

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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October 10, 2025

The Honorable Gene L. Dodaro
Comptroller General of the United States
Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Dodaro:

We write to request that the Government Accountability Office (GAO) review recent guidance issued by the Office of Management and Budget (OMB) related to permissible agency human capital functions during a lapse in appropriations. Prior to the recent lapse in appropriations, OMB reportedly issued a memorandum directing federal agencies

...to use this opportunity to consider Reduction in Force (RIF) notices for all employees in programs, projects, or activities (PPAs) that satisfy all three of the following conditions: (1) discretionary funding lapses on October 1, 2025; (2) another source of funding, such as H.R. 1 (Public Law 119-21) is not currently available; and (3) the PPA is not consistent with the President's priorities.¹

This OMB memorandum rests on a legally unsupportable premise: that a lapse in appropriations repeals or suspends the underlying statutory authority for programs, and that undefined presidential "priorities" may substitute for statutory direction. OMB's memo claims that "[w]ith respect to those Federal programs whose funding would lapse and which are otherwise unfunded, such programs are no longer statutorily required to be carried out." This statement laughably attempts to claim, with no legal basis, that a lapse in appropriation somehow voids all previous law, creating a sort of holiday during which the president is able to play temporary monarch. The administration's description of a shutdown as an "opportunity" shows an abhorrent disrespect for federal workers, and for the separation of powers.

Further, the Anti-deficiency Act prohibits agencies from incurring obligations for the purpose of planning or executing reductions in force during a shutdown.² The Act also expressly forbids agencies from accepting voluntary services or employing personal services not

¹ See *White House to Agencies: Prepare Mass Firing Plans for a Potential Shutdown*, Politico (Sept. 24, 2025) (online at www.politico.com/news/2025/09/24/white-house-firings-shutdown-00579909); Memorandum from the Office of Management and Budget, obtained by Politico (online at www.politico.com/f/?id=00000199-7e8f-ddde-a199-fedf6c5d0000) (accessed Oct. 10, 2025).

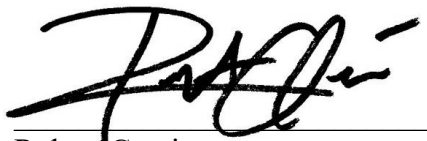
² See 31 U.S.C. §§ 1341, 1342.

authorized by law, except in narrowly defined emergencies involving the safety of human life or the protection of property.³ The continuation or acceleration of longstanding Trump administration workforce reduction plans initiated in February 2025 cannot plausibly be construed as such an emergency.⁴ As the GAO notes in a prior legal decision on the Anti-deficiency Act, the Act's limited exception for emergencies, "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."⁵

Accordingly, we request that the GAO, under its statutory authority to issue legal decisions to executive branch officials concerning the use and availability of public money, determine whether agency compliance with OMB's directive would constitute a violation of the Anti-deficiency Act.⁶ If such a violation is found, the head of the affected agency must report that determination to Congress, OMB, and the president.⁷

We appreciate GAO's continued vigilance in ensuring that federal agencies comply with appropriations law and statutory requirements, particularly during lapses in appropriations when clarity is essential. The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. If you have any questions about this request, please contact Committee Democratic staff at (202) 225-5051. Thank you for your prompt attention to this request.

Sincerely,



Robert Garcia
Ranking Member



James Walkinshaw
Member of Congress

cc: The Honorable James Comer, Chairman

³ 31 U.S.C. § 1342.

⁴ Memorandum from Russell T. Vought, Director, Office of Management and Budget and Charles Ezell, Acting Director, Office of Personnel Management, to Heads of Executive Departments and Agencies (Feb. 26, 2025) (online at www.opm.gov/policy-data-oversight/latest-memos/guidance-on-agency-rif-and-reorganization-plans-requested-by-implementing-the-president-s-department-of-government-efficiency-workforce-optimization-initiative.pdf).

⁵ See 31 U.S.C. § 1342 and, for example, Government Accountability Office, *B-262069* (Aug. 1, 1995) (online at www.gao.gov/products/b-262069).

⁶ Pub. L. No. 13, § 304, 42 Stat. at 24, codified at 31 U.S.C. § 3529(b).

⁷ 31 U.S.C. §§ 1351, 1517(b).