

Foreign
Agricultural
Service

2018

Agency Shutdown
Plan Contingency
Plans

Revised January 26, 2018

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Foreign Agricultural Service Shutdown Procedures

Introduction:

A government shutdown is caused by an absence of appropriation. In recognition that it takes time to shutdown in an orderly manner, certain activities are allowed to continue past the appropriations lapse. Accepted practice and previous guidance instruct agencies to take steps to protect both life and property and determine excepted functions and the excepted** personnel needed to carry out those functions as a part of an orderly shutdown. In the absence of further guidance FAS intends to follow this instruction in making its contingency preparations.

The following assumptions are provided to assist offices in implementing an orderly shutdown. The word “excepted” is used below to refer to activities that would not be affected by the lapse in annual appropriation.

Assumptions:

1. All Washington staff are to report to work on the first business day of the shutdown. Tasks would include the identification of activities remaining to be addressed and communicating those things to those in the office designated as excepted personnel. These include:
 - a. Activities that are financed from available funding sources (see 5 below);
 - b. Travelers who may be en-route home who need to be accounted for;
 - c. Foreign travelers that need to be administratively supported;
 - d. Outstanding time and attendance/payroll functions;
 - e. Activities relating to shutdown, e.g. notification of contractors;
 - f. Verifying property inventories are in hand; and
 - g. Securing and storing records, files or work in progress.
2. FAS will determine who among FAS Foreign Service personnel posted overseas, are to be excepted personnel at a U.S. Embassy, Consulate, or other U.S. facility. FAS, in consultation with OFSO, determines those individuals excepted from furlough on post. Instructions for all LES and FSNs will be issued by FAS/OFSO based on local labor laws.
3. Employees should plan travel to return to home immediately following a lapse in funding.
4. Network communications by excepted personnel are exempt from non-use rule. Email and access to network files and applications will remain available so that necessary actions can be completed. Non-excepted personnel may not use government equipment or access network files during the shutdown period.
5. Activities funded through reimbursable agreements are not considered excepted and would not continue during a lapse in annual appropriation. Staff funded by USAID (Participating Agency Service Agreements (PASA) and other Schedule B (excepted service) are generally not excepted. Exceptions may be made in cases where staff are assigned overseas and therefore, fall under the Chief of Mission or where staff are assigned to an office within USAID where functions are considered essential. In those cases, FAS will work with the funding office to make that determination prior to the shutdown date. However, as a condition, administrative support and supervision, if required, funding must be available and in place for

the work to continue. If administrative support or supervision is needed and no funds are available, the Schedule B employees may not continue to work during the shutdown regardless of funding source.

6. Personnel to support activities excepted from the shutdown would remain on duty; other non-excepted personnel would be released following further guidance on shutdown furloughs from Human Resources or Office of Personnel Management.
7. Announcements relating to shutdown including return to work notifications would be available from Office of Personnel Management, web sites, and other media/news outlets.
8. Official telephone communications by excepted personnel are allowable. Non-excepted personnel are not to use government phones, PDAs, or computers while in shutdown furlough status. Any "on-call" or "re-called" employees are to be contacted via personal phones or email addresses during this time.
9. Contracts in support of excepted activities may continue. If the contract requires administrative support or supervision, that administrative support or supervision must be excepted and available during the period of shutdown, otherwise work cannot continue.

**** Definitions provided by OPM:**

- *Who are "excepted" employees?*

In the context of shutdown furloughs, the term "excepted" is used to refer to employees who are funded through annual appropriations who are nonetheless excepted from the furlough because they are performing work that, by law, may continue to be performed during a lapse in appropriations. Excepted employees include employees who are performing emergency work involving the safety of human life or the protection of property or performing certain other types of excepted work. Agency legal counsels, working with senior agency managers, determine which employees are designated to be handling "excepted" and "non-excepted" functions.

- *Who are "exempt" employees?*

Employees are "exempt" from furlough if they are not affected by a lapse in appropriations. This includes employees who are not funded by annually appropriated funds. Employees performing those functions will generally continue to be governed by the normal pay, leave, and other civil service rules.

Logistical preparations that each office should be working on in advance of shutdown:

1. Contact lists for all office staff which would include alternative means for getting in touch with employees after they have been released. Lists would also include those employees posted overseas.
2. List of contracts, agreements, and/or grants and the systems needed to oversee them, with a focus on any upcoming events in the instrument's life cycle that will be occurring on or around this time period, (e.g., renewals, exercising option years, closures, monitoring /review processes, etc.).
3. Inventory of property including information technology (IT) equipment, other specialized equipment that is FAS-owned and the listing and location of all electronically held inventories.
4. Identification of excepted functions in your office necessary in an orderly shutdown process, relating to activities such as travel, financial certification, or other functions requiring an action.
5. Updating a list of individuals with knowledge and skills pertinent to a government shutdown with understanding of how to access and use required systems, including those with the authority to take certain actions (e.g. approvals, certifications, etc.).
6. Contact lists of grantees, contractors, cooperators and others that may need to be contacted if the period of shutdown becomes extended.
7. List of those on travel status. This list would eventually become a list of those who still may be on travel that need to be assisted in returning home.
8. Back-ups or alternate personnel to support excepted functions should be identified in case of illness of first line excepted staff.

Categories of excepted personnel:

- I Applies to those employees that are military, law enforcement, or directly provide health;
- II Applies to those employees financed from available unexpired funds;
- III Applies to those employees that protect life and property.

These categories must be applied to the Agency Excepted Activities Table.

Procedures:

1. Prior to the Shutdown:
 - a. The Administrator will issue a memorandum to employees and/or forward a Department memorandum, if available, reporting the status of funding. If a shutdown occurs, any remaining annually appropriated funded travelers will be instructed to return to their duty station.
2. First half of Day 1 (First day in the absence of appropriation):
 - a. All employees are directed to report to their supervisors to receive assignments of duties or other pertinent information for an orderly close down. For those employees teleworking, "reporting-in" may be done by telephone.
 - b. Based on guidance from OMB and or the Department and/or OBPA, the Administrator will instruct managers to implement cessation of activities based on this plan as revised or updated per further guidance.
 - c. Managers and supervisors will coordinate the following activities intended to terminate Agency's operations:
 - i. Communicate close down instructions and procedures to all employees.
 - ii. Contact any employees on leave and communicate that their leave is cancelled.
 - iii. Any employee unexpectedly in travel status (for example, due to flight cancellation) will be contacted and assisted in returning to their duty station as soon as possible.
 - iv. Ensure all employees to be released complete timesheet entry and submit to approving official.
 - v. Ensure all records; personal property and real property are secured.
 - vi. Cancel all meetings, hearings, and previously arranged business.
 - vii. Validate existing communication strategy and employee contact information for future communication need.
 - viii. Distribute guidance and notices at headquarters to all employees who have not been excepted from the shutdown process. Notices should be provided to all overseas posts as well informing posts about headquarters activities and methods for contacting excepted employees.
 - d. The Office of the Chief Operating Officer will contact external service providers to ensure continuance of communication, network and human resource services.
3. Subsequent Workdays of Shutdown [Days 2-5]:
 - a. Only excepted employees so notified will report to work.
 - b. Employees will engage in approved activities only.
 - c. Depending on the length of the shutdown, and remaining required activities, the number of excepted personnel may be modified. Affected employees would be placed on immediate furlough.
 - d. There will be daily communications by FAS on the status of the close down procedures with the Department contacts previously identified.

