

**Broadcasting Board of Governors
Government Shutdown Q&As
September 27, 2013**

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A. General

1. 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.

2. What happens with contracts and contractors during a shutdown?

A contractor may continue to work provided its contract or order has sufficient funds, an excepted employee is available to accept the supplies or services required by the contract or order, and they have not been notified by the Office of Contracts to stop work. 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 shutdown, 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 (CFO) authorizes, on a case-by-case-basis, the extension or replacement. A standard form has been 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 CFO. 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.

B. Activities That Continue

3. 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.

4. What guidelines will managers use to determine which employees will be excepted?

Managers throughout the agency were given the following guidelines to determine which employees will be excepted:

- 1) Determine which specific positions and employees are needed for programs to remain on the air.
- 2) For employees who are not assigned to any specific program (e.g., work on a variety of programming), retain those with the greatest range of broadcasting experience. For example, Language Services that produce radio, TV and digital media should retain those with expertise in all three media, then those with expertise in two mediums, etc.
- 3) If additional broadcasting personnel are needed, identification of Excepted employees will be based upon those with the greatest seniority.

5. Who will make the decision on whether an employee on detail is needed to perform excepted activities?

The detail supervisor will make the decision as to whether an employee on detail is needed to perform excepted work or will be furloughed and will send that information to the detailee's supervisor of record. The supervisor of record will include the detailee's status on the Furlough Status List for the office and submit it to OHR. The supervisor of record also should annotate the Furlough Status List with the employee's detail location.

These procedures apply to all intra-agency and inter-agency details, except those approved under the Intergovernmental Personnel Act (IPA). Any office with an employee on an IPA detail should contact the Office of Human Resources for instructions.

6. 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. The Office of Security and guard services will continue to protect domestic and overseas facilities and personnel during a shutdown.

7. Will 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

C. Procedures for Employees During a Shutdown

8. 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 – for many employees that will be October 1. 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, travel, 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; perform those tasks necessary to protect confidential information; and perform necessary functions to process all unpaid and due bills on hand for obligations incurred prior to the shutdown. It is expected that these activities will take no more than 4 hours. Non-excepted employees who work atypical schedules e.g., Saturdays or Sundays or hours outside of 8:15 am to 5 pm should confer with their first-line supervisors to obtain a shutdown notice and carry out shutdown activities. All employees should complete and submit a timesheet for work performed September 22 through September 30, as well as record their time and attendance on the first work day of the shutdown.

After performing the functions necessary for an orderly shutdown, non-excepted employees will receive and sign their official furlough notices. For example, a non-excepted employee who completes all tasks necessary for closure of his/her work in two hours will document those two hours worked and then be placed in furlough status. Non-excepted employees will be paid on the first regularly scheduled workday following a lapse in appropriations for time spent performing tasks necessary for an orderly closure. Managers are reminded that the Federal Government cannot accept voluntary services; therefore, work cannot be accepted from any non-excepted employees during a furlough.

Employees who are assisting with the orderly shutdown of operations – e.g. timekeepers and employees in HR, Contracts and the CFO's Office – can request approval for more than 4 hours as long as necessary to prepare the agency for shutdown.

9. 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.

10. 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).

11. 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.

12. 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.

Employees designated as non-excepted also will receive an SF-8 (Notice to Federal Employees About Unemployment Insurance) 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.

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

14. If I am teleworking on the first day of a furlough, 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; and (2) you have an approved telework agreement, and your supervisor has approved you for telework for no more than four hours on the first day of a furlough.

Supervisors must ensure that the furlough notice, as well as the documentation on filing for unemployment are properly transmitted to employees who telework.

15. 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.

16. 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.

17. 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.

18. 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 (non-excepted 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.

19. 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 2014 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.

20. What happens to Locally Employed Staff (LES) and Foreign National Personal Services Contracts (FN PSC) personnel during a shutdown?

LESs and FN PSCs will generally be treated as Excepted employees.

21. 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.

22. 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.

23. 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 to learn if there are any federal or agency-specific rules that would prohibit taking another job while on furlough.

24. May an employee volunteer to do his or her job on a non-pay basis during a furlough period?

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

25. 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.

26. 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.

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

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

28. 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 temporary appointment not-to-exceed date.

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

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

Employees should monitor the BBG Website, www.bbg.gov, or call the BBG shutdown information line.

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

If you are on the new Outlook Voicemail system, you can access your voicemail account from your office phone directly, or call 202-382-5055 from outside the office. If you are calling from a different location, you will then have to enter your phone extension (the last four digits of your phone number). Once the system recognizes you, enter your PIN, followed by #. After the system accepts your PIN, press 0 to start using the touch tone interface and confirm this action by pressing 0 again. Press 6 to reach your personal options, and then press 2 to record a greeting. Press 1 to begin recording and # upon completion. To accept the recording, press 1. Lastly, press * to return to the main menu.

