon the injury. COP is paid by FSIS using appropriated funds. Although OPM guidance indicates employees on COP are entitled to continue in this status during a furlough, it is possible that payment might be deferred.
  - FSIS current and former employees who are temporarily or totally disabled are on what is known as “the periodic rolls.” These employees are paid by the Department of Labor, which subsequently charges back the costs to FSIS, typically a year or more later. Under a Government-wide shutdown, neither the Department of Labor nor FSIS would have appropriated funding to pay these employees this benefit.
  - Since most current employees on the periodic rolls are bargaining unit employees, the NJC could request impact and implementation bargaining if we are ultimately notified that funding is not available.

## **Human Resources Operations Division (HROD), Minneapolis, MN**

### **Operational and Closeout Activities**

#### **After notification of furlough (4 hours) action items:**

- Receive list of excepted positions from Headquarters.
- Identify applicants scheduled for Excepted On Duty and confirm that they are within excepted category. The Agency has taken the position that in an emergency furlough, Agency employees will be positively notified that they either are furloughed or are not furloughed. This is required for employees to be furloughed, and it will minimize confusion for those who are not being furloughed. First priority will be given to notifying those who are excepted from furlough.
- **Delivery of Information to Non-Bargaining Unit Employees.** If determined employee/applicant is in excepted category, attempt notification to advise to report or not to report, complementing Agency communication. Provide list of applicants who were unreachable during 4 hour timeframe so excepted HROD and other excepted Agency personnel can follow-up during furlough. Initial notification may be phone call; however, written notification is required. Written notification packages will be provided to non-

bargaining unit employees during the furlough by HROD excepted personnel, working with other excepted Agency personnel.

- **Delivery of Information to Excepted Bargaining Unit Employees.** Bargaining unit employees will receive the notification that they are **not** being furloughed along with other pertinent information (the most comprehensive we are able to provide by the date sent). Initial notification may be by phone, to be followed up by written notification (package described above).
- Although other means can be considered, distribution of these packages by Front Line Supervisors (FLS) may be most efficient and cost-effective. The process might be:
- District Offices provide FLS contact information to HROD.
- HROD bundles the packages by duty station and sends to FLS for distribution to inspection personnel directly or through subordinate supervisors
- FLS distributes and has each employee acknowledge receipt of the proposal by signing his/her name on a computer generated listing.
- FLS notifies HROD if the package cannot be delivered with 7 business days because the employee is on leave, extended illness, etc.
- FLS forwards original list to HROD to be maintained in the file.
- Service and Systems Sections identify announcement closing dates and any certificates of eligible's due to expire during furlough. Extend due dates to maximum allotted timeframe and advise District/Program. Announcements/Certificates for excepted positions will continue to be worked by selected excepted HR personnel.
- Each section take inventory of personnel actions/other work (see list below) scheduled to be effective during the furlough timeframe, and ensure all necessary action is taken. This includes entering personnel actions scheduled to be effective during the furlough. If time does not permit, document and consolidate required tasks so excepted HR personnel may continue the work during the furlough.

Listing of Actions to include:

- Processing personnel actions by a Processing Assistant such as promotions, accessions.
- Processing death actions, retirements, and bargaining unit awards (if applicable) by Benefits staff and Processing Assistant.
- Identify pending legal cases/requests to determine if action can be postponed or if due date would require a response from excepted HR Personnel on staff during furlough.
- Any processing associated with Legal Actions (such of compliance with settlement agreements).
- Set up automatic message for HROD voicemail system. Each employee would need to forward their phones to an excepted HR staff member, and place an out of office message on their voicemail and email.

- Ensure proper T&A input/processing through collaboration with FPC and NFC.
- Identify recruitment trips and cancel by contacting schools, events, and field recruiter.
- Cancel any training scheduled during furlough by sending notice to provider/employee.
- Provide notice to building management for security purposes.
- Supervisors cancel leave for staff for any time that is scheduled during furlough.
- Identify off-site personnel to notify them of furlough and return to work.

