



# **Furlough Due to Lapse in Appropriations**

## **Frequently Asked Questions**

As of January 28, 2026

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## 1. Reference

Office of Personnel Management (OPM) Guidance for Shutdown Furloughs dated December 2021, and Addendum to OPM Guidance for Shutdown Furloughs dated January 29, 2024.

## 2. Introduction

These questions and answers **augment** those provided in the OPM’s *Guidance for Shutdown Furloughs*, which can be found at: <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Shutdown-Furlough>. The questions and answers are specific to the issues raised by a shutdown furlough occurring when there is a lapse in annual appropriations and may not necessarily be the same for any future furloughs. **Additionally, it is advisable that staff send the SEC furlough FAQs to their personal email address for reference during a shutdown furlough.**

## 3. General Administration

### A. What is a shutdown furlough?

A shutdown furlough is the placing of an employee in a temporary non-duty, non-pay status because there is a lapse in appropriations, upon expiration of a continuing resolution or if a new continuing resolution or appropriation law is not enacted. In a shutdown furlough, the agency no longer has the necessary funds to operate and must shut down those activities that are not “excepted” by statute or other legal requirements and Office of Management and Budget (OMB) standards.

### B. Under what authority is a furlough taken?

For most employees, furloughs are covered under adverse action procedures found in Subpart D of Title 5 of the Code of Federal Regulations (CFR), Part 752.

### C. Who can be furloughed?

All employees other than individuals appointed by the President (with or without Senate confirmation) can be put in furlough status. However, during a shutdown furlough, employees engaged in excepted activities continue to report for duty.

### D. When would an SEC furlough take effect?

If the SEC does not have an appropriation upon expiration of the current continuing resolution, the SEC will face a lapse in appropriations and will be forced to furlough

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“non-excepted” employees. In the absence of either an enacted full-year appropriation or a continuing resolution (CR), no further financial obligations may be incurred by the SEC, except for those related to the orderly suspension of operations or performance of excepted or exempt functions as defined by statute or other legal requirements and Office of Management and Budget (OMB) standards.

SEC employees should continue to monitor their SEC email and The Exchange for additional guidance.

### **E. How will I be notified of a government shutdown?**

The SEC will distribute information via email and post relevant information on The Exchange.

### **F. How is an employee notified of their furlough status?**

All employees will receive an email notice from OHR informing them if they are exempt, subject to furlough, or excepted. The notice will include information about next steps relevant to their status (e.g., whether they are subject to furlough or will continue to work). [In the event of a shutdown furlough, can an employee be furloughed without first receiving a written notice of decision to furlough?](#)

Yes. While an employee must ultimately receive written notice of a decision to furlough, it is not required that such written notice be given prior to effecting the shutdown furlough.

### **G. How is an employee notified of the end of the furlough?**

Employees should listen to public broadcasts and monitor the Office of Personnel Management (OPM) website ([opm.gov](https://www.opm.gov)) to keep abreast of the latest news regarding the budgetary status of the United States Government. The SEC will notify impacted employees of the conclusion of the furlough using SEC Alerts. The notification will include instructions on reporting to work and options for employees who may experience difficulty meeting the reporting requirement. However, a liberal leave policy will be in effect on the day employees are scheduled to return to work.

### **H. May an employee volunteer to do his or her job on a non-pay basis (e.g., furloughed employee) or use Government equipment to conduct official Agency business during a furlough period?**

No. Unless otherwise authorized by law, an agency may not accept the voluntary services of an individual. (See 31 U.S.C. § 1342.)

## I. Can furloughed employees access the SEC network while furloughed?

Generally, no.

There are, however, specific narrow exceptions in which a furloughed employee may access the SEC network:

- I. To gain access to the Personal Trading Compliance System to pre-clear or confirm securities transactions, or to consult the prohibited financial interests and holdings list.
- II. To gain access to the Outside Employment Request service (located on askHR) as required to request approval for outside employment activities that the employee plans to undertake while furloughed. Furloughed employees do not need to use the Outside Employment Request service for activities that fall under the agency's blanket approval (see Ethics section below).
- III. To gain access to their SEC email to send their exit notification per Section 7.F below in the event they separate from the agency while furloughed; and
- IV. To gain access to Employee Express to obtain information about their earnings and leave, or to e-OPF to access their personnel records.
- V. Trial attorneys may use their SEC e-mail once per day for a period of no more than 15 minutes each day for the sole purpose of monitoring the court docket for their cases, including checking on the status of any motion for stay or continuance filed, and communicating any developments in the court docket to their supervisor or manager. Other than communicating any developments in the docket to their supervisor or manager, they are directed not take any other action until instructed by their supervisor or manager.

## 4. "Excepted" vs "Non-Excepted"

### A. Who are "excepted" employees?

The term "excepted" employee refers to employees who are excepted from a furlough (i.e., they are directed to work during a lapse in appropriations) by law because they are: (1) performing emergency work involving the safety of human life or protection of property; or (2) performing functions that are necessary to the discharge of the President's constitutional functions. Senior agency managers, in consultation with OGC, identify which positions meet the criteria above.

### **B. Are there employees other than “Excepted” employees who may be designated to continue working during a lapse in appropriations?**

Yes. To the extent the agency has available carryover funding in a particular year, the agency may identify “Exempt” employees to perform ongoing activities. These employees are not affected by a lapse in appropriations and their compensation will generally continue to be governed by normal pay, leave, and other civil service rules. Senior agency managers, in consultation with OGC, identify which positions meet the criteria above.

### **C. Are all employees who qualify as “emergency” employees for the purpose of weather emergencies considered to be “excepted” employees for the purpose of a shutdown furlough?**

No. “Excepted employee” is a separate category and should not be confused with “emergency employee,” which is a designation for those employees who must report for work in emergency situations such as severe weather conditions, power failures, or other continuity events.

