

**Broadcasting Board of Governors
Government Shutdown Q&As
December 15, 2011**

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General

What is a shutdown?

When the Congress and the President fail to enact an annual appropriation or continuing resolution to continue funding government activities, a “funding gap” can occur. This means that government agencies funded with annual appropriations do not have adequate funding available to operate their normal operations. If there is a funding gap, federal law prohibits federal employees and officers from incurring financial obligations, including employee salaries, new contracts and grants, and travel authorizations, during this time to maintain operations. There are some limited activities that may continue because they constitute exceptions to the general rule. Accordingly, while the government is “shutdown” not all government operations will cease during a funding gap.

What happens with contracts and contractors during a shutdown?

- A contractor may continue to work provided its contract or order has sufficient funds and an excepted employee is available to accept the supplies or services required by the contract or order. Contractors who are needed for excepted activities are expected to work and can be subject to termination of the contract if they do not report for assignment.
- If a contractor’s contract or order expires during the term of the shut down, it cannot be extended or replaced unless: (1) the IBB Director, VOA Director, or OCB Director, as appropriate certifies to the Contracting Officer that the supply or service is necessary to support excepted activities; and (2) the Chief Financial Officer authorizes, on a case-by-case-basis, the extension or replacement. A form is being developed for this use. Without the certification and authorization, the contractor must stop work until after the shutdown ends and a new contract or order is in place.
- New contract actions (renewals, modifications, etc.) may be made only if necessary to support excepted activities authorized for continuance under the BBG’s shutdown plan. The necessity for such actions must be certified to the Contracting Officer by the IBB Director, VOA Director, or OCB Director, as appropriate, and authorized, on a case-by-case basis, by the Chief Financial Officer. No new grants or cooperative agreements may be entered into during the period of a lapse in appropriations.
- Payments to contractors will not be processed or disbursed during the period of lapse in appropriations, as the Treasury will be suspending all payment transactions.

For specific case-by-case issues, please contact the Contracting Officer who made the award, Jim McGuirk at (202) 382-7840 or Rachel Johnson at (202) 382-7847.

Activities That Continue

How does the Agency decide which functions can continue during a shutdown?

BBG Office of General Counsel has identified three types of activities that are excepted under federal law (excepted activities) that apply to BBG operations and may continue during a funding gap. Excepted activities including those activities which are (i) necessary to execute an orderly shutdown of affected operations, (ii) necessary for the safety of human life or the protection of property, and (iii) necessary for conducting foreign relations essential to the national security. Employees performing excepted activities will continue to report to work and perform their duties.

Please note that the definition of an employee of the federal government only includes those individuals who are directly employed by the U.S. government. The definition does not include contractors, such as purchase order vendors, stringers and other individuals or entities who maintain contractual relationships with the Agency. The treatment of contractual services will be addressed in a separate set of guidelines.

What does “necessary for the safety of human life or the protection of property” mean?

To qualify as excepted activity necessary for the protection of human life and property, there must be some reasonable connection between the activity and the safety of human life or the protection of property. There must also be some reasonable likelihood that such safety and protection would be compromised to some degree by delay in the performance of the function in question. At BBG, this would include the protection of all government property, including headquarters, domestic and overseas transmitting stations, overseas bureaus, and equipment used in BBG operations. It would also include reasonable support services related to the protection of human life and property.

Would the VOA and OCB broadcasts stay on the air during a shutdown?

The Board has determined that BBG broadcasting activities qualify as “foreign relations essential to the national security” and are, therefore, excepted activities which may continue during the appropriations lapse. These excepted activities represent the minimum activities necessary to produce and distribute Voice of America (VOA) and Office of Cuba Broadcasting (OCB) programming and to distribute programming of the BBG. Federal employees who are covered by this exception include the minimum VOA, OCB and International Broadcasting Bureau (IBB) employees required to produce and distribute relevant programming.

The scope of this excepted activity is based on the following programming assumptions:

- Minimum operations necessary to keep the BBG global distribution network operational

- Current programming schedule remains, with minimum operations necessary to stay on the air
- Highest priority live news programs continue
- Breaking news is covered
- No new programs or projects are initiated
- Evergreen and pre-recorded material will be used to the highest extent possible
- Internet and new media operations continue as appropriate
- Excepted employees are those essential to produce and distribute these programs

Procedures for Employees During a Shutdown

What do I do on the first workday of a shutdown?

