

Client Alert

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Tapping Insurance to Recoup Losses Resulting From Government Shutdown

The country's longest government shutdown in history is over, at least for now, but its impact is still felt by many, including organizations experiencing multimillion dollar losses related to postponing or cancelling events during the shutdown. A number of government contractors and other organizations with large meetings throughout the United States were forced to cancel large conferences or other events and suffered resulting financial losses. For instance, groups had to cancel receptions at federally owned museums and other properties because they were closed. Conventions were impacted because government speakers were forced to cancel their appearances. Conferences with attendees consisting primarily of government and defense industry employees were impacted. Even the Air Force Academy had to cancel home and away intercollegiate athletic events for men's and women's basketball, swim and dive teams, and the men's ice hockey team because of the shutdown, which resulted in losses related to tickets, concessions, vendors, parking, and other revenues. Tour companies, hotels, or other businesses that do not contract with the government were also affected by postponed or canceled events and the closing of national parks and federally owned museums.

The shutdown serves as a reminder of the importance of securing event cancellation and business interruption insurance coverage for all of your organization's events and promptly pursuing coverage in the event of any such cancellation or interruption. Many insurers, including Lloyd's of London insurers and major US insurers, offer event cancellation insurance policies promising to:

Indemnify the insured against any loss occurring during the policy period and causing the unavoidable ... cancellation, curtailment, postponement, removal to alternative premises, or abandonment of the event.

Some insurers also offer contingent business interruption insurance for reimbursement of lost profits and extra expenses from an interruption of business resulting from a third party or distributor that directly impacts the policyholder.

Hunton Andrews Kurth LLP's insurance recovery team has experience assisting policyholders with recovery under event cancellation policies. After the 2013 government shutdown, the insurance recovery team helped a client recover losses resulting from a canceled educational conference, cancellation fees and penalties with hotels and vendors, and rescheduling. Given the inability of government employees to travel due to the shutdown, it became impossible for our client to open and maintain the conference at its originally published scope, so our client was forced to cancel the conference. The insurance recovery team helped the client successfully pursue coverage under its event cancellation policy for its budgeted gross revenue and expectation damages, including lost profits.

Event cancellations are frequent and certainly not limited to the government shutdown. For example, entertainer Kanye West's touring company planned a tour consisting of over 38 performances. The touring company purchased non-appearance and cancellation insurance policies from Lloyd's to protect against the financial losses associated with canceling a concert or West being unable to perform during the tour. After West became ill and was hospitalized, the remainder of the tour was canceled. The touring

company issued full refunds for all tickets for the canceled shows, and incurred other associated expenses. The [touring company sued the insurer](#), Lloyds of London, for withholding almost \$10 million in coverage for the shows from the tour that were canceled. [Lloyds responded](#) with a counterclaim alleging that the loss was due to the touring company's failure to abide by policy conditions and "irregularities" in West's medical history. The parties [eventually settled](#) in February 2018.

As another example, a long list of [college football games](#) were canceled due to Hurricane Irma in 2017. Georgia Tech and Central Florida; Florida State and Louisiana Monroe; Miami and Arkansas State; South Florida and Connecticut; and Florida and Northern Colorado are some that had to scratch their contests. As college football generates huge sums of money via box office, concession, and merchandise sales, cancellations can be extremely costly. The [appropriate event cancellation insurance](#) can help defray the expenses and lost income resulting from cancelled games and other events held in professional sports organizations' stadiums.

Policyholders should promptly notify their insurers of any event cancellation or business interruption-related losses and pursue claims under such coverages for financial losses resulting from event cancellation, including amounts paid or profits lost for events such as conventions, conferences, symposiums, concerts, fundraisers or similar events. Consulting experienced insurance recovery counsel will help policyholders best position and present the claim to maximize coverage and avoid pitfalls and exclusions often raised by insurers under event cancellation policies. Organizations that do not have event cancellation insurance would be well advised to procure such insurance for any future event cancellations caused by another government shutdown or other covered cause of loss. Such organizations should seek advice from knowledgeable insurance coverage counsel and their insurance broker during the policy application and procurement process to ensure the most favorable policy language and limits.

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