1 HROD Supervisor (with ability to perform and oversee various HR disciplines)
1 HROD Benefits Specialist (with ability to perform full range of tasks performed in the unit to include NFC processing)
1 HROD Service Team Specialist (with ability to perform multiple functions, such as review medicals)
1 HROD Systems Section HR Specialist (with ability to generate certificates from the standing registers and make qualification determinations)
1 HROD Service Team Assistant (with knowledge of processing and security)
1 HROD Civilian Pay Technician (senior)
1 HROD Processing Associate (senior)
1 HROD Mailroom/Admin person (mail/phones/T&As)

8 Personnel

## Annex 4

Annex 4 includes a further breakdown of all FSIS personnel, grouped as follows<sup>2</sup>:

- **Excepted/ On Duty.** Personnel essential to the functioning of food safety operations in the nation’s food supply, who would continue to perform services essential to public health during a government shutdown.
- **Not paid with appropriated funds.** Personnel either specially contracted or paid for through non-appropriated funding who remain on duty and are not affected by furlough.
- **Non-Excepted/ On Call (Furloughed).** Personnel normally needed for day to day operations during regular FSIS operations, but not likely to be needed during a government shutdown. Subject to recall to Excepted/on duty status under defined FSIS procedures.

Based on the FSIS established criteria, the agency anticipates that its workforce will break down into the following categories in the event of a government shutdown:

	<b>Excepted/On Duty</b>	<b>Not Paid With Appropriated Funds</b>	<b>Non-Excepted/On Call (furloughed)</b>
<b>Office of the Administrator (OA) includes CRS, ICS, CODEX</b>	<b>2</b>	<b>0</b>	<b>44</b>
<b>Office of Investigation, Enforcement and Audit (OIEA)</b>	<b>155</b>	<b>0</b>	<b>83</b>
<b>Office of Public Affairs and Consumer Education (OPACE)</b>	<b>2</b>	<b>0</b>	<b>67</b>
<b>Office of Data Integration and Food Protection (ODIFP)</b>	<b>1</b>	<b>0</b>	<b>35</b>
<b>Office of Field Operations (OFO)</b>	<b>8005</b>	<b>0</b>	<b>382</b>
<b>Office of Management (OM)</b>	<b>8</b>	<b>0</b>	<b>184</b>
<b>Office of Policy and Program Development (OPPD)</b>	<b>5</b>	<b>0</b>	<b>120</b>
<b>Office of Public Health Science (OPHS)</b>	<b>199</b>	<b>0</b>	<b>83</b>
<b>Office of Outreach, Employee Education and Training (OOEET)</b>	<b>0</b>	<b>0</b>	<b>55</b>
<b>Office of the Chief Financial Officer (OCFO)</b>	<b>26</b>	<b>8</b>	<b>73</b>
<b>Office of the Chief Information Officer (OCIO)</b>	<b>4</b>	<b>0</b>	<b>92</b>
<b>Total</b>	<b>8,407</b>	<b>8</b>	<b>1,218</b>

<sup>2</sup> These numbers will be refined, as further information becomes available.

Within 24 hours of the notice of a Federal Government shutdown, and by the close of business on the applicable day, employees listed above as on duty and contractors will be identified and instructed to continue to report for duty until otherwise advised. Other employees will be notified that they will be on furlough effective with the close of business date as specified by the Agency and will not return to work until officially notified to report for duty by their supervisor.

For succeeding days after a government shutdown, and on a daily basis, supervisors of excepted/on duty employees will assess the continued need for such employees and release them from duty if necessary, effective with the close of business as essential shut-down tasks are completed. Depending upon the extent of the period of time the agency is operating without funding; non-excepted employees will be on an “on call” basis and returned to work when required.

### **Impact by FSIS Program and Mission Area under Continuing Operations**

Meat, Poultry and Egg Products Inspection are the sole programs of the Agency funded by annual appropriation. However, certain headquarters functions can be suspended for a very short time without a direct and immediate impact on the safety of human life. A lengthy hiatus would affect the safety of human life and have serious adverse effects on the industry, the consumer and the Agency.

