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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Home](#) [About](#) [Budget](#) FY 2026 H...

Navigate to:



FY 2026 HHS Contingency Staffing Plan for Operations in the Absence of Enacted Annual Appropriations

Fiscal Year 2026

Topics on this page: [Lapse Plan Summary Overview](#) | [Summary Data](#) | [Methodology](#) | [Summary by Category of Exception](#)

The mission of the U.S. Department of Health and Human Services (HHS) is to enhance and protect the health and well-being of all Americans by providing for effective health and human services and by fostering sound, sustained advances in

the sciences underlying medicine, public health, and social services. HHS's main priority in the absence of an enacted annual appropriation is to protect the health of Americans.

HHS will use the authority under the Anti-deficiency Act (ADA) to maintain existing HHS activities. This plan represents initial estimates for HHS activities under a lapse. Over the duration of any lapse, HHS will continue to review its resources, authorities, and flexibilities under the law to minimize the impact of such a lapse on the safety of human life and the protection of property. HHS will rely on exceptions in the ADA to continue to protect human life and property, such as monitoring for disease outbreaks conducted by the Centers for Disease Control and Prevention (CDC). HHS will also use exceptions in the ADA to retain staff in support funded activities, such as Medicare and other mandatory health program payments.

The information below describes the HHS approach to continuing operations during a lapse. This includes information about staff who will continue work as funded through prior year appropriations, mandatory appropriations, and user fees or other reimbursements of non-lapsed appropriations.

Lapse Plan Summary Overview¹

Category / Description	Details / Number of Employees
Estimated time (to nearest half day) required to complete shutdown activities:	.5 days
Total number of agency employees expected to be on board before implementation of the plan:	79,717 employees
Total number of agency employees expected to be furloughed under the plan (unduplicated count):	32,460 employees
Total number of employees to be retained under the plan for each of the following categories (may include duplicated counts):	

Category / Description	Details / Number of Employees
Compensation is financed by a resource other than annual appropriations:	35,096 employees
Necessary to perform activities expressly authorized by law:	12,206 employees
Necessary to perform activities necessarily implied by law:	2,654 employees
Necessary to the discharge of the President's constitutional duties and powers:	1,609 employees
Necessary to protect life and property:	7,898 employees

Brief summary of significant agency activities that will continue during a lapse:

HHS will continue any exempt or excepted activities in the event of a lapse in appropriation. Each of the operating divisions will continue, as necessary, to support exempt activities with advance appropriations, carryover balances, emergency supplemental balances, third party funding, or user fees. For example, the Administration for Strategic Preparedness and Response (ASPR) will maintain the minimal readiness for all hazards, including pandemic flu and hurricane responses. Moreover, the National Institutes of Health (NIH) will continue research and clinical activities necessary for the protection of human life or government property, while the Food and Drug Administration (FDA) will continue exempt activities to support drug and medical device reviews. HHS will also rely on exceptions in the Anti-deficiency Act (ADA) to continue other activities protecting human life and property, such as monitoring for disease outbreaks conducted by the Centers for Disease Control and Prevention (CDC). HHS will except staff across the Department to assist in executing constitutional duties such as preparing the FY 27 Presidents budget. HHS

will also except staff as necessary to support mandatory funded activities, such as Medicare, Medicaid, OIG's Health Care Fraud and Abuse related activities (which covers all OIG staff), and other mandatory health program payments.

Brief summary of significant agency activities that will cease during a lapse:

HHS will cease all non-exempt and non-excepted activities in the event of a lapse in appropriation. This includes, but is not limited to, oversight of extramural research contracts and grants, being able to process FOIA requests or public inquiries, data collection, validation, and analysis. More specifically, CDC communication to the American public about health-related information will be hampered, CMS will be unable to provide oversight to major contractors, and NIH will not have the ability to admit new patients to the Clinical Center, except for whom it is medically necessary.

Summary Data

As shown on the attachment <https://healthdata.gov/hhs/fy-2026-hhs-lapse-and-contingency-plan/s4q2-58m5/about_data>, HHS' contingency plans for agency operations in the absence of appropriations will lead to retaining approximately 47,257 staff and furloughing 32,460 staff as of day two of a funding lapse. Put another way, more than 59% of HHS employees will be retained and 41% will be furloughed. These percentages vary among HHS Operating Divisions and offices. Operating Divisions with a substantial direct service component will have more of their staff retained. For example, the NIH Clinical Center will continue to care for patients and admit new patients for whom it is medically necessary. Food and Drug Administration (FDA) will continue core functions to handle and respond to emergencies – such as monitoring for and quickly responding to outbreaks related to foodborne illness and the flu, supporting food and medical product recalls when products endanger consumers and patients, pursuing criminal and certain civil investigations when we believe public health is at risk, screening the food and medical products that are imported to the U.S. to protect consumers and patients from harmful products, and addressing other critical public health issues.

