



Government of the District of Columbia



Executive Office of the Mayor

Testimony of
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City Administrator

**Public Hearing on the
Impact of the Government Shutdown
on the District of Columbia**

Senate Homeland Security and Governmental Affairs Committee
Subcommittee on Emergency Management, Intergovernmental Relations
and the District of Columbia
The Honorable Mark Begich, Chairman

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Room 342
Dirksen Senate Office Building
Washington, D.C.

Good afternoon Chairman Begich, Ranking Member Paul and members of the subcommittee. My name is Allen Y. Lew and I am the City Administrator of the District of Columbia. Thank you for this opportunity to provide testimony on behalf of Mayor Vincent C. Gray on the impact of the federal government shutdown on District government operations.

From October 1, 2013, through October 16, 2013, there was a lapse in federal appropriations, also referred to as a federal government shutdown, which affected various federal agencies, departments, and offices. Since the District's budget subject to appropriation by Congress, the shutdown impacted the operations of the District government.

It is important to note at the outset, however, that the impact of this shutdown on the District's operations was very limited in comparison to prior shutdowns. During prior lapses in federal appropriations, the District designated only a subset of District government operations to continue during the shutdown. Several agencies, such as the Department of Motor Vehicles, Department of Parks and Recreation, and DC Public Library would completely close, while many other agencies operated on a skeleton staff with many activities suspended.

This year, however, the Mayor took the bold and unprecedented step of designating all operations of the District government as essential to the public safety, health, or protection of property, and therefore all District operations were exempt from the shutdown. As far as I am aware, this is the

first time ever in the Home Rule era that the District government remained fully open during a lapse in appropriations.

Although the District remained open, the lapse in federal appropriations did impact District government operations in some ways. Most significantly, because Congress had not approved the District's Fiscal Year 2014 (FY14) budget, the District could make actual payments to contractors and employees only from a limited set of funds that had been previously appropriated and were still available for expenditure. These funds included District capital funds, some federal grant funds, and Fiscal Year 2013 (FY13) funds that were used to satisfy FY13 obligations.

For the most part, however, the restriction on expenditures limited the District's ability to pay FY14 operating costs, such as contractors and staff, to funds available in the Contingency Reserve Fund and the Emergency Reserve Fund.

By way of background, both the Contingency Reserve Fund and the Emergency Reserve Fund are established in the Home Rule Act and the funds in those reserves are available for expenditure without annual Congressional appropriation.

Under the Home Rule Act, the Contingency Reserve Fund may only be used to pay for nonrecurring or unforeseen needs that arise during the fiscal year.

Both the Mayor and the Chief Financial Officer determined that this condition was met by the shutdown.

The Emergency Reserve Fund may be used to provide for “unanticipated and nonrecurring extraordinary needs of an emergency nature” or during a state of emergency declared by the Mayor. The Emergency Reserve Fund may only be accessed after the Contingency Reserve has been exhausted. Because the Contingency Reserve Fund included adequate resources to allow the District to operate during the shutdown, we did not need to access the Emergency Reserve Fund.

At the beginning of the shutdown, there was approximately \$150 million available in the Contingency Reserve Fund. The Office of the Chief Financial Officer (OCFO) estimated that the District spends approximately \$10 million per day on employee salaries. Therefore, at the beginning of the shutdown, we set aside \$100 million of the Contingency Reserve Fund in order to ensure that we would be able to pay employees their full paycheck amounts through mid-October. The Mayor felt that it was critical that we make this commitment to our employees.

However, that left only \$50 million available from the Contingency Reserve Fund, and the OCFO estimated that on average the District spends approximately \$8 million per day on non-personnel operating expenses, such as contractor payments. We therefore realized that we would have to establish a rigorous process to authorize use of the Contingency Reserve

Fund, in order to limit expenditures to less than the average daily amount and thereby extend the government's ability to operate from the Contingency Reserve Fund.

As part of this authorization process, each agency was required to submit to the Office of the City Administrator (OCA) a formal request to access the Contingency Reserve Fund if the agency believed that a payment to a contractor or other third party should be made. Given the limited availability of funds, each request was closely reviewed by the relevant OCA analyst and legal staff within OCA to examine a variety of factors, including the following:

- *Whether the expenditure of funds was necessary, rather than merely the obligation of funds.* For instances where only an obligation of funds was needed, generally to enter into a contract, we established a separate authorization process that did not require using the Contingency Reserve Fund.

Establishing this process took a few days of drafting, review, and coordination among our office, the Office of the Chief Financial Officer, the Office of the Attorney General, and the Office of Contracting and Procurement, so during the first days of the shutdown some allocations of Contingency Reserve funding were made for obligations rather than expenditures.

- *The degree to which the payment or obligation was necessary to protect the public health, safety, or welfare.* Requests that did not have a strong connection to the protection of public health, safety, or welfare received lower priority.

- *Whether any other source of funds could be used to pay the expenditure.* For some requested payments, alternate sources of funds were available, such as capital funds or federal grant funds. In addition, many of the invoices the District received during the shutdown were for services that were provided during Fiscal Year 2013 (FY13). These invoices could be paid with FY13 funds and therefore did not require the use of the Contingency Reserve.