The following headquarters staffs performing the central program guidance, coordination, direction and planning functions described will be furloughed except as minimally required in direct support of Agency field operations:

**Inspection Operations (Office of Field Operations):** Responsible for planning, coordinating and directing the Meat, Poultry, and Egg Products Inspection programs. Due to the large numbers of in plant inspection personnel who support excepted activities, most individuals in this area would be excepted and on duty.

**Public Health Science (Office of Public Health Science):** The Public Health Science Program is responsible for planning, coordinating and directing all scientific guidance and support in chemistry, epidemiology, pathology, toxicology, nutrition, and parasitological. The Public Health Science Program also performs Agency risk assessments, directs the residue testing program, and also performs activities that address zoonotic diseases. With the exception of the laboratory function within Public Health Science, designations for these functions would be non-excepted, with limited individuals being identified as excepted and on duty. The majority of all Laboratory functions will be excepted.

**International Programs (Office of Field Operations, Office of Policy and Program Development, and Office of Investigation, Enforcement and Audit):** The International Programs are responsible for ensuring that meat, poultry, and egg products from foreign countries are safe and wholesome. Program personnel also confer with foreign governments on issues involving imports and exports of meat, poultry and egg products and international food safety standards. A substantial number of these programs other than inspection of imports and certifying products for export would not be excepted.

**Regulatory Programs (Office of Policy and Program Development):** Responsible for planning all Agency policies relating to domestic and international inspection, enforcement, equivalence, and auditing policies. This work also involves pre-market review of all food labels; developing Agency regulations and policies relative to product standards and truthful labeling of meat and poultry product; suitability reviews of food ingredients in conjunction with the Food and Drug Administrations' review of new technologies; development of Agency Federal Register documents, directives and notices; and performing analyses of economic and other matters. Most of the individuals in this category would be non-excepted.

**Data Analyses (Office of Data Integration and Food Protection):** Responsible for reviewing and analyzing Agency and other data to assess the efforts of Agency policies and programs and how to improve them. Most employees in this area would be designated non-excepted.

**Training and Outreach (Office of Outreach, Employee Education and Training):** Responsible for providing training of all agency personnel and providing information to small and very small plants on how to comply with agency requirements. Most employees in this area would be designated as non-excepted, to include those in support of PHIS implementation.

**Civil Rights Staff (In Office of the Administrator):** Responsible for advising the Administrator on the status of the Program within the Agency, advising managers of their responsibilities, and informing all employees of their rights under current laws and regulations. The Civil Rights Staff would be designated as non-excepted, but members of the staff will be on call.

**Information and Legislative Affairs (Office of Public Affairs and Consumer Education):** Responsible for communicating with the public, Congress, and other governmental agencies about FSIS programs and activities. This includes coordinating public information and education programs on the safe handling and cooking of meat and poultry products utilizing a toll free "hot line" as well as news releases, radio and TV announcements and food safety publications. This mission area is also responsible for responding to requirements under the Freedom of Information Act. Most of this staff would be identified as non-excepted, except for those on call for a recall.

**Administrative Management, Financial, and Information Technology Activities (Office of Management and the Office of the Chief Financial Officer):** Responsible for providing a variety of administrative management services including budget formulation, presentation, and execution; financial analysis, personnel administration and resource management; procurement, and personal property and office services; labor-management relations; developing training material and providing training to inspection personnel; providing data information to FSIS management and other users. A limited number of individuals would be designated as excepted and on duty. Most would be considered non-excepted and under the provisions of a furlough, based on the shut down of government operations with the following exceptions:

- Office of the Chief Financial Officer (primarily Reimbursable):
  - FPC Payroll--Employees for the duration of the furlough, to process Time and Attendance for over 5,000 employees without access to WebTA and a similar number