If you have not transitioned to the Outlook system, 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.

D. Pay, Benefits and Retirement Implications of a Furlough

31. Will I receive a paycheck on October 11, 2013?

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, DFAS has indicated that they will run payroll for hours worked from September 22 – September 30.

32. May excepted employees be permitted to earn premium pay (e.g., overtime pay, Sunday premium pay, night pay or shift differential)?

Yes. Excepted employees who meet the conditions for overtime pay, Sunday premium pay, or night pay or shift differential will be entitled to payment in accordance with applicable rules, subject to any relevant payment limitations. Premium pay may be earned but cannot be paid until Congress passes and the President signs a new appropriation or continuing resolution. During the shutdown, supervisors should schedule overtime only in rare circumstances to meet extraordinary work needs.

33. Will transit benefits be available during the shutdown period?

Yes. Transit benefits will not be affected during the shutdown.

34. Will I be paid for the shutdown period?

Without further specific direction or enactment by Congress, all excepted employees will be paid for excepted work performed during the shutdown. However, for non-excepted employees, we do not know at this time if you will be paid for the shutdown period. The CFO will examine the text of any subsequent appropriation or continuing resolution to determine if Congress has authorized retroactive pay for employees.

35. 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.

Unemployment compensation benefits are taxable income. If you receive Unemployment compensation, in January you will receive a form stating the total amount of benefits paid to you during the previous calendar year and the total amount of taxes withheld, if any. This information is also reported to the Internal Revenue Service.

Self-employed contractors are not eligible for unemployment insurance based on their work for BBG, but may otherwise qualify. Contractors employed by a firm that has a contract with BBG should speak to that firm about potential eligibility for unemployment insurance.

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

Employees whose duty station is Washington, D.C. should submit a claim for unemployment with the DC Department of Employment Services. DC Unemployment claims can be filed online, by phone, or in person:

ONLINE: does.dcnetworks.org

BY PHONE: (202) 724-7000 or (877) 319-7346

IN PERSON: One-Stop Career Centers at 1500 Franklin Street, NE and 2626 Naylor Road, SE

Benefits are paid on a bi-weekly basis. The first week of eligibility is a waiting period and no benefit is paid for that week. To qualify as a “waiting week,” you must (1) be unemployed, (2) claim the week, and (3) meet all other requirements. Unemployment benefits will be paid beginning with the second week for which you file an unemployment claim.

Employees should have the following information available when filing a claim: your Social Security card, a copy of your furlough letter, and an SF-8 Notice to Federal Employees About Unemployment Insurance. In addition, you should have available a copy of a recent SF-50, Notification of Personnel Action, a Leave and Earnings Statement, or your last W-2 form to verify your federal employment.

General information on Washington, D.C. Unemployment Compensation Services is available at <https://does.dcnetworks.org/initialclaims/>

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

Employees with a Florida duty location should file for unemployment benefits with the Florida Department of Economic Opportunity.

The state of Florida has a one-week waiting period before an employee can receive unemployment benefits. To qualify as a “waiting week,” you must (1) be unemployed, (2) claim the week, and (3) meet all other requirements. Unemployment benefits will be paid beginning with the second week for which you file an unemployment claim.

All unemployment compensation claims must be filed online at <http://www.floridajobs.org/job-seekers-community-services/reemployment-assistance-center/connect>. If you experience any

difficulties with this system, call 1-800-204-2418 from 8:00 a.m. - 5:00 p.m. Eastern Time Monday-Friday.

Employees should have the following information available when filing a claim: your Social Security card, a copy of your furlough letter, and an SF-8 Notice to Federal Employees About Unemployment Insurance. In addition, you should have available a copy of a recent SF-50, Notification of Personnel Action, a Leave and Earnings Statement, or your last W-2 form to verify your federal employment.

General information on State of Florida Department of Economic Opportunity programs is available at <http://www.floridajobs.org/job-seekers-community-services/unemployment-compensation-benefits-center/file-a-claim>

38. 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.

You must serve an unpaid “waiting period” equal to one full week of unemployment benefits before you receive payments.

The NY Unemployment Division recommends that you apply for UI online at https://ui.labor.state.ny.us/UBC/home.do?FF_LOCALE=1

You also may file by telephone by calling Telephone Claim toll-free during business hours (8 am to 5 pm, Monday – Friday):

1-888-209-8124 for New York State residents
1-877-358-5306 for out-of-state residents

Employees should have the following information available when filing a claim: your Social Security card, a copy of your furlough letter, and an SF-8 Notice to Federal Employees About Unemployment Insurance. In addition, you should have available a copy of a recent SF-50, Notification of Personnel Action, a Leave and Earnings Statement, or your last W-2 form to verify your federal employment.

