
MEMORANDUM

April 10, 2020

To: Governors State Federal Affairs Representatives
From: Bill McBride, National Governors Association
Re: Gubernatorial Considerations for Continuity of Operations Plan (COOP) Implementation

Pandemics, emergencies, and other catastrophic events require governors and state and territory leaders to consider how they will continue to operate and deliver core services to the public. Spurred by the events of 9/11, COOP planning describes the Mission Essential Functions (MEFs) of a state or territory government, as well as the process for preserving and maintaining them in an emergency. In the context of COVID-19, governors should consider which government services should be sustained in the face of social distancing demands, potential reductions in staff due to illness, and supply chain interruptions. Reducing the number of services provided by a government does not indicate failure; instead, it allows governments to prioritize physical, human, and financial resources to support, sustain, and sometimes enhance MEFs and emergency operations. For instance, records management personnel may be moved from a shuttered (temporarily closed) DMV to support state hospital administration. Implementation of COOP plans allows governors and state governments to continue the purpose of their public services and mitigate the impacts of COVID-19 on residents.

Direction, Control, and Coordination: In most states, and keeping with the federal pattern, COOP planning is conducted at the agency level. Cabinet officials, and their department heads, know which agency functions are genuinely mission-critical, and which can be delayed or deferred. This means, however, that any state is likely to have a dozen or more COOP plans. During COOP implementation, it is critical that governors resolve vertical issues (i.e., direction and control) and horizontal issues (i.e., coordination between activated state agencies) within their governments to ensure a thoughtful pause or reduction in non-essential functions and subsequent buttressing of critical services. To do so effectively, governors should consider the following activities:

- **Review and validate the scope and assumptions of the COOP plan.** Governors should ensure that existing COOP plans have applicability and that underlying planning assumptions are still reliable.
- **Consider directing the activation, or partial activation, of COOP plans.** Consult cabinet officials to determine the scope of potential service scale-backs. If COOP plans are out-of-date, or planning assumptions have changed substantially, business impact analyses and mission essential functions should be reviewed and updated. COOP plans do not need to be implemented in their entirety; partial activations can achieve desired effects.
- **Engage and consult support services.** Governors' counsel, comptrollers, human resource professionals, IT service directors, and, if appropriate, labor and union representatives, can assist in analyzing strategy, assessing impacts, and determining the legality of COOP implementation decisions.
- **Understand the provisions of COOP plans.** While plans will ultimately vary from one organization to another, federal and industry guidance has converged to ensure that COOP plans have some standard features. Agency COOP plans may include the following:

- Identification of mission essential functions, entanglements and interdependencies of critical activities and required resources;
- Orders of succession to crucial agency positions;
- Delegations of authority;
- Identification of and storage strategies for essential records;
- Process for executing COOP activities;
- Identification of alternate/continuity facilities;
- Descriptions of continuity communications systems and protocols;
- Process for communication with and coordination of non-COOP personnel; and
- Reconstitution and recovery guidance to transition from continuity operations to normal operations.

Prioritizing Mission Essential Functions: MEFs are state-determined activities that, if interrupted, would directly result in loss of life, loss of ability to exercise civil authority, or cause significant damage to the financial solvency of the government and/or residents. Functions that can be deferred until after the disaster are identified as non-essential. Supporting activities facilitate the delivery of MEFs, but do not directly accomplish the mission. Drawn from FEMA Continuity Guidance, the below table differentiates between sample mission essential functions and sample supporting activities:

MISSION ESSENTIAL FUNCTIONS	SUPPORTING ACTIVITIES
Maintain transportation infrastructure	Manage Human Resources
Provide medical care	Provide IT support
Provide vital records	Provide agency security
Provide safe water supply	Perform legal reviews
Perform health inspections	Manage agency facilities
Issue driver’s licenses	Manage organization records
Teach students	Maintain service vehicles
Arrest suspects	
Investigate crimes	

State MEFs address the unique needs of every state and reflect the particularities of the state agency. For COVID-19, recommendations from public health officials on measures such as limits on public gatherings, social distancing requirements, significant infection rates, and mandated business closures may impact COOP implementation and the delivery of MEFs. Governors and their key advisors may need to further prioritize MEFs by considering impacts of the suspension of activities, potential recovery times, interdependencies with other MEFs, and the preferences and discretion of leadership. Much like state emergency plans, they also integrate with and extend national priorities. When prioritizing MEFs, governors may also consider their impact on the National Essential Functions:

- Ensure the continued functioning of our **form of government** under the United States Constitution, including the functioning of the three separate branches of government.
- **Provide leadership** visible to the nation and the world and maintaining the trust and confidence of the American people.
- **Defend the United States** against all enemies, foreign and domestic, and prevent or interdict attacks against the United States or its people, property, or interests
- Maintain and foster **effective relationships with foreign nations.**
- Protect against **threats to the homeland** and **bring to justice perpetrators of crimes** or attacks against the United States or its people, property, or interests.



