

General Planning Guidance Related to a Shutdown Furlough

Standard Operating Procedures

August 20, 2018

Uncontrolled if Printed or Copied

This guidance is for information purposes only and event-specific requirements may vary subject to government-wide and DHS-wide instructions. Users should be sure to find the most current, approved version of this document from the HC iShare site.

Table of Contents

Introduction.....	3
A. Definitions.....	4
B. Determination of Exempt and Non-exempt Functions	5
C. Exempt/Non-Exempt Employee Designation	6
D. Notice of Furlough for Non-Exempt Employees	7
E. Impact on Employee Pay, Absence and Leave Rules, and Benefits	8
F. Planning Considerations for Orderly shutdown of Non-Exempt Functions and Activities	12
G. Orderly shutdown of Non-exempt Activities	14
H. Preparation for Orderly shutdown of Non-Exempt Activities.....	15
I. Furloughed (Non-Exempt) Employees.....	17
J. Intermittent Furlough of Exempt Employees.....	18
K. Recall of Non-Exempt Employees.....	18
L. End of Shutdown Furlough	19
M. Record Keeping and Reporting Requirements	19
N. Appeal Rights	19
Appendices.....	22
Appendix A: Employee Checklist for Orderly Shutdown.....	23
Appendix B: Supervisors/Managers Checklist for Orderly shutdown	25
Appendix C: Furlough POC Checklist	27
Appendix D: Furlough Periods and Ethics Rules	28
Appendix E: Shutdown Furlough FAQs.....	31

Introduction

TSA will implement the procedures relating to a lapse in appropriations upon notification from the Office of Management and Budget (OMB) and subsequent direction from the Under Secretary for Management, Department of Homeland Security (USM/DHS). TSA will follow the OMB guidance, the 'DHS Procedures Relating to a Lapse in Appropriations,' and applicable laws and regulation to conduct orderly shutdown of non-exempt functions, including placement of non-exempt employees on furlough.

While this standard operating procedure (SOP) provides the planning guidance for personnel management related matters, event-specific instructions for implementing the procedures related to the orderly shutdown of non-exempt functions will be provided by the DHS and TSA leadership through the appropriate Program Offices.

This document is for information purposes only, not event-specific instructions for implementing the procedures for orderly shutdown of non-exempt functions.

A. Definitions

1. Exempt Employees: Employees who are designated by their supervisors to perform functions and activities that are exempt from work restrictions specified in the Anti-Deficiency Act (ADA), OMB Guidance and/or DHS policy or guidance. Exempt employees may continue to work on exempt activities during a lapse in appropriations.
2. Exempt Functions: Functions and activities that are exempt from work restrictions specified in the ADA, OMB Guidance and/or DHS policy or guidance may continue to operate during a lapse in appropriations. Exempt functions are determined in accordance with OMB guidance and opinions by the Office of Legal Counsel (OLC), Department of Justice (DOJ). The following functions are exempt and may continue during a lapse of appropriations:
 - (a) Funded by sources other than annual appropriated funds. Some functions are covered by multi-year, no-year, or revolving funds, or advance appropriations, and if those accounts have sufficient carry-over balance, they would not be affected by an annual appropriation lapse. Revolving funds that operate almost entirely on offsetting collections from other federal entities may also be forced to close, unless sufficient retained earnings are available to forestall the closure. Employees paid directly from a funding source that has not lapsed during a lapse in appropriations will continue to perform normal duties and will continue to receive pay during the lapse.
 - (b) Authorized under Law to Continue Even without Funding. Pursuant to a determination by the DOJ, functions authorized by law to proceed during an appropriations lapse include “those functions as to which express statutory authority to incur obligations in advance of appropriations has been granted.” This category does not currently apply to TSA functions.
 - (c) Implied by Law as Necessary to Continue Even without Funding. Presidentially Appointed and Senate Confirmed Officers and other political appointees who are not subject to the Annual and Sick Leave Act, 5 U.S.C. § 6301, 5 C.F.R. § 630.211, are exempt from a furlough during a lapse in appropriations. These appointees may perform normal duties during a lapse. For TSA, the TSA Administrator is the only TSA official exempt under this category.
 - (d) Necessary to the Discharge of the President’s Constitutional Duties and Powers. Employees who may be detailed to the Executive Office of the White House may be exempt. Those engaged in the conduct of foreign relations essential to national security are exempt.
 - (e) Necessary for safety of human life or protection of property. To qualify under the exception for safety of life or protection of property a reasonable, articulable connection must exist between the function to be performed and the safety of human life or protection of property. There must be some reasonable likelihood that the safety of human life or protection of property would be threatened in some significant degree by the delay in the performance of the function in question. Specifically, the risk should be real, not hypothetical or speculative, and must be sufficiently imminent that delay is not permissible.
 - (f) Necessary for the orderly cessation of functions. Agencies may obligate funds during periods of lapsed appropriations to bring about the orderly cessation of non-exempt activities. Contingency plans which call for cessation of agency operations after an appropriations lapse

should be consistent with the ADA. The OMB has determined that the normal cessation of operations should take no more than four hours. During that time, employee activities during this period must be wholly devoted to de-activating the function and upon completion, these employees would be released.

3. Furlough: An involuntary, agency-mandated temporary placement of employees into a nonpay, nonduty status for reasons unrelated to performance or conduct.
4. Non-Exempt Employees: Employees whose positions are funded by annual appropriations and perform functions that are not designated as exempt. Non-exempt employees are subject to furlough during a lapse in appropriations, and are not permitted to work on official agency matters while furloughed.
5. Non-Exempt Functions: All functions and activities that are not exempt from work restrictions specified in the ADA, OMB Guidance and/or DHS policy or guidance (i.e., activities that do not fall in any of the categories described in Section A.2, 'Exempt Functions'). Non-exempt functions must cease operations during a lapse in appropriations unless performed by employees whose positions are funded by sources other than annual appropriations (e.g. fee-funded employees).
6. Shutdown Furlough (also called 'emergency furlough'): A type of furlough that occurs when an agency no longer has the necessary funds to operate through an appropriations law or continuing resolution. During a shutdown furlough, the agency must shut down any activities funded by annual appropriations unless excepted by law. During a lapse in appropriations, all employees who are funded by annually appropriated funds are placed in nonpay status as the ADA does not allow for any expenditure of funds without an authorized appropriation.