All employees must report for work on the first regularly scheduled workday following a lapse in appropriations. Non-excepted employees will perform only those tasks necessary to ensure an orderly closure and to safeguard property, records, and information. In addition, non-excepted personnel should take measures to secure files; make external contacts necessary to communicate the office's status, such as notifying parties of the cessation of normal business; cancel non-essential meetings, conferences, and other previously arranged business; document the status of cases and projects so that they can be resumed, transferred, or otherwise appropriately handled when the Agency's operational status is regularized; complete and record time and attendance for all employees through the first four hours of work on the first work day of the shutdown; perform those tasks necessary to protect confidential information; and perform necessary functions to process all unpaid bills on hand for obligations incurred prior to the shutdown. It is expected that these activities will take four (4) hours.

After performing the functions necessary for an orderly suspension of non-excepted operations, employees designated as non-excepted will be furloughed. Managers are reminded that the Federal Government cannot accept voluntary services; therefore, work cannot be accepted from any non-excepted employees during a furlough.

What is a furlough?

A furlough is the placing of an employee in a temporary non-duty, non-pay status because of lack of work or funds, or other non-disciplinary reasons.

For furloughs necessitated by lapsed appropriations, is an agency required to provide 30 calendar days advance written notice and an opportunity to respond prior to issuing a decision to furlough?

No. The advance written notice and opportunity to answer which are normally required in the case of a furlough are not required for a furlough without pay due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or sudden emergencies requiring curtailment of activities. OPM has determined that this regulation also applies to lapsed appropriations. See *Horner v. Andrzejewski et. al.*, 811 F.2d 571 (Fed. Cir. 1987).

In the event of lapsed appropriations, can an employee be furloughed without first receiving a written notice of decision to furlough?

Yes. While an employee ultimately must receive a written notice of decision to furlough, it is not required that such written notice be given prior to effecting the furlough. Issuance of prior written notice is preferable, but when prior written notice is not feasible then any reasonable notice (telephonic or oral) is permissible.

What information will be included in the notice of decision when no advance notice is issued?

The notice will specify the reason for the furlough and state that the usual 30 calendar days advance notice was not possible due to the emergency requiring curtailment of agency operations.

Who will give out notices telling employees they have been furloughed?

The first level supervisor will provide a furlough notice to you if you have been designated as non-expected. You are required to sign the notice to indicate receipt and return it to the supervisor. You will receive a copy of the signed furlough notice.

Notices will be distributed on the employee's first regularly-scheduled workday of the shutdown. Managers are responsible for forwarding a copy of the furlough letter to non-expected domestic employees who are not at work. Managers should also distribute furlough notices to impacted overseas employees and are requested to advise OHR of the names of those non-expected employees on leave or travel in the U.S. who are not expected back within the following two weeks. If there is difficulty in delivering furlough notices, managers should notify OHR and request assistance in delivering the notices and getting acknowledgement of receipt. Managers should cite this guidance in support of their respective requests.

Managers should contact OHR as soon as possible if there are any non-expected employees who have not received a furlough notice due to the lack of contact information so that OHR can attempt to locate these employees.

If I am teleworking Monday, can I receive and acknowledge my furlough notice by fax or e-mail? I am able to shut down my operations remotely.

The scenario you describe is acceptable only if all of the following conditions are met: (1) prior to beginning your furlough, you have performed all tasks necessary to safeguard property, records, and information, and you have secured files, made necessary external contacts, and canceled or rescheduled normal business meetings; (2) you have portable work that can be performed from home; and (3) you have an approved telework agreement, and your supervisor has approved you for telework for no more than four hours on Monday.

Employees designated as non-expected also will receive an SF-8 (Notice to Federal Employees About Unemployment Insurance), a copy of a recent SF-50 (Notification of Personnel Action), and information on Unemployment Compensation for Federal Employees in addition to a furlough notice. This documentation is necessary if a furlough is implemented and the employee wishes to file for unemployment compensation. Supervisors must ensure that all of this documentation is properly transmitted to employees who telework.

Will the written notice I receive tell me how long I will be furloughed?

Although the agency wants to provide as much information as possible to employees, it may not be possible to predict how long a furlough will be.

If there is a lapse of appropriations, will all employees be furloughed?

No. Employees determined by the agency to be "excepted employees" will not be furloughed and will be required to work.

What is the difference between an "excepted employee" and an "emergency employee?"

(Note: an "excepted employee" for the purposes of a furlough should not be confused with an employee in the excepted service)

The term "*excepted employee*" refers to employees who are excepted from a furlough by law because they are (1) performing emergency work involving the safety of human life or the protection of property, (2) involved in the orderly suspension of agency operations, or (3) performing other functions exempted from the furlough.

The term "*emergency employee*" is used to designate 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.

If, during a lapse in appropriations, Federal agencies are operating under an "unscheduled leave" policy because of emergency weather conditions, which employees should report for work?

Excepted employees are required to report for work on time under these circumstances. During a lapse in appropriations, all affected employees must be either (1) at work performing excepted activities (excepted employees) or (2) in a furlough status (nonexcepted employees). Therefore, if an excepted employee is unable to report for work because of emergency conditions, he or she must be placed in a furlough status until such time as the employee reports for work.

