

Federal Grants During a Government Shutdown: What to Know

Under the Antideficiency Act (initially passed in 1884 and amended in 1950), federal agencies cannot spend or obligate any money without an appropriation (or other approval) from Congress. During a lapse in fiscal year appropriations the government enters what is commonly known as a “government shutdown.” During this shutdown, the administration, distribution, and funding of federal grants **will be** impacted.

Agencies are generally prohibiting from signing new grants or contracts during the a government shutdown. However, applications will be processed normally, but stored for retrieval until after the shutdown. Grants that help preserve essential functions or the “safety of life” are always protected and therefore funded.

Grants.gov will remain accessible and the Grants.gov contact center will be open during regular business hours. However, many agencies mention in their contingency plans that staff will **not** respond any inquiries received, including about upcoming deadlines, proposal preparation, and applications during the period of a government shutdown; they will be deferred until normal operations resume. In addition, the review process for grants will be delayed.

First and foremost, every agency has different procedures and protocol, as well as issuing their own contingency plans. The contingency plans from the 2018-19 Government Shutdown can be found [here](#) and outline aspects of grant administration, as well as other agency functions.

For example, in [HUD’s contingency plan for the 2018-19 shutdown](#), they note that:

- No new grants will be awarded during the “period of the government shutdown.” (page 78)
- Applications will be processed as normal by the system and “stored for agency retrieval.”
- HUD will administer programs “to ensure the safety of life,” including supportive housing for veterans and housing for people with AIDS.

[DOT’s contingency plan](#), for example, noted that FTA would not continue any of its “unfunded core agency functions,” with grants, cooperative agreements, contracts, travel authorizations and “or other documents obligated funds” ceasing. Existing Airport Development Grants would continue.

However, during the 2018-19 government shutdown, new grants were still being posted on grants.gov, seemingly at similar levels to before and after the shutdown, with various agencies posting grants, including USAID, the IMLS, and the Departments of Health and Human Services (NIH, ACL, HRSA, CDC), Defense, Energy, Education and Justice. Additionally, there did not appear to be an influx of grants posted in the immediate aftermath of the shutdown, which might occur if an agency delayed their funding announcements.

The Trump Office of Management and Budget [released guidance](#) during the 2018 shutdown explaining what functions relating to grants were permitted and what grants could be administered. Agencies generally were not allowed to “[incur] obligations that are in advance of, or that exceed, an appropriation.” However, grants were allowed to be funded and money was allowed to flow:

- If the function addresses emergency circumstances, such that the suspension of the function would imminently threaten the safety of human life or the protection of property:
 - o “A reasonable and articulable connection between the obligation (in this case, involving a contract or grant) and the safety of life or the protection of property...”

- “Some reasonable likelihood that either the safety of life or the protection of property would be compromised in some significant degree by failure to carry out the function in question – and that the threat to life or property can be reasonably said to be near at hand and demanding of immediate response.”

Additionally, broadly, an agency was not allowed to sign a new grant or contract agreement during a government shutdown unless:

- A statute expressly authorized an agency to do so.
- The function addresses emergency circumstances, such that the suspension of the function would imminently “threaten the safety of human life or the protection of property.”
- The function is “necessary to the discharge of the President's constitutional duties and powers.”
- The agency must continue the function, in the absence of appropriations, because its continuation is “necessarily implied” from the continuation of other authorized activities.

If supervision or support during the government shutdown period is not critical to the grantee's continued performance during that period, then the recipient may continue to proceed with their work, and those federally-funded projects do not cease. However, an agency generally cannot pay a contractor or grantee during a funding lapse for their work.

Each agency functions differently, and we recommend that a grant applicants and recipients alike reach out to their agency contacts as soon as is deemed necessary to discuss their contingency plan and what will happen to their grant in the event of a shutdown.