

March 18, 2024

MEMORANDUM FROM THE ASSISTANT ADMINISTRATOR FOR MANAGEMENT

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

SUBJECT: Guidance on USAID Operations during a Lapse in Appropriations

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

The attached guidance is divided into two chapters to ensure clear operating instructions during a lapse in appropriations when: (a) base Operating Expense (OE) funding is available (Chapter 1); and (b) no base OE is available (Chapter 2).

**If no appropriation is enacted by midnight, March 22, 2024, the Agency will determine which chapter will apply and communicate the decision through an Agency/Executive message.**

Responses to frequently asked questions are posted at <https://www.usaid.gov/lapse-in-appropriations>.

If you have any questions, please send an email to [shutdown\\_info@usaid.gov](mailto:shutdown_info@usaid.gov).

## Chapter 1

Chapter 1 applies to a scenario where there is no new base Operating Expense (OE) appropriation or continuing resolution (CR) for FY 2024, but the Agency has decided to continue operating using residual OE balances until these funds are insufficient to continue as described below.

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

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

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

- Operating Units (OUs) may not exceed residual balances identified by M or BRM, pursuant to OMB Circular A-11, sections 120 and 124;
- OUs managing multi-year foreign assistance programs can make new obligations with FY 2023 and prior-year funds in coordination with BRM and the Office of U.S. Foreign Assistance Resources (F);
- OUs managing multi-year Ukraine supplemental appropriated funds can make new obligations in coordination with M/MPBP.
- Commitments and obligations to new programs, projects, or activities should not be made except to protect life and property;
- No new purchases of equipment, services, or supplies for operational purposes may be made;
- No new travel using residual balances should be arranged; no one should make new arrangements to attend conferences;
- Previously approved travel that is expected to commence on or after March 22 must be approved by the Bureau or Independent Office Head or the Mission Director and a copy of the travel approval sent to the M/AA Tasker at [maataskermaillist@usaid.gov](mailto:maataskermaillist@usaid.gov);
- No new offers of employment may be made as of March 21;
- Prospective employees with a final offer letter may report for work;
- For medical emergencies, obligations for medical travel and services can be incurred;
- Previously scheduled and funded training may continue as planned;
- No representational events may be held, unless approved by the Bureau's Assistant Administrator (AA) or Mission Director and the AA Bureau for Legislative and Public Affairs (LPA);
- No speeches should be made unless approved by the AA/LPA;
- Filings for petty cash reimbursements may be made, but no money can be disbursed until an appropriations act or a CR has been enacted;
- The Smart Benefits (Metrocheck) program will continue;

- No overtime is authorized;
- Compensatory time may be accrued; and
- Time and attendance procedures will continue as normal.

The above rules and restrictions do not apply to supplemental Ukraine OE.

Until there is an appropriation or a CR, any exceptions to the above rules and restrictions must be approved by the Assistant Administrator, Bureau for Management in writing or as stated.

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

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

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

## Chapter 2

Chapter 2 applies to a scenario in which base OE balances are insufficient to continue operations and there is no new appropriation or CR. If your operating unit is instructed to deliver furlough letters to personnel performing “non-excepted” functions, only “excepted” functions will be continued until appropriations are restored.

When a shutdown furlough goes beyond 30 days, agencies must treat it as a second shutdown furlough and issue another furlough notice, under 5 CFR 752 (Adverse Actions) (if applicable) for most employees, or under 5 CFR 359, subpart H (if applicable) for the Senior Executive Service. A written notice to furlough must be provided to each employee as soon as possible after the beginning of the second shutdown furlough. The Office of Management and Budget will provide guidance to all affected agencies concerning the timing of these second notifications. In the event OMB directs agencies to proceed with providing second furlough notices prior to the end of the first furlough period, agencies should explain that the second notice will be effective should the lapse in appropriations continue past the initial furlough period.

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

- I. Exempt Positions
- II. Determination of “Excepted” Functions
- III. Orderly Shutdown of Employees Performing “Non-Excepted” Functions
- IV. Personnel
- V. Lapsed Funds
- VI. Travel
- VII. Training
- VIII. Allowances
- IX. Grants and Contracts
- X. Obligations and Disbursements
- XI. Time and Attendance Reporting
- XII. Outside Functions
- XIII. Representation Events

## Summary of Shutdown Impacts

<b>Lapse Plan Summary Overview</b>	
Estimated time (to nearest half day) required to complete shutdown functions:	<i>.5 days</i>
Total number of agency employees expected to be on board before implementation of the plan:	<i>4,421</i>
<b>Total number of employees to be retained under the plan for each of the following categories<sup>1</sup>:</b>	
Compensation is financed by a resource other than annual appropriations:	<i>133</i>
Necessary to perform functions expressly authorized by law:	<i>0</i>
Necessary to perform functions necessarily implied by law:	<i>343</i>
Necessary to the discharge of the President's constitutional duties and powers:	<i>1,149</i>
Necessary to protect life and property:	<i>133</i>
<b>Brief summary of significant agency functions that will continue during a lapse:</b>	
The Agency will continue those activities necessary to protect life and safeguard government property and records and conduct foreign relations essential to national security.	
<b>Brief summary of significant agency functions that will cease during a lapse:</b>	
The Agency will impose an immediate hiring freeze; suspend entry-on-board for prospective employees with employment offers; suspend the accrual of some allowances as stated in the Allowance section of this guidance; discontinue certification and authorization of payment against USAID obligations incurred after the lapse; and cease participation in representation events.	