Methodology

The HHS contingency staffing plan for agency operations in the absence of appropriations has been updated consistent with the requirements in Section 124 of the Office of Management and Budget (OMB) Circular A-11 and guidance contained in the most recent update of OMB's Frequently Asked Questions During a Lapse in Appropriations. HHS contingency staffing plans are prepared as part of our standard operating procedures for managing operations during a lapse, which also includes processes for resuming operations after the lapse has ended, including issuing notifications to employees and providing other direction to Operating and Staff Divisions necessary to support the resumption of normal operations.

The plan was prepared based on the Department of Justice legal opinions of April 25, 1980, January 16, 1981, and August 16, 1995, and the memoranda and Q's and A's that OMB provided to Departments and Agencies in 1995, 1996, 2011, 2013, and 2019 on this topic. To the degree that updated government-wide guidance is released, or there are events that affect the programmatic activities that HHS needs to carry out during an absence of annual appropriations, the plan will require additional updating. In the event of a prolonged lapse period, HHS Operating and Staff Divisions will work with the Office of the General Counsel (OGC) to identify the legal rationale for any changes in activities deemed necessary to protect the health and safety of Americans and will update the lapse plan on a rolling basis to meet these operational needs as they arise. In cases of new public health emergencies or natural disasters at home or abroad that demand the attention of a range of agency experts to secure and protect human life, the HHS plan will also have to be modified. This plan reflects the anticipated number of staff who will be on-board the second business day of a funding lapse, after initial shutdown activities are completed. HHS expects to complete initial shutdown activities within the first day after OMB notification to implement the contingency plans. The plan is updated for staffing levels and funding levels as of July 2025.

As in previous periods without enacted annual appropriations, the number of excepted staff will vary daily, depending on the amount of excepted work that needs to be done. For example, at the end of a pay period, time keepers will need to be excepted for the amount of time required to prepare and enter into the timekeeping

system the hours worked in pay status, hours worked in non-pay status, and hours in furlough status. Also, the second-day staffing level is likely to include more contract officers than some later days, as contract officers must complete their notifications of those contractors whose performance will need to be changed. Designated division officials are responsible for managing activities during a lapse and will work with division and Departmental leadership and OGC to determine changes to the furlough status during a prolonged lapse period.

The information on staff who will not be furloughed is broken into the two broad categories of “authorized by law” and “safety of human life and protection of property,” consistent with Department of Justice legal opinions.

Employees who are “exempt” from furlough because they are not affected by a lapse in appropriations because their activities are funded from sources other than annual appropriation. These staff will be working in a pay status, as funding will continue to be available to pay their salaries. “Excepted” employees may be retained by HHS to preform activities excepted from the ADA, such as:

- Those activities authorized by law. Officers appointed by the President, including all presidential appointment with Senate confirmation and presidential appointment officials and members of the uniformed services (Commissioned Corps), who may be retained as authorized by law.
- Activities authorized by necessary implication, such as those necessary to perform in support of other exempt or excepted activities.
- Activities necessary to protect the safety of human life and to protect Federal property.

For activities related to the safety of human life and the protection of property, HHS relied on the guidance provided by the Attorney General in 1980, as modified by the Department of Justice in 1995, to reflect relevant statutory changes in the intervening years. As used in this narrative, reference to "the safety of human life or the protection of property" does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.

For the safety of human life, the numbers needed to continue medical services that HHS provides are separately identified. For the protection of property, the plan provides separate information on the number of staff excepted to protect on-going medical experiments, to maintain computer data, and to maintain animals and protect government property.

HHS's, Program Support Center (PSC), Financial Management Portfolio (FMP), Payment Management Services (PMS), and Division of Payment Management (DPM) will be operational and retain the necessary staffing in an excepted status to ensure delivery of grant payments for excepted programs. The PMS and DPM will follow specific processes to ensure payment of permissible disbursements. In addition, HHS will maintain the Grants.gov system in an operational status, but with reduced federal support staff presence. The Grants.gov Contact Center will remain available and provide assistance to callers. HHS will provide the federal grantor community with guidance and updates in the event of a government shutdown.

Summary by Category of Exemption or Exception

The sections on the staffing table display the staff that will be exempt or excepted according to which category their funding falls or the activities they fulfill. This section summarizes the highlights of those totals across HHS.

Staff performing activities without funding issues

Some HHS agencies have mandatory, multiple-year, carryover, or user fee funds which are not affected by a lapse in annual appropriations. A total of 35,096 staff are estimated to continue to be paid by these funds and remain working during a lapse in appropriations. This includes 14,801 staff at the Indian Health Service who will be funded by a mix of advance, multi-year, or supplemental appropriations, third party collections, or carryover balances.

Officers appointed by the President

The Officers appointed by the President at HHS include the Secretary, Deputy Secretary, Assistant Secretaries, and many agency heads, which total 13 on board. Many of these Officers are Presidentially appointed and Senate approved (PAS) and may be excepted during a lapse in appropriations.

