EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

November 9, 1995

THE DIRECTOR

M-96-01

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Alice M. Rivlin
Director

SUBJECT: Planning For Agency Operations

This memorandum is designed to help you plan your agency's activities for next week, in light of recent developments on fiscal 1996 appropriations.

The current Continuing Resolution (CR) expires at midnight on Monday, November 13, 1995. At this point, only two appropriations bills have been enacted for fiscal 1996. We do not know if Congress will pass a second acceptable CR by Monday that will continue funding for activities that lack appropriations. Because there is a real chance that this may not occur, you should begin planning now, as a contingency matter, as follows:

Today, Thursday, November 9. You should review your shutdown plans and ensure that your employees are properly informed. As noted above, the CR expires at midnight, Monday. Therefore, Monday, November 13th will be a normal workday for the Federal Government. You should advise employees to report for work on Monday.

Monday, November 13: All employees should report for work. We will advise you of further developments, including whether a CR will likely be enacted. If not, you should prepare to implement your shutdown plan on Tuesday.

Tuesday, November 14: Regardless of whether a CR has been enacted, all employees should report to work on Tuesday. We will advise you on whether your shutdown plan is to be implemented, as follows.

-- Shutdown. If no CR has been enacted or will likely be enacted Tuesday, we will issue instructions initiating a phase-down of activities for non-excepted employees. You should complete such phase-down activities for non-excepted personnel, if called for, during the first three hours of the workday.

-- Normal Operations: If a CR will likely be enacted on Tuesday, we will advise agencies to operate in a normal manner.

Attached is a summary of our general guidance on agency operations in the absence of appropriations.

Thank you for your cooperation in these difficult circumstances. We will keep in close touch with you as developments unfold.

Attachment

General Guidance on Agency Operations in the Absence of Appropriations

OMB Bulletin 80-14, dated August 28, 1980 (and amended by the OMB Director's memorandum of November 17, 1981), requires all agencies to maintain plans to deal with an appropriations hiatus. If a shutdown occurs, we assume each agency will be operating under its shutdown plan as approved by OMB in September. As a reminder, the Attorney General's opinion dated January 16, 1981, updated by the opinion of the Office of Legal Counsel dated August 16, 1995, remains in effect. In general:

- Employees of affected agencies performing non-excepted activities (as discussed in the Department of Justice opinions) may not perform any services other than those involved in the orderly suspension of non-excepted activities; excepted activities that may be continued are generally those that are authorized by law or that protect life and property.

- Agencies may not permit voluntary performance of non-excepted services; and

- Agency heads make the determinations that are necessary to operate their agencies during an appropriations hiatus (within the guidance established by the Department of Justice opinions and this memorandum, and pursuant to normal agency processes for the resolution of issues of law and policy).

Please address any questions to your OMB budget examiner(s), or to OMB General Counsel Robert Damus (395-5044), or Associate General Counsel for Budget Rosalyn Rettman (395-4778).