




January 21, 2019

MEMORANDUM FOR Employee of National Institute of Standards and Technology

FROM: Susanne Porch 
Director, Office of Human Resources Management

SUBJECT: Notice of Furlough Due to Shutdown

Due to the continuing lapse in Fiscal Year (FY) 2019 appropriations and no continuing resolution for the Department of Commerce (DOC) no further financial obligations may be incurred, except for those directly related to the orderly suspension of operations or the performance of excepted activities as defined in the Office of Management and Budget's (OMB) memorandum for Heads of Executive Departments and Agencies (dated November 17, 1981) and supplemented by OPM's memorandum (dated August 22, 1995) transmitting an updated legal opinion by the Department of Justice (DOJ).

In the absence of a continuing resolution or a FY 2019 appropriation by January 20, 2019, you will be placed in a furlough status effective January 21, 2019. This furlough, i.e., non-duty, non-pay status, is not expected to exceed 30 days. Therefore, this furlough notice expires on February 19, 2019. When a continuing resolution or an FY 2019 appropriation for DOC is enacted, you will be expected to return to duty on your next regular scheduled work day. Please monitor public broadcasts and/or the Office of Personnel Management's website at www.opm.gov. Furlough information is also available on www.commerce.gov.

This action is being taken because of a sudden emergency requiring curtailment of the agency's activities; therefore, no advance notification is possible. The customary 30-day advance notice period and opportunity to answer are suspended under the provisions of 5 Code of Federal Regulations (CFR) §752.404(d)(2). The 30 day-advance notice otherwise required by 5 CFR §359.806(a) for Senior Executive Service (SES) career appointees (other than reemployed annuitants) has been waived. If employees are being retained in your organization, they are required for orderly suspension of agency operations or they are performing one of the excepted activities defined in the two OMB memoranda.

Furloughed employees should keep in mind that the ethics rules applicable to Federal employees, including rules with respect to outside employment, remain in effect even while the employee is in a non-duty, non-pay status.

Pay

During the furlough period, you will be in a non-duty, non-pay status and you may not work at your workplace or other alternative worksite unless and until recalled. You will not be permitted to work as an unpaid volunteer. Any paid leave (annual, sick, court, etc.) approved for use during the furlough period is cancelled.

Appeal Rights

If you are an employee who has completed a probationary or trial period, or 1 year of current continuous employment in the competitive service under other than a temporary appointment, you may appeal this action to the Merit Systems Protection Board (MSPB). Employees in the excepted service who have veteran's preference may appeal to MSPB if they have completed one (1) year of current continuous service in the same or similar positions as the one they now hold. Employees in the excepted service who do not have veteran's preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service may appeal to MSPB if they have completed two (2) years of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment limited to two (2) years or less.

Career Senior Executive Service (SES) Appointees

Career SES appointees (except re-employed annuitants) who believe requirements of 5 CFR part 359, subpart H, or the agency's procedures have not been correctly applied may also appeal to MSPB. Career SES appointees may inspect the regulations and records pertinent to this action at the following links:

Plan for Orderly Shutdown Due to Lapse of Congressional Appropriations at
www.doc.gov

OHRM's SES Furlough Information webpage, including 5 CFR 359 Subpart H, at
http://hr.commerce.gov/Employees/SESEmployees/PROD01_010219

How to Appeal

If you have the right of appeal to MSPB and wish to appeal this action to the MSPB, you must file the appeal within 30 calendar days after the effective date of your furlough. If you wish to file an appeal, you may obtain information about the appeals process and a copy of the appeals form from the MSPB website <https://www.mspb.gov/>. MSPB requires an appeal to be filed with the MSPB regional or field office serving the area where your duty station was located when the action was taken. MSPB also offers the option of electronic filing at <https://e-appeal.mspb.gov/>. Employees have a right to representation in this matter and may be represented by an attorney or other person of their choosing.