NOTE: A shutdown furlough is different from an administrative furlough. An administrative furlough is a planned event by an agency which is designed to absorb reductions necessitated by downsizing, reduced funding, lack of work, or any budget situation other than a lapse in appropriations. For guidance on administrative furloughs, see [TSA MD 1100.63-2, *Furlough \(Agency Placement of Employees in Nonpay, Nonduty Status\)*](#) and the associated [handbook](#)

B. Determination of Exempt and Non-exempt Functions

1. Pursuant to the ADA, Federal agencies are prohibited from entering into contracts, incurring obligations, or performing activities without having a current appropriation, unless authorized by law. Only the activities that qualify as exempt pursuant to the ADA may continue to operate during a lapse in appropriations, unless performed by employees whose positions are funded by sources other than annual appropriations (e.g. fee-funded employees).
2. Exempt functions are designated in advance, before any potential furlough. The process for designating exempt functions and positions is as follows:
 - (a) Program Offices identify the functions and the associated positions within their respective offices that qualify for one or more of the exemption categories.

- (b) The functions and positions identified by the Program Offices are reviewed and approved by the Chief Financial Officer (CFO), Chief Counsel (CC), and TSA's Chief of Staff, as required under DHS policy.
 - (c) The CFO submits TSA's exemption list to USM/DHS, for approval and inclusion in DHS's Master Contingency Plan.
3. As needed, the CFO will issue calls for the Program Offices to review and validate their exempt function/position designations.
 4. Program Offices maintain the lists of exempt employees for their respective Offices, and when requested, provide their lists to Human Capital (HC) to compile a consolidated TSA-wide exempt employee list.

C. Exempt/Non-Exempt Employee Designation

1. Employees who perform exempt functions are designated as exempt employees. Exempt employees must report for work as regularly scheduled and will continue to work during a lapse in appropriations.
2. Employees who perform non-exempt functions are designated as non-exempt employees. Non-exempt employees are subject to furlough, and are not permitted to work or serve as an unpaid volunteer for the government during the furlough period, and they must remain away from the workplace unless and until recalled.
3. Employees on Detail Assignment
 - (a) Exempt designations are made based on the employee's permanent position of record, and detailed employees remain officially assigned to their permanent positions during the detail. The detailed employees' home and receiving agencies/offices should carefully consult about what activities are appropriate for detailed employees to perform during a lapse in appropriations to ensure that the activities are consistent with the reasons why the agency designated them as exempt, if performing work during the lapse.

EXAMPLE: John's position of record is a Transportation Security Officer (TSO). John is on a detail assignment when a lapse in appropriations occurs. The position to which John is detailed is a non-exempt position. Because John's position of record is exempt, John is designated as an exempt employee and he returns to his position of record and performs TSO duties for the duration of the lapse in appropriations.

EXCEPTION: Employees detailed to the Executive Office of the White House may be exempt under the "Necessary to the Discharge of the President's Constitutional Duties and Powers" exempt category.

- (b) 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 well the availability of supervision as necessary. For example, persons detailed to TSA from a non-Federal

organization whose cost of the detail is covered in full by that organization are unaffected by the lapse in annual appropriations, and therefore may continue working.

4. Unpaid Interns. Although unpaid interns are not paid under annual appropriations, it is likely that there is insufficient supervision available for them to continue work. Program Offices that have unpaid interns and sufficient supervisory staff exempt from furlough to oversee work must consult with HC and CC for authorization for unpaid interns to continue performing work during a lapse in appropriations.
5. Notice to Employees of Exempt/Non-Exempt Status
 - (a) Employee communication regarding a potential shutdown furlough must be coordinated DHS-wide. The timing of employee notice, including notification of exempt/non-exempt status, is subject to DHS instructions. When instructed by DHS that it is appropriate to do so, the HC will notify the Program Offices, through the furlough Points-of-Contacts (POCs), that employees should be notified for their exempt status, and provide the event-specific template to use for notifying employees of their exempt/non-exempt status. Typically, this occurs 1-2 days before the funding is due to expire, after DHS has notified the national unions.
 - (b) Program Offices should contact all employees, including those on detail, on temporary duty assignment away from their normal duty station (TDY), on leave, etc., to notify them of their exempt/non-exempt status. For employees on detail assignments, Program Offices should coordinate with the detailed employees' host/home offices/agencies.

D. Notice of Furlough for Non-Exempt Employees

1. Furlough notices must be delivered on the employee's next work day following a lapse in appropriations.
 - (a) For most non-exempt employees, their next work day following a lapse will be the next business day (Monday through Friday). However, for employees whose basic workweek includes weekend hours, their next work day may fall on a Saturday or Sunday, and for those employees, Program Offices should ensure that a non-exempt management official is available to issue the furlough notices on the employee's next work day.

EXAMPLE: If the funding lapses at midnight on a Friday, and the OMB instructs agencies to implement the procedures of orderly shutdown:

 - For non-exempt employees whose next scheduled work day is Saturday, furlough notices must be dated and issued Saturday.
 - For non-exempt employees whose next scheduled work day is Sunday, furlough notices must be dated and issued Sunday.
 - (b) Alternative Work Schedule/ Regular Day Off (AWS/RDO). Supervisors should adjust the work schedules of non-exempt employees on an AWS with a RDO that falls on the next business day following a lapse. Doing so will ensure that those employees are available to receive furlough notices and perform orderly shutdown activities while management officials are available to distribute furlough notices and answer questions related to the shutdown process. Supervisors should adjust the work schedules and notify employees of the change, when employees are notified of their exempt/non-exempt status.

EXAMPLE: If the funding is due to expire midnight on a Friday, and the employee's RDO is the following Monday, move the employee's RDO to another day in the pay period.

- (c) Pre-approved LWOP. While paid leave is cancelled during a lapse, employees on pre-approved LWOP remain on LWOP status and their 'next work day' is the day they are expected to return to work from their LWOP. For employees who are expected to return to work during the furlough period, the furlough notice must be dated and delivered on the day the employee is scheduled to return to work from LWOP. For employees who are not expected to return to work during the furlough period, a furlough notice is not required.
2. When authorized by DHS to do so, HC will provide the furlough notice templates to the Program Offices. The furlough notice templates for non-exempt employees will have the furlough start date as the first business day following the lapse (e.g., if the funding lapses at 11:59 PM, Friday – the start date will be the following Monday) and the end date will be calculated by adding 29 days to the furlough effective day. If the furlough start date for an employee is different (See Section D.1), the dates on the notice must be adjusted to reflect the correct furlough start and end dates.
3. The furlough notice must be signed/issued (electronic signature for email notifications) by a management official in the employee's chain of supervision. Notifications may not be made by support staff and under no circumstances may they be made by contractors.
4. Employee furlough notices must be delivered via email or in person using the template provided by HC. If emailed, the furlough notice must be emailed to employees' official TSA email address, with read receipt and delivery receipt requests, and a request for the employee to reply, acknowledging receipt. If delivered in person, the employee should sign the notice, acknowledging receipt and copy must be retained by the Program Office. If email or in-person delivery is not possible, then the notice must be mailed via registered mail with return receipt requested to document delivery of the notice.
5. Non-exempt employees may use their Government-issued electronic devices to receive furlough notices, acknowledge delivery receipt and read receipt of furlough notices, and acknowledge receipt of notices via return email.

