

**Department of Labor, Employment and Training Administration (ETA)
General Questions and Answers Regarding the Impact of a
Lapse in Congressional Appropriation**

Grants Operating Under Obligated Funds (This Section does not apply to Unemployment Compensation (UC) Grants, which are addressed in a separate section of the document.)

1) Question: What happens if there is a lapse in appropriations?

Answer: Those grants to which the Department of Labor (DOL) has obligated funds to the grantees will be able to continue operating with funds that already have been made available through grant actions by DOL, though there could be issues in accessing funds discussed below. However, if there is not a continuing resolution or appropriations act, the DOL will be unable to award new grants, and there will be delays in making other funding available. In addition, grantees will neither have access to federal project officers nor the technical assistance that may be necessary to properly implement the awards. This situation may significantly impact recently awarded new grantees in a negative way.

2) Question: How would a government lapse in appropriations impact the Department's ability to monitor the daily activities, and technical and financial performance of its grants?

Answer: For most ETA programs, staff will not be working to answer questions, provide technical assistance, or to resolve any technical issues with data or report submissions. Additionally, oversight activities and daily functions associated with the grants will cease, with the few exceptions discussed in these Q&As.

3) Question: What impact would a government lapse in appropriations have on the Department's grant recipients if none of their invoices are processed during this time?

Answer: As a standard practice, ETA grant recipients (with a few exceptions discussed in later Q&As) draw down funds through the HHS PMS in the amount needed for disbursement. This practice is expected to continue during a period of lapse in appropriations. The remaining unexpended balances should be accessible, and the PMS should be operational. However, if the grantee expends these balances no new funding can be awarded or made available. Also, in the event of problems in PMS, technical assistance may be extremely limited or not available.

4) Question: Will grant modifications be approved?

Answer: Most Grant Modifications will not be processed; however, ETA has developed a process for identifying and processing Disaster Dislocated Worker Grant (DWG) actions, as discussed further in Q&As # 23 and 24. Other extremely limited grant actions may occur in instances of an emergency.

Performance and Financial Reporting for Grantees

5) Question: Would competitive and formula grantees need to report during a lapse in appropriations?

Answer: As long as grantees have funding, grantees would continue to be responsible for following all of the terms and conditions of the grant, including fiscal and performance reporting requirements. That said, grantees should be advised that many of ETA's Management Information Systems, such as the Enterprise Business Support System (EBSS) and the Workforce Integrated Performance System (WIPS), will be turned off during a lapse in appropriations, and grantees will not be able to access these reports until the government reopens. Grantees should make back-up documentation plans accordingly. Once the government reopens, grantees will be responsible for submitting reports for the next quarterly due date.

Contracts Management

6) Question: How would a lapse in appropriations impact the Department's contracts?

Answer: Stop work orders may need to be issued to certain contractors depending on various considerations. At this time, we do not know which contractors will need to receive stop work orders, but your servicing contracting officer will let the affected contractors know at the appropriate time if they will need to stop work. Contractors who do not receive stop work orders should continue performance of your contracts.

Many Contracting Officers and Contracting Officer Representatives will not be available during a lapse in appropriations. As a result, there may be a delay or inability to process contractor invoices, and it is anticipated that payments will not be made until after the government reopens. This is true even if your contract has sufficient funding to allow performance. Please note that there will be some exempt personnel supporting exempt program contracts (see the Q&As # 7-12 relating to Job Corps).

If you have additional questions, contractors should contact the servicing contract officer. Questions regarding the payments and monitoring of technical and financial performance should be referred to the servicing Contracting Officer Representative.

Job Corps

- 7) **Question: Will Job Corps centers have enough funds to operate if the government was to have a lapse in appropriations?**

Answer: Yes. Job Corps center operations can continue operations in the short run as there is funding for all Job Corps contracts. We cannot, at this time, estimate the impact on Job Corps centers because we do not know if or how long shutdown lapse in appropriations will last. ETA and the Department will continue to evaluate the funding situation of Job Corps centers during a lapse in appropriations. ETA will provide funding as required.