If you are a bargaining unit employee, you may appeal to the MSPB in accordance with the procedures outlined above or you may grieve this action in accordance with the applicable negotiated grievance procedure (NGP), but not both. You shall have been deemed to have exercised your option to raise this matter under the MSPB procedures or the NGP when you timely file a notice of appeal with the MSPB or timely file a written grievance in accordance

with the provisions of the NGP. To obtain information on filing a grievance under the NGP, or an appeal with the MSPB, contact your local union representative.

Filing a grievance under an NGP does not preclude you from seeking review by the MSPB of the final decision of the NGP.

If you believe you have been subjected to a prohibited personnel practice other than prohibited discrimination, you may elect to grieve the matter under the applicable NGP, file an appeal with the MSPB, or file an action with the U.S. Office of Special Counsel (www.osc.gov) in accordance with 5 U.S.C. § Chapter 12, subchapter II and III.

You are deemed to have made your election when you timely file a written grievance or file a timely appeal with the MSPB or Special Counsel.

If you file an appeal with the MSPB, the MSPB should send the Acknowledgement Order and copy of the appeal to the designated Agency Official as follows:

John K. Guenther
Chief, Employment and Labor Division
Office of the General Counsel
Department of Commerce
14th and Constitution Ave., NW
Room 5717
Washington, DC 20230
Phone: 202-482-5017
Fax: 202-501-2878
Email: jguenther@doc.gov

Equal Employment Opportunity Commission Rights

If you believe that you have been discriminated against by the laws of the Equal Employment Opportunity Commission (EEOC), you have the option of grieving the matter under the NGP or file an appeal with the EEOC, but not both. You are deemed to have made your selection when you timely file an appeal with the EEOC or a written grievance under the NGP.

We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding the agency funding level becomes available.

Attachment (2)
Unemployment Compensation for Federal Employees
Benefits Fact Sheet

Reference:

Guidance for Shutdown Furloughs, September 2015, at www.opm.gov

TAKE THIS FORM WITH YOU IF YOU GO TO FILE A CLAIM

UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES (UCFE) PROGRAM

NOTICE TO FEDERAL EMPLOYEE ABOUT UNEMPLOYMENT INSURANCE

This form has been given to you because (1) you have been separated from your job, or (2) you were placed in a nonpay status, or (3) your records have been transferred to a different payroll office.

Unemployment insurance (UI) for Federal workers. When unemployed, Federal workers may be entitled to UI benefits similar to those of workers in private industry. If you become unemployed or are in a nonpay status and want to FILE A CLAIM, go to the nearest LOCAL PUBLIC EMPLOYMENT SERVICE OFFICE of the STATE EMPLOYMENT SECURITY AGENCY to register for work and file your claim for UI. Your ELIGIBILITY for UI CANNOT be determined until AFTER you file a claim. DO NOT DELAY filing a UI claim; if you wait, your unemployment benefits may be reduced or you may not qualify for any benefits.

To help EXPEDITE your claim, take THIS FORM with you, your SOCIAL SECURITY ACCOUNT NUMBER CARD, the OFFICIAL NOTICE of your most recent employed by a Federal agency. SEPARATION or of your present NONPAY status (Standard Form 50 if available), EARNINGS and LEAVE statements, or similar documents that indicate you were employed by a Federal agency.

FEDERAL AGENCY will insert in the box:

1st line - Parent Federal Agency Name and 3 digit code number

2nd line - Major Component (if any)

3rd and 4th line - complete address to which all forms pertaining to a claim should be sent (ES-931, 931A, 934, 936, and notices of appeal, hearings, and determinations)

3 Digit Identification FEDERAL AGENCY	
Equifax Workforce Solutions	CODE NO. 450
P. O. Box 66945	
St. Louis, MO 63166	

To be completed by the Federal Agency:

Contact Name/Office

Delores Brown
800-366-6660, ext. 2333

Telephone No. (include area code)

Fax: 314-983-3533

KEEP THIS FORM and TAKE IT WITH YOU if you file a UCFE/UI claim for unemployed Federal workers provided by Federal law (U.S. CODE, Title 5, Chapter 85). For more information about UCFE/UI, read the REVERSE SIDE of this form.

UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES (UCFE) PROGRAM

UNEMPLOYMENT INSURANCE (UI) FOR FEDERAL WORKERS

TAKE THIS FORM WITH YOU IF YOU GO TO FILE A CLAIM

GENERAL INFORMATION:

1. WHO WILL PAY UNEMPLOYMENT BENEFITS?

If you are eligible, you will be paid by a State employment security agency under the provisions of its unemployment insurance (UI) law. The amount of your regular weekly benefits and the period for which benefits will be paid will generally be determined by the law of the State in which you had your last Official Duty Station. This Duty Station will be printed on your final "Notification of Personnel Action", SF-50. If you have received all the regular benefits for which you are eligible, you may, under certain circumstances, become eligible for additional weeks of extended benefits; check with a State local office official. If your last duty station was outside the United States, you will not be eligible until you return to the United States, including the District of Columbia, Puerto Rico, and Virgin Islands. Your benefit rights will then be determined under the law of your State of residence.

UCFE/UI for unemployed Federal workers is paid from U.S. Government funds. No deductions were taken from your pay to finance these benefits.

2. UNDER WHAT CONDITIONS WILL I BE ELIGIBLE?

All State UI laws require that:

- a. You must be unemployed, able to work, and available for suitable work; (in some cases, you may be eligible if you are employed less than full time);
- b. You must register for work and file a claim at a local public employment service/UI claim office;
- c. You must continue to report to the office as directed; and
- d. You must have had a certain amount of employment/wages within a base period of 1 year specified in the State law and have been separated through no fault of your own.

All State UI laws will deny you benefits for such reasons as:

- a. Quitting your job voluntarily without good cause or being discharged for misconduct connected with work; or
- b. Refusing an offer of a suitable job without good cause.

Some State UI laws deny or reduce UI benefits for certain types of payments you may receive (retirement, severance, and/or lump-sum amount for unused, accrued annual leave).

3. DO I HAVE THE RIGHT OF APPEAL?

Yes. If a determination is made denying you benefits, you have the right to appeal as provided in the applicable State law.

4. ARE THERE ANY PENALTIES?

Yes. If you willfully make a false (fraudulent) claim, you may be fined, imprisoned, or both. If you make a mistake in giving information when you file your claim, notify the local UI claim office as soon as you discover the mistake: prompt notification may avoid a penalty.

(The above statements are issued for general information; they do not have the effect of law, regulation, or ruling).

IF YOU BECOME REEMPLOYED and have been collection UCFE/UI benefit payments, it is your **RESPONSIBILITY** to notify the local office, in writing, to discontinue paying benefits now that you are employed. Failure to do so may result in a *penalty such as a fine, imprisonment, or both.*

Benefits Fact Sheet
Lapse in Appropriations Shutdown Furlough
Effective December 22, 2018

Pay

1. When will I receive pay?

- A. If you are a furloughed employee you cannot receive pay during a lapse in appropriations; however, the Government Employee Fair Treatment Act of 2019, signed by the President on January 16, 2019, states that each employee furloughed because of a covered lapse in appropriations shall be paid for the period of the lapse at the earliest date possible after the lapse ends.

If you are an excepted employee working in a non-funded position, you are entitled to be paid for hours worked, but you cannot receive pay until the lapse in appropriations has ended.

If you are an excepted employee working in a funded position, you will be paid for hours worked as well as hours not worked for Federal holidays or personal leave if you have a funding code for the holidays or personal leave, on our normal pay cycle. Hours not worked with no funding code will be coded under transaction code 74 "Furlough".

