

# National Archives and Records Administration

NARA 103  
September 24, 2023

## **SUBJECT: NARA 103, Operations in the absence of appropriations**

### **103.1 Summary of NARA activities under a lapse in appropriations**

<b>Lapse Plan Summary Overview</b>	
Estimated time required to complete shutdown activities:	½ day
Total number of employees expected to be on board before implementation of the plan (as of July 29, 2023):	2,641
Total number of agency employees expected to be furloughed under the plan (unduplicated count):	1,561
<b>Total number of employees to be retained for each category:</b>	
Compensation is financed from other than annual appropriations:	1,079
Necessary to perform activities expressly authorized by law:	1
Necessary to perform activities necessarily implied by law:	24
Necessary to the discharge of the President’s Constitutional duties:	0
Necessary to protect life and property:	37
<b>Brief summary of significant agency activities that will continue during a lapse:</b>	
a. NARA Federal Records Centers Program (FRCP) will remain open. The FRCP is not immediately affected by a lapse in appropriations, as its operations are funded through fees collected from customer agencies for services rendered. The FRCP will continue operations to support other agencies’ funded, exempt, or excepted activities during a funding lapse.	
b. The Office of the Federal Register and the Government Publishing Office (GPO) will publish an edition of the Federal Register each work day that includes documents related to the protection of life and property. The daily edition of the Federal Register may also include documents from agencies with funded programs, but only if an agency can demonstrate that delaying publication until the end of the lapse would prevent or significantly damage the execution of funded functions at the agency. Where another agency has authority to conduct activities during a lapse and those activities require the publication of documents in the Federal Register, NARA’s authority to publish is necessarily implied by the authority of the originating (issuing) agency.	
c. NARA may continue to operate the museum areas of some Presidential Libraries if the cost of operations during the lapse period can be funded by gifts received in advance of the	

funding lapse. The National Archives Gift Fund is not affected by a lapse in appropriations. The decision to continue operation of museum areas is dependent on NARA reaching agreement with the private Foundation supporting each Library and is made on a case-by-case basis.

d. NARA will retain the minimum number of appropriated employees and contract services necessary to protect Government property in NARA's custody and control. NARA occupies 42 facilities nationwide, including 17 facilities that NARA owns and operates. As of September 30, 2022, NARA facilities housed 32.3 million cubic feet of archival and temporary records in traditional formats, more than 33 billion electronic records (837 terabytes), and over 700,000 artifacts. Federal government records owned or controlled by NARA, NARA-owned artifacts, and NARA-owned facilities are Government property for the purposes of this plan.

e. NARA will continue the ongoing project to renovate the National Archives Museum (NAM) at the National Archives building in Washington, DC. Funds for this project were provided in no-year appropriations and are available during a lapse in appropriations. Project support is provided by NARA employees and contract services funded from annual appropriations; these resources would otherwise not be available to support the NAM renovation in the event of a funding lapse but will be retained because their services are necessarily implied by the original appropriations to provide for the NAM renovation.

**Brief summary of significant agency activities that will cease during a lapse:**

f. All NARA archival facilities and Presidential Libraries will be closed and secured for the duration of a funding lapse. Closures include all public research rooms, museum exhibition areas, and public rental, use, or visitation areas, as well as all employee, contractor, and volunteer office and work areas. The Rotunda and other areas of the National Archives Museum will close, as will the Presidential Library museums, education, and public outreach spaces and the grounds and public areas that are operated, maintained, and protected by NARA at Presidential Libraries.

g. Research Services, the Center for Legislative Archives, the White House Liaison Division, and the Presidential Libraries will only retrieve records when needed to support the Constitutional duties of the Congress and the President, law enforcement activities, health and safety of life or property of the Government, response to natural or man-made disasters, or as a similar necessary implication of supporting continuing Federal activities.

h. NARA will immediately suspend all other appropriated activities. This includes records management services and assistance provided to other agencies through the Office of the Chief Records Officer, declassification functions of the National Declassification Center, oversight of the classification system by the Information Security Oversight Office, and FOIA dispute mediation by the Office of Government Information Services.

i. NARA will suspend the NHPRC grants program and Repairs and Restoration projects (except for the NAM renovation project, explained above: These activities are funded from

sources other than annual appropriations but are performed by employees funded from annual appropriations. NARA will also suspend the activities of the National Archives Trust Fund: Trust Fund activities cannot be conducted without access to employees and resources funded by annual appropriations.

j. Except as authorized by this contingency plan, no activities that require action by or the on-site presence of an appropriated Government or contractor employee or otherwise requires the obligation of annual appropriations will be permitted. All NARA employees who are not identified as excepted or exempt (e.g., FRCP employees) will be furloughed for the duration of a funding lapse. Most contracts will be suspended, except for contracts identified as excepted or exempt by both the Chief Acquisition Officer and the General Counsel.

