Congressional Research Service
Informing the legislative debate since 1914

IN FOCUS

# Government Shutdowns: Legal Causes in Brief

August 19, 2026

Congress typically funds the ongoing operations of federal programs in 12 regular appropriations bills. It annually drafts these bills to meet the funding needs of a fiscal year. Usually, Congress provides *fixed-period appropriations*, which remain available for obligation until a date certain. During this period of availability, the appropriations are *current*. The period of availability often begins the first day of the fiscal year covered by the act (i.e., October 1, 2025, for FY2026) and ends after the last day of that fiscal year (i.e., September 30, 2026). If Congress seeks to continue such funding from one fiscal year to the next, it must enact before the start of the new fiscal year either a new regular appropriations bill or a *continuing resolution* (CR) providing stopgap funding.

A fiscal year might begin without such bills being enacted into law, or a CR's stopgap funding might expire partway through the fiscal year. When this occurs, many of the fixed period appropriations of an affected agency *expire* and are no longer generally available for obligation. Without replacement funds, the agency enters a lapse in appropriations.

A lapse triggers the general shutdown mandate of the Antideficiency Act, a statute that prohibits agencies from incurring obligations before appropriations are made. Agencies must generally cease unfunded activities to avoid making prohibited obligations. However, the Act does not require all agencies' functions to end. This In Focus describes the Antideficiency Act's general shutdown mandate, why certain activities may nonetheless continue during a lapse, and Congress's legislation options to address a potential funding lapse and the consequences of a lapse. For more information on these topics, see CRS Report R48930, *Government Shutdowns: Applying the Antideficiency Act to a Lapse in Appropriations*, by Sean Stiff and Matthew D. Trout (2026).

## The General Shutdown Mandate

No statute carries the formal title, assigned by Congress, of the "Antideficiency Act." Rather, that title is an informal label commonly used to refer to provisions of law that are codified at, among other places, Chapter 13 of Title 31 of the *U.S. Code*. Four provisions give rise to the Act's shutdown mandate.

The first such provision is 31 U.S.C. § 1341, which contains the Antideficiency Act's core prohibitions. The statute states that "an officer or employee of the United States Government or of the District of Columbia may not . . . involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law." An agency involves the government in an obligation when it takes the last step to legally commit the United States to pay a third party.

The second relevant provision buttresses the first by generally barring agencies from allowing employees to work on a voluntary basis. Section 1342 of Title 31, the voluntary services bar, states that an "officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property." The life-or-property exception, the statute explains, "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."

The third and fourth relevant provisions of the Antideficiency Act are its enforcement provisions, which apply to violations of either the Act's core prohibitions or the voluntary services bar. The Act provides for administrative discipline in 31 U.S.C. § 1349. An officer or employee who violates the Act "shall be subject to appropriate administrative discipline including," when warranted, "suspension from duty without pay or removal from office." The statute separately imposes, under 31 U.S.C. § 1350, criminal liability for those who willfully violate the Act. If convicted, an individual faces a fine of up to $5,000, a prison sentence of up to two years, or both. However, the Department of Justice (DOJ) has apparently never brought a criminal prosecution under the Antideficiency Act.

## Agency Operations During a Lapse

The Antideficiency Act generally requires agencies facing a lapse in appropriations to cease their activities to avoid incurring obligations that would violate the Act. For example, an agency incurs obligations when its supervisory staff permit their properly appointed employees to render services to the United States. To avoid these payroll-related obligations, an agency facing a lapse thus must generally furlough affected staff and await new appropriations from Congress. Not all agency activities must end during a lapse. Certain activities are *exempt* from the shutdown mandate while others are *excepted* from it.

### Exempt Functions

As noted above, the event that triggers the general shutdown mandate is a lapse in agency appropriations. Oftentimes, though, an agency will not experience the simultaneous lapse of all of its appropriations. Despite the lapsing of certain funds, for example, others might remain current because Congress provided the latter funds with a *multiyear* or *no-year* period of availability that extends into the current fiscal year. Agency activities that may be funded with these *carryover funds* are exempt from the Antideficiency Act's shutdown mandate. When an agency performs exempt functions, it does not incur obligation "before an appropriation is made" but rather uses current appropriations.

An agency identifies exempt functions, in part, by determining which of its activities may be funded with still-current dollars based on the object for which such appropriations are made. This entails analysis under the Purpose Statute, 31 U.S.C. § 1301(a), which provides that "Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law." Appropriations grant authority to incur obligations for their expressly listed objects. They also grant implied authority to incur expenses reasonably necessary to carry out the express objects.

