Shutdown Furlough FAQs

General

1. What is a furlough?

A furlough is the placing of an employee in a temporary nonduty, nonpay status because of lack of work or funds, or other nondisciplinary reasons.

2. What is a shutdown furlough and why is a shutdown furlough necessary?

In the event that funds are not available through an appropriations law or continuing resolution, a “shutdown” furlough occurs. A shutdown furlough is necessary when an agency no longer has the necessary funds to operate and must shut down those activities which are not exempt pursuant to the Antideficiency Act.

Exempt/No-Exempt Designation

1. Who are “exempt” employees?

In the context of shutdown furloughs, the term “exempt” refers to employees who are funded through annual appropriations who are nonetheless exempt from the furlough because they are performing work that, by law, may continue to be performed during a lapse in appropriations. Generally, this includes employees who are performing emergency work involving the safety of human life or the protection of property, involved in orderly suspension of agency operations, or performing certain other types of exempt work as provided by the Office of Management Budget and Department of Justice guidance.

Some TSA activities will continue to have funding available because they are funded by a source other than annual appropriations. Employees in positions that continue to have funding are not affected by the lapsed appropriation and will continue to be governed by the normal pay, leave, and other personnel rules. For example, the transportation worker identification credential (TWIC) vetting operation functions is funded with fee-based revenues.

2. Who are “excepted” employees?

Other federal agencies, including the U.S. Office of Personnel Management, use the terms “excepted” and “exempt”. The term “excepted” is used to refer to employees who are funded through annual appropriations who are nonetheless exempt from furlough because they are performing work that, by law, may continue, and “exempt” to refer to employees who are not funded by annual appropriations, therefore unaffected by the funding lapse. For simplicity,
DHS uses one term “exempt” to refer to all employees who are not subject to furlough pursuant to the Antideficiency Act.

3. **How is the exempt designation determined?**

Exempt functions and associated positions are designated in advance (before any potential furlough). The Office of Chief Counsel and the Office of Finance and Administration, working with TSA Offices and TSA senior managers, determine which employee are designated to handle “exempt” and “non-exempt” functions, in compliance with the Antideficiency Act.

4. **Are all employees who qualify as “emergency employees” for the purpose of weather emergencies considered to be “exempt employees” for the purpose of a shutdown furlough?**

Not necessarily. “Emergency employees” are those employees who must report for work in emergency situations—e.g., severe weather conditions, air pollution, power failures, interruption of public transportation, and other situations in which significant numbers of employees are prevented from reporting for work or which require agencies to close all or part of their activities. Emergency employees are not automatically deemed exempt employees for purposes of shutdown furloughs.

5. **What happens to employees on detail during a shutdown furlough?**

Detailed employees remain officially assigned to their permanent positions during the detail, and the exempt designation will be made based on the employee’s permanent position of record.

The activities and funding of employees on detail must be reviewed as well to determine whether these detailed employees and activities will be designated exempt or non-exempt based on the function and the availability of funds. The detailed employees’ home and receiving agencies/offices should carefully consult about what activities are appropriate for detailed employees to perform during a funding lapse to ensure that the activities are consistent with the reasons why the agency designated them as “exempt.”

In the case of personnel on detail to TSA from non-Federal organizations, the authority for furlough will depend upon the nature of individual agreements, the status of the appointments, and/or the funding arrangements for the assignments. As a general rule, the following principles are applicable in determining whether to furlough personnel:

- Personnel from non-Federal organizations on appointments to the Federal Government are subject to furlough in the same manner as other employees.
- Personnel on detail to Federal agencies from non-Federal organizations may continue working, provided that the non-Federal organizations pay the total costs of the detail.
- Personnel on detail to Federal agencies from non-Federal organizations that share part
of the costs of the detail may continue to work if the Federal portion of the cost was obligated from prior appropriations at the time of the IPA mobility agreements. In the event that a furlough takes place during a time for which no funds are appropriated, the assignment should be terminated.

- Personnel on detail to Federal agencies from non-Federal organizations that do not pay or share the costs of the detail are subject to furlough in the same manner as other employees.