### **103.2 Funds control in the absence of appropriations**

Under an appropriations lapse, the following authorities and directives will govern operations. They reflect laws and regulations enacted by Congress, OMB, the Office of Personnel Management, and other authorities.

a. The Antideficiency Act, 31 U.S.C. §§ 1341 and 1342, requires agencies to stop their ongoing, regular operations in the absence of appropriations. Under the Antideficiency Act:

- (1) An officer or employee of the Government “may not make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation.” (31 U.S.C. § 1341(a)(1)(A))
- (2) An officer or employee of the Government may not enter into a contract or incur an obligation “for the payment of money before an appropriation is made unless authorized by law.” (31 U.S.C. § 1341(a)(1)(B))
- (3) Agencies may not accept voluntary services from agency employees except for emergencies involving the safety of human life or the protection of property. (31 U.S.C. § 1342)

b. Violations of the Antideficiency Act can result in administrative and criminal penalties. An officer or employee of the United States who violates the Act may be suspended from duty without pay or removed from office. (31 U.S.C. § 1349) Violations that are knowing and willful in nature can result in criminal sanctions, including a fine of not more than \$5,000 per violation, imprisonment for up to two years, or both. (31 U.S.C. § 1350)

c. During a lapse in appropriations, the Antideficiency Act generally requires that agency heads must limit obligations to those needed to maintain the minimum level of essential activities necessary to protect life and property. An activity or function is

necessary to protect life and property when there is some reasonable likelihood that the safety of human life or the protection of property would be compromised “in some significant degree” by delay in the performance of the function. [See Opinion of the Office of Legal Counsel, Department of Justice, *Government Operations in the Event of a Lapse in Appropriations*, 1995 WL 17216091 (Aug.16, 1995) at p. 6 (“August 1995 OLC Opinion”):.]

d. Once appropriations have lapsed, the Antideficiency Act permits an agency to incur obligations as necessary for the orderly termination of an agency’s functions. (See OMB Circular A-11, § 124) Non-expected activities may make expenditures from lapsed appropriations against valid obligations entered into before the lapse. However, non-expected activities may not make expenditures to liquidate new obligations lawfully incurred during the lapse for expected activities (including orderly shutdown or to protect life and property). (31 U.S.C. § 1553(a))

e. Agency functions that are funded under multi-year, no-year, or permanent appropriations may continue to incur obligations during a lapse in annual appropriations without violating the Antideficiency Act. [Opinion of the Attorney General, *Authority for the Continuance of Government Functions During a Temporary Lapse in Appropriations*, 43 Op. Att’y Gen. 293, 298 (Jan. 16, 1981). *Accord* August 1995 OLC Opinion at p. 3.] For this reason, the FRCP may continue to operate during a funding lapse (to the extent and in the manner authorized by this contingency plan). However, the FRCP must still comply with the Act’s rule that an officer or employee of the Government “may not make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation.” (31 U.S.C. § 1341(a)(1)(A)). This means that the Records Centers Revolving Fund must maintain a positive cash balance at all times.

f. The Antideficiency Act permits agencies that have sustained a lapse in appropriations to accept voluntary services from employees *for emergencies involving the safety of human life or the protection of property*. In order to meet this standard:

- (1) “There must be some reasonable and articulable connection between the function to be performed and the safety of human life or the protection of property”; and
- (2) “There must be some reasonable likelihood that the safety of human life or the protection of property would be compromised, in some [significant] degree, by delay in the performance of the function in question.” [43 Op. Att’y Gen. at 302, *as modified by* August 1995 OLC Opinion, at p. 6.]

g. The Antideficiency Act requires that the routine activities and operations of the agency that are funded by annual appropriations must be suspended in the event of a lapse in appropriations. Within these guidelines, the Archivist of the United States may determine which activities funded by annual appropriations may continue to be performed either because the activities are required to protect life or property, because the

activities necessarily support such lawful functions, or because funds were properly obligated under an existing contract from appropriations available prior to the funding lapse. [See August 1995 OLC Opinion at pp. 3-4.]

h. The Archivist of the United States may identify additional NARA activities funded by annual appropriations, the continuation of which during a lapse is “necessarily implied” by the other funded activities. This would most likely occur in a partial lapse, where some other agencies retain funding while NARA experiences a lapse in appropriations. The rationale for this exception to the Antideficiency Act is that, by providing funding for other agencies, Congress has also provided an implied authority to continue those NARA activities that, if suspended, would prevent or significantly damage the execution of the funded agency’s functions. [See *Effect of Appropriations for Other Agencies and Branches on the Authority to Continue Department of Justice Functions During the Lapse in the Department’s Appropriations*, 19 Op. O.L.C. 337, 1995 WL 917146 (Dec. 13, 1995); see also OMB, *Frequently Asked Questions During a Lapse in Appropriations*, § I.B. (June 20, 2019), <https://www.whitehouse.gov/wp-content/uploads/2021/12/Agency-Lapse-FAQs-12-2-21.pdf>.]

