

ALERT

Preparing for a Potential Government Shutdown

September 26, 2025

- Status of Government Funding:** Current funding for the Federal Government expires after next Tuesday, September 30, 2025. While full-year spending bills for the federal government are not yet complete, Congress is currently negotiating a "continuing resolution", a bill that would temporarily fund the Federal Government. On September 19, the House of Representatives passed a continuing resolution to fund the government through November 21, by a vote of 217-212, which the Senate voted down, 44-48. Both the House and Senate are in recess this week, and the President recently cancelled a meeting with Democrats to discuss a way forward on funding the government, both of which may heighten the risk of a shutdown.
- What should I do?** Negotiations are continuing and there is still time to reach an agreement. Nonetheless, it is timely now to consider how any government shutdown may impact your business. As discussed further below, advance planning is particularly important if the Government executes large-scale reductions in force.
- What happens during a government shutdown?** If a Department, agency, or program is paid for by an appropriations bill that has expired, that Department, agency, or program may be shut down under the Antideficiency Act, which prohibits agencies from obligating funding without having appropriations. During a shutdown, non-essential government services are halted, traditionally resulting in furloughs of non-essential government employees. Government facilities will be closed unless the particular

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office or program meets certain exceptions in the law. For example, if a program or an employee's work is deemed to involve the safety of human life or the protection of property, those activities may possibly continue. Press started reporting that the Office of Management and Budget (OMB) had instructed agencies to identify programs and activities for which funding would lapse and for which no other funding was available. The report indicated that OMB told agencies to prepare "reduction in force plans" for employees in those areas. Reduction in force (RIF) plans terminate employees for particular reasons, suggesting identified employees would be fired instead of furloughed.

4. **Will any other Government functions continue in any shutdown?** If an agency or program gets mandatory funds, appropriated funds that have not yet expired, or other types of nonappropriated funds (such as, for example, user fees), an agency or program can generally continue to operate. On the other hand, programs without such user fees, for example the FDA's GRAS notification program, would likely cease to operate during the shutdown. In addition, if agencies conduct RIFs, various government functions will be even further disrupted or may cease altogether.
5. **How do I find out about Department and Agency plans?** Each agency should have a plan in the event of a shutdown. Historically these plans have been posted on OMB's website and generally on websites for Departments and agencies. As of the date of this report, OMB's public website does not provide links to agency shutdown plans. The HHS, USDA, and EPA websites provide a Fiscal Year 2024 plan for FDA, undated or plans with 2023 or 2024 dates plans for USDA's agencies, and a March 2025 Contingency Plan for EPA. Government agencies will update these plans, so be sure to check back for changes.
6. **What should Government contractors be thinking about?** No two contractors will face the identical issues. In a nutshell, contractors should consider the following:
 - **Get work, modifications, or payment approved now.** If contract matters can be tied up before the end of the fiscal year, now is the time to act. This is particularly urgent if your contract may be one for which funding will lapse. Government personnel may be RIF'd on short notice, and even after the Government "reopens," personnel could be unavailable for unknown durations.
 - **Inventory contracts to understand their funding.** Our prior shutdown alert covers the implications for fully funded contracts and those that may be subject to a funding lapse.
 - **Communicate with contracting officers to get clear direction.** As we discussed in our prior alert, this communication is particularly important while the Government is still "open" and if your contracts are incrementally funded or cost-reimbursable subject to the Limitation of Funds clause, FAR 52.232-22, or the Limitation of Cost clause, FAR 52.232-20.
 - **Communicate with subcontractors.** Be sure that subcontractors are similarly in the loop on what performance may be able to continue and what should be stopped.
 - **Create clear records.** Contractors should ensure that they document these communications or instructions from their government partners, the impacts of a shutdown on contractor performance, schedule or costs, and efforts to minimize costs.

- **Carefully evaluate proposal and litigation deadlines.** Although agencies may be closed and government employees furloughed, not all deadlines are necessarily tolled. Contractors would be wise to check the rules of the procurement or litigation forum and not assume that a shutdown extends any such deadline.
- **Plan for impacts on employees.** Consider what actions are possible if your contract work is temporarily halted, both to manage expectations but also to ensure that valuable employees are not lost and are prepared to return to work when the Government "reopens." Consult with labor counsel to ensure that any notices or disruptions in pay do not run afoul of relevant laws.

You can read our complete shutdown suggestions for Government contractors [here](#).

Government shutdowns are accompanied by uncertainty. Given the possibilities of widespread agency RIFs, advance planning takes on new importance, and we are continuing to monitor these developments. Wiley's cross-disciplinary attorneys have extensive experience at multiple government agencies and have worked in Congress. Our Food & Drug, Government Contracts, and Telecom, Media & Technology practices, among others, are wired into Washington and available to answer your shutdown questions.