### **D. How does SEC determine which employees are excepted?**

It is up to the management of each office/division to determine which positions they believe are excepted from the furlough, based on the criteria described above. Each office/division reviews the job duties of each employee when making this determination, and management makes the initial determination of which employees are needed to perform excepted activities. Additional criteria may apply to the selection process for bargaining unit employees, consistent with Article 50 of the Collective Bargaining Agreement. Final decisions are reviewed by OGC.

### **E. How do employees know if they are excepted from furlough?**

Employees will receive notification via email of their excepted status. “Excepted” employees will generally be notified of their excepted status before a shutdown occurs.

### **F. How are “non-excepted” employees notified?**

Employees who are non-excepted will receive a furlough notice via email.

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Employees who are not designated as excepted are prohibited from working during a shutdown, except to perform minimal activities as necessary to execute an orderly suspension of agency operations. These employees will be furloughed.

The Office of Human Resources (OHR) will provide “non-excepted” employees a furlough notice and Standard Form (SF) 8, “Notice to Federal Employees about Unemployment Insurance”.

### **G. Does an employee’s categorization of excepted or non-excepted last throughout the entirety of any lapse in appropriations?**

Not necessarily. The needs of the Commission may fluctuate throughout any lapse in appropriations. At times, more support may be needed. At other times, minimal support will be needed. Accordingly, offices and divisions will continually review the scope of duties necessary to support the safety of human life, the protection of property, or other excepted activities. Therefore, an employee’s “excepted” or “non-excepted” status is subject to change throughout any lapse in appropriations. Any change in status will be communicated to the employee; therefore, it is important that employees provide their supervisor with personal contact information for possible use during the shutdown.

### **H. How will SEC contractor personnel be notified during the furlough?**

Contracting Officers will work directly with the contracting companies/vendors to notify them of their status in the event of a government shutdown. It is ultimately the contractor’s responsibility to notify its employees.

### **I. Can “excepted” employees work on non-excepted activities during their workday?**

Generally, the answer is no. However, there may be cases in which an employee is required to perform excepted work intermittently throughout the course of the day, and the intervals in between are too short to enable the employee to be furloughed and then recalled in time to perform the function. In such cases, the employee may remain at work and may perform non-excepted functions during these intervals. The number of employees performing excepted functions on an intermittent basis must be minimized by consolidating the excepted functions to a smaller number of employees to the extent possible. Staff must consult with their management before performing non-excepted work in the intervals between intermittent excepted work.

### **J. May “excepted” employees telework?**

Employees who are designated as excepted, whether full-time or part-time, should continue to follow the regular rules regarding telework, including in-office requirements and ad hoc telework.

## **5. Non-Standard Employees**

### **A. What is the impact of a lapse in appropriations on a person who is working for the agency under an Intergovernmental Personnel Act (IPA) agreement?**

As a rule, personnel working under an IPA agreement may continue to work if the Federal portion of the cost was obligated prior to the lapse in appropriations AND unexpended funds remain on the agreement. If the particular IPA agreement were to exhaust its SEC funding during a lapse in appropriations, then the IPA personnel would generally be subject to furlough in the same manner as federal agency employees.

Since the terms of specific IPA agreements can vary, and the agency’s financial status may change over time, personnel working under an IPA agreement should check with their employing office and, if needed, the division/office’s business manager or administrative officer should seek confirmation of the financial status of the agreement with the Office of Financial Management (OFM).

### **B. Can a person working under an Interagency Agreement (IAA) with other Federal agencies be furloughed?**

The work status of personnel under IAAs is determined by the agency to which they report and by the source of funding for their work. If the agency to which the employee reports elects to stop work under the IAA, we cannot require the personnel to report to the office during a furlough. Also, if the SEC’s funding has lapsed and the employee’s pay is funded by the SEC, they may not continue working unless they are performing an excepted function. If you have personnel supporting your program under an IAA, please contact the Contracting Officer or Contracting Officer’s Representative (COR) for guidance.

### **C. If an office employs student interns, can they continue to work during a lapse in appropriations?**

No. Unless a student intern, paid or unpaid, is designated as excepted, they cannot work during furlough.

### **D. What happens to part-time and intermittent employees during a shutdown?**

Part-time or intermittent employees may only work during a shutdown if they are designated to perform excepted functions. For part-time employees who are not excepted, 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 may be called to work during furlough only to perform excepted functions.

### **E. What happens to employees on detail during a shutdown furlough?**

Employees on detail from one part of the SEC to another would be placed on furlough unless they are designated to perform excepted functions either as part of the detail or as part of the normal duties of their permanent position or are “exempt” employees.

For employees on detail from or to another federal agency, the answer depends, in part, on which agency provides the funding source of the work performed by the detailed employee. If the home agency experiences a funding lapse and is the funding source for the work, then the detailee would be furloughed unless the employee is “excepted” based upon the work they customarily perform in their position of record at the home agency or “exempt” from furlough. If the host agency shuts down due to a funding lapse, the detail may be able to continue, despite the shutdown, if the host agency can properly supervise the activities of the detailee. While the ultimate decision rests with the home agency, the home and host agency should discuss the status of a detailee during a government shutdown.

### **F. What happens to time-limited (i.e., NTE) appointments that expire during a furlough?**

Furloughs do not automatically extend the not-to-exceed date for temporary (5 CFR 316.401(c)) and term (5 CFR 316.301(a)) appointments. Managers who have employees with temporary or term appointments that will end during a furlough period should contact OHR prior to the start of the lapse in appropriations to discuss options for an extension of the time-limited appointment. Additionally, the employee may be reappointed after the furlough in accordance with 5 CFR § 316.301 or 5 CFR § 316.401.

### 6. SEC Shutdown Process

#### A. If Congress does not reach a budget agreement, do employees come to work the workday after the appropriation lapses?

SEC employees should monitor their email and the intranet for guidance regarding if, and when, the SEC will experience a shutdown.

If the SEC experiences a lapse in appropriations, non-excepted SEC employees must report to duty on their first scheduled workday following that funding lapse for up to a half-day (i.e., up to four hours) for the sole purpose of engaging in orderly shutdown activities.

