



## **Frequently Asked Questions**

# **Emergency Furlough – Lapse in Appropriations**

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**Department of the Navy**

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*NOTE: The following questions/answers focus on an unplanned shutdown furlough. Shutdown furloughs may occur at the beginning of a fiscal year if no funds have been appropriated or with the expiration of a Continuing Resolution. During a shutdown furlough, the Department of the Navy would be required to shut down any activities funded by annual appropriations that are not excepted by law. This FAQ document will be revised frequently and shared/posted to our portal page as applicable. Additional questions/answers may be found at [www.opm.gov](http://www.opm.gov).*

### General Information

**1. Q: What is a shutdown furlough or unplanned furlough?**

**A:** A shutdown furlough is unplanned and occurs when there is a lapse in appropriations (funding). When an agency no longer has the funds necessary to operate, they must shutdown those activities that are not excepted under the Antideficiency Act (P.L. 97-258, 96 Stat. 923). Many Federal employees may be familiar with these types of furloughs from previous years in which the government has faced a potential lapse of appropriations. Shutdown furloughs are considered emergency furloughs – conversely, administrative furloughs are planned events, such as the one that occurred in summer of 2013.

**2. Q: When you say shutdown furlough, do you mean a complete shutdown?**

**A:** No. Furloughs have been referred to as government shutdowns; however, there are significant differences. During a shutdown furlough, employees engaged in excepted activities, such as controlling air traffic, patients care in government hospitals, and law enforcement, would continue to report for duty. A true government shutdown is a closure of all essential government activities.

**3. Q: Why would Department of the Navy (DON) employees be furloughed?**

**A:** In the absence of either an appropriation or a continuing resolution for the Department of Defense (DoD), no further financial obligations may be incurred by the DON, except for those related to the orderly suspension of operations or performance of excepted functions as defined by the Office of Management and Budget (OMB).

**4. Q: When would a lapse of appropriations take effect?**

**A:** The lapse in appropriations takes effect at 12:01 Eastern Time the day after the end of the continuing resolution or the end of the fiscal year, on October 1. Employees will be furloughed on their first regularly scheduled workday after the lapse of appropriations. This means that individuals with a regular day off (RDO) occurring on the first day of a furlough will report on their next regularly scheduled workday.

**5. Q: When should commands begin executing an orderly shutdown and issuing furlough notices?**

**A:** After a lapse of appropriations, Commands would begin to execute a shutdown furlough only *after* a formal order to execute an orderly shutdown is issued by OMB and/or the DoD. Commands would then be required to limit operations to only excepted activities.

- 6. Q: What is the effective date of the furlough for non-excepted (furloughed) employees if offices must issue notices and complete an orderly shutdown within 3-4 hours? Will there be timekeeping guidance addressing how to record time?**

**A:** Written notification to most furloughed employees will be made on the first day after the lapse in appropriation (e.g., if the lapse occurs on September 30, the orderly shutdown for most employees would occur on October 1, or the employees' next regularly scheduled workday). The date of the notification letter is the effective date of the furlough action, which would be Tuesday, October 1, 2019, if the appropriations lapse on September 30, 2019 at 12:00 AM Eastern Time. More information will follow from Defense Finance and Accounting Service (DFAS) on the record/time-keeping process.

### Excepted Employees

**Note:** Navy Working Capital Fund (NWCF) activities have been determined to be excepted to shutdown furlough due to available funding.

- 7. Q: Which employees or positions are excepted from a furlough (directed to work)?**

**A:** An excepted employee refers to an employee who is directed to work during a furlough by law because they are: (1) performing emergency work involving the safety of human life or the protection of property; (2) involved in the orderly suspension of agency operations; or (3) conducting other functions excepted from the furlough. Categories of excepted employees are defined by OMB and DoD. (Refer to [Appendix A](#) for a listing of the select excepted functions). Commands must identify the employees and positions which are performing excepted duties and ensure coding in the Defense Civilian Personnel Data System (DCPDS) is accurate and up to date.

Note: Only the minimum number of civilian employees necessary to carry out excepted activities will be excepted from furlough.

- 8. Q: How are excepted (directed to work) employees determined?**

**A:** Each command will identify excepted functions within their organization that meet the parameters outlined by DoD and are driven by program requirements.

- 9. Q: What is the difference between an emergency essential position and a position excepted from furlough (directed to work)?**

**A:** Emergency essential employees are those employees who must provide immediate and continuing support for operations, maintenance or repair, such as during severe weather. Excepted (directed to work) employees refers to an employee who is directed to work during a furlough by law because they are: (1) performing emergency work involving the safety of human life or the protection of property; (2) involved in the orderly suspension of agency operations; or (3) conducting other functions excepted from the furlough.

An emergency essential employee is not automatically deemed an excepted employee for the purposes of shutdown furlough. Each command determines which employees are excepted employees based on the law and guidance from OMB and DoD.



**10. Q: Do working capital (revolving) fund activities continue to operate as normal during a furlough?**

**A:** Working capital (revolving) fund activities continue to support normal operations during an emergency furlough due to the availability of funding as the result of supporting customer orders with sufficient fund balances.

Echelon 3 Commanders or his/her designee should make business decisions, such as granting annual leave requests, to optimize the use of available funds, particularly given the limited resources. Prudent business decisions and management actions should be taken to sustain operations and minimize operational impact.

**11. Q: Should foreign nationals be furloughed?**

**A:** Direct hire foreign national employees paid with host country funds are **not** subject to the furlough. Additionally, foreign national employees governed by country-to-country agreements or Status of Forces Agreements (SOFA) that prohibit furloughs are exempt from furlough.

**12. Q: Are Foreign Military Sales (FMS) employees subject to the furlough?**

**A:** It depends. FMS employees are not excepted from the furlough solely by their designation as a FMS position. If the appropriation reimbursement account has lapsed, FMS employees will be furloughed unless they are working on designated excepted activities. Use of government funds for FMS travel is prohibited.

**13. Q: What is the process for placing employees on furlough who were originally excepted, but no longer needed, e.g., the employee's services are no longer justified based on operational requirements?**

**A:** Any change to an employee's furlough status is managed by the indicator code on the employee's time card. To change an employee from exempt to furloughed, the command must manage the change within their designated Time and Attendance (T&A) system.

