NATIONAL ENDOWMENT FOR THE HUMANITIES

ADMINISTRATIVE DIRECTIVE M-500

Agency Operations in the Absence of Appropriations

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ADMINISTRATIVE DIRECTIVE M-500

Agency Operations in the Absence of Appropriations

1. PURPOSE: This directive sets forth contingency plans in the event of a funding hiatus caused by the absence of appropriations, either through failure to pass a regular appropriation bill or a continuing resolution.

2. REFERENCES AND AUTHORITIES:

A. OMB Bulletin 80-14, August 28, 1980
B. OMB Bulletin 80-14, Supplement 1, August 20, 1982
C. OMB Circular A-11: Preparation, Submission, and Execution of the Budget, June 2015, Section 124
D. U.S. Department of Justice, Office of Legal Counsel, *Government Operations in the Event of a Lapse in Appropriations*, memorandum from Walter Dellinger, Assistant Attorney General, for Alice Rivlin, Director, Office of Management and Budget, August 16, 1995
E. 31 U.S.C. Section 1341, The Anti-Deficiency Act (prohibiting the obligation of government funds in advance of an appropriation)
F. 31 U.S.C. Section 1342, Limitation on Voluntary Service (states that no Federal employee may accept voluntary services, unless authorized by law)

3. POLICIES AND RELATED PROCEDURES:

A. General Policy Governing Agency Shutdown. It is the policy of NEH that in the event of a funding hiatus, the agency will proceed with the orderly shutdown of operations, beginning on the first workday of the hiatus, and will limit all work activity to actions necessary for such a shutdown. It is estimated that such actions will require not more than one-half workday. Since it is assumed that such a hiatus would be temporary and of short duration, no action will be taken that will impede the orderly commencement of operations once funds are available. The Chairman or his designee will notify all division/office directors regarding which activities and personnel are designated as excepted and therefore exempt from the furlough, as well as the duration of each exemption.

During a shutdown all of the agency's core functions will be halted, including but not limited to application processing, application review, grant oversight, grant payments, staff travel, staff training, and procurement activity.

B. Policies Governing Information Technology Systems. The agency's mission-critical information technology systems will be maintained during a shutdown so that they are available to "excepted" employees and so that data isn't lost or damaged during the shutdown. However, after the end of the first half day of the hiatus, access to NEH's

systems—whether through VPNs; Outlook Web Access; or smart phones, tablets, or other mobile devices —will be disabled for non-excepted employees.

C. Policies Governing NEH's Website. Public NEH web sites such as www.neh.gov and edsitement.neh.gov will remain up, but will not be updated. A prominent notice will be added to the main landing page of each site that reads:

> Due to the unavailability of appropriated funds to continue the operations of the National Endowment for the Humanities, the agency has been shut down. Consequently, this website is not being maintained and the information it displays may not be up to date. The Endowment will not be able to update information, process any transactions submitted via the website, or respond to any inquiries until funding for NEH is restored and the agency resumes its operations.

The automated grants.gov application portal, which is administered by another agency, but which processes grant applications to NEH and other federal agencies, may continue to be operational during a shutdown. Access to all other automated, NEH-hosted web services, such as GMS and eGMS, will be disabled.

Technical support will be limited to those problems which are remediable by an excepted employee from the Office of Information Resources Management. There will be no helpdesk or contact support for grantees, panelists, or the general public.

D. Policies and Procedures Applicable to Furloughed Employees.

(1) On Annual Leave. Employees on approved annual leave will be notified that as of the completion of shutdown activities, all leave is cancelled for the duration of the shutdown period. Such employees will be furloughed for the full hiatus period and, when funds are restored, either returned to duty or placed on annual leave, as appropriate. Supervisors must make every effort to reschedule the annual leave cancelled due to a shutdown for use before the end of the current leave year, especially if such leave may be subject to forfeiture at the beginning of the subsequent leave year.

(2) On Sick Leave. Employees who, at the time of the lapse of appropriations, are on approved sick leave will not be permitted to continue in sick leave status during the funding hiatus.