6. What about employees who are not “exempt”?

Employees who are funded through annual appropriations but are not designated as exempt are barred from working during a shutdown, except to perform minimal activities as necessary to execute an orderly suspension of agency operations related to non-exempt activities. These employees will be furloughed.

7. Are TSES employees subject to furlough?

Yes, unless they have been excepted from furlough under the same conditions as all other employees.

8. How will employees be notified whether they have been designated to be handling “exempt” functions or not?

Employees will be notified either by email or in-person. The timing of notifying employees of whether they have been designated as an exempt employee is subject to DHS headquarters instructions. As soon as TSA is authorized to do so, management will notify the employees of their status. The timing of notice will be situation-dependent.

Orderly Shutdown Activities

1. What type of work is performed by employees during the orderly shutdown period?

Employees performing orderly shutdown are expected to limit their activities to those that are necessary for the orderly cessation of non-exempt activities and functions. For example:

- Management notifications to non-exempt employees that they are furloughed
- Receiving and acknowledging receipt of furlough notices
- Consolidating and organizing employee notices, including email receipt/read notices and employee return emails
- Out-of-office messages
- Consolidating and storing files
• Safeguarding classified materials
• Protecting government property
• Documenting the status of projects to facilitate resumption when regular operations are resumed
• Processing appropriate personnel/payroll actions and filing documentation

2. How long should shutdown activities take?

Employees are allowed up to four hours to complete orderly cessation of non-exempt activities. However, for most employees, it should take less than an hour to complete the orderly shutdown activities. Immediately upon completion of the orderly shutdown activities, employees must depart.

3. Can orderly shutdown activities be performed remotely?

Supervisors may allow employees to perform orderly shutdown activities (including receiving furlough notices and, updating outgoing voicemail and email messages, validating time & attendance) remotely. Supervisors and employees should discuss in advance whether where employees are expected to perform orderly shutdown activities. Employees performing orderly shutdown activities remotely (i.e., telework location), are expected to have signed telework agreements in place.

Travel/TDY

1. How does furlough affect travel for non-exempt employees?

Even with approved travel orders, non-mission critical travel should not commence within three business days of the date of a potential funding lapse. The current DHS guidance is that non-exempt employees planning temporary duty assignments away from their normal duty stations at the time of a lapse in funding should change their travel plans and cancel all reservations (e.g., flight, rental car, lodging). Supervisors and employees should follow the event-specific TSA travel policy guidance.

2. At the time of an appropriations lapse, an employee who is funded through a lapsed appropriation is on temporary duty assignment away from the employee’s normal duty station. What happens to the employee?

The employing Office in conjunction with TSA’s travel office should determine the reasonableness and practicality of changes to temporary duty travel on the basis of the length of the assignment and the time required for return travel, compared to the anticipated length of the lapse, and should in general minimize the burdens and costs associated with a return to permanent duty stations.
• Non-exempt employees already serving on temporary duty assignments at the time of a lapse in funding may hold in place until their employing Office makes a determination that they must return to their permanent duty stations.

• Employees who are notified by their employing Office to return to their permanent duty station should do so as soon as practicable. When an employee returns promptly, the travel expenses that the employee incurs in the return are properly-incurred obligations of the agency (as part of the agency’s orderly-shutdown activities), and the employees will be reimbursed for these travel costs after appropriations are enacted and are available for that purpose.

• If, however, an employee elects not to return promptly and, as a result of this decision, the employee incurs additional travel expenses, those additional travel expenses are not obligations of the agency, and will not be reimbursed (instead, the employee is personally liable for the additional travel expenses); while the employee will be personally liable for the additional travel expenses, the agency will continue to incur the obligation for those travel costs that would have been incurred if the employee had returned promptly, and the agency will reimburse such “prompt return” travel costs after appropriations are enacted and are available for that purpose.

• In the case of those employees whose continuation of their travel is in direct support of an exempt activity will be notified by their supervisors that they are to remain on travel. For these employees, they will be reimbursed the travel costs after appropriations are enacted and are available for that purpose.

Working During Furlough

1. May an employee volunteer to do his or her job on a nonpay basis during a shutdown furlough?

No. Unless otherwise authorized by law, an agency may not accept the voluntary services of an employee.