Specific Program Activities - Excepted Functions:

Office of the Administrator (OA)

- a. Excepted Functions:
 - Required to carry out agency decision-making during shutdown are the Administrator who has full delegated authority, the General Sales Manager who has specific statutory delegations relating to GSM 102 requirements, the Associate Administrators who has collateral responsibilities in program operations, including USDA food aid and exchange programs,; and the Chief Operating Officer who has oversight responsibility for coordinating shutdown procedures. The Chief of Staff would be needed to conduct duties with foreign embassies in Washington and to further foreign relations and maintain operations overseas. The TFAA Trade Counsel may be required to conduct duties dealing with trade, foreign affairs, and other issues that would have a severe impact on U.S. farmers and ranchers. Agency-level staff is only on call, and the Counsel would be the primary decision maker on recalling these resources for urgent trade issues.
- b. Excepted Personnel = 6
 - Administrator
 - General Sales Manager
 - Associate Administrator / Chief Operating Officer
 - Associate Administrator
 - Chief of Staff
 - TFAA Trade Counsel
- c. On Call Personnel = 0
- d. Activities Funded by Resources Other Than FAS Salaries and Expenses Appropriated:
 - NONE

Office of Agreements and Scientific Affairs (OASA)

- a. Excepted Functions:
 - There are no excepted functions pertaining to the office other than the possibility of critical international negotiations which cannot be postponed or cancelled (e.g. multilateral negotiations that cannot be covered effectively by post, formal WTO dispute proceedings). Determinations on “critical international negotiations” will be made in consultation with United States Trade Representative and the Department of State.
- b. Excepted Personnel = 0
 - Unless a critical international negotiation is identified as above, at which time an appropriate level of staffing will be determined after interagency consultation.
- c. On Call Personnel = 3
 - OASA/DA or ADA and other staff to support traveling teams or critical international negotiations.
- d. Activities Funded by Resources Other Than FAS Salaries and Expenses Appropriated:
 - NONE

Office of Capacity Building and Development (OCBD)

- a. Excepted Functions:
 - Excepted functions are minimal oversight of Food Aid, Cochran and Borlaug Fellows at US Universities and other non-USG training providers, and some reimbursable agreements. The following presumes no new applications, agreements, amendments or allocations under any of OCBD's food aid, exchanges, or capacity building programs and the absolute minimum requirements to preserve U.S. government assets and to maintain the integrity of existing programs.
 - Excepted function is monitoring and reporting to Department of State any infractions or violations by J-1 visa holders. In the event that FAS is notified by US-based Cochran and/or Borlaug training providers that any OCBD-sponsored international participant has violated the terms of the J-1 visa, the excepted personnel must officially notify Department of State via the SEVIS J-1 visa system. This function cannot be delegated.
- b. Excepted Personnel = 2
- c. On Call Personnel = 2
 - Grants Management Officer
 - SEVIS Responsible Officer
- d. Activities Funded by Resources Other Than FAS Salaries and Expenses Appropriated:
 - OCBD administers a number of programs and activities covered by the Foreign Assistance Act, multi-year and no-year reimbursable agreements. Consequently, some activities carried out by non-USG implementers are exempt and may continue but with de minimis oversight by USDA.

Office of the Chief Operating Officer (OCOO)

- a. Excepted Functions:
 - Oversight and managerial controls are required to coordinate multiple services provided by the staff offices of the OCOO.
 - Grant Management: The Grants Management Officer provides direct administrative oversight and excepted, immediate resolution to frequently arising issues related to the stewardship and protection of USG property involved with assistance transactions. Most FAS assistance transactions continue during periods of furlough, since they are funded with reimbursable, multi-year, and no year funds. The necessary protection of government property includes millions of dollars' worth of funded equipment and supplies, as well as disbursed funds.
 - Cooperative agreements active in an area overseas with excepted functions are to continue during a shutdown furlough period where it is necessary to fully protect life and USG property/resources.
 - Security Officer: The agency requires instant access to internal, Departmental, and Government-wide information and contacts to respond to any and all security and clearance issues that may arise during a temporary shutdown.
 - Emergency Preparedness Officer: The agency requires immediate response to coordinate emergency services during a shutdown event.
 - Communication during the shutdown is an excepted function in an international organization with staff members still at overseas posts. Coordination is needed to keep specific FAS applications operational and network services including e-mail up and running. Functions identified as "excepted" are: Email and smartphone, Citrix and RSA, Applications – PSD, IPATTS, OASIS, and ESR.

- Budget Execution Branch: Budget Certification and administrative control requirements continue for non-appropriated funding. Budget Division staff currently working on and funded by reimbursable agreements or other types of non- appropriated funding are not impacted by the lapse of appropriation and would continue to work during the shutdown.
1. Excepted Functions for budget execution include:
 - a. Ensure funds available for incurring commitments, obligations or expenditures in the financial system,
 - b. Provide proper accounting codes for use by personnel in program areas, overseas activities,
 - c. Create FMMI elements needed for reimbursable/cooperative agreements, provide to program area or RAB, (applicable only if FMMI is operational)
 - d. Provide reports on spending and funds availability to program areas and management, (applicable only if FMMI is operational)
 - e. Provide information to management, OBPA, OCFO, OSEC/USEC and OMB if requested,
 - f. Serve as system liaison to WebTA for accounting codes, (applicable only if WebTA and FMMI are operational)
 2. For Reimbursable Grants & Agreements Division excepted functions include:
 - a. Serve as system liaisons for Concur, SmartPay, IAS, IFTS, FMMI Grantor, assisting program areas with accounting, vouchers, reconciliation issues, (applicable only if FMMI is operational)
 - b. Provide pipeline analyses, reconciliations, service to reimbursable customers' agreements/cooperatives, (applicable only if FMMI is operational)
 - c. Assist in preparing billing analyses and provide accounting service provider agreement information, (applicable only if FMMI is operational)
 - d. Coordinate collection and preparation of checks received from refunds/returns and send to NFC for processing, (applicable only if FMMI is operational)
 - e. All other activities necessary for administration of the funds oversight for reimbursable/cooperative agreements.
 - f. Excepted personnel = 11
 - Chief Information Officer
 - Emergency Preparedness Officer
 - Associate Chief Operating Officer
 - Communication/Information Systems
 - Communication/Information Systems
 - Communication/Information Systems
 - Communication/Information Systems
 - Travel
 - Travel
 - Chief Financial Officer
 - Budget Analyst

- g. On Call Personnel = 7
 - Budget Analyst
 - Budget Analyst
 - Budget Analyst
 - Grants Officer
 - Security Officer
 - Communication/Information Systems
 - Communication/Information Systems
- h. Activities Funded by Resources Other Than FAS Salaries and Expenses Appropriated:
 - AEECA/ESF - Funded by 2 year State funds, OCBD programs in Georgia, Serbia, Armenia, and others in region
 - Cochran Fellowship and Borlaug Fellows - Funded by no year funds for program activities, administration of program is funded from annual appropriation only
 - McGovern-Dole - Funded by no year funds for program activities/agreements, administration of program is funded from appropriation of yearly amount
 - Capacity Building - Funded by multiple year and single year funds from USAID, State and other federal and non-federal entities (FAS needs to bill and collect revenues to match up with expenditures)

Office of Country and Regional Affairs (OCRA)

- a. Excepted Functions:
 - There are no excepted functions in OCRA.
- b. Excepted Personnel = 0
- c. On Call Personnel = 0
- d. Activities Funded by Resources Other Than FAS Salaries and Expenses Appropriated:
 - NONE

Office of Foreign Service Operations (OFSO) and Overseas Operations

- a. Excepted Functions:
 - Support overseas Foreign Service personnel officially assigned to U.S. Embassies or U.S. consulates. Staff must be available to communicate and respond to daily issues and crises that may arise from activities in these posts, as well as continue to perform administrative activities such as reporting, time and attendance and various types of necessary travel, e.g., medical evacuation. Additionally, to ensure proper ongoing management of these operations, OFSO must monitor budgets and expenditures from the general authorization as well as advocate and ensure International Cooperative Administrative Support Services (ICASS) policy and regulations are followed. Medical services, medical evacuations, emergency actions, or any action deemed necessary for the safety of life or property by the COM or FAS excepted personnel at post may continue during a shutdown period.