### **103.3 NARA Implementation Plan for Agency Operations in the Absence of Appropriations.**

The following is the general framework for responding to a temporary lapse in appropriations. In this part, "temporary" means only the relatively short period, approximately one to five days, normally required for Congress to provide funds. If a lapse is extended or an activity is terminated, additional instructions will be issued.

a. All employees will be provided with advance notice of their status as excepted, non-excepted, or exempt employees. If it is not possible or practical to provide written notice, oral notice is acceptable (5 CFR 752.404 (d)(2)). Supervisors will inform excepted employees of their designation, and inform those employees that they are required to report for duty during the lapse in appropriations.

- (1) Employees who perform excepted activities must report for duty as directed throughout the lapse period. During an appropriations lapse, excepted employees are still in a paid status, but are working for delayed pay: They are not rendering gratuitous services and must report to work. Excepted employees will be excused from duty only in emergency circumstances, and may take leave or be furloughed for the duration of any absence.
- (2) Non-excepted employees will be furloughed during the lapse period and will not be permitted to work, even by remote access, during a funding lapse. Any non-excepted employee may be recalled to duty at any time, if needed to perform excepted functions or support an exempt activity.

- (3) Some employees may be recalled to duty in cases of emergency. In the event of an emergency that occurs during a lapse in annual appropriations, employees who were initially designated as "non-excepted" may be temporarily recalled from furlough to perform emergency functions.

b. Unless otherwise notified, all employees should report for work on the first business day after a lapse in appropriations. All non-exempt employees will be provided with notice of furlough and will be informed of their appeal and other rights. Excepted employees will be immediately recalled to duty for the duration of the funding lapse. Non-excepted employees will be released from duty no later than 12:00 PM that day. Released non-excepted employees are placed in non-duty, non-pay status by use of furlough under the adverse action procedures in title 5 of the Code of Federal Regulations (CFR) part 752.

- (1) The Office of Human Capital (H) will take all actions required by law or regulation to notify the Union of potential and/or actual requirements for furlough caused by a lapse in appropriations, subject to guidance issued by OMB or OPM.
- (2) The Office of Human Capital will issue furlough notices to individual employees, but will not document furloughs in Official Personnel Folders. Furloughed employees will not be paid during the funding lapse, but will receive retroactive pay for the period of the funding lapse, as soon as possible after the lapse ends. Upon returning to work after a furlough due to a funding lapse, supervisors will document furlough periods on excepted and non-excepted employees time and attendance records in accordance with instructions provided by the Chief Financial Officer (X), and will ensure this information is appropriately recorded in the time and attendance system (Quicktime).
- (3) Annual or sick leave may not be used by non-excepted employees in place of furlough. Excepted employees have the option to use paid leave for excused absences but are not required to do so and may choose to be furloughed during periods of excused absence. In the event of an appropriations lapse, all previously-scheduled annual, sick, court, bone marrow, and organ donation leave is canceled. Military leave will continue to be charged even though furlough days are considered non-work days. Employees serving as witnesses or jurors may retain all payments received from the court. Canceled or interrupted annual or sick leave is not forfeited, and can be used later.

c. In the event of an appropriations lapse, NARA will immediately suspend all appropriated activities. Except as authorized by this contingency plan, no activities that require action by or the on-site presence of an appropriated Government or contractor employee or otherwise requires the obligation of annual appropriations will be permitted. This includes activities – such as the NHPRC grants program and Repairs and

Restoration projects – that are funded by sources other than annual appropriations but are performed by employees funded from annual appropriations.

- d. Persons on official travel when funds lapse will be handled case-by-case.
  - (1) Travelers performing excepted functions, or supported by funds not affected by the lapse, remain on duty.
  - (2) Non-excepted travelers are placed on furlough. These employees must be immediately recalled to their duty stations because there is no authority to incur new obligations.

e. Except as permitted by subpar. (3) below, all NARA archival facilities and Presidential Libraries will be closed and secured for the duration of a funding lapse. Closure includes all public research rooms, museum exhibition areas, and public rental, use, or visitation areas – as well as all employee, contractor, and volunteer office and work areas – in the National Archives at Washington, DC (Archives I), the National Archives at College Park (Archives II), the Presidential Libraries, the National Archives at Atlanta, and archival and other appropriated operations in leased facilities. The Rotunda and other areas of Archives I comprising the National Archives Museum will close under this paragraph, as will the Presidential Library museums, education, and public outreach spaces and the grounds and public areas that are operated, maintained, and protected by NARA at Presidential Libraries.