(3) On COP Leave. Employees absent on continuation of pay (COP) leave in connection with a job-related injury at the time of the lapse of appropriations will remain in a COP status until determined to be fit for duty by a competent medical authority, or until COP leave totals 45 days, if the latter is earlier. If the hiatus remains in effect when the employee is determined to be fit for duty, he/she will be placed on furlough. At the end of the maximum allowable 45 days of COP leave, if the employee remains incapacitated, he/she will be placed on leave without pay and instructed to file an application with the Department of Labor for receipt of workers' compensation payments.

(4) On Advanced Sick or Annual Leave. No advanced sick or annual leave is authorized for use during a funding hiatus. Upon a lapse of appropriations, such leave must be cancelled and the employee furloughed.

(5) Leave Use. No annual or sick leave may be taken during a funding hiatus.

(6) On Travel. Employees on travel status, including those on travel in connection with training or details funded by the Endowment, should be contacted by their supervisors and told that they will be furloughed as of the completion of the shutdown. Such employees may choose to return home immediately, or, with the approval of their supervisor, they may elect to stay in place at their travel sites in order to continue participation in their travel-related activity. Authorization for such continued participation should rarely be granted, such as when the activity has already been paid for and there would be limited costs associated with the employee's continued participation (e.g., a funding hiatus that occurs on the fourth day of a five-day training session for which funding has already been obligated). In either case, such employees will be paid the appropriate per diem for travel to return to their duty station, whenever that return travel occurs. However, payment of salary and/or per diem will not be authorized for the furlough period except as provided for in the language of a subsequent appropriations bill.

(7) At Local Training. Employees absent from the worksite in connection with training at local facilities must be advised that they will be placed on furlough for the duration of the funding hiatus. Such employees will be expected to discontinue their participation in the training session and return home immediately.

(8) On Detail. Employees on non-reimbursable details to other agencies will be notified of the exact date and time at which they are to be furloughed, i.e., at the conclusion of the shutdown, and instructed to notify the appropriate officials of the agency to which detailed of their furlough status.

(9) IPA and Contract Service. Persons serving the Endowment under contract or IPA assignment agreements are technically not subject to furlough. These individuals who are in travel status at the time of the appropriations lapse may continue on their assignment or return to Washington, D.C. Per diem and travel expenses will be paid for the return travel, whenever it occurs. However, per diem at the travel site for the period covered by the funding hiatus will be paid only as the language of a subsequent appropriations bill allows. Those not in a travel status or who are returning from travel during the furlough period will be expected to continue in a work status during the furlough period, or until expiration of the contract or IPA agreement, if that is earlier. Building facilities and services, however, should not be used during the funding hiatus. All contractors and assignees will be paid in accordance with their specific agreements for the hiatus period.

(10) Telework. In the event of a government shutdown, NEH policy treats telework the same as working at the employee's regular duty station—i.e., all non-excepted employees will be furloughed, whether or not they telework.

4. SHUTTING DOWN AGENCY OPERATIONS: The following actions will be taken to shut the agency down following a hiatus in funding:

A. Employees will be advised by the Chairman or his designee of a possible funding hiatus as soon as such an event is deemed likely. Supervisors will be responsible for notifying absent employees of the impending shutdown as soon as possible.

B. All employees, including those whose regular AWS day falls on the first day of the funding hiatus, will be expected to report to work on the first workday of the hiatus, but will only engage in actions necessary to shut down the Endowment on that day. These may include, among other things: canceling meetings, panels, and other scheduled Endowment business; answering telephones and advising callers of the pending shutdown; issuing a press release advising the general public of the shutdown; securing files, confidential materials, official work papers and documents; documenting the status of projects so that work can be resumed with the least disruption possible; recalling employees from travel and advising those on leave that they will be furloughed; recording voice-mail messages informing callers of the shutdown; posting suitable "out of office" auto-replies on employee email accounts; updating their contact information in the agency's Emergency Notification System; and turning off printers, copiers and computer systems in their offices.

   Orderly shutdown activities may be conducted remotely by employees with valid telework agreements and prior supervisory approval.

C. Official files are to be secured as they would be if the agency were to be closed for a long weekend. Employees should ensure that official papers for which they are responsible are secured.