- Provide **rapid and effective response** to and recovery from the domestic consequences of an attack or other incident.
- Protect and **stabilize the nation's economy** and ensure public confidence in its financial systems.
- Provide for federal government services that address the national **health, safety, and welfare** needs of the United States.¹

After confirming and prioritizing MEFs, governors may need to adjust regulations, budgets, and laws to guarantee them and/or suspend non-essential services. Emergency powers give governors broad authorities, and they may consider using them to:

- **Issue executive orders and/or convene emergency legislative sessions to relieve administrative regulations and improve direct support to citizens.** Governors can utilize executive orders or emergency legislative sessions to suspend existing state code and grant more freedom to providers of essential services. Examples include suspending codified mandates for public schools, granting flexibility to school corporations in adapting to e-learning, and suspension of in-person examinations through the remainder of the academic year.
- **Coordinate internal guidance across agencies for degrading, augmenting, or suspending services.** Governors and their key advisors should work together to ensure consistency and uniformity in operational guidance and service adjustments. Cabinet officials can work with support agencies to identify job classifications that may overlap between agencies so that human resources can be detailed to support MEFs. Closely examine interdependencies to ensure the impacts of service shutdowns do not negatively affect delivery of prioritized MEFs.
- **Work proactively with local utility and other critical service providers guarantee the maintenance of services.** Governors may be able to support MEFs with staff, budget, and physical resources, but these services are often dependent on upstream services and community lifelines like power, water, and telecommunications. The private sector often maintains critical infrastructure, and relationships with providers of public utilities are an essential component of sustaining MEFs and protecting the public.
- **Address potential staffing shortages** by reassigning non-essential personnel or leveraging National Guard resources. Governors can activate their state National Guards to fill critical vacancies in state MEFs, including support of Emergency Operations Centers, provision of site security and protection, support of the health care workforce, collection and delivery of supplies and samples, and provision of administrative support. In jurisdictions where the need for Guard support is particularly high, Governors can request activation of their Guard under Title 32 to receive federal funding for Guard activities.
- **Manage expectations for recovery and reconstitution.** Consider triggers for reactivating suspended operations. Account for recovery times when planning the reopening of facilities and services.

Communications & Messaging: Changes in government activities will disrupt the normal rhythms of personnel. During COOP activations, employees may be performing substantively different assignments, report to different supervisors, or work at different facilities. Governors and their key advisors should take care to proactively and thoughtfully communicate with all stakeholders about the purpose and practicalities of service cutbacks or suspensions. Trust and

¹ <https://www.fema.gov/media-library-data/1520878493235-1b9685b2d01d811abfd23da960d45e4f/ContinuityGuidanceCircularMarch2018.pdf>



transparency will ease recovery and reconstitution. Poor communication can lead to anxiety, decreased morale, or indifference in the state government workforce.

- **Implement COOP Communication Plans.** When activating COOP plans, notify key/essential personnel before notifying all personnel. Provide reasoning for the activation of COOP plans, direction for assignments, and plans for communication and updates.
- **Communicate regularly and predictably with non-essential personnel.** All employees need to be informed during an emergency so that they can be ready to go back to work when recalled or to support their agencies' efforts from home. Ensure that managers maintain accountability for their personnel.
- **Provide routine updates about operating statuses and expectations.** State employees should be regularly updated on the operating status of the department or division, including whether they should report to work, what work conditions are like, what alternate work sites and plans are in place, etc. Provide early communication about recovery timelines to allow staff to prepare to return to work.
- **Devise backup plans for communications.** In an emergency, telecommunications circuits and internet service providers may be overloaded and may go down. Consider backup communications channels and plan for system redundancy (i.e., backup systems and protocols) to maintain communication linkages between state personnel.
- **Plan for and combat misinformation and disinformation campaigns.** Malicious actors will work to disrupt the mission of the state during an emergency through misinformation and disinformation campaigns. Messages about the "false flag" operations, government deception, and the true purpose of continuity may be spread rapidly through traditional and non-traditional channels. Governors should get ahead of these campaigns by being forthcoming with information and actively sharing their message on multiple types of media, including social.²

By implementing COOP plans, governors consciously and intentionally select and support the services that matter most to their residents. Continuity operations should continue as long as necessary; governors should regularly evaluate triggers that may advent a return to normal operations. Recovery and reconstitution elements often exist within COOP plans and should be considered as part of any advanced planning process.

Resources:

[FEMA's Continuity Guidance Circular](#)

For questions or concerns related to the contents of this memo, please contact NGA staff:

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² https://ngaorg1-my.sharepoint.com/:p/g/personal/ngabox_nga_org/EYOR1PmHppqJraLW4DvIQ2gBIKoEVUMs5wWsmn_zacLRg?CID=41D89455-641B-4D25-8EB9-941807FC6BDD&wdLOR=c20D1CF8B-866D-4A28-8B3B-A05D1A7C23B6



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