E. Impact on Employee Pay, Absence and Leave Rules, and Benefits

NOTE: Employees who are designated as exempt on the basis that their functions and activities are funded by a source other than the lapsed annual appropriations (e.g. fee-based) are mostly unaffected by the lapse in appropriation, and will continue to perform normal duties. Unless otherwise instructed, this category of employees will continue to receive pay during the lapse and will generally continue to be governed by the normal pay, leave, and other personnel rules. The travel restrictions that apply to employees who are funded by the lapsed appropriations will apply to this category of employees - while their funding may be unaffected, the resources that process and support travel for TSA employees are subject to the work restrictions pursuant to the ADA.

Work restrictions and temporary changes to pay, leave and other personnel rules pursuant to ADA outlined below apply to TSA employees who are funded by annually appropriated funds.

1. Employee Pay

- (a) During a lapse in appropriations, all employees who are funded by annually appropriated funds are placed in nonpay status. This includes exempt and non-exempt employees.
- (b) Exempt employees who work during a lapse in appropriations will not receive pay during the lapse in appropriations. However, agencies continue to incur obligations to pay for services performed by the exempt employees during a lapse in appropriations, and exempt employees will receive pay for the work they performed during the lapse in appropriations after Congress passes and the President signs a new appropriation or continuing resolution.
- (c) For the hours worked prior to a lapse in appropriations, employees will receive a pay as regularly scheduled.
- (d) Non-exempt employees will receive pay for performing shutdown activities (not to exceed four hours) following enactment of appropriations bill or a Continuing Resolution.
- (e) Congress will determine whether furloughed employees receive pay for the furlough period.

2. Absence and Leave

- (a) All paid time off (for both exempt employees and non-exempt employees) during a lapse in appropriations must be cancelled because the requirement to furlough supersedes leave and other paid time off rights. The ADA does not allow authorization of any expenditure or obligation before an appropriation is made, unless authorized by law. Paid time off creates a debt to the Government that is not authorized by the ADA. Therefore, during a lapse in appropriations, all paid time off must be cancelled.
- (b) Exempt Employees and Absence from Work. When an exempt employee is not working or not performing exempt activities, in compliance with the ADA, he or she cannot be in a pay status (leave is a pay status). Exempt employees must be either performing exempt activities or furloughed during any absence from work. The furlough must be documented by a furlough notice. The employing office may subsequently terminate the furlough and recall the employee if the employee's services are still required for exempt activities following the absence. 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.
- (c) Leave Without Pay (LWOP). Employees who were on preapproved LWOP *prior to the lapse in appropriations* will continue to be charged LWOP for the duration of the period of approved LWOP.
- (d) Absent-Uniformed Service. Supervisors must allow an exempt employee to continue to be absent from work for active military duty, although the employee may not use military leave or any other paid leave (e.g., annual or sick leave) during the furlough. Instead, the employee's status would be Absent-Uniformed Service (formerly Leave Without Pay-Uniformed Service).

- (e) Donated Leave/Voluntary Leave Transfer Program. Under the VLTP, an employee may be entitled to receive donated leave if he or she is experiencing a medical emergency that would place him or her in a LWOP status for a 24-hour period. During the lapse in appropriations, the use of all paid leave, including donated leave, is cancelled, and the leave recipient remains in a LWOP status.
- (f) Family Medical Leave Act (FMLA). During a lapse in appropriations, affected employees who would otherwise be in pay status must be (1) at work performing exempt activities, or (2) furloughed. All paid leave, including FMLA paid leave, are cancelled during the furlough period. An employee who was scheduled during the furlough to take paid leave under the FMLA must be placed on furlough instead. An employee scheduled and preapproved to take LWOP under FMLA throughout the furlough period continues to be charged LWOP-FMLA.

3. Employee Benefits

- (a) Federal Employees Health Benefits (FEHB) program. 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 nonpay status, the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status.
- (b) Federal Dental and Vision (FEDVIP). 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.
- (c) Federal Employees Group Life Insurance (FEGLI). FEGLI 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.
- (d) Flexible Spending Accounts (FSAFEDS). 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 nonpay 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.
- (e) Eligible dependent care expenses incurred during a nonpay status may be reimbursed up to whatever balance is in the employee's dependent care account—as long as the expense incurred during the nonpay status allows the employee (or spouse if married) to work, look for work or attend school full-time.
- (f) Federal Long Term Care (FLTCIP) Program. 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 (LTCP) 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.
- (g) Thrift Savings Plan (TSP). Employees should refer to the TSP website (www.tsp.gov) for specific information regarding TSP contributions, investments and loans. If employees are

paid retroactively for the time covered by a shutdown or furlough, regular employee contributions and appropriate agency matching contributions will be withheld and submitted.

- (h) Retirement Benefits. If a shutdown furlough occurs during the 3 years of service prior to an employee's retirement, 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.
- (i) Continuation of Pay (COP) under the Federal Employees Compensation Act (FECA)/ Office of Workers' Compensation (OWCP). 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/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.
- (j) Employee Assistance Program (EAP) and WorkLife4You services are expected to continue to operate during a furlough. The EAP provides professional, personal and confidential counseling. Worklife4you can make personalized referrals to resources in the community, such as legal/financial support, alternate child and senior care options, community services, assistance programs, etc. Visit [EAP and Worklife4You](#) iShare page for more information about these services.
 - The Employee Assistance Program (EAP) provides professional, personal and confidential counseling. To access the EAP services: Call 1-800-222-0364 (TTY 1-888-262-7848) or visit <http://www.FOH4you.com>.
 - Worklife4you is a work/life research and referral service. Worklife4you can make personalized referrals to resources in the community, such as legal/financial support, alternate child and senior care options, community services, assistance programs, etc. To access worklife4you services: Call 1-866-888-9803 (TTY 800-873-1322) or visit <http://www.Worklife4you.com>.

NOTE: new users visiting the Worklife4you website are required to register. To register, follow the "New Users Sign Up" link and use Registration Code: tsa.

4. Unemployment Compensation.

- (a) It is possible that furloughed employees may become eligible for unemployment compensation. The Unemployment Compensation for Federal Employees program provides benefits for eligible unemployed former civilian federal employees. The program is administered by states as agents of the federal government. State unemployment compensation requirements differ; some states require a one-week waiting period before an

individual qualifies for payments. Employees should submit questions to the appropriate state (or District of Columbia) office. (Also see the Department of Labor website "Unemployment Compensation for Federal Employees" at <http://workforcesecurity.doleta.gov/unemploy/unemcomp.asp>.)