How do I find out about the status of a shutdown once I've been furloughed?

Employees who have been furloughed should listen to the news for information about the FY 2012 appropriation. The BBG will post information about the status of the shutdown on the BBG website, www.bbg.gov, and provide information about when furloughed employees should report to work. Employees can also call (202) 382-8222 to obtain this information.

What happens to Foreign Service Nationals and Foreign National Personal Services Contracts personnel during a shutdown?

Foreign Service Nationals (FSNs) and Foreign National Personal Services Contracts personnel (FS PSCs) will generally be treated as Excepted employees.

What happens to part-time and intermittent employees during a shutdown?

For part-time employees, time spent in non-pay, non-work status will be prorated based upon the number of hours normally worked during a pay period.

Intermittent employees are non-full-time employees without a regularly scheduled tour of duty. This group of employees may be called to work during a furlough only to perform excepted functions.

Can my office rotate employees into and out of furlough status?

In the past, shutdowns of the Agency based on a lapse of appropriations have been of a short duration; therefore, the BBG does not foresee the necessity for the rotation of personnel. Rotations are discouraged for several reasons, including that rotations may affect the eligibility of individuals for unemployment compensation, may impair continuity in BBG functions, and may entail an unnecessary administrative workload required to bring employees in and out of furlough status.

Decisions on rotations must be made on the basis of the BBG's needs related to the positions needed to carry out the excepted activities and the qualifications of individual employees in those positions.

May employees take other jobs while on furlough?

Even while on furlough, an individual is an employee of the BBG and the Federal Government. Therefore, Executive Branch-wide standards of ethical conduct, at 5 CFR Part 2635, which include rules on outside employment, continue to apply to employees on furloughs. Additionally, there are statutes that prohibit certain outside activities.

The BBG has supplemental rules requiring prior approval of certain outside employment, and certain outside employment may be prohibited. Employees should consult with the agency's Office of General Counsel by calling (202) 203-4550 to learn if there are any federal or agency-specific rules that would prohibit taking another job while on furlough.

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

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

When is an agency required to use Reduction In Force (RIF) procedures to furlough employees?

Agencies must follow RIF procedures when furloughing employees for 31 or more continuous calendar days, or for 23 or more discontinuous workdays.

Is there a maximum period an employee may be furloughed?

Yes. An employee may be placed on a Reduction In Force furlough only when the agency plans to recall the employee to his or her position within 1 year. Therefore, the furlough may not exceed 1 year.

If an agency needs to furlough employees for more than 30 calendar days (or more than 22 workdays), must Reduction In Force (RIF) procedures be followed?

Yes. RIF procedures must be followed for furloughs of more than 30 calendar days.

What happens to temporary employees serving under appointments limited to 1 year or less in furlough situations?

Time spent in furlough status by temporary employees counts the same as time in a pay status toward their appointment's not-to-exceed date.

I've read in media reports that logging on to check email or using a government blackberry is considered a fireable offense for furloughed employees. Is this true? If so, how will the agency communicate with employees during a shutdown?

Non-excepted employees are prohibited from volunteering services, including working remotely from home via blackberry or computer, except to the extent that agency contingency plans provide for the use of such technology to provide non-excepted employees with updates regarding their furlough and return to work status. There may be circumstances in which certain employees are accessing agency information technology remotely for a brief period to carry out de minimis shutdown related activities.

Employees should monitor the BBG Website, www.bbg.gov, or call the BBG shutdown information line (202-382-8222) for information about the status of agency operations.

How do I update my voicemail to indicate that we are shut down and I won't be answering calls?

Call into your voicemail and enter your password. After you hear the Main Menu Options, press 4 for Personal Options, then press 3 for Greetings. You'll be given the option to press 2 to record an Extended Absence Greeting.

The instructions for updating your outgoing voicemail message are also [on the second page of this document, posted on the Intranet.](#)

Pay, Benefits and Retirement Implications of a Furlough

Will I receive a paycheck on December 23rd?

We understand the anxiety all our employees feel over the status of payroll distribution. The CFO's Office is in continual communication with our payroll provider, DFAS (Defense Finance Accounting Services) regarding the status and processes regarding employee pay. At this point there is a potential that employees will be paid on December 23rd for the pay period ending December 17th, 2011. As additional information becomes available, we will immediately share it with all employees.

Will I be paid for the shutdown period?

We do not know at this time. The CFO will examine the text of any subsequent appropriation or continuing resolution to determine if Congress has authorized retroactive pay for employees.

Are employees entitled to unemployment compensation while on furlough?