2. May employees take other jobs while on furlough?

While on furlough, an individual remains an employee of the Federal Government. As such, the standards of ethical conduct and rules on outside employment continue to apply during a furlough period. Before engaging in outside employment, employees should review the TSA ethics rules for guidance. See attached Ethics Rules.
Pay

1. **Will exempt employees be paid for performing work during a shutdown furlough?**

   Yes, exempt employees will be paid for services performed during a lapse in appropriations, and those employees will be paid after Congress passes and the President signs a new appropriation or continuing resolution.

2. **Will employees who are furloughed get paid?**

   There is no guarantee that federal agencies will be authorized to provide retroactive payment to employees who are subject to the furlough once funding is appropriated. Congress will determine whether furloughed employees receive pay for the furlough period.

3. **Will employees receive a paycheck for hours worked prior to a lapse in appropriations?**

   Yes, employees will receive a paycheck for hours worked prior to a lapse in appropriations, as normally scheduled.

4. **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?**

   In the event that the gross pay is insufficient to cover all authorized deductions, below order of precedence is applied 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 (FAS), Dental, Vision, Health Savings Accounts (HAS). 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 https://www.chcoc.gov/content/ppm-2008-01-order-precedence-when-gross-pay-not-sufficient-permit-all-deductions.

5. **May an exempt employee be permitted to earn premium pay (e.g., overtime pay, Sunday premium pay, night pay, etc.) during the furlough period?**

Yes. Exempt employees who meet the conditions for overtime pay, Sunday premium pay, night pay, and other premium payments will be entitled to payment in accordance with normal rules covering premium pay. Premium pay may be earned but cannot be paid until Congress passes and the President signs a new appropriation or continuing resolution.

**Leave and Other Time Off**

1. **May an employee not exempt from the furlough take previously approved paid time off (e.g., annual, sick, court, military leave, or leave for bone marrow/organ donor leave, or compensatory time off, including religious compensatory time off) during a shutdown furlough?**

No. All paid time off during a shutdown furlough period must be canceled.

2. **May an exempt employee take previously approved paid time off or be granted new requests for paid time off during a shutdown furlough?**

No. When an exempt employee is not working or not performing exempt activities in compliance with the Antideficiency Act, he or she cannot be in a pay status. Exempt employees must be either performing exempt activities or furloughed during any absence from work, including any brief or intermittent absence.

3. **What happens if an exempt employee refuses to come to work after being ordered to do?**

If an exempt employee refuses to report for work after being ordered to do so, he or she will be considered to be absent without leave (AWOL) and will be subject to any consequences that may follow from being AWOL. A charge of AWOL is not a disciplinary action. However, the AWOL charge, or the failure to follow instructions that result in AWOL may serve as a basis for corrective or disciplinary action, as warranted.

4. **Does LWOP under FMLA that is scheduled to be taken during a shutdown furlough period count toward the employee’s 12 or 26-week FMLA leave entitlement?**

No.
NOTE: If a bill is enacted to provide retroactive pay for furloughed employees, the days will count towards the employee’s 12 or 26-week FMLA entitlement.

5. **If an employee is scheduled to take paid leave or other paid time off under FMLA during a shutdown furlough, should the employee be furloughed?**

Yes. An employee must be placed in furlough status during any paid time off scheduled to be taken during a lapse in appropriations. If an employee is scheduled to take paid time off under FMLA during a shutdown furlough (either continuously or intermittently), the paid time off must be canceled and the employee must be furloughed for any period during which paid time off was scheduled. Thus, any days of scheduled paid time off are documented as furlough days. Any previously scheduled days of unpaid leave under FMLA will continue to be documented as LWOP. No days associated with a shutdown furlough period will be counted against an employee’s 12 or 26-week FMLA leave entitlement.

NOTE: If a bill is enacted to provide retroactive pay for furloughed employees, the days will count towards the employee’s 12 or 26-week FMLA entitlement.

6. **Does a shutdown furlough affect the accrual of annual leave and sick leave?**

If an employee is furloughed (i.e., placed in nonpay status) for part of a biweekly pay period, the employee’s leave accrual will generally not be affected for that pay period.