Additionally, the command must manually record any furlough indicator code changes, including dates of changes, for each employee and must be submitted to your servicing Ops Center for processing into DCPDS.

See below about recalling employees under the title "Furloughed Employees"

**14. Q: Are civilians deployed on temporary duty (TDY) to a combat zone excepted from the furlough?**

**A:** Yes. Deployed civilians on TDY or temporarily assigned (including Temporary Change of Station) to locations designed by Executive Order as combat zones to provide direct support to military operations are excepted from furlough.



**15. Q: If employees have a Permanent Change of Station (PCS) to an area identified as a combat zone, are they excepted from the furlough?**

**A:** No. Employees permanently stationed in those areas are not excepted from the furlough unless they performing or supporting an excepted activity.

**16. Q: Can excepted employees telework during a lapse in appropriations? (new)**

**A:** Yes, if telework eligible. To the extent possible and appropriate, organizations may provide additional flexibility to excepted employees, to include more frequent telework for telework-eligible employees, flexible start and stop times under a flexible work schedule, and the ability to request time off based on personal circumstances.

**17. Q: Can excepted employees request to use paid leave instead of being placed in a furlough status? (new)**

**A:** Yes, however, compensation for such leave is not payable until after the lapse in appropriations ends.

### Non-Excepted (Furloughed) Employees

**18. Q: If I am a non-excepted employee, can I volunteer to do my job on a non-pay basis during a furlough period?**

**A:** No. Employees may not work during furlough days and may not volunteer to do their job during a furlough period under the Antideficiency Act.

**19. Q: Can non-excepted union officials work on “official time” during a shutdown?**

**A:** No. Non-excepted union officials cannot work on official time during a shutdown, nor can non-excepted (furloughed) employees. Official time, which is used for Union representational activities, is not permitted for excepted employees because they are only permitted to work on activities that are authorized under the Antideficiency Act.

**20. Q: Will furloughed union officials have access to their union offices during the shutdown furlough?**

**A:** It depends. Generally, access to facilities during a furlough may be restricted based on funding, security or other issues. Access to a union office during a period of furlough should not be prevented solely on the basis that a union official seeking access is not in a duty status. Access for representational purposes would be subject to each facility’s requirements at the time, including provisions in collective bargaining agreements. If furloughed union officials are allowed access, it would be solely for performing voluntary representational functions (i.e., they could not be working on official time).

**21. Q: I am a non-excepted (furloughed) employee, but I do not want to get behind in my work. Can I come to work even if I know I will not get paid?**

**A:** No. Employees may not work during furlough days and may not volunteer to do their job during a furlough period. This includes volunteer work performed from remote locations and telework.



**22. Q: What happens with non-excepted employees who are scheduled to telework?**

**A:** If there is a lapse in appropriation and a subsequent furlough, employees teleworking may conduct an orderly shutdown remotely, depending upon Command/organizational guidance. Employees should discuss this process with their supervisor.

**23. Q: If I am a non-excepted (furloughed) employee, can I telework?**

**A:** No. Employees may not work during furlough days and may not volunteer to do their job during a furlough period. This includes volunteer work performed from remote locations and telework.

**24. Q: If I am furloughed, can I use my government-issued phone or government-issued computer to keep up with my emails?**

**A:** No. Non-excepted (furloughed) employees are not permitted to check emails on government-issued equipment, such as phones or computers, or via OWA Outlook as long as they are in non-pay, non-duty status.

**25. Q: Can I take another job outside the federal government while on furlough?**

**A:** It depends. While on furlough, an individual remains an employee of the government, and other employment must be approved by the agency's ethics counselor and consistent with the Executive Branch standards of ethical conduct. See additional information under the title "Outside Employment."

**26. Q: Can furloughed employees be recalled to duty during the furlough?**

**A:** Yes. Commands/Activities may recall non-excepted (furloughed) employees based on mission requirements to perform excepted functions. Recall is subject to the Secretarial approval process. Commands should maintain contact information for employees in the event that they need to be called back to duty.

**27. Q: Once approved for recall, what is the process for changing an employee's status from non-excepted to excepted during a shutdown furlough?**

**A:** Any change to an employee's furlough status is managed by the indicator code on the employee's time card. In the example above to change an employee from furloughed to exempted, the command must manage the change within their designated Time and Attendance (T&A) system.

Additionally, the command must manually record any furlough indicator code changes, including dates of changes, for each employee and must be submitted to your servicing Ops Center for processing. These records will be necessary in the event Congress decides NOT to approve pay for furloughed employees to ensure proper payment is made to employees working.

See above about furloughing employees previously exempt under the title "Excepted Employees."





**28. Q: We have Workforce Recruitment Program (WRP) students working in our office. Who is responsible for preparing and issuing their furlough notification?**

A: According to the Department of Defense (DoD) Disability Program Office, in the event of a government shutdown, the WRP students would be furloughed. The appropriate servicing HR office where the student is employed, not DoD, would be responsible for preparing the furlough letter, and the WRP student's supervisor would be responsible for issuing the furlough letter.

### New Employees

**29. Q: What happens to new employees who are scheduled to report to work for the first time during a shutdown furlough?**

A: For new hires (new to the federal government):

According to OPM, "by law, individuals do not become Federal employees until they report for work and are sworn in. Agencies should consider delaying the entrance-on-duty (EOD) date for new employees who are scheduled to start during a shutdown furlough." However, this discretion rests with the gaining command, which may bring the employee on-board, swear the employee in, then place the employee in furlough status or allow the employee to work if in an excepted status.

For current federal employees:

According to OPM, "Agencies should consider delaying the entrance-on-duty date for employees who are scheduled to transfer to a new agency during a shutdown furlough. Such employees would remain on the rolls of their former agency until the new transfer effective date." However, this discretion rests with the gaining command, which may bring the employee on-board then place the employee in furlough status or allow the employee to work if in an excepted status.