“Non-excepted” employees are permitted to telework on the first day of the furlough to perform these shutdown activities.

“Excepted” employees should continue to follow the regular rules regarding telework, including in-office requirements and ad hoc telework.

#### B. Will I be paid for the time I work as an excepted employee? What about if I am furloughed?

In both circumstances, yes. After the lapse in appropriations has ended, employees who were required to perform excepted work during the lapse, or who were placed in a furlough status, will receive retroactive pay for those work periods. (See 31 U.S.C. 1341(c)(2).) Retroactive pay is provided at the employee’s “standard rate of pay.” If the retroactive pay cannot be provided on the normal pay date for the given pay period, it must be provided at the earliest date possible after the lapse ends.

#### C. What should I do if I am a non-excepted employee who would not normally work on the first day of the furlough due to an Alternative Work Schedule (AWS) or scheduled leave?

Unless directed otherwise, “non-excepted” employees should perform any necessary orderly shutdown activities (including receipt of a furlough notice) on the first workday the employee was scheduled to work after the lapse commences. Employees generally should not perform orderly shutdown work (up to 4 hours) on a scheduled day off (e.g., weekend day for employees with a Monday-Friday schedule, an AWS day off, or a holiday). Also, an agency generally should not direct an employee to perform orderly shutdown work on a day on which the employee was scheduled to be on leave.

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Supervisors who have employees on AWS or leave may make prior arrangements with them for completion of shutdown activities if possible.

### D. What do I do on the first workday of a shutdown?

In the event of a shutdown, non-expected/non-exempted SEC employees are required to participate in an orderly shutdown of the government. “Non-expected” employees will perform only those tasks necessary to ensure orderly closure and to safeguard property, records, and information. Employees will have up to four hours to complete the required set of activities. During that time, employees will complete shutdown activities, to include:

- I. **Non-expected (furloughed) employees will:**
  - a. Your Furlough Notice and furlough FAQ’s are not non-public information, you may send these documents to your personal email address.
  - b. Follow instructions from OHR on how to complete your time and attendance in Quicktime.
  - c. Make contacts outside the agency that are necessary to communicate the agency’s status to parties with whom you are transacting business that have a need to know.
  - d. Work with your supervisor to determine which meetings, hearings, testimony, depositions, etc., must be cancelled and make the required cancellations and/or postponements.
  - e. Document the status of projects so that they can be resumed, transferred, or otherwise appropriately handled when the SEC’s ultimate funding situation is determined.
  - f. Update your personal contact information in the [SEC Alerts system](#). For instructions, visit the [SEC Alerts System: Guides and Resources page](#). If you cannot access the SEC Alerts system, call the Office of Information Technology (OIT) Service Desk at 202-551-4357 to reset your account.
  - g. Secure non-public files and/or sensitive material in appropriate file cabinets and lock cabinets.
  - h. Retrieve any personal items that you may need during the shutdown.
  - i. Create an extended voice mail message and set Microsoft Outlook status to “out of office” (*see below for suggested language*).
    - ✓ **“Out of Office” Email Message:** Due to a lapse in appropriations, the U.S. Securities and Exchange Commission is currently closed. I am

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currently out of the office and will return to work once an appropriation has been enacted. During the closure, I will not be monitoring or responding to my emails. [Insert here any additional message provided specifically by your Office/Division]. Thank you.

- ✓ **Voice Mail Message:** You have reached the voice mail of [Name] at the U.S. Securities and Exchange Commission, [Division/Office]. Due to a lapse in appropriations, the U.S. Securities and Exchange Commission is currently closed. I will not be monitoring any voice messages during the closure, but you may leave a message if you wish to do so. [Insert here any additional message provided specifically by your Office/Division]. Thank you.

- j. Ensure that OIT can deploy critical security patches and software updates if needed during the shutdown:

- ✓ Log off or sign out of your SEC laptop but **do not turn it off or power down.**

- ✓ Keep your SEC mobile devices (iPhone and iPads) **powered on, charged, and connected to WiFi.**

- k. Provide your managers/supervisors with informal contact information for possible notification use during the shutdown (not required but recommended).

- l. Notify your supervisor that you have completed your orderly shutdown activities.

### II. Supervisors, in addition to the activities listed above under I., will:

- a. Follow instructions from OHR regarding timekeeping in Quicktime, and
- b. Ensure their team's shutdown activities have been appropriately completed.

## 7. Leave and Exiting Process

### **A. If an employee who received a furlough notice had previously scheduled annual or sick leave on a furlough day, what happens to the scheduled leave?**

Upon furlough, all scheduled paid leave is canceled (annual leave, sick leave, or other). Employees and supervisors will be provided specific instructions on how to handle this for purposes of timekeeping in Quicktime. Absences during the furlough may not be charged to leave.

### **B. May employees who were designated as “excepted” from a shutdown furlough be granted paid leave?**

A lapse in appropriations cancels an excepted employee’s previously approved paid leave or other paid time off. This does not mean that an excepted employee cannot seek approval to be excused from duty during a lapse. However, the excepted employee will be placed in a furlough status for any approved absence unless the employee requests to use paid leave. We expect that “excepted” employees generally will not choose to use their paid leave because they are entitled to retroactive pay for furlough periods without charge to leave.

### **C. Can my use-or-lose annual leave be restored if forfeited due to a lapse in appropriations?**

A lapse in appropriations constitutes an “exigency of the public business” that permits restoration of forfeited use-or-lose annual leave after the beginning of the new leave year. In order for use-or-lose annual leave to qualify for restoration, it must have been scheduled before the start of the third biweekly pay period prior to the end of the leave year, regardless of whether the affected employee is furloughed or excepted from furlough and must be unable to be used because of the furlough. If any furlough ends prior to the end of the leave year, employees in this situation must make every effort to reschedule any remaining use-or-lose annual leave for use before the end of the leave year.

### **D. If an employee is on approved leave without pay (LWOP), but affected by the furlough, would the employee be furloughed and LWOP terminated?**

No. The status of employees in LWOP is not disturbed unless there is an indication that the employee may return from the LWOP during the furlough.