7. **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?**

Exempt employees will follow normal emergency operating procedures during a Federal office closure or change in operating status, which may result in exempt employees being placed in furlough status for any hours of work not performed. This is because during a shutdown furlough, exempt employees must be either be performing exempt activities or furloughed during any absence from work and may not be placed in an excused absence or leave without pay (LWOP) status. Exempt employees who perform work on a day their Federal office is closed during a shutdown furlough will be paid after Congress passes and the President signs a new appropriations bill.

**Holidays**

1. **Will exempt employees paid for a holiday that occurs during a shutdown?**

When a holiday occurs during a shutdown furlough, management will determine which exempt activities must be performed on a holiday, and which employees are needed to perform those functions. Exempt employees who are required to work on a holiday will receive pay according to the normal rules governing pay for work on a holiday.
Exempt employees who are not required to work on a holiday will be placed in a furlough status for the day, and will not receive pay for a holiday that occurs during a shutdown furlough unless authorized by subsequent legislation.

2. **How do the “in lieu of” holiday rules apply during a shutdown furlough?**

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 nonworkday. When scheduling holidays for “exempt” employees, the normal “in lieu of” holiday rules apply.

Normally, the basic workday immediately preceding a holiday is the observed as the in lieu of holiday and the day of actual holiday is observed as the regular day off (RDO).

The exempt employees not required to work on a holiday would be placed in furlough on the day of the in lieu of holiday.

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**Employee Benefits**

**Federal Employee Health Benefits Program**

1. **Will an employee continue to be covered under the Federal Employees Health Benefits (FEHB) program during a shutdown furlough if the agency is unable to make its premium payments on time?**

Yes. The employee’s FEHB coverage will continue even if an agency does not make the premium payments on time. Since the employee will be in a non-pay status, the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status.

2. **What happens if an employee wants to terminate Federal Employees Health Benefits (FEHB) coverage while in a nonpay status in order to avoid the expense?**

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; the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status.

3. **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?**

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.
4. Would a lapse in appropriations alter the effective date of an FEHB Open Season enrollment if an enrollment request was fully processed by an agency and submitted to the health plan prior to the lapse?

   No. The effective date would still be the first day of the first full pay period in January.

5. What happens if an individual makes an FEHB Open Season enrollment change but the agency did not process the request before the furlough?

   The individual should continue to use the old health plan until he or she returns to pay status and the enrollment in the new health plan is processed.

6. If an enrollee required healthcare after making an FEHB Open Season enrollment change that was not processed before a furlough and received coverage under the old health plan, will the new health plan be responsible for the coverage received once the furlough is over?

   Yes.

7. If a furlough delays processing of FEHB Open Season enrollment changes, will the enrollment be retroactive?

   Yes. Per FEHB regulations, all Open Season enrollments and enrollment changes are effective on the first day of the first full pay period in January.

8. If an individual’s health plan is terminating participation in the FEHB Program at the end of the current benefit year, and an Open Season enrollment change has not been processed, what should the individual do in January?

   If the individual needs services urgently, he or she should incur the expenses and file a claim with the new plan once the enrollment change has been processed.

9. How will someone know whether his or her FEHB enrollment request was fully processed and sent to the new health plan?

   If the individual receives an ID card, the enrollment in the new plan is effective. If an ID card is not received, the enrollment has not been processed.

10. How will someone know if an electronic FEHB Open Season enrollment change was fully processed?

    If an ID card is received, the enrollment in the new plan is effective. If an ID card is not received, the enrollment has not yet been processed.

11. What happens to an individual not currently covered under the FEHB who elected to
enroll during Open Season if the enrollment has not been processed and will not be processed until after the furlough? Does this individual still have coverage with the elected plan? If so, when?

Yes. Such an individual would have coverage beginning on the first day of the first full pay period in January. Expenses incurred will be reimbursed by the plan once the enrollment has been processed. We suggest that such individuals ensure they use the plan’s providers to get the maximum benefits. For fee-for-service plans, check the health plan’s website for a list of in-network providers.

