

**Environmental Protection Agency
Questions and Answers
January 2019**

EPA EMPLOYEE STATUS

1. Can I work at my EPA job during a shutdown?

You absolutely cannot work during a shutdown (unless you have received explicit prior approval from your supervisor that you will be carrying out shutdown or excepted activities). You are not authorized to carry out your duties during the shutdown, so you cannot act on behalf of the Agency or use Agency resources, equipment or email. Do not work during the shutdown.

2. Am I still considered to be an EPA employee even during the shutdown?

Yes, even during the shutdown, you are still an EPA employee and subject to the Hatch Act, the standards of ethical conduct and rules regarding outside employment. In addition, there are specific statutes that prohibit certain outside activities, and EPA-specific supplemental rules that require prior approval of, and sometimes prohibit, outside employment. See, e.g., [Office of Government Ethics Legal Advisory 18-02](#), which references [OGE Legal Advisory 13-02](#) and [OGE memorandum 04 x 6](#). Before engaging in outside employment, you should consult with Justina Fugh, the Director of the Ethics Law Office, at fugh.justina@epa.gov or ethics@epa.gov. Justina is permitted to answer ethics-related questions during the shutdown.

3. What does it mean to "shutdown" your work station?

Shutdown responsibilities include:

- Accessing your email and reading your furlough notice.
- Changing your voicemail message.
- Changing and enabling your email “out of office” message.
- Securing your work documents appropriately, including any PII, CBI, etc.
- Completing your time card.
- Securing your work station and personal objects.
- Disposing of any food at your desk or in the refrigerator.

Employees are not to work on any project, task or respond to emails as part of their shutdown responsibilities.

4. I'm scheduled to attend training (e.g., FEI) during the shutdown. Can I go?

No. Training is an assignment of work. Employees who are not permitted to work during the shutdown cannot attend training, even if the training has already been paid for. Although the training vendor may have the funds to operate during a shutdown, without an appropriation, EPA has no money to pay your salary. Therefore, you cannot attend training during the time the agency is shut down.

5. During a lapse in appropriations, do excepted federal employees qualify for unemployment benefits?

According to the Department of Labor, federal employees who are excepted and working full-time are not considered to be unemployed and do not qualify for unemployment benefits. Therefore, only furloughed employees and excepted employees not working full-time may qualify for unemployment benefits. Employees are encouraged to contact their state unemployment insurance office at <https://workforcesecurity.doleta.gov/unemploy/unemcomp.asp> for additional information.

6. During a lapse in appropriations, what documentation is needed to apply for unemployment benefits?

According to the Department of Labor, federal employees applying for unemployment benefits in the state in which they work need the following information at a minimum:

- Standard Form 8 – Unemployment Compensation for Federal Employees
- Standard Form 50 – Notification of Personnel Action **or** W2 Form – Wage & Tax Statement
- Earnings & Leave Statements – Past 12 Months if Possible

Depending on the state, additional information may be needed; therefore, EPA employees are encouraged to contact their [state unemployment insurance office](#). It is also important to point out that EPA employees can obtain a copy of the SF-8 on the [EPA Internet](#), the SF-50 in their [eOPF](#), and the W2 Form in [EEX](#). Please keep in mind that the eOPF can only be accessed while inside the EPA firewall.

7. Is an emergency furlough greater than 30 days subject to reduction in force regulations?

Reductions in force (RIF) furlough regulations and SES competitive furlough requirements are not applicable to emergency shutdown furloughs because the ultimate duration of an emergency shutdown furlough is unknown at the outset and is dependent entirely on Congressional action, rather than agency action. The RIF furlough regulations and SES competitive furlough requirements are only applicable to planned, foreseeable, money-saving furloughs that, at the outset, are planned to exceed 30 days.

CONTRACTS AND GRANTS

1. Will contractors be allowed to work under a furlough?

Contractor employees that support approved excepted and funded activities, as defined by EPA, will continue to work in the event of a funding hiatus due to the lack of an appropriations act or continuing resolution. For more information on excepted activities, please review OPM's [Guidance for Shutdown Furloughs](#) dated September 2015.

Funded activities are as defined in [EPAAG 42.3.3.4](#) as fully funded contracts, which do not require Agency interaction. These contract types may continue during an appropriation hiatus if the contractor does not require interaction from Agency officials.

2. Do support contractors such as IT and facilities contractors continue to work in EPA space during a shutdown if the contracts are fully funded?