The Unemployment Compensation for Federal Employees Program provides benefits for eligible unemployed civilian Federal employees. The program is administered by States as agents of the Federal government. The program is operated under the same terms and conditions that apply to regular State Unemployment Insurance.

See State Unemployment Insurance <http://www.servicelocator.org/OWSLinks.asp> to find information on unemployment benefits for any state.

In general, the law of the State in which your official duty station is located is the State law that determines your eligibility for unemployment insurance benefits. That state will determine benefit amounts, number of weeks benefits can be paid, and other conditions of eligibility. For unemployment compensation purposes, the District of Columbia is considered a state.

How do I file a claim for unemployment insurance with Washington, DC Unemployment Compensation Services?

Employees whose duty station is Washington, D.C. may submit a claim for unemployment the day after being notified that the federal government is shut down due to a lack of funding and their positions are not excepted from furlough.

Unemployment benefits in DC are immediate. There is no waiting period.

Employees should submit a copy of their furlough letter, a SF-8 (Notice to Federal Employees About Unemployment Insurance), a copy of their most recent SF-50 (Notification of Personnel Action), and either (1) their last pay stub or (2) their last W-2 form. This information will enable DC to process the claim immediately for at least 80% of the estimated benefit even if salary verification is not received from the agency.

Employees whose duty station is Washington, D.C. who wish to submit a claim for unemployment insurance may e-file or call (202) 724-7000. The website for e-filing is <https://does.dcnetworks.org/InitialClaims/>

General information on Washington, D.C. Unemployment Compensation Services is available at <http://does.ci.washington.dc.us/does/cwp/view,a,1232,q,537855,doesNav,|32062|.asp>

How do I file a claim for unemployment insurance with the Florida Unemployment Compensation Program?

The state of Florida has a one-week waiting period before an employee can receive unemployment benefits. Employees with a Florida duty location should file for unemployment compensation **as soon as possible** at a Florida Unemployment Compensation Program office. To qualify as a “waiting week,” you must (1) be unemployed and (2) claim the week. Unemployment benefits will be paid beginning with the **second week** for which you file an unemployment claim.

Employees must submit a copy of their furlough letter, a SF-8 (Notice to Federal Employees About Unemployment Insurance), a copy of their most recent SF-50 (Notification of Personnel Action), and either (1) their last pay stub or (2) their last W-2 form.

Unemployment claims may be filed by telephone at 1-800-204-2418 or employees may e-file at <https://www2.myflorida.com/fluid/>

General information on State of Florida Unemployment Insurance Programs is available at http://www.floridajobs.org/unemployment/uc_emp_claims.html

How do I file a claim for unemployment insurance with the New York Unemployment Division?

Employees whose duty station is New York may file a claim for unemployment benefits during the first week of total or partial unemployment. Employees are encouraged to file as soon as possible. A delayed filing may result in the loss of benefits.

Employees should not file for a week when they work four or more days or earn more than \$405.00 gross pay between Monday and Sunday. In such cases, you must wait until the next Monday to file if you are still unemployed.

Employees must submit a copy of their furlough letter, a SF-8 (Notice to Federal Employees About Unemployment Insurance), a copy of their most recent SF-50 (Notification of Personnel Action), and either (1) their last pay stub or (2) their last W-2 form.

Employees may file over the internet at the following website: http://www.labor.state.ny.us/ui/ui_index.shtm

Employees who wish to file a claim by telephone, should first go the following website:

http://www.labor.state.ny.us/ui/how_to_file_claim.shtm

General information about the New York Unemployment Insurance Program can be found at

http://www.labor.state.ny.us/ui/ui_index.shtm

How do I file a claim for unemployment insurance with the Employment Security Commission of North Carolina?

The state of North Carolina has a one-week waiting period before an employee can receive unemployment benefits. Employees with a North Carolina duty location should file for unemployment compensation **as soon as possible** with an Employment Security Commission of North Carolina office. To qualify as a “waiting week,” you must (1) be unemployed and (2) claim the week. Unemployment benefits will be paid beginning with the **second week** for which you file an unemployment claim.

Employees must submit a copy of their furlough letter, a SF-8 (Notice to Federal Employees About Unemployment Insurance), a copy of their most recent SF-50 (Notification of Personnel Action), and either (1) their last pay stub or (2) their last W-2 form.

General Information about the North Carolina Unemployment Insurance Program:

<https://www.ncesc1.com/individual/UI/uimain.asp>

To file an unemployment insurance claim by Internet, go to

<https://www.ncesc.com/individual/webInitialClaims/applyBegin.asp>

To file a claim by telephone, call 1-877-841-9617.

How can I obtain a copy of my SF-50 (Notification of Personnel Action) so I can file a claim for unemployment benefits?

