

# RPAC Guidance: The effect of federal shutdowns on UC campus research

This guidance and any updates will be posted online at <https://ucop.edu/research-policy-analysis-coordination/policies-guidance/federal-government/shutdown/index.html>.

In recent years, there have been several threats of a federal government shutdown. These circumstances place pressures on government funded research activities at UC campuses. Below is guidance and information on actions campuses can take to help mitigate these pressures.

## General Expectations

In the event of a shutdown, the administration, distribution, and funding of federal contracts and grants will be impacted. While it is important to note that each federal agency will apply unique procedures and protocols, including issuance of their own contingency plans, UC can generally expect the following during a shutdown:

1. Agencies will be prohibited from issuing new grants/contracts or amendments, including those for continued funding increments, supplements, or no cost time extensions requiring explicit prior Federal awarding agency approval.
2. Most agencies' staff will not be working. Inquiries about upcoming deadlines, proposal preparation and applications, or actions requiring prior approval will likely go unanswered until the shutdown is resolved.
3. The proposal review process will be delayed.
4. Grant payments will be stalled.
5. Principal Investigators (PIs) should continue to meet all deadlines set forth in their awards and should be able to submit annual and final project reports and Project Outcomes Reports via [Research.gov](https://www.research.gov).
6. Once the shutdown is lifted, there will still be delays as the federal government resumes its operations. Do not expect grants and contracts to be immediately issued the day or week after the shutdown ends.
7. Research projects and UC employees who will be most directly impacted are those with the closest ties to a federal agency or federal employees. For example: cooperative agreements with a federal research partner; UC students receiving direct stipends from the federal government under training grants; UC projects or employees who are working on-site at a federal facility.

## In-progress federally-funded awards

- Generally speaking, a government shutdown will have little to no immediate impact on the ability of in-place federally funded research to continue, though the University will not be able to receive reimbursement. Absent notification to the contrary by campus Sponsored Projects Offices or Vice Chancellors for Research, researchers may presume that they can proceed as normal. However, it may be prudent to reduce expenses to the extent practical without significantly impacting the research.
- The determination of how long federally funded projects can be supported by the University depends on the resources at each individual campus and any alternate financial resources. The longer the shutdown continues, the more difficult it will be for those directly impacted by the shutdown. Contingency planning should take into account what resources are available to

support federally-funded projects and staff for short-term and long-term scenarios (e.g., a few days, a few weeks, or more than a month).

- Collaborative Projects Requiring Access to Federal Facilities/Staff: For federally funded work that requires access to federal facilities or federal staff affected by a shutdown, the Principal Investigator (PI) should evaluate whether there are portions of the work that can continue. For cooperative agreements, the PI should perform this analysis prior to the shutdown in consultation with the federal program manager and departmental leadership. If the work cannot continue without access to federal facilities/staff, the department should determine if persons working under the agreement can be redirected to other work and/or fund sources. If such redirection is not feasible, the department should work with the campus Academic Personnel (AP), Human Resources (HR), and/or Labor Relations (LR) office to provide layoff notices as soon as possible (see bullet below regarding layoffs).
- Federal Agency Direct Pays: Each campus should attempt to identify employees paid directly by a federal agency affected by a shutdown. For example, a few NSF fellows are paid directly by NSF, and USDA directly pays some agricultural specialists. The department housing these employees should evaluate locally available financial resources to determine how and whether these employees can be paid by the University from other fund sources. This assumes that such individuals can continue their work (i.e., that they have or do not need access to federal facilities/staff in order to do their work). Alternate fund sources could include donor pools or unrestricted fund sources, under the assumption that such sources will be made whole once the government reopens and reimburses the campus for such expenditures. Each campus will have its own processes to manage these payments, including for example, the use of formal loans to these employees.
- Potential Layoffs: Individual departments should plan sufficiently far in advance to allow for labor agreement-mandated layoff notice timelines or plan for pay in lieu of notice. Layoff notices need to be coordinated with the appropriate campus AP, HR, or LR office. Departments that have no other sources of funds to pay employees for work that cannot be charged to the government should work with the appropriate campus AP, HR, or LR office for the issuance of layoff notices. The University must provide advance layoff notice to some represented employees per the applicable bargaining contracts. The following non-exhaustive list shows some layoff notice timing requirements for represented employees that are more likely to be impacted by a shutdown:
  - Academic Researchers (RA – UAW 5810) – 45 calendar days;
  - Postdoctoral Scholars (PX – UAW) – 30 calendar days;
  - Research Support Professionals (RX – UPTE) – 15 calendar days

