

Tips on Preparing for a Possible Government Shutdown

September 13, 2023



- 1. Don't panic, but understand the overall implications of a government shutdown.** A federal government shutdown occurs when lawmakers fail to enact annual appropriations bills setting discretionary government spending levels. During a shutdown, federal agencies must discontinue all discretionary functions, unless they can lawfully be funded from unexpired prior-year appropriations, or are otherwise authorized by law. Otherwise, federal agencies may not incur new spending obligations other than those deemed essential for the safety of human life and protection of property, until new funding legislation (appropriations acts or continuing resolutions) is passed and signed into law.

Historically, problems do not occur in our network during a two-week or less shutdown. A government shutdown will not result in an immediate stoppage of government funds to CAAs if the state has drawn down funds that it has yet to either distribute as an advance payment or reimbursement. Nor would CAAs necessarily need to close in the event of a shutdown. They would only need to do so if they do not have enough funds on hand to continue operating during the shutdown. If CAAs stop operating one or more programs, they will not be able to claim reimbursements for those programs during that time. If a shutdown occurs, the most likely initial result will be delays in receiving federal grant funds.

In advance of a shutdown, each federal agency will develop its own shutdown plan in coordination with the Office of Management and Budget (OMB), and these plans are informed by guidance from previous shutdowns. The plans identify essential government functions that may continue to operate for the safety of human life and protection of property (see Question #9 below). Mandatory spending that is not subject to annual appropriations, such as Social Security, Medicare, and Medicaid will also continue.

Federal employees who work with CSBG, Head Start, Weatherization, LIHEAP and many of our other programs likely will not be deemed “essential” employees and will be furloughed. So, any problems or issues that arise during a shutdown will not be addressed at the federal level immediately and it may take a little while for the federal government to get back up-and-running once the shutdown ends.

- 2. Submit expense reimbursements ASAP** to federal and state funding sources and draw down available grant funds.
- 3. Talk to your state** and find out how much money from pass-through programs (for example, CSBG, LIHEAP and Weatherization) the state has on hand to pay your CAA for its work on those programs and whether the state anticipates delays in payment to CAAs in the event of a federal shutdown. It's best to establish a single point of contact with the state on behalf of your Community Action network so that the state will not be flooded with requests for the same information from multiple CAAs. FY2023 CSBG funding that is not fully spent should be carried over into FY2024 and may be used to continue CSBG-funded services. Unspent CSBG funds may include a state CSBG office's 10% discretionary funding from its FY2023 allocation.



- 4. Assess your CAA's ability to meet its short-term obligations** in the event federal funding is delayed or cut. Remember that under the Uniform Guidance you may not pay expenses for one program with funds from another program unless the applicable funding source rules specifically permit you to do so. Generally, cost shifting to overcome funding deficiencies results in disallowed costs. Nevertheless, CAAs must continue to withhold and remit federal and state income and employment taxes. In particular, the failure to collect and remit payroll taxes (i.e., income, Social Security, and FICA taxes) could result in personal liability for CAA board members and senior leaders.
- 5. Obtain or increase a line of credit** to tide your CAA over in case reimbursements are delayed. However, keep in mind that interest on a line of credit is not an allowable expense under the Uniform Guidance and would need to be paid from funds not subject to the Uniform Guidance.
- 6. Communicate with employees.** Explain the likely effects of a shutdown to your staff and keep them informed.
- 7. Hold off on hiring staff (if possible) or granting pay raises** until Congress has passed another continuing resolution or approved a budget for federal spending in the current federal fiscal year.
- 8. Consult with an employment attorney if it looks as though layoffs or furloughs may be necessary** (they may not be prior to a shutdown, but could be if one occurs and lasts for more than a few days) review your organization's personnel policies and speak to an employment attorney in your state about planning for layoffs or furloughs (including whether layoff notices are required under and federal or state law). For more information on layoff notice requirements under the federal WARN Act, see CAPLAW's article "[Dissecting Federal WARN Act Compliance](#)." Furthermore, CAPLAW's article, "[Evaluating Cost-Saving Workforce Options in Leaner Times](#)", offers an overview of some of the more common approaches CAAs may take to reduce staffing costs, as well as some of the key federal legal issues to consider when weighing these options (note that wherever this article refers to \$455/week as the salary threshold for exemption from overtime pay, the U.S. Department of Labor has updated this threshold to \$684/week).
- 9. Review contingency plans for federal agencies from which your organization receives funding** (either directly or indirectly through your state) to determine which federal programs and activities will continue during the shutdown and which will not. OMB has posted government shutdown [contingency plans](#) from agencies across the federal government, and will update the page as more plans are posted. CAPLAW has prepared a [summary](#) of selected, key information from the federal agency contingency plans of relevance to CSBG-network organizations. However, each CSBG-network organization should carefully review the plans of those federal agencies from which it receives funding to determine the impact of a shutdown on programs administered by those agencies.



Note that federally funded activities to address cases of threat to human life or property where the threat can be reasonably said to be near at hand and demanding of immediate response will continue during a shutdown, according to a 1995 U.S. Department of Justice Office of Legal Counsel [legal opinion](#). This exception may apply to some programs operated by CSBG network organizations. For example, in its contingency plan, the U.S. Department of Housing and Urban Development (HUD) states that it will, with respect to the Continuum of Care (CoC) and Housing Opportunities for Persons with HIV/AIDS (HOPWA) programs, take the necessary and appropriate steps to make renewal award announcements and execute grant agreements for renewal-eligible grantees to avoid gaps in the delivery of essential housing and emergency services for the homeless and persons with AIDS to protect against imminent threats to the safety of human life.

- 10. Keep your Congressional delegation informed.** If a shutdown lasts longer than two weeks, keep your Congressional delegation informed on the impact it is having on your organization, programs and community.