You can print a copy of your most recent SF-50 from your eOPF. The eOPF is an electronic version of your Official Personnel Folder and contains all the official records required to document your Federal career. You can access your eOPF folder through a secure connection from any computer connected to the Internet, using the Internet Explorer browser. Instructions for accessing the eOPF can be found at <http://inside.bbg.gov/offices/hr/Documents/Electronic%20Official%20Personnel%20Folder.pdf>.

A printed copy of your most recent SF-50 also is available in the Office of Human Resources. Please present your ID Badge to the OHR receptionist and she will provide the form you need.

Who should I contact if I have other questions about unemployment benefits?

If you have questions concerning any of the information on unemployment benefits please call the Office of Human Resources at 202-382-7500.

What happens to my TSP account while I am in a nonpay status?

While in nonpay status, you will not be able to contribute to the TSP because your employee contributions must be made through payroll deductions. However, you can continue to manage your TSP account with interfund transfers. You also can make contribution allocation changes that will take effect when you are once again in pay status.

Can an employee obtain a loan from their Thrift Savings Plan (TSP) account while in a nonpay status?

An employee may not obtain a new TSP loan while in a nonpay status. However, you may request a financial hardship or age-based in-service withdrawal, if you are eligible. Information on financial hardship and age-based in-service withdrawal loans is available at www.tsp.gov.

Is furlough considered a break in service?

No, furlough means only that you are in nonpay, nonduty status for specific days/hours. However, like any period of extended absence without pay, extended furlough may affect the calculation of creditable service for certain purposes. See Question 15 below for more information.

To what extent does nonpay status affect civil service benefits and programs?

Nonpay status (which includes furlough) is credited as follows:

- For career tenure, the first 30 calendar days of each nonpay period is creditable service.
- For completion of probation, an aggregate of 22 workdays in a nonpay status is creditable service.
- For qualification purposes, there is no requirement to extend qualifying periods by the amount of nonpay status. However, agencies may require such extensions in order to meet training requirements or ability-to-perform requirements.
- For time-in-grade requirements, nonpay status is creditable service.
- For retirement purposes, an aggregate nonpay status of 6 months in any calendar year is creditable service. Coverage continues at no cost to employees while in a nonpay status. When employees are in a nonpay status for only a portion of a pay period, their contributions are adjusted in proportion to their basic pay. The exception would be an employee who had substantial time in a nonpay status earlier in the year and the furlough causes him or her to have more than six months time in a nonpay status during the same calendar year.
- For health benefits, enrollment continues for no more than 365 days in a nonpay status. The nonpay status may be continuous or broken by periods of less than four consecutive months in a pay status. The government contribution continues while employees are in a nonpay status,

and the government is responsible for advancing the employee share as well. The employee may choose between paying the agency directly or having the premiums withheld from his or her pay upon returning to duty.

- For life insurance, coverage continues for 12 consecutive months in a nonpay status without cost to employees or to the agency. The nonpay status may be continuous or it may be broken by a return to duty for periods of less than four consecutive months.
- For within-grade increases, an aggregate of 2 workweeks in nonpay status during a waiting period is creditable service for advancement to steps 2, 3, and 4 of the General Schedule; four workweeks for advancement to steps 5, 6, and 7; and six workweeks for advancement to steps 8, 9, and 10. For prevailing rate employees (WG, WB, and WS schedules), an aggregate of one workweek in nonpay status is creditable service for advancement to step 2, three weeks for advancement to step 3, and four weeks for advancement to steps 4 and 5.
- For annual and sick leave, when a full-time employee accumulates 80 hours of absence without pay, the amount of annual and sick leave that may be accrued in that pay period is reduced by the amount of leave the employee normally would earn during the pay period. When a part-time employee is in a nonpay status, he or she will accrue less annual leave and sick leave, since part-time employees earn leave on a pro-rata basis--i.e., based on hours in a pay status. For purposes of computing accrual rates for annual leave, creditable service for time in a nonpay status is limited to an aggregate of 6 months in a calendar year.
- For reduction in force, an aggregate of 6 months in nonpay status in a year is creditable service.

When a furlough occurs during the three years of service prior to retirement, what effect will time in a furlough status have on an employee's high-3 average?

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

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

Yes, the rules are the same for both retirement systems.

What will happen to employees who would have retired while their agencies were shut down?

For employees who submitted paperwork to retire on a date that falls during a furlough period, the retirement will be made effective as of the date requested but will not be processed until after the lapse in appropriations ends.

Will an employee continue to be covered under the Federal Employee Health Benefits (FEHB) program 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.

The agency must forward full FEHB premiums to the Employee Health Benefits Fund even if the employee's pay is insufficient to cover the premium. When the employee returns to regular duty, he or she will be required to pay the employee's portion of premiums directly to the agency or have it withheld from pay.