### Conducting an Orderly Shutdown

**30. Q: What am I expected to do if a shutdown happens?**

A: If there is a lapse of appropriations, the DON will be required to execute contingency plans and limit operations to excepted functions ONLY (commonly referred to as a government shutdown). If this occurs, the expectation is for employees to return to their office on their next regularly scheduled workday and be prepared to implement an orderly shutdown.

If you are a furloughed employee, you will receive a letter notifying you of the decision to furlough you due to the absence of available appropriations. A checklist of shutdown procedures will be available for furloughed employees. An orderly shutdown should take no longer than 3-4 hours to complete.



**31. Q: How is an employee notified of a furlough?**

**A:** Most employees will be directed to report to their office to receive their Notice of Furlough in person and complete the orderly shutdown of operations. Employees who are not available or are teleworking may receive their notice electronically through agency email.

The employee's name, address, and/or e-mail address should be included on the decision notice so that it is clear the employee is receiving personal notification. The email notification must include instructions for the employee to acknowledge receipt. Acknowledgment of the notice may include a return e-mail from the employee acknowledging receipt; a copy of the notice returned with either a scanned copy of the personally signed document; or an electronic signature, if this feature is available. If agency email access is not available or a receipt of an email notice is not received, the notice must be mailed to the employee's home address of record by registered mail with return receipt requested.

**32. Q: What if the first day of the shutdown furlough falls on my regular day off (RDO)?**

**A:** Employees would report on their next regularly scheduled workday to execute an orderly shutdown; if your RDO is on Monday and the shutdown begins Monday, you will report to the office on Tuesday for orderly shutdown.

**33. Q: In the event of a shutdown furlough, can an employee be furloughed without first receiving a written notice of decision to furlough?**

**A:** Yes. While an employee must ultimately receive a written notice of decision to furlough, it is not required that such written notice be given prior to effecting the emergency furlough.

Advance written notice (including through email) is preferred, but when prior written notice is not feasible, then any reasonable notice (e.g. telephonic, oral, personal email, or by mail promptly after the furlough begins) is permissible when the furlough decision is made.

**34. Q: Who will sign the furlough letters? Is it at the Command's discretion?**

**A:** The letters will be signed by the Deciding Official, which should reflect the line management (within the chain of command) making the decision as to whom is identified as excepted and non-excepted.

**35. Q: What if an employee refuses to acknowledge or sign receipt of the furlough notification letter?**

**A:** If employees refuse to sign the notification letter, supervisors/managers should note on the letter that the furloughed employee was notified and declined to sign receipt of the furlough notification letter.

**36. Q: What if someone is legitimately sick and cannot get their letter?**

**A:** If employees are not on-site, the following actions need to be executed on the first day the employee would report to duty following the lapse in appropriation.

-- Send the signed furlough letter, certified, return receipt requested OR

-- Send a scanned copy of the signed letter via email with a read and delivery receipt.



**37. Q: Can employees conduct an orderly shutdown remotely?**

**A:** Yes. To the extent practical, and as locally determined, agencies may allow employees to conduct necessary shutdown activities from a remote location, even without an existing telework agreement, if the nature of the employees' shutdown activities are minimal (i.e., can be completed within 1 hour), such activities would include receiving and acknowledging receipt of an electronic furlough notice and adjusting voicemail and email to reflect current work status. If Commands do not receive a requested acknowledgement of receipt of an e-mail notification, it should consider delivering a paper copy of the decision notification to the employee at his or her home address by registered mail with a return receipt requested.

**38. Q: Is the employee or the supervisor to identify his/her name, phone, and email on the employee checklist?**

**A:** On the employee checklist there is a placeholder for the supervisor to provide his/her information to the employee. The checklist may be modified by Commands and use as they see appropriate. (See [Appendix B](#) for a sample employee checklist.)

**39. Q: What procedural rights apply to employees who are veterans covered under 5 U.S.C. chapter 75 and 5 CFR part 752 for a shutdown furlough?**

**A:** For a shutdown furlough of a covered veteran employee, the law (5 U.S.C. 7513) gives a covered veteran employee the same procedural rights as other covered employees. Employees should consult with their agency human resources office to determine whether they are covered by 5 U.S.C. 7513 and what procedures may apply to them.

**40. Q: If an employee decides to challenge a shutdown furlough, when must employees file an appeal to the Merit Systems Protection Board?**

**A:** Employees must file an appeal within 30 days after the effective date of their first furlough day, or 30 days after the date of their receipt of the decision notice, whichever is later.

**41. Q: What procedures and appeal rights are applicable for non-career, limited term, and limited emergency employees in the SES and reemployed annuitants holding career SES appointments?**

**A:** Non-career, limited term, and limited emergency SES appointees and reemployed SES annuitants holding career appointments are not covered by 5 CFR part 359, subpart H. They may be furloughed under agency designated procedures, which should include certain minimum features, e.g., whenever possible, a written notice at least 1 day before the furlough that states the reason for, duration of, and effective dates of the furlough.

## Leave

**42. Q: How does leave work during a shutdown?**

**A:** Upon furlough, all scheduled leave (e.g., annual, sick, or administrative leave) is cancelled for all non-excepted (furloughed) employees, and absences during the furlough may not be charged to leave. Excepted employees (directed to work) unable to report to duty

due to illness, jury duty, etc. have the option to use their paid leave (to be compensated after the lapse ends). However, excepted employees are not required to use leave to cover periods of absence from work and may instead choose to remain in the default status of furlough during any such authorized absence during the lapse.

**43. Q: Can I take leave to go to the doctor if I am excepted from the furlough?**

**A:** Employees excepted from furlough (directed to work) may request to use their leave to go to the doctor or choose to be placed in a furlough status (i.e. non-pay, non-duty) until they are able to return to duty. Regular leave and approval procedures apply.

**44. Q: What if an employee excepted from the furlough cannot report for work during the furlough? Should he/she receive a furlough notice?**

**A:** If an excepted employee is unable to report for the duration of the furlough, he/she may request to use their paid leave or choose to be placed in the default status of furlough for the authorized period of absence, unless the employee is already in an extended Leave Without Pay (LWOP) status or is serving a suspension. If the employee decides to be placed in the default furlough status, he/she should be provided a notice. If an excepted employee has short periods that he/she is unavailable to work (e.g., medical appointment), a notice does not have to be given, but his/her timecard must reflect furlough hours for the period of absence.

