



# Selective Service System

National Headquarters / Arlington, Virginia 22209-2461

<http://www.sss.gov>

December 18, 2018

## **Shutdown Plan in the Absence of Appropriations**

### 1. **PURPOSE**

- A. The Attorney General issued two opinions in the early 1980s that the language and legislative history of the Anti-deficiency Act unambiguously prohibit Agency officials from incurring obligations in the absence of appropriations ("Applicability of the Anti-deficiency Act Upon a Lapse in an Agency's Appropriations" (1980) and "Authority for the Continuance of Government Functions During a Temporary Lapse in Appropriations" (1981)). The Office of Legal Counsel of the Department of Justice issued an opinion dated August 16, 1995, that reaffirms and updates the 1981 opinion.
- B. The Office of Management and Budget (OMB) will monitor the status of Congressional actions on appropriations bills and will notify agencies if shutdown plans are to be implemented.

### 2. **EXECUTIVE SUMMARY**

- A. The plan describes agency actions to be taken during a short hiatus (1-5 days). There are no anticipated changes if the hiatus extends beyond that time period. Should unanticipated changes occur the following personnel are designated for implementing and adjusting the plan to respond to the length of the appropriations hiatus and changes in external circumstances: the Director, Deputy Director, Chief of Staff, General Counsel, Associate Director for Operations, and Associate Director for Financial Management (CFO).
- B. During the appropriations hiatus, the Selective Service System (SSS) will not shut down its website. This will allow individuals required by federal law to register with Selective Service to register on its online registration page. The following notice will be placed on the SSS website's home page: (a) information on the website may not be up to date; (b) transactions submitted via the website might not be processed until appropriations are enacted; and, (c) the agency will not be able to respond to inquiries until appropriations are enacted.

C. SSS will have approximately 124 full-time employees on board before implementation of the shutdown plan. Post-implementation, five (5) essential employees will be retained in two categories; they are necessary to protect IT systems and physical property (4) and a human resources employee to perform activities that are necessarily implied by law (1).

3. **OBJECTIVE**

A. In the absence of appropriations, Federal offices may not incur any obligations that cannot lawfully be funded from prior appropriations unless such obligations are otherwise authorized by law.

B. Federal offices may incur obligations as necessary for orderly termination of an agency's functions, but funds may not be disbursed.

C. The Office of Personnel Management's (OPM's) regulations provide for emergency adverse action furloughs without the necessity for advance written notice proposing the action. Reference 5 CFR 2.404 (d) (2).

4. **ISSUANCE**

It is SSS policy that in the event of a funding hiatus, the Agency will proceed with the orderly shutdown of operations, beginning on the first workday of the hiatus, and will limit all work activity to actions necessary for such a shutdown. It is estimated that such actions will require not more than one-half workday (4 hours). Since it is assumed that such a hiatus would be temporary and of short duration, no action will be taken that will impede the orderly commencement of operations once funds are available. The SSS Director or his designee will notify all SSS personnel regarding which activities and personnel are designated as essential and therefore exempt from the furlough, as well as the duration of each exemption.

5. **DEFINITION**

A *furlough* is the placing of an employee in a temporary non-duty, non-pay status because of lack of work or funds, or other non-disciplinary reasons. A furlough of 30 calendar days or less is covered under 5 CFR Part 752, adverse action procedures. A furlough of more than 30 calendar days is covered under 5 CFR Part 351, reduction in force procedures. All furloughs for Senior Executive Service members are covered in 5 CFR Part 359, Subpart H.

6. **EXCEPTED ACTIVITIES**

Primary examples of activities agencies may continue are those which may be found under applicable statutes to: 1) provide for the national security, including the conduct of foreign relations essential to the national security or the safety of

life and property; and 2) provide for benefit payments and the performance of contract obligations under no-year, multi-year, or other funds remaining available for those purposes.

7. **ESSENTIAL EMPLOYEES**

1 – Physical Security Officer (Protection of SSS property; incoming USPS mail)

2 – IT Specialists; Application software/security officer specialists (Protection of IT systems at National Headquarters and three Region offices)

1 – IT Specialists; (Protection of IT systems at the Data Management Center in Illinois)

1 – Human Resources Specialist (Excepted functions are those necessary to maintain and support personnel performing excepted activities)

Percentage – 5 essential employees out of approximately 124 fulltime employees: 4.1%.

The Selective Service Director as a presidential appointee is *not* subject to a furlough.