2. When an employee's gross pay is insufficient to permit all deductions, the order in which authorized deductions are to be processed is as follows:

Retirement

Social Security Tax (OASDI)

Medicare Tax

Federal Income Tax

Basic Health Insurance Premium

Basic Life Insurance Premium

State Income Tax

Local Income Tax

Collection of Debts Owed to the U.S. Government

Court-Ordered Collection/Debt in the following order: (Child Support; Alimony Payments; Bankruptcy; Commercial Garnishments)

Optional Benefits in the following order: (Health Care/Limited-Expense Health Care Flexible Spending Accounts; Dental; Vision; Health Savings Account; Optional Life Insurance Premiums; Long-Term Care Insurance Premiums; Dependent-Care Flexible Spending Accounts, Thrift Savings Plan (Loan Payments; Basic Contributions; Catch-up Contributions), Other Optional Benefits.

Other Voluntary Deductions/Allotments in the following order: (Military Service Deposits; Professional Associations; Union Dues; Charities; Bonds; Personal Account Allotments; Additional Voluntary Deductions)

IRS Paper Levies

3. Where can I find my Earning & Leave Statements and W-2s?

A. You can view and print Earning & Leave Statements, along with W2s and other information from the National Finance Center (NFC), Employee Personal Page (EPP) through <https://www.nfc.usda.gov/epps>.

4. How can I receive a new password for EPP?

A. If you do not remember your user ID or password, follow the prompts on the welcome screen. In the event you are unsuccessful, the NFC can assist with resetting passwords for employees with a Government email address and for those with a non-Government email address previously stored in their EPP.

Employees with a non-Government email address stored, but are unable to generate their own EPP password reset, they can contact the NFC Contact Center at 1-855-632-4468. NFC will process the password reset and send the system generated password reset email to the non-Government email stored in the profile.

Employees who do not have a non-Government email address stored in their EPP, they can contact the NFC Contact Center at 1-855-632-4468. NFC will need to validate identity with the EPP User ID, Government e-mail address, and last net pay amount. Once identity is validated, EPP will send the password reset email to the non-Government email provided by the employee.

NFC will track all password resets during the furlough and will force a mandatory reset of all password resets during the furlough at the conclusion of the Government shutdown.

5. W-2 (Wage & Tax Statement) – Will W-2s still be processed on time?

A. Yes, the National Finance Center (NFC) has confirmed that the processing of W-2s will not be impacted by the lapse in appropriation furlough. The NFC is in the process of printing and mailing tax year 2018 W-2s, which will continue through January 31, 2019. In addition, the majority of W-2s will be available through the NFC's Employee Personal Page (EPP) between January 25, 2019, and January 28, 2019.

When retroactive pay is provided, pay that employees will receive for work performed on December 22, 2018, will be reflected in tax year 2019 W-2s.

6. Will automatic withdrawals from my bank account (not payroll deducted) for contributions to the Combined Federal Campaign (CFC) still be withdrawn during the lapse in appropriations furlough?

A. No, the Office of Personnel Management has confirmed there will be no withdrawals from employee's bank accounts during the lapse. In addition, the time period to pledge CFC donations will be extended for 30 days after the lapse has ended.

Second Lapse in Appropriations Shutdown Furlough

7. When there is a lapse in appropriations shutdown furlough that lasts beyond the 30-day furlough notice, does the agency have to initiate and apply reduction-in-force (RIF) furlough regulations?

- A. No. When there is a lapse in appropriations shutdown furlough that lasts beyond 30 days, it is considered a second shutdown, and employees will be issued another notice. Reduction-in-force (RIF) furlough regulations are not applicable to a lapse in appropriations shutdown furlough because the ultimate duration of the shutdown furlough is unknown at the beginning and is dependent entirely on Congressional action, rather than agency action. RIF furlough regulations are based on planned, foreseeable, money -saving furloughs that in the beginning are planned to exceed 30 days.

Unemployment Compensation

8. Am I eligible for unemployment compensation benefits?

- A. Furloughed employees are eligible to apply for unemployment benefits; however, employees who have been designated as “excepted” from the furlough and are working full-time are generally not eligible. Unemployment is managed at the state level, and eligibility requirements may differ. Employees who wish to file should do so and the individual state will determine eligibility.