### I. Exempt Positions

Operating units with available balances in multi-year and no-year appropriations, trust funds, or the Working Capital Fund, as identified by the Bureau for Management (M) and the Office of Budget and Resource Management (BRM), are exempt from the shutdown and will continue to operate until their respective balances are insufficient to continue. All personnel funded by these accounts are exempt from the shutdown and will continue to work until funds are depleted.

### II. Determination of “Excepted” Functions

Definition of “Excepted” Functions: For planning purposes, USAID categorizes "excepted" functions that may be continued in the absence of OE appropriations as those necessary to protect life and safeguard government property and records, conduct foreign relations essential to national security, carry out the orderly shutdown of operations, and provide essential administrative support to employees performing “excepted” functions. Questions related to whether a specific

<sup>1</sup> These numbers are updated as of February 2024 using the same ratios used for the September 2023 counts.

function can be performed by an employee who is otherwise performing functions under the following categories should be directed to the Bureau or Independent Office head or Principal Officer, who will consult with the Office of General Counsel (GC) or the Resident Legal Officer (RLO) and provide a response.

Employees performing the excepted functions described above would not be furloughed as a result of a shutdown, per one of the statutory exceptions below:

1. Authorized by necessary implication: Certain functions could be implicitly authorized because of their connection with other operations which are otherwise available to continue. This exception includes functions necessary to provide essential administrative support to other employees performing “excepted” functions.
2. Necessary for safety of human life or protection of property: The risk to life or property must be real, not hypothetical, so that discontinuing the function would pose an imminent threat.
3. Discharge of President’s constitutional duties: The conduct of foreign relations essential to national security is such a discharge of the President’s Constitutional duties.
4. Necessary for the orderly shutdown of functions: USAID defines this category as those employees necessary to continue shutdown functions beyond the expected four hours for all other furloughed functions. Functions of employees during this period must be wholly devoted to closing down the function and, upon completion, these employees are furloughed. USAID expects the number of employees continuing to perform functions under this exception to decrease during the lapse of appropriation.

Employees performing "excepted" functions will continue to report to work and perform their duties, as will employees exempt from the shutdown. Similarly, OE-funded administrative services contracts, which are fully funded through any potential shutdown period, may also continue.

USAID Assistant Administrators and Independent Office Directors are responsible for providing all due assistance to the M Bureau and the Office of Human Capital and Talent Management (HCTM) in developing and maintaining the list of personnel who will be expected to perform “excepted” functions in the absence of an appropriation or CR.

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

In the case of Cooperating Country National personal service contractors (CCNPSCs) and FSN direct hires, if host-country labor laws provide that CCNPSCs and FSNs must be paid regardless

of attendance (i.e., local labor law explicitly or in effect prohibits furloughing CCNPSCs and FSNs), the analysis for whether they may be authorized to work remains the same: any “excepted” status must be justified based on the above-mentioned criteria. CCNPSCs and CCNs whose functions do not meet the criteria to be deemed “excepted” will be placed on administrative leave. See also p. 16 of this guidance. Supervisory Americans of CCNPSCs and FSNs may not be “excepted” automatically on the basis of their supervisory role. Their “excepted” status must be independently justified based on the above-mentioned criteria.

The list of recommended personnel performing “excepted” functions, in Washington and at post, must be updated and provided to HCTM 10 business days prior to expiration of an OE appropriation or as instructed if needed sooner. The M Bureau and Office of the General Counsel (GC) will then review for compliance with A-11, Section 124 guidance.

### **III. Orderly Shutdown of Employees Performing “Non-Excepted” Functions**

All employees scheduled to work on the first workday following a lapse in appropriations should report for work (this can be done in person at the duty station or electronically if the position allows for it). Employees who perform “non-excepted” functions should perform only those tasks necessary to safeguard property, records, and information and to complete administrative functions, such as processing payroll for pay through the last workday before a lapse in appropriations. In addition, personnel who perform “non-excepted” functions are expected to take measures to secure files; make external contacts necessary to communicate the office's status, such as notifying parties of the cessation of normal business; canceling non-essential meetings, conferences, and other previously arranged business; taking necessary action to protect confidential information; and processing unpaid bills for obligations incurred prior to the last workday before a lapse in appropriations. These functions may take up to four hours for employees.

After performing the functions necessary for an orderly suspension of “non-excepted” operations, employees performing “non-excepted” functions will be placed in a furloughed status.

Managers are reminded that the government cannot accept voluntary services; therefore, no employee may work if he or she is in a “non-excepted” status. Employees are advised that "work" includes reporting for work and accessing the Agency's network using a remote-access token or mobile device and teleworking. These employees should be advised to monitor the news for information on an additional CR and should report back for work on their next scheduled workday once another CR or an appropriation bill is enacted (passed by the House and the Senate and signed by the President), unless told to do so earlier (i.e., for rotation or other purposes).