Are employees who are injured while on furlough eligible to receive workers compensation?

No. Workers Compensation is paid to employees only if they are injured while performing their duties. Employees on furlough are not in a duty status for this purpose. However, an employee who is receiving Workers Compensation payments will continue to receive Workers Compensation payments during a furlough and will continue to be charged Leave Without Pay (LWOP).

May agencies deny or delay within-grade or step increases for employees?

Within-grade-increases (step increases) for employees are awarded on the basis of length of service and individual performance. Such increases may not be denied or delayed solely because of lack of funds. However, extended periods of nonpay status (e.g., because of a furlough for lack of funds) may affect the timing of such increases. For example, a General Schedule employee in steps 1, 2, or 3 of the grade who is furloughed for more than 2 workweeks during the waiting period would have his or her within-grade increase delayed by at least a full pay period.

Leave During a Furlough

If employees request paid leave--i.e., annual, sick, court, military leave, or leave for bone marrow or organ donation--after receiving a furlough notice, can the requests be denied for those days that coincide with the dates of furlough? If an agency has already approved requests for these categories of paid leave before issuance of the furlough notice, can the approval be rescinded and the employees furloughed on the days that coincide with the dates of furlough?

The answer to both questions is yes. In a "shut-down" or "emergency" furlough, all paid leave during a furlough is canceled because the necessity to furlough supersedes leave rights. The Antideficiency Act (31 U.S.C. 1341 et seq.) does not allow authorization of any expenditure or obligation before an appropriation is made, unless authorized by law. Paid leave creates a debt to the Government that is not authorized by the Act. Therefore, agencies are instructed that, during a lapse in appropriations, all paid leave during a furlough must be canceled and employees must be either (1) at work performing excepted activities or (2) furloughed.

May *excepted* employees take previously approved paid leave during a furlough caused by a lapse in appropriations? May *excepted* employees be granted new requests for paid leave during the lapse in appropriations?

No. When an employee is not at work and performing the duties determined by the employing agency to be allowable activities in compliance with the Antideficiency Act, he or she cannot be in a paid leave status. Therefore, agencies must take one of the following actions:

- cancel any approved paid leave during the furlough and/or deny any new requests for paid leave; or
- furlough the employee for the period of the employee's absence from duty. An agency may subsequently terminate the furlough whenever the employee's services are required for excepted activities.

Typically, all employees are required to report for work on the day on which a furlough begins. How will the number of work hours and the number of furlough hours be calculated for each nonexcepted employee?

Nonexcepted employees will be expected to work for four hours on their first regularly scheduled workday after a furlough begins. If an employee is on approved leave on the day the furlough takes effect, both excepted and nonexcepted employees should be charged the appropriate kind of leave for the period of time from the beginning of each individual employee's normal workday until the time other similarly situated employees departed from work after being informed they would be furloughed.

Once the furlough begins, excepted employees are required to be at work. The remaining period of time in a nonexcepted employee's regularly scheduled tour of duty would be considered furlough time, even if the nonexcepted employee had previously been scheduled to take paid leave later in the day.

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

An employee who is on approved Leave Without Pay (LWOP) under FMLA on days that coincide with the period of furlough will continue to be charged LWOP. Consistent with law and regulations, the LWOP taken under FMLA is part of the 12-week entitlement. However, an employee who was scheduled during the furlough to take *paid* leave under FMLA (i.e., an employee chooses to substitute annual leave or sick leave, as appropriate, for unpaid leave under FMLA) must be placed on furlough instead. Since all paid leave is canceled during a furlough, the period of absence that would have been charged to leave may not be used to reduce the 12-week entitlement to FMLA leave.

If an employee is scheduled to take approved Leave Without Pay (LWOP) during a furlough, should the employee continue to be charged LWOP during the period of furlough?

Yes. Nonexcepted employees scheduled to take preapproved LWOP during a "shut-down" or "emergency" furlough will continue to be charged LWOP during the furlough period, unless the agency cancels the approved LWOP prior to the beginning of the furlough period. If the approved LWOP was scheduled to end before the furlough ended, the employee must be placed on furlough for the remainder of the furlough period unless later designated as an excepted employee.

If an employee has properly scheduled "use-or-lose" annual leave before the start of the third biweekly pay period prior to the end of the leave year, but is unable to use some or all of the scheduled leave because of the furlough, does the furlough constitute an "exigency of the public business" that would permit an agency to restore the leave after the beginning of the new leave year?

Employees in this situation should make every effort to reschedule "use-or-lose" annual leave for use before the end of the current leave year. However, if this is not possible due to a lapse in appropriations, agency heads (or their designees) are encouraged to use their discretionary authority to restore any lost annual leave by determining that the employee was prevented from using his or her leave because of an exigency of the public business - namely, the need to furlough employees because of the lapse in appropriations.