**45. Q: If I am a furloughed employee, can I take annual leave for the time I am furloughed, instead of not being paid?**

**A:** No. During a furlough, paid leave (e.g., annual leave, sick leave) and other paid time off (e.g., compensatory time off, credit hours, etc.) must be cancelled for furloughed employees.

**46. Q: Can excepted employees request to take leave during the lapse?**

**A:** Yes. Excepted employees may request approval to use paid leave instead of being placed in a furlough status during an authorized absence from work, but compensation for such leave will not payable until after the lapse in appropriations has ended. However, excepted employees are not required to use leave to cover periods of authorized absence from work and may choose to remain in the default status of being furloughed.

**47. Q: Regarding use or lose leave, if the shutdown occurs and my leave is cancelled, will any unused leave be reinstated for use next year?**

**A:** Yes. Any leave that is unable to be used because of a furlough may be eligible for restoration subject to leave restoration regulations and policy. To be eligible for restoration, the leave must have been requested and approved prior to the beginning of the third pay period prior to the end of the leave year, subsequently cancelled for exigency of public business, and cannot be rescheduled prior to the end of the leave year. As restoration is not automatic, individuals must apply for leave restoration using Command procedures, and approval is at the discretion of the authorizing official. Leave scheduled to be forfeited may also be donated to individuals in the Leave Transfer Program.

### Holidays

**48. Q: Will employees be paid for a holiday that occurs during a shutdown furlough?**

**A:** It depends. Employees (including excepted employees) who do not work on a holiday that occurs during a shutdown furlough will receive holiday pay, unless excluded by subsequent legislation.

**49. Q: Can excepted employees be required to perform work on a holiday that occurs during a shutdown furlough?**

**A:** Yes. Each agency is responsible for determining which excepted activities must be performed on a holiday. If an excepted employee refuses to report for work on a holiday after being ordered to do so, he or she can be considered absent without leave (AWOL) and will be subject to any consequences that may follow from being AWOL.

**50. Q: What pay entitlements will accrue to an excepted employee who performs work on a holiday during a shutdown furlough?**

**A:** The Federal Government will be obligated to pay an excepted employee who performs work on a holiday according to the normal rules governing pay for work on a holiday. For example, under 5 U.S.C. 5546(b), a covered employee would receive his or her rate of basic pay, plus holiday premium pay at a rate equal to the employee's rate of basic pay. In addition, if such an employee performs officially ordered or approved overtime work on a holiday (i.e., work in excess of his or her basic non-overtime work requirement for that day), the employee would receive overtime pay (or compensatory time off) for that work. Of course, an employee cannot receive payment for working on a holiday until an appropriations act or a continuing resolution is enacted.

**51. Q: How do the "in lieu of" holiday rules apply during a shutdown furlough?**

**A:** When a shutdown furlough is not in effect, all full-time employees, including those on flexible or compressed work schedules, are entitled to an "in lieu of" holiday when a holiday falls on a non-workday (i.e. RDO, Regular Day Off). During a shutdown furlough, generally:

- The normal "in lieu of" holiday rules apply to employees exempt from furlough.
- The "in lieu of" holiday rules do not apply to furloughed employees (i.e. employees do not receive an "in lieu of" holiday if they are in furlough status on a holiday).

### Compensatory Time | LWOP | FMLA | AWOL

**52. Q: Will an excepted employee earn compensatory time off and credit hours during the shutdown?**

**A:** Yes. Excepted employees may earn compensatory time off and/or credit hours consistent with appropriate requirements and Command guidelines; however, employees will not be permitted to use earned compensatory time off or credit hours during the shutdown period.

**53. Q: If an employee is on approved leave without pay (LWOP), but affected by the furlough, would the employee be furloughed and LWOP terminated?**

**A:** No. The status of employees in LWOP is not disturbed. If, however, the employee is scheduled to return from LWOP to Federal service during the furlough period, the employee

should be provided with a furlough notice (effective on the date of scheduled return), unless the employee is expected to be at work performing an excepted activity.

**54. Q: How will a furloughed employee's non-pay status affect his/her leave accrual and benefits if they have already been in an LWOP status?**

**A:** If an employee is furloughed (i.e., placed in non-pay status) for part of a biweekly pay period, the employee's leave accrual will generally not be affected for that pay period.

However, the accumulation of non-pay status hours during a leave year can affect the accrual of annual leave and sick leave over time (See 5 CFR 630.208). For example, when a full-time employee with an 80-hour biweekly tour of duty accumulates a total of 80 hours of non-pay status from the beginning of the leave year (either in one pay period, or over the course of several pay periods), the employee will not earn annual and sick leave in the pay period in which that 80-hour accumulation is reached. If the employee again accumulates 80 hours of non-pay status, he or she will again not earn leave in the pay period in which that new 80-hour total is reached.

**55. Q: What if an employee is serving, or about to serve, a suspension during a lapse in appropriations?**

**A:** If an employee is already serving a suspension when a shutdown furlough becomes effective, the period of nonpay status overrides furlough status. If an employee is about to serve a suspension, agencies have the option of holding the suspension in abeyance during the period of shutdown or delaying the commencement of suspension until after the shutdown ends.

During the shutdown, such employees should be properly designated by the agency as exempt, excepted, or non-excepted and treated accordingly. If the employee is subject to furlough, the employee should receive the appropriate shutdown adverse action furlough notice.

**56. Q: If an employee is on leave under the Family and Medical Leave Act of 1993 (FMLA) during the furlough, does the leave count towards the 12-week entitlement to FMLA?**

**A:** An employee who is on approved Leave Without Pay (LWOP) under the FMLA on days that coincide with the period of furlough will continue to be charged LWOP, and no days associated with a shutdown furlough period will be counted against the 12-week FMLA leave entitlement.

An employee who was scheduled during the furlough to take paid leave under the FMLA (i.e., an employee chooses to substitute annual leave or sick leave, as appropriate, for unpaid leave under the FMLA) must be placed on furlough instead. Since the paid leave was canceled, the period of absence may not be used to reduce the 12-week entitlement to FMLA leave.