- (1) Where a Presidential Library shares control of a facility with a private Library Foundation (i.e., where NARA does not own the facility and surrounding grounds, but has a right to use and control a certain portion of a facility owned by a Foundation or university), the NARA-operated portion of the facility will be closed and secured. NARA will not provide the Foundation with any janitorial services during a funding lapse and will not provide security or facility operations services beyond the minimum level necessary to protect life and property. This applies to the Presidential Libraries of former Presidents Nixon, Carter, Reagan, George H.W. Bush, Clinton, and George W. Bush.
- (2) A Foundation may, at its discretion, contract directly for security and janitorial services to support building rentals and other Foundation activities that are conducted in Foundation-exclusive or joint-control areas that the Foundation has the right to use pursuant to legal agreement with the United States. Foundations are required to use cleared NARA contractors and contractor personnel for such services in joint-control areas and are encouraged to do so for Foundation-exclusive areas during a funding lapse. Foundations must include provisions in the contract that require the contractor to adhere to NARA contractual requirements.
- (3) Notwithstanding any other provision of this policy, NARA may continue

to operate the museum areas of any Presidential Library where:

- (a) NARA and the Library Foundation have entered into a detailed agreement describing how operations would be maintained during a funding lapse, and the agreement is on file with OMB (as described in OMB Circular A-11, § 124.2);
- (b) The Foundation has provided funding, in advance of a lapse in appropriations, sufficient to provide for any costs NARA would incur to continue operations during a funding lapse; and
- (c) The Archivist of the United States has determined it is in the public interest to continue operations during a funding lapse.

(4) NARA Federal Records Centers will remain open. Where a Federal Records Center shares occupancy with archival or other appropriated operations, the portion of the facility that is used exclusively for appropriated activities will be closed to employees and the public and will be secured. Shared spaces will be available only to employees and contractors supporting Federal Records Centers Program (FRCP) activities.

(5) If a lapse continues for an extended period, the FRCP may perform a phased shutdown, which will occur over a longer period due to its status as an exempt funding source (see 44 USC § 2901 *note*). The Records Centers Revolving Fund is not immediately affected by a lapse in appropriations, as its operations are funded through fees collected from customer agencies for services rendered. During a funding lapse, the FRCP will continue to fulfill open orders against obligations incurred prior to the funding lapse, if the customer confirms that funds remain available and services are still needed. The FRCP may also accept new orders to support other agencies' activities if the customer confirms that those activities are not affected by the lapse (exempt or excepted activities). The FRCP will begin curtailing operations during a lapse if it begins to exhaust its inventory of open orders or if the cash balance of the Revolving Fund is depleted.

(6) Supplement 1 to this plan contains a current list of NARA facilities, including leased facilities.

f. Most NARA public websites will remain available, but will not be updated or monitored. For archives.gov and most other NARA websites, information will not be updated, web transactions will not be processed, and NARA will not respond to inquiries that are submitted during a funding lapse. Most NARA functions will not post to social media and will not respond to public comments posted on NARA social media during a funding lapse.



- (1) The Office of the Federal Register will use the Government Publishing Office Federal Digital System ([www.gpo.gov/fdsys](http://www.gpo.gov/fdsys)) for any web support necessary to perform their excepted functions under a funding lapse.
  - (2) The exempt FRCP may update its website ([www.archives.gov/frc](http://www.archives.gov/frc)) as needed and may use social media to communicate with customers, but only to the extent necessary to support excepted and exempt functions of its Federal agency customers.
- g. Goods and services will not be purchased under lapsed appropriations except when required to support excepted activities or when purchased with funds that are exempt from a lapse in appropriations.
- (1) New contracts will not be awarded except to support emergency requirements of excepted activities or when using an exempt funding source. Contract options for additional quantities or to extend the term of the contract will not be exercised unless it is determined that the additional goods or services are absolutely necessary to continue or support excepted activities, or if the options can be exercised without an obligation of funds or if funded by an exempt funding source.
  - (2) Prior to the onset of a funding lapse, the Chief Acquisition Officer (CAO) and General Counsel (NGC) will determine the legality of continuing with performance of all existing contracts during the lapse, regardless of whether performance will be full or partial performance. The CAO and the Contracting Officers will work with Contracting Officer Representatives and program offices to identify existing contracts and notify vendors of the status of each contract during a funding lapse.
  - (3) Contracting Officers will provide preliminary notice to all contractors that their contracts may be suspended or curtailed as a result of the potential lapse of appropriations. As part of orderly shutdown, Contracting Officers will issue the appropriate documentation to totally or partially suspend work.
  - (4) Contracts for supplies or services that are validly executed with current or prior-year appropriated funding sufficient to cover performance during the period of funding hiatus will not be automatically suspended unless continued performance requires access to Government personnel or facilities that are funded by annual appropriations. Those contracts that require access to appropriated personnel or facilities will be suspended, even if funded, except as required to protect life or property or when continued performance is *necessarily implied* by Congress. For example, acceptance of all routine deliveries, service calls, or changes to existing service will be suspended during the funding lapse.