General information about the New York Unemployment Insurance Program can be found at http://www.labor.state.ny.us/ui/ui_index.shtm

39. 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 you can receive unemployment benefits. The “waiting period week” is the first week you file for and are otherwise eligible. You will not receive payment for this first week. However, it must be claimed to be counted. This does not mean you should wait a week before you file the claim.

Employees should have the following information available when filing a claim: your Social Security card, a copy of your furlough letter, and an SF-8 Notice to Federal Employees About Unemployment Insurance. In addition, you should have available a copy of a recent SF-50, Notification of Personnel Action, a Leave and Earnings Statement, or your last W-2 form to verify your federal employment.

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.

General Information about the North Carolina Unemployment Insurance Program: <https://www.ncesc1.com/individual/UI/uimain.asp>

40. 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 federal computer using the Internet Explorer browser. Instructions for accessing the eOPF can be found at <http://inside.bbg.gov/offices/hr/HRInformationSystems/Pages/eOPF-ElectronicOfficialPersonnelFile.aspx>. If you already have your login information, you can go directly to the eOPF login site here: <https://eopf.nbc.gov/bbg/>. You can only access this site from a computer on the agency network.

Once you have accessed your eOPF, click on “Show all docs.” Check the box next to your most recent SF-50, and click “print single sided.” Next you will have to click the navigation tab on the left “Print Status.” The eOPF system will likely take several minute to load the pdf copy of your SF-50. When it is ready, the “Action” column on the far right will have a link to “View” the document. Once ready, click “View” and you can print from there.

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

41. What is an SF-8, and how can I get a copy?

Unlike most employers, the federal government does not report wages to each state. The SF-8, or Notice to Federal Employees About Unemployment Insurance, is a form that identifies which federal agency you worked for and explains the nature of your unemployment – in this case the shutdown. It also details your right to file a claim for unemployment and eligibility requirements for unemployment insurance. For unemployment offices, the SF-8 helps expedite the unemployment verification process.

You will receive a copy of the SF-8 when you receive your official furlough notice. You should keep this form and take it with you if you file for unemployment benefits. Additional copies are available in the Office of Human Resources, Room 1543 Cohen.

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

If you have questions concerning unemployment benefits please call the Office of Human Resources.

43. What happens to my Thrift Savings Plan (TSP) account while I am in a non-pay status?

While in non-pay 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 inter-fund transfers. You also can make contribution allocation changes that will take effect when you are once again in pay status.

44. Can an employee obtain a loan from their TSP account while in a non-pay status?

An employee may not obtain a new TSP loan while in a non-pay 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.

45. Is furlough considered a break in service?

No, furlough means only that you are in non-pay, non-duty 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 43 below for more information.

46. To what extent does non-pay status affect civil service benefits and programs?

Non-pay status (which includes furlough) is credited as follows:

For career tenure, the first 30 calendar days of each non-pay period is creditable service.

For completion of probation, an aggregate of 22 workdays in a non-pay status is creditable service.

For Time-After-Competitive Appointment, non-pay service is creditable service.

For qualification purposes, there is no requirement to extend qualifying periods by the amount of non-pay status. However, agencies may require such extensions in order to meet training requirements or ability-to-perform requirements.

For time-in-grade requirements, non-pay status is creditable service.

For retirement purposes, an aggregate non-pay status of 6 months in any calendar year is creditable service. Coverage continues at no cost to employees while in a non-pay status. When employees are in a non-pay 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 non-pay status earlier in the year and the furlough causes him or her to have more than six-month time in a non-pay status during the same calendar year.

For health benefits, enrollment continues for no more than 365 days in a non-pay status. The non-pay 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 non-pay 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 non-pay status without cost to employees or to the agency. The non-pay 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 non-pay 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 non-pay 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 non-pay 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 non-pay status is limited to an aggregate of 6 months in a calendar year.

For reduction in force, an aggregate of 6 months in non-pay status in a year is creditable service.

47. 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 non-pay status for more than 6 months during any calendar year.

48. 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.

49. 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, retirement will be made effective as of the date requested but will not be processed until after the lapse in appropriations ends.

50. 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.

51. 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).

52. 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 non-pay 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.

E. Leave During a Furlough

53. 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 shutdown 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. However, a person on furlough who would otherwise receive paid court leave (e.g., for jury service), may receive pay from the court for their service that would otherwise not be payable because of the person’s entitlement to paid leave.

