

Special Instructions for Agencies Affected by a Possible Lapse in Appropriations Starting on December 21, 2024

In the event an agency and its employees are affected by a lapse in appropriations commencing on Saturday, December 21, 2024, the following special instructions apply. This information supplements (and should be read with) general guidance, issued by the Office of Management and Budget (OMB) and the Office of Personnel Management (OPM), on administering an agency shutdown of operations due to a lapse in appropriations. It highlights certain matters of particular relevance to the specific scenario at hand.

For the purpose of these instructions, lapse-affected employees include “furloughed employees” and “excepted employees.” “Excepted employees” may perform activities legally permitted as an exception to the general bar on performing work during a lapse in appropriations but may not be paid for that work until after the lapse is over. (Note: Employees designated as “exempt” from furlough—which is distinct from “excepted employees”—are not affected by a lapse in appropriations because their functions are not funded by annual appropriated funds. “Exempt” employees will generally continue to be governed by the normal pay and leave rules during a lapse in appropriations and are not covered by these special instructions.)

The guidance in these special instructions should be used in concert with OPM’s Guidance for Shutdown Furloughs (including any addendums) and other guidance on OPM’s [shutdown furlough webpage](#).

Payroll implications

- In the event of a lapse commencing on Saturday, December 21, the federal civilian paychecks for the December 1 – December 14 pay period would not be delayed, as federal payroll providers will have already completed processing for this pay period. Paychecks for this pay period should be issued at the normal time (generally, in the December 20 – December 26 time range).
- To minimize potential delays if a lapse lingers, agencies should coordinate with Chief Human Capital Offices and payroll providers to submit employee timekeeping data for the December 15 – December 28 pay period as part of orderly shutdown activities. Assuming the lapse is in effect during the time that timekeeping is being finalized, the paychecks may not include pay for any work performed during the period from Saturday, December 21 through Saturday,

December 28. Agencies should document work performed during the December 15 – December 20 period, as well as any other later excepted work performed during the lapse, following any special instructions from their time and attendance and payroll provider. Agencies should also follow any special timekeeping instructions from their time and attendance and payroll provider if the lapse ends before paychecks are issued for the December 15 – December 28 pay period.

- Lapse-affected employees may not receive any pay for periods of time during which the lapse is in effect (beginning on December 21, 2024), including periods when excepted work is performed. The appropriate retroactive pay for periods of furlough and excepted work will be provided after the lapse ends, as required by law.
- If the lapse in appropriations continues during the December 29 – January 11 pay period, any excepted work performed during the lapse should be documented following any special instructions from the agency's time and attendance and payroll provider. No pay may be provided for excepted work during the December 29 – January 11 pay period until the lapse in appropriations has ended. Under 31 U.S.C. 1341(c), after the lapse in appropriations has ended, both excepted and furloughed employees will receive retroactive pay at the employee's standard rate of pay.

Leave

- During a lapse in appropriations, agencies must cancel all previously scheduled paid leave and other paid time off (including paid holiday time off) for lapse-affected employees.
- Intermittent absences are permitted for excepted employees, subject to supervisory approval. An agency may allow an excepted employee to be absent from duty on days the employee was previously scheduled to take leave or be in holiday time off status. An agency may also use other work schedule flexibilities (telework or flexible starting and stopping times under a flexible work schedule) to accommodate an employee's personal needs without requiring an absence from duty.
- If an excepted employee is excused from duty during the lapse, the employee must either (1) be placed in furlough status or (2) be placed in paid leave status

under 31 U.S.C. 1341(c)(3) (with leave payments deferred until after the lapse has ended), if requested by the employee. Generally, we anticipate that excepted employees will use the available workplace flexibilities described above or be furloughed when excused from duty. We do not anticipate that excepted employees will request to use paid leave since they are entitled to retroactive pay for furlough periods without charge to leave. (See more information in the “Excepted employees” section below.)

NOTE: The following guidance regarding “use-or-lose” annual leave applies to employees covered by the standard Governmentwide leave provisions in title 5, United States Code.

