

**Bureau of Indian Education**

**CONTINGENCY PLAN**

**September 2023**



**Department of the Interior  
Bureau of Indian Education  
Contingency Plan for a Potential Lapse in Appropriations  
September 2023**

**Overview**

This contingency plan is developed in accordance with OMB Circular A-11, Section 124 and extends to all offices within the Bureau of Indian Education (BIE) including Central Office East (Washington, D.C.), Central Office West (Albuquerque, New Mexico), Southwestern Indian Polytechnic Institute (Albuquerque, New Mexico), Haskell Indian Nations University (Lawrence, Kansas), three Associate Deputy Director offices (Albuquerque, New Mexico, Minneapolis, Minnesota, and Window Rock, Arizona) and 15 Educational Resource Centers located in 23 States across the Nation. The BIE oversees 53 bureau operated elementary/secondary schools, two post-secondary institutions and provides technical assistance to 130 tribally controlled elementary/secondary schools, 29 tribally controlled community colleges, and two Tribal technical colleges. This plan presents a management framework and establishes operational procedures to sustain essential activities during a lapse in appropriations within the BIE.

The primary objectives of this plan are to:

1. Protect the safety and well-being of employees, students, and others;
2. Minimize interruptions to essential functions;
3. Ensure continued leadership; and
4. Provide for an orderly means of addressing problems and restoring normal operations as quickly and safely as possible.

The basic elements of the plan are:

1. Identification of essential activities that must be performed;
2. Alternate locations for performing essential activities;
3. Excepted employees to perform the essential activities, including continued command and control of the organization;
4. Alternate means of communication, including voice, fax, and electronic;
5. Support services such as personnel and procurement; and
6. Leadership and support services for the continued instructional and related services.

**Orderly Shutdown**

This plan includes the necessary implementation instructions for each subordinate Indian Affairs BIE organization/ facility during a lapse in appropriations. In the event of a lapse in appropriations, the normal organization of the BIE will transition into that of the contingency organization.

**Lapse Plan Summary Overview**

**Short-Term Lapse**

<b>Short Lapse Plan (1-5 days) Summary Overview</b>	
Estimated time (to nearest half day) required to complete shutdown activities:	0.00

<b>Short Lapse Plan (1-5 days) Summary Overview</b>	
Total number of agency employees expected to be on board before implementation of the plan:	3,138
Total number of agency employees expected to be furloughed under the plan (unduplicated count):	0
<b>Total number of employees to be retained under the plan for each of the following categories (may include duplicated counts):</b>	
Compensation is financed by a resource other than annual appropriations:	3,138
Necessary to perform activities expressly authorized by law:	0
Necessary to perform activities necessarily implied by law:	504
Necessary to the discharge of the President’s constitutional duties and powers:	0
Necessary to protect life and property:	15

**Brief summary of significant agency activities that will continue during a lapse:**

Funding for BIE K-12 school programs are forward funded. BIE funds are appropriated in the prior year. Therefore, the 2023-2024 K-12 School Year was funded in the Fiscal Year 2023 appropriation bill and funding is available to support continued instructional and related educational services in FY 2024. The Department of Education has provided funds for the period July 1, 2022, through September 30, 2024. These and other BIE funds will be used to maintain operations of education programs during a lapse of appropriations. Haskell and SIPI are also forward funded, and funds were made available July 1, 2023. Haskell and SIPI also have access to the Schweitzer Bequest Fund which has been used in the past for Title-V employees to ensure continued instructional and related educational services. In addition, the Department of Education provides forward funding for the Title-V staff working in the Division of Performance and Accountability (DPA).

BIE has a trust responsibility to provide education to Indian students, and this responsibility is reinforced under laws such as the Indian Self-Determination and Education Assistance Act of 1978 (P.L. 95-561).

