

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

MEMORANDUM

TO: Charles Kolb

FROM: Kenneth A. Fogash  
Deputy Executive Director  
Office of the Executive Director

RE: SEC Anti-deficiency Act Contingency Plan

DATE: September 28, 1983

As per your request, please find attached a copy of the SEC Anti-deficiency Plan. This is the version that was forwarded to Mr. Stockman in anticipation of last year's appropriation interruption. We are now in the process of identifying essential employees having exempt status. If notified by your office on Friday, September 30, that a continuing resolution is unlikely, we will initiate shutdown procedures consistent with the recent memorandum from Joseph Wright. To the extent that Mr. Wright's memorandum varies with our Contingency Plan, the more recent OMB guidance provided in the memorandum will supercede the existing plan.

If you have any questions, please contact Thimi Mina of my staff at 272-2703.

## SEC Anti-deficiency Act Contingency Plan

1. Five days before possible expiration of appropriations.
  - A. Executive Director's Office to request from Division Directors, Office Heads, and Regional Administrators, impact statements concerning important deadlines which must be met during the first week of an expiration of appropriations and calling for identification of specific functions essential to the protection of life and property or the orderly phasedown of Commission activities, and the individuals associated with these functions (samples attached as Exhibits 1(A)(1) and 1(A)(2)). See the attached Listing of Essential Activities.
  - B. Organization of and scheduling of planning session for Appropriations Hiatus Committee, consisting of a representative from the following offices: Chairman, Executive Director, Regional Office Operations, General Counsel, Comptroller, Personnel, Administrative Services, and any other offices as determined by the Executive Director.
2. Two days before possible expiration of appropriations.
  - A. Memorandum to be sent to Division Directors, Office Heads, and Regional Administrators setting forth procedures to be followed if a lapse in appropriations occurs (sample attached as Exhibit 2(A)).
  - B. Call to Administrative Officers to submit a list of all employees scheduled for travel, or continuing on essential travel during the first week of an expiration of appropriations; a list of all employees on assignment both within and without the agency; and a list of all employees to whom annual leave has been officially granted which annual leave will continue or commence on the first day of an expiration of appropriations.
  - C. Memorandum to SEC staff explaining procedures and policies to be followed by staff during expiration of appropriations (sample attached as Exhibit 2(C)). Agency policy is to allow completion of annual leave if employee started leave before expiration of appropriations, pursuant to written grant by supervisor.
3. Last day before possible expiration of appropriations.
  - A. Notification to all employees not required to report for work after first half-day of non-funding (sample attached as Exhibit 3(A)).
  - B. Notification to employees deemed "essential" (sample attached as Exhibit 3(B)).

4. First work day after lapse in appropriations.
  - A. Agency head will ensure that OMB, OPM, and Treasury are notified immediately when shutdown activities are being indicated.
  - B. Agency officials will contact the appropriate Regional Administrators of GSA for assistance in determining the disposition of agency records, real and personal property, and outstanding requisitions, contracts, and related items. For detailed guidance see:
    - 41 CFR 101-11.4; Dispositions of records.
    - 41 CFR 101-43 and 101-47; Disposition of personal property and real property.
    - FPMR 101-36.5, 101-37.203(c), and 101-37.307-1; Dispositions of automatic data processing, communications, and telephone equipment.
    - GSA motor pool accounting and record system operations guide; Disposition of motor vehicles.
5. Second work day after lapse of appropriations.
  - A. Determination by Executive Director and Chairman, after consultation with Division Directors, Office Heads, and Director, Regional Office Operations, as to which continuing activities and persons are still essential within the meaning of the Antideficiency Act.
  - B. Call to Administrative Officers in the Headquarters and Regional Offices to submit to the Office of Personnel updated lists of addresses and telephone numbers of all employees notified not to report for work.
6. Third work day after lapse of appropriations.
  - A. Only those persons deemed “essential” in 5.A. to report to duty.
7. If expiration of appropriations continues after this point, plans will be developed for an inventory of property and records, and for eventual transfer of records to the General Services Administration (not to occur until 30 days have elapsed from the start of shutdown activities and then only after a determination is made that the funding hiatus will continue indefinitely).

8. Passage of appropriations.
  - A. Memorandum to remaining Division Directors, Office Heads and Regional Administrators notifying them of conclusion of crisis (sample attached as Exhibit 8(A)).
  - B. Notification to all employees notifying them of conclusion of crisis (sample attached as Exhibit 8(B)).

## Listing of Essential Activities

### I. General -

activities are limited to those: directly related to an orderly shutdown of the agency; which give primary consideration to protecting life and safeguarding Government property and records; and, that facilitate reactivation when funds are available.

### II. Specified by OMB -

- (a) processing of necessary personnel actions involving the preparation of employee notices of furlough and of personnel and pay records in connection with furlough actions and essential shutdown activities;
- (b) processing of the personnel payroll for the periods prior to the fund interruption;
- (c) providing for the inventory, safeguarding and orderly transfer of the custody of Government property and records to GSA or OPM;
- (d) identification of activities funded from prior years appropriations.

### III. Determined by SEC (requires detailed justification - subject to approval by Commission and/or Executive Director).

- (a) matters in litigation where court deadlines require work;
- (b) law enforcement activities which cannot be deferred without significant risk to life and property;
- (c) specific activities necessary for the Commission to continue the effective functioning of the capital market, monetary and banking systems;
- (d) the receipt, date-stamping and delivery of mail to addressee's (but not processed further);
- (e) the receipt, date-stamping, review for minimum sufficiency of filing requirements, and delivery of filings to respective offices and divisions. Filings should receive further processing only where III(c) applies.
- (f) recording, tracking and verification of obligations, pay records and activities to ensure compliance with this contingency plan.

- (g) responding to consumer complaints and, with Executive Director approval, initiating inspections for cause when III(b) violations are strongly suspected.
- (h) other duties required by SEC Antideficiency Act Contingency Plan (see sections 4 through 8 and hot-line service in Exhibit 3(a)).
- (i) clerical support to perform III(a) through III(h), if approved.