

Human Resource Policy Manual (HRPM)

Reference Material

Procedures for Emergency (Shutdown) Furlough and Recalling Furloughed Employees

Reference Material established on: 09/30/2015

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Background Information: This version replaces Reference Material: Procedures for Emergency (Shutdown) Furlough and Recalling Furloughed Employees dated September 30, 2015. Pen and ink changes were made to:

- Explain the Trust Fund and General Fund, and its correlation to furlough;
- Clarify that Trust Fund (i.e., Airports Improvement Program and Research, Engineering, and Development) employees may be furloughed whenever the funding authority lapses or funding for the trust is exhausted; and
- Revise reference of specific months to general time periods to reflect that continuing resolution can occur anytime during the fiscal year.

Use Reference Material in conjunction with: [EMP-1.27 Furlough](#); [Reference Material: Guidance for Identifying Excepted and Non-Excepted Employees and Activities](#); [Reference Material: FAA Excepted and Non-Excepted Functions Matrix](#); Furlough Recall Form; and Furlough Recall Tracking Log

Note: The Federal Aviation Administration reserves the right to modify the determinations herein regarding excepted and non-excepted functions and the types and number of positions/employees necessary to carry out excepted functions during an emergency (shutdown) furlough.

1. Purpose. Agency heads are required to develop and maintain plans of action in response to a lapse in appropriations or authorization, or similar circumstances. Such plans need to outline which activities are required to continue and those that will cease during an emergency (shutdown) furlough, an estimate of the time (to the nearest half-day) needed to complete shutdown activities, and the total number of agency employees expected to be on-board before implementation of the plan.

This plan includes the anticipated total number of current Federal Aviation Administration (FAA) employees who will be identified as performing activities “excepted” from furlough because the work to be performed by the employee during a shutdown is necessary for the safety of human life or the protection of property, or is otherwise authorized or implied by the requirements of the Antideficiency Act or other applicable statutes.

Furloughed employee(s) may be recalled to duty due to an unanticipated or emergency situation to perform necessary excepted activities consistent with the requirements of the Antideficiency Act and other applicable statutes. This reference material documents the general procedure for all lines of business (LOB) and staff offices (SO) within the FAA to:

- Designate employees as excepted/non-excepted based on assigned activities/duties; and
- Recall initially furloughed employees to work to perform specific excepted activities/duties for a finite or extended duration.

2. Trust Fund and General Fund. The FAA is funded from the Trust Fund (itself comprised of a variety of taxes) and the General Fund (appropriated tax dollars). Employees whose salaries are paid by the

Airports Improvement Program and Research, Engineering, and Development accounts are 100% financed by the Trust Fund.

Employees in Operations are funded from both the Trust Fund and General Fund. Depending on the nature of the emergency (shutdown) furlough (i.e., lapse in appropriation or authorization), the type of fund or account from which an employee is paid will dictate whether they are subject to furlough.

3. Emergency (Shutdown) Furlough Decision Notices. Guidance from the Office of Personnel Management (OPM) and the U.S. Department of Transportation states “the advance written notice and opportunity to answer are **neither required nor necessary** for an emergency (shutdown) furlough due to a lapse in appropriations or authorization, or other special circumstance.” Unless otherwise agreed to in an applicable union contract, the FAA may determine the following in accordance with OPM guidance and applicable Human Resource policy:

- a. A written notice is **not required** to be given **prior to** effecting an emergency (shutdown) furlough, although it is preferable and the FAA may use its discretion to provide a written notice (including email) to employees.
- b. When prior written notice is not feasible or is not given, any reasonable notice given orally via telephone or in person is permissible.
- c. Employees will receive a written notice documenting the decision to furlough **as soon as it is practical after the furlough ends**. Notices will include information on applicable appeal and grievance rights.

4. FAA Shutdown Furlough Codes and Descriptions. The codes and descriptions listed below are used to identify employee shutdown furlough status designations, and to assist managers and the LOB/SOs when documenting the recall of non-excepted employees from furlough status. Employees and the associated furlough codes and descriptions must be uploaded onto the Office of Human Resource Management (AHR) Knowledge Services Network (KSN) website.