Federal Employees’ Group Life Insurance

12. What happens to an employee’s Federal Employees’ Group Life Insurance (FEGLI) Program coverage if furloughed?

Coverage continues for 12 consecutive months in a nonpay status without cost to the employee or to the agency. Neither the employee nor the agency incurs a debt during this period of nonpay.

Flexible Spending Account (FSAFEDS)

13. What happens to an employee’s Flexible Spending Account (FSAFEDS) coverage if furloughed?

Payroll deductions will cease for any employee that does not receive pay. The employee remains enrolled in FSAFEDS, but eligible health care claims incurred during a non-pay status will not be reimbursed until the employee returns to a pay status and allotments are successfully restarted. The remaining allotments are recalculated over the remaining pay periods to match the participant’s election amount.

Eligible dependent care expenses incurred during a non-pay status may be reimbursed up to whatever balance is in the employee’s dependent care account—as long as the expense incurred during the non-pay status allows the employee (or spouse if married) to work, look for work or attend school full-time.

14. Will the effective date of my FSAFEDS enrollment be affected?

No.

15. What happens to an employee’s Federal Long Term Care Insurance Program (FLTCIP) coverage if furloughed?

Payroll deductions will cease for any employee that does not receive pay. Coverage will
continue so long as premiums are paid. If Long Term Care Partners does not receive payment for three consecutive pay periods, they will begin to direct bill the enrollee. The enrollee should pay premiums directly billed to him/her on a timely basis to ensure continuation of coverage.

16. What happens to an employee’s Federal Employees Dental and Vision Insurance Program (FEDVIP) coverage if furloughed?

Payroll deductions will cease for any employee that does not receive pay. BENEFEDS will generate a bill to enrollees for premiums when no payment is received for two consecutive pay periods. The enrollee should pay premiums directly billed to him/her on a timely basis to ensure continuation of coverage.

17. Will the effective date of my FEDVIP Open Season enrollment be affected?

No.

18. What is the effect of a shutdown furlough on Thrift Savings Plan (TSP) contributions, investments, and loans?

Employees should refer to the TSP website for additional information.

Employee Assistance

1. Does the fact that TSA is in a shutdown furlough excuse employee from meeting any of my financial obligations?

No. All employees are still responsible for payment for any debt incurred. Although TSA cannot release an employee from any financial obligations, in the past, DHS has provided a letter to creditors that may be used by employees to inform creditors of TSA/DHS’s current shutdown status. It is expected that a similar letter will be provided in the event of a shutdown furlough.

2. Are employees entitled to unemployment compensation while on furlough?

It is possible that furloughed employees may become eligible for unemployment compensation. In general, the law of the State in which an employee’s last official duty station in Federal civilian service was located will be the State law that determines eligibility for unemployment insurance benefits. Some States require a 1-week waiting period before an individual qualifies for payment; however, State unemployment compensation requirements differ. Employee should check with their applicable state Unemployment Insurance office to determine their rules and requirements, including when an individual may first file for benefits.

In order to apply for unemployment compensation, employees will need the SF8, Notice to Federal Employee About Unemployment Insurance. TSA will provide the latest version of the SF-8, prefilled for TSA employees, along with the furlough notice. A copy of SF8 will also be
posted on OHCAccess: https://hraccess.tsa.dhs.gov/hraccess - in the event of a funding lapse.

Employees may also be asked to provide a W-2, SF50 or the most recent leave and earning statement – in preparation, employees should ensure they can access to those documents (e.g., log in IDs/passwords, save copies to personal computer, or print out hard copies), should they choose to apply.

See attached DOL Tips for Furloughed Federal Employees.

For additional guidance, employees should submit questions to the appropriate State (or District of Columbia) office. The Department of Labor’s website provides links to individual State offices at http://www.servicelocator.org/OWSLinks.asp. A list of Federal Identification Codes (FIC) needed for unemployment compensation applications can be found here: http://www.dol.gov/dol/shutdown/FIC_chart.pdf.

NOTE: If an employee receives Unemployment Compensation for the Shutdown Furlough and then receives retroactive pay, he/she will be required to repay the Unemployment Compensation funds.