D. Administrative processing of the payroll for the pay period will continue as necessary to ensure that employees are paid on time for all work prior to the shutdown. Timekeepers will record time and attendance on all timecards for the current pay period through the final hour of the shutdown and transmit the authorized timecards to the National Finance Center.

E. On the first workday of the funding hiatus, the staff of the Office of Human Resources will deliver individual furlough letters to office directors for distribution to their employees. Every effort will be made to deliver an individual furlough letter to each employee; however, it should be noted that an employee can be furloughed without first receiving a written notice of a decision to furlough. If prior notice is not feasible, then any reasonable notice is permissible. Examples of a reasonable notice include notification by e-mail or at an all-staff meeting.

F. Supervisors will instruct employees to limit their work activities to those functions necessary for the orderly cessation of operations. Once employees have completed their assigned shutdown tasks and received a furlough notice, they will be asked to leave the worksite. It is expected that most employees will be

furloughed prior to 12:00 noon. Employees will be advised to listen to the news media for word of a recall from furlough. Any such news will also be conveyed to staff via the Endowment's Emergency Notification System.

G. As office shutdown functions are completed and employees furloughed, the immediate supervisor will notify the office director that all shutdown activities have been completed and all employees have been furloughed. All remaining employees, except the Chairman (who by law cannot be furloughed) and any employees designated as "excepted" under the pertinent guidelines, will be furloughed before the end of the day.

H. On the day the agency is shut down, responses to telephone and email inquiries to the Endowment will be limited to explaining the funding hiatus.

I. Panel meetings scheduled for the first day of the hiatus may be held as scheduled, at the discretion of the division director. Any staff members who are required to work in support of such panel meetings will be granted "excepted" status for that day. To the extent any new obligations of funds are needed in support of panels held on the first day of a hiatus, such obligations will be made using existing surpluses of previously appropriated funds. The status of panel meetings scheduled after the first day of the funding hiatus will be determined on a case-by-case basis by the Assistant Chairman for Planning and Operations.

J. All payments scheduled to be paid during the furlough periods that were authorized under prior obligations, e.g., travel and per diem, contract payments, IPA supplemental salary or per diem, will be delayed until the furlough period is ended.

K. The director of the Administrative Services Office will be responsible for notifying all appropriate GSA and DHS parties of the agency shutdown to ensure continuity of security services. Similarly, this individual will be responsible for notifying all contract vendors who are scheduled to execute the terms of a contract during the anticipated hiatus period of the lapse of appropriations. Expenses incurred by reason of necessary cancellations will be paid when funds are restored.

L. As noted previously, it is expected that the agency shutdown will be completed by noon of the first workday of the hiatus. Division and office directors will take such actions necessary to ensure orderly accomplishment of this goal. Offices that will require additional time to accomplish the shutdown will notify the director of Administrative Services as soon as the need for such additional time becomes apparent.

M. It is the employee's responsibility to stay informed as to the status of agency funding during the hiatus. Employees are expected to report to work as scheduled on the first workday after the enactment of an appropriation or continuing resolution that makes funds available to the agency. Notification will be made through the Emergency Notification System as well as NEH's website.

N. When the funding hiatus ends and employees are recalled from furlough, the Office of Human Resources will document all furlough periods with a "Notification of Personnel Action" (Standard Form 50). This action may not be necessary if legislation is enacted that provides for retroactive pay.

5. STATUS OF EMPLOYEE BENEFITS

A. Unemployment Compensation Benefits. Furloughed employees are not eligible for unemployment compensation benefits for any week in which salary exceeds the maximum unemployment compensation payable. Therefore, employees who wish to apply for unemployment compensation should file a claim with the District of Columbia Unemployment Compensation Board during the first week in which salary does not exceed the maximum unemployment compensation benefit. The first week in which a claim is filed is considered a waiting period and no unemployment compensation will be paid for that week. Unemployment compensation payments will commence at the beginning of the week after the one in which an eligible claim is filed. The information and employment certification necessary to file unemployment compensation claims will be furnished to all furloughed employees by the Office Human Resources as an attachment to the notice of furlough.

