Jason Berlow: Talk about this appropriation status, continued resolutions, and government shutdowns. Now, as you probably know, it looks like they’re going to pass a CR through January 19, so the chance of a shutdown is diminished right now. But in January, we can’t foretell the future. So we’re still going to talk about it, so that everyone has to understand of how we would operate so he could share it with your facilities. So Seth Custer is also going to be joining the call and he’ll help contribute during the CR section. So if you have any questions for him, please just add him to the questions box as normal.

So the other is Tony and Aaron, Mike Sherman, but I’m going to be leading so. So like I said, we going to talk about the appropriations status, we’re going to talk about continued resolutions, understand what a CR is. Understand how to obligate a CR and understand the acquisition and contracts during a CR, because we’re really going to be in a CR for a long time this year. At a minimum through January 19th, could be longer. And then we’re going to talk about government shutdowns. We’re basically going to run through the highlights of our shutdown policy guidance, which we just reissued for this meeting. So it was attached to the e-mail. We just reissued it based on the conversations and guidance from ODC and with HR Max and it’ll detail the order of operations for a shutdown and which positions are exempted from shutdown, accepted, and furloughed.

So I highly recommend you look at the whole memo after this call because we’re not going to go into full detail about the detailed execution because it’s not—thankfully, it’s not something that we’re going to have to be executing against most likely next week. So FY ‘24 appropriations status, just a few. I took some time to add the memes because these are all tough topics. So I just want you to have some laughter as we move through. And this is from the movie Airplane, and this is the Schoolhouse Rock. So as we all know, we’re under a CR through November 17th at the FY ‘23 level rate of operations. Our full \_\_\_\_\_ [00:02:22] of 916 million dollars. So the House has now passed the CR year through January 19th, and the Senate has signaled that they will also advance the CR and the President will sign it next.

So at the end of the call—actually maybe we can talk about it now. So \_\_\_\_\_ [00:02:38] the CRT TDAs, we’re in the process of TDA’ing out those funds. The \_\_\_\_\_ [00:02:45] were just loaded by VHA Finance just about an hour ago. So we’re in the process of loading it. Matt, do you want to quickly talk about that process for how the salt tables, et cetera while we’re at this topic? Because I know we’ll get it as a question later. Or maybe he stepped away. So basically you’ll see two transactions. You’ll have your an initial TDA, and then there will be a second TDA to pull back the negative amount to put the accounts in balance. But when we do that, we’ll send out some detailed instructions about that and we can also add it to the Q&A.

Matt: Yeah, I’m here. Jason, can you hear me?

Jason Berlow: Yeah, go ahead.

Matt: I am not used to Webex and getting off mute. Good afternoon everyone. Yeah, basically the salt tables were in deficits. So what we heard back from VHA Finance was, we had to bring those solvent in order to release the first CR. So the activity has been setting up files in order to essentially, loan those funds out the first CR amount to bring all the station solvent. At that point, VHA will go ahead and start processing the CR file for the ITAs. The problem is that file is probably going to be larger than typical files, so it might be broken up into multiple patches, and then once again, I don’t know as far as how the loans going to impact the CR file.

I think. It was somewhere around 100 million for the first ITA round, and I think it was about 30 million or so for the salt table plus up. Which means we would then exceed that first CR. So there’s a lot of those kinds of things going on. For your reference though, you might see some ins and outs and you’re probably going to see multiple transactions in order to get to the point. Especially now we’ve got another CR brewing, so you’re going to see several transactions that are going to be appearing in ACS and on site. So I just want you to be aware of that. So thanks Jason.

Jason Berlow: Thanks, Matt. And we also \_\_\_\_\_ [00:05:06] CC 101. In that initial CR, you’ll see your CC 101, your initial CC 101 allocation. But you’re only going to see it at the CR level through which is about 13 percent. And then you’ll also see—you’ll get the next \_\_\_\_\_ [00:05:21] amount which I have in the in the following slides that we’ll go into. So Congress is now working to pass full year appropriations through January, but to be real and honest here, there’s very few legislative days left with the holidays and the holiday recesses for them to actually past many full year appropriations. And this Congress wants to pass full year appropriations versus an omnibus, so which takes longer.

So they’ll come back from their winter recess, and they have a very short time to pass full year appropriations. So we’re really looking at another CR after January 19th. I mean, it might be shorter for weeks or a month to give them more time to give them more time to pass a full year appropriations. But I guess the bottom-line upfront, it’s going to be an interesting year to see. So that makes the CR discussion very timely. How to operate in the CR because that’s what we’re talking about. So as a reminder, our full year appropriations, 938 million and then they’ll be 46 million dollars that’s already appropriated to the Toxic Exposure Fund.