If an employee has properly scheduled use of "restored annual leave" that is due to expire at the end of the leave year (because it is the end of the 2-year

restoration period) but that leave is canceled and lost due to lapse of appropriations, may the employing agency restore that leave again?

Unfortunately, no - unless Congress enacts legislation providing otherwise. There is nothing in existing law or regulation that allows restored annual leave to be restored a second time. In fact, the Comptroller General has determined that unused restored annual leave may not be restored after expiration of the 2-year period.

Hiring

Can hiring and recruitment continue during the shutdown?

An immediate hiring freeze will apply during a lapse in appropriations. Entry-on-duty dates (EODs) for prospective employees with employment offers are suspended until the funding lapse is over. No new job offers may be made.

All non-excepted personnel support activities are suspended.

Travel

Can official travel take place during a shutdown?

Travel should be limited to that absolutely necessary for emergencies involving the safety of human life or the protection of property or that considered absolutely necessary for the creation, production, or distribution of BBG programming. All other travel plans should be suspended.

All travel authorizations must be approved by the IBB Director, VOA Director, or OCB Director, as appropriate, as well as the Chief Financial Officer.

Travel should not be initiated unless clearly in support of an excepted activity. In addition, the E2 Travel System will be locked during a shutdown, so BBG will be utilizing a manual process to record travel authorizations and amendments.

What happens to employees who are already traveling when the shutdown begins?

If personnel are in travel status overseas at the time of the lapse but are not performing excepted activities, they should stop work and await further instructions. Because funding for overseas travel is obligated when the travel commences or when any cost is incurred for the travel (i.e. prior to the lapse), and because it is likely that any hiatus in funding will be temporary, managers should not instruct personnel in non-excepted travel status abroad to return to their home duty stations, unless otherwise directed. If such personnel are not performing excepted activities, they should be furloughed.

Personnel in domestic travel status who are not performing excepted functions should make arrangements to return to their duty station city as soon as practicable. Personnel in domestic travel status who are performing excepted functions may continue.

What if I need a Passport or Visa during the shutdown?

Please note that during a lapse in appropriations, it is anticipated that U.S. Department of State Passport and Visa operations will be suspended, except for emergency reasons.

Training

Can I attend a previously scheduled training?

In accordance with the shutdown plan, employees enrolled in training should not attend training classes. This applies to all training, whether conducted by BBG employees or contractors.

Those domestic personnel in training who are designated as necessary to perform excepted functions should return to their positions; those not so designated will be furloughed.

Obligations

Can I incur new obligations or adjust an existing obligation?

During a funding gap, obligations may continue to be incurred for excepted activities only and must only be incurred for the minimum amounts necessary. All BBG personnel must operate under strict constraints that ensure the BBG is in compliance with federal law

How do I record and track obligations during a shutdown?

While the BBG has legal authority to incur obligations to continue excepted activities during a funding gap, obligations cannot be formally recorded in our accounting system, as there are no appropriations to record the obligations against. Such obligations must be kept to a minimum and must be manually tracked and immediately recorded in the financial management system when Agency appropriations are received. All paper documents are official records and must be scanned and attached to the financial transaction in the financial management system when appropriations are received. Further guidance will be provided on this process.

Payments will not be processed or disbursed during the lapse period, as the Treasury will be suspending all payment transactions.

Who approves obligations and adjustments during a shutdown?

All obligations, adjustments to obligations, and obligating documents issued during the lapse period must be approved by the IBB Director, VOA Director or OCB Director, as appropriate, as well as the Chief Financial Officer and have the following statement affixed and signed by the appropriate Director: "This obligation is necessary to carry out excepted activities in the absence of an appropriation." This should be accompanied by a written justification on how the transaction qualifies under the "excepted" activities. A form and procedure will be generated and distributed to appropriate excepted employees and contracting personnel to help document necessary approvals. All paper documents are official records and must be scanned and attached to the financial transaction in the financial management system when appropriations are received.

Time and Attendance

Should we maintain time and attendance records for employees who work during the shutdown?

During a funding gap, appropriations are not available for the payment of any obligation, including payroll. A subsequent continuing resolution or the FY 2012 appropriations bill must contain a provision that authorizes payments for payroll obligations incurred during the shutdown period. Until the appropriation is passed, the exact terms of the provision, including retroactive compensation for furloughed employees, remain unknown.

Accurate time and attendance records must be maintained for all excepted employees utilizing processes in place in each office to record time worked.

How do I report hours worked during the shutdown period?

