

*Office of Management and Budget Issuance*

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Assistant Attorney General October 5, 1990

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MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Richard G. Darman

SUBJECT: Agency Operations in the Absence of Appropriations

The Continuing Resolution (CR) expires at midnight tonight, October 5, 1990. We have no indication yet whether Congress will act today and pass a CR. The President has stated that it is his intention not to sign a CR until there has been satisfactory Congressional progress on the budget. At this point, there has clearly not been satisfactory Congressional action. Therefore, beginning tomorrow morning (Saturday), October 6th, the head of each agency *must* be prepared to implement his or her existing plan for closing down operations funded by accounts that have not received appropriations.

OMB Bulletin 80-14, dated August 28, 1980 (and amended by the OMB Director's memorandum of November 17, 1981), requires all agencies to maintain plans to deal with such an appropriations hiatus. Furthermore, the Attorney General's opinion dated January 16, 1981, supporting this bulletin, remains in effect. In general:

- Employees of affected agencies performing non-excepted activities (as discussed in the Attorney General's opinion) may not perform any services other than those involved in the orderly suspension of non-excepted activities; excepted activities that may be continued are generally those that are authorized by law or that protect life and property.
- Agencies may not permit voluntary performance of non-excepted services.

Implementation of this shutdown process will be particularly difficult because any lapse of appropriations will occur over a weekend (with a Monday holiday).

- *Weekend Employees* -- Agency shutdown plans should be implemented for non-excepted weekend employees, who should be instructed to report for their first scheduled work turn for the sole purpose of engaging in orderly shutdown activities. Excepted weekend employees should be instructed to report for work and to perform their excepted activities.

- *All Other Employees* -- All regular employees performing non-excepted activities, as well as excepted employees, should be instructed to report for work on Tuesday, October 9th, as scheduled.

Over the weekend and during the day on Tuesday, we will provide further instructions, depending on the status of appropriations action, as follows:

- *Normal operations*: If a CR that suspends sequester is clearly likely to be enacted on Tuesday (or has been enacted over the weekend), agencies will be instructed to operate in a normal manner.
- *Shutdown*: If no CR is likely to be enacted on Tuesday, we will issue instructions initiating a phase-down of activities for non-excepted employees. Such phase-down activities for non-excepted personnel, if called for, should be completed during the first *three hours* of the workday.
- *Sequester*: If (on or before Tuesday) a CR is enacted that does not suspend sequester, you should begin implementing your sequester plan.

Please address any question to your OMB budget examiner(s), or to OMB Acting General Counsel Robert Damus (395-5044), or Associate General Counsel for Budget Rosalyn Rettman (395-5600).