So how do we operate under a continuing resolution? So today’s word is continuing resolution. It’s a short-term legislation passed by Congress to keep the government open. And there you have the phonetics so you can properly pronounce it. And yes, this will be on the exam. So we did issue full CR guidance which is on our ORD SharePoint for the field administrative site. So our education site. So here’s the link. So all this guidance in here is actually coming right from the memo. So here’s your questions from your PIs about how to answer these questions. So what is the CR? CRs are short-term appropriations that bridge the gaps between the end of appropriation for one fiscal year and the start of the next one. So that sounds great, right? But typically, the idea is they bridge a week, not months. So that’s what makes it so challenging.

And what is the funding rate of a CR? CRs are funded at the rate of operation in the previous fiscal year. So the problem is that our costs have gone up since last year, but we’re still funded last year because Congress has not been able to pass the full year appropriation. And then what activities can be funded in a CR? So all research activities can be funded and that includes new projects. So there’s always a big misconception when they say new starts. We can’t have new project starts. That’s not correct. That would be a major new program that’s outlined in the President’s budget request, which would be a major undertaking, not a new project. And there’s some more details about continued resolutions in this discussion on the background and references from \_\_\_\_\_ [00:08:03] law and as such. You can find it here in the appendix and the guidance, our CR guidance. So you can find it there.

So another good question is, how many CRs did we have in the last few years? So right now, we’re at two. We have one and then the one is going to be enacted this week. And then we also have the dates that we’re going to be enacted. So if you look at the history here, we’re really trending it looks more like FY ‘22 and FY ’18 where we were enacted to March. But things could be a lot, but that’s kind of an optimistic view of the situation. There’s also a strong chance that we could be in a full year CR this year, which would mean Congress, through multiple or in one long CR, which is enacted at the CR level. So which would mean that we wouldn’t receive any budget increases this. So that being said, we really need to as we did last year and this year, work to learn to operate—understand the CRs and operate better in the CRs to the best of our ability.

So what do we need to know about budget execution during a CR? So you should obligate funding as if it were a normal year with a certain understanding of your limitations. So we’ve got a lot of questions from stations about contracts and the such, and it’s very difficult to obligate them when you have such a small amount of your money. So the first CR is 13 percent of our initial target allowance, as Matt mentioned through November 17th. And then the second CR through January 19th is 30.4 percent of your funding. So while you’ll have more funding, 30.4 percent is still less than a third of your funding for the year. So you’re still going to have a lot of trouble obligating those contracts. And we’ll talk about that in the next slide.

So obligate funding as normal, to the best of your ability, understanding limitations and then make sure that the projects have cleared JIT. Are implemented early this year by doing your hiring, purchasing supplies, buying equipment. So also make sure you obligate the current year. We really want you to not to obligate prior year because we’re trying to preserve that for a potential shutdown later both for the money we pulled, and the money you have on stationed. So we’ll talk about IPAS and how much of that you should obligate.

So like we said here in the last sentence, and—Matt, if anybody wants to chime in here, please do. But due to the budget uncertainty, there’s a lot of it. I just went through it. Stations, you should continue to preserve prior year funding that is on station. We’re going to use this to maintain operations in a potential to shut down both the money we pulled and the money that you have on station. So let’s just talk about that for a second. And we’ll talk about it in the shutdown guidance.

So that the contingency plan states that we’ll use our prior year in a shutdown situation that could occur after January 19th. So all that prior year is going to keep everyone funded with the research appropriation. So it’s not just the ORD employees here at VACO, it’s all the employees at the 105 research stations there are funded by research. So it’s really important to remember and you’ll when we talk about furlough. Both the employees that are furloughed and not furloughed do not get paid during the shutdown. Everyone gets paid after the shutdown, but we all like to be paid timely, so that’s why it’s really important to preserve that prior year.

Tony: So Jason, let me clarify that because I think that’s an important point. So if we have part of your money, it doesn’t necessarily mean that there’s—if there’s 50,000 dollars in station X and there’s 10,000 dollars in Station Y, and we have each station has, let’s say, 30,000 dollars a pay period of cost. What we want to do is pull that money and distribute it to both stations so they can maintain their salary.

What Jason is saying is really important is that, if there is no prior money available at the national level, meaning that when we roll up all the money, if there’s no part of your money, then we have to go into shutdown mode. Which means that you won’t get paid until after the appropriation is—or after Congress and the President pass the bill. So it doesn’t matter if you have a lot of prior year money or very little prior year money at your station, it’s all going to be counted up together plussed up at the national level to maintain operations of the 4,600 FTE that we have across the nation. So please be mindful of that as you think about spending prior year money.

Jason Berlow: So yeah, like Tony said, we’re all in this together with this situation. Thanks. And that’s all very detailed. In the shutdown plan, we clearly detail how we’re going to use the prior year. So you can see that in the shutdown plan. And that’s not changed much from the previous version you had. So just a note on funding not impacted by CR, the medical care appropriations are advanced appropriations, so your medical services, support, compliance, and facilities. So these would not be impacted by CR because they’re already funded.