(b) Furloughed employees will be provided with a copy of the Unemployment Compensation Notice to Federal Employees About Unemployment Insurance, Standard Form 8. The SF-8 informs employees of their right to file a claim for Unemployment Compensation, explains the basic eligibility requirements, provides general information as to how, when, and where to file a claim, and describes the documents which the individual should take when filing a claim (20 CFR Part 609.20).

5. Additional Information and Resources: In the event of a shutdown furlough, TSA will post updates and FAQs related to the partial shutdown OHCAccess website <https://hraccess.tsa.dhs.gov>. As needed, TSA may also use the TSA Alerts and Warning system to send alerts related to the partial shutdown.

F. Planning Considerations for Orderly shutdown of Non-Exempt Functions and Activities

1. In the event of an actual or potential shutdown furlough, when it is appropriate to do so, instructions for orderly shutdown of non-exempt activities will be provided by the appropriate Program Offices.
2. Record Keeping and Reporting. Special care must be taken throughout the lapse in appropriations to maintain logs, formal records, and file copies of all transactions and expenditures to provide adequate accountability and justification for exempt activities, including the costs expended for exempt activities.
3. Hiring and Employee Movements. The HC will provide event-specific guidance.
 - (a) In light of the uncertainty of the budget situation during a lapse of appropriations, TSA will generally delay the enter-on-duty date for new employees and transfer employees (transferring from another government agency) who are scheduled to enter on duty on the first day or anytime during a furlough. TSA will notify these employees that DHS is under a shutdown furlough and they should not report for work until they receive further instructions. These new and transfer employees will be on-boarded after the furlough ends.
 - (b) Conversely, TSA employees transferring to other agencies affected by the lapse in appropriations may experience similar delays and should communicate with their gaining agency human resources POCs to keep abreast of any changes to their transfer dates.
4. Travel. The CFO will provide event-specific guidance, as appropriate.
 - (a) Even with approved travel orders, non-mission critical travel should not commence within three business days of the date of a potential lapse in appropriation.
 - (b) 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 instead should report to their permanent duty station before the effective date of the appropriations. Such employees should work with the government travel management service provider to effect such changes and should be sure to terminate other reservations such as lodging or rental car.

- (c) Non-exempt employees already serving on temporary duty assignments at the time of a lapse in funding may hold in place until their employing offices make a determination that they must return to their permanent duty stations. Program Offices 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.
- (d) Travel for exempt activities may continue, however, travel should be limited in duration and performed only when absolutely necessary with no alternative means of carrying out the exempt activity. International travel during a lapse in appropriations is strongly discouraged and requires written approval by the Office of the Secretary in advance of incurring any costs related to travel – this does not apply to Federal Air Marshals traveling on mission.

5. Training. Training and Development (TD) will provide event-specific guidance, as appropriate.

- (a) New Hire Training. Training of newly hired employees, including those in law enforcement, is not an exempt function unless such training and related support activities are funded by other than annual appropriations. Upon a lapse in appropriation, such training functions and associated facilities should proceed with an orderly shutdown.
- (b) General skills training, including such activities provided by the Federal Law Enforcement Training Centers, is not exempt unless funded by other than annual appropriations. Trainees who are on temporary duty assignment and receiving training at a DHS Component training facility may hold in place if a lapse in appropriations occurs and only extends for a short period of time (one to two days). Should the determination be made that a lapse in appropriations will continue for an extended period of time, the trainees should return to their permanent duty station, the planned training should be rescheduled, and the training facility should proceed with an orderly shutdown.
- (c) Skills Training. Training necessary to maintain specific perishable skills associated with law enforcement functions is exempt. Such activities may include, but is not limited to, basic TSO training, training of canine units and Federal Air Marshals marksmanship training. (Leadership training ordinarily would not fall under this category, but please contact HC and CC for a determination).

6. Contracting. The Contracting and Procurement (CP) will provide event-specific guidance, as appropriate.

- (a) Each Program Office should identify those contracts for which a partial or complete Stop Work Order may be issued. The CP will analyze the information submitted by each Program Office and make a final determination of those contracts for which stop work orders will be issued.

- (b) For those contracts whose performance will continue during a furlough, the respective Program Office should work with CP to appoint an Alternate Contracting Officer's Representative (COR) to oversee contract performance in the event that the Primary COR will be designated as Non-Exempt.
- (c) The CP will issue necessary Stop Work Order notifications for contracts, as well as notification to resume performance once a furlough has concluded.
- (d) No New Obligations. TSA may not incur a new obligation by signing a new contract, by extending a contract, or by exercising an option when the funding source for that obligation is a lapsed appropriation unless the contract is required to support those functions defined as exempt for TSA, such as safeguarding human life or protecting property
- (e) Federal Employees Supporting Contracting Operations. If there is a lapse in the appropriation that funds the Federal employees who supervise or support the performance of a contract, those federal employees cannot continue these activities during the lapse in appropriation unless the contract supports an exempted activity. Routine ongoing activities related to contract administration are not authorized to continue when there has been a lapse in the appropriation that funds the contract administration activities. In other words, during a lapse in appropriation the performance by contracting officers, contracting officer technical representatives and contract administration personnel of routine oversight, inspection, accounting, administration, payment processing and other contracting activity would generally not continue.

G. Orderly shutdown of Non-exempt Activities

1. For supervisors or other designated management officials, orderly shutdown of non-exempt activities may include:
 - (a) Issuing furlough notices to employees being furloughed and documenting employee acknowledgement of receipt of notices;
 - (b) Reminding exempt employees that they must report for work during a shutdown furlough;
 - (c) Where applicable, providing travel instructions for employees on temporary duty assignments away from their normal duty stations at the time of a lapse in appropriations;
 - (d) Providing furlough-related guidance and instructions for orderly shutdown of non-exempt activities, as appropriate; and
 - (e) Communicating with the Furlough POC on the status/completion of the orderly shutdown activities.

2. Orderly Shutdown Activities for Non-Exempt Employees

- (a) Non-exempt employees may engage in orderly shutdown of non-exempt functions during the first four hours of the first working day of a lapse in appropriations. While up to four hours is allowed, employees may remain on duty only for the minimum duration necessary to complete the orderly shutdown activities and must immediately depart upon completion of those activities. Most employees should be able to depart within an hour of receiving their furlough notice.
- (b) If performing orderly shutdown activities remotely (i.e., telework), employees should follow the same instructions and cease performing work after reporting to their supervisor that they have completed the required activities.
- (c) Orderly shutdown activities may include:
 - (1) Receiving and acknowledging receipt of the furlough notice;
 - (2) Providing updated contact information;
 - (3) Securing files, confidential materials, office work papers, and documents;
 - (4) Securing Government property;
 - (5) Notifying the public and other agencies of the shutdown of DHS operations;
 - (6) Setting up voicemail and email “out of office” messages;
 - (7) Documenting the status of projects to facilitate resumption when regular operations are resumed;
 - (8) Processing appropriate personnel/payroll actions and filing documentation (e.g., webTA entry); and
 - (9) Cancelling meetings and other scheduled TSA business;
- 3. The HC will provide event-specific orderly shutdown checklists for employees, supervisors, and furlough POCs. See the Appendices A-C for list of activities that would be considered orderly shutdown activities for employees, supervisor and furlough POCs.