HCTM will scan and send electronically furlough notices and Form SF-8, Unemployment Compensation for Federal Employees Program, to Bureau/Independent Office Administrative Management Staff (AMS) and Executive Officers (EXOs). In an email attaching the furlough notice and Form SF-8, HCTM will instruct AMS and EXOs to forward in electronic format using delivery receipt the furlough notices and Form SF-8 to individual “non-excepted” employees as quickly as possible on the day of the shutdown or the next business day if the

shutdown begins on a non-duty day. AMS and EXOs will need to maintain copies of deliveries/receipts for the record.

HCTM will instruct the responsible AMS office to send a copy of the furlough notice and Form SF-8 to employees performing “non-excepted” functions who are not at work. Executive Officers should advise the Director, HCTM/Foreign Service Center (FSC) of the names of employees performing “non-excepted” functions who are on leave or travel in the U.S. and will not return to post within two weeks of the furlough. Executive Officers should also provide a contact or email address for these employees, and HCTM/FSC will attempt to forward the furlough notice and Form SF-8 to each employee. EXOs should confirm with each of these employees as they return to post that they have received notification of the furlough. If employees are on temporary duty at other overseas posts, the EXOs should contact those Missions for assistance in delivering the furlough notices and getting an acknowledgement of receipt, citing this guidance in support of the request.

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

#### **IV. Personnel**

##### U.S. Direct-Hires (USDH)

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

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

Per the Government Employee Fair Treatment Act of 2019, all USDH employees shall be paid for the period of a lapse in appropriations (including any time on furlough and any time actually worked) at their standard rate of pay at the earliest date possible once Congress passes a new appropriations act to end the lapse in appropriations. All “non-excepted” personnel support functions should be suspended including unfunded security investigations.

Foreign Service Limited (FSL) positions: USDHs in FSL positions must check with their AMS or EXO on their status since FSL positions are funded from multiple accounts. Program-funded FSLs who are initially paid from the OE account will be notified if their position is “excepted” or “non-excepted,” in the same manner as OE-funded USDHs.

Civil Service Excepted (CSE) positions: USDHs in CSE positions must check with their AMS. If they are funded with no-year or multi-year program funds, then they should follow the guidance above for exempt positions.

Administratively Determined (AD) positions: USDHs in AD positions must check with their AMS on their status, as their functions would be evaluated in the same manner as other USDHs.



### Direct-Hire Foreign Service Nationals (FSNs)

Under local labor law, if FSN direct-hires are required to be paid, whether or not they work, they may work if they can be properly supervised or placed in the appropriate leave category. Supervisory American staff may not be justified as “excepted” employees merely because of their supervisory role; their “excepted status” must be independently justified. If supervisors are determined to be “non-excepted” and FSN staff cannot operate without such supervision, FSNs must be placed on administrative leave/excused absence/other appropriate designation.

During any lapse of appropriations, Missions should obligate benefits and allowances (reference Emergency OE Obligations) for those FSNs who are required to work. However, any such obligations will be liquidated only after USAID receives a new appropriation covering their functions. **Operating units should contact [shutdown\\_info@usaid.gov](mailto:shutdown_info@usaid.gov) to provide information about the nature and value of the obligation incurred.**

CCN and Third Country National Personal Service Contractors (TCNPSCs) should refer to Section IX. Grants and Contracts.

Fellows should refer to Section IX. Grants and Contracts.

### Participating Agency Service Agreement (PASA)

PASA employees must coordinate with their home agency, in consultation with their current Operating Unit (OU), to determine their “excepted” status.

### Part-Time Employees

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

### Intermittent and When Actually Employed (WAE) Employees

Intermittent and WAE employees are non-full-time employees without a regularly scheduled tour of duty and called to duty, as needed. Intermittent and WAE employees who perform “non-excepted” functions will be furloughed. If an intermittent or WAE employee is called into work during a furlough, it must be to perform “excepted” functions.

### Employees on Alternative Work Schedules (AWS)

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

### Federal Employees on Detail

Employees detailed from (or to) USAID to (or from) another Federal agency who are performing “excepted” functions in their current positions will not be furloughed. However, these employees should first coordinate with their home OUs in case they are needed to perform “excepted” functions there and to ensure compliance with home OU shutdown

guidance. For more information and details involving non-Federal agencies, refer to OPM guidance.

### Rotation of Personnel

Managers may rotate personnel to perform “excepted” functions. However, managers should consider the following factors when deciding staff rotations:

- a. Managers should consider the impact the rotation schedule may have on unemployment compensation eligibility for the employee, based on local jurisdictions' unemployment insurance policies.
- b. Decisions on rotations for specific positions should balance the Agency’s need for continuity and equity to the employees.
- c. Managers should determine on what basis rotations will occur (i.e., daily or for longer periods), but due consideration should be given to continuity and fairness.
- d. Personnel rotated into and out of an “excepted” function must have the requisite qualifications to perform the function.

Management decisions to rotate personnel into and out of an “excepted” function must be documented in writing and the information submitted to [shutdown\\_info@usaid.gov](mailto:shutdown_info@usaid.gov). In the email, please use the following subject line, “CHANGE IN EXCEPTED LIST.”

## **V. Lapsed Funds**

Should a lapse of appropriations occur, the Office of the Chief Financial Officer (M/CFO) will post the funds that have lapsed, are deemed to have expired, and will not be available for new obligations for the duration of the shutdown. The list of funds will be posted at the following webpage:

<https://www.usaid.gov/lapse-in-appropriations>

The recording of a commitment prior to a lapse in appropriation has no impact on this prohibition; commitments against lapsed funds may not be obligated during a lapse of appropriations.

