

A RESOLUTION

**Proposed
Resolution
20-482**

**See Emergency
D.C. Act 20-182
20 DCStat 2442**

To declare the existence of an emergency with respect to the need to establish the Government of the District of Columbia's response to the federal shutdown, or lapse in appropriations, by designating personnel as essential, authorizing the acceptance of voluntary services, and providing for the compensation of personnel through available funds in the contingency cash reserve fund.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Federal Shutdown Response Emergency Declaration Resolution of 2013”.

**Federal
Shutdown
Response
Emergency
Declaration
Resolution of
2013**

Sec. 2. (a) The Members of the Council of the District of Columbia, duty bound to serve the residents of the District and to make prudent decisions on their behalf with respect to expenditures for governmental services from the public purse, determine that the full contingent of personnel in the employ of the District and the totality of operations and services performed by these employees to be essential to the public safety, health, and property, such that the continuation of employment, and performance of operations and services, should continue during a lapse in federal appropriations.

(b) With any federal shutdown, the District—unique and in contrast to any other state or municipality in the country—currently must consider and plan for the implications of a lapse in appropriations. The implementation of these plans comes at considerable expense to District finances and with great disruption to residents and workers who rely on District services.

(c) The controversy at the root of this current, possible federal shutdown and mass disruption is completely, and unfairly, unrelated to the District of Columbia, its finances, or its people.

(d) Nevertheless, as the District has been traditionally tethered to the federal appropriations process—a process more and more subject to vacillating whims that lead to stagnation and inaction—it is required to expend considerable amounts of both time and money toward the development of contingency shutdown plans. This ensnares the District in partisan budget squabbles at the federal level, in spite of the District's 18 consecutive years of maintaining a balanced budget and its current rainy-day fund in excess of a billion dollars, and endangering the District's strong bond rating and ability to meet its financial obligations.

(e) To ensure the District's operations do not suffer the pernicious effects of the increasingly threatened government shutdowns, and in recognition of the fact that approximately 98% of the District's budget is derived from local revenue and federal grants that are available to all jurisdictions, the District adopted, via a 2012 voter referendum, a local budget autonomy law. The provisions of the Local Budget Autonomy Amendment Act of 2012,

effective July 25, 2013 (D.C. Law 19-321; 60 DCR 1724), are applicable beginning January 1, 2014. This important measure enhances the local control over the District's budget, including protecting local funds in the event of federal inaction over partisan national issues.

(f) While anxious for the provisions of D.C. Law 19-321 to take effect, in the interim the District has continued to do what it is required to do, following all of the statutory and regulatory requirements in adopting and submitting to Congress a balanced budget. The fiscal year 2014 budget was adopted by the Council over 4 months ago.

(g) In failing to pass a federal appropriation adopting the District's budget, Congress places at risk the vital municipal, county, and state functions the District fulfills on a daily basis.

(h) With the very real likelihood of a government shutdown, the District is left to determine, as each of the federal governmental agencies, but no other state or municipality, is left to determine, what personnel and services are "essential."

(i) The Federal Shutdown Response Emergency Act of 2013 establishes the District's response to a call for a contingency plan for a government shutdown. In the event of a lapse in appropriations, the emergency act:

(1) Designates all employees and activities of the Council of the District of Columbia as "essential," and authorizes the Council to accept voluntary services during a federal shutdown;

(2) Supports the Mayor's determination that all Executive Branch personnel are "essential" and creates a presumption to that effect, and authorizes the Mayor to accept voluntary services during a federal shutdown; and

(3) Authorizes that the payment of essential personnel, as well as compensation for voluntary services, as determined by the Council or the Mayor, may be paid out of the contingency cash reserve fund provided that funds are available.

(j) The designation of essential personnel under the emergency act is valid only until January 1, 2014, the applicability date for the Local Budget Autonomy Amendment Act of 2012. As is clear from the authority granted by the Local Budget Autonomy Amendment Act of 2012 to the District with regard to expenditure of local dollars, the District will no longer need to participate in the exercise of designating essential personnel for federal shutdown purposes when the provisions of that act take effect.

(k) To ensure continued compliance with the federal Antideficiency Act (31 U.S.C. § 1341 *et seq.*), the associated emergency act permits the use of funds available in the contingency cash reserve fund to keep the District government running. This fund contains congressionally appropriated dollars, meaning expenditures from this fund do not violate the Antideficiency Act so long as the District spends from this fund pursuant to the standards set forth in the statute governing the fund. A government shutdown is certainly a "nonrecurring and unforeseen need[] that arises during the fiscal year." It is certainly the expectation of the District, and likely the nation, that a government shutdown should be nonrecurring. It is also the expectation that these funds would be replaced once the District is allowed to spend its fiscal year 2014 budget.

(l) The unfortunate circumstances that have heretofore left the District budget tethered to the federal appropriations process, even though the local budget is largely comprised of local

dollars, underscores the need for the local budget autonomy that is soon to be realized. The health, safety, and welfare of District residents and visitors should not be held hostage to the dysfunction that is creating the likely lapse in federal appropriations. It is essential, then, for the Council and the District to take this proposed action.

(m) An orderly society cannot function without government. Residents and businesses depend on government services. Government, therefore, is essential.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Federal Shutdown Response Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.