**57. Q: What should an agency do if an excepted employee faces FMLA-qualifying circumstances?**

**A:** An excepted employee may face circumstances that would normally qualify him or her for unpaid leave under FMLA. If an excepted employee is placed in a furlough status for appropriate periods consistent with FMLA, the furlough period would not count against the limit of 12 weeks of unpaid leave during any 12-month period.

**58. Q: What is the treatment of employees who are in AWOL status at the beginning of the lapse in appropriations?**

**A:** If an employee is AWOL at the beginning of the lapse in appropriations and is otherwise subject to furlough during the shutdown, he/she should be provided a furlough notice and placed in a temporary non-duty, non-pay status because of the lack of appropriated funds. Thus, the employee cannot be AWOL during this time, despite any belief the employee would not have otherwise reported to work. The employee should be coded the same as all other employees who are furloughed during this time. If the employee fails to report to work following the end of the shutdown, he or she will be considered AWOL, and subject to any consequences that may follow from being AWOL after the end of the shutdown. Conversely, if the employee is excepted from furlough and ordered to report to work during the shutdown, yet failed to do so, he or she would be considered AWOL during this time, and subject to any consequences that may follow from being AWOL.

### Emergency & Severe Weather

**59. Q: How are employees affected if, during a shutdown furlough, their Federal office is closed or announces a change in operating status due to an emergency, severe weather condition, natural disaster, and other incident causing disruption of agency operations?**

**A:** Furloughed (non-excepted) employees will not be affected if their Federal office is closed, or announces a change in operating status, during a shutdown furlough and will remain in furlough status. Excepted employees will follow normal emergency operating procedures during a Federal office closure or change in operating status, which may result in excepted employees being placed in furlough status for any hours of work not performed. Furlough of an excepted employee must be documented by a shutdown furlough notice with applicable appeal rights. Excepted employees who perform work on a day their Federal office is closed during a shutdown furlough will be paid after the lapse in appropriations ends.

### Compensation

**60. Q: If furloughed, will we be paid on time?**

**A:** The furlough could potentially disrupt the payroll processing.

**61. Q: Once I go back to work, will I be paid retroactively for the time spent on furlough?**

**A:** Yes. Under 31 U.S.C. 1341(c)(2), an employee who is furloughed as the result of a lapse in appropriations must be paid for furlough periods that occurred during the lapse. After the lapse ends, retroactive pay is provided at the employee's "standard rate of pay."



**62. Q: When an employee's pay is insufficient to permit all deductions to be made because a shutdown furlough occurs in the middle of a pay period and the employee receives a partial paycheck, what is the order of withholding precedence?**

**A:** Agencies will use the following guidance for applying deductions from the pay of its civilian employees when gross pay is insufficient to cover all authorized deductions:

The below Order of Precedence for civilian federal employees applies **only** when gross pay is not sufficient to permit all deductions; it will be used to determine the order in which authorized deductions from an employee's pay will be processed.

1. Retirement – Deductions for Defined Benefit Plan (including Civil Service Retirement System/Federal Employees Retirement System (CSRS/FERS))
2. Social Security (OASDI) Tax
3. Medicare Tax
4. Federal Income Tax
5. Federal Employees Health Benefits (FEHB) premium (pre-tax or post-tax)
6. Basic Federal Employees' Group Life Insurance (FEGLI) premium
7. State Income Tax
8. Local Income Tax
9. Collection of Debts Owed to the U.S. Government (e.g., tax debt, salary overpayment, failure to withhold proper amount of deductions, advance of salary or travel expenses, etc.; debts which may or may not be delinquent; debts which may be collected through the Treasury Offset Program, an automated centralized debt collection program for collecting Federal debt from Federal payments)
10. Court-Ordered Collection/Debt (Child Support, Alimony, Bankruptcy, Commercial Garnishments)
11. Optional Benefits Premiums (Health care Flexible Spending Accounts (FSA), Dental, Vision, Health Savings Accounts (HSA). Optional FEGLI, Long Term Care, Dependent FSA, TSP (loans, basic and catch-up contributions, then other optional benefits)
12. Other Voluntary Deductions/Allotments (Military Service Deposits, Professional Assoc., Union Dues, Charities, Bonds, personal allotments, additional voluntary deductions)
13. IRS Paper Levies

Additional guidance can be found at the Chief Human Capital Officers Council web page at <https://www.chcoc.gov/content/ppm-2008-01-order-precedence-when-gross-pay-not-sufficient-permit-all-deductions>

**63. Q: May agencies deny or delay within-grade or step increases for General Schedule (GS) and Federal Wage System employees during a shutdown furlough?**

**A:** It depends on how long the shutdown furlough lasts. Within-grade and step increases for General Schedule (GS) and Federal Wage System employees are awarded on the basis of length of service and individual performance. Such increases may not be denied or delayed solely because of lack of funds; however, extended periods of non-pay status (e.g., because of a furlough for lack of funds) may affect the timing of such increases. For example, a GS employee in steps 1, 2, or 3 of the grade who is furloughed an aggregate of more than 2





workweeks during the waiting period would have his/her within-grade increase delayed by at least a full pay period (See 5 CFR 531.406(b)).

**64. Q: What effect does a furlough have on time-limited appointments or promotions?**

**A:** Furloughs do not extend the not-to-exceed date of time-limited appointments or promotions. Agencies have the option to separate temporary employees rather than including them in the furlough.

### Effect on Service Credit

**65. Q: If an employee is planning to retire within the next three years, will time in a furlough status have an effect on the employee's high-3 average?**

**A:** No. Generally, the high-3 average is affected if the period of non-pay status is more than six months during the calendar year; however, since employees are entitled to receive retroactive pay after the lapse ends under 31 U.S.C. 1341(c)(2), the lapse period will no longer be considered as a period of non-pay status.

**66. Q: Will a shutdown furlough affect the employee's planned retirement date?**

**A:** No. If the employee provides notice to the employing agency on or before the requested retirement date, the shutdown furlough will not affect the retirement date.

