

Government shutdown general guidelines

Q: What is a government shutdown?

A: A government shutdown happens when appropriations (full year or through a continuing resolution) to fund the U.S. government in the next fiscal year are not ratified into law. This can occur when the president and Congress fail to compromise on new spending measures; it creates a funding gap for specific departments, agencies, or projects.

When a funding gap seems likely to continue past a one full working day, a government shutdown for “non-excepted services” begins, and the associated federal employees are furloughed. “Non-excepted” federal employees do not provide “emergency work involving the safety of human life or the protection of property or performing certain other types of excepted work.”¹

Q: What is the difference between a funding gap and a government shutdown?

A: A funding gap affects specific federal entities in the short term because a resolution to resolve the gap likely will happen. If a funding gap extends more than one full working day and affects multiple federal entities, a government shutdown can occur.

Q: What is the difference between a soft and hard government shutdown?

A: A soft shutdown entails an agreement that will happen quickly to resolve a budget conflict. This will let employees come to work but not provide any services. A hard shutdown entails that an agreement will not happen quickly. This will lead to furloughs of federal employees until a funding compromise is reached.

Q: How did the 2013 government shutdown affect Department of Defense (DoD) services?

A: During the 16-day shutdown in 2013, contracts between small businesses and the Defense Department fell by one-third, and DoD spending was cut by 40 percent.²

Q: If there is a government shutdown, what authority or guidance addresses the status of U.S. defense contractors?

A: The Antideficiency Act (31 U.S.C. 1341-1342), and likely guidance from DoD, can offer answers and options to contractors.

¹ U.S. Office of Personnel Management. (2015 September). Guidance for Shutdown Furloughs. Retrieved from <http://bit.ly/2eSrvZI>

² Executive Office of the President. (2013 November). Impacts and Costs of the October 2013 Federal Government Shutdown. Retrieved from <http://bit.ly/2oqZor3>

Q: What guidance and limitations does the Antideficiency Act put on U.S. defense contractors and DoD employees during a government shutdown?

A: In a government shutdown, there are no additional appropriations to fully fund the U.S. government, thus affecting defense contractors the government uses for non-essential services.

The Antideficiency Act dictates that U.S. agencies and departments cannot obligate more funds than what has been appropriated to them, and cannot accept voluntary services. However, they can incur costs when the law authorizes it, or “in cases of emergency involving the safety of human life or the protection of property.”³

Q: Who is exempt from a furlough during a government shutdown?

A: A government shutdown will not affect U.S. contractors or federal employees explicitly exempt or considered essential in their roles and responsibilities. U.S. agencies, departments, or projects funded on multiyear or no-year appropriations can potentially remain open.

Q: How does a government shutdown affect U.S. defense contractors providing services to DoD?

A: U.S. defense contractors providing services on projects funded before October 1 can continue to execute those contracts. New contracts, or extending and renewing current contracts, cannot be done without new appropriations passed by Congress and signed into law.

In cases where essential services are based on national security, DoD can enter into new contracts, or renew and update current contracts. However, it will incur costs in the absence of new appropriations. As operations in the Middle East (Syria, Iraq, and Afghanistan) must continue, activities and contracts for those operations will be “excepted” from a government shutdown. The conditions for “excepted” operations are:

- Status that expressly authorizes incurring obligations in advance of appropriations;
- Emergencies involving the safety of human life or the protection of property;
- Functions necessary to discharge the president’s constitutional duties.⁴

³ U.S. Government Accountability Office. Antideficiency Act. Retrieved from <http://bit.ly/2xyRIFu>

⁴ Office of the Secretary of Defense. (2015, Sept 25). Contingency Plan Guidance for Continuation of Essential Operations in the Absence of Available Appropriations. Retrieved from <http://bit.ly/2vKHEqQ>

Q: Should a U.S. defense contractor stop working before a government shutdown?

A: No. A contracting officer will send out a stop-work order indicating that contractors should cease their functions or duties. Until you get a stop-work order, you should continue to work.

Affected U.S. defense contractors should document all expenses, as the U.S. government will reimburse specific costs incurred during a shutdown.

Q: Are U.S. contractors and federal employees paid during a government shutdown?

A: The Office of Personnel Management’s September 2015 “Guidance for Shutdown Furloughs” states “excepted” federal employees not furloughed will be paid for their services during a shutdown once Congress passes additional funding to reopen the government.

For “non-excepted” federal employees furloughed during a shutdown, the president, along with Congress, has discretion on whether or not to include funding for their back pay.

U.S. contractors will be paid if their contracts with the U.S. government are fully funded before current funding expires. They may continue to perform essential services for the government during a shutdown.

Q: What is the next step for U.S. defense contractors?

A: Contractors should speak to a contracting officer for guidance and options.

Additional resources

- **CRS:** [Shutdown of the Federal Government: Causes, Processes, and Effects](#)
- **GAO:** [Antideficiency Act](#)
- **OSD:** [Contingency Plan Guidance for Continuation of Essential Operations in the Absence of Available Appropriations](#)
- **OPM:** [September 2015 Guidance for Shutdown Furloughs](#)
- **OMB:** [Impacts and Costs of the October 2013 Federal Government Shutdown](#)