During the lapse in appropriations, employees must be either (1) at work performing excepted activities, or (2) furloughed. They, therefore, cannot be in a paid leave status (i.e., annual leave, sick leave, other paid leave or compensatory time off) during that period. Normal hours worked during the furlough period by excepted employees should be reported as regular duty hours. If an excepted employee has an emergency that precludes him or her from working during the shutdown period, the employee must be placed in furlough status for the duration of the emergency and then returned to duty once the emergency is over. In the case of employees who were on approved leave without pay during the lapse of appropriations, these absences must continue to be charged to leave without pay.

Special attention should be paid to reporting time and attendance for employees on the first regularly-scheduled workday following the shutdown. All employees are expected to work at least 4 hours that day. Excepted employees will continue in regular duty status for the duration of their regular work shift that day and thereafter. Non-excepted employees will be placed in furlough status for the remainder of their work shift that day and thereafter until recalled to duty.

How should hours worked by excepted employees during the furlough be reported?

Hours worked by excepted employees should be reported as regular duty hours.

How should furlough time for non-excepted employees be reported?

Absences resulting from the furlough of non-excepted employees should be recorded as administrative leave if a future bill provides for retroactive compensation during the lapse.

Can annual leave, sick leave, compensatory time off, or credit hours under a flexible work schedule be charged during a furlough?

No.

If an employee was on approved leave without pay (LWOP) during the furlough, would LWOP continue?

Yes. LWOP will continue and should be reported as LWOP for T&A.

How do you record the time for an employee who had previously scheduled sick or annual leave that fell within the furlough period?

Employees may not be in a paid leave status during the furlough. Consequently, all sick and annual leave must be cancelled and are not reported. If an excepted employee is unavailable for work and performing his or her duties, then he or she should be furloughed and the hours for which they did not work would be reported as administrative leave.

Will allowances and differentials be paid if a future bill provides for retroactive compensation during the lapse?

Yes. They must be paid as if the employee actually continued to work.

Will part-time or intermittent employees designated as non-excepted be paid if a future bill provides for retroactive compensation during the lapse?

Furloughed part-time or intermittent employees will be compensated if they were scheduled to work during the furlough. Their scheduled hours would be reported as administrative leave.

How will hours paid to non-excepted employees show on the earnings and leave statement if a future bill provides for retroactive compensation during the lapse?

Since furlough hours will be reported as administrative leave for T&A purposes, they will show as regular hours on employees' earnings and leave statements.

Events

Can I still hold previously scheduled representation events?

It is important to consider the perception of a representation event during a government shutdown.

As a general rule, no domestic representation events should be held during the shutdown period. Events already scheduled should be cancelled and no new events planned until the shutdown is over. The CFO may authorize a domestic representation event only if it is necessary to support excepted activities. Any such request for representation funds must be previously approved by the IBB Director, VOA Director or OCB Director, as appropriate.

As a general rule, no overseas representation events should be held during a shutdown period. The CFO may authorize a representation event abroad only if it is necessary to support excepted activities. Any such request for representation funds must be previously approved by the IBB Director, VOA Director or OCB Director, as appropriate.

Building Issues

Which building services will be open in the event of a shutdown?

The cafeteria will be open but with a limited menu. Cleaning service will be reduced. GSA will have a staff member onsite and a full building engineering staff. The Office of Facilities Management will be open with limited staffing. All building problems should be reported either by calling 202-203-4001 or by email at Cohen-Switzer Building Problems (facilities@bbg.gov).

What will happen with parking during a shutdown?

All parking regulations will be in effect. However, beginning at 1:30PM on Monday December 19th, 2011 the Cohen and Switzer Parking lot will go into what is the same as a holiday schedule. All carpool pass and after-hours parking pass holders will be allowed to park on the lot during the shutdown period.

Spaces marked reserved for HHS will also be available after 1:30PM Monday December 19th.

Carpool permit holders for the Cohen/Switzer parking garage will be permitted to park in the garage. This will be handled as if it were a weekend. The employees must first enter via the main entrance of the Cohen building and either badge-in or sign-in and then inform the guards that they will require access the parking garage.

What will the procedures be for entering and exiting the building during a shutdown?

Access to the Cohen and Switzer buildings will be as if it were weekend or holiday. Employees and contractors will be required to badge-in or sign in to enter the buildings.

Will all entrances be open? What about all areas of the building?

During a shutdown, the 3rd Street entrance and the loading dock will be closed. Certain areas of the building, such as the 3300 corridor, will be programmed for card access, so staff will have to use their ID cards to gain entrance.

Will the health unit be open during a shutdown?

Yes, the health unit will remain open.

Other Questions

Who should I contact with other questions about furloughs?

If you have any other questions concerning furloughs, please contact the Office of Human Resources at (202) 382-7500 or the Office of the CFO, Payroll Office.