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

No. Days associated with a furlough will not count against an employee's 12-week FMLA leave entitlement. However, an employee scheduled to take FMLA LWOP throughout the furlough period continues to be charged LWOP. The employee is not entitled to receive retroactive pay for scheduled LWOP periods that occur during a furlough period.

**F. May an excepted employee be permitted to earn compensatory time off and credit hours (under flexible work schedules) during the shutdown period?**

Yes. With agency approval, "excepted" employees may earn compensatory time off and/or credit hours subject to the requirements found in 5 U.S.C. § 5543 and §§ 6120 – 6133; and 5 CFR §§ 550.114, 551.531, and 610.401 – 610.408; or other applicable authority. Each agency is responsible for approving the number of hours an excepted employee can work related to the performance of excepted activities. Employees will not be permitted to use earned compensatory time off or credit hours during the shutdown period.

**G. If an employee or contractor separates (per SECR/SECOP 5-5) from the agency during a furlough, are there particular processes unique to exiting during a furlough?**

During a furlough, if an employee or contractor, regardless of their status as excepted or non- excepted, separates from the agency, they must:

- I. Email, via their SEC email, to the [ExitCoordinator@sec.gov](mailto:ExitCoordinator@sec.gov) and [ShippingInfo@sec.gov](mailto:ShippingInfo@sec.gov) mailboxes with the subject line **"Separating from the SEC"** and provide the following information:
  - a. their exit date,
  - b. home office (HQ, NYRO, etc.),
  - c. office number,
  - d. current supervisor and or COR,
  - e. personal phone number,
  - f. personal email, and
  - g. home address to receive shipping materials.

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Per SECR/SECOP 5-5, all exiting individuals are required to return all SEC assets such as PIV cards, office keys, GETS cards, passports, and IT portable and mobile assets (iPhone, laptop, monitor, etc.) in their possession. OIT will provide shipping materials and addressed return labels (via [ShippingInfo@sec.gov](mailto:ShippingInfo@sec.gov)) to the exiting individual for the return of these assets. If an employee was issued an Executive Directory for Market Contingencies (often referred to as the “Red Book”), it must also be included in the return envelope provided.

### 8. Pay

#### A. Will I be paid during the furlough?

Employees who are directed to work as “excepted” employees or are furloughed may not receive pay during a furlough, except as provided in 8(D) below. Compensation for employees who are designated as exempt is not affected by a furlough period and employees will receive pay in accordance with normal rules and timeframes.

#### B. Will “excepted” employees be paid at the end of the furlough for performing work during a shutdown furlough? If so, when will “excepted” employees receive this payment?

Yes. After the lapse in appropriations has ended, employees who were required to perform excepted work during the lapse will receive retroactive pay for those work periods. (See 31 U.S.C. 1341(c)(2).) Retroactive pay is provided at the employee’s “standard rate of pay.” If the retroactive pay cannot be provided on the normal pay date for the given pay period, it must be provided at the earliest date possible after the lapse ends.

#### C. Will employees who are furloughed get paid at the end of the furlough even though they may not have worked at any time during the furlough?

Yes. After the lapse in appropriations has ended, employees who were placed in a furlough status will receive retroactive pay for those work periods. (See 31 U.S.C. 1341(c)(2).) Retroactive pay is provided at the employee’s “standard rate of pay.” If the retroactive pay cannot be provided on the normal pay date for the given pay period, it must be provided at the earliest date possible after the lapse ends.

**D. Will employees who are subject to furlough receive a paycheck for hours worked prior to a lapse in appropriations?**

Yes, when a lapse occurs in the middle of a pay period, the payroll for the portion of the pay period occurring prior to the lapse will be processed and deposited on time.

**E. When an employee's pay is insufficient to permit all deductions to be made because a shutdown furlough occurs in the middle of a pay period and the employee receives a partial paycheck, what is the order of withholding precedence?**

This Order of Precedence for civilian Federal employees applies **only** when gross pay is not sufficient to permit all deductions; it will be used to determine the order in which authorized deductions from an employee's pay will be processed. More detailed information can be found at: [OPM Letter PPM-2008-01; Order of Precedence When Gross Pay Is Not Sufficient to Permit All Deductions.](#)

- a. Retirement
- b. Social Security (OASDI) Tax
- c. Medicare Tax
- d. Federal Income Tax
- e. Basic Health Insurance Premium
- f. Basic Life Insurance Premium
- g. State Income Tax
- h. Local Income Tax
- i. Collection of Debts Owed to the U.S. Government
  - ✓ Continuous Levy under the Federal Payment Levy Program (tax debt)
  - ✓ Salary Offsets
- j. Court-Ordered Collection/Debt
  - ✓ Child Support
  - ✓ Alimony
  - ✓ Bankruptcy
  - ✓ Commercial Garnishments
- k. Optional Benefits
  - ✓ Health Care/Limited-Expense Health Care Flexible Spending Accounts
  - ✓ Dental
  - ✓ Vision

### **F. How do I access my Earnings and Leave Statement while furloughed?**

A furloughed employee may continue to access their Earnings and Leave Statement via Employee Express. Accessing Employee Express through the SEC network is authorized as an exception (see 3.J. above).

## **9. Benefits**

### **A. Transit Benefits**

#### **I. Will employees continue to receive the transit benefit subsidy?**

“Excepted” employees traveling to work (who typically receive transit benefits) may continue to use those benefits as usual. “Non-excepted” employees, unless their status changes, may not use benefits for the period they are not working.

#### **II. What happens if my transit benefits are swept and not immediately available after a shutdown ends?**

Depending on the timing and duration of a shutdown, it is possible that transit benefits may not be immediately available upon resumption of normal operations. If that occurs, you may need to cover your transit expenses out-of-pocket and apply to receive reimbursement. OHR will provide further instructions once normal operations resume.