H. Preparation for Orderly shutdown of Non-Exempt Activities

- 1. In the days leading to a potential shutdown furlough, when advised it is appropriate to do so, Program Offices will ensure the following:
 - (a) Furlough POC Designation. Identify the primary POC for preparation activities leading to, and for coordination of on-going efforts during, a shutdown furlough. The furlough POCs serve as the liaison to HC for the purposes of coordinating personnel-related activities in preparation for, and in the event of, a lapse in appropriations.

- (b) Exempt Function/Position Designation. Validate or update the previously identified exempt functions/positions, as appropriate.
 - (c) Work Assessment. For business units/offices that will not have staff presence, anticipate potential issues/ matters that may require action or guidance, and prepare appropriate instructions for exempt employees.
 - (d) Furlough Notification Process. Determine who will sign/issue the furlough notices and how the notices will be distributed. Plan ahead for employees who may be on TDY or on LWOP when the lapse in appropriations occurs, and plan accordingly. When determining how the furlough notices will be delivered, Program Offices are advised to take employee work schedules into consideration when determining how/when/who will deliver the furlough notices and plan accordingly to minimize the time spent performing orderly shutdown activities.
 - (e) Record Keeping and Reporting. Determine how the close-out of orderly shutdown activities will be documented and reported out to the furlough POC, e.g. supervisors to confirm employees complete all activities and report out (in- person, electronic, etc.) to the Furlough POC prior to departing, etc. At the close of the first business day following a lapse, a DHS-wide data call may require all components to confirm that the all non-exempt employees were appropriately notified of their furlough decision.
 - (f) Employees on TDY. Identify all employees in travel status who will be required to return in the event of a shutdown, and prepare accordingly.
 - (g) Contracts. Identify those contracts for which a partial or complete Stop Work Order may be issued.
 - (h) Training. Identify upcoming training or conferences that may need to be cancelled.
 - (i) Employee movements (new hires, transfers). Coordinate with HC, as appropriate. The HC will prepare to notify applicants/employees of any delays in on-boarding.
2. Notification of Exempt Status. When appropriate to do so, Program Offices should inform employees of their exempt status. As noted in Section C.3, Program offices should account for employees on detail assignments.
3. Report to Work Requirement.
- (a) When employees are notified of their exempt/non-exempt status, Program Offices should also inform employees that both exempt and non-exempt employees are required to report to work on their next work day following a lapse unless otherwise instructed.

NOTE: The requirement to report to work does not require employees to physically report to a TSA facility, it requires that employees are on duty status. With the approval of their supervisors, telework-ready employees may perform orderly shutdown activities from the telework location. Depending on the nature of their work and the logistics involved in orderly shutdown activities, each Program Office will determine whether non-exempt

employees will be required to report to work physically or be allowed to perform orderly shutdown activities remotely from their telework location and advise their employees accordingly. Employees must follow their office procedures and instructions.

- (b) Non-exempt employees report to work on their next work day following a lapse to complete orderly shutdown activities, including receiving and acknowledging receipt of furlough notices. As noted in Section D.1, employees on pre-approved LWOP remain on LWOP status.
 - (c) Exempt employees report to continue performing exempt activities as regularly scheduled.
4. Notice of Furlough. The Assistant Administrator for Human Capital (AA/HC) will communicate the shutdown furlough instructions and procedures to AAs for redistribution to their supervisors/managers at headquarters and field offices/locations. How soon TSA will disseminate furlough-related instructions will depend on DHS's guidance.

I. Furloughed (Non-Exempt) Employees

- 1. While furloughed, non-exempt employees:
 - (a) Cannot work, even remotely, and must remain away from the workplace unless and until recalled.

NOTE: While employees must remain away from the workplace, generally, this does not mean that they are prohibited from accessing services that are co-located with or in the same building. However, access to facilities during a lapse in appropriations may be restricted based on funding, security or other issues. Event-specific building access guidance will be provided as appropriate.
 - (b) Are not be permitted to serve as an unpaid volunteer for the government during the furlough period.
 - (c) If have been issued a government vehicle, are not permitted to drive it during the furlough period.
 - (d) May continue to retain and monitor their Government-issued mobile devices for status updates and emergency notifications; however, employees are prohibited from using this equipment for any other purposes during a lapse in appropriations.
- 2. Supervisors may not contact furloughed employees for any purposes other than status updates or emergency notifications.
- 3. See [Appendix D, Furlough Period and Ethics Rules](#) for ethics guidance.

J. Intermittent Furlough of Exempt Employees

1. Exempt employees must be either performing exempt activities or furloughed during any absence from work. The furlough must be documented by a furlough notice.
2. In the event it is not feasible to provide a furlough notice prior to an exempt employee being placed on furlough status, e.g., an exempt employee calls in before the beginning of his/her shift, the employee should be orally notified of the furlough status over the phone, followed by a written notice upon the employee's return.

K. Recall of Non-Exempt Employees

1. During a furlough, a situation may arise under which TSA may need to recall a non-exempt employee to carry out an exempt function. In such situations, TSA may recall from furlough the minimum number of employees required to effectively respond to a specific project. Such situations could include:
 - (a) An unplanned or unexpected project or activity that qualifies as an exempt function;
 - (b) A determination that existing exempt functions require additional personnel; or
 - (c) A need to replace an exempt employee who is unable to work.
2. All requests to recall a non-exempt employee must be approved by the TSA's designated Recall Approval Official. TSA's Recall Approval Official is AA/HC, who will either approve or deny requests for recall. However, the Under Secretary for Management, DHS reserves the authority to veto any recall approval.
3. The recall procedures are as follows:
 - (a) The Program Office proposing to recall a non-exempt employee must complete a Return to Work Notice and submit it to the Recall Approval Official. The Return to Work Notice must include the purpose for which the employee is to be recalled and how that function qualifies as an exempt function (e.g., how it is necessary to protect life or property from imminent threat).
 - (b) The Recall Approval Official will review the request with CC and CFO to make the determination to approve or deny request.
 - (c) If approved, prior to recall of a non-exempt employee, the Recall Approval Official must provide a signed certification that the planned recall has been reviewed and approved in conjunction with CC and CFO and a copy of the Return to Work Notice.
 - (d) Complete and send the Return to Work Notice by email to the employee. If the employee does not have a TSA issued electronic device to receive the Return to Work Notice, the employee may be notified verbally by telephone and provided with the Return to Work Notice upon reporting to duty.