So this includes VA pay time for certain members of clinical staff who are conducting research, 870 funds, and then administrative cost. So for the administrative staff and their research offices, if they’re paid by medical center funds, then they’re not subject to the CR or shutdowns. So that’s really helpful to understand. And QUERI, which is 0160. So the Toxic Exposure Fund is also not affected as its previously appropriated for the Fiscal Responsibility Act. And we haven’t allocated that funding out yet because we’re still working on some processes here at VACO including getting our policy updated and cleared by ODC. So once it’s all cleared, we’ll be sending out that funding.

So details on CR by obligation type. So you need to continue hiring to initiate for your new project starts prior to October 1st and for projects listed on the ITA. Travel. So use current year for travel and do not extend it beyond the CR date of November 17th, but understanding that we’ll soon have another CR, so then your travel can extend through January 19th. But you really should try to preserve funding to minimize travel to mission essential travel only because we have such a funding—we’ll only be at 30 percent. So try to minimize that to the maximum extent possible for mission essential travel. But again, with that for travel, again, always follow your local travel policy. We’re not the ones approving travel here at ORD. Only for ORD employees.

Then for purchase card, try to only execute mission and critical purchases to cover needs through the CR end date. So don’t purchase items pass the CR end date. Large purchases because that would be a violation of the time statute. Because the funding is only available through nine November 17th to January 19th. And only purchase card orders can be charged to current year. IPA and subject reimbursements. So you shouldn’t obligate past the CR date. and we’ll talk about that more in contracts, but that goes for IPAS. So you can incrementally fund the IPAS because they’re generally severable. And we’ll talk about that in section at the CR rate of operations. And if needed, you can add that language there. That’s also in the memo how to fund those.

So how do I handle contracts and IPAs in a CR? And in this section, you’ll find—and Seth is on the line and he’s going to chime in too. You’re going to find that you’re not going to get the guidance you want. We’re not going to say okay, go ahead and obligate that contract because you’re very limited. So that’s why we have these pictures here. So the CR is a real challenge to obligating contracts in IPAs due to incremental nature of how funding is allocated to sites. And some of you have raised questions. So if you have questions, please reach out to us and Seth, so we can help. So funding providing in a CR is available to cover obligations or expenses incurred in the CR period and must comply with these steps. First, the funds must be available during the CR to cover the entire obligation at the CR prorated level. So that’s what makes it so hard.

And then for several contracts, you can split them up. You can break them in increments to the CR period. And those contracts need to be prorated to CR length. In the absence of sufficient funding during the CR obviously. And Seth noted that this includes IDIQ Task Order Contracts. And then for the non-severable contracts, you can’t incrementally fund them. So you’re going to have to have enough funding on station to be able to fund them. But if you don’t have enough funding, you’re going to be in a really tough spot because you’ve got to be able to manage the 30 percent. So non-severable must be funded in an entire effort. So you’re going to have likely wait for a full year enactment. And we’ll talk more about that in a second. Seth, do you have anything to add?

Seth: Yeah, I was just going to maybe clarify number two and number three there. Most of you probably are familiar with IDIQ contracts that are funded actually through a task order. When you receive that, it’s probably got an end number in it that has the individual yearly number for the obligation. So in those cases, that’s what would apply to number two where if your funds are tight, IDIQs are set up in a way that we can utilize, or they give us the maximum flexibility for funds utilization. So if you have enough to fund one month or two months or even a week, or a day you could conceivably issue a task order for that period, assuming it aligns with the line-item structure in your contract. But this way you can most effectively manage the other obligations you need to take care of and administer.

But also, try to get the most life out of your contracts. One thing to note is those IDIQs are going to remain open and valid. But what’s real important is that you only have people do work, the contractor do work for the amount and the period that funds are obligated for. So even though we anticipate that in the middle of January we’re going to see this again, if we only have funds obligated through December 31st or January 12th or whatever, you can’t have performance go beyond that date that we have funds obligated for. So that’s where we would run into unauthorized commitment discussion, and things like that that we want to make sure that we avoid. So make sure that again, performance is related to funded periods.

Number three quick note related to non-severable contracts. These contract types are probably going to have a C in the middle of it. 36C24EC something or other. And then a P in that spot as well. So those are called definitive contracts. And many times you see them with a set period of performance and the funds need to be fully obligated on those. So when you see a C, or a P, this is in the contract number, not the Vista IFCAP number but the actual contract number that we provide. Those need to be fully funded. So I was just looking at some contracts for some of our staff this week and we have option packages that came in. Again, those that have a C, or a P are definitive contracts and need to have the full funding amount.

Fortunately, in most cases, they’re smaller dollar values. We’ve set up most of the D contracts, the more complex affiliate contracts to be more in line with number two here, the IDIQ that we discussed earlier. So hopefully this we’re able to buy time through this and you can fully fund small dollar full option periods and then we can utilize task order flexibilities to fund your bigger IDIQ contracts that you might need time to receive the funds. Biggest thing don’t have performance unless funding is there and obligated that you’ve received an obligation from contracting saying your period is awarded beyond the dollars that are obligated. And reach out to your contracting officer or myself to talk about any options that we might have if you have questions. Thanks Jason.