Code 1 = Non-excepted

Code 2 = Excepted - employee's services are required to provide for national security, including the conduct of foreign relations essential to the national security or for the safety of human life or the protection of property

Code 3 = Excepted - employee's services are required to provide benefits payments and the performance of contract obligations under no-year or multi-year or other funds remaining available for those purposes

Code 4 = Excepted - employee's services are required for the safety of human life or the protection of property, including, but not limited to: the continuance of air traffic control and other transportation safety functions and the protection of transport property; protection of property owned by the United States; aircraft accident investigations; or emergency and disaster assistance

Code 5 = Excepted for orderly shutdown - employee's services are required for orderly shutdown of agency activities beyond the three to four hours. Office of Management and Budget Circular A-11 requires written justification for delaying an employee from furlough for shut down activities in excess of a half-day

Code 6 = Excepted - employee's services are essential to support continuing the services of other excepted agency activities; such services do not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property

Code 7 = Not Furloughed * - Airports Improvement Program Funded Employee

Code 8 = Not Furloughed * - Research, Engineering, and Development Funded Employee

Code 9 = Not Furloughed- Aviation Insurance Employee (funded from offsetting collections generated from insurance policy premiums paid by air carriers. These funds are not impacted by a lapse of appropriation).

Code 10 = Franchise Funded Employee (franchise fund is a no-year account aimed to improve organizational efficiency and provide better support to FAA's internal and external customers on a reimbursable basis by injecting competition and market forces into Federal service delivery)

Code 11 = Reimbursable Employee – employees funded by reimbursable collections that are not impacted by a lapse of appropriations or who are performing “excepted” activities for a Federal Agency that is impacted by a lapse of appropriations

* **Note:** These employees are paid from the FAA Trust Fund and are not normally furloughed during a lapse in annual appropriations. However, they may be furloughed whenever the funding authority lapses, funding for the trust is exhausted, or the emergency (shutdown) furlough is as a result of a lapse in authorization.

5. Reimbursable Employee. Reimbursable employees are those individuals paid from reimbursable collections. Code 11 described above applies when such an employee is excepted from an emergency (shutdown) furlough. The following guidance is provided to assist in this determination, or subject to guidance from the Office of Budget and Programs (ABP):

- The furlough will not apply to dedicated reimbursable employees who are on reimbursable common accounting numbers and are directly tied to a single or multiple customers. Status of these positions is tied to whether the customer(s) provide enough funding to fully employ them; the customer would determine whether these employees should be furloughed. Subject to guidance from ABP, if the funding from the customer allows them to continue to work, then Code 11 would apply.
- Employees who are not in reimbursable positions, but who sometimes perform reimbursable work, are classified based on the default funding source for the position of record. If the default funding source of these positions is an appropriated account, these positions should be treated like the other positions funded by that appropriation. Typically, the employee will be affected by a shutdown due to a lapse in appropriations or authorization and furloughed, so Code 1 would apply unless the employee is performing excepted activities or other positions with the default funding source for the position are unaffected by the lapse in appropriations.
- Reimbursable employees who are not tied to specific customers, but rather to reimbursable overhead, will be subject to the furlough. These employees would typically revert to funding by a direct appropriation if the overhead reimbursement did not materialize; therefore, their treatment will mirror the approach of direct-funded (funded through the annual appropriations process) employees. In addition, reimbursable overhead is not reserved for funding reimbursable employees. Generally, the employee will be affected by a shutdown due to a lapse in appropriations or authorization and furloughed, so Code 1 would apply unless the employee is performing excepted activities.
- During a furlough, any new reimbursable positions, transfers, or new-hires must be reviewed and approved by the Director of Budget and Programs, ABP-1.

Note: These employees may be subject to furlough during an emergency shutdown unless they are performing excepted activities, and therefore may also be subject to recall to duty from furlough.

Additionally, because some reimbursable employees may be bargaining unit employees, the FAA must continue to comply with applicable union contracts.

6. LOB/SO Procedure Requirements. LOB/SOs must be in compliance with [EMP-1.27 Furlough](#) and the following:

a. At appropriate times during the fiscal year, AHR will remind LOB/SO managers to identify and determine excepted and non-excepted status for all employees, and update appropriate employee furlough codes and description status onto the AHR KSN website. The Office of Finance and Management (AFN) and the Office of the Chief Counsel (AGC) will provide advisory support to managers, as needed.

b. At the direction of the FAA Administrator, the Office of Labor and Employee Management Relations (AHL) will provide/make available to the unions a list of employees identified by excepted and non-excepted status for informational purposes.

c. Not later than **15 business days** before a potential emergency (shutdown) furlough, AFN will, in consultation with AGC, review unexpired FAA accounts and determine which accounts will not be affected by the particular circumstances of the potential lapse in appropriations or authorization, or similar circumstances.

- AFN will notify all LOB/SOs of funding that will not be affected by the potential lapse in appropriations or authorization.

d. Periodically as designated by AHR and/or AGC, each LOB/SO head must review and update their listing of excepted and non-excepted activities and employees.