- b. Excepted Personnel = 8+
 - Deputy Administrator
 - Assistant Deputy Administrator
 - Assistant Deputy Administrator
 - Director, Planning and Global Resources (Overseas Operations: Operational and Cross Department Coordination and Preparation to Restart Operations)
 - Deputy Director, Planning and Global Resources (Overseas Operations)
 - Senior Analyst, Planning and Global Resources (Overseas Operations: Overseas Payroll and ICASS),
 - Director, International Services Division, (Medevac Evacuations)
 - Deputy Director, International Services Division
 - 110 Foreign Service Officers overseas and 339 Locally Engaged Staff (as required by local law) (FAS will consider Chief of Mission guidance in making final determination).
- c. On Call Personnel = 0
- d. Activities Funded by Resources Other Than FAS Salaries and Expenses Appropriated:
 - NONE

Office of Global Analysis (OGA)

- a. Excepted Functions:
 - There are no excepted functions in OGA.
- b. Excepted Personnel = 0
 - OGA Deputy Administrator or Assistant Deputy Administrator
- c. On Call Personnel = 0
- d. Activities Funded by Resources Other Than FAS Salaries and Expenses Appropriated:
 - NONE

Office of Trade Programs (OTP)

- a. Excepted Functions:
 - The following presumes no new applications or allocations under the GSM-102 Program and the absolute minimum requirements to preserve U.S. government assets and to maintain the integrity of existing payment guarantees (issued with the full faith and credit of the U.S. Government), as well as to protect the underlying commercial export of U.S. agricultural commodities.
- b. Excepted Personnel = 1
 - Deputy Director, CrPD
- c. On Call Personnel = 2
 - Branch Chiefs, CrPD

d. Activities Funded by Resources Other Than FAS Salaries and Expenses
Appropriated:

- Authorizing legislation for all export credit guarantee activity: Section 202 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. 5622). GSM-102 is a mandated program. Program funding source: Permanent and indefinite authority (non-appropriated)

ADDITIONAL EXCEPTIONS:

Excepted personnel listed above should maintain critical activities within FAS. If other critical needs arise, such as trade negotiations, FAS must seek written approval from USDA to carry out the activities.

START-UP OF FAS OPERATIONS PLAN

JANUARY 2018

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Purpose

This document establishes a plan of action to execute an orderly start-up of Foreign Agricultural Service (FAS) operations following enacted appropriation. This plan will be implemented through a notification to all employees from the FAS Chief Operating Officer (COO)/Associate Administrator at the direction of the Administrator, FAS.

Scope

The functions and activities described herein are to be executed in accordance with all applicable statutes, regulations, policies, and delegations of authority.

High-Level Summary

- The FAS Shutdown Plan instructs employees to monitor the status of the government shutdown and agency operations via the Office of Personnel Management (OPM) website (www.opm.gov) and news sources.
- Unless it is a regularly scheduled non-duty day or an employee is on approved leave or leave without pay under the Family and Medical Leave Act (FMLA), employees are expected to return to work the next work day following the President signing a bill funding the agency. Any delay in reporting for duty requires a request for leave that must be approved by the supervisor.
- An orderly start-up of agency operations is expected to take place as expeditiously as possible, so that service to customers can resume quickly.

Initial Communications Timeline

FAS has prepared for an agency start-up following an enacted appropriation for the fiscal year. In order to keep the agency informed during this start-up process the following communications will occur (note: Day 1 is the first full day of operations upon restoration of funding):

- Following an the enacted appropriation: Federal employees receive notification either from the OPM website or the news media that they should report for work on the next work day
- Following the enacted appropriation: The COO/Associate Administrator, on behalf of Senior FAS Leadership, will conduct a Labor-Management Teleconference to provide advance notice to union leadership from AFSCME Local 3976 and AFSA/FAS, regarding the operational status of the agency. Ongoing communications will be managed by FAS Labor Relations staff (APHIS) and FAS Associate COO.
- Day 1: 11:00 am EST – Agency COO/Associate Administrator, Associate COO's, Chief Financial Officer (CFO), and Chief Information Officer (CIO) will review the start-up plan, focusing on specific guidance for budget and finance, human resources, information technology (IT), and contracting, and provide any guidance from the Department.

- Day 1: 1:00 pm EST – Meeting of the FAS Management Council to review the Start-Up of FAS Operations Plan.
- Day 1: 2:00 pm EST – Agency Administrator will review the start-up plan with senior agency leaders and provide any guidance from the Department.
- Day 2: 10:30 am EST – Agency COO and Associate COOs will hold teleconference with FAS’s servicing agencies for Human Resource Management, to review the start-up plan, focusing on specific guidance for human resources, and provide any guidance from the Department.
- Day 2: 1:00 pm EST – Agency CFO will brief Administrator and Associate Administrators, focusing on specific guidance for payments and budgets, and provide any guidance from the Department.
- Day 3: 9:00 am EST – Meeting of the FAS Management Council to continue implementation of the Start-Up of Operations Plan.
- Day 3: 1:00 pm EST – Agency Administrator will meet with Associate Administrators, Management Council, CFO, and CIO to check status of operations start-up, gather information on major issues and needs related to start-up and post-shutdown activities, and provide any additional guidance.
- Other Communications:
 - Letter to partners and stakeholders from the Administrator.
 - Additional teleconferences as needed with state leaders.

General Start-Up Procedures

All employees are responsible for taking necessary actions to restore the agency to a fully operational status. Key items to address include, but are not limited to:

- Turn off the out-of-office message for your Outlook email.
- Reset your voice mail message.
- Remove all signage indicating the office was closed because of the funding lapse.
- Restart computers and other IT devices according to guidance outlined in the Information Technology section of this plan.
- Resume use of transit benefits.
- Resume use of government-issued mobile devices, including cell and smart phones, tablets, and/or laptops for approved purposes.
- Resume use of government purchase and travel cards for appropriate government use.

Customer Service for Start-Up of FAS Operations

The re-start of FAS operations will be accompanied by many employee, customer, and partner questions and concerns. It is important for FAS to provide timely and consistent information that is in keeping with statute, regulation, and policy, and that this information is accessible throughout FAS.

Guidance for the Start-Up of FAS Operations

The FAS Management Council (MC) will guide the agency's transition from shutdown to full operational status. The MC will be responsible for overseeing the implementation of the start-up plan; providing related policy and procedural direction; ensuring coordination and consistency across functional areas (human resources, financial management, information technology, property and procurement, programmatic, etc.); troubleshooting system and unique challenges; and monitoring progress related to restoring full operational status and in addressing employee, partner, and customer concerns.

Initially, the MC will meet on at least a daily basis to assess progress and issues. As issues are resolved and progress continues, meetings may be less frequent. The MC also will assess lessons learned from the shutdown and start-up and apply those to normal operations where applicable, and to plans prepared in the event of a future shutdown/start-up. The Chair of the MC, and will be responsible for reporting progress and issues to the Administrator. The MC will resume its normal weekly meeting schedule to review new and ongoing work proposals for recommended action by the Administrator, when the Administrator has determined operations are back to normal and any major issues/challenges related to the shutdown have been resolved.