Jason Berlow: Thanks Seth. So just a reminder of what’s severable, non-severable in terms of contracts. So they’re defined by the FAR. Here’s the link. 532.703. So task severable are defined as, can be divided into components, each of which can be independently performed. So very simply, cutting the grass is severable because it can be done each week. Obviously, our contracts are more complex. And so yes, they can be funded incrementally. Can be incrementally funded during a CR. The non-severable cannot be separated into components and a lot of research contracts are non-servable, and they’re not labor hours based.

So no, you can’t incrementally fund them because it violates this law of incremental funding. And then there’s a OGC White Paper on acquisitions with CRs, which I’ve linked here. You’re welcome to look at it. And that was OGC appropriations law. So more details on contract. So if can’t fully award it, you need to get it enforced so that the 2237 could be entered as soon as possible. This is right from our memo that went out early October, so you should be familiar with it. Submit your acquisition package into RPOs early as possible. And then more information equipment. And then again, mentions about incrementally funded. So interagency agreements. If you have agreements—

Seth: Jason can I just interrupt real quick on one more thing. When we’re looking at task orders—Seth here again. When we’re looking at task order obligations, I understand that we’re going to be on a tight time crunch. But the more you can plan ahead and the more time you can give us, the more we can communicate and work with your contracting officer the better. End of the fiscal year, we saw a few cases where task order requests were submitted with three days to go before the existing task order ended. Obviously, we want to avoid those situations and have at least a month, if not more. So back to those obligations. Let’s work together and get those packages in as soon as you can and as complete and accurately as you can. Thank you.

Jason Berlow: Thanks Seth. So IAAs. If you have IAAs, basically you can establish an order to the full amount, but the obligation gets a little more tricky. You can prorate it to the amount afforded by the CR. But on the 7600B for IAAs and \_\_\_\_\_ [00:24:28], the severability also applies for severable and non-severable. So just like a contract, you cannot incrementally fund a non-severable order just so you know. So more information about option years. So there’s no appropriations law prohibitions against exercising options for which an agency has a current bona fide need during the CR assuming the options comply with any applicable acquisition law requirements. But you got to follow the considerations.

So exercising option years. We talked about Seth before the call, so he’s going to chime in too. So you want to fund your severable service contracts incrementally with those task orders. And do not incrementally fund non-severable option years. But the really important thing is, and Seth want to \_\_\_\_\_ [00:25:20]. You really need to prioritize exercising option years on existing contracts, because you don’t want the contract to lapse versus establishing new contracts during a CR. And if you have specific questions and some of you have already reached out, just send us a note to ORD Finance Tony, and Seth. And then Seth, do you want to add anything here?

Seth: I don’t know. I guess the biggest thing is, we understand that managing not just contracts, but a full program and even salaries included is very complicated and complex related to this type of—working on limited funds. So again, like I said, I think in the first bit, most options I believe that have fixed—required fixed periods, definitive contracts, I believe many of them are smaller dollar values. So hopefully it’s not as much of a burden. And again, those bigger ones, we can work together to not incrementally fund. That’s like a contracting term that means something uniquely different. But to periodically issue task orders or adjust those obligations we can work together.

Jason Berlow: So if you have any specific questions about a contract, it’s probably better not to put in the questions. Just send us a note so we can work with you immediately if necessary. So understanding government shutdowns and how they impact research. So we always like office space, so basically, that’s probably how a lot of us were feeling this week heading into the shutdown. And this is all covered in the memo that just went out. But what is the government shutdown? \_\_\_\_\_ [00:27:09]. The Antideficiency Act prohibits employees of the federal government from incurring an obligation in advance appropriations. So that’s really important. That’s why if we ran out of carryover or why somebody should not work voluntarily, because you’re violating the Antideficiency Act.

So the second question is that you’ll be asking is, will carryover funds be used during a shutdown? Yes. So there’s an order of operations in the shutdown, which we’ll address in further slides, and it’s addressed in the memo is that, at the start of the government shutdown, research functions would be exempt from furlough. Because these functions will be funded by our prior incorporation for approximately two pay periods. And that’s what we were discussing earlier with prior year funds. So what happens when we run out of carryover? If this situation did occur after January 19th?

So once prior year funds were exhausted, we would start in a furlough situation. And the only \_\_\_\_\_ [00:28:09] continue would be to maintain life or property. And so I might let Tony chime in here, but I’ll just kind of speak to it. So we work with HR Max. And what they have is, we have a workforce roster. And fortunately this round we didn’t have the issue, the data call. We have a workforce roster where we would be sent to the facilities and the chief of staff to determine which employees and their roles would be accepted from furlough. And the criteria for their decision making was something that we spent a lot of time on, and that’s in the memo and in the further slide. So it’s actually in the next section.