- 8) **Question: What if an incremental obligation is due during a lapse in appropriations?**

Answer: ETA and the DOL will evaluate the situation of Job Corps centers as the need for incremental obligations arises. ETA plans to take action to provide funds if needed to ensure the health and safety of students.

- 9) **Question: Whom should I contact if there is an emergency at my Job Corps center?**

Answer: The Job Corps Regional Director in each region will be working and will serve as the primary point of contact for all center issues in his or her region.

- 10) **Question: What if we experience a facility emergency?**

Answer: The Office of Job Corps will call upon the expertise of subject matter-related staff, such as facilities management personnel, on an emergency basis.

- 11) **Question: Will the Office of Job Corps continue to conduct scheduled compliance assessments and monitoring trips?**

Answer: While Job Corps will have a small contingent of Federal staff available to manage the administration of the program, these staff will not travel for scheduled routine compliance assessments and monitoring trips in the event of a lapse in appropriations and would only travel for safety and security emergency purposes. The Regional Directors, also part of the small contingent, will increase desk audit activities, to the extent possible, to partially offset the inability to travel during this time.

- 12) **Question: What can centers do to help?**

Answer: Job Corps Centers should continue to focus on three critical areas in executing the program's mission: (1) safety of students and staff; (2) program accountability; and (3) student achievement. We ask centers to continue to *keep students the number one priority* by providing a safe learning and living environment and helping students achieve their career

goals. Corporate offices should increase their accountability activities to monitor center and staff compliance with Job Corps policies, procedures, and requirements.

Grant Competitions

13) Question: What happens to Grants.gov if the government shuts down?

Answer: Grants.gov is used to publicize grant solicitations and receive applications. HHS anticipates that the Grants.gov system will remain in an operational status, but with reduced federal support staff presence, should a lapse in appropriations occur. In addition, HHS anticipates that the Grants.gov Contact Center will remain available, and provide assistance to callers. All application due dates will remain as published. All applications must be submitted by the date and time specified in the FOA.

14) Question: Will potential applicants be able to get answers to questions related to the open Funding Opportunity Announcements (FOAs)?

Answer: Under a lapse in appropriations, grants specialists and the program and grants policy staff that would normally provide guidance on answers will not be available. Questions would need to be answered after personnel return to work. Further, final grant documentation may be delayed and new grant awards may not be accessible until after DOL resumes normal operations.

Trade Adjustment Assistance (TAA)

15) Question: What venues will be available for the public to file petitions for TAA benefits and services?

Answer: TAA petitions may be filed using paper petitions via the U.S. Postal Service or faxed to (202) 693-3584, (202) 693-3585, or (202) 693-3986. While petitions may be filed, there will be no staff available to receive petitions, enter petitions into the data system, or investigate those petitions during a lapse in appropriations. Further, petitioners will not receive a follow-up letter of receipt of petition or customer service contact from staff nor will the status of the petition appear on the Web site until after the government re-opens. The DOL will use the U.S. Postal Service postmarked date as the date of receipt for petitions filed. Likewise, the date stamped on all fax transmittals will serve as date of receipt for all filed petitions. Although the public will be able to access the Office of Trade Adjustment Assistance Web site home page for important instructions regarding a lapse in appropriations, the public will be unable to submit on-line Trade petitions. Petitioners are encouraged to submit paper petitions using the venues described above.

16) Question: What venues will be available for workers whose petitions have been denied to file requests for reconsideration?

Answer: Requests for reconsideration should be submitted via the U.S. Postal Service or faxed to (202) 693-3584, (202) 693-3585, or (202) 693-3986. While requests may be submitted, there would be no staff available to receive the request or to investigate the request until after the government re-opens. DOL will use the U.S. Postal postmark or facsimile date to determine whether the 30 day filing deadline for requests for reconsideration is met. All Trade appeals must be submitted no later than 30 calendar days from the time the determination is entered in the Federal Register notice. During a lapse in appropriations, the window of appeal may be adjusted accordingly beyond 30 calendar days after the Government resumes business operations.

17) Question: What public communication resources, such as the ETA Toll Free Helpline (1-877- US-2JOBS (TTY: 1-877-889-5267)), will be available to trade-affected workers and the general public to answer questions about filing for TAA benefits and services?