Under some collective bargaining agreements, pay can be provided in lieu of notice, allowing for a shorter notice period when a shutdown is uncertain. Individual departments will need to coordinate with appropriate campus AP, HR, or LR offices to assess appointment security obligations for represented graduate student research employees who are subject to the bargaining contracts for Graduate Student Researchers (BR – UAW 2865). Although those contracts do not require advance layoff notice, the appointment security obligations may trigger additional actions by departments. For example, the University must ensure that the individual is placed in an alternate student appointment with substantially similar compensation.

### **Stop Work Orders**

- Some federal contracts contain a clause that gives the federal agency sponsor the right to order UC to stop performing work. If an agency exercises this right under a specified contract, UC

would not be reimbursed for expenses incurred between the effective date of the Stop Work Order and when the order is rescinded.

- Campus Contract & Grant Offices (CGO) should instruct researchers and academic departments to promptly forward any Stop Work Orders (SWOs) or other correspondence related to a shutdown to the CGO.
- As opposed to the scenarios above, expenses incurred during a Stop Work period are generally NOT reimburseable, even when the government resumes normal operations. Thus, if a campus receives a SWO from a federal agency, they must immediately implement a series of steps to stop work on the project. This may include cancelling any cancelable orders, notifying subawardees, subcontractors and consultants (through SWOs or termination notices) that they must stop work on the project; notifying personnel working on the project, and working with AP, HR, or LR for the issuance of layoff notices. If other fund sources/projects are available, it may be advantageous to move personnel onto other projects (to the extent allowed by that fund source) so that the campus does not have to hire new personnel when the SWO is lifted.
- If a campus receives a SWO from a pass-through entity, the campus should clarify with the pass-through entity whether they received an official SWO from the prime federal sponsor, and the campus should obtain a copy of the federal SWO. (In some cases, a federal SWO has not been issued to the pass-through entity and work can continue, although payments may be delayed until the government re-opens.)
- Depending on the department's other available resources and risk tolerance, it may be prudent to identify encumbrances that can be cancelled or rescheduled and to negotiate with vendors to avoid any cancellation/change fees. If the agreement for products or services has a *Force Majeure* clause<sup>1</sup>, it may be helpful for campuses to invoke such clause.
- Depending on the department's other available resources and risk tolerance, departments should review any lease costs which would have been paid with federal funding affected by the SWO. Campuses should determine how they will pay the lease if they stay in the building, or if they can/should terminate the lease agreement. Note that lease terminations often require advance notice. If the leased building houses University-owned equipment, the department should work with their local equipment inventory department to determine an alternate space and a method of transportation for such equipment.

### Potential student impacts

- It is recommended that the campus Graduate Division and/or Financial Aid Office identify any students who are working on federally-funded research projects for course credit. If the students cannot complete such work due to a federal shutdown, the campus should explore whether the students can engage in unaffected activities that could count for partial credit (for example, a classroom component or independent study). Students who fall below a certain number of units per quarter (or semester) could risk jeopardizing their student aid financial packages and should consult with a campus financial aid advisor.

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<sup>1</sup> A *force majeure* clause is used to excuse the delay or nonperformance of certain obligations by a contracting party due to circumstances beyond the control of the performing party. Any presumed nonperformance due to a *force majeure* clause should be exercised carefully after a close reading of the clause to ensure the delay or nonperformance is acceptable. Some *force majeure* clauses extend only to natural disasters, but others are more expansive.