### **B. Health Benefits and Insurance**

#### **I. Will benefits open season be extended or delayed if there is a lapse in appropriations?**

If a shutdown occurred during a benefits open season, the Office of Personnel Management (OPM), which provides oversight of the Federal benefit programs along with their open season policies, rules, and regulations, would make that determination. We will update these FAQs in the event a shutdown were to have an impact on any benefits open season.

**II. Federal Employee Health Benefits (FEHB)**

- a. Will employees continue to be covered under the Federal Employee Health Benefits (FEHB) program during a shutdown if the agency is unable to make its premium payments on time?**

Yes, employee FEHB coverage will continue. 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.

- b. What happens if an employee wants to terminate Federal Employee Health Benefits (FEHB) coverage while in a non-pay status in order to avoid the expense?**

Unlike other types of non-pay status, employees in a non-pay status due to a lapse of appropriations 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.

**III. To what extent does a shutdown furlough affect Federal Employees Dental and Vision Insurance Plan (FEDVIP) coverage?**

Coverage will continue for an individual enrolled in FEDVIP who is furloughed or excepted from furlough and working without pay during a lapse in appropriations, and an enrollment may not be canceled as a result of nonpayment of premiums or other periodic charges due to a lapse. (See 5 CFR 894.405.) Payroll deductions will temporarily cease for any employee that does not receive pay. Employees are entitled to retroactive pay under 31 U.S.C. 1341(c)(2) for excepted work performed during the lapse and for furlough periods at the standard rate of compensation. At the end of the shutdown, the accumulated FEDVIP premium for this period will be withheld from their pay. If FEDVIP premiums are not withheld from retroactive pay, no more than one additional payment will be withheld in each subsequent pay period until all premiums have been paid.

**IV. To what extent does a shutdown furlough affect MetLife Dental/Vision coverage?**

Coverage for employees enrolled in the dental and vision plans will continue. Any premiums due will accumulate and be withheld from pay upon return to pay status.

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### V. The following SEC plans allow for continuation of coverage in a non-pay status, and premiums will be withheld from pay upon return to pay status.

Short/Long Term Disability

Life with Accidental Death and Dismemberment Met Law

Auto/Home

Critical Illness, Accident Insurance and Hospital Indemnity

## C. Miscellaneous Benefits

### I. What happens to an employee's Federal Employees' Group Life Insurance (FEGLI) Program coverage if furloughed?

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.

**Exception:** If an employee is receiving workers' compensation benefits during these first 12 months, their continued coverage will not be free. The U.S. Department of Labor will withhold premiums from their workers' compensation payments. An employee's coverage will terminate after 12 months of non-pay status, or when the employee separates from the agency, if earlier. The 12 months may be continuous or broken by periods of less than four consecutive months of pay status. When the employee's coverage terminates, they will have the right to convert their coverage to an individual policy or continue coverage as a compensationner, if eligible.

### II. What happens to an employee's Flexible Spending Account (FSAFEDS) coverage if furloughed?

Payroll deductions will cease for any employee that does not receive pay. The employee remains enrolled in FSAFEDS, but eligible health care claims incurred during a 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 periods to match the participant's election amount.

Eligible dependent care expenses incurred during a non-pay status may be reimbursed up to whatever balance is in the employee's dependent care account—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.

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

FLTCIP coverage will continue for enrollees who are furloughed or excepted from furlough and working without pay during a shutdown based on a lapse in appropriations. In addition, FLTCIP coverage may not be canceled as a result of non-payment of premiums or other periodic charges due to a lapse in appropriations. (See 5 CFR 875.302.) Employees paying premiums via Direct Bill or Automatic Bank Withdrawal will continue to be billed, but the insurer will not terminate for non-payment of premiums during the lapse in appropriations. Regarding claims eligibility requests for FLTCIP during a shutdown, claim benefits will not be reimbursed to the enrollee until all past due premiums are paid. At the end of the shutdown, FLTCIP premiums will be withheld from retroactive pay provided under 31 U.S.C. 1341(c)(2) or may be paid back from another source (i.e., automatic bank withdrawal) for FLTCIP enrollees who elected to make payments directly to the Carrier. If missed premium payments are unable to be collected via automatic bank withdrawal or deductions from the enrollee's payroll or annuity/pension, enrollees will be billed directly for the premium amount due. After the shutdown, if the enrollee elected to pay their premium via automatic bank withdrawal, past due premiums will be collected by withdrawing up to two months of premiums from the enrollee's bank account each month until it is current. For enrollees who did not elect to make payment directly, FLTCIP premiums will be paid to the Carrier from enrollees' retroactive pay made available as soon as practicable upon the end of the lapse.

### **IV. Thrift Savings Plan**

#### **a. What is the effect of a shutdown on Thrift Savings Plan (TSP) contributions, investments, and loans?**

Employees should refer to the TSP website [www.tsp.gov](http://www.tsp.gov) for the latest information.

### **V. Unemployment Compensation**

#### **a. Are employees entitled to unemployment compensation while on furlough?**

Employees may be eligible for unemployment compensation. State unemployment requirements differ. The Office of Human Resources (OHR)

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will provide furloughed employees with an SF-8, *Notice to Federal Employee about Unemployment Insurance* form.

**b. Is information available as to what the states require before processing a claim for unemployment because of a furlough?**

Yes. You can visit [Unemployment benefits](#) | [CareerOne Stop](#) for instructions for each state when filing an initial claim for unemployment.

### 10. Travel

**A. Who is allowed to travel during a lapse in appropriations?**

“Excepted” employees may travel on government business during a lapse in appropriations, and only if necessary for the performance of an excepted activity. New travel authorizations will need to be coordinated with David Weise ([weised@sec.gov](mailto:weised@sec.gov) or 202- 551-8463) in the OFM Travel Office. Travel authorizations will need to include an attestation from the traveler in the remarks section that the trip is necessary for the performance of an excepted activity. OFM will confirm excepted status with the appropriate office and OGC. In addition, staff who are “exempt” from furlough may continue normal business functions including travel during a lapse in appropriations.