Copes of Standard Form 50 can be obtained through the electronic official personnel folder (e-OPF) system or employees may contact the Office of Human Resources for a paper copy.

B. Health Benefits Costs. Federal regulations require all employees enrolled for coverage under the Federal Employees Health Benefits Program (FEHB) to pay the employee's share of the premium cost for the elected coverage for each pay period during which enrolled, whether in a pay or non-pay status. Therefore, enrolled employees will incur an indebtedness to the federal government equal to the amount of the employee contribution for health benefits for each pay period in which no deductions are made. Once an employee is returned to a pay status, the delinquent amount will be automatically deducted from the bi-weekly gross pay, in addition to other authorized deductions, until the indebtedness is liquidated.

C. Leave Accrual. For leave accrual purposes, the effect of the furlough period for covered employees will be as described below:

(1) Full-Time Employees

a. Under current leave regulations no sick or annual leave accrual will be credited for any pay period during the leave year in which an employee accumulates 80 hours in a non-pay status. Therefore, the regular leave accrual will be credited to all employees for each pay period during part of which the employee is in a pay status, unless the furlough time or the combined furlough time and previously accumulated Leave Without Pay equals or exceeds 80 hours.

b. In addition, no leave will be earned or credited for any pay period during which an employee is in a non-pay status for the full pay period. If furloughed employees are returned to duty for a partial pay period following a pay period in which they were in a non-pay status for the entire pay period, leave accrual will be pro-rated based on the number of days in a pay status as follows:

PRO RATA TABLE

Biweekly pay period	Hourly accrual rate		
Workdays	Cat.4	Cat.6	Cat.8
1	1	1	1
2	1	1	2
3	1	2	2
4	2	2	3
5	2	3	4
6	2	4	5
7	3	4	6
8	3	5	6
9	3	5	7
10	4	6	8

NOTE: Use hourly accrual rate for category 4 for sick leave accrual.

(2) Part-Time Employees

Part-time employees will continue to be credited with leave based on the number of hours in a pay status.

D. Retirement and Life Insurance

For most employees these two benefits remain unaffected by the furlough. However, employees for whom the furlough period, when added to previously accumulated leave without pay (LWOP), will cause the total non-pay time to exceed six months in the current calendar year or twelve consecutive months, should contact the Office Human Resources for additional information.

The Office Human Resources will notify the appropriate finance centers of the furlough actions on employees receiving military retirement or retainer pay.

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Margaret (Peggy) Plympton

Peggy Plympton
Deputy Chairman

AD M-500
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APPENDIX

Personnel Considerations During a Funding Hiatus

Current number of NEH staff, including full-time, part-time, temporary, and intermittent employees: 190

Number of staff to be designated as "excepted" during a shutdown: 7

Identity of "excepted" employees and reasons for their designation as such:

1. Chairman: Exempt from furlough by statute.

2. Deputy Chairman: To provide advice and guidance to the Chairman and excepted staff on policies and procedures related to the shutdown as they affect agency operations.

3. Assistant Chairman for Planning and Operations: To coordinate the agency's shutdown-related activities and to provide ongoing liaison with OMB for the duration of the shutdown period.

4. Chief of Staff: To facilitate communications with the White House and Congress and to coordinate NEH's response to any such communications.

5. Director, Office of Administrative Services: To provide all needed administrative support to excepted employees and to serve as liaison with the General Services Administration and the Department of Homeland Security on matters related to building access and operations.

6. Director, Office of Human Resources. To coordinate any and all communications with furloughed staff and to provide advice and guidance to excepted employees on personnel-related issues that might arise during a shutdown.

7. Systems Operations Supervisor, Office of Information Resources Management: To maintain a secure and viable IT infrastructure for excepted employees and to oversee the physical security and soundness of our network infrastructure.

Note: The Chairman has authorized the Assistant Chairman for Planning and Operations to modify the designation of excepted employees as necessary to accommodate unforeseen circumstances, consistent with any limitations provided as to the total number of agency positions that may be designated as "excepted" during an appropriations lapse.