Staff performing activities authorized by necessary implication – support of funded activities

The HHS plan includes 1,649 staff performing activities authorized by necessary implication, other than law enforcement and orderly shutdown.

Staff performing activities authorized by necessary implication – orderly phase-down and suspension of operations

HHS has identified 1,497 staff that will be excepted to assure an orderly phase-down and suspension of activities. This designation include staff that will be needed to assure an orderly process for determining, as conditions change, what activities should be re-initiated and what activities may no longer be excepted. This number also includes non-PAS shutdown staff carrying out responsibilities described in the November 17, 1995 OMB memorandum to the President's Management Council on PAS shutdown responsibilities, and the estimated number of Office of the General Counsel (OGC) staff who will be excepted to ensure that HHS responds appropriately to orders from the Judicial branch.

Safety of human life – direct medical services

HHS estimates that 2,292 staff will be excepted for the provision of direct medical services, with the vast majority of these in the NIH Clinical Center. Indian Health Services (IHS) Medical staff are considered exempt, since the agency received advance appropriations in FY 2025 that will maintain their FY 2026 base appropriation for medical services. This number reflects staff at service unit facilities and clinics, supporting medical and pharmaceutical care.

Safety of human life – activities other than direct medical services

Staff will be excepted to support vital activities to respond to public health and natural emergencies, manage high-risk recalls, pursue criminal enforcement work and civil investigations related to imminent threats to human life, review import entries to determine potential risks to health, conduct for cause inspections of regulated facilities, conduct surveillance of adverse events reports for issues that could cause human harm, and other critical activities supporting the imminent safety of human life, as appropriate. These staff will also be responsible for efforts to continue to address other critical public health challenges, including drug shortages, and outbreaks related to foodborne illness and infectious diseases.

Protection of property -- maintenance of computer data

HHS estimates that 387 staff (excluding those otherwise authorized by law) will be excepted for the protection of computer data.

Public Health Service Commissioned Corps

Commissioned officers cannot be furloughed. As a result, HHS will retain an additional 1,600 Commissioned Corps personnel on board during a lapse in annual appropriations in addition to those working in the exempt or excepted statuses described above.

Operating Division Details

The information below provides specific detail regarding which activities will continue or not continue during a lapse in appropriation, by HHS Operating Division.

FY 2026 Lapse Plan Administration for Children and Families (ACF) </about/budget/fy-2026-acf-contingency-staffing-plan/index.html>

FY 2026 Lapse Plan Administration for Community Living (ACL) </about/budget/fy-2026-acl-contingency-staffing-plan/index.html>

FY 2026 Lapse Plan Agency for Healthcare Research and Quality (AHRQ) </about/budget/fy-2026-ahrq-contingency-staffing-plan/index.html>

FY 2026 Lapse Plan Advanced Research Projects Agency for Health (ARPA-H) </about/budget/fy-2026-arpah-contingency-staffing-plan/index.html>

FY 2026 Lapse Plan Administration for Strategic Preparedness and Response (ASPR) </about/budget/fy-2026-aspr-contingency-staffing-plan/index.html>

FY 2026 Lapse Plan Center for Disease Control and Prevention (CDC) </about/budget/fy-2026-cdc-contingency-staffing-plan/index.html>

FY 2026 Lapse Plan Center for Medicare and Medicaid Services (CMS) </about/budget/fy-2026-cms-contingency-staffing-plan/index.html>

FY 2026 Lapse Plan Food and Drug Administration (FDA) </about/budget/fy-2026-fda-contingency-staffing-plan/index.html>

FY 2026 Lapse Plan Health Resources and Services Administration (HRSA)

[</about/budget/fy-2026-hrsa-contingency-staffing-plan/index.html>](/about/budget/fy-2026-hrsa-contingency-staffing-plan/index.html)

FY 2026 Lapse Plan Indian Health Services (IHS) [</about/budget/fy-2026-ihc-contingency-staffing-plan/index.html>](/about/budget/fy-2026-ihc-contingency-staffing-plan/index.html)

FY 2026 Lapse Plan National Institutes of Health (NIH) [</about/budget/fy-2026-nih-contingency-staffing-plan/index.html>](/about/budget/fy-2026-nih-contingency-staffing-plan/index.html)

FY 2026 Lapse Plan Office of the Secretary (OS) [</about/budget/fy-2026-os-contingency-staffing-plan/index.html>](/about/budget/fy-2026-os-contingency-staffing-plan/index.html)

FY 2026 Lapse Plan Substance Abuse and Mental Health Services Administration

(SAMHSA) [</about/budget/fy-2026-samhsa-contingency-staffing-plan/index.html>](/about/budget/fy-2026-samhsa-contingency-staffing-plan/index.html)

Endnotes

¹ These numbers represent positions, not FTEs, and only reflect RIFs completed by Jul 31, 2025.

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