**67. Q: Is furlough or leave without pay (LWOP) considered a break in service?**

**A:** No. Both mean the employee is in a non-pay, non-duty status for those days/hours. Even while on furlough or LWOP, an individual is an employee of the government.

**68. Q: What are the effects of a furlough on service credit?**

**A:** Time spent in a non-pay status (including furlough) is credited as follows:

- **Career tenure:** The first 30 calendar days of each non-pay period is creditable.
- **Probationary period:** An aggregate of 22 workdays in a non-pay status is creditable.
- **Qualification standards:** There is no requirement to extend qualifying periods by the amount of time spent in a non-pay status. However, activities may require a corresponding time in a pay status to meet training requirements or ability to perform.
- **Time-in-Grade:** Non-pay status is creditable service.
- **Impact on Leave (Service Computation Date):** While employees in a non-pay status do not accrue additional leave, up to 6 months spent in a non-pay status is creditable service (i.e. counts toward the rate of leave accrual).

**Note:** Non-pay status furlough periods convert to pay status periods once funding is provided and employees receive retroactive pay for those periods. When this happens, the above listed effects of the furlough/non-pay status will no longer be applicable.

### Unemployment Compensation

**69. Q: Am I entitled to unemployment compensation while on furlough?**

**A:** Furloughed employees may be eligible for unemployment compensation, depending on the differing State requirements. Employees should submit their questions to the appropriate State Unemployment Compensation office. Furloughed employees will receive the SF8, the form needed by federal employees to file for unemployment compensation. Be advised that when employees receive retroactive pay, they will be required to pay back any unemployment benefits they received, in accordance with State law.

**70. Q: What address should the HR office provide on the SF8 (i.e. the Unemployment Compensation Form)? What is the Federal Identification Code (FIC)?**

**A:** The address on the SF8 should be the centralized mailing address of the Command's Unemployment Compensation Program Administrator. Standardized and OCHR approved SF8 forms are available online at <https://portal.secnav.navy.mil/orgs/MRA/DONHR/UnemploymentCompensation/Pages/default.aspx>; the FIC is 423 for the DON.

**71. Q: Are excepted (directed to work) employees eligible for unemployment, since they are not being paid?**

**A:** Excepted employees working on a full-time basis are generally not eligible.

### Worker's Compensation (FECA)

**72. Q: How is Continuation of Pay (COP) under the Federal Employees' Compensation Act affected by a Government shutdown?**

**A:** The Department of Labor's Office of Workers' Compensation Programs, which administers the Federal Employees' Compensation Act (FECA), advises that in the event of a Government shutdown, an employee who is disabled due to his or her injury is to be maintained in COP status during the shutdown unless the agency does not have funds available to pay the salary of that employee. If the agency does not have funds to pay salary during the shutdown, but the agency's budget is subsequently restored, allowing for retroactive payment of salary during the shutdown period, the employee should receive COP for any period of disability that occurs during the shutdown. In the event an agency is legally unable to pay COP to an employee because of a lapse in appropriations, the employee may file a claim for regular FECA wage loss compensation for that period.

**73. Q: If I get injured while I am furloughed, am I eligible to receive workers' compensation?**

**A:** No. Workers' compensation is paid to employees only if they are injured while performing their duties. Employees on furlough or LWOP are not in a duty status for this purpose.



**74. Q: I am out on workers' compensation and in a LWOP status, but I am being furloughed. Will I get paid?**

**A:** Yes. Federal Employees' Compensation Act (FECA) wage-loss compensation (workers' compensation) is not considered wages; therefore, it is not impacted by the lapse in appropriations.

## Benefits

### Open Enrollment

**75. Q: How does the furlough affect the processing of my Open Season Benefit changes?**

**A:** Furlough does not affect the processing of your benefit elections, as the changes are automatically processed to update your payroll record. Employees can expect their newly elected coverage and premiums to take effect on the appropriate effective date.

### Health Insurance

**76. Q: How does being furloughed affect my health insurance coverage?**

**A:** Federal Employee Health Benefit (FEHB) coverage continues up to 365 days in a non-pay status. If non-pay status is due to a lapse of appropriations (shutdown furlough), there will be no opportunity for an employee to pay the agency directly. In this instance, the premiums will accumulate and be withheld later when the lapse ends and employees can be paid.

**77. Q: What happens if an employee wants to terminate Federal Employee Health Benefits (FEHB) coverage while in a non-pay status in order to avoid the expense?**

**A:** Unlike other types of non-pay status, employees in a non-pay status due to a lapse of appropriations (shutdown furlough) will not have the opportunity to terminate or cancel FEHB coverage. The employee will remain covered, and the enrollee's share of the FEHB premium will accumulate and be withheld from pay upon return to pay status.

**78. Q: If an employee submitted a new application or a change to his/her health insurance plan (e.g. because of a Qualifying Life Event) and the paperwork was not processed by the agency because of a shutdown furlough, how would the employee seek services or coverage?**

**A:** New enrollments or changes in enrollment due to a Qualifying Life Event do not take effect until the employee has been back in pay status for any part of the prior pay period. The exception is for a new enrollment or change in enrollment due to the birth or addition of a child, which is effective on the first day of the pay period in which the child is born or becomes an eligible family member. There is no requirement to be in pay status in order for an enrollment or change in enrollment due to birth or addition of a child to become effective.



### Federal Employees Group Life Insurance (FEGLI)

**79. Q: To what extent does non-pay status affect FEGLI coverage?**

**A:** Life insurance coverage continues for 12 consecutive months, but premiums are collected only for pay periods for which you receive pay.

### Federal Employees Dental & Vision Insurance Program (FEDVIP)

**80. Q: To what extent does furlough status affect Federal Employees Dental and Vision Insurance Plan (FEDVIP) coverage?**

**A:** FEDVIP coverage will continue. However, if the lapse period is less than three consecutive pay periods, the premiums will accumulate and be withheld later when the lapse ends. After three consecutive pay periods in a non-pay status, BENEFEDS will begin to bill the employee directly for premium payments. The employee must pay those bills on a timely basis in order to continue coverage.

