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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

JOAN KANE, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY Kane, DEPUTY

IN RE: PLAN FOR LAPSE IN APPROPRIATIONS)
FOR THE DISTRICT COURT AND THE UNITED)
STATES PROBATION OFFICE FOR THE)
WESTERN DISTRICT OF OKLAHOMA.)

Misc. No. 22

ORDER

Pursuant to Volume 13, Chapter 2, § 230.50 of the *Guide to Judiciary Policy*, the United States District Court for the Western District of Oklahoma adopts the following plan for operating during a lapse in appropriations for the Judiciary.

1. **Declaration of Policy.** The District Court is constitutionally and statutorily required to continue to exercise judicial power regardless of the status of appropriations. The Court, however, is bound by the strictures of the Anti-Deficiency Act, 31 U.S.C. §§ 1341-1342, in the event of a lapse of appropriations. This Plan will govern in the event a Phase 2 lapse of appropriations occurs, that is when balances from fees and no-year appropriations are exhausted before Congress enacts legislation funding judiciary operations, and the judiciary has no available funds to continue operations. During a Phase 1 lapse, the Court will operate pursuant to the provisions of the *Guide to Judiciary Policy*, see Volume 13, Chapter 2, § 230.50.10.

- a. During a Phase 2 lapse, the judiciary, and accordingly the Court, will have no funding to incur obligations or to make payments for most judiciary activities. Therefore, in accordance with the Anti-Deficiency Act, the Court

is required to limit its operations so as to only incur obligations and expenditures to perform “excepted activities.” “Excepted activities” are defined as:

- i. activities necessary to support the exercise of the Article III judicial power, *i.e.*, the resolution of cases in which there is a constitutional or statutory grant of jurisdiction;
 - ii. activities addressing emergency circumstances, such that suspense of the function would threaten the safety of human life or the protection of property;
 - iii. activities otherwise authorized by law, either expressly or by necessary implication, including:
 1. Constitutional guarantees (*e.g.*, the right to counsel under the Sixth Amendment to the United States Constitution);
 2. operating entitlement programs; and
 3. executing activities needed for an orderly shutdown of other official functions.
- b. In accordance with these limitations the Court will continue to:
- i. hear and decide cases without interruption;
 - ii. file new cases and maintain existing cases, as necessary to assist the Court in implementing its orders and judgments;
 - iii. timely file and process filings, motions, orders, emergency applications, warrants, and other litigation documents;

- iv. collect and deposit fees and costs into the Treasury;
 - v. disburse restitution or registry funds pursuant to Court order;
 - vi. administer the petit jury and grand jury systems, including the approval of payments to jurors through the Jury Management System;¹ and
 - vii. appoint attorneys for persons deemed eligible under § IV.A.1 of the Court's Criminal Justice Act Plan (G.O. 24-6), authorize expert and other services as appropriate, and review vouchers for payment.²
- c. In accordance with the above limitations the Probation Office will continue to:
- i. produce reports on bail, sentencing, or release, and provide other services required by Judges for the performance of their constitutional duties in criminal cases;
 - ii. supervise individuals who have been released on conditions pending trial or sentencing; and
 - iii. supervise offenders under supervised release, probation, or parole and provide needed treatment services.
- d. The Court and Probation Office will suspend all activities not specifically

¹ Although the Court will approve payments in the Jury Management System during a lapse, payment will not be processed in the Judiciary Integrated Financial Management System, and accordingly, jurors will not be paid until appropriated funds are available.

² The Federal Public Defender processes vouchers for payment under the Criminal Justice Act in eVoucher. Approval for payment by a judicial officer can occur during a Phase 2 lapse, however, the payment of vouchers will be suspended until appropriated funds are available.

authorized in this plan, including:

- i. the hiring of employees, including onboarding new interns and/or pro bono law clerks;
 - ii. the purchasing of equipment, supplies, and contractual services;³
 - iii. entering into new contractual obligations;
 - iv. non-essential training;
 - v. non-case related travel;⁴
 - vi. supporting public and private non-adjudicative functions such as naturalization ceremonies, bar organization meetings and functions, and moot courts; and
 - vii. the attendance of judicial officers at public functions/appearances that require security personnel.
- e. Those employees performing tasks essential to the constitutional and statutory mission of the Court and Probation Office are deemed to be excepted employees. Excepted employees must report to work during any lapse of appropriations unless granted leave.⁵ Employees not deemed to be excepted employees will be placed in furlough status for the duration of the lapse in appropriations; employees in furlough status may not report to work.

³ Even if a contract is in place when the Court enters a Phase 2 lapse, any actions that would result in further expenses under the contract will be curtailed unless clearly in support of activities designated essential. Further, payments for goods and services acquired during a lapse in appropriations will be delayed until appropriated funds are available. A Contracting Officer will notify contractors prior to a lapse in appropriations as directed by the Acquisition Management Office (AMO)(formerly known as the Procurement Management Division).

⁴ Reimbursement for case-related and senior judge duty station travel will be suspended until funding is available.

⁵ Pursuant to 31 U.S.C. § 1341(c)(3), excepted employees are entitled to take leave during any lapse in funding.