- (e) The Program Office must retain copies of the Return to Work Notices and any new furlough notices, along with the initial furlough notice issued to the recalled non-exempt employee. A copy of the Return to Work Notice should also be provided to HC.
- (f) Once the project/function that the employee was recalled to support is completed, that employee must be re-furloughed for the duration of the lapse in appropriations. The employee must be issued a new furlough notice, with a new effective date.

L. End of Shutdown Furlough

1. Furloughed employees should monitor the media and DHS website as well as their Government-issued electronic devices for information on the status of the appropriations bill. TSA will also utilize the TSA Alerts and Warning System to provide end of shutdown furlough related instructions, delivered to the official email addresses as well as employee's personal devices and emails based on the contact information employees have entered into the TSA Alerts and Warning System.
2. Unless instructed otherwise, furloughed employees are required to return to work on their next regular duty day following approval of an appropriations bill or a Continuing Resolution. Subject to the OMB and DHS instructions, employees may be instructed to return to work the same day, not the next regular duty day following the enactment of a continuing resolution or an appropriation bill. Employees must follow event specific instructions.
3. 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 workplace flexibility options or request personal leave.

M. Record Keeping and Reporting Requirements

1. Program Offices must document and maintain records of all furlough notices issued, including employee acknowledgement of receipt. For notices delivered via email, delivery receipt, read receipt and employee acknowledgement responses must be retained.
2. HC will maintain the record of all recall requests/return to work notices.

N. Appeal Rights

1. TSOs
 - (a) TSOs who believe that TSA incorrectly applied the furlough procedures in their specific case may appeal the application of furlough procedures to TSA's Office of Professional Responsibility Appellate Board in accordance with TSA Management Directive 1100.77-1, *OPR Appellate Board* and related Handbook. Appeals must be filed within thirty (30) calendar days of the effective date of the furlough action.

- (b) If the employee alleges that the motivation for a furlough action was due to discrimination based on race, color, religion, gender, national origin, age, disability, genetic information or reprisal for protected EEO activity, he/she may file a complaint within 45 days of the effective date of this action with the TSA's Civil Rights Division (CRD).
- (c) If the employee alleges that a furlough action was in retaliation for protected whistleblower disclosures, he/she may file a complaint with the Office of Special Counsel (OSC).

2. Non-TSOs (i.e., all TSA employees with the exception of TSOs)

- (a) Non-TSOs who believe that TSA incorrectly applied the furlough procedures in their specific case may appeal the application of furlough procedures to the Merit Systems Protection Board (MSPB) if they are a preference eligible veteran who has completed one year of current continuous service in the same or similar position as the one they now hold or if they are an employee who is not a preference eligible veteran who has completed two years of current continuous service in the same or similar position as the one they now hold. If the employee elects to file an appeal with the MSPB, the appeal must be filed within thirty (30) days of the effective date of the furlough action or within thirty (30) days of the date of the furlough notice, whichever is later. Employees may obtain a copy of the MSPB regulations, appeal form, the address of the MSPB Regional Office having jurisdiction, and/or file online at: <http://www.mspb.gov/appeals/appeals.htm>
- (b) If the employee alleges that a furlough action is being taken because of reprisal for whistleblowing activity; he/she may elect one of the following remedies:
 - (1) The employee may file an appeal to the MSPB (5 U.S.C. §7701);
 - (2) The employee may seek corrective action under subchapters II and III of 5 U.S.C. Chapter 12, by filing a complaint with the OSC (5 U.S.C. §1214). After a complaint is filed with OSC, the employee may file an Individual Right of Action (IRA) appeal with the MSPB (5 U.S.C. §1221).
 - (3) If the employee chooses option (2) above (i.e., to first seek corrective action by filing a complaint with OSC), his/her subsequent appeal to the MSPB will be deemed an IRA appeal. Pursuant to 5 C.F.R. §1209.2, the employee will be limited to the rights associated with an IRA appeal. Specifically, the MSPB will only consider whether the employee has demonstrated that one or more whistleblowing disclosures was a contributing factor in the Agency taking this personnel action against the employee, and if so, whether the Agency has demonstrated by clear and convincing evidence that it would have taken this personnel action in the absence of the protected disclosure(s). The employee may not raise affirmative defenses other than reprisal for whistleblowing activities, such as claims of discrimination or harmful procedural error.

An election will be deemed to have been made based upon which of the two actions above is filed first.

(c) If the employee alleges that a furlough action is being taken because of discrimination based on race, color, religion, gender, national origin, age, disability, genetic information or reprisal for protected EEO activity, he/she may elect one of the following remedies:

- (1) Within 30 days of the effective date of this action (or of receipt of the decision, whichever is later), the employee may file an appeal with the MSPB and allege discrimination as an affirmative defense; or,
- (2) Within 45 days of the effective date of this action, the employee may file an EEO complaint with the Agency. If the Agency accepts the complaint as a mixed case complaint, the Agency will conduct an investigation. After an investigation, the Agency will issue a Final Agency Decision, which the employee may appeal to the MSPB.

NOTE: If the employee elects Option (1) and the MSPB dismisses the appeal for lack of jurisdiction, the employee has 45 days from the date of the initial decision to seek EEO counseling. Failure to seek counseling if the complaint is dismissed for lack of jurisdiction by the Board could result in waiver of the discrimination complaint.

An election will be deemed to have been made based upon which of the two actions above is filed first.

[Appendices](#)

[Appendix A: Employee Orderly Shutdown Checklist](#)

[Appendix B: Supervisor Orderly Shutdown Checklist](#)

[Appendix C: Furlough POC Orderly Shutdown Checklist](#)

[Appendix D: Furlough Periods and Ethics Rules](#)

[Appendix E: Shutdown Furlough FAQs](#)

Appendix A: Employee Checklist for Orderly Shutdown

GENERAL: This checklist should be used by non-exempt employees to complete orderly shutdown activities. Employees should follow their supervisor's instructions on reporting to work (remotely or on-site) on their next regularly scheduled work day following a lapse in appropriations. While up to four hours is allowed, employees may remain on duty only for the minimum duration necessary to complete the orderly shutdown activities and must immediately depart upon completion of those activities. Most employees should be able to depart within an hour of receiving their furlough notices.

These activities must be performed on the regularly scheduled work day following lapse in appropriations.

1. Receive and acknowledge receipt of the Furlough Notice.

- If received via email, read receipt and a reply email acknowledging receipt is required. Simply write 'received' in the reply email. (There is no need to actually sign the notice on the employee signature block)
- If received in-person, signature acknowledging receipt is required.