- If a lapse-affected employee properly scheduled “use-or-lose” annual leave before the start of the third biweekly pay period prior to the end of the leave year (by November 30, 2024), and some or all of this leave is canceled during the lapse in appropriations, the employee should make every effort to reschedule (after the lapse has ended) the canceled “use-or-lose” annual leave for use before the end of the leave year (no later than January 11, 2025). Any canceled “use or lose” annual leave that was properly scheduled by the employee that cannot be rescheduled and is forfeited because of a lapse in appropriations, must be restored—regardless of whether the affected employee was furloughed or excepted from the furlough.
- If the lapse in appropriations is in effect on the December 24 holiday authorized by the President by Executive order, “use-or-lose” annual leave that a lapse-affected employee properly scheduled for that day was already canceled due to the holiday. If the employee’s rescheduling of this “use-or-lose” annual leave to another workday before the end of the leave year on January 11, 2024, was prevented by an exigency of the public business, the leave may be restored. For example—
 - If the employee attempted to reschedule the annual leave before the lapse in appropriations commenced on December 21, but the agency did not approve the leave because of an exigency of the public business, any leave forfeited because of that exigency may be restored.
 - If the employee was prevented from rescheduling the annual leave during the period from December 21, 2024, through January 11, 2025, because of a lapse in appropriations, any of that leave that is forfeited for that reason

may be restored—as long as the employee attests that they would have scheduled the leave before the end of the leave year but for the lapse. [NOTE: This scenario does not apply if the employee had scheduled annual leave on all workdays for the remainder of the leave year (through January 11, 2025). In that case, if there had not been a lapse, there would have been no possibility of rescheduling the annual leave to another workday, since there were no available workdays. Since the option of rescheduling was not prevented by the lapse, the forfeited leave may not be restored.]

- If a lapse-affected employee has previously 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 forfeited due to a lapse in appropriations, the agency cannot restore that leave again—even if the forfeiture was due to the lapse in appropriations. There is nothing in existing law or regulation that allows restored annual leave to be restored a second time.

Holidays

- Lapse-affected employees—whether excepted or furloughed—will not be paid for a holiday until after the lapse in appropriations has ended.
- Holiday premium pay rules apply to excepted work performed on a holiday during a lapse in appropriations. Thus, if the lapse is in effect on a holiday (for example, on the December 24 or 25 or January 1 holiday), an excepted employee who is required to perform work on the holiday during the employee’s regular hours may earn holiday premium pay; however, payment cannot be made until after the lapse has ended (31 U.S.C. 1341(c)(2)). Excepted employees who are not otherwise scheduled to work on a holiday are not required to work. If an excepted employee does not perform work on a holiday, the employee must be placed in a furlough status for the holiday. See the section on “Excepted employees” below for additional information.

Orderly shutdown

- Agencies should provide clear instructions to employees who will be furloughed regarding when they are expected to report to work to perform any necessary orderly shutdown activities.

- With respect to the issuance of furlough notices, agencies should follow OPM's general guidance in the Guidance to Shutdown Furloughs and any addendums to this guidance posted on OPM's [shutdown furlough webpage](#), including the sample furlough notices for excepted employees who are furloughed on a holiday or for other intermittent absences.
- As a general rule, agencies may allow an employee whose work is not otherwise excepted to perform up to 4 hours of orderly shutdown activities, as necessary, which may include the time required to receive a furlough notice (in person, electronically, or otherwise, as determined by an agency). Unless the agency directs otherwise, employees are expected to 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 be allowed to perform orderly shutdown work (up to 4 hours) on a day off (for example, on a weekend day for employees with a Monday - Friday schedule, an Alternative Work Schedule (AWS) day off, or a holiday). OMB's general guidance addresses orderly shutdown activities. OMB expects agencies to minimize orderly shutdown activities.
- An agency generally should not direct an employee to perform orderly shutdown work on a day on which the employee had been scheduled to be on leave. If an employee was scheduled to be on leave on the workdays immediately after the lapse commences, the employee is not required to report to duty to perform orderly shutdown activities on a scheduled leave day, even though the leave has been canceled. An agency may allow such an employee to perform any necessary orderly shutdown activities (including receipt of a furlough notice) on the first workday on which the employee had been scheduled to return to duty. Employees may not, however, perform any non-excepted agency work prior to conducting an orderly shutdown. For example, since Saturday, December 21 is a weekend nonwork day for an employee with a regular Monday - Friday work schedule, the agency may direct the employee to perform orderly shutdown activities on the next workday (Monday, December 23). If the employee was scheduled to be on leave Monday, December 23, before the holidays on Tuesday, December 24, and Wednesday, December 25, the agency may allow the employee to perform orderly shutdown activities on Thursday, December 26 if that is the first workday on which the employee had been scheduled to return to duty. (Note: The employee may have performed certain shutdown activities prior to