3. Can I take a TSP loan while I’m furloughed?

Employees should refer to the TSP website for additional information.

NOTE: A break in pay due to a government lapse in funding is typically of short duration and would not disqualify one from TSP loan eligibility.

4. What resources are available if a Federal employee needs financial assistance during a government shutdown?

Employees may have a difficult time managing financial obligations during this furlough period. There are two helpful resources that are available for use by employees and their families - Worklife4you and the Employee Assistance Program (EAP). These services, while they do not provide financial assistance, may provide helpful counseling and research and referral assistance.

Worklife4you is a work/life research and referral service and their specialists can make personalized referrals for an employee to resources in the community, such as legal/financial support, alternate child and senior care options, community services, assistance programs (food, utilities, transportation etc.), etc. Please note that worklife4you does not provide financial assistance/aid – however, they have a team of experts who can do the research for an employee. The worklife4you website also offers online tools on topics such as guidance for hard times, budgeting and saving, credit and debt, etc. On its website, you may also access an online discount center, LifeMart,SM that contains special offers and discounts on various products and services.

To access worklife4you services an employee can call: 1-866-888-9803 (TTY 800-873-1322)
toll free or log into www.Worklife4you.com – NOTE: new users are required to register. To register, follow the “New Users Sign Up” link and use Registration Code: tsa. If an employee has trouble logging in, the Help Desk may be contacted at: 1-888-604-9565.

Employee Assistance Program (EAP) provides professional, personal and confidential assistance with all the issues that matter most to employees and their families. Please note, the EAP does not provide financial assistance; however, the professional counselors are available for support and can help an employee cope with life’s challenges and stressors. To access the EAP services: Call 1-800-222-0364 (TTY 1-888-262-7848) or visiting www.FOH4you.com

Service Credit for Various Purposes

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

   No. Both mean the employee is in a nonpay, nonduty status for those days/hours. However, extended furlough or LWOP may affect the calculation of creditable service for certain purposes.

2. **To what extent does nonpay status affect Federal employee benefits and programs?**


3. **If the trial period extended during shutdown furlough?**

   No. Generally, placement of a trial-period employee in a non-duty status will not extend the trial period.

**Federal Employees on Military Duty**

1. **Can employees who are taking military leave for days covered by a furlough continue to do so during a shutdown furlough?**

   No. As with other types of paid leave, paid military leave must be canceled for days covered by the furlough.

2. **Will employees continue to receive a reservist differential payment while on active duty when they are furloughed from their Federal civilian employment?**

   No. The reservist differential payments are intended to make up the difference between the
employee’s customary civil service compensation and his or her military pay, and they are made from the funds of the employing agency appropriated for the payment of employees’ salaries. Since funds are not available for employees’ salaries during a furlough, no funds may be obligated towards any type of payment for reservist differential. However, if subsequent legislation is passed reimbursing employees their civilian pay for the period of the furlough, it will be necessary for the agency to calculate any reservist differential payments that may be owed.

**Retirement/Separation**

1. **If a shutdown furlough occurs during the 3 years of service prior to retirement, what effect will time in a furlough status have on an employee’s high-3 average pay?**

   Generally, there will be no effect on the high-3 average pay unless the furlough causes the employee to be in a nonpay status for more than 6 months during the calendar year.

2. **Are the retirement rules concerning the effect of a shutdown furlough the same for employees under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS)?**

   Yes.

3. **What will happen to employees who would have retired during a shutdown furlough?**

   For employees who, on or before the requested retirement date, submitted some notice of their desire to retire, agencies should, when the lapse in appropriations ends, make the retirement effective as of the date requested. The retirement request may be informal (such as a letter requesting retirement), and can be either mailed or personally submitted to the agency. Any additional required paper work, such as the formal retirement application form, may be completed when the agency reopens. No time spent by the retiree in such actions after the effective date of the retirement may be considered as duty time, since the individual would no longer be an employee of the agency.