### Thrift Savings Plan (TSP)

**81. Q: Can I take a TSP loan while I'm furloughed?**

**A:** Yes. By law, a TSP participant may take a TSP loan any time before separation. The TSP has adopted an administrative rule that provides that TSP participants must be in a pay status in order to take a TSP loan. The TSP adopted this rule because it generally requires TSP participants to agree to repay their loans through payroll deduction. The first payment is due on or before the 60th day following the loan issue date. Since shutdowns are rare occurrences and are typically of short duration, the TSP's Executive Director has determined that it is in the best interest of TSP participants to interpret the requirement that participants be in a pay status to mean that a break in pay due to a Government shutdown does not disqualify one from TSP loan eligibility. A short-term break in pay status would still allow participants to commence payment by payroll deduction within the required 60 days of the loan issue date. If a shutdown were to extend beyond 60 days, participants would still be responsible for making loan payments. For further information, visit the TSP website at [www.tsp.gov/](http://www.tsp.gov/).

### Federal Long Term Care Insurance Program (FLTCIP)

**82. Q: To what extent does furlough status affect FLTCIP coverage?**

**A:** Coverage will continue, but if an employee usually pays his/her premium through payroll deduction and the lapse period is less than three consecutive pay periods, the accumulated premiums will be withheld when the lapse ends and employees can be paid. Otherwise, Long Term Care Partners will begin to bill the employee directly for premium payments. Those bills must be paid on a timely basis in order to continue coverage.

### Miscellaneous

#### Crowdsource Funding and Gifts

**83. Q: May I, or may someone on my behalf, start a crowdsourcing campaign to raise funds because I am in a non-pay status? *(new)***

**A:** Generally, no. An employee (or a person acting on the employee's behalf, such as a spouse) may not solicit a gift based on the employee's federal employment. Therefore, an employee's agency, title, or status as a federal employee should not be used in any such solicitation. An employee could accept donations from the employee's friends or relatives when it is clear that any donations accepted are based on that friendship or family relationship.

**84. Q: May I accept assistance from a crowdsourcing campaign designed to provide assistance to federal employees in non-pay status? *(new)***

**A:** It depends. Such offers of assistance may be accepted if (1) the acceptance is offered to a broad class of government employees that does not discriminate based on responsibility, rank, or rate of pay (such as all furloughed federal employees), and (2) the campaign organizer is not a prohibited source.

**85. Q: May I accept free meals or discounts offered to all federal workers or the general public? *(new)***

**A:** Many restaurants and other businesses extend offers of free meals, discounts, and other support to federal workers during a government shutdown. As long as the offer is extended to all federal employees, it may be accepted as a benefit available to a class consisting of all Government employees or all uniformed military personnel, even if the offer is restricted by geography.

#### Outside Employment

**86. Q: May I seek alternative employment while I am in a non-pay status? *(new)***

**A:** Generally, yes, if it does not conflict with your official duties and your organization does not have additional requirements. If you think you may want to seek alternative employment during an impending furlough, you are encouraged to consult with your organization's ethics officials and become familiar with their organization's outside employment rules prior to any lapse in appropriations.

**87. Q: Are there limitations on what I can do for an outside employer? *(new)***

**A:** Employees are prohibited from representing outside parties before the federal government. For example, a furloughed employee may not contact a federal government agency or court that is open during a lapse in appropriations in order to sell a company's products or services. Additionally, employees are prohibited from using their federal government title or position to benefit a non-federal employer.



**88. Q: What should I do when I return to federal service? *(new)***

**A:** Employees should consult with their organization's ethic officials to discuss whether their outside employment during the lapse of appropriations would require them not to work on matters involving their former employer for a period of one year. If an employee is going to continue outside employment after returning to federal service, it is vital that the employee meet with an ethics official to ensure that the outside employment does not create a conflicting interest with the employee's federal duties.

### Travel

**89. Q: Can I travel during the furlough if I am an excepted employee?**

**A:** Travel to support excepted efforts is subject to Command and DON approval requirements.

**90. Q: What happens if I am on temporary duty (TDY) while furloughed?**

**A:** You are encouraged to make arrangements to return home sooner than planned whenever reasonable and practicable. However, your organization should make a determination of reasonableness and practicality based on the length of the assignment and the time required for return travel, compared to the anticipated length of the lapse, so as to minimize the burdens of doing so. All TDY travel in direct support of military operations in Afghanistan, against al-Qaeda, and to counter the Islamic State of Iraq, Syria, and other terrorist groups threatening the national security of the United States, may continue. Other travel directly related to safety of human life or the protection of property, including national security, as well as foreign relations (e.g., negotiating international agreements), may be undertaken or continue *only* if approved, in writing, by the appropriate approval authority listed below and only in the most limited circumstances. The approval authority (which may be delegated to appropriate senior officials) for any such TDY travel is the:

- Secretary of a Military Department for personnel assigned to that Military Department
- Head of a Defense agency for personnel assigned to that Defense agency
- Chairman of the Joint Chiefs for Staff for personnel assigned to the Joint Staff
- Combatant Commander for personnel assigned to that combatant command
- Principal Staff Assistant (PSA) for personnel assigned to that office

### Reporting Employee Death

**91. Q: How do I report the death of a family member during a government shutdown?**

**A:** Refer to the website [www.opm.gov/retire](http://www.opm.gov/retire) for information on reporting the death of a current retiree and applying for any benefits, or by calling OPM directly at (888) 767-6738. If the family member was a federal employee at the time of death, survivors must contact the Command for which the deceased worked.

### Financial Impact



**92. Q: If the furlough impacts my ability to meet my financial obligations (e.g., mortgage or rent payments), will this impact my security clearance?**

**A:** A furlough is a circumstance beyond your control. The Federal Adjudicative Guidelines specify that the adjudicative process is the careful weighing of a number of variables known as the whole person concept. Mitigating factors may include the conditions that resulted in the concern were largely beyond the person's control and whether (or not) the individual acted responsibly under the circumstances. As a proactive measure, you may wish to contact your local Civilian Employee Assistance Program (CEAP) to see if financial planning is available (<http://donceap.foh.psc.gov/> or (844) 366-2327, 001-886-829-0270).