The COO/Associate Administrator chairs the FAS Management Council. The Associate Administrator for Policy and Programs serves as vice chair. The complete membership of the Committee is as follows:

- Associate Administrator/COO, Chair
- Associate Administrator, Policy and Programs, Vice Chair
- Deputy Administrator, Office of Agreements and Scientific Affairs
- Deputy Administrator, Office of Capacity Building and Development
- Deputy Administrator, Office of Country and Regional Affairs
- Deputy Administrator, Office of Foreign Service Operations
- Deputy Administrator, Office of Global Analysis
- Deputy Administrator, Office of Trade Programs

Ex-Officio Members

- Chief of Staff
- Associate COO for Compliance, Human Resources, Travel, & related services
- Associate COO/CIO for IT, Budget and Finance, and Grants Management
- Director, Office of Civil Rights
- Chief Financial Officer
- Deputy Chief Information Officer
- Director, Public Affairs
- Director, Congressional Affairs
- Director, Civil Rights

See Appendix A for a list of the specific duties of the FAS Management Council.

Information Technology

The FAS Chief Information Officer (CIO) is responsible for ensuring that Information Technology (IT) Systems are available and operating with a high level of confidence to perform agency business operations across the enterprises. Upon restoration of funding for the agency:

- FAS CIO will restore all FAS production IT systems, business tools, and websites to their last known state in order to conduct official FAS business.
- FAS CIO will coordinate with the Department IT Service Providers, USDA-OCIO-WCTS and NITC, to ensure all interdependent and enterprise IT systems are online and available.
- Employees should retrieve all IT equipment (laptops, iPhone, iPads, etc.) from their secured location in order to conduct official FAS business.
- Employees will restart their computers and other IT devices to ensure all memory, temporary files, and caches are cleaned, giving the computer a fresh start.
- Reset any expired passwords, and ensure that any associated equipment (e.g., smart phone, notebooks, iPad) is also updated.
- Employees should connect computers and laptops to the IT network to ensure all systems are updated with the appropriate security patches and system updates. As a result of IT systems being offline for several days this process may take up to 4 hours to complete. Do not turn off computers while the updates are in progress.
- FAS CIO will work with USDA-OCIO-WCTS to ensure technical issues submitted to the IT helpdesk are addressed completely and in a timely manner.
- FAS CIO will provide ongoing monitoring to ensure availability and proper functionality of IT systems throughout the start-up and recovery process.
- The Tier 1 WCTS Help Desk will provide Business Application help desk support for all FAS IT systems that support official business and all other user technical issues. Tier 1 IT helpdesk contact information is provided below:

WCTS Help Desk Number:

- 202-720-6763

Human Resources

The Director, Human Resources Management Division is responsible for ensuring that all Human Resources (HR) services and guidance is provided to FAS employees, including HR Specialists, in order to return to operations after a government shutdown due to a lapse in appropriations. The following attachments includes Human Resources Guidance (Appendix C), Frequently Asked Questions (FAQs)(Appendix D), and Case File Note (Appendix E). In addition, the Start-Up Customer Service Team referred to previously is available to provide additional assistance.

- Return to Duty After Shutdown

- Generally, employees are expected to return to work the next business day or scheduled work day following the approval of a budget or a continuing resolution.
- If an employee received unemployment compensation and is paid retroactively for time during furlough the employee will be required to repay the unemployment compensation. For further guidance please visit <https://www.nfc.usda.gov/>
- Time and Attendance
 - Timekeepers must follow up with supervisors and employees to determine if a corrected timesheets need to be prepared for pay periods affected by the furlough.
- Guidance for HR Staffing Specialist and Assistants
 - Proceed to process outstanding personnel actions.
 - Review expiration dates of certificates of eligible applicants and document the case file with the “Note to Case File” provided in Appendix E of this document.
 - If a vacancy announcement closed during the furlough, please work quickly to rate, rank, and notify applicants of their eligibility.
 - Issue certificates of eligible applicants to the hiring managers, when appropriate.
 - For case files that were affected by the furlough, please be sure to add the “Note to Case File” document, Appendix E for future auditing purpose.
- Performance Management
 - If the shutdown is at the beginning of a fiscal year, then FAS will secure approval from The Department to provide an extension on rating performance for the prior fiscal year as well as issuing new performance plans for current fiscal year. Once the extension dates are received from the Department, all FAS employees and supervisors will be notified.
- Training and Development
 - Determine vendor status and policies for rescheduling and/or refunds, both for government (OPM) and private sector vendors.
 - Reschedule events in progress, including:
 - Internal contracted training sessions
 - 360 degree feedback sessions
 - FAS career guides development sessions
- Review the status of Agency services with the FAS/Management Services Division to determine issues to be resolved and/or communicated to Agency personnel.
- Review the status of Agency services with the FAS/Acquisitions Management Division to determine issues to be resolved and/or communicated to Agency personnel.

Review the status of Agency services with the APHIS Human Resources Division/MRP

Travel

The Associate Administrator/COO and the FAS Chief Financial Officer are responsible for providing coordinated guidance to authorized agency travelers on issues that may have arisen because of the shutdown and furlough.

- Travelers should complete any outstanding travel vouchers immediately after FAS has confirmed the operational status of all associated IT systems.
- The FAS CFO is working with the Department's Office of the Chief Financial Officer to determine policy regarding timely payment of travel card balances since FAS employees did not have access to the travel system during the government shutdown. Once the Department makes its determination, the FAS CFO will communicate the Department's policy and guidance via Conference call

Contracts, Grants, Agreements, and Asset Management

The Chief Acquisition Officers (CAO) of our servicing agencies (primarily Director, Acquisition Management Division, FSA) are responsible for managing the resumption of functions related to acquisitions and procurements; contracts, grants, and agreements; and asset management (i.e., real and personal property). The expectation is that these activities will resume within two (2) working days following agency start-up.

- **Contracts, Grants and Agreements Guidance:**
 - Contracts, Grants and Agreements under FAS authority, and requiring FAS support, oversight, assistance, will resume as determined by the appropriate Contracting Officer and Grants/Agreements signatory officials.
 - Contracting Officers will issue resume work orders (modifications) for those contracts that were suspended/stopped during the furlough.
 - Interagency and other agreements will resume under the existing terms of the agreement.
- **Asset Management Guidance:**
 - Personal property (vehicles, survey equipment, copiers, etc.) owned or leased by FAS will be made safe, ready, and available for use by authorized Federal and non-Federal personnel.
 - Real property (buildings/office space) owned or leased by FAS will be made safe and available for use by authorized Federal and non-Federal personnel, and reopened to the public as appropriate.

Financial Management

The FAS CFO is responsible for ensuring that funding for agency operations is made available in a timely manner, and for ensuring that agency financial operations are properly resumed, including close-out of the fiscal year and completion of the financial audit.