- of employees eligible for payment under reimbursable authority. Additional employees will be on-call for managing financial system issues, as appropriate.
- FPC Accounts Receivable-- billing and collections for services already provided (and to be provided under the Trust Fund). Employees for processing of 5110's and debt management, including those who charge their time directly to the reimbursable fund.
- Office Management/Office of Administrative Services/Procurement Management Branch
    - One procurement official will be on call for contracting needs should an emergency requiring a contract action arise that will support operations for the safety and defense of public health.
    - Contracts paid for with fiscal 2013 money are still in operation, but invoices would be paid late due to a shutdown. FSIS will pay interest on invoices that go over 30 days, but the total impact is unknown. Generally, the contractor would be required to continue working and to bill the government according to the terms of the contract. Contracts awarded using FY14 funds may be affected where a contractor providing recurring (monthly) services may be unable to perform at a government location if there is a shutdown.
    - The Antideficiency Act prohibits federal officials from obligating funds before an appropriations measure has been enacted, so generally no new contracts can be awarded during a shutdown. The Act also prohibits voluntary services and employment of personal services exceeding what has been as authorized by law. This means contracting personnel may not work, unless the effort meets the definition of an exception that applies for "emergencies involving the safety of human life or the protection of property.
    - The Codex Alimentarius office manages U.S involvement in the Codex Alimentarius Commission, which operates within the U.N. Food and Agriculture Office to establish international food standards that protect the health of consumers and ensure fair practices in trade. During an FSIS furlough, no Codex employees would be excepted on duty.

## Annex 5

### State MPI Programs

The Agency will share its criteria for establishing excepted duties, positions, and functions from its approved Agency Shutdown Plan with State Meat, Poultry, and Egg Inspection Agencies so that they can administer programs in a manner to effectuate programs as defined in the Federal and State Cooperation provisions of the Federal Meat Inspection, Poultry Products Inspection and Egg Products Inspection Acts, Talmadge-Aiken Act, Cross Utilization agreements during an emergency shutdown; determine cost for providing this service to the Agency under an emergency shutdown; and for Agency reimbursement to the State Agency under an emergency shutdown.

FSIS reimburses programs according to language in Cooperative Agreements that are signed at the start of each fiscal year. Cooperators are defined as State Agencies. The Service is defined as FSIS.

The following conditions exist for Cooperators administering programs in a manner to effectuate programs as defined in the Federal and State Cooperation provisions of the Federal Meat Inspection, Poultry Products Inspection and Egg Products Inspection Acts, and Talmadge-Aiken Act

A. The Cooperator shall:

1. Administer and enforce the State meat and/or poultry inspection program, including recruiting, selecting, assigning, training, and supervising State personnel.
2. Maintain complete accounting, property, and program records, and/or reports as required by 7 CFR Part 3015, FSIS Directives 3300.1 and 5720.2 depicting the status of the inspection program(s) within the State.
4. Compensate all State employees working under the terms of this agreement wholly from public funds of the State.

The following conditions exist for FSIS to support Cooperators administering programs in a manner to effectuate programs as defined in the Federal and State Cooperation provisions of the Federal Meat Inspection, Poultry Products Inspection and Egg Products Inspection Acts, and Talmadge-Aiken Act.

B. The Service shall:

3. Furnish the Cooperator with financial and other aid for the administration of such a program.

The following conditions exist for FSIS and Cooperators administering programs in a manner to effectuate programs as defined in the Federal and State Cooperation provisions of the Federal Meat Inspection, Poultry Products Inspection and Egg Products Inspection Acts, and Talmadge-Aiken Act.

C. It is Mutually Understood and Agreed that:

2. The amount to be contributed to the Cooperator under paragraph B(1), (2) and (3) of this Agreement shall not exceed 50 percentum of the estimated total cost of the cooperative program established by this agreement or under any additional cooperative agreement, such as one entered into under the authority of the Talmadge-Aiken Act (7 U.S.C. 450), except for overtime expenses.

The following agreement exists for FSIS and Cooperators administering programs under cross utilization agreements provided for in Intergovernmental Cooperation Act of 1968. Under the statute, FSIS reimburses the State Agency for administering and enforcing Federal Meat Inspection, Poultry Products Inspection and Egg Products Inspection Acts.

The agency acknowledges that it will be incurring emergency obligations under a shutdown for the Talmadge Aiken program.