- (5) All recurring contractual services for janitorial, landscaping, and repair and restoration activities (services above routine facilities maintenance) will be suspended for the duration of a funding lapse. A minimum level of IT services will be maintained under the NARA IT and Telecommunications Support Services (NITTSS) contract to support the IT requirements of excepted and exempt functions. NARA will continue cybersecurity functions as an “excepted” activity, including patch management, the security operations center, and maintaining incident response capabilities. NARA will also retain IT support necessary to monitor and to protect government IT equipment and building systems from power outages or service interruptions that could force emergency shutdowns.
  - (6) All contracts, regardless of funding, will be suspended if the involvement of appropriated personnel or facilities becomes necessary beyond that required to protect life or property or support exempt activities, or continue services that are *necessarily implied* by Congress.
  - (7) The CAO and NGC will determine, on a case-by-case basis, whether to continue contracts funded by exempt FRCP activities depending, at least in part, on whether a particular facility is operating during the funding lapse.
- h. The Archivist of the United States will notify OMB when NARA initiates agency shutdown activities in anticipation of or in response to a funding lapse.

#### **103.4 Excepted Functions**

- a. A limited number of activities (“excepted functions”) funded by annual appropriations may continue to be performed during a funding lapse, because the activities are required to protect life or property, because the activities necessarily support excepted functions, or because funds were properly obligated under an existing contract from appropriations available prior to the funding lapse and the contractor is able to perform work during the lapse period without access to Government facilities or personnel funded by annual appropriations.
- (1) Executives and Staff Directors will determine the minimum number of employees necessary to perform the excepted functions, if any, of their Service or Staff Office, subject to the Archivist’s approval. As a general principle, NARA will minimize the number of Executive, management, and supervisory personnel designated as “excepted”, and instead focus on employees delivering excepted services.
  - (2) A complete listing of approved, excepted personnel must be provided to the Chief Financial Officer no later than close of business on the last business day before current appropriations expire. The Chief Financial

Officer will forward the list of excepted staff to the Continuity Coordinator (BX).

b. This section defines excepted functions and personnel levels that continue during a lapse in appropriations. Activities not discussed are not excepted within the meaning of the law. If there are organizational changes, these instructions apply to the organizational unit that has been newly assigned the functions.

- (1) **The Archivist of the United States (N):** The Archivist is statutorily excepted from furlough. (1 employee)
- (2) **Deputy Archivist of the United States (ND), Senior Advisor to the Archivist, Chief Operating Officer (C), Chief of Management and Administration (M), and Executive for Agency Services (A):** The Deputy Archivist, Senior Advisor to the Archivist, Chief Operating Officer, and Chief of Management and Administration are excepted to the extent necessary to provide supervision and direction to excepted and exempt functions that continue during a funding lapse. The Executive for Agency Services is excepted in order to provide supervision and direction to the exempt FRCP. These individuals are not expected to work more than a few hours each day during a funding lapse. (Equivalent to 2 employees)
- (3) **The Office of the Federal Register (F):** The Office of the Federal Register and GPO will publish an edition of the Federal Register each work day that includes documents related to the protection of life and property. The Director of the Federal Register and such members of their staff as are deemed necessary to maintain this limited function are excepted. The Director of the Federal Register is further authorized to temporarily recall from furlough additional minimal staff to respond to unanticipated or emergency issues related to the publication of the Federal Register on a case by case basis. (Estimated to be approximately 12 employees)
  - (a) The daily edition of the Federal Register may also include documents from agencies with funded programs, but only if an agency can demonstrate that delaying publication until the end of the lapse would prevent or significantly damage the execution of funded functions at the agency. Where another agency has authority to conduct activities during a lapse and those activities require the publication of documents in the Federal Register, NARA's authority to publish is necessarily implied by the authority of the originating (issuing) agency. (Estimated to be an additional 12 employees.)

- (b) When a lapse in appropriations occurs in an election year, the Office of the Federal Register will perform the Electoral College functions assigned to it in Title 3, United States Code. The Office of the Federal Register fulfills the statutory responsibilities of the Archivist of the United States to preserve the records about Electors and their votes, make them available for public inspection, and, if necessary, provide copies to the President of the Senate. NARA has determined that this function is necessary to support Congress' exercise of its Constitutional powers and, as such, appropriated funds necessary to support these activities are available for obligation without regard to a lapse in funding. The Director of the Federal Register is authorized to retain as excepted all staff needed to perform those functions related to the Electoral College that are necessary to support the exercise of Constitutional powers by Congress.
  