Once a shutdown occurs, the funds that have lapsed will be marked in Phoenix so as to prevent new spending. Upward adjustments to existing obligations that were recorded prior to the shutdown are permissible. Operating units must follow current procedures to request approval from M/CFO to record upward adjustments against the funds in the posted list.

Emergency OE obligations during a lapse of appropriations should be handled as outlined in Section X.

## **VI. Travel**

All international travel that is expected to commence on or after [date to be inserted] must be approved by the Bureau or Independent Office Head or Mission Director. Operating units must send a copy of the travel approval to the M/AA Tasker at [maataskermaillist@usaid.gov](mailto:maataskermaillist@usaid.gov). This includes travel by U.S. direct hires and personal service contractors (including U.S., Foreign Service Nationals, and Third Country Nationals.)

Note: All in-country travel is exempt from this process.

The Frequently Asked Questions document posted at <https://www.usaid.gov/lapse-in-appropriations> has specific information on the requirements related to the different types of travel, such as home leave, medevac, rest and recuperation, permanent change of station, etc.

### U.S. Direct-Hires

Official travel can be initiated after a lapse in appropriation only in fulfillment of “excepted” functions after a lapse of appropriations, regardless of whether the employee had a funded and approved travel order prior to the lapse in appropriation. Official travel should be limited to that necessary for emergencies involving the safety of human life or the protection of property or that is necessary for the conduct of foreign affairs essential to national security. This may include, but is not limited to, attending significant bilateral or multilateral meetings; maintaining excepted post operations; disaster relief efforts, emergency visitation, medical, other ordered evacuation; or providing food, medicine, or other essential services to displaced persons. All travel authorizations must be approved by the Bureau or Independent Office Head or the Mission Director.

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

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

Training: Employees in training and on authorized travel orders should arrange to return to their regular work site as soon as informed by the Foreign Service Institute (FSI) or other training entity. On a limited basis, some training may continue if it otherwise pertains to the safety and security of personnel. Please refer to Section VII. Training for USDH for additional information on this topic.

### Personal Service Contracts (PSCs)

PSCs, including CCNPSCs, may continue with previously scheduled travel, including for training, as long as funds remain available for the travel, there remains work to be performed during the

travel, and adequate oversight exists. Travel for PSCs that was not scheduled and authorized/approved prior to the lapse may not be processed due to the lapse in appropriations that affects personnel necessary to process any orders.

## **VII. Training for USDHs**

In accordance with the Department of State's shutdown plan, the Foreign Service Institute (FSI), FSI field offices, and all other domestic facilities will be closed, except those portions of the Diplomatic Security Training Center and FSI's National Foreign Affairs Training Center campus housing employees performing "excepted" functions. Crisis Management Training and Antiterrorism Assistance Training that has already started at overseas posts may continue if posts are open, subject to the approval of the Chief of Mission since this pertains to the safety and security of personnel.

Domestically, courses that pertain to the safety and security of personnel will continue as scheduled. For those deploying to posts where it is mandatory, the Diplomatic Security Training Foreign Affairs Counter Threat Course (CT650); Green Team Training and In-Service Training for Mobile Security; and the High Threat Operations Course for Agents going to High Threat Environments.

Uniformed and non-uniformed personnel assigned to teaching positions at the War Colleges occupy positions that have historically been considered "excepted" by the Department of Defense during lapses in appropriation based on the direct connection between training senior leaders in DOD and the interagency and national security. In deference to this DOD legal opinion, and in order to maintain consistency across the executive branch, USAID personnel who are detailed to teaching positions at the War Colleges are considered "excepted".

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

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

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

Personnel who are "exempt" from the lapse in appropriation may also be impacted by the above and lack access to training. These personnel should check with the training provider before they commence any travel to the training site.

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

## VIII. Pay, Leave, and Allowances

### A. Pay

**Furloughed employees:** After the lapse ends, employees are entitled to receive their “standard rate of pay” for the furlough period, which includes any—

- basic pay;
- overtime and other premium pay for regularly scheduled work;
- regular premium payments (e.g., law enforcement availability pay); and
- allowances and differentials payable on a regular basis.

Employees who were on previously approved leave without pay (LWOP) or who were absent without leave (AWOL) during the lapse in appropriations will not receive pay for those hours.

**Excepted employees:** After the lapse ends, employees will receive their “standard rate of pay” for the actual hours that they worked (e.g., including any overtime or other premium pay, allowances, and differentials earned based on actual hours worked). Any time that an excepted employee is placed in a furlough status will be compensated under the rules for furloughed employees.

Both furloughed and excepted employees will be paid after the lapse in appropriations ends.

### B. Leave

An excepted employee may request approval to use paid leave instead of being placed in a furlough status during an authorized absence from work. However, compensation for such leave is still not payable until after the lapse in appropriations.