- **Financial Management Modernization Initiative (FMMI) Accessibility:**
 - The FMMI system is managed by the Department's Office of the Chief Financial Officer. It is anticipated that FMMI will be made available to all USDA agencies within the first business day after operations resume. The interface between FMMI and agency IT systems will be evaluated to ensure that it is functioning properly.
 - Questions about FMMI access should be directed to the Financial Policy, Training and Systems Division at FAS.fmmi@wdc.usda.gov for resolution.
- Posting Prior fiscal year Obligations:
 - Valid and signed obligations for that were not entered into FMMI prior to the close of operations on September 30 cannot be entered directly by FAS personnel. FAS CFO will coordinate with NFC to have these obligations posted in FMMI.
 - The FAS CFO will issue instructions within 48 hours after operations resume on how and by whom prior-year obligation information will be collected for entry by NFC.
 - Year-end guidelines for adjustments in period 13 are still valid and should be followed if needed.
- Financial Audit:
 - FAS CFO is working with the Office of Inspector General, which oversees the Departmental Financial Statement Audits, to assess how to bring the financial audit to closure.
 - Any outstanding audit samples should be completed and returned to Quality Assurance as soon as possible, following previously established procedures.
 - Once final plans have been developed, FAS CFO will communicate those plans by an FM communication as well as making it a topic for an FM conference call.
- Discretionary funding:
 - New discretionary funding made available will be loaded into FMMI, reflecting the terms and conditions of the appropriations language and automatic apportionment by the Office of Management and Budget (OMB) as necessary.
 - Carryover authority – Allowance holders are **NOT** to obligate carryover funding. Unobligated balances will be swept to the unallocated level in FMMI and made available for use during the shutdown period. The funds will be used for agency priorities as determined by the Administrator, including:
 - Unobligated balances to be used for obligation during the shutdown period (see Posting Prior Year Obligations above).
 - Unobligated balances designated for previously approved specific purposes.

- Mandatory funding (Farm Bill programs):
 - The Budget Director will review the terms and conditions of the current OMB-approved apportionment and load authority into FMFI.
 - Mandatory funding will be made available based on terms and conditions of the appropriations language and OMB's automatic apportionment, as applicable.
- Current fiscal year Allocations:
 - Approved Allocations, will be provided within five (5) days of resumption of full operations.
 - Allowance holders will need to work with their budget analyst to align resources as needed to ensure that critical obligations, including payroll, can be processed timely.

Appendix A: Start-Up Committee

The roles and responsibilities of the Management Council are as follows:

Associate Administrator/Chief Operating Officer:

- Serve as chair of Committee;
- Guide implementation of start-up and post shutdown plan;
- Ensure coordination across functional areas;
- Ensure Chief is kept informed and elevate issues, challenges, and opportunities, as appropriate;
- Lead the application of lessons learned to normal operations, as appropriate; and
- Ensure communication and coordination in a timely manner with agency leadership.

Deputy Administrator for the Office of Foreign Service Operations:

- Serve as chair in absence of the Associate Administrator / Chief Operating Officer
- Ensure coordination across functional areas.

Chief of Staff:

- Lead development of any short- and/or long-term assessment of the impacts of shutdown;
- Facilitate communication with FFAS, OBPA, OCR, other Departmental Offices, and Congressional staff; and
- Identify issues/opportunities for improvement.
- Ensure coordination within Management Deputy Chief area;
- Facilitate communication with ASA, OHRM, OPFM, and other Departmental Offices as necessary;
- Assign resources to address employee questions as a result of being furloughed; and
- Identify issues/opportunities for improvement with State Administrative Officers (SAOs).

Chief Financial Officer:

- Ensure coordination with the Departmental Office of the Chief Financial Officer;
- Provide overarching guidance to the agency related to availability of funding based on approved funding levels;
- Facilitate the coordination of funding or financial system issues/opportunities with State Conservationists and State Budget Officers during the start-up process; and
- Coordinate with FAS CIO and Deputy Chief for Programs on IT systems start-up and interoperability.

Chief Information Officer:

- Ensure communication with the Departmental Office of the Chief Information Officer;
- Lead the start-up of IT systems, secure PII and sensitive data;
- Coordinate with OCIO-ITS and NITC on the orderly start-up of interdependent and enterprise IT systems, assets and resources;
- Monitor FAS IT Systems, tools and website to ensure they are functioning appropriately; and
- Coordinate with other agency leaders on IT systems start-up and interoperability.

Appendix B: Human Resources Guidance

Appeals

Federal employees have the right to appeal a shutdown furlough to the Merit Systems Protection Board (MSPB) within 30 calendar days after the effective date of the furlough.

- **Appeal Rights**
 - Employees who have completed a probationary or trial period or one year of current continuous employment in the competitive service under other than a temporary appointment may appeal this action to the MSPB. Employees in the excepted service who have veterans preference may appeal to MSPB if they have completed one year of current continuous service in the same or similar positions as the one they now hold. Employees in the excepted service who do not have veterans preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service may appeal to MSPB if they have completed two years of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment limited to two years or less.
 - Career SES appointees (except reemployed annuitants) who believe the requirements of Title 5, Code of Federal Regulations, Part 359, Subpart H, have not been correctly applied may also appeal to MSPB.
- **Appeal Process**
 - If you have the right of appeal to MSPB, and wish to appeal this action, you must file the appeal within 30 calendar days after the effective date of your furlough. If you wish to file an appeal, you may obtain information about the appeals process and a copy of the appeals form from the MSPB website at <http://www.mspb.gov/appeals/appeals.htm>. MSPB requires an appeal to be filed with the MSPB regional or field office serving the area where your duty station was located when the action was taken. MSPB also offers the option of electronic filing at <https://e-appeal.mspb.gov/>. Employees have a right to representation in this matter and may be represented by an attorney or other person of their choosing.
- **Bargaining Unit Employees**
 - Bargaining unit employees may grieve this action in accordance with their applicable negotiated agreement or may appeal to MSPB in accordance with the procedures outlined above, but not both.

Benefits

- **Federal Employee Health Benefits (FEHB) Program**
 - FAS employee's FEHB coverage will continue even if an agency does not make the premium payments on time. Since the employee will be in a non-pay status, the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status. The government contribution continues while employees are in nonpay status
 - FAS employees in a non-pay status due to a lapse of appropriations (shutdown furlough) will not have the opportunity to terminate or cancel FEHB coverage. The employee will remain covered; the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status.
 - New enrollments or changes in enrollment due to a Qualifying Life Event do not take effect until the employee has been back in pay status for any part of the prior pay period.
- **Federal Employees' Group Life Insurance (FEGLI) Program**
 - Coverage continues for 12 consecutive months in a nonpay status without cost to the employee or to the agency. Neither the employee nor the agency incurs a debt during this period of nonpay.
- **Flexible Spending Account (FSAFEDS) Coverage**
 - 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.
- **Federal Long Term Care (FLTCIP) Program**
 - Payroll deductions will cease for any employee that does not receive pay. Coverage will continue so long as premiums are paid. If Long Term Care Partners does not receive payment for three consecutive pay periods, they will begin to direct bill the enrollee. The enrollee should pay premiums directly billed to him/her on a timely basis to ensure continuation of coverage.
- **Federal Dental and Vision (FEDVIP) Program**

- Payroll deductions will cease for any employee that does not receive pay. BENEFEDS will generate a bill to enrollees for premiums when no payment is received for two consecutive pay periods.
- **Thrift Savings Plan (TSP) (contributions, investments, and loan)**
 - Please see attached for details related to TSP accounts while in nonpay status. Also, FAS employees should refer to the TSP website for more detailed information. Be sure to have your account number or log-in ID and password when accessing your TSP Account on the website. <https://www.tsp.gov/index.shtml>
- **Processing Disability Benefits**
 - Disability, reconsideration, and appeals employees at OPM will continue working on your case. If the application requires additional information from other agencies, expect delays during a government furlough.
- **Processing Court Ordered Benefits**
 - OPM employees will continue working to process court ordered benefits. If the application requires additional information from other agencies, delays may occur during a government furlough.
- **High-3 Average Salary**
 - Generally there will be no effect on the high-3 average salary unless the furlough causes the employee to be in a nonpay status for more than 6 months during the calendar year.