**B. What do employees do if they are on travel on or about the date the appropriation lapses?**

If employees are still on travel after a lapse in appropriations and are not excepted, they will be contacted by the OFM Travel Office and asked to return from their trip as soon as practicable. If employees have travel scheduled to begin after a lapse in appropriations and are not an excepted employee, those trips will be cancelled or postponed by OFM, as close to the departure date as possible.

If an excepted employee is already scheduled to be on travel soon after the start of a lapse in appropriations, the travel authorization will need to be approved in coordination with David Weise ([weised@sec.gov](mailto:weised@sec.gov) or 202- 551-8463) in the OFM Travel Office. A remark or attachment will need to be included with the travel authorization showing approval from a senior officer in the relevant division or office and OGC that the trip supports an excepted activity.

**C. Will someone from the OFM Travel Office contact me?**

Those scheduled to travel on or about the date the appropriation lapses will receive more detailed guidance from the OFM Travel Office to help plan for a lapse in appropriations. The OFM Travel Office also will ask those employees scheduled to travel on or about the date the appropriation lapses to provide their best contact information so OFM can contact them in the event of a lapse in appropriations.

**D. Prior to the lapse in appropriations, can employees request new travel which would start after the date the appropriation lapses?**

All travelers can continue to process new travel authorizations in the E2Solutions system as normal, in anticipation of a budget or continuing resolution being passed by Congress. However, if a lapse in appropriations occurs and the trip does not support an excepted activity, the trip will be cancelled by OFM as close to the departure date as possible.

**E. For travel that occurred prior to a shutdown, or for “excepted” travel occurring during a shutdown, will I be able to submit a voucher and receive reimbursement?**

No, once a shutdown starts, the SEC will not be able to review or approve any vouchers. As a result, no reimbursements for trips taken before or during the shutdown will be paid once the shutdown starts. We still encourage all travelers to use their government issued travel charge card for all eligible expenses. You can either (1) pay the bill and wait to receive reimbursement once a shutdown ends, or (2) leave the bill unpaid during a shutdown, and once the SEC reopens, seek reimbursement, and pay it. US Bank will not enforce any delinquencies while the government is shut down, which means it will not close delinquent cards nor notify credit agencies for any cards delinquent longer than 120 days.

**F. What happens to travel if the government does not shut down?**

All SEC travel will continue without interruption.

## 11. Union Representatives

### **Are employees who serve as union representatives on 100% official time subject to the furlough?**

Yes. In general, union representatives on 100% official time are not performing an excepted activity and therefore, are subject to furlough. As a result, the deadline for filing a grievance will be tolled as set forth in Section 16(A) below.

## 12. Training and Development

### **A. May an employee attend scheduled training on a furlough day?**

No. An employee cannot attend any training that falls on a furlough day. Also, an employee cannot work on any training assignments on a furlough day. Employees should consult with the training provider to make other arrangements (e.g., make-up sessions or rescheduling the course).

### **B. What are employees who are in a long-term developmental assignment or activity allowed to do on furlough days?**

Employees cannot attend any developmental activities or work on any developmental assignments on a furlough day. In general, SECU program managers and those who run various developmental programs in which the SEC participates are aware of the furlough and will, to the extent possible, work to mitigate the effect of the furlough on participants (e.g., by allowing the individual to participate on another day). Employees should consult with SECU for more information.

## 13. Ethics

### **A. Will the Ethics Office have coverage during a shutdown?**

Yes, an Ethics Official will be “excepted” from the furlough and will be available to assist you.

### **B. Do the Supplemental Regulations regarding pre-clearance of transactions in securities still apply during a shutdown?**

Yes.

### **C. If I am a furloughed employee, can I access the Personal Trading and Compliance System (PTCS)?**

Yes. You can access the PTCS to preclear a transaction by using your SEC-issued computer to log in to the SEC network [via VPN](#).

### **D. What if I cannot access PTCS?**

You will be required to call the Ethics Office to have the on-duty Ethics Official enter the proposed transactions on your behalf in PTCS. You will still be required to await receipt of pre-clearance approval before making any transactions.

### **E. Will I still be required to confirm transactions I have made as well?**

Yes, using the same methods as above.

### **F. Will I still be required to complete my OGE Form 450 (Confidential Financial Disclosure Report) during a furlough?**

The requirement to file an OGE Form 450 cannot be waived due to a government shutdown. However, the Ethics Office will issue appropriate extensions of the filing deadline as necessary. Therefore, you should not access the Confidential Financial Disclosure System (CFDS) to complete your OGE Form 450 if you are a required filer until the government reopens. The Ethics Office will issue guidance to employees regarding any extensions of the filing deadline.

### **G. If I need advice about seeking employment during the shutdown, what do I do?**

Call the Ethics Official on duty for assistance.

### **H. Am I allowed to engage in outside employment while I am furloughed?**

Yes, subject to the restrictions contained in the SEC's supplemental ethics regulations.

### **I. Will I be required to seek prior approval before taking outside employment?**

Yes, you will need to seek approval via the [Outside Employment Request](#) service unless the outside employment falls under the agency's blanket approval. SEC employees have a blanket approval to engage in non-professional employment provided that it is: (1) unrelated to the work of the SEC; (2) unrelated to the employee's profession; **and** (3) has little to no chance of conflicting with the employee's position at the SEC. See

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[Guidance on outside employment](#). An Ethics Official will also be available to assist you during the shutdown.

### **J. I am a Senior Officer. Does the Chair’s Directive requiring me to receive ethics counseling prior to starting a job search still apply?**

Yes. An Ethics Official will be available to assist you during the shutdown.

### **K. I may end my employment with the Commission during the shutdown. Am I still required to receive an ethics exit briefing?**

Yes. An Ethics Official will be available to assist you during the shutdown.

### **L. How should I contact the Ethics Office during the shutdown?**

You can reach the Ethics Office at 202-551-5170 or [AskEthics@sec.gov](mailto:AskEthics@sec.gov).