4. **If an employee is scheduled to retire before the end of the leave year with an annual leave balance of over the maximum leave ceiling (e.g., 240, 360, or 720 hours, as applicable) and the furlough prevents the employee’s retirement from getting processed until January, does the employee lose his or her annual leave above the maximum leave ceiling?**

   No. The employee’s retirement would be retroactively applied to a date prior to the end of the leave year, and the employee would receive the full amount of accumulated and accrued annual leave in a lump-sum payment.

5. **How are separated employees’ entitlements to severance pay affected by a shutdown furlough? Does severance pay for separated employees continue during a funding hiatus?**
Severance pay is treated the same as regular pay (i.e. cannot be paid until an appropriation or Continuing Resolution is enacted). Funds for severance pay are obligated on a day-to-day basis as the recipient accrues continuing entitlement to severance pay by not being reemployed by the Government of the United States. (Severance pay is suspended or terminated when the individual is reemployed by the Federal Government.)

Severance pay is paid at the same pay period intervals as if the recipient were still employed. Any severance payment (on a payroll payday) is linked to the corresponding pay period during which the recipient accrued continuing entitlement to severance pay. If the recipient is reemployed by the Federal Government during a pay period, he or she is entitled to a prorated severance payment covering the days in the period prior to reemployment (e.g., 2/5 of one week’s pay if the recipient was reemployed on the third workday of the pay period).

Thus, in the case of a shutdown furlough, accrued but unpaid severance pay represents an obligation to be paid from funds available before the lapse in appropriations occurred. Just as payroll checks for work performed prior to a lapse in appropriations can be processed as part of the orderly suspension of nonexempt activities, severance pay checks covering days before the lapse may also be processed. No funds may be authorized for severance payments for days during the lapse until an appropriation is enacted.

6. **If there is a shutdown furlough, how does this impact a separating employee’s lump-sum payment for their unused annual leave hours; unused compensatory time off in lieu of overtime hours for non-exempt employees; and unused compensatory time off for religious observances hours for any employee?**

In the event of a shutdown furlough, any payments incurred by the agency for an employee’s lump-sum payment will be delayed until funds are available.

**Benefits under the Federal Employees’ Compensation Act (FECA)**


1. **How is Continuation of Pay (COP) under the Federal Employees’ Compensation Act affected by a Government shutdown?**

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 monies available to pay the salary of that employee. If the agency does not have monies to pay salary during the shutdown but the agency’s budget is subsequently restored in such a way as to allow for retroactive payment of salary during the shutdown period, the employee should receive COP for any period of
disability that occurs within 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.

2. **Are employees who are injured while on furlough or LWOP eligible to receive workers’ compensation?**

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. An employee who is receiving workers’ compensation payments will continue to receive workers’ compensation payments during a furlough and will continue to be charged LWOP.

**New Hires/Transfers**

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

By law, individuals do not become Federal employees until they report for work and are sworn in. The entrance-on-duty (EOD) date for new employees who are scheduled to onboard during a shutdown furlough may be delayed, dependent on several factors, including whether the position is exempt or non-exempt, and the availability of exempt personnel to facilitate the on-boarding, etc. OHC will coordinate with the Offices to notify individuals whose onboarding may be delayed.

2. **What happens to current Federal employees who are scheduled to transfer to a new agency during a shutdown furlough?**

For employees who are scheduled to transfer to a new agency during a shutdown furlough, if it is determined that the onboarding will be delayed, the employee would remain on the rolls of their former agency until the new transfer effective date. TSA employees who are scheduled to transfer to a new agency may contact the receiving agency or OHCAccess to confirm the EOD date.

**End of Furlough**

1. **If a Government shutdown occurs, how will furloughed employees be informed when it is over?**

Employees should monitor the media and DHS website as well as their DHS-issued electronic devices for notice on when the furlough has ended.

2. **When a Government shutdown ends, when are furloughed employees expected to return work?**

Unless told otherwise, furloughed employees are required to return to work on their next
regular duty day once another continuing resolution or an appropriation bill is enacted (passed by the House and the Senate and signed by the President). To the extent possible, all available workplace flexibilities may be used on the first day employees are required to return to work to ensure a smooth transition back to work for the employee. Employees should make every effort to reach their supervisor if they plan to utilize any workplace flexibility options or request personal leave.