going on leave, which would limit the need to perform orderly shutdown activities after the commencement of the lapse. Additionally, agencies should make every effort to ensure that employees who will not be conducting orderly shutdown activities for several days following the commencement of the lapse are aware of their furlough status during that period.)

- If the employee described in the previous paragraph has a Flexible Work Schedule and a scheduled AWS day off on Monday, December 23, the employee could be allowed to perform orderly shutdown activities on their next workday, Thursday, December 26 (or a later workday if the employee was scheduled to take leave on December 26), or to move the AWS day off, so that the employee performs any required orderly shutdown activities on Monday, December 23.
- An agency should avoid directing an employee to perform orderly shutdown activities outside of their “regular” work schedule. If an agency directs an employee to perform orderly shutdown activities on a nonworkday, a holiday, or the employee’s AWS day off, any hours performing orderly shutdown activities would count as hours in applying applicable premium pay rules (for example, for holiday premium pay or overtime pay). (Since retroactive pay will be provided for furlough hours, furlough hours will count as hours of work in applying overtime rules.)

Excepted employees

- A lapse-affected employee is allowed to perform work only to perform orderly shutdown activities or other work that has been identified as excepted under guidance issued by OMB. Agencies must apply OMB guidance to determine which employees are “excepted employees” and may perform excepted work activities.
- If an agency authorizes an excepted employee’s absence from duty, the agency should place the employee in furlough status. For example, if an excepted employee is excused from duty on a holiday, the agency should place the employee in furlough status on that day. After the lapse has ended, excepted employees are entitled to retroactive pay at the employee’s standard rate pay for furlough periods—without charge to leave, as provided in 31 U.S.C. 1341(c)(2).
- Pursuant to 31 U.S.C. 1341(c)(3), an excepted employee has the option of requesting leave under 5 U.S.C. chapter 63 (or other applicable law) to cover an

authorized absence during a lapse in appropriations, but the payment for that leave still may not be made until after the lapse has ended. However, excepted employees are still entitled to retroactive pay for furlough periods without charge to leave, so we do not anticipate that excepted employees will request to use their leave during a lapse. If an excepted employee receives paid leave to cover a period of absence during a lapse, the employee may not also receive retroactive pay under 31 U.S.C. 1341(c)(2) for that period. (Note: An excepted employee cannot request to use paid leave for an authorized absence on a holiday. An excepted employee must be placed in a furlough status when absent on a holiday.)

- If an excepted employee is directed to perform excepted work during a lapse in appropriations but fails to report for duty, the agency may place the employee in absent-without-leave (AWOL) status for missed work hours, in accordance with agency policy and procedures—instead of placing the employee in furlough status. No retroactive pay will be provided for AWOL hours, since the standard rate of pay for AWOL hours is zero.
- The sample furlough notices for excepted employees in OPM’s shutdown furlough guidance may be modified so that a single notice can be provided to cover any holidays or other approved absences on a regular workday during the lapse in appropriations. Unless the employee’s agency specifically directs otherwise, excepted employees should generally report for duty on the next day on which they are scheduled to work.
- Agencies should take into consideration an excepted employee’s previously scheduled leave or scheduled holiday time off that takes place during the lapse in appropriations and allow the employee to be furloughed (or approve paid time off under 31 U.S.C. 1341(c)(3), if requested by the employee) during the period the employee had been scheduled to be excused from duty—unless the agency determines there is a need for the employee to report to work to perform excepted activities.
- If an agency directs an excepted employee to work on a holiday or the employee’s AWS day off, any hours performing work would count as hours in applying applicable premium pay rules (for example, for overtime pay or holiday premium pay). Excepted employees will be paid for any earned overtime pay or other premium pay when Congress restores appropriations.