Details

The supervisor of record will be responsible for communicating all start-up guidance to employees on detail, including when he/she will return her his/her detail assignment.

Employee Assistance Program (EAP)

The Sand Creek Employee Assistance Program can be helpful in providing confidential counseling and coaching has experienced, licensed counselors ready to assist all FAS employees and FAS family members, 24 hours a day/7 days a week at 1-800-632-7643. The EAP is a free, confidential counseling service that can assist in helping cope with stressful and challenging situations.

Sand Creek offers assistance and guidance on many life and wellness items including health, financial assistance, managing stress, offerings from the EAP are available online by going to <http://www.sandcreekeap.com/members.aspx> and logging-in under worklife wellness: **Username: USDA Password: employee.**

Intergovernmental Personnel Act (IPA)

The specific authority for furloughing personnel who are working under mobility agreements pursuant to the Intergovernmental Personnel Act (IPA), either inside the FAS or with other organizations, will depend upon the nature of individual agreements, the status of the appointments, and/or the funding arrangements for the assignments.

Retirement

If an FAS employees would have retired during the furlough, and submitted notice of their desired retirement date prior to the furlough, HR Specialist should, when the lapse in appropriations ends, make the retirement effective as of the date requested. The retirement request may be informal (such as a letter requesting retirement), and can be either mailed or personally submitted. Any additional required paper work, such as the formal retirement application form, may be completed when the agency reopens. No time spent by the retiree in such actions after the effective date of the retirement may be considered as duty time, since the individual would no longer be an employee of FAS.

Return to Duty After Shutdown

- Generally, employees are expected to return to work the next business day or scheduled work day following the approval of a budget or a continuing resolution.
- However, guidance concerning when furloughed employees should come back to work at the conclusion of the shutdown has to be tailored to the employee's specific situation. FAS will apply a rule of reason in requiring employees to return to work as soon as possible, taking into account the disruption to the lives and routines of furloughed employees that a shutdown has caused.

Time and Attendance

During a furlough all time and attendance must be reported as furlough, even for employees that are considered "excepted" and/or "ad hoc/call-in excepted." Employees must keep track of the number of hours worked while the government is in furlough status.

Steps for coding time in WebTA as furlough are:

1. In the timesheet, click on the "+" in the "Leave Used" section. This will bring up the profile.
2. The "**Changes are for Current Timesheet Only**" radio button should already be selected (default); if not please select it.
3. Scroll down to the "**Timesheet Categories for Leave**" Section and click on the dropdown menu.
4. Select "**Furlough**" and click the "**Add**" radio button.
5. Click "**Save**" at the top.
6. You will be returned to the timesheet.

NOTE: Employees should document furloughed time based on the number of hours they are scheduled to work on the days for which FAS is in furlough status. Employees on the alternative work schedule (AWS) schedule/days should not be changed once the agency is in furlough status.

Employees will be paid for hours work prior to the furlough, if it takes place in the same pay period. However, employees that are considered “excepted or ad hoc/call-in excepted” will not be paid for the hours worked during the furlough status until after Congress passes and the President signs a new appropriation or continuing resolution.

Congress will determine whether furloughed employees receive pay for the furlough period. All employees will be notified once this decision is made.

Transit Subsidy Program

All employees will have received their monthly allowance for transit subsidy when government operations resume. Only excepted employees were authorized to utilize the allowance while in furlough status.

Appendix C: Frequently Asked Questions (FAQs)

General

- 1. Q: When am I expected to report for duty after the shutdown furlough ends?**

A: The expectation is for employees to report for duty on the next business day. Employees that cannot be contacted through normal notification processes are nevertheless expected to report timely as they were instructed to monitor OPM's website and media outlets in the FAS shutdown plan.

- 2. Q: Will a furlough personnel action "look bad" in my Official Personnel Folder?**

A: No. A furlough is recognized as a temporary, nonpay status brought about by lack of funds. This action does not negatively reflect upon your individual performance or conduct. In the event that the federal workforce receives back pay for the furlough, FAS is awaiting guidance whether a personnel action will be processed to document the furlough action.

- 3. Q: How will employees know when appropriations are passed ending the furlough, so they are to return to duty?**

A: Employees should monitor the news on television, radio, and/or OPM's website http://www.opm.gov/Operating_Status_Schedules. Employees should monitor the same communications media that they would follow on the government's operating status for inclement weather.

Pay

- 1. Q: When will excepted employees be paid for work performed during a shutdown furlough?**

A: Those employees will be paid after Congress passes and the President signs a new appropriation or continuing resolution.

- 2. Q: Are employees entitled to unemployment compensation if they also receive back pay for furlough days?**

A: If you receive unemployment compensation and are subsequently paid retroactively for furlough time, any unemployment compensation received must be repaid.

3. Q: When an employee's pay is insufficient to permit all deductions to be made, what is the order precedence for withholdings?

A: This Order of Precedence for federal civilian 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 OPM-2008-01, "Order of Precedence When Gross Pay Is Not Sufficient to Permit All Deductions."

1. Retirement
2. Social Security (OASDI) Tax
3. Medicare Tax
4. Federal Income Tax
5. Basic Health Insurance Premium
6. Basic Life Insurance Premium
7. State Income Tax
8. Local Income Tax
9. Collection of Debts Owed to the U.S. Government
 - a. Continuous Levy under the Federal Payment Levy Program (tax debt)
 - b. Salary Offsets
10. Court-Ordered Collection/Debt
 - a. Child Support
 - b. Alimony
 - c. Bankruptcy
 - d. Commercial Garnishments
11. Optional Benefits
 - a. Health Care/Limited-Expense Health Care Flexible Spending Accounts
 - b. Dental
 - c. Vision
 - d. Health Savings Account
12. Optional Life Insurance Premiums
13. Long-Term Care Insurance Premiums
14. Dependent-Care Flexible Spending Accounts
15. Thrift Savings Plan (TSP)
 - a. Loan Payments
 - b. Basic Contributions
 - c. Catch-up Contributions
16. Other Optional Benefits
17. Other Voluntary Deductions/Allotments
18. Military Service Deposits
19. Professional Associations
20. Union Dues
21. Charities
22. Bonds
23. Personal Account Allotments
24. Additional Voluntary Deductions

25. 13. IRS Paper Levies

4. Q: May an excepted employee be permitted to earn premium pay (e.g., Sunday premium pay, night pay, availability pay) during the furlough period?

A. Yes. Excepted employees who meet the conditions for overtime pay, Sunday premium pay, night pay, availability pay and other premium payments 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.