Note: Please be advised that since the Government Employee Fair Treatment Act of 2019 provides employees with pay for the period of the lapse in appropriations after the lapse has ended, you will be required to pay back any unemployment benefits you received, in accordance with State law. For more information, please see <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Unemployment-Insurance-Resources> and the U.S. Department of Labor’s Unemployment compensation for Federal Employees website, <https://oui.doleta.gov/unemploy/unemcomp.asp>

9. Do I file for unemployment compensation benefits in the state where I reside, or where I work?

- A. Employees must file for unemployment in the state where he or she work (i.e., last official duty station prior to the furlough”.

Federal Employees Health Benefits (FEHB)

10. **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?**
 - A. Yes. The employee's FEHB coverage will continue even if an agency does not make the premium payments on time. Since the employee will be in a non-pay status, the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status.

11. **What happens if an employee wants to terminate Federal Employees Health Benefits (FEHB) coverage while in a non-pay status in order to avoid the expense?**
 - A. Unlike other types of non-pay status, employees in a non-pay status due to a lapse of appropriations (shutdown furlough) will not have the opportunity to terminate or cancel FEHB coverage. The employee will remain covered; the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status.

12. **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?**
 - A. No. The effective date would still be the first day of the first full pay period in January. Employees are encouraged to contact the provider to verify enrollment.

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

14. **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?**
 - A. Yes.

15. **If a furlough delays processing of FEHB Open Season enrollment changes, will the enrollment be retroactive?**
 - A. 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. Employees do incur an obligation to pay FEHB premiums beginning PP01 (January 6, 2019 through January 19, 2019).

16. 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?

A. 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.

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

A. New enrollments or changes in enrollment due to a Qualifying Life Event do not take effect until the employee has been back in pay status for any part of the prior pay period.

The only exception to this, is for a new enrollment or change in enrollment due to the birth or addition of a child, which is effective on the first day of the pay period in which the child is born or becomes an eligible family member. There is no requirement to be in a pay status for an enrollment or change in enrollment due to birth or addition of a child to become effective.

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

A. If the individual receives an ID card, the enrollment in the new plan is effective. If an ID card is not received, the enrollment may still have been processed. ID cards can sometimes take up to 6-8 weeks to be received. Employees are encouraged to contact the provider to verify enrollment.

19. 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?

A. Yes. Such an individual would have coverage beginning on the first day of the first full pay period in January (January 6, 2019). Expenses incurred will be reimbursed by the plan once the enrollment has been processed. It is suggested 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 (FEGLI)

20. What happens to an employees' Federal Employees' Group Life Insurance (FEGLI) Program coverage if furloughed?

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

Flexible Spending Accounts (FSAFEDS)

21. What happens to an employees' Flexible Spending Account (FSAFEDS) coverage if furloughed?

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

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

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

- A. No.

Federal Long-Term Care Insurance Program (FLTCIP)

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

- A. 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 (PP26, PP01, PP02 which ends February 2, 2019), 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.

Federal Employees Dental and Vision Insurance Program (FEDVIP)

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

- A. 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 (PP26, PP01 which end January 19, 2019). The enrollee should pay premiums directly billed to him/her on a timely basis to ensure continuation of coverage.

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

- A. No.

Thrift Savings Plan (TSP)

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

- A. Information regarding TSP can be found on the TSP website at <https://www.tsp.gov/index.html>. Under the "Bulletin Board", see "Government Shutdown and Loan Payments".

TSP posted the following on January 8, 2019: Government Shutdown and Loan Payments — The TSP allows for the suspension of loan payments when you go into non-pay status to prevent your loan from going into default. Normally, we require documentation from your agency or service. However, the TSP does not need documentation of your furlough at this time. If your loan payments were up to date prior to the furlough, missing one or two payments will not cause your loan to be in default. You can check the status of your loan by logging into My Account, selecting "TSP Loans," and then selecting "Are my payments up to date?" Or you can call the ThriftLine at 1-877-968-3778 and speak to a Participant Service Representative.