Agencies generally determine the scope of implied authority by applying a three-step analysis, as set forth in DOJ and Comptroller General standards that "mirror[]" one another. First, the agency must find that there is a logical, reasonable connection between a particular expense and the appropriation's express objects. Second, no other law may prohibit the planned expense. Third, the appropriation that the agency intends to use for the expense must be the one that is most specifically available.

### Excepted Functions

Excepted functions, like exempt functions, may continue during a lapse in appropriations, but for the separate reason that an agency determines that the function fits an exception to the Antideficiency Act's general shutdown mandate. While the Act generally prohibits incurring obligations "before appropriations are made," that prohibition does not apply when such obligations are "authorized by law."

Agencies identify obligations that they may incur before appropriations are made under the "authorized by law" exception based on several legal rationales. In the view of all three branches, the Constitution itself might authorize a government actor to incur obligations before appropriations are made. Congress has recognized that "activities that entail or directly support Members' performance of their constitutional responsibilities" are excepted functions. In the executive branch's view, the President's performance of certain constitutional functions might permit him or his aides to incur necessary obligations before appropriations are made. A federal appellate court has held, in the perhaps analogous context of an impending exhaustion of juror fee funds before the end of a fiscal year, that the Seventh Amendment's jury trial guarantee may prohibit significantly delaying a jury trial due to lack of funds needed to hold the trial.

More commonly, agencies identify excepted functions based on provisions of statute, reasoning that the statute provides either express or implied authority to incur obligations before appropriations are made. Express authority to perform unfunded functions during a lapse is rare. A statute provides such authority if it specifically states that an agency may perform a function, and thus incur obligations, regardless of whether the agency has appropriations to cover those obligations (e.g., before appropriations are made). For example, a federal statute allows the Secretary of the Army to contract for fuel needed for a year and use future appropriations to pay for it.

Implied authority rests on a different footing. In the executive branch's view, implied authority exists to continue unfunded activities if those activities are necessary for carrying out other activities that themselves are either exempt or excepted from the Antideficiency Act's general shutdown mandate. Thus, for example, DOJ has reasoned that Congress's decision to provide a permanent appropriation for Social Security benefit payments provides implied authority for the Social Security Administration to designate personnel who process benefit payments as excepted when annual appropriations for program administrative costs lapse. For its part, the Government Accountability Office generally has not recognized implied authority to incur obligations before appropriations are made, though it does recognize implied authority to incur obligations to shut down affected programs in an orderly manner.

The Antideficiency Act's voluntary services bar contains its own exception to the general shutdown mandate. The statute allows an agency to accept voluntary services "for emergencies involving the safety of human life or the protection of property." Executive branch agencies identify such emergency functions using a two-step analysis. First, the agency concludes that there is a "reasonable and articulable connection" between an agency activity and the protection of life or property. Second, the agency finds if it delayed the activity during a lapse in appropriations, a significant degree of harm to life or property would be reasonably likely.

Moreover, while the Antideficiency Act prohibits an agency from accepting voluntary services during a lapse in appropriations, the statute does not prohibit the agency from benefiting from *gratuitous services*. A gratuitous service is one for which no future demand for compensation is likely. If a statute fixes an agency employee's compensation, that individual likely may not render gratuitous services because of long-standing prohibitions against an individual waiving compensation set by law. By contrast, if a statute allows an individual to serve in a position without compensation, such as a position for which a statute fixes a maximum salary but not a minimum, the individual can likely serve without compensation and thus render gratuitous services.

## Congress's Options to Shape Shutdowns

As explained above, government shutdowns are the product of the Antideficiency Act and Congress's use of annual appropriations acts to fund most ongoing agency activities. Congress may choose to expand or restrict the Antideficiency Act's prohibitions or exceptions. It also may choose to provide in permanent law appropriations that become available upon a lapse in regular appropriations. Congress might decide, during a lapse, to fund certain functions while its deliberations on broader funding continue, as it did in 2013 when it appropriated funds to pay members of the military and certain civilian personnel who supported them during a lapse in Department of Defense annual appropriations. It may decide to modify the rules of either (or both) chambers to affect the consideration of the annual appropriations bills either to avoid lapses or to facilitate legislation to end them. Finally, Congress may decide that the existing array of statutes and chamber rules strikes the appropriate balance between continuing government services and asserting Congress's power of the purse.

**Sean Stiff**, Legislative Attorney
**Matthew D. Trout**, Legislative Attorney

IF13292

## Disclaimer