Benefits

1. Q: To what extent does nonpay status affect civil service benefits and programs?

A: Nonpay status (furlough) is credited as follows:

a. Federal Employee Health Benefits (FEHB)

Enrollment continues for no more than 365 days in a nonpay status. The nonpay status may be continuous or broken by period of less than four consecutive months in a pay status [(5 CFR 890.303(e)]. The government contribution continues while employees are in a nonpay status. The employee will incur a debt for their premium and will be required to pay it upon return to duty. Visit <http://www.opm.gov/insure> for more information.

b. Federal Employee Dental and Vision Insurance Plan (FEDVIP)

Deductions cease when in the employee is placed in a non-pay status and there are insufficient funds to cover the premium(s). In order for employees to continue FEDVIP coverage, the employee must make payments while in a non-pay status. Visit the FEDVIP website, <http://www.benefeds.com>, for more information.

c. Flexible Spending Account (FSA)

Deductions will cease for periods of non-pay status where there is insufficient funds to cover the Flexible Spending Account (FSA) premium(s). If the employee is in a non-pay status and has not pre-paid the FSA allotment, their FSA account will be frozen and the employee will not be eligible for reimbursement of any health care expenses incurred during that period until he/she returns to a pay status and allotments are successfully restarted. However, if the employee has a Dependent Care Flexible Spending Account (DCFSA), dependent care expenses incurred during the period in a non-pay status which meet IRS guidelines for eligible expenses (i.e., the employee must incur the expenses in order to allow the employee and his/her spouse to work or attend school) may be reimbursed up to the FSA account balance. When the employee returns to a pay status, allotments will be recalculated

based on the number of pay dates remaining in the Benefit Period. Visit the TSP website, www.fsafeds.com for more information.

d. **Federal Employees Group Life Insurance (FEGLI)**

Coverage continues for 12 consecutive months in a nonpay status without cost to the employees (5 CFR 870.401(c)) or to the agency (5 CFR 870.401(d)). The nonpay status may be continuous or it may be broken by a return to duty for periods of less than four consecutive months. Visit <http://www.opm.gov/insurc> for more information.

e. **Federal Long Term Care Insurance Program (FLTCIP)**

FLTCIP Partners are working with the Office of Personnel Management (OPM) to put a process in place to handle premium collection. However, this is a unique situation and no hard decisions have been made. Once a process has been put in place information will be available at: www.LTCFEDS.com

f. **Within-Grade Increases**

Within-grade and step increases for General Schedule (GS) and Federal Wage System employees are awarded on the basis of length of service and individual performance. Such increases may not be denied or delayed solely because of lack of funds. However, extended periods of nonpay status (e.g., because of a furlough for lack of funds) may affect the timing of such increases. For example, a GS employee in steps 1, 2, or 3 of the grade who is furloughed an aggregate of more than 2 workweeks during the waiting period would have his or her within-grade increase delayed by at least a full pay period. [See 5 CFR 531.406(b)]

g. **Retirement**

An aggregate nonpay status of six months in any calendar year is creditable service. Coverage continues at no cost to the employees while in a nonpay status. When employees are in a nonpay status for only a portion of a pay period, their contributions are adjusted in proportion to their basic pay (5 U.S.C. 8332 and 8411). The exception would be an employee who had substantial time in a nonpay status earlier in the year if the furlough causes him or her to have more than six months' time in a nonpay status during the calendar year.

h. **Thrift Savings Plan (TSP)**

While you are in a nonpay status you will not be able to contribute to the TSP because employee contributions must be made through payroll deductions. FERS employees will not receive agency matching contributions (which are based on your employee contributions). FERS employees will not receive Agency Automatic (1%) Contributions, which are calculated on basic pay

earned each pay period. All employees can continue to manage their TSP account with interfund transfers. You can also make contribution allocation changes that will take effect when you are once again in pay status, or when you make future loan payments to your account. You can transfer or roll over funds into your TSP account from traditional IRAs, SIMPLE IRAs, and eligible employer plans. You can request financial hardship or age-based service withdrawals if you are eligible. You are not eligible to request a new TSP loan. If you already have a TSP loan when you are placed in a non-pay status, a period without pay may result in a missed payment because TSP loan payments are made through payroll deductions (unless you make payments directly from your own funds). If you go into an approved nonpay status, the Internal Revenue Code (IRC) allows you to suspend TSP loan payment for up to one year of the nonpay period. A suspension of loan payments is not automatic. To suspend your payments, you (or your agency or service) **must** provide the TSP with proper documentation of your nonpay status. For more information, refer to the TSP Fact Sheet- Effect of Non-pay Status on TSP Participation. The fact sheet can be found at <https://www.tsp.gov/PDF/formspubs/oc95-4>.

- i. **Career Tenure**
The first 30 calendar days of each nonpay period are creditable service.
- j. **Probationary Period**
An aggregate of 22 workdays in a nonpay status is creditable service.
- k. **Qualification Standards:**
There is no requirement to extend qualifying periods by the amount of nonpay status. However, agencies may require such extensions in order to meet training requirements or ability to perform.
- l. **Time-In-Grade Requirements**
Nonpay status is creditable service
- m. **Military Duty or Workers' Compensation**
Nonpay status for employees who are performing military duty or being paid workers' compensation counts as a continuation of Federal employment for all purposes upon the employee's return to duty.

6. Q: If employees are receiving Continuation of Pay (COP) due to job-related injuries, can the COP be terminated or interrupted by furlough?

A: No. According to the Department of Labor, employees would remain on COP status during periods of furlough.

Leave

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

A: An employee who is on approved Leave without Pay (LWOP) under the 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. Because the paid leave was cancelled, the period of absence may not be used to reduce the 12-week entitlement to FMLA leave.

- 2. Q: May employees be furloughed on a holiday?**

A: Employees may be furloughed for periods of time that include holidays. However, the selection of the furlough period in question should be justified on programmatic and administrative grounds that are unrelated to the fact that the period includes a holiday. For example, an agency may not properly furlough employees for a 3-day period, the middle of which is a holiday, for the sole purpose of saving 3 days' pay while losing only 2 days of work (Comptroller General Opinion B-224619, August 17, 1987). Neither would it be proper to furlough an employee solely on a holiday (Comptroller General Opinion B-222836, May 8, 1986).

- 3. Q: If employees are furloughed on the last workday before a holiday or the first workday after a holiday (but not on both days), will they be paid for the holiday?**

A: Yes. The general rule is that an employee is entitled to pay for a holiday so long as he or she is in a pay status on either the workday preceding a holiday or the workday following a holiday. The employee is paid for the holiday based on the presumption that, but for the holiday, the employee would have worked.

- 4. Q: If employees are furloughed on the last workday before a holiday and the first workday after a holiday, will they be paid for the holiday?**

A: No. If a furlough includes both the last workday before the holiday and the first workday after the holiday, the employee is not entitled to pay for the holiday because there is no longer a presumption that, but for the holiday, the employee would have worked on that day (Comptroller General Opinion B-224619, August 17, 1987).

5. Q: Can excepted employees be required to perform work on a holiday that occurs during a furlough?

A: Yes. Each agency is responsible for determining which excepted activities must be performed on a holiday in order to carry out functions related to national security, protection of life or property, or the orderly suspension of agency operations. If an excepted employee refuses to report for work on a holiday after being ordered to do so, he or she can be considered absent without approved leave (AWOL), which may result in a proposal for disciplinary action.

6. Q: What pay entitlements will accrue to an excepted employee who performs work on a holiday?

A: 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. Under these rules, an excepted employee would receive his or her rate of basic pay, plus holiday premium pay at a rate equal to the employee's rate of basic pay. In addition, if such an employee performs officially ordered or approved overtime work on a holiday (i.e., work in excess of his or her basic non-overtime work requirement for that day), the employee would receive overtime pay (or compensatory time off) for that work. Of course, an employee cannot be paid for working on a holiday until an appropriation or a continuing resolution is enacted.

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

A. 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.

8. Q: 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?

A. 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. (See B-188993, December 12, 1977.)

9. Q: How does a shutdown furlough impact a separating employee’s lump-sum payment for their unused annual leave?

A. Any payments incurred by the agency for an employee's lump-sum leave will be delayed until funds are available after the shutdown.

Time and Attendance

1. Q: How is a furlough recorded on the Time and Attendance sheet?

A: In WebTCAS, select “furlough” from the drop down “leave” menu, and code your timesheet accordingly.