2. Provide your up-to-date contact information. Provide your up-to-date personal contact information (phone and email where you can be reached during the furlough period) to your supervisor or the designated management official so you can be notified of any changes in your furlough status.

3. WebTA. If logging into webTA remotely, webTA can be accessed via <https://wta.hs.nfc.usda.gov/webta>

- Follow the event-specific time and attendance processing guidance for recording time.

4. Update out of office messaging – use the following standard message:

- Email/Outlook “Out-of-Office” Message:
I will be out of the office starting (Furlough effective date) due to the current federal funding hiatus, I will not be able to return emails or telephone calls until I return to duty upon conclusion of the funding hiatus.
- Voicemail “Out-of-Office” Message:
You have reached XXX at the Office of XXX for the Transportation Security Administration. I will be out of the office starting (Furlough effective date), due to the federal funding hiatus. I am not able to access or return voicemail messages during this time. Please leave a message and I will return your call upon my return to duty upon conclusion of the funding hiatus.
- If updating your out of office message remotely, follow these instructions below:
Cisco Phone

- From an outside line, dial: (571) 227-3000
- When the operator begins to speak press *
- Enter your 10-digit desk number as your ID and press #
- Enter the default Pin (872872) or the Pin you selected
- Follow the instructions of the Automated Attendant

5. Cancel any meeting/trainings/ travel reservations scheduled to occur during the shutdown furlough period.

6. Document the status of projects to facilitate resumption when regular operations are resumed.

7. Safe guard information and protect government property

- Remove all sensitive and classified material from your work area and secure in cabinets or drawers.
- Lock all cabinets and drawers.
- Remove any attached hard disks (USB drives, external drives, etc.) and secure them in locked cabinets or drawers.
- Turn off computer, monitor(s), and any peripherals, e.g., printer, copier, etc.; make sure laptops are locked.
- Turn off and unplug any personal electronic devices (fans, desk lamps, etc.) in the office area, including shared areas (kitchen, etc.).

NOTE: Furloughed employees may retain and monitor government-issued electronic devices for status updates and emergency notifications only. Employees are prohibited from using these devices for any other purpose; using these devices for any other purpose is considered unauthorized work, and furloughed employees who perform unauthorized work during a shutdown may be subject to disciplinary action up to and including removal from Federal service.

If not retaining, employees should secure all government- issued electronic devices in locked cabinets or drawers.

8. Account log-in IDs and passwords. Ensure you have any account log-in ID and passwords for personal accounts that you may need (e.g., Thrift Savings Account, Employee Personal Page).

9. Close out and depart. Upon completion of all orderly shutdown activities, report to your supervisor or a designated management official to:

- Confirm completion of orderly shutdown activities, and provide any prior to departing.
- Report the hours worked, performing orderly shutdown activities.

Appendix B: Supervisors/Managers Checklist for Orderly shutdown

The following are activities that supervisors will be engaged in to facilitate orderly shutdown of activities.

1. Ask all employees for up-to-date contact information so they can be notified of any changes in their furlough status and update the employee contact list.
2. Confirm all non-exempt employees under your supervision received their furlough notice.
3. Inform employees that **all approved paid leave is cancelled**. Paid leave cannot be granted under any circumstances for any employee (this includes military leave, leave due to illness or other emergencies).
4. Inform employees that while in furlough status:
 - Furloughed employees may retain and monitor government-issued mobile devices for status updates and emergency notifications; however, employees are prohibited from using these devices for any other purpose.
 - Furloughed employees are allowed to access the HCAccess website <https://hraccess.tsa.dhs.gov> where TSA will post updates and FAQs related to the partial shutdown. As needed, TSA may also use the TSA Alerts and Warning system to send alerts related to the partial shutdown.
 - Furloughed employees who perform unauthorized work during a shutdown may be subject to disciplinary action up to and including removal from Federal services.
 - Furloughed employees cannot come to the workplace for any reason. However, employees may access the parking or fitness center facilities located in the office building if they have already paid for those services for the furlough period.
 - Furloughed employees cannot attend or schedule work-related meetings, conferences, training, and/or seminars.
 - Furloughed employees cannot use government vehicles, if they have access.
 - Based on the management's determination, on the first day of the shutdown, inform employees on TDY to either return to their duty stations as soon as possible or hold in place.
 - Furloughed employees should monitor public broadcasts and the Internet for the status of the government shutdown.

5. Instruct employees to complete orderly shutdown activities and check in with you upon completion. Non-exempt employees must immediately depart (if on-site) after completion of shutdown activities.
6. Confirm that non-exempt employees have completed all shutdown activities, including out of office messages, securing sensitive documents, etc., before they depart.
7. Follow the event-specific time and attendance processing guidance provided.
8. If you are being furloughed, before departing, check in with your supervisor or designated management official to:
 - Provide the status and record of furlough notices and employee acknowledgement. This may include consolidated record of all non-exempt and exempt notices, including email receipt/read notices and employee return emails.
 - Document and provide the number of hours each employee worked to complete orderly shutdown activities.
 - Confirm completion of all orderly shutdown activities for your office.
 - Provide updated employee contact information.
 - Provide the names of all exempt employees who will remain.

NOTE: Supervisors who are non-exempt and are being furloughed will use the Employee Checklist for Orderly shutdown to complete their individual shutdown activities in addition to the requirements below.

Appendix C: Furlough POC Checklist

The following are activities that designated Furlough POCs for each Office will be engaged in to facilitate orderly shutdown of non-exempt activities.

1. Ensure exempt employees have been notified of their status and the requirement to continue working during the furlough period.
2. Ensure that non-exempt employees have received their furlough notice and SF-8, along with orderly shutdown checklist and furlough-related resources and information provided by HC for distribution.
3. Maintain accountability of furlough notices issued.
4. Ensure that event-specific time and attendance processing guidance was provided to all employees.
5. Compile the list of furlough exempt employees.
6. Confirm completion of all orderly shutdown activities for employees and supervisors, including updated employee contact information, tracking of hours worked completing orderly shutdown activities for non-exempt employees.
7. Send e-mail notification to HC when furlough shutdown activities have been completed, namely, confirmation that all non-exempt employees received furlough notices – include the total number of non-exempt employees and total number notified.

Appendix D: Furlough Periods and Ethics Rules

The Standards of Conduct (5 C.F.R. Part 2635) and the other ethics rules remain in effect for federal employees during furloughs. In particular, employees should note that specific statutes and regulations prohibit or limit certain outside employment and activities. This information paper summarizes these and other rules that commonly impact these activities. Before engaging in outside employment or activities, employees should consult with an agency ethics official with any questions.

Non-Federal Employment, Volunteering, and Other Non-Federal Activities - While on furlough, Federal employees must be mindful of not engaging in any outside employment or activities that would conflict with their Government duties.