### C. Allowances

(1) The following allowances to protect life and safeguard property will continue for all employees ordinarily eligible to receive such allowances, regardless of whether the employee is performing “excepted” or “non-excepted” functions:

- Housing and utilities abroad
- Living Quarters Allowance
- Post Allowance (COLA)
- Home Service Transfer Allowance (HSTA)
- Temporary Quarters Subsistence Allowance (TQSA)
- Separate Maintenance Allowance
- Subsistence Expense Allowance (paid in the event of an evacuation)
- Extraordinary Quarters Allowance

(2) Allowances for eligible persons in excepted positions will continue to be provided and paid during the lapse in appropriations, assuming adequate funding is available.

- (3) Allowances for persons performing “excepted” functions will generally continue, except for Representation Allowances, which will not be paid, and as stated in (5) below.
- (4) The following allowances are commonly funded in advance and may be provided regardless of whether the person is performing an “excepted” or “non-excepted” function, provided funds were previously obligated and there are sufficient staff performing “excepted” functions to process the payment:
- Education Allowance
  - Educational Travel will be provided only if it was obligated and approved prior to the lapse in funding or if it is necessary for human safety, e.g., if the school closes for a holiday and the students must vacate the dorm.
  - Travel of children of separated parents
- (5) The following allowances for persons performing “non-excepted” functions will not be paid during a furlough:
- Post Differential
  - Danger Pay (We assume that all or nearly all positions at danger-pay posts would perform “excepted” functions.)
  - Representation Allowance

## **IX. Grants and Contracts**

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

### Existing Contracts

Please Note: During a lapse in appropriation, all Personal Service Contractors (PSCs) and Fellows should refer to this section of this guidance, under the sub-section on Personal Services Contractors.

Previously awarded contracts (including leases) that continue in performance during a lapse in appropriations and have adequate funding previously obligated to permit continued performance during a shutdown period should generally be permitted to continue, unless the Operating Unit cannot provide “adequate oversight of contract performance” during a shutdown period or there is no need for the supplies or services during this period.

If adequate monitoring of contractor performance cannot be provided, suspension or reduction in performance of “non-excepted” services should be considered if authorized by

the terms of the contract. Care should be taken not to incur unnecessary costs or jeopardize the government's future contractual rights by unilateral stop work orders or directions to reduce the scope of work that are not authorized by the terms of the contract or that will cause the contractor to incur costs that could subsequently be charged to the government. If circumstances require further guidance, consult the Contracting Officer (CO) or M/OAA and the Office of the General Counsel (GC) or the Resident Legal Officer (RLO).

Previously awarded contracts and leases that would, in the absence of funding, require renewal or modification during a lapse in appropriations to obligate additional funds for continued performance may be authorized to continue only if necessary to support “excepted” functions authorized for continuance under the Agency's shutdown plan or if genuinely needed to protect government property or human safety.

Before the CO may obligate additional funds under this circumstance, the Bureau Budget Office or Mission Controller (overseas) must certify that funds are available within the annual financial plan targets. Incurring unfunded obligations for such services during a funding gap does not violate the Anti-Deficiency Act, but payment of such unfunded obligations must be deferred until appropriations are provided by the Congress. See Section X Obligations and Disbursements for additional certification requirements and further guidance on funding “excepted” contracts.

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

### New Contracts

New contractual commitments (including leases) during a lapse in appropriations may be made only if necessary to support “excepted” functions authorized for continuance under the Agency's shutdown plan or if genuinely needed to protect government property or human safety. The same principle applies to exercising options.

Before making a final decision to not exercise an option that could expose the government to delays or disruptions, the CO should consult with GC or the RLO. Before the CO may obligate additional funds under this circumstance, the Bureau Budget Office or Mission Controller (overseas) must certify that funds are available within the annual financial plan targets. Unfunded contractual commitments should be kept to the minimum in cost and duration that will meet the essential need. See Section X. Obligations and Disbursements for additional certification requirements and further guidance on funding “excepted” contracts.

### Existing Grants and Cooperative Agreements

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

- a. Does the award support functions that are authorized under the Agency’s shutdown plan, is it genuinely needed to protect government property or human safety, or is it critical to the conduct of foreign affairs?

- b. Does funding exist under an available appropriation to continue the function?
- c. Does the operating unit have adequate staffing to administer the functions during the shutdown?

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

Under assistance awards, the government generally is not obligated to provide funding beyond the current obligation in the award. Should the Operating Unit decide not to continue funding, the Agreement Officer (AO) should notify the recipient that no additional funds will be provided at this time.

#### New Grants and Cooperative Agreements

Any new grants or cooperative agreements should not be awarded during the period of a lapse in appropriations, unless award of the grant or cooperative agreement is necessary to protect government property or human safety or is for the conduct of foreign relations essential to national security. Before the AO may obligate funds under this circumstance, the Bureau Budget Office or Mission Controller (overseas) must certify that funds are available within the annual financial plan targets. See Section X Obligations and Disbursements for additional certification requirements and for further guidance on obligations and disbursements.

#### All Personal Services Contracts

Positions that the Agency funds with multi-year or no- year appropriations (with remaining available balances), trust funds, and other permanent appropriations will continue as long as there is funding available and work to be performed. PSCs funded with lapsed appropriations may continue to work as long as sufficient funds are obligated to their contracts, and there is adequate supervision over the work. Note that leave for such PSCs remains governed by the terms of the PSC contract.

Temporary work stoppages of PSCs are accomplished through a partial termination for the convenience of the government. A termination for convenience requires a minimum notice of 15 calendar days before it is effective. COs must notify PSCs of the partial termination of their contracts 15 days before funding will be exhausted under their award.