2. Q: How should an agency determine the number of furlough hours for alternative work schedule (AWS) employees during a shutdown furlough? Can an employee reschedule a non-workday that occurred during the furlough?

A. Employees are furloughed based on the number of hours they are scheduled to work on the days for which there is a shutdown furlough. Each agency that has an AWS program should have a policy specifying how flexible and compressed work schedules must be established and when they may be changed. Normally, such schedules are established in advance of the pay period involved. Under such a policy, an AWS non-workday scheduled to occur during a shutdown furlough should not be changed after the pay period begins.

3. Q: If a continuing resolution is passed requiring employees to report for duty that day, how do I record my time?

A: Unless it is your regularly scheduled non-duty day, you are expected to report for duty as soon as is practical after receiving notice that the agency is open for business. The time between the announcement and your reporting for duty that day should be coded as administrative leave. Any delay in reporting for duty requires a request for leave that must be approved by your supervisor on the day of the announcement.

Travel

1. Q: What impact does a funding lapse on an employee who is in temporary quarters due to an approved relocation?

A: The relocation agreement between the employer and the employee is considered a contract, and therefore, at the time that the contract is executed, the funds are considered obligated. Additionally, the employee's new duty station is considered their duty station of record, and as such could not "return" to anywhere.

2. Q: What happens if the time allocated for temporary quarters has expired and the employee needs an extension?

A: Any request for extension of temporary quarters should have been requested and approved in advance of the lapse in appropriations. No additional funds may be obligated during a lapse in appropriations and, without an approval for an extension, the employee may be in jeopardy of not being reimbursed for those expenses.

3. Q: During and following a shutdown furlough, am I responsible for paying my

government travel charge card in a timely manner?

A: Yes. Departmental Regulation 4070-735-001, “Employee Responsibilities and Conduct,” states employees are responsible for “timely payment of claims,” to include their government-issued credit cards. The FAS CFO organization is working with the Department’s Office of the Chief Financial Officer (CFO) to determine the Department’s policy regarding timely payment of travel card balances due to FAS staff not having access to the travel system during the government shutdown. Once the Department makes its determination, the FAS CFO organization will communicate the Department’s policy and guidance via a Financial Management (FM) Communication and during an FM Conference call. You may also wish to consult the U.S. Bank government credit card website at <https://www.usbank.com/index.html>.

Retirement

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

A: For employees who, on or before the requested retirement date, submitted some notice of their desire to retire, agencies should, when the lapse in appropriations ends, make the retirement effective as of the date requested. The retirement request may have been informal (such as a letter requesting retirement), and either mailed or personally submitted to the agency. Any additional required paperwork, such as the formal retirement application, may be completed when the agency reopens. No time spent by the retiree in such actions after the effective date of the retirement may be considered as duty time, since the individual would no longer be an employee of the agency.

2. Q: I applied for disability benefits. Will my application still be processed?

A. Disability, reconsideration, and appeals employees at OPM will continue working on your case. If the application requires additional information from other agencies, expect delays until after the government furlough is over.

Performance Management

1. Q: Should a lapse in appropriations occur, will FY 2013 performance appraisals and FY 2014 performance plans will still be due on October 30, 2013?

A. The Department’s Office of Human Resources Management (OHRM) has assured FAS that OHRM will adjust the deadlines as appropriate and necessary following after the shutdown.

Thrift Savings Plan

1. Q: Does a federal government shutdown affect the TSP?

A: Neither the TSP nor the Federal Retirement Thrift Investment Board receives annual appropriations from the Congress. Since the TSP is not dependent on Congressional appropriations, a government shutdown would not affect the TSP; the TSP would continue to operate "business as usual."

2. Q: Will my TSP investments be affected? What about disbursements?

A: Investment activity will continue. Share prices and account balances will continue to be updated each business day, and loans and withdrawals will continue to be disbursed.

3. Q: What happens to my contributions?

A: Because you are not paid during a furlough, your TSP contributions will stop, and, if you are a FERS employee, you will not receive agency contributions during this time.

4. Q: Can I take a TSP loan while I'm furloughed?

A: Yes. By law, a TSP participant may take a TSP loan any time before separation. The TSP has adopted an administrative rule that provides that TSP participants must be in a pay status in order to take a TSP loan. The TSP adopted this rule because it generally requires TSP participants to agree to repay their loans through payroll deduction. The first payment is due on or before the 60th day following the loan issue date.

Because shutdowns are rare occurrences and are typically of short duration, the TSP's Executive Director has determined that it is in the best interest of TSP participants to interpret the requirement that participants be in a pay status to mean that a break in pay due to a government shutdown does not disqualify one from TSP loan eligibility. A short-term break in pay status would still allow participants to commence payment by payroll deduction within the required 60 days of the loan issue date. If a shutdown were to extend beyond 60 days, participants would still be responsible for making loan payments.

5. Q: What happens to my loan payments while I am furloughed?

A: If you have an outstanding loan and you are furloughed, your loan payments will stop because they are deducted from your pay.

Loans are not considered in default until the participant has missed more than 2-1/2 payments. If you miss a loan payment (or two) as a result of the furlough, you always have the option to make direct payments to the TSP using the Loan Payment Coupon available in the Forms & Publications section on the TSP website at <http://www.tsp.gov>. Otherwise, your loan term will be extended or, if you have requested the maximum loan term, you may have a balloon payment at the end of the loan term. If you miss more than 2-1/2 payments, the TSP will notify you by mail that you must mail in a personal check for the "cure" amount to get your loan back on track.

6. Q: Does my agency have to send in a Form TSP-41 notifying the TSP that I have been furloughed?

A: Your agency should not send a Form TSP-41 to the TSP during a federal government shutdown. A shutdown is a rare occurrence and is typically of short duration. The Form TSP-41 is intended for participants who are being placed on extended leave without pay, e.g., due to illness, military furlough, maternity leave, etc.

It is not practical for the agencies to complete and submit Forms TSP-41 for all of their furloughed employees who have TSP loans (both at the beginning of the furlough and at the end), and it is not practical for the TSP to process these forms.

7. Q: Can the government take money from the TSP to resolve the financial situation?

A: No, the money in the TSP is held in trust for its participants. Neither Congress nor the Administration can take money from your TSP account.

Further information regarding the impact of a federal government shutdown on your Thrift Savings Plan account is available at www.tsp.gov under the heading “shutdown”

Time-Limited and Term Appointments

1. Q: What happens to time limited appointments that expired during a furlough?

A: Furloughs do not extend the time limits for temporary and term appointments. The appointment should have been extended prior to the furlough or the individual may be reappointed after the furlough.

2. Q: Does a shutdown furlough extend an employee’s probationary period?

A: No, unless the furlough extends beyond an aggregate of 22 workdays, or the employee has an aggregate of more than 22 workdays of furlough time as well as other nonpay status time. Otherwise, the 22 workdays of nonpay time counts as creditable service.

Appeals

1. Q: If an employee decides to challenge a shutdown furlough, from what point would the time for appeal to the Merit Systems Protection Board run?

A. Employees must file an appeal within 30 days after the effective date of their first furlough day, or 30 days after the date of their receipt of the decision notice whichever is later.

2. Q: As a bargaining unit member, can I file a grievance and an appeal on the furlough action?

A: A bargaining unit employee has the right to file a grievance under an applicable negotiated grievance procedure or file an appeal with the MSPB. As a furlough is a matter appealable to the MSPB, it is *excluded* from coverage from the USDA's administrative grievance system. If a furlough is covered by an applicable negotiated grievance procedure, a bargaining unit member may elect to file a grievance under that procedure OR an appeal to the MSPB, both not both.