- (4) **Office of Inspector General (OIG):** The Inspector General may use the services of such Audits and Investigations staff as are necessary to support ongoing criminal investigations and criminal enforcement proceedings that cannot be deferred, including staff required to support DOJ actions that cannot be deferred. The Inspector General is further authorized to temporarily recall from furlough additional minimal staff to respond to new criminal investigations or enforcement proceedings initiated during the funding lapse that cannot be deferred. (Estimated to be 1 employee)
  
- (5) **Facility and Property Management Division (BF) and Presidential Libraries (LP) Facility Managers:** A minimal number of Facility Managers are excepted in order to ensure the protection of Government property at NARA-owned facilities during a lapse in appropriations. Facility Managers will perform their normal duties as Contracting Officer Representatives to provide oversight and direction to facility management and security contractors. Among other duties, Facility Managers will periodically monitor the condition of original records held in archival storage bays and (where applicable) in display cases in museum exhibition galleries. One Facility Manager will be excepted for each of the following facilities: the National Archives at Washington, DC, the National Archives at College Park, MD, the National Archives at Atlanta, GA, and each Presidential Library facility (including the Ford Museum). (18 employees)
  - (a) Shutdown Operations. In the case of closed facilities, NARA will continue to incur obligations for utilities, building operations, and security services at the minimum level necessary to protect NARA buildings, records, and other property, including without limitation, NARA-owned buildings, leased facilities that NARA controls, and, for those Presidential Libraries not owned by

NARA, the portion of a facility that is under NARA's control (i.e., the portion considered the "presidential archival depository" for purposes of 44 U.S.C. § 2112(a)). The authority to incur obligations includes the minimum costs necessary to support excepted employees working at NARA facilities. [The word "necessary" is used in accordance with the "necessary expense doctrine." Government Accountability Office, Principles of Federal Appropriations Law, 4th Ed. (2017 revision), Ch. 3, pp. 3-14 to 3-28..]

- (b) Minimum level of service. In general, the minimum level of contract service to be provided is that level routinely maintained on the midnight shift. However, if building operations services are normally provided only on the day shift, a minimum level of preventative maintenance and systems monitoring may continue. For the National Archives facilities in Washington, DC, and College Park, MD, this means twenty-four hours per day, seven day per week coverage by one DC third-class building engineer per shift at Washington, DC; and one first-class building engineer plus one third-class engineer per shift at College Park. Security staffing at all facilities will be limited to the most restrictive staffing level generally employed (either the midnight shift or the Christmas Day shift).
- (c) Emergency Response Operations. In the event of actual or imminent emergency conditions adversely affecting any NARA-owned or occupied facility (e.g., fire, natural disaster, flood or water leak affecting records or artifacts, confirmed security threat conveyed via law enforcement channels), the Facility Manager will follow established emergency protocols, for example, closing off valves, shutting off pumps, stopping the water flow in another manner if a pipe breaks, and contacting the Security Control Center and the on-call conservator.
- (d) As soon as practical, the Facility Manager will notify the primary or alternate NARA Security Control Center of the nature of the emergency. If additional resources are needed to address the emergency, the officials listed below in this subparagraph may authorize the appropriate personnel to incur necessary obligations. This authority includes the ability to recall personnel from furlough and to work with warranted Contracting Officers and other procurement officials to contract for goods and services. This emergency authority to employ personal services also extends to other necessary personnel, including without limitation staff of the Office of the CFO, the Office of Human Capital, Information Services, and General Counsel.

- (e) With respect to Presidential Libraries, the authority in this subparagraph may be exercised by the Executive for Legislative Archives, Presidential Libraries, and Museum Services or the Director of the affected library. With respect to all other facilities, the authority may be exercised by the Executive for Research Services or the Executive for Agency Services; the Archival Director or Field Support Officer of the affected facility; the Director, Facility and Property Management (BF); or the NARA Continuity Coordinator (BX). The Archivist, Deputy Archivist, Chief Operating Officer, or Chief of Management and Administration may also exercise the authority specified above with respect to any NARA facility.
  - (f) The ongoing renovation of the National Archives Museum (NAM) at the National Archives building at Washington, DC, is funded through no-year appropriations provided “for preparations for the 250<sup>th</sup> anniversary of the founding of the United States.” Under the necessary implication doctrine, NARA has interpreted this language as permitting the continued services of appropriated employees and contractor services during a lapse in appropriation if and to the extent that delaying renovation until the end of the lapse would prevent or significantly impair the completion of the project in time for the 250<sup>th</sup> anniversary.
- (6) **Security Management Division (BX):** The Security Management Division will maintain a primary and an alternate Security Control Center twenty-four hours per day, seven days per week. Each Security Control Center may use up to a total of forty (40) hours per week of Physical Security Specialist services. The Division Director may “share” excepted positions by rotating multiple employees through each Control Center during a funding lapse, so long as rotating assignments do not exceed the total number of hours permitted each week. (Equivalent of 2 employees)
- (a) Unless otherwise designated as excepted pursuant to this contingency plan, all previously designated Information Security Program Managers and their designated alternates will be subject to recall and available to return to duty to perform services in the event of a potential or actual compromise of classified information under their responsibility.
  - (b) In the event of a continuity of government condition (COGCON) level change or continuity event disrupting the continuation of mission essential functions (MEF), the Archivist of the United States, the Deputy Archivist, the Chief Operating Officer, the

Chief of Management and Administration, and the NARA Continuity Coordinator are authorized to recall from furlough any employees deemed necessary to ensure continuity of operations, pursuant to NARA Interim Guidance 300-33 and the NARA Continuity of Operations (COOP) plan. The period of such recall will be for either 30 days or until normal operations can be resumed.