And like I said, as of today, we protect me—we have about two pay periods if we had a government shutdown. But the predictions will change between now and January 19th \_\_\_\_\_ [00:29:00] next CR. So do we have a plan? Yes. Yes, we have a plan we issued in late September and then we issued an updated plan just earlier today. And the reason we—just so everyone knows, the reason why we had to reissue the plan was the VA Contingency Plan in the last go around, we reviewed it with OGC and ORD’s input was not incorporated previously, and it has been. So once the next plan is updated, it’s in concurrence now. It’s going to state that some research functions would be furloughed from shutdown. In our previous guidance, we said that no research functions would be furloughed, but that was incorrect because the guidance wasn’t properly vetted through ORD. But we corrected all that in the time since October 1st.

So order of operations in the government shutdown. So we’re going to follow this approach and again, more details of this in the memo. But first, we’re going to use prior year to try to minimize operations to the \_\_\_\_\_ [00:30:09] possible. So we’re going to use carryover and we’ll talk about that. But once carryover is exhausted, then most research operations would cease and then we commenced the orderly shutdown according to the VA Contingency Plan. So then only certain functions to maintain life or property would continue. So these are the two phases A and B.

So the first phase A would last about a month. And fortunately I’m really happy that we’re presenting this as just a hypothetical now and not something that we’re going to be moving into. But we know based on \_\_\_\_\_ [00:30:43] calls and other field calls, there’s a lot of questions from your—you’re getting a lot of questions. Your station is above this, rightfully so. So now you can have this and share it. And we also have MPC members on this call, so they’ve also been shared the slides and stuff, so they’ll be sharing it too.

So to continue, so here’s the order of operations used in prior year. To continue to preserve prior funding essential during a shutdown. So let’s hypothetically think that there was no CR next week and we’d be shutdown starting next week. Only in critical prior year obligations. The more we obligate in a prior year during a shutdown, it short shortens the time that we have to operate and then we’d have to move to the furlough situation. And furlough employees or have other employees work what’s called, accepted from furlough.

So after the CR end date, so this is written after November 17th or at the next year end date of January 19th. Do not obligate any current year outside of payroll which I’ll talk about in the next slide. Again, that would be an ADA violation only for certain purposes, which we’ll talk about. And payroll is only exception due to FMS limitations. Because you only can charge payroll to occur year. Prior funding on a case-by-case basis. Basically we would monitor your station balances and see where the stations were running a negative TA funds to provide the prior year. So that’s why we’re holding this money now at station 127 so we have this funding for any potential shutdowns because we’re not out of the woods yet.

So fortunately you won’t have to ask for this yet because we’re not going to be shut down next week. So we’re going to be closely monitoring prior year balances. I mean, we already are to determine the approximate number of days before prior year funding will be exhausted and work with all relevant stakeholders. So the updated contingency plan continues the detailed execution guidance on that. So I’m not going to go into it here because it’s in the memo and it’s not something that will be occurring right away. So please look at the memo. If you have questions, let us know. But once carryover is exhausted, the majority of research offers will have to cease and commence an orderly shutdown, as detailed in the VA Contingency Plan. So the memo also has an FAQ about a lot of other questions about leave, benefits, IPAS, lots of different things so definitely take a look at that.

So the only functions that’ll be able to continue would be for the protection of life and property, which is an exception under appropriations law. So if you’re not performing those activities, you will be furloughed for non-accepted activities. So a big question we always have is, will I be paid? So the thing is, now all employees both furloughed and excepted will be paid once Congress passes another CR or full year appropriation. So this is kind of a recent change. As you remember, there was about a five-week shutdown in 2019 in January. So after that, Congress passed the law to ensure both furloughed and excepted employees will be paid retroactively as soon as possible after the lapse of a shutdown, regardless of scheduled periods.

So understanding which roles are exempted, excepted, and furloughed during a shutdown. So we worked on this a lot with both members of the field, \_\_\_\_\_ [00:34:14], AOs to really work on this guidance. And it’s based on an OGC White Paper which functions would occur during a shutdown. So this is all in the memo. So this is intended for a criteria for \_\_\_\_\_ [00:34:31] and other station leadership to determine which roles would be excepted, or exempted from furlough, or furloughed. So exempted means as detailed in the VHA Contingency Plan that those functions have other appropriations other than annual appropriations and are funded.

So just like the CR guidance earlier, that would be for those not funded with the medical and prospect research appropriation. And they would operate pretty much as normal with certain exceptions for travel, which you saw in the earlier shutdowns scare in October. So this includes VA pay time for certain members of clinical staff who are conducting research through the Fair model. Other clinical costs, CSP 870 funds and then the administrative staff in your research office, who’s ever funded by the medical center through the advanced appropriations like medical services or support compliance, then you’re not affected at all. You would operate as normal. Report to work, get your pay and everything. And then the Toxic Exposure Fund because that was already appropriate last year.

So here is the next category. And this is again, it’s very dense unfortunately. So accepted functions. Oh, here’s one thing I wanted to say. It’s not the title. The title doesn’t matter. So if somebody is a time keeper or a research career scientists, or anything, it doesn’t matter that the title. It’s a function of what you do. So you’ll see that the function of the right. So it so it involves an emergency. So those functions continue where an emergency involving the safety of human life. So human life and animal life. So just remember it’s life or the protection of property where the threat can be reasonably said to be near at hand and demanding immediate response.