As long as retroactive pay is approved, all missed loan payments will be submitted and posted to your loan. We will provide more information as the furlough continues or as events change.

Retirement

27. **What will happen to employees who would have retired during a shutdown furlough?**
- A. For employees who, on or before the requested retirement date, submitted some notice of their desire to retire, when the lapse in appropriations ends, the retirement effective date will be the date originally 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.
28. **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.**
- A. No. The employee's retirement would be retroactively applied to a date prior to the end of the leave years, and the employee would receive the full amount of accumulated and accrued annual leave in a lump-sum payment.
29. **Will the lapse in appropriation furlough effect my retirement-creditable service or high-3 average pay?**
- A. Generally, a period of non-pay status will have no effect on an employee's creditable service or high-3 average pay unless the non-pay status is for more than 6 months during the calendar year.

Leave

30. **Does a shutdown furlough affect the accrual of annual leave and sick leave?**
- A. If an employee is furloughed (i.e., placed in non-pay status) for part of a biweekly pay period, the employee's leave accrual will generally not be affected for that pay period. However, the accumulation of non-pay status hours during a leave year can affect the accrual of annual leave and sick leave over a period of time.
- For example, when a full-time employee with an 80-hour biweekly tour of duty accumulates a total of 80 hours of non-pay status from the beginning of the leave year (either in one pay period, or over the course of several pay periods) the employee will not earn annual and sick leave in the pay period in which that 80-hour accumulation is

reached. If the employee again accumulates 80 hours of non-pay status, he or she will again not earn leave in the pay period in which that new 80-hour total is reached. At the end of the leave year, any accumulation of non-pay status hours of less than 80 hours is zeroed out so that the accumulation of non-pay status hours for the next leave year starts at zero.

For employees with a part-time tour of duty the rule blocking accrual of leave based on the accumulation of non-pay status hours does not apply. Instead, leave accrual for part-time employees is prorated based on hours in a pay status in each pay period, thus, time in non-pay status reduces leave accrual in each pay period containing such time.

Note: The tour of duty designation of full-time and part-time refers to your normal tour of duty absent of the lapse in appropriations. Employees who are “Excepted -Less Than Full-Time” due to the lapse in appropriations follow the guidance applicable to their normal tour of duty.

Excepted employees working in non-funded positions. Since the agency incurs an obligation to pay for services performed by excepted employees during a lapse in appropriations, and employees will be paid after Congress passes and the President signs a new appropriation or continuing resolution, excepted employees will accrue their normal annual and sick leave upon pay processing for each pay period.

31. 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?

A. Yes. Annual leave in excess of an employee’s annual leave ceiling “shall be restored” if it is lost (forfeited) because of the lapse in appropriation furlough when the leave was “scheduled in advance” (i.e., before the start of the third biweekly pay period prior to the end of the leave year (November 24, 2018).

32. If any 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?

A. 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.

33. If an employee had accrued compensatory time off for travel that was set to expire at the end of the leave year (compensatory time off for travel must be used by the end of the 26th pay period after the pay period during which it was earned), can the time period to use it be extended?

A. Yes, if the employee was unable to use it due to the lapse in appropriations furlough, the time limit may be extended for up to an additional 26 pay periods based upon an exigency of public service.

34. If any employee received a time off award that was set to expire at the end of the leave year (time off awards must be used within 1 year after the date the award is made), can the time period to use it be extended?

A. No, if the time is not taken within 1 year it is lost and may not be restored.

Federal Office Closure

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

A. Furloughed employees are not affected if their Federal office is closed or announces a change in operating status during a shutdown furlough and will remain in furlough status.

Excepted employees working in funded positions are not affected by a shutdown furlough and will follow normal operating procedures.

Excepted employees working in non-funded positions will follow normal operating procedures during a Federal office closure or change in operating status, which may result in excepted employees being placed in furlough status for any hours of work not performed. This is because during a shutdown furlough, excepted employees must be either performing excepted activities or furloughed during any absence from work and may not be placed in an excused absence or leave without pay status.