8. **SSS IMPLEMENTATION PLAN**

A. In accordance with OPM, SSS will communicate with employees regarding plans, if it becomes necessary to execute an orderly suspension of Agency operations.

B. SSS will prepare draft "emergency" furlough decision notices for distribution to employees to the extent possible within the limited time available.

C. SSS will determine the positions that are excepted to furlough guidelines in order to maintain orderly shutdown operations.

D. Employees will be advised by the Director or his designee of a possible funding hiatus as soon as such an event is deemed likely.

E. In the first workday of the hiatus, all employees should report to work as scheduled. Supervisors will inform employees of the status of funding and instruct them to limit their work activities to those functions necessary for the orderly cessation of operations.

F. Supervisors will be responsible for notifying absent employees of the furlough as soon as possible.

- (1) **On Annual Leave** – employees on approved annual leave will be notified that as of the completion of shutdown activities, all leave is cancelled for the duration of the shutdown. Such employees will be furloughed for the full hiatus period and, when funds are restored, either returned to duty or placed on annual leave, as appropriate. Supervisors must make every effort to reschedule the annual leave cancelled due to a shutdown for use before the end of the current leave year, especially if such leave may be subject to forfeiture at the beginning of the subsequent leave year.
- (2) **On Sick Leave** – employees who at the time of the lapse of appropriations, are on approved sick leave in connection with a disabling physical condition will not be permitted to continue in sick leave status during the funding hiatus.
- (3) **On COP Leave** – employees on continuation of pay (COP) in connection with a job-related injury at the time of the lapse of appropriations will remain in a COP status until determined to be fit for duty by a competent medical authority, or until COP leave totals 45 days, if that is earlier.
- (4) **Advanced Sick or Annual Leave** – No advanced sick or annual leave is authorized for use during a funding hiatus. Upon a lapse of appropriations such leave must be cancelled and the employee furloughed.
- (5) **Leave Use** – no annual or sick leave may be granted during a funding hiatus.
- (6) **On Travel** – regular employees on travel status, including those on travel in connection with training or details funded by the Agency, should be contacted by their supervisors and told that they will be furloughed until the completion of the funding hiatus and may return to their duty location immediately.
- (7) **Local Training** – employees absent from the worksite in connection with training at local facilities must be advised that they will be placed on furlough for the duration of the funding hiatus. Employees may volunteer to continue to participate in the contracted training program. However retroactive payment of salary for the furlough period is not authorized except as may be provided for in the language of a subsequent appropriations bill.

9. **OFFICIAL FILES**

Official files will be secured, as they would be if the Agency were to be closed for a long weekend. Employees should ensure that official papers for which they are responsible are secured.

10. **PROCESSING OF PAYROLL**

- A. Payroll processing will continue as necessary to ensure that employees are paid on time for all work prior to the shutdown. Timekeepers will record time and attendance on all timecards for the current pay period through the final hour of the shutdown and submit the authorized timecards to the HR Office.
- B. It is the employee's responsibility to stay informed as to the status of Agency funding during the hiatus. Employees are to report to work as scheduled on the first workday after the enactment of an appropriation or continuing resolution that makes funds available to the Agency.

11. **EMPLOYEE BENEFITS**

- A. **Unemployment Benefits** – furloughed employees may file a claim with their State unemployment offices to determine eligibility.
- B. **Health Benefits Costs** – employees are responsible for paying their share of the FEHB contribution whether in pay or non-pay status. Therefore, employees will incur indebtedness to the Government equal to the amount of the employee contribution in which no deductions are made. Upon return to duty, the delinquent amount will be automatically deducted from the bi-weekly gross pay.
- C. **Leave Accrual** – regular leave will be accrued unless the furlough time exceeds 80 hours.
- D. **Retirement and Life Insurance** – will remain unaffected by the furlough unless employees had previously accumulated leave without pay (LWOP) and the absence of the employee exceeds six months.

12. **PERSONNEL ACTIONS AND PERSONNEL RECORDS**

SSS will take necessary personnel actions to release employees in accordance with applicable law and OPM regulations. SSS must prepare employee notices of furlough and process personnel and pay records in connection with shutdown procedures. SSS HR will work with our payroll provider in various aspects of a shutdown. These functions are to be performed by employees who are retained for orderly termination of agency activities as long as those employees are available.

13. **TERMINATION OF SHUTDOWN**

Employees will need to listen to public broadcasts and visit the OPM website, [www.opm.gov](http://www.opm.gov), to learn when the Agency appropriation has been approved. They are required to return to work on their next regularly scheduled duty day.