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



## X. Obligations and Disbursements

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

### Obligations

#### Obligations Against Lapsed Accounts

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

During a lapse in appropriations, USAID has legal authority to incur obligations to continue “excepted” functions. However, any incurred obligations funded with a lapsed appropriation should not be formally recorded (posted) in E2, GLAAS, and/or Phoenix. E2, GLAAS, and Phoenix have been configured to prevent obligations from being processed against lapsed appropriations. Posts should not de-obligate funds previously obligated prior to [insert date] and re-obligate to new obligations after [insert date].

Per OMB guidance, payments must not be disbursed against obligations incurred after the lapse began and funded with a lapsed appropriation. Disbursements may be made for obligations incurred before the lapse period and for which all necessary approvals have been recorded; however, payment operations are not necessarily deemed essential just to meet payment terms.

**All obligations and obligating documents issued during the lapse period must be approved by the Mission Director, Assistant Administrator or Independent Office Director for each respective operating unit and one of the following statements shall be affixed and signed by the Mission Director, Assistant Administrator or Independent Office Director, as applicable: 1) "This obligation is necessary to carry out “excepted” functions in the absence of an appropriation.” or 2) "This obligation is necessary to perform functions for which funds are otherwise available."**

Bureaus, offices, and missions should maintain detailed records of all obligations incurred that cannot be recorded during the lapse period. **In emergency cases involving (a) the safety of human lives, (b) the protection of U.S. government property, or (c) National Security, operating units may make manual obligations against lapsed funds during a lapse in appropriations. Operating units should first deal with the emergency and then contact [shutdown\\_info@usaid.gov](mailto:shutdown_info@usaid.gov) to provide information about the nature and value of the obligation incurred.**

Proper authorization for and documentation of any emergency obligation must be maintained, and obligations must be recorded in E2/GLAAS/Phoenix after Agency operations have resumed. Guidance pertaining to fiscal coding for emergency obligations will be provided once the lapse in appropriations has ended and should be recorded immediately.

## Obligations Against Multi-Year Accounts

During a lapse in appropriations, USAID may incur new obligations against multi-year appropriations that remain available that can be posted in E2/GLAAS/Phoenix along with any no-cost modifications consistent with this guidance. If the work to be performed for such actions with available multi-year appropriations is an “excepted” function, personnel performing the “excepted” functions may continue to work on such action without limitation. However, if the obligation against multi-year accounts is for a “non-excepted” function, personnel may only work on such “non-excepted” actions on an intermittent basis. Posts should not de-obligate funds previously obligated prior to [insert date], and re-obligate to new obligations after [insert date].

## Sub-obligations

During a lapse in appropriations, USAID may incur new sub-obligations under bilateral agreements. If the work to be performed for a sub-obligation is an “excepted” function, excepted personnel may continue to work on such action without limitation. However, if the sub-obligation against multi-year accounts is for a “non-excepted” function, personnel may only work on such “non-excepted” actions on an intermittent basis.

## Disbursements

Authorized certifying officers may certify vouchers and authorize payments against valid obligations established against available prior-year annual, no-year or multi-year appropriations, and for FY 2023 obligations established before [insert date when known].

Upon determination that a lapse in appropriation is imminent and furloughs may be executed, the M Bureau’s Office of the Chief Financial Officer (M/CFO) will advance all approved and certified vouchers for payment, to the extent possible. Even though functions funded with a prior-year annual, no-year, or multi-year appropriation may continue during a furlough, OE-funded personnel required to process related payments are generally not considered “excepted” personnel unless the payments function is essential for the function to continue.

Certifying officers may not certify and authorize payments against USAID obligations incurred after [insert date when known] (against a lapsed appropriation) unless specifically approved by the M/CFO, in consultation with the GC to determine if payments are necessary as “excepted” functions. While obligations or disbursements may be incurred for “excepted” functions funded by a lapsed appropriation, neither type of transaction may be recorded in USAID’s financial systems until the lapse in appropriations has ended, at which point it must be recorded immediately.

## Specific Situations

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

**Locally Engaged (LE) Staff and CCNPSC Pay/Allowances:** Standard procedures to process LE staff payroll must be followed. Under no circumstances should alternate means be used to pay LE Staff and CCNPSC salaries, such as using petty cash. As per the above general guidance for obligations, after [insert date when known], no new obligations (from a lapsed appropriation) should be recorded, even for “excepted” functions. Guidance on submitting time and attendance during the period of the lapse will be provided prior to each deadline for the submission of time and attendance.

**USDH Salaries, Benefits, and Allowances:** While obligations can continue to be established for payrolls for persons performing “excepted” and shutdown functions, payments for salaries and allowances may only be made for services rendered through [insert date when known]. Payroll functions for salaries earned prior to the lapse in appropriation are deemed “excepted,” and, therefore, payroll personnel will fully support payment of earned salaries prior to the appropriation lapse.

**Travel:** Only travel in fulfillment of “excepted” functions can be initiated after a lapse of appropriations. Per guidance above, even in cases of travel in this category, obligations funded by a lapsed appropriation should not be recorded in USAID’s financial systems.