**93. Q: Beyond working with creditors, documenting the situation, and keeping the security office informed, what else can an employee do to protect a security clearance?**

**A:** Candidates for security clearance are evaluated to assess judgment, reliability, trustworthiness, and being an overall good security risk. If you consistently act in ways that reflect your good judgment, your security clearance should not be at risk. In addition to the actions listed above, you should ensure that any financial problems do not adversely impact other areas of your life. Financial hardships can be very stressful and lead to a person making bad decisions in other areas. If you start to encounter financial problems, credit counseling may be a useful tool; the National Foundation for Credit Counseling (<http://www.nfcc.org/>) is a nonprofit organization offering help for individuals experiencing financial problems.

**94. Q: What kinds of financial hardships should be reported if they occur?**

**A:** Employees should notify their security officer or supervisor in writing if, because of furlough, they: (1) face bankruptcy; (2) are unable to pay Federal, state or other taxes required by law or ordinance; (3) require credit counseling; (4) become delinquent on alimony or child support payments; (5) have a judgment entered against you for failure to meet financial obligations; (6) have liens placed against you; (7) become delinquent on a Federal debt; (8) have possessions or property repossessed; (9) default on loans, including student loans; (10) have accounts turned over to a collection agency; (11) have credit accounts suspended, charged off, or cancelled for failure to pay as agreed; (12) are evicted for non-payment; (13) have wages garnished in order to satisfy a financial obligation; or (14) become over 120 days delinquent on a debt. Providing notification demonstrates responsibility, which can mitigate any security concerns about the debts themselves.

### Labor Relations

**95. Q: What is the agency's obligation in responding to a union request under 5 U.S.C. 7114 seeking the agency's furlough plan and list of excepted and non-excepted employees?**

**A:** Under the framework for requests for information, if a union's request communicates the necessary elements, an agency is required to provide data that is normally maintained, reasonably available, and necessary to perform the representational duties of a union. An agency denying a request for information must assert and establish any countervailing anti-disclosure interests. An agency may not satisfy its burden by making conclusory or bare





assertions; its burden extends beyond simply saying "no." With this in mind, agencies have to evaluate the circumstances of their situation to determine how to respond to the request.

### Returning to Work

**96. Q: How do I know when to report to work again after the furlough is over?**

**A:** Employees should monitor media reports, including checking official websites such as <http://www.secnav.navy.mil/donhr/Pages/Default.aspx> and the OPM website, for news about the approval of a continuing resolution or an appropriation for the DoD. When either the continuing resolution or the appropriation has been approved, employees will be expected to return to work on their next regular duty day.

### Time and Attendance

**97. Q: How should we report time and attendance for retroactive pay after the furlough?**

**A:** Corrected T&A processing will be required to pay all employees retroactively after the lapse in appropriation ends. Timekeepers and/or CSRs will be required to record T&A retroactively beginning on the first day of the shutdown furlough. Once the furlough period is over, normal time and attendance procedures should be followed. Note: T&A guidance may vary.

**98. Q: How should we report time and attendance for civilian employees on military leave during the furlough?**

**A:** Civilian employees on military leave in a pay status must be coded as excused absence. This is consistent with 2013 OPM guidance. Guidance instructing to change all employees to regular pay status would violate the statute that prohibits civilian employees from being in a duty status while on active duty.

### Where to Go for Additional Information

For additional information:

1. Contact Command HR offices.
2. Visit the DON Office of Civilian Human Resources --  
<https://portal.secnav.navy.mil/orgs/MRA/DONHR/Pages/Default.aspx>  
or the webpage: <http://www.secnav.navy.mil/donhr/Pages/Default.aspx>

### Appendix A: Excepted Functions

Following is a listing of the high-level categories used in identifying missions and functions in DoD that may continue in the absence of available appropriations. A more detailed description of the categories is available via the DoD guidance on the continuation of operations in the absence of appropriations.

Activities that are determined not to be excepted and which cannot be performed by utilizing military personnel in place of furloughed civilian employees will be suspended when the appropriated funds expire. Each command will identify excepted functions within the command that meet the parameters outlined by DoD and driven by program requirements. DoD categories include:

- Safety of human life or protection of property (national security)
- Safety of human life or protection of property (includes SAPR)
- Medical/dental care
- Acquisition and logistic support (includes contracting)
- Education and training
- Legal activities
- Audit and investigation community
- Morale welfare and recreation/non-appropriated funds
- Financial management
- Working capital fund/revolving funds
- Activities funded with unobligated, unexpired balances

**Note:** Only the minimum number of civilian employees necessary to carry out excepted activities will be excepted from the furlough. Employees that provide direct support to excepted positions may also be deemed excepted if they are critical to performing the excepted activity.

#### **Exempt**

- Presidential appointed, Senate confirmed (PAS) officials (categorized as exempt).



## Appendix B: Sample Employee Checklist

### Employee Checklist & Sample Out of Office Messages

- Supervisor contact information  
*(provided for employees to use as a source of information)*  
Name \_\_\_\_\_  
Phone \_\_\_\_\_  
Email \_\_\_\_\_
- Secure PII data
- Set voice mail *(see below)*
- Set out-of-office for email *(see below)*
- Secure office area (turn off appliances, fans, etc.)
- Submit any outstanding travel vouchers
- Enter time in SLDCADA (or appropriate time-keeping system)
- Turn off computer

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### Out-of-Office Messages

#### Sample Voice Mail

Hello ... due to a lapse in federal funding, employees have been furloughed. Therefore, I will be out of the office and unable to monitor or respond to voice mails until the furlough has ended.

#### Sample Voice Mail if Someone has been Designated to Respond to Inquiries

Hello ... due to a lapse in federal funding, employees have been furloughed. Therefore, I will be out of the office and unable to respond to voice mails until the furlough has ended. If this is an emergency, please contact \_\_\_\_\_.

#### Sample Email

Due to a lapse in federal funding, employees have been furloughed. I will not be able to monitor or respond to email messages until the furlough has ended.

#### Sample Email if Someone has been Designated to Respond to Inquiries

Due to a lapse in federal funding, employees have been furloughed. I will not be able to monitor or respond to email messages until the furlough has ended. If this is an emergency, please contact \_\_\_\_\_.