- (7) **Office of Human Capital (H):** The Chief Human Capital Officer and one Human Resources Specialist are excepted to support excepted and exempt activities, to include serving as the Agency's liaison with the Department of Labor for the coordination of Unemployment Insurance claims processing and providing furloughed employees with documentation necessary to protect Federal employee unemployment compensation rights (as required by the Department of Labor memorandum of August 29, 1995). (2 employees)
  
- (8) **Information Services (I):** The Chief Information Officer and up to five Information Technology Specialists are excepted to ensure continued operation and protection of the information infrastructure, avoid threats to NARA information and information systems, and protect from the permanent disruption to NARA systems or loss of NARA information. (5 employees)
  - (a) Staff are excepted to provide IT infrastructure support essential to maintaining excepted and exempt activities. At least one excepted employee will be a Contracting Officer Representative who will be retained to direct the work of IT support contractors under the NARA IT and Telecommunications Support Services (NITTSS) contract, in support of NARA excepted and exempt functions.
  
  - (b) Staff are excepted to maintain cybersecurity prevention, detection, and response capabilities. NARA information systems, networks, information, and electronic records (including archival records) are Government property. Cybersecurity functions are excepted in order to protect the security, confidentiality, and integrity of information systems and information owned by NARA or in NARA's custody.
  
- (9) **Office of the Chief Financial Officer (X):** The Chief Financial Officer and the Accounting Officer are excepted to perform financial management functions and provide support necessary to protect the government's interests in excepted and exempt activities during the funding lapse. The CFO will implement NARA's shutdown plan, when directed to do so by

OMB and approved by the Archivist, and will adjust the plan when needed to respond to the length of the appropriations lapse and changes in external circumstances. (2 employees)

- (10) **Office of the Chief Acquisition Officer (Z):** The Chief Acquisition Officer and one Contracting Officer are excepted to perform acquisition functions and provide support necessary to protect the government's interests in excepted and exempt contracts that continue during the funding lapse. (2 employees)
  
- (11) **Office of General Counsel (NGC):** The General Counsel is authorized to use the services of such members of their staff as are deemed necessary to provide legal advice on terminating or suspending contracts that are funded by annual appropriations; assist management in relations with employees, contractors, grantees, and other private entities impacted by a lapse in NARA appropriations; and provide support necessary to protect the government's interests in contracts and litigation that continue during the funding lapse. (1 employee)

c. **Emergency Reference Service:** The Executive for Research Services and the Executive for Legislative Archives, Presidential Libraries, and Museum Services will maintain the capability to provide excepted reference services in support of carrying out the Constitutional duties of the Congress and the President (e.g., the National Defense, the conduct of foreign affairs), law enforcement activities, health and safety of life or property of the Government, response to natural or man-made disasters, or similar necessary implications of supporting continuing Federal activities. These Executives are authorized to temporarily recall from furlough the minimal staff needed to respond to specific excepted reference service requests from other Federal agencies on a case by case basis. All routine reference services will be suspended during the lapse in funding.

d. **Federal Records Centers Program (FRCP):** The FRCP is funded by a mandatory appropriation, the Records Centers Revolving Fund, and is not subject to annual appropriations. The FRCP is, therefore, an "exempt" program that is authorized to continue operations during a funding lapse so long as it has: access to all facilities housing FRCs; work to perform for other Federal agencies or parts of agencies not affected by the funding lapse; and a sufficient cash balance available to cover current obligations. The FRCP is authorized to service new orders for other Federal agencies or components that are affected by the funding lapse, but only to the extent such orders support excepted or exempt functions of the customer agency.

- (1) **Emergency Reference Service.** The National Personnel Records Center (NPRC) provides vital emergency reference services in support of law enforcement activities, medical care of veterans and their families, and entitlement to VA burial benefits. In addition to any employees engaged in regular, ongoing FRCP operations during a funding lapse, the Director, NPRC, is authorized to employ the services of such members of their staff



as deemed necessary to provide emergency reference services. This authority will apply even if the regular, ongoing FRCP operations at NPRC have to be suspended.

- e. National Archives Trust Fund:
  - (1) Operations of the National Archives Trust and Gift Funds do not require the enactment of annual appropriations, and are therefore considered “exempt” from a funding lapse. However, because the conduct of Trust Fund business is so interconnected with appropriated activities, most Trust Fund operations will be suspended during a funding lapse, and all Trust Fund employees will be placed in furlough status. This prohibition includes without limitation support for point of sale or revenue accounting systems that are located in NARA facilities that will also be closed.
  - (2) Trust Fund operations necessary to support a Foundation agreement described in paragraph 103.3(e)(3) may continue during a funding lapse, if and to the extent provided for in that agreement. Any additional Trust Fund operations that are not dependent on appropriated activities may also continue off site to the extent there are tasks to be completed.