Answer: Operator Assistance for the Trade “hotline” will not be available during a government lapse in appropriations. However, any inquiries or messages related to Trade Adjustment Assistance that require technical assistance may be left on the hotline voicemail and will be responded to in the order received once the government reopens. Callers seeking immediate or urgent assistance should access Career One Stop at <https://www.careeronestop.org/> where they can find the closest AJC to obtain information about benefits and services under the Trade program. No Federal staff will be available to provide technical assistance, answer questions, or provide referral information during government lapse in appropriations.

18) Question: Will states be able to access available TAA Training Funds from the Reserve Account?

Answer: States will not be able to receive Reserve Funds for TAA training during a lapse in appropriations because Federal staff will not be available to review requests, authorize funds, or answer any questions about funding. No initial funding distribution of FY 2018 has been allocated to states. States may continue to use allocated FY 2016 and FY 2017 funds. Once funds run out, additional funding for administration of the program will not be available until a continuing resolution or an annual appropriation is enacted.

19) Question: Will States be able to obtain technical assistance in administering the benefit and services provisions for certified trade -affected workers?

Answer: Since the Office of Trade Adjustment Assistance Federal staff will be unavailable during a government lapse in appropriations, all technical assistance questions related to TAA

benefits and services should be directed to the State TAA and/or Trade Readjustment Allowances Coordinators.

- 20) Question: How will the Office of Trade Adjustment Assistance determine the date new petitions are received when staff is not available to accept new petitions during a lapse in appropriations – and what issues will result from that delay?**

Answer: Since there will be no Federal staff available to receive petitions, enter petitions into the data system, or investigate those petitions during a lapse in appropriations, DOL will use the U.S. Postal Service postmarked date as the date of receipt for a filed petition. Likewise, the date stamped on any fax transmittal will serve as date of receipt for all filed petitions. Although the public will be able to access the Trade Adjustment Assistance Web site home page for important instructions regarding lapse in appropriations, the public will be unable to submit on-line Trade petitions. A lapse in appropriations would result in a delay to the start or continuation of the investigation and the 40-day period for issuing determinations. Adversely affected workers who are waiting for a determination may be served under a partner program such as WIOA or a DWG, but the delay in issuing determinations will result in a delay in workers being able to access TAA-funded benefits and services.

Also, the impact date (date of earliest coverage) of a petition is one year before the date the petition was signed, not the date it was received – therefore, there will be no effect on the earliest date of coverage. The program regulations require that the petition date may not be more than 30 days before the filing date, so if the DOL receives a petition dated more than 30 days before the filing date, the DOL will amend the petition date to be in compliance with the regulations, and the impact date will be one year before the amended petition date.

- 21) Question: Will decisions on petitions that are currently under investigation be delayed?**

Answer: Yes. Federal staff would not be conducting investigations during a lapse in appropriations; therefore, determinations will be delayed.

Foreign Labor Certification

- 22) Question: The DOL's goal is to make a decision on labor certification applications to employers within a specified number of days. If there is a government lapse in appropriations, how will this affect the number of days allowed to process an application?**

Answer: In the event of a government lapse in appropriations, processing in the foreign labor certification programs will be suspended and therefore timelines extended, which may cause delays in decisions in applications in those programs.

Dislocated Worker Grants (DWG)

23) Question: The DOL's goal is to make a decision on DWGs within 45 working days of receiving a 'complete and fundable' DWG application. If there is a government lapse in appropriations, will the clock continue ticking during this time?

Answer: If a government lapse in appropriations occurs, no action will be taken on pending DWG applications and modifications during this time, with the exception of Disaster DWG requests (see Q&A #24). DOL will resume analyzing DWG applications and modification requests when government operations resume, and will try to abide by the 45 working day policy, for complete and fundable applications, plus the number of days the government has a lapse in appropriations. In the event of a lengthy lapse in appropriations, the Department may be unable to meet this goal.

24) Question: Will disaster DWG applications be accepted during a government lapse in appropriations?