So when you’re evaluating that criteria, for example, a biostatistician who’s doing data analysis, there would have to be an immediate threat where they would have to reanalyzed the data where there would be immediate threat to life or property. So somebody who’s doing data analysis like that probably would be furloughed. And we’ll talk in the following slides about limited recall for certain things where \_\_\_\_\_ [00:36:50] has to come in on a limited basis to address something that’s a near immediate threat that needs in response. So obviously, staff and the veterinary medical unit and animal care technicians \_\_\_\_\_ [00:37:03] studies, those employees would continue to do that work, whether if it’s a full day or just partial hours, to ensure that the animals are taken care of.

And then the work of clinical career development awardees who provide clinical care, obviously that’s involving the safety of life and protection of property. Little more life there. And then duties that require continuation of VA approved projects. So if the project was placed on hold, it would immediately threaten human life or negatively impact data collection, resulting in loss of government property. So for example, if you’re in a time study and the study has been going on for three years and you have to continue data collection. So if it was just stopped and then you’d lose all the data and the whole project would be lost, then that would be detrimental to VA’s investment. So that’s why that should continue.

Then duties that involve critical research interventions and interventions were potentially lifesaving medical treatment occur. So obviously that’s protecting life. So the oncology drug delivery. Obviously, that can’t stop. Or an intervention to maintain essential activities of daily living or subject well-being. Now one thing we worked on working with everyone was—it’s was really critical that we wanted to include mental health and suicide prevention research. Where if it stopped, it would threaten the protection of human life for our participants in the study. So the final call on the decision making is going to be made at the facility level because you know your projects the best. But we’re just providing this criteria to help you.

And we try to keep it broad to make it easy as possible if these decisions had to be made. So lastly, activities that if not continued during the furlough under what’s called the imminent threat exception would significantly damage execution of VA’s research. So examples, if you have a study where it has to have a certain number of visits and there’s a visit that’s supposed to be on a certain day, if it’s skipped, it would really damage \_\_\_\_\_ [00:38:59] of the study and all the data would have to be thrown out. Then obviously, it requires an immediate response. So that work should not stop.

And here’s furloughed. So employees funded with medical and prosthetics research appropriation who have duties not in the excepted categories above are not permitted to work and will be furloughed. So our principal investigators are very passionate. It’s their life’s work. They’re very passionate. They want to work, and they’ll work voluntarily. But they can’t because it would be a violation of the Antideficiency Act. So you really need to be stringent if we got in this situation or you’re providing training at your facilities that they’re not permitted to work even voluntarily. And Tony might chime in here. But if there was a workplace injury and they went up for a furloughed, a non-duty status, it could create significant issues for that station. Tony, do you want to chime in here?

Tony: Yeah. Thank you, Jason. So the big issue is that if you have furlough status and you come to work and you have an injury or something to where it happens that there could be potentials that you’re not covered. Because you we’re not permitted to be working under the shutdown guidance and the policies. So we really want you to be very careful in how you identify those people who are furloughed versus excepted.

Jason Berlow: So the work would have to be and it’s going to be made by individual stations. So the work would stop if it didn’t threaten the safety of human life or property, pose an immediate risk to life or property, or like I said, some data analysis. Or duties which have ceased during furlough would not significantly damaged execution of VA’s critical research. So you’re really going to have to take almost each study or each work stream and really analyze it to determine it. But that’s why we, us, and Vaco, we have the list, but we can’t be able to determine that for over 4,000 employees. So it’s a daunting task and we’re really happy that we didn’t task it with you this week.

So limited function recall. Under the safety of life and property, employees may be brought in for a limited time only as necessary to protect imminently threatened life or property if there’s a really reasonable likelihood the safety of life or protection property would be compromised. So this is kind of, it’s not a perfect world situation. So basically you’d be furloughed. You’re not supposed to check your work e-mail if you have work e-mail. But basically, your supervisor might text you or e-mail you or call you and say, hey. I need you to come in for this and there’s an emergency in laboratory. Or time keepers. You need to report the time of those excepted employees just for the hours they worked that were excepted versus furloughed.

And then research review committees to address process reportable events, purchasing emergency supplies, any other activities. Now I have a lot more detail about what you can and can’t purchase during a shutdown, but it’s generally under these protecting life and property. And that’s in the memo. But we’re not going to go through it in detail here because like I said, we’re hoping—well, it’s pretty much, we’re relatively certain that there’s not going to be shut down now that passed the House. So that being said, we’re going to move to IPAS. We have a lot of—we have some NPC staff on the call and they \_\_\_\_\_ [00:42:33] provided the presentation to share with their members.