- Each LOB/SO head will use the functions matrix as a guide when identifying the list of excepted and non-excepted activities and employees.
- Each LOB/SO head will provide the updated list to the AHR-1 or designee. AHR will provide a summary to the FAA Chief of Staff, AHR-1, AGC-1, and AFN-1.
- Each LOB/SO identifies contracts supporting excepted activities and verifies with responsible Contracting Officer(s).
- Each LOB/SO Finance Office reviews allotments/allocations to ensure the LOB/SO can support expected obligations during a lapse in appropriations or authorization, or similar circumstances.
- Each LOB/SO head, with assistance from AFN as needed, reviews planned travel and training to make adjustments or notify employees, as appropriate.
- LOB/SO managers will be instructed to notify non-excepted employees, who were authorized travel prior to the lapse in appropriations or authorization, not to travel during the emergency (shutdown) furlough.
- LOB/SO managers will determine whether there is enough staff to complete the organization's excepted activities prior to, during, and after a potential or actual emergency (shutdown) furlough. Only excepted activities are to be performed during an emergency (shutdown) furlough. Some groups may need "limited" staff initially, but additional staff may be recalled if unanticipated or emergency situations arise or when the continued deferral of certain functions represents a significant and imminent risk to safety.

e. Not later than **five business days** before a potential emergency (shutdown) furlough, all LOB/SO managers should update employee contact lists.

- AFN will review all FAA Academy courses and provide each LOB/SO with a list of courses, classes, enrolled students, and funding sources and work with the LOB/SOs to determine which courses will continue despite a lapse in appropriations or authorization, or similar circumstances.
- At the direction of the FAA Administrator, excepted employees will be advised of their anticipated work schedules for performing excepted activities.
- At the direction of the FAA Administrator, AHR will notify FAA unions, as required by union contracts, with the potential emergency (shutdown) furlough information, and address bargaining obligations, as appropriate.

f. Not later than **three business days** before a potential emergency (shutdown) furlough, LOB/SO managers must notify:

- Non-excepted employees who will be traveling or have plans to travel during a potential furlough of requirements for discontinuing travel during an emergency (shutdown) furlough.
- Enrolled students whether their training course will be cancelled or continued if an emergency (shutdown) furlough occurs.
- FAA Chief Acquisition Officer of unresolved training systems contract issues requiring resolution.

g. On the day of a potential emergency (shutdown) furlough (at the direction of the FAA Administrator):

- LOB/SO managers will direct excepted program and staff office employees to report to work to ensure an orderly shutdown (i.e., orderly suspension of agency operations).
- LOB/SO managers will notify non-excepted employees of the emergency (shutdown) furlough with instructions for an orderly shutdown/suspension of agency operations. These instructions will include direction to the non-excepted employees that they are to cease work and to leave the worksite upon completion of the identified duties no more than four hours after start of the non-excepted employee's workday.

Note: There may be bargaining obligations that need to be met.

7. Recall of Furloughed Employees During Emergency (Shutdown) Furlough. Adherence to the following procedures is essential to recall a furloughed employee to duty status during an on-going furlough:

a. The FAA Administrator will establish the FAA Furlough Recall Team comprised of the FAA Chief of Staff and a representative from AHR, AFN, and AGC.

b. LOB/SO managers will:

- Determine the need to recall furloughed employee(s) to work status during the ongoing furlough using the same criteria as initially used in identifying excepted activities and employees. Recall of furloughed employee(s) to duty will be supported by justification or documentation of the erroneous determination of the employee's originally assigned furlough status or the unexpected or emergency need for employee(s) to perform necessary excepted

activities consistent with requirements of the Antideficiency Act or other applicable statutes and, if appropriate, the expected duration of the recall;

- Complete the Furlough Recall Form and Furlough Recall Tracking Log; and
- Provide a copy of the form and log to the LOB/SO head.

c. The LOB/SO head will:

- Review and determine whether to recommend the recall of employee(s) from furlough. If the LOB/SO head does not recommend the recall, the employee will remain in furlough status;
- Submit a signed copy of the form and log to the FAA Furlough Recall Team;
- Be notified by the FAA Furlough Recall Team of its decision to recall the employee(s) from an emergency (shutdown) furlough; and
- Notify the LOB/SO manager(s) of the final decision to recall the employee(s) from an emergency (shutdown) furlough.

d. After receipt of approval by the FAA Furlough Recall Team, LOB/SO managers will:

- Notify the employee(s) of his/her change in excepted status and the requirement to report to work;
- Ensure that records reflect the furloughed employee(s) recall status;
- Inform the employee(s) that upon completion of the excepted work, he/she will return to furlough status; and
- Ensure that the recalled employee's furlough and work time are properly entered/coded in the Time and Attendance system.

Note: There may be bargaining obligations that need to be met.