54. 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.

55. 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 non-excepted employee?

Non-excepted employees will be expected to work for up to four hours on their first regularly scheduled workday after a furlough begins. If a non-excepted employee has scheduled leave for October 1, the supervisor should determine whether it is necessary to require that employee to report for duty to perform orderly shutdown activities and be officially furloughed. Any previously approved paid leave that is scheduled to take place during the furlough period is cancelled.

Once the furlough begins, excepted employees are required to be at work.

56. 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.

57. If an employee is scheduled to take approved LWOP during a furlough, should the employee continue to be charged LWOP during the period of furlough?

Yes. Non-excepted 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.

58. 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.

59. 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.

F. Time and Attendance

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

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

During a funding gap, appropriations are not available for the payment of any obligation, including payroll. A subsequent continuing resolution or the FY 2014 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.

61. 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 up to 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 once they have completed the necessary closure work for the remainder of their work shift that day and thereafter until recalled to duty.

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

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

63. How should furlough time for non-excepted employees be reported if retroactive pay is approved for non-excepted employees?

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.

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

No.

65. 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 purposes.

66. 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 not reported. If an excepted employee is unavailable for work, then he or she should be furloughed. If retroactive pay is approved for employees, all previously scheduled sick and annual leave that fell within the furlough period would be reported as administrative leave.

67. 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.

68. 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.

69. 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.

G. Holidays

70. Will employees get paid for a holiday that occurs during a shutdown furlough?

No. An employee (including excepted employees) who does not work on a holiday will not receive pay for a holiday that occurs during a shutdown furlough.

71. 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.

72. 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. Of course, an employee cannot receive payment for working on a holiday until an appropriations act or a continuing resolution is enacted.

H. Hiring

73. Can hiring and recruitment continue during the shutdown?

An immediate hiring freeze will apply during a lapse in appropriations. Entry-on-duty dates 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.

74. Can applicants apply online through USAJOBS during the shutdown?

USAJOBS will remain up and running and applicants will be able to apply to open job announcements.

I. Training

75. 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.

J. Travel

76. 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 CFO.

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.

77. 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.

Any non-excepted employee who would like to extend their travel on “their own dime” must return for furlough.

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

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.

79. Who should I contact if I have other travel related questions?

If you have questions concerning business-related travel during a shutdown, please contact the Travel Office.

K. Obligations

80. 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

81. 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.

82. 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 CFO 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.

L. Events

83. 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.

M. Building Issues

84. 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 over the phone or by email.

85. What will happen with parking during a shutdown?

All parking regulations will be in effect. However, beginning at 1:30PM on Tuesday, October 1, 2013 holiday schedule parking procedures will go into effect for the Cohen Parking lot. 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 Tuesday, October 1st, 2013.

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.

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

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

87. 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.

88. Will the health unit be open during a shutdown?

Yes, the health unit will remain open.

N. Other Questions

89. Who should I contact with other questions about furloughs?

If you have any other questions concerning furloughs, please contact the Office of Human Resources or the OCFO, Payroll Office.

90. Do Contracting Officers Representatives (CORs) have any additional requirements in preparation for a shutdown?

CORs must evaluate all current contracts to determine if they should continue during a shutdown. The CORs need to directly contact the Contracting Officer assigned to the contract to let them know which contracts the CO will need to issue stop work orders for if a shutdown occurs on October 1st.

Guidelines for determining which contracts should be issued stop work orders are as follows:

Previously awarded contracts that continue in performance during a lapse in appropriations and have adequate funding previously obligated to permit continued performance during a shutdown period should generally be permitted to continue unless adequate oversight of contractor performance during a shutdown period cannot be accomplished or the goods or services are not deemed necessary during a shutdown. If adequate monitoring of contractor performance cannot be provided, suspension or reduction in performance of non-excepted services should be considered if authorized by the terms of the contract or if the contractor will negotiate such a suspension or reduction. Care should be taken not to incur unnecessary costs or jeopardize the BBG's future contractual rights by unilateral stop work orders or directions to reduce the scope of work that are not authorized by the terms of the contract or that will cause the contractor to incur costs that could subsequently be charged to the government. In conjunction with their Contracting Officer, Offices should review contracts to determine whether suspension or reduction in performance of non-excepted services is authorized by the terms of the contract. Contracting Officers should coordinate any such adjustments to the contracts, as appropriate.

Only a warranted contracting officer may issue a stop work order or rescind a stop work order. Both actions must be done via written modification. CORs or AOs do not have the authority to order a contractor to return to work. Since most contracting officers will be furloughed, it is possible that modifications rescinding the stop work order will not be processed in time for all contractors to return to work on the first day the government reopens.