And IPA employees. And this comes from OPN. The specific authority our furloughing personnel who are working under IPAS inside the federal government, it depends on the nature of the individual agreements and the status of appointments. So you generally need to follow these principles. And the first two really apply. And Tony might chime in because he’s the one who dug this up for me. So personnel on details to federal agencies from nonfederal organizations such as MPCs or affiliates, they do not pay or share cost of detail are subject to furlough the same manner as above. And then the ones for personnel from nonfederal organizations on appointments to federal government are also. So basically, if the government is paying for it, then they’re going to be furloughed. If they’re not paying for it, then they can work. Do you want to chime in here, Tony?

Tony: Yeah. So the thing that we need to consider is how you’re paying the IPA, how the detail is being arranged. How it’s arranged. If it is compensated by your money or reimburse with ’23, ’24 money, then I think you’re going to be okay. If you’re reimbursing with ’24, ’25 money, I think at the point where the shutdown occurs, you’re probably going to have to stop work unless there’s a provision in the IPA language that allows you to have uncompensated work. And so it really is going to be how the language and the reimbursement, the fiscal side of the IPA is written. And so read this general rule carefully because it does provide for some flexibility. However, knowing that the appropriation that you use is important, you just have to be very careful when you move forward on these. Thank you, Jason.

Jason Berlow: So now we’ll move to the questions. Alright, Parker, I’ll stop sharing.

Parker Cunneen: Perfect. Give us a second. We will be pulling the questions up now. Here we go. And we’ll just have somebody read that in advance of answering.

Jason Berlow: Assume we are in a shutdown and we’re out of PY funds, if an employee is an 81—or cost transfer to QUERI, will they be laid off or continue to work.

Tony: So Jason, what they’re asking is, if there’s an appropriation available to reimburse the research appropriation, can they use that as part of reimbursement so they can continue working. And so this could mean QUERI dollars, or it could mean TEF dollars. Things that are in the 0160 or the 0152 appropriation reimbursing back to research under a call transfer.

Jason Berlow: That’s a tough one. I would say no because it’s kind of like ticker stick and rule. So the QUERI is not legally available to fund the research. It’s for QUERI’s \_\_\_\_\_ [00:46:03]. So I would think that that employee would have to be furloughed if they weren’t performing accepted duties. And then with the TEF, they’re very stringent on the purpose of the TEF appropriation. Following the memo \_\_\_\_\_ [00:46:19] for military TEF exposure research. So I would say no. I don’t think that’s a good use. I think it’s trying to skirt. It would seem that they’re trying to skirt the shutdown policies and how it works. And remember this employee will be paid once there’s another CR or a full year enactment. Tony, do you want to chime in?

Tony: \_\_\_\_\_ [00:46:46] I think we’re going to have to try to look at this a little bit more carefully. I understand the question clearly. And so we’re probably going to have to think through this in terms of a scenario and maybe run it by general counsel to see.

Jason Berlow: If the asker wants to e-mail it to us a more specific question, we can look at it. I’d have to review the appropriations law, the expenditure transfer law because says you can temporarily charge one appropriation \_\_\_\_\_ [00:47:16] another. So I’ll have to—that’s a tough question. Alright, next question. Yes, that includes any special purpose funding for the VA. That is all advanced appropriation. So basically all of the funding from VHA is called advanced appropriations. So VHA is funded under the advanced appropriations for medical services, which funds all these offices.

They all have a spread of medical services, support, compliance, facilities, and community care, which doesn’t apply here. And then research is kind of off and then when they migrated everybody to advanced appropriation research \_\_\_\_\_ [00:48:08]. And I’ve been kind of advocating to VHA Finance, I was like, we really need to get research on advance appropriation too because that’ll be nice. So yes, that applies. So that would be the—they also would not really be impacted by shutdown or CR. Next question. So Tony, you want to take this one?

Tony: Yeah. So the question is about IP recipients. Can they work or not? So the answer is you’ve got to go back to see how you obligated the 1358. Was it done in ’23, ’24? Was it done ’24, ’25 prior to October 1st? And you have to see what the parameters of the IPA are. Remember that we are now doing non-reimbursable IPAs and so you have to look at the whole gamut. So on the basic IPA where you started let’s say October 1, and it’s shutdown time and your 1358 is ’24, ’25 money for whatever days. No. You can’t keep them going. But if you have something that’s funded out of ’23, ’24 that was obligated prior to October 1st and it goes through January, you sure can keep them going. And if it’s a no cost reimbursable IPA, a non-reimbursable IPA, you can keep them going because they’re treated almost like WOCN employees. So you just have to go back to the source document of the IPA and see how you guys negotiated that IPA.

Jason Berlow: I’d also add that if the IPA with a—so right now you’re kind of incrementally fund your CRs through the CR date so that you’re obligated to that date so they can work through that date. So if there was a shutdown after that date, you have to follow the same criteria that I presented for excepted or furloughed and look at that employee, recipient and determine if the work that’s being done is to maintain life and property so then they can work. But will they get paid? No. I mean, they’ll get paid. Basically, you can incur an obligation. It’s in the memo.