No travel advances may be issued unless the obligation for overseas travel was incurred prior to [insert date when known]. Travel voucher reimbursements can be processed against obligations incurred and recorded for prior years, or for FY 2023 multi-year or no-year appropriations for which funds remain available; however, such processing shall not be an “excepted” function.

Travelers who hold Citibank Travel Cards (including the Declining Balance Cards) may charge advances against these cards for any approved trips as travel card advance charges do not create advances to official accounts. As part of GSA Smart Pay, Citibank Travel Cards will continue to function normally and banks will continue to provide service. Cardholders, as usual, should contact the bank customer service organization should they experience problems with their cards.

**Utilities:** As with other categories of payments, utility payments for obligations established prior to [insert date when known] may be processed for payment. Obligations funded by a lapsed appropriation and for utility costs after [insert date when known], should not be recorded in the USAID accounting system. Payments against these obligations cannot be made until the lapse in appropriations has ended and the obligation has been recorded. Missions confronted with **emergencies in this regard should contact** [shutdown\\_info@usaid.gov](mailto:shutdown_info@usaid.gov) to provide information about the nature and value of the emergency.

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

**Purchase Orders:** Generally, purchase-order obligations and payments are governed by the above guidance. Obligations for purchase orders prior to [insert date when known] should have been recorded.

**Petty Cash Payments:** Similar guidance applies to all categories of miscellaneous petty-cash payments. A voucher can be paid if the obligation supporting it was incurred prior to [insert

[insert date when known]. For example, a petty-cash reimbursement for taxi fares incurred prior to [insert date when known] can be paid. No petty-cash reimbursement can be made for taxi fares or other purposes incurred after [insert date when known] unless against an available multi-year or a no-year appropriation. The absence of appropriations does not affect accommodation exchange.

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

**Certifying Officer Responsibility:** Post Financial Management Officers (FMOs) have the responsibility to ensure only authorized obligations are recorded and only payments against authorized obligations are certified for payment. Posts should not de-obligate funds previously obligated prior to [insert date when known] and re-obligate to new obligations after [insert date when known].

**Absolutely Necessary Payments:** USAID has authority to incur some types of obligations during the lapse period. If such obligations require special payment handling during the lapse period, a special request and justification should be coordinated with the shutdown\_info@usaid.gov and the M/CFO. The information provided should include the nature/description of the function and value of the payment, at a minimum.

**Emergency Medical Services:** If the concurrence of the Department of State Office of Medical Services (MED) is received, emergency medical travel and services obligations can be incurred. If they are funded with a lapsed appropriation, they must not be recorded in the Agency financial systems and must be sent to shutdown\_info@usaid.gov with information about the nature and value of the emergency. Payments may be made only in consultation with M/CFO. Please coordinate with MED and follow its guidance in emergency situations where payment is required immediately. For medical-services funding requests, the post should cable MED and coordinate with shutdown\_info@usaid.gov and M/CFO.

## **XI. Time and Attendance Reporting**

### Reporting Hours During the Furlough Period for USDHs

Final instructions for recording time and attendance for USDHs affected by the lapse in appropriation will be provided to AMS officers and EXOs as soon as the Agency's payroll provider announces the instructions.

U.S. Direct-Hire employees funded with lapsed appropriations must be either: (1) at work performing "excepted" functions, or (2) furloughed. They, therefore, cannot be in a paid-leave status (i.e., annual leave, sick leave, other paid leave, or using earned compensatory time off) during that period.

## **XII. Outside Functions**

### Public Affairs Functions

Employees performing "excepted" functions can attend public affairs functions on an exception basis. Contact the Bureau for Legislative and Public Affairs (LPA) to request approval to attend.

No speeches to public audiences may be made during the shutdown period without explicit approval from the SDAA/LPA.

### Outside Employment

While on furlough, an individual remains an employee of the Federal Government. Therefore, executive branch-wide standards of ethical conduct and rules regarding outside employment continue to apply when an individual is furloughed (specifically, the executive branch-wide standards of ethical conduct (the standards), at 5 C.F.R. part 2635). USAID employees based in the United States need to seek approval for outside employment only if the employment could pose a conflict of interest with the employee's USAID position by emailing [Shutdown\\_info@usaid.gov](mailto:Shutdown_info@usaid.gov).

Uniform/Foreign Service rules governing employment abroad are contained in 3 FAM 4123 and 3 FAM 4126. Individuals overseas seeking employment must consult with their respective RLOs. All overseas employees engaged in outside employment must report that outside employment to SEC at [secreporting@usaid.gov](mailto:secreporting@usaid.gov) and obtain Chief of Mission approval, as appropriate.

### **XIII. Representation Events**

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

## **Attachment 1**

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

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

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

SUBJECT: Furlough Notice

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

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

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

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

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

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

On [insert date], the continuing resolution (CR) for FY 2024 that is presently authorizing USAID operations will expire. If the Congress and the Administration do not agree on the terms for authorization and appropriation of FY 2024 funding for USAID or on another continuing resolution, USAID's funding may be temporarily interrupted starting [insert date].

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

The approved list of personnel performing "excepted" functions will be available shortly from each bureau and independent office (B/IO) Administrative Management Services (AMS) Officer. Any changes to this list must be approved by the Administrator. The approved list of overseas staff is available from the USAID Mission Directors or EXO Offices. Any changes to the overseas list must be approved by the Chief of Mission after coordination with the respective regional bureau. Changes must be communicated to the respective B/IO and the Office of Human Capital and Talent Management.