Answer: If a government lapse in appropriations occurs, the DOL will have a staff person monitoring the DWG electronic application system to determine if any new Disaster DWG applications are submitted as a result of any Federal Emergency Management Agency (FEMA) or other Federal agency disaster declarations during lapse in appropriations period. The Department will continue to analyze and award new Disaster DWG applications and financial increment requests only during this time, although turnaround times could be prolonged as a result of staffing restrictions.

Registered Apprenticeship

25) Question: What would be the impact of a government lapse in appropriations on Registered Apprenticeship activities?

Answer: ETA, through the Office of Apprenticeship (OA), is the Registration Agency in 25 states. Federal staff is directly responsible for the registration of new programs, and oversight of new and existing programs and apprentices in these states. Generally, program sponsors in these states would experience delays in registration of new programs and new apprentices and verification of their status as registered apprenticeship programs during this period in which Federal staff is unavailable to complete these registrations, or verify an employer's status as a bona fide registered apprenticeship program. Such delays may impact some employers' ability to hire new apprentices and/or to bid on new projects that require proof of registered apprenticeship program status. Federal staff would not be able to issue Davis-Bacon certifications necessary to verify that an apprentice is registered with OA and therefore can be paid less than the prevailing wage. Without such certifications, employers could be found to be violation of wage and hour laws and regulations.

Apprentices who complete an apprenticeship during the period of a government lapse in appropriations would experience delays in receipt of the certificates of completion of apprenticeship, which could affect their wages. In many licensed trades, in order to sit for the licensing examination, the apprentice must present proof of a DOL Completion Certification. Without this certificate, apprentice graduates who are unable to complete the licensure examinations would then experience delays in receiving wage increases associated with being a licensed professional in their skilled trade.

Apprenticeship sponsors and the 25 states that have State Apprenticeship Agencies would also be affected by the lapse in appropriations through the deactivation of Registered Apprenticeship Partners Information Data System (RAPIDS) – the online tool used to report data on apprenticeship programs and apprentices – causing a backlog in data reporting and the inability to retrieve data.

Regarding Apprenticeship grant programs, the impacts of a lapse in appropriation on grants activities is explained earlier in this document.

Electronic Tools

26) Question: Will the DOL ETA Toll-Free Helpline be available during a lapse in appropriations?

Answer: No. The ETA Toll-Free Helpline (at 1-877-US-2JOBS (TTY: 1-877-889-5627)) that provides information to job seekers and others will not operate.

27) Question: What about the WorkforceGPS, ETA’s technical assistance website for workforce professionals; will individuals be able to access the website?

Answer: The WorkforceGPS website will continue to be accessible. However, the content would not be refreshed under a lapse in appropriations.

Certain other national websites, such as servicelocator.org, careeronestop.org, and mynextmove.org would also continue to operate.

Unemployment Compensation

28) Question: What will happen with unemployment compensation (UC) during a lapse in appropriations? Additionally, for new claimants, how will a government lapse in appropriations affect processing time?

Answer: State agencies are responsible for processing UC applications and paying benefits and will continue doing so for continuing claimants and new claimants as long as allocated administrative funds remain available (See Q&A #30). States will be able to withdraw benefit funds from appropriate accounts to pay eligible claimants. Claims processing for

Unemployment Compensation for Federal Employees (UCFE) and Unemployment Compensation for Ex-Servicemembers (UCX) could be delayed since Federal agencies may not have staff available to provide needed wage and separation information to process these claims. (See Q&A #34)

29) Question: Will states be able to pay UCFE and UCX benefits during a federal shut-down?

Answer: Yes. These benefits would continue to be paid as long as allocated administrative funds remain available. Since Federal agencies would be shut down, states may need to rely on claimant affidavits and self-certification related to separation reason and earnings information. This documentation should include earnings and leave statements. (See Q&A #34)

30) Will administrative funds be available for regular compensation; UCFE; UCX; Extended Benefits (EB); and Trade Adjustment Assistance (TAA), including Trade Readjustment Allowances (TRA), Alternative Trade Adjustment Assistance (ATAA), and Reemployment Trade Adjustment Assistance (RTAA)?