### **103.5 Restoring Operations after Resolution of a Funding Lapse**

- a. Once funding is restored, the Archivist of the United States will recall all Executives, Staff Directors, Presidential Library Directors, Archival Directors, Field Support Officers, and those employees that are necessary to restore NARA facilities and key equipment (office automation) to normal operations.
- b. The Chief Acquisition Officer will notify essential contractors (at a minimum, janitorial, facility management, and physical security) to restore normal operations at the National Archives buildings at Washington, DC and College Park, MD. Facility Managers at Presidential Libraries and the National Archives at Atlanta will notify essential contractors to restore normal operations at their respective facilities.
- c. At each facility, the designated official will report to the Chief Operating Officer once the security force has been reconstituted (at locations with an on-site security force) and the facility is clean and ready to be re-occupied. The Chief Operating Officer will issue authority to operate for that facility, and the designated official will initiate the recall of the NARA employees assigned to that facility. All NARA facilities should be returned to normal operating capabilities for staff (not necessarily the public) by 12:00 PM the first business day after funding is restored.
- d. The designated official for each site is as follows:
  - (1) National Archives buildings at Washington, DC and College Park, MD: Director, Facilities and Property Management Division (BF);

- (2) 800 North Capitol Street, Washington, DC: Director, Office of the Federal Register (F);
- (3) Presidential Libraries: Library Director;
- (4) Archival Facilities: Archival Director or Field Support Officer (FSO); and
- (5) Facilities without an on-site Archival Director or FSO: Senior staff on-site.

e. In the Washington, DC metropolitan area, the Chief Operating Officer will initiate the recall of employees working after issuing authority to operate for each facility. Outside of the DC metro area, designated officials will contact all assigned employees using personal contact information on employee contact lists and direct those employees to return to duty. This responsibility may be delegated through “cascading” notifications to subordinate managers and employees.

f. Non-expected employees will be recalled on a facility-by-facility basis, as soon as the Chief Operating Officer authorizes local officials to re-occupy each building. Non-expected employees should not return to duty until directed to do so by NARA. Non-expected employees are expected to stay current with the government’s operating status by checking the OPM website ([www.opm.gov](http://www.opm.gov)) or following local news outlets; however, NARA-specific recall instructions will be provided separately. Non-expected employees should not return to duty until instructed to do so by their manager or if directed to do so in recall instructions issued through the OpsPlanner auto-notification system or posted on [archives.gov](http://archives.gov).

g. As soon as employees begin to return to duty, Archival Directors, Presidential Library Directors, and other relevant managers will inspect all stack areas and artifact storage areas, processing spaces, research rooms, and exhibit spaces to assess the condition of NARA records, artifacts, physical space, and holdings protection systems and controls. The Director of the National Declassification Center, Presidential Library Directors, and Information Security Program Managers (ISPM) will conduct the same inspection of classified records and space.

h. After assessing the condition of artifacts and records – including classified records – and if no deficiencies are found, Archival Directors, Library Directors, and other relevant managers will take steps necessary to prepare to open research rooms and museum exhibits to the public. In general, and absent any extenuating circumstances, NARA facilities should plan to re-open to the public at the normally scheduled opening time on the second full business day after funding is restored.

**103.6 Required Preparatory Actions**

- a. All Offices will maintain appropriate emergency listings and ensure that these listings are current. The term "emergency listing" includes the "List of Emergency Employees", the "Roster of Key Officials", Disaster Recovery Operations lists, Security Container notification lists, and other lists of key personnel. These lists will be updated no less than annually.
- b. The Director of the Federal Register will develop necessary procedures pertaining to the publication of daily editions of the Federal Register that includes only those documents permissible under this directive (*see* paragraph 103.4b(3)). The Director will take appropriate action to inform all Federal agencies of these emergency procedures.
- c. Prior to a funding lapse, General Counsel (NGC) will catalog all active litigation matters, whether in Federal court or before administrative tribunals. The General Counsel will follow guidance from OMB and DOJ regarding the status of on-going litigation during a funding lapse and will ensure that necessary information is provided to the DOJ attorneys handling individual cases. The General Counsel will also coordinate with administrative tribunals (e.g., EEOC, MSPB) prior to the beginning of funding lapse about tribunal operations during the lapse and will submit any information needed by a tribunal regarding pending cases.
- d. All employees are expected to maintain updated emergency contact information using the Employee Locator function on the NARA intranet, NARA@work.

**103.7 Primary and Alternate Security Control Centers**

- a. Primary Security Control Center  
  
Security Control Center  
Archives II (Room 1250)  
Voice: (301) 837-2900  
FAX: (301) 713-6297  
e-mail: physical.security@nara.gov
- b. Alternate Security Control Center  
  
Security Control Center  
Archives I (Room G-6)  
Voice: (202) 357-5023  
FAX: (202) 357-5932  
E-mail: physical.security@nara.gov