## **14. Acquisitions**

### **A. Can contractors continue to work during a lapse in appropriations?**

A contractor may continue performance of a contract if the SEC has already obligated funds on the contract and there are enough unexpended funds left to cover the work to be performed so long as:

- I.** Agency oversight or support of the contract during the lapse period *is not critical* for contract performance to continue. Supervision or support is not critical if the contractor can successfully perform without agency direction or any needed contract action -- e.g., approval of a deliverable, notice to proceed to the next milestone, etc. The need for SEC direction or oversight to ensure successful performance will typically be a case-by-case determination based on the nature of the work, the status of contract performance, the contractor’s experience, and related factors. Also, the judgment of whether federal supervision is critical may change over time if an appropriations lapse is more prolonged.

**OR**

- II.** Agency oversight or support of the contract during the lapse period *is critical* for contract performance to continue, and the contract:
  - a.** supports an orderly shutdown of government activities;
  - b.** addresses an imminent threat to the safety of human life or the protection of property; or

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- c. carries out a funded function that would be prevented or significantly damaged by contract suspension (generally limited to Reserve Fund programs).

In situations where contract performance may continue, the Agency should consider whether having the contract move forward is a sensible use of taxpayer funds in light of the lapse of appropriations and any resulting reductions in working staff and/or necessary contractor services. If continued contractor performance would be wasteful, the agency should consider suspending contract performance or reducing the scope of services provided.

If you have questions about how the criteria might apply to a contract supporting your program, please contact the Contracting Officer or Contracting Officer's Representative (COR) for guidance.

### **B. Can contractors who normally work on-site at government facilities work off-site at their corporate headquarters or home offices?**

Under recent SEC policy, the only contractor functions being performed in SEC facilities are those that must be performed there to fulfill the requirements of the contract. So, in general, if an onsite contractor activity can continue under a lapse in appropriations, then it should continue to be performed onsite.

If there are unique circumstances or questions, you should coordinate with the Contracting Officer or Contracting Officer's Representative (COR) for guidance.

### **C. What happens if a contractor works at an SEC facility, but few people are working at that facility?**

If the SEC only has a very limited set of excepted staff working onsite at a facility, some contract work at an SEC office may have to be suspended. The Contracting Officer's Representative (COR) should work with the contractor and the Contracting Officer regarding how such work will be handled. The Contracting Officer may need to issue a stop work or suspension of work order. There may be some exceptions, such as if the contract is already funded and all or some of the work could be performed elsewhere - work on funded contracts that can be performed off site could continue that way. Such limited exceptions need to be addressed on a case-by-case basis.

**D. When an appropriation has lapsed, may an agency incur a new obligation – by signing a new contract, or by extending a contract, or by exercising a renewal option – when the funding source for that obligation would be the lapsed appropriation?**

No – except in very limited circumstances. An agency can incur a new obligation during a lapse only if necessary to support an excepted function, such as to address imminent threats to the safety of human life or the protection of property.

Agency staff should work with OFM and OGC to establish if such an exception may be appropriately invoked.

Any contract awarded under this exception should include the clause at FAR 52.232-18 “Availability of Funds.” This clause puts contractors on notice that funds are not available until or unless appropriations are enacted. Contractors would not be prohibited from proceeding “at risk,” understanding that the government will fund the contract if funds become available. The clause establishes that the government has no legal liability for any payment before funds are made available. The SEC should use such awards very carefully and only when the services are for “excepted” Commission functions.

**E. Will the SEC issue stop work orders to contractors, or simply provide general guidance to its contractors and Contracting Officer’s Representatives (CORs)?**

The SEC will provide general guidance to its contractors and CORs, although coordination with the COR and the Contracting Officer for the specific contract in question is recommended.

**F. Will the Government pay contractors, and will contractor work continue to be reviewed by government staff during a shutdown?**

If the contract has been funded and the contractor is authorized to continue work, the contractor will earn its right for appropriate payments. However, unless staff are excepted from furlough to perform payment processing in accordance with Questions 1 and 7, or until such time as SEC payment processing employees return to work, payments to such contractors cannot be made. Interest would accrue on any late payments. It is unlikely that these issues would become a serious problem unless the shutdown is lengthy. If you have questions, refer to your Contracting Officer and Contracting Officer’s Representative (COR).

**G. The agency has previously awarded a contract, and the contractor is in the midst of performance. In addition, the agency has determined that, due to a lapse in the appropriation that funds the Federal employees who monitor or support the performance of the contract, those Federal employees cannot continue these activities during the funding lapse. In the absence of such monitoring or support, may the contractor nevertheless continue performance?**

If, during the lapse period, federal staff monitoring or support is not critical to the contractor's continued performance, then the contractor may continue its work. The agency would not have to issue an affirmative direction to the contractor to continue performance, such as a notice to proceed.

However, if over time federal monitoring or support becomes critical to the contractor's continued performance, then the activity can continue only if it supports an excepted function, an orderly shutdown of government activities, or an activity not subject to a lapse in appropriations. Otherwise, OA should be notified so that a Contracting Officer can instruct the contractor to suspend performance as needed.

**H. Can a contract option be exercised during a shutdown?**

Generally, no. Options may be exercised only if the Contracting Officer has determined that funds are available, unless the work supports an excepted function, such as addressing imminent threats to the safety of human life or the protection of property.

**I. What happens if we have ordered supplies that are due to be delivered during the period of government shutdown?**

Suppliers will continue to conform to contract requirements with respect to delivery of supplies. They will not be held accountable to meet delivery schedules if they are unable to deliver the supplies due to a government shutdown. Excepted government personnel may accept delivery of supplies.

**J. Can a Government Purchase Card holder use his/her government purchase card during a shutdown?**

If an employee who is an authorized government purchase card holder is deemed excepted, then the purchase card holder can use the card for an authorized excepted function. The employee must first obtain OFM's approval on a commitment of funds and their Approving Official's approval before they can make a purchase. If an excepted employee does not have a purchase card, they must also obtain a

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commitment and prepare a purchase request, and forward to the Office of Acquisitions (OA) so they can make the purchase.