You’re able to incur an obligation because it’s maintaining life or property on behalf of the government. But you’re not going to be able to pay that recipient until we’re enacted. So you just have the authority because you have to maintain life or property under the exception of the Antideficiency Act to continue that work. Because some of this work on IPA is to maintain life or property. If you have more questions on that, let us know because I know that’s a big one. Next question. Okay, we might need to take this one offline, but let me just read this.

If their employee is compensated part-time by medical center appropriation using cost transfer and part-time by our research appropriation, what happens? So I think what you have to do and Tony chime here is to think about the main appropriation that pays them. If that main appropriation is the medical center and you cost change them later, then they can work because they’re funded by the medical center appropriation. And then what would happen is, you can perform that cost transfer after the CR next year passes or just a full year appropriation. Because that full year appropriation is retroactive back to October 1st. Tony, do you want to comment there?

Tony: No. I think you’re good.

Jason Berlon: Okay, next question.

Peter Cunneen: I think that’s the last one we have so far.

Jason Berlow: So like we said in the—so kind of like we said, so basically—and Tony will chime in here. We’re working with HR Max, so you have the memo. So basically what happened is, we would start to see the shutdown under the utilizing prior year and determining how much money we had. So what would happen is, we would have that list, the data call occurred earlier to determine which of these research assistants research—

Tony: Let me stop you. These are contractors, so I prefer to Seth on this one. And Seth, I would imagine it would rely on the core, are they going to be available and so forth. So can you answer this question? Thanks.

Seth: Financially my opinion is FY ‘23 funds are already there and obligated. And for the full period that’s designated in that obligation. So that’s not going to disappear, like if January 19th comes and goes if we obligated that money anytime in ‘23 and the period of performance is to go beyond January. The issue and the concern would come when that period ends. Now that’s for them being able to work. And the money, in this case seemingly should be there and is there because we’ve obligated those FY ’23 funds to that amount again for that period.

The question Tony kind of raised there about oversight is a different matter and we’d have to probably review those individually where depending on this place of performance. If it’s at a VA facility, is there going to be oversight or access issues. If it’s something being performed at the university, could they continue on if the VA PI or other personnel aren’t there. It’s got to be a case-by-case basis in that instance, I’d imagine. I think hopefully I answered the financial piece properly. Anybody else have, Jason or anybody a different opinion?

Jason Berlow: I think the answer—if the question—whoever asked the questioned wants to follow up an e-mail that’s fine.

Tony: I think Seth hit it on the head. It’s a two-pronged. One is the availability of funding in the contract, but also \_\_\_\_\_ [00:54:52] about oversight of the contract and so forth. So I think that those are questions that you would definitely want to talk to your contracting officer about directly.

Peter Cunneen: Jason, I see we’re coming up to the top of the hour here.

Jason Berlow: Alright, that was the last question?

Peter Cunneen: There’s one more if you want to jump on it. Yep.

Jason Berlow: Yes, that’s correct. You only want to fund those IPAs. You don’t want to obligate them past the CR date because you want to operate at that program amount and then two, you want to be conscientious of the funding you have on station, so you don’t get yourself in a deficit situation. Tony, do you want to chime in here?

Tony: I think you said it very well. So Stan Jones has his hand up and I’m wondering if he submitted a question and if he wants to submit it. \_\_\_\_\_ [00:56:11].

Seth: While working on that I just had one more thought. Seth here. Related to contracts and oversight. I think it’s probably prudent for each of you to—we try to manage our contracts and administer or have visibility on contract end dates, option periods, upcoming dollar amounts impacted on those as it’s related to contracts. The better you can participate in that with us, see and again plan ahead ideally two, three, four months we’re looking at these things, especially related options, and task orders. New contracts if you can look at them six months or more ahead to start preparing and making decisions and planning on some of these concerns. What if the money doesn’t come? Or what if it dries up when this contract’s going to end in February? How do we handle that?

And the more we can get ahead of that and have discussions now for a month or two or three down the road, the better it is for us to kind of cover things as we go. One example, we did have a meeting a week or two ago related to option periods that are ending 12/31, so we were kind of waiting on this and the outcome of the resolution to go beyond 11/17. So that site could look at the dollar values and the types of funding. I think they had a mix of appropriations. Look at those dollar values and their start dates, which I think are January 1st, so then we can make a plan, evaluate which contracts we want to prioritize and make sure they continue before others. Do you want to get all the little ones going so most of the programs can continue? Or is the high dollar one the one that you want to fund and use whatever funds you have to put to that project? So again, the more we can look at and discuss ahead of time and plan ahead, especially with the holidays here coming the better. Thank you.

Peter Cunneen: Perfect. Well, thank you guys for the crucial information. And if we receive any other questions in the survey, we’ll make sure we share them with you. So thank you to our panelists for being here. And folks remember as I mentioned on that survey, if you have any remaining questions, we can share them there. Thanks and have a great afternoon.

Jason Berlow: Thank you.