

FAQ Update – October 10, 2013 – Holidays, including Columbus Day

1. Will an employee “exempt” from furlough be paid for a holiday that occurs during a shutdown?

Employees are “exempt” from furlough if they are not affected by a lapse in appropriations. As such, an “exempt” employee will be paid for a holiday according to the normal rules governing holidays.

2. Will furloughed employees be paid for a holiday that occurs during a shutdown furlough?

Furloughed employees will not receive pay for a holiday that occurs during a shutdown furlough unless authorized by subsequent legislation.

3. What is the status of an “excepted” employee who does not perform work on a holiday that occurs during a shutdown furlough?

An “excepted” employee who does not perform work on a holiday must be placed in a furlough status for the holiday and must be provided written notice of the agency’s decision to furlough in accordance with the guidance in section P. Procedures. This is because during a lapse of appropriations all affected employees must be (1) at work performing excepted activities or (2) furloughed. This applies with respect to any period of time that is part of an affected employee’s regularly scheduled administrative workweek, including a holiday.

4. Will an “excepted” employee who does not work on a holiday that occurs during a shutdown furlough be paid for the holiday?

No. An “excepted” employee who does not work on a holiday will be placed in a furlough status for the holiday and will not receive pay for a holiday that occurs during a shutdown furlough unless authorized by subsequent legislation.

5. Can an “excepted” employee voluntarily report to work on the holiday?

No. Each agency must determine which excepted activities must be performed on a holiday, and which employees are needed to perform those functions. Employees who are not otherwise needed to perform excepted functions on the holiday must be placed in furlough status for that day.

6. Can “excepted” employees be required to perform work on a holiday that occurs during a shutdown furlough?

Yes. Each agency is responsible for determining which excepted activities must be performed on a holiday in order to carry out functions related to such excepted activities. Failure to report to duty on a holiday is no different than failure to report to work on any other day (see Question F.2).

7. What pay entitlements will accrue to an “excepted” employee who performs work on a holiday during a shutdown furlough?

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

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

When a shutdown furlough is not in effect, all full-time employees, including those on flexible or compressed work schedules, are entitled to an “in lieu of” holiday when a holiday falls on a nonworkday. OPM guidance on “in lieu of” holidays can be found here <http://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/holidays-work-schedules-and-pay/>.

During a shutdown furlough, generally—

The normal “in lieu of” holiday rules apply to employees “exempt” from furlough.

The “in lieu of” holiday rules do not apply to furloughed employees (i.e., employees do not receive an “in lieu of” holiday if they are in a furlough status on a holiday).

When scheduling holidays for “excepted” employees, the normal “in lieu of” holiday rules apply. However, as explained in Questions G.4., G.5., and G.6., otherwise excepted employees must be furloughed on the “in lieu of” holidays unless they are working.