Answer: Administration of all these programs is funded through a grant; all funds allocated to states before a lapse in appropriations may be used after the lapse in appropriations in accordance with the grant agreement. However, once those funds run out, additional funding for administration of these programs will not be available until a continuing resolution or an annual appropriation is enacted.

31) Will funding for Disaster Unemployment Insurance (DUA) be available?

Answer: Yes. Excepted staff at DOL will be made available to process DUA funding authorizations from the Federal Emergency Management Agency (FEMA), and FEMA will have excepted personnel available to process disaster requests.

32) Question: Should states continue to submit Unemployment Insurance (UI) required reports?

Answer: States will continue to submit UI required reports just as they did before the lapse in appropriations, using the same process, software, and deadlines. Please be aware there will be no technical or operational support available.

33) Question: Will there be any restrictions on State transfers to their accounts in the Unemployment Trust Fund (UTF)?

Answer: There will be no restrictions on state transfers to the UTF.

34) Question: Will there be anyone available in Federal agencies to get information on wage credits and reason for separation for Federal Employees who file for UI benefits?

Answer: The answer to this question is currently unknown; however, if a Federal agency does not respond to a Form 931, *Request for Wage and Separation Information*, within the allotted time (within 12 days of the request date), the state agency will follow normal operating procedures using an affidavit process to determine both monetary and non-monetary eligibility. States will complete a Form 935, "*Claimant's Affidavit of Federal Civilian Service, Wages and Reason for Separation*," and ask the claimant to provide credible evidence of Federal employment such as a Standard Form 50 (SF-50), earnings and leave statements, or a W-2. One copy of the Form 935 will be forwarded to the Federal agency and one copy retained by the state as supporting documentation. Some Federal agencies may have staff working during a lapse in appropriations to complete the Form 931.

35) Question: Will the weekly UC claims report be published?

Answer: No, Federal staff will not be available to publish the weekly claims report.

36) Will the Extended Benefits (EB) trigger notices be published and, if not, what information will be used to determine entitlement status for claimants?

Answer: The EB trigger notice will be published during the lapse in appropriations using the latest available information. States will continue to report Insured Unemployment Rate (IUR) triggers on the ETA 539 report as the Department will have excepted personnel available to review and approve state determinations. Upon approval, states will follow the usual process to publicize and notify claimants of any IUR change.

37) If Total Unemployment Rate (TUR) trigger data is not available during the lapse in appropriations and after resumption of operations TUR trigger data show that a state's EB status would have changed absent the lapse in appropriations, will states be required to retroactively change a claimant's entitlement status for the affected weeks and either pay additional amounts or attempt to collect benefits paid that would not have been paid absent the lapse in appropriations?

Answer: If the lapse in appropriations is more than three weeks in duration, entitlement status determined by the TUR indicator will be determined by new trigger notices, issued retroactively, only for the last three weeks of the appropriations. (See 20 CFR 615.12(d).)

38) How do states submit IUR trigger determinations during a government lapse in appropriations?

Answer: See response to question 36. If there are reporting problems, the phone number to contact excepted unemployment compensation personnel at the Department is: (202) 693-

3029. Messages will be returned. Documents can be submitted by FAX at: (202) 693-3229. These phone numbers are NOT toll free.

39) How do states contact excepted personnel in ETA's Office of Unemployment Insurance?

Answer: The phone number to contact excepted personnel at ETA's Office of Unemployment Insurance is: (202) 693-3029. Messages will be returned. Documents can be submitted by FAX at: (202) 693-3229. These phone numbers are NOT toll free.

Other

40) Question: What impact, if any, would this have on any pending rulemaking deadlines?

Answer: Depending on the length of the possible government lapse in appropriations, it could mean that regulation development is delayed, and therefore, might affect the current Regulatory Agenda next action dates. For Notices of Proposed Rulemaking with open public comment periods, please check the www.regulations.gov website for guidance on submitting public comments.

41) Question: Will there be any additional costs/burdens imposed on grantees during a lapse in appropriations?

Answer: It is not possible to determine any additional costs at this time.