Exempt Personnel (3138): Includes staff that are funded by appropriations not impacted by a government shutdown (forward funding) including K-12 special education and supplemental education program staff, facilities and maintenance staff, and school contract educators. The appropriations language that provides guidance for carryover utilization is covered under 31 U.S.C. 1531 (b), and the BIE’s forward funding for schools is covered under Public Law 117-328 and outlines that school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2023, and shall remain available until September 30, 2024. To carry out these exempt functions, there are staff working at the administrative level to support and ensure continued instructional and related educational services within

BIE-funded schools and post-secondary institutions, which are necessarily implied by law (includes Education Specialist, Education Program Administrators, and Leadership), and support and communication with employees (Communications Staff and Human Resources). With all schools fully funded and operating as normal, administrative personnel will be designated as exempt and paid with carryover funding to assist and provide services related to the operational functions of the schools, to include the safety and health related activities.

There are staff to assist with the protection of employees, students; assist with responding to a loss of life or property incident (includes Security, Safety Specialists, Behavioral Health Specialists, and Facility Staff).

### **Bureau of Indian Education List of Essential Functions**

- The Director, Bureau of Indian Education (BIE) and senior management team must ensure the education process continues during the lapse of appropriations.
- Elementary and secondary schools must continue operations to meet all appropriate State academics standards. These schools are located in 23 States.
- Post-secondary institutions operated by the BIE must continue to operate to ensure class credits are not compromised and lost to the students.
- The Director, BIE must continue to provide a safe and secure environment for students in the elementary, secondary, and post-secondary institutions.
- The BIE must continue to ensure funds and technical assistance is provided to tribally controlled schools, tribally controlled community colleges, and Tribal technology colleges.
- The BIE must continue to work with appropriate law enforcement officials and social services offices to address issues of child abuse and neglect.
- The BIE must oversee human resources (HR) activities and provide services to approximately 3,138 employees at bureau operated schools including recruitment/ placement, processing personnel actions, encoding payroll information, maintenance of HR information systems, employee and labor relations.
- The BIE relies on the Deputy Assistant Secretary for Management (DASM) to provide services for tort claims (Office of Facilities, Property and Safety Management - Division of Safety and Risk Management), information technology (OCIO) and commercial contracting awards. During a lapse in appropriations, the BIE will rely on the DASM for these services. The DOI Office of the Solicitor also provides guidance on tort claims and equal employment opportunity cases (EEO).
- The BIE must continue to provide appropriate academic technical assistance and guidance to the bureau operated and tribally controlled schools, as mandated by Public Law No. 114-95, Every Student Succeeds Act (ESSA) of 2015, and Public Law No. 94-142, Individuals with Disabilities Act (IDEA) of 1990.
- The BIE must be prepared to address emergencies (acts of violence, etc.) and critical incidents (suicides, bullying, etc.) at both the bureau operated and tribally controlled schools.
- The BIE must continue to provide the following administrative services to the bureau operated elementary and secondary schools, post-secondary institutions, and tribally controlled grant schools:
  - Budget and finance procedures, processes and systems to execute all fiscal and accounting functions for education programs and schools.
  - Administration of all education contracts/grants under the provisions of Public Law 93-638, Public Law 100-297 and other Federal statutes and OMB Circulars.
  - Each bureau operated school, Haskell Indian Nations University, and Southwest Indian Polytechnic Institute will have available staff to assist procurement and finance activities.

**Brief summary of significant agency activities that will cease during a lapse:**

With the current BIE plan, no activities will cease during a lapse.

**Shutdown activities that will not be completed within one-half day:**

N/A

**Long-Term Lapse**

<b>Extended Lapse Plan (over 5 days) Summary Overview</b>	
Estimated time (to nearest half day) required to complete shutdown activities:	0
Total number of agency employees expected to be on board before implementation of the plan:	3,138
Total number of agency employees expected to be furloughed under the plan (unduplicated count):	0
<b>Total number of employees to be retained under the plan for each of the following categories (may include duplicated counts):</b>	
Compensation is financed by a resource other than annual appropriations:	3,138
Necessary to perform activities expressly authorized by law:	0
Necessary to perform activities necessarily implied by law:	504
Necessary to the discharge of the President’s constitutional duties and powers:	0
Necessary to protect life and property:	15

**Actions to Resume Orderly Operations**

**Communications**

N/A

**Flexibilities Available to Supervisors**

N/A

**Resuming Normal Operations**

N/A