Pursuant to 31 U.S.C. § 1341(c)(2), all employees, whether excepted or in furlough status, shall be paid for the period of the lapse in appropriations at their standard rate of pay when funding is available.

- f. The Court will advise the United States Marshals Service and the United States General Services Administration of the level of services required to maintain operation of the Court.

2. Judges and Chambers' Staff.

- a. Each judge is mandated by either the Constitution or a federal statute to continue working despite a lapse in appropriations. Each judge may employ staff, for example law clerks and judicial assistants, who are essential to the resolution of cases. Each judge must notify the Clerk of Court if any staff member is to be placed on furlough status. Otherwise, all chambers' staff will be deemed excepted.
- b. During any lapse in appropriations, chambers staff may perform only functions essential to the constitutional and statutory mission of the Court. Accordingly, chambers staff may not work on ancillary matters, such as preparing materials for an article or speech, or perform non-essential administrative tasks.

3. Clerk's Office Personnel.

- a. Clerk's Office staff perform functions essential to the Court's constitutional and statutory mission, such as:
 - i. Ensuring the proper and timely processing of all pleadings, motions,

- orders, emergency applications, and other litigation documents;
- ii. Collecting and depositing fees, costs, and criminal debt payments into the Treasury;
- iii. Disbursing restitution and registry funds pursuant to Court order;
- iv. Accepting and processing new civil and criminal cases;
- v. maintaining the Court's information technology ("IT") systems, including the Court's systems network, CM/ECF system, courtroom technology, e-mail, internal and external websites, and IT security;
- vi. performing regular administrative duties and providing support to both petit and grand juries, including the processing payment of jurors in accordance with pre-existing procedures and as set forth above.

b. The employees performing the identified excepted functions, by title, are:

- i. Clerk of Court;
- ii. Chief Deputy;
- iii. Administrative Assistant;⁶
- iv. Courtroom Deputies;
- v. Case Administrators;

⁶ The Administrative Assistant performs tasks that support the above constitutional and statutory obligations, such as processing mail which includes incoming payments and supporting attorney admissions and attorney access to the CM/ECF system.

- vi. Court Reporters;
 - vii. Jury Specialist;
 - viii. Financial Administrator;
 - ix. Pro Se and Death Penalty Law Clerks;
 - x. IT Support to include:
 - 1. Systems Manager;
 - 2. Assistant Systems Manager;
 - 3. IT Security Officer; and
 - 4. At least one additional member of IT to support courtroom operations and end users;
 - xi. The Procurement Specialist or Procurement Services Technician to the extent it is necessary to procure interpreters for criminal proceedings and to undertake action with regard to procurements necessary to ensure the continuation of exempted activities; and
 - xii. The Budget Analyst to maintain and account for appropriated funds, including reconciling payments that were disbursed before the shutdown or during Phase 1;
 - xiii. The Human Resources Administrator as needed to modify the furlough status of employees.
- c. The Clerk of Court will determine the employees needed to perform essential functions, including the number of such personnel when more

than one employee is performing the function. In addition, the Clerk of Court should determine the excepted or furlough status of employees on a weekly basis in accordance with Vol. 13, § 230.50.40(a) of the *Guide to Judiciary Policy*.

- d. Procurements necessary to support excepted activities include:
 - i. The retention of interpreters for cases brought by the United States as required by law, payment will be tendered once appropriated funds are available; and
 - ii. Postage to the extent necessary to provide notice to parties and to summons potential jurors.

4. Probation Office.

- a. Probation Office staff perform functions that are essential to the Court's constitutional and statutory mission, such as:
 - i. Producing reports on bail, sentencing, or release, and providing other services required by Judges for the performance of their constitutional duties;
 - ii. Supervising individuals who have been released on conditions pending trial or sentencing; and
 - iii. Supervising offenders under supervised release, probation, or parole and providing needed treatment services.
- b. The employees performing these functions are listed by title below.
 - i. Chief;

- ii. Deputy Chief;
 - iii. Administrative Manager;
 - iv. Supervising Probation Officers;
 - v. Probation Officers
 - vi. Probation Technicians;
 - vii. IT Support, to include:
 - 1. The Systems Manager, and
 - 2. IT Specialist.
 - viii. The Procurement Specialist to undertake action with regard to procurements necessary to ensure the continuation of excepted activities;
 - ix. The Budget Analyst to maintain and account for appropriated funds, including reconciling payments that were disbursed before the shutdown or during Phase I; and
 - x. The Human Resources Specialist as needed to modify the furlough status of employees.
- c. The Chief Probation Officer will determine the employees needed to perform essential functions, including the number of such personnel when one or more employee is performing the function. In addition, the Chief Probation Officer shall determine the excepted or furlough status of employees on a weekly basis in accordance with Vol. 13, § 230.50140(a) of the *Guide to Judiciary Policy*.

d. Procurements necessary to support excepted activities include:

- i. Treatment and location monitoring services, including services that require travel to carry out such activities, in accordance with Vol.

13, § 230.50.30(j)(1)(B) of the *Guide to Judiciary Policy*.

IT IS SO ORDERED.

Entered this 14th day of March 2025.



TIMOTHY D. DEGIUSTI
CHIEF UNITED STATES DISTRICT JUDGE