- *Whether payment could be delayed.* Often we found that we had flexibility on when a payment could be made. If we were able to delay payment until later in the fiscal year, we did so and avoided use of the Contingency Reserve.

- *Whether the full payment needed to be made.* If we determined that payment was critical and time-sensitive, we would further review the agency's request to determine whether a partial or short-term payment could be made. In many instances, we were able to limit the expenditure or obligation to a two-week or one-month period, thereby limiting our draw on the Contingency Reserve Fund.

Because of these stringent procedures, we were able to limit non-salary expenditures and obligations from the Contingency Reserve Fund to approximately \$20 million during the entire shutdown period.

The majority of the amount that was expended or allocated from the Contingency Reserve Fund was for public-welfare-related expenditures. Of the total amount expended or allocated, the following five were \$1 million or more:

- \$7.4 million for the Department of Human Services for the Temporary Assistance for Needy Families (TANF) program and housing and meal services;
- \$3.6 million for United Medical Center, to continue the hospital's operations during the shutdown period;
- \$2.4 million for the Department of Corrections, for contractual obligations related to inmate services;
- \$1.1 million for the Department of Public Works, primarily for trash hauling and waste management; and
- \$1.0 million to the Department of Health for the Women, Infants, and Children (WIC) program.

As the shutdown continued, we also allocated an additional \$24.8 million from the Contingency Reserve Fund for employee salaries.

Since the end of the shutdown, the Office of the Chief Financial Officer (OCFO) has worked to replenish the funds that were allocated from the Contingency Reserve. All of the funds that were allocated to employee salaries have been returned to the Contingency Reserve, and nearly all of the amounts that were allocated to agency expenditures and obligations have been returned as well.

Although we were able to pay almost all of the invoices in a timely manner during the shutdown, there were three significant payments that we were forced to delay during the shutdown.

The first payment the District delayed was our quarterly contribution to the Washington Metropolitan Area Transit Authority (WMATA). This \$114 million payment was due by October 10, but because of the limited amount of appropriated funds available in the Contingency Reserve, we were unable to pay the full amount. However, the District made a partial payment of \$34 million out of appropriated capital funds. WMATA was able to continue operations with its funds on hand, and the District's remaining, operating funds payment was made promptly after the shutdown ended.

The other two payments were both Medicaid payments to managed care organizations and fee-for-service providers. The first payment, for \$89 million, was due on October 1 and the second payment, for \$35 million, was due on October 7.

Because of the potential impacts that delaying these payments could have had on medical service providers, we examined a number of ways to make the payments or mitigate the impact of non-payment. We initially considered making the \$89 million payment out of the Contingency Reserve Fund and replenishing the Contingency Reserve Fund with the federal Medicaid reimbursement funds, which are equal to 70% of the full payment.

However, we were informed by the Office of the Chief Financial Officer that federal appropriations authority to replenish the Contingency Reserve Fund in this way did not exist. We therefore discussed with the federal Center for Medicare and Medicaid Services (CMS) the possibility of the federal government directly paying its 70% Medicaid share to providers. However, CMS stated that this was not an available option. Finally, we examined the option of making a limited set of sub-payments only to providers who would be significantly impacted by delayed payments. While we were in the process of reviewing this possibility, the federal government shutdown ended, and therefore we did not need to further pursue this option.

During a shutdown, federal employees are eligible to make claims for unemployment insurance payments. In October 2012, the District logged just under 4,000 regular unemployment insurance claims, in October 2013 that number jumped to over 8,600. Federal claims for October 2012 were 120; claims in October 2013 were over 15,500. The District Department of Employment Services, the agency that manages the unemployment

insurance program, was able to maintain its high level of service, but if the shutdown had continued, a very real potential existed for insolvency of the unemployment insurance fund due to the massive increase in claims without access to federal borrowing to pay for the increased claims.

Also, during the shutdown the Mayor directed the Department of Public Works to collect trash that was accumulating at public sites under the jurisdiction of the National Park Service. The Mayor took this action in order to address public health concerns and resident complaints. The District incurred costs of approximately \$92,000 to provide this service, which took place from October 5 through October 16.

As you can see, the District's success during the most recent shutdown was due to the Mayor's unfailing commitment to continue to provide government services to the 647,000 District of Columbia residents and the ability to use funds that were available for unplanned needs.

I am sure you will agree that this is not an appropriate way for the District of Columbia, the nation's capital, to operate. There is no reason that local funds raised through local taxes paid by District of Columbia residents and spent by the District of Columbia government should be entangled in federal debates on Capitol Hill. Having the District of Columbia government's budget ensnarled in the federal appropriations process unnecessarily threatens the District of Columbia's financial stability.

The Mayor appreciates that Congress has recently passed legislation that would permit the District of Columbia to spend its local funds in Fiscal Year 2014 and 2015 in the event that Congress has not passed a budget. While this temporary fix is helpful, residents of the District of Columbia deserve more. The obvious solution is to eliminate the threat of shutdown by enacting legislation that would separate the District's locally raised tax dollars from the federal budget. Budget autonomy is a common sense and practical step that would provide financial security to the nation's capital and to its nearly 647,000 residents.

On behalf of Mayor Vincent C. Gray and the people of the District of Columbia, I ask you to move legislation that would give the District control over its local funds as soon as possible.

That concludes my testimony. I am available to answer any questions you may have.