### **K. Can “non-excepted” employees use their government purchase card?**

No. GPC purchases in support of excepted activities would need to be handled by an excepted employee who is a government purchase cardholder or by a cardholder from the Office of Acquisitions.

### **L. Can the supervisor of a non-excepted employee use that employee’s government purchase card in his/her absence?**

No -- and NEVER -- under any circumstances. Regardless of the type of employee you are, only authorized purchase cardholders can use the card provided to them to buy goods or services. At no time may any person other than an authorized purchase card holder use the purchase card in his/her absence.

### **M. Will vendor invoices be paid during the government shutdown?**

During the shutdown, invoices will continue to be received but will not be paid as this is not an excepted activity. Based on the length of the shutdown, however, additional guidance may be provided that payment of invoices for obligations incurred prior to the lapse is an excepted activity. If this occurs, CORs may be recalled from furlough, as needed, to process the invoices for payment.

## **15. Facilities**

### **A. Will employees be able to access SEC facilities?**

Yes. However, non-excepted/furloughed employees are not allowed to enter SEC facilities to perform work (or work-related tasks) and generally should avoid entering SEC facilities during a furlough to avoid the appearance that they are in work status. “Non-excepted” employees should take home any personal or perishable items that you might routinely leave at the office (e.g., gym clothes, eyeglasses, personal electronics, plants, or food items that could spoil).

Points of entry to the building will be limited.

### **B. Will mail and deliveries continue during the shutdown?**

Guards will respond to calls for delivery at the loading dock at Station Place and will coordinate with excepted facilities staff to accept delivery.

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Shipments from US Postal Service, FedEx, UPS, and other carriers will be accepted on weekdays. Guards will be present to operate X-ray equipment. Mailroom staff will accept shipments and distribute mail/packages to respective mail rooms. Items for which signatures are required but cannot be obtained will be stored in the mail center.

### **C. Is parking available in the SEC HQ building during a shutdown?**

Parking at the SEC Headquarters at Station Place is managed by Colonial Parking. The parking garage will remain open for all SEC staff with a parking pass or on a first-come, first-served basis at a rate of \$18 a day. Please note that monthly parking pass fees will not be suspended during a shutdown and spaces cannot be held without payment. Staff who choose to cancel their monthly parking pass will forfeit their space in the garage and it will be offered to the next person on the waitlist, as there is no option to “suspend” or hold a monthly parking pass space without payment.

### **D. Will health units remain open during the furlough?**

The health unit at Station Place and Federal Occupational Health (FOH) Units in the regions will be closed during a shutdown. The Employee Assistance Program (EAP) will, however, continue to operate. Employees can reach EAP by calling 1-800-222-0364.

### **E. Will the Harbor at Station Place (Bright Horizon Child Care Center in Station Place) be open during furlough?**

The Harbor at Station Place will remain open and continue normal operations during an SEC shutdown.

## **16. Miscellaneous**

### **A. What about time frames for proceedings before the Equal Employment Opportunity Commission (EEOC), MSPB, grievances, etc.? Will a period of furlough extend the time frames?**

Please review the applicable guidance and orders from the EEOC, MSPB, or other venue. In the absence of an order staying or extending proceedings, furloughs may not automatically extend time limits. Thus, timely requests should be made to extend time limits in situations where the adjudicator has the authority to extend them.

With respect to grievances filed under the 2023 Collective Bargaining Agreement or SECR 6-25 (Administrative Grievance Procedure), the SEC will toll all deadlines for the

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duration of the furlough. In other words, the SEC will automatically extend the deadline to file a grievance by the number of furlough days.

### **B. Will [Backup Child Care](#) services be available to employees?**

Backup Child Care is designed to allow employees to continue to work when their normal care giving options are unavailable. Therefore, Backup Child Care services will only be available to those identified as an “excepted employee.”

### **C. Will [Employee Assistance Program](#) and [WorkLife4You](#) services be available to employees?**

Yes. All employees (both excepted and “non-excepted” employees) will continue to have access to these services via 1-800-222-0364. Note: No EAP counselor will be available on-site at Station Place during the furlough.

### **D. If the furlough impacts my ability to meet my financial obligations (e.g., mortgage or rent payments), will it impact my eligibility for continued suitability for Federal employment, access to classified information, or to hold a sensitive position?**

A furlough is a circumstance beyond your control. The Federal Adjudicative Guidelines specify that the adjudicative process is the careful weighing of a number of variables known as the “whole person concept.” Mitigating factors include whether the conditions that resulted in the concern were largely beyond the person's control and whether the individual acted responsibly under the circumstances. As a proactive measure, you may wish to contact your local Employee Assistance Program (EAP) to see if financial planning is available.

### **E. What should I do with my SEC-issued laptop and mobile device(s) if we go into a shutdown?**

Log off or sign out from your laptop but **leave it plugged in and connected to WiFi**. You also need to keep your mobile device (iPhone, iPad) **powered on, charged, and connected to WiFi**. This allows OIT to deploy critical security patches and software updates that protect your devices from new threats and vulnerabilities. Additionally, save any important files to your OneDrive or other approved network location to ensure that your files are backed up and protected.

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### **F. What should I do with my SEC mobile devices and PIV card during a shutdown?**

Please keep them in a secure place at all times.

### **G. As a new employee, I do not have access to SEC Alerts. If I can't gain access before a shutdown, how do I receive alerts?**

You have the option to add personal contact methods by logging in to your [SEC Alerts account](#) and updating your profile. For instructions, see the [SEC Alerts System: Guides and Resources](#) page. If you are unable to do this before completing orderly shutdown activities, you may listen to recorded messages with the most current information by calling the SEC Alerts hotline at 1-844-412-5378 (or 1-844-41-ALERT).

### **H. What should I do if the shutdown causes me to miss a pending appointment to pick up a PIV card?**

You may [request an IT exception](#) for the PIV card requirement as part of your shutdown activities. OIT and OSO will then process that request as part of their shutdown activities. Please **do not cancel your appointment** unless otherwise directed.