(Note: Presidential appointees and non-career employees must abide by limitations on outside earned income. PAS and PA employees should consult an ethics counselor before engaging in any outside activities.)

Generally, non-Federal employment or volunteer activities potentially conflict with an employee's Federal duties if:

- The performance of the employee's government duties affect an outside employer or organization; or
- The employee will be representing others before a Federal agency or court, or will serve as an expert witness on a matter in which the U.S. is a party or has a substantial interest.

Additionally, employees should not engage in the following activities that:

- Involve using an employee's public office for private gain, including using a DHS title, position, or authorities or allowing others to reference or use the authorities of an employee's official position;
- Create a real or perceived conflict of interest with an employee's government responsibilities;
- Affect an employee's impartiality or appear to affect an employees' impartiality in carrying out official business; or
- Require the employee's disqualification from central or critical elements of his/her government position.

Employees may engage in teaching, speaking, and writing in their personal capacities; however, employees may not accept compensation from non-Federal sources for teaching, speaking, and writing in their personal capacities when the opportunity is based on the following reasons:

- The offer is because of the employee's Government position rather than his/her personal expertise;
- The offer is from a person who has interests that may be affected by the performance of the employee's Government duties;
- The subject of the offer concerns a matter to which the employee was assigned in the past year; or
- The subject of the offer concerns an ongoing policy, program, or operation of DHS or

the matter draws from official ideas, data, or information.

(Note: Teaching at elementary and secondary schools and accredited institutions of higher learning are generally exceptions to the compensation prohibition, if the course is part of an established curriculum.)

Fundraising - Employees may wish to assist non-Federal individuals or organizations. When engaging in personal fundraising or collection of goods, employees may not take the following actions:

1. Fundraise for a partisan political candidate, party, or group;
2. Use their official DHS titles or reference their government positions in connection with any fundraising;
3. Solicit contributions or support from subordinates or other individuals or entities that are prohibited sources, as defined below; or
4. Raise funds for non-Federal organizations in the workplace (for employees with access to their workplace or other Federal facilities) or using Government computers, equipment or networks.

Assisting Co-workers - Employees considering offering assistance to other employees through gifts, fundraisers or collections of food or other items, should consult with an Ethics Official as there are certain limitations on conducting these efforts at work or when the beneficiaries include an employees' supervisors, managers and senior employees.

Conflicts of Interest - A criminal conflict of interest statute, 18 U.S.C. § 208, generally prohibits an employee from taking official action in any "particular matter" that would have a direct and predictable effect on the employee's own financial interests, on those of the employee's spouse or dependent children or on those of an organization which the employee serves as an officer, director, trustee, general partner, or employee. Employees who have DHS job responsibilities that involve a potential employer, volunteer activity, or other activity should consult an Ethics Official before proceeding.

Gifts - Employees may not accept gifts offered because of their Government position or from "prohibited sources" unless a gift exception applies. A "gift" is anything, tangible or intangible, with monetary value, including, but not limited to, any gratuity, favor, discount, entertainment, hospitality, loan, or forbearance.

A "prohibited source" is any entity engaged with DHS in the following ways:

- Seeking official action by DHS;
- Doing business or seeking to do business with DHS;
- Regulated by DHS;
- Has interests that may be affected by the performance/nonperformance of the employee's official duties; or
- Is an organization comprised primarily of the above prohibited sources.

Exceptions to the gift prohibition allow employees to accept the following:

- Gifts, other than cash, valued at \$20 or less;
- Gifts based on a personal relationship;

- Discounts available to all Government employees;
- Gifts based on outside business or employment relationships; and
- Widely-attended gatherings, with agency approval.

(NOTE: Political appointees may not accept gifts from registered lobbyists. This prohibition overrides many of the regulatory gift exceptions.)

Other Compensation - Employees are prohibited from receiving salary or other compensation from anyone other than the Government for the performance of their official job responsibilities. There are also rules on receiving compensation for more than one government job.

Political Activities - Political Activity limitations continue to apply during the furlough. See: www.osc.gov.

General Ethics Prohibitions - The following rules always apply to federal employees:

- Personal business activities may not be conducted in the workplace or using Government property, time and resources. During a furlough period, although an employee may not have access to the workplace, an employee may not use Government equipment or resources to conduct personal business.
- Federal employees should not disclose non-public government information unless authorized to do so.

Financial Disclosure - Employees who file financial disclosure reports must report outside positions on their next report. Public Financial Disclosure (OGE-278) filers are required by the STOCK Act to report job negotiations and employment agreements to their Ethics Office within 3 days of beginning any such negotiations or agreement. (Form 360)

Appendix E: 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 lapse in appropriation. 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 Chief Counsel and Chief Financial Officer, working with TSA Offices and TSA senior managers, determine which employees 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 lapse in appropriation 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 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 lapse in appropriation. 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 [Furlough Periods and 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

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

Normally, the basic work day immediately preceding a holiday is 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.

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 nonpay 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 nonpay status, employees in a nonpay 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 nonpay 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 nonpay status may be reimbursed up to whatever balance is in the employee's dependent care account—as long as the expense incurred during the nonpay 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 lapse in appropriation.

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?

The effects of a nonpay status (which includes furlough, leave without pay, absence without leave, and suspension) on Federal employee benefits and programs vary based on current law and regulation. For additional information, see OPM’s fact sheet on the “Effect of Extended Leave Without Pay (or Other Nonpay Status) on Federal Benefits and Programs” at

<http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/effect-of-extended-leave-without-pay-lwop-or-other-nonpay-status-on-federal-benefits-and-programs/>.

3. Is the trial period extended during shutdown furlough?

No. Generally, placement of a trial-period employee in a nonduty 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 shutdown furlough?

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 work day 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)

Any additional questions regarding Federal workers' compensation benefits should be directed to the Division of Federal Employees' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor. See <http://www.dol.gov/owcp/dfec>.

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, depending on several factors, including whether the position is exempt or non-exempt, and the availability of exempt personnel to facilitate the on-boarding as

part of orderly shutdown activities, etc. The HC 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 their EOD date.

End of Shutdown Furlough

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

Furloughed employees should monitor the media and DHS website for information on the status of the appropriations bill. Employees may also monitor their Government-issued electronic devices, if available, for status updates. TSA will also utilize the TSA Alerts and Warning System to provide end of shutdown furlough related instructions, delivered to the official email addresses as well as employee's personal devices and emails based on the contact information employees have entered into the TSA Alerts and Warning System.

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

Unless instructed 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.

Subject to the Office and Management and Budget and DHS instructions, employees may be instructed to return to work the same day, not the next regular duty day following the enactment of a continuing resolution or an appropriation bill. Employees must follow event specific instructions.