**Instructions to staff:** If USAID funding continues to be temporarily suspended and residual balances of multi-year and no-year funds are insufficient for continued operations, all employees performing "non-excepted" functions will be furloughed and may take up to four hours to shut down their functions (this should occur by no later than the next business day by noon). Employees required to complete shutdown by noon on [insert date], or the next regularly scheduled business day following the lapse in appropriations, may do so in person or remotely, via telework. If the nature of an employee's shutdown functions are de minimis (i.e., can be completed in approximately 15 minutes), a telework agreement is not required.

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

As in the past, it is difficult to predict how long an interruption in funding might last. It could be for only a few days or for a longer period. Employees are encouraged to review the furlough guidance at the OPM web page (<https://www.opm.gov/policy-data->

[oversight/pay-leave/furlough-guidance/](#)) and the USAID public website for updates.

In addition, employees can review frequently asked questions during a lapse in appropriations and supplemental guidance from OPM on lapse planning functions, including payroll and leave issues at: <https://www.whitehouse.gov/omb/information-for-agencies/agency-contingency-plans/>

For further information concerning this notice, please submit your questions to email [shutdown\\_info@usaid.gov](mailto:shutdown_info@usaid.gov).



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

### **Furlough Notice**

Due to an interruption in government funding, the Agency's operations will be shutdown. This closure will be carried out promptly and in an orderly manner by each USAID Bureau and Independent Office.

Prior to departure, all personnel performing “non-excepted” functions must consult with their AMS or EXO to receive their official furlough notification and Form SF-8, Unemployment Compensation for Federal Employees (UCFE) Program. Employees must acknowledge receipt by signing and dating the last page of their furlough notification or confirming via e-mail for electronic transmissions.

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

For questions regarding this notice, please send an email to: [shutdown\\_info@usaid.gov](mailto:shutdown_info@usaid.gov).

### **SAMPLE: NOTICE TO ALL AGENCY EMPLOYEES OF SHUTDOWN AND DECISION TO FURLOUGH:**

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

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

Because you are not engaged in one of the “excepted” functions, I must regretfully inform you that you are being placed in a furlough status effective [Insert date when known]. Your Administrative Officer will inform you of the exact time you are to be released today. This current furlough letter expires on [Insert date when known], unless funds are appropriated at an earlier date.

If other USAID employees are being retained in your office, it is because they are required for orderly suspension of Agency operations or they are performing one of the “excepted” functions (and/or are multi-year or prior-year funded employees, as applicable). The numbers

of these individuals have been kept to a minimum and some of them may also be furloughed as functions are suspended.

During the furlough, you are in non-pay, non-duty status. Accordingly, annual, sick, home or court leave which has been approved for anytime during the furlough period is canceled. During the furlough, you may not volunteer your services to the Agency and must remain away from your workplace. Telework is also prohibited and you should refrain from using any of the work-related electronic devices. Supervisors will not allow employees who are not on the “excepted” list to be at the work site. You should contact your Administrative Officer if there are questions in this area.

### Appeal Procedures for Civil Service Employees

Employees, who have completed a probationary or trial period or one year of current continuous employment in the competitive service under other than a temporary appointment, may appeal this action to the Merit System Protection Board (MSPB). Employees in the “excepted” service who have veteran’s preference may appeal to the MSPB if they have completed one year of current continuous service in the same or similar positions as the one they now hold. Other employees in the “excepted” service who do not have veterans preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service, may appeal to the MSPB if they have completed two years of current continuous service in the same or similar position in other than a temporary appointment limited to two years or less.

SES career appointees adversely affected may also appeal. AD and Schedule C employees do not have the right to appeal this furlough. Employees have a right to be represented by an attorney or other person of their choosing.

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

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

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

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

If you are a bargaining unit employee, you may file a grievance in accordance with the negotiated grievance procedure. You may elect either to grieve under the negotiated procedure or file an appeal to MSPB. You may not do both. If you file a grievance, you may be represented by the Union, or you may elect to represent yourself. The procedures applicable to grievances may be found in Article 21 of the Collective Bargaining Agreement between the American Federation of Government Employees (AFGE) and USAID.

### Allegations of Discrimination

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

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

### Grievance Procedures for Foreign Service Employees:

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

HCTM Employee and Labor Relations (ELR) at [hctm.elr@usaid.gov](mailto:hctm.elr@usaid.gov)

or

**Nicholas Gottlieb**, Director HCTM/ELR  
1300 Pennsylvania Avenue, N.W. Washington, D.C.  
20523

We fully recognize the difficult personal financial implications of any furlough, no matter how limited its length, and regret that this has come to pass. Please remain alert to announcements in the local media. Responsibility has been placed on individual employees to listen to public broadcasts and when you hear that a CR or an FY 2024 appropriation for USAID has been approved, you will be expected to return to work on your next regular duty day.

Thank you for your cooperation in this matter.

Date

Chief Human Capital Officer  
Deciding Official  
Office of Human Capital and  
Talent Management

Or by the Executive Officer at  
overseas posts

Attachment 2: Determining Whether to Continue Performance of an Existing Contract/Grant/Cooperative Agreement (CA)