Such on-site contracts would only continue if the functions the contractor supports are considered excepted. See the Office of Acquisition Solutions intranet page for [acquisitions shutdown activities](#).

3. Would SEE enrollees be allowed to work under a furlough?

No. SEE enrollees will be notified of a furlough in accordance with their grant procedures. Additional guidance will be provided through the Agency's SEE program manager.

4. Would Oak Ridge Institute for Science and Education (ORISE) program participant be allowed to work under a furlough?

No. Because EPA does not anticipate having the resources available to provide mentorship and other necessary administrative support for the work of ORISE program participants, ORISE program participants should not continue to work during a lapse in appropriations. Participants and the Oak Ridge Associated Universities (ORAU) will be notified by their EPA Mentor or Project Officer.

5. How will grantees be notified of the shutdown?

The Office of Grants and Debarment will send notifications to EPA grantees.

6. Will SEE employees be notified by HQs if there is a furlough?

OMS's Office of Resources and Business Operations will provide guidance to SEE Program recipients on shutdown procedures.

7. During the shutdown will the Las Vegas office be open to help grantees get payments?

During the shutdown, EPA staff will not be available to make or approve payments to recipients. Recipients using the Automated Clearinghouse payment system will not be able to draw down funds during the shutdown period. Recipients using the ASAP (Automated Standard Application for Payment) system will be able to draw down funds during the shutdown period. "High-Risk" or other recipients paid on a reimbursement basis will not receive payments during the shutdown period.

8. How will contractors be notified of a shutdown?

When the Agency is shut down for an appropriation hiatus, EPA Contracting Officers will notify contractors as part of the shutdown activities to stop work on other than excepted and funded activities on existing contracts. The contractor is responsible for notifying its employees of the status of the contractor's contract with the Agency (e.g., excepted, funded, or stopped) during a shutdown. The Agency, not the contractor, determines the contract's status (e.g., excepted, funded, or stopped).

Note: Funded activities are as defined in [EPAAG 42.3.3.4](#) as fully funded contracts, which do not require Agency interaction. These contract types may continue during an appropriation hiatus if the contractor does not require interaction from Agency officials.

9. During the shutdown will the RTP Finance Center be open to process contract payments?

No, the RTP Finance Center will not be open and payments will be processed once the shutdown is over and the Agency is able to begin operations.

COMMUNICATIONS

How will I know if the government is shut down and how will I know when to report back to work?

Senior management will inform employees if the Agency is instructed to shut down operations. Employees can contact **1-888-EPA-TALK (1-888-372-8255)** to get updated information. In addition, employees should monitor local news stations for updates or [OPM's website](#).

FACILITIES

1. How should security be handled at all EPA Facilities during a shutdown?

EPA facilities should be closed to the public. Facilities supported by the Federal Protective Service will have guard services on a weekend/holiday schedule, unless arranged otherwise by the local Security Manager. EPA-owned facilities should maintain guard services as deemed appropriate by the local Security Manager.

2. Will employees have access to facilities to collect personal belongings and water their plants?

No. Employees must gather their belongings during the hours allocated for shutdown activities and should not access EPA space after that time unless they are on the excepted personnel list.

3. Will fitness centers be open?

Since this is a partial government shutdown, this will vary by location.

4. Will health units remain open?

Since this is a partial government shutdown, this will vary by location.

5. Will HQ shuttle service be operational?

No.

6. How will mail service be handled during a shutdown?

Mail service will not occur during a shutdown. Decisions on receipt of mail/deliveries during a shutdown will be based on the need to support excepted activities. These decisions will be made at the local level.

HUMAN RESOURCES AND BENEFITS

1. How will the furlough affect employee pay, benefits, TSP and taxes, etc.?

Detailed information on the range of issues about which employees may have questions can be found in OPM's [Guidance for Shutdown Furloughs](#) dated September 2015. The most frequently asked questions relate to the continuation of health benefits coverage. Health benefits coverage will continue, although employees will need to pay the employee share of the health insurance premiums when they return to duty.

2. Are employees entitled to unemployment compensation while on furlough?

It is possible that furloughed employees may become eligible for unemployment compensation. State unemployment compensation requirements differ. Some states require a one-week waiting period before an individual qualifies for payments. In general, the law of the state in which an employee's last official duty station in federal civilian service was located will be the state law that determines eligibility for unemployment insurance benefits. (See the Department of Labor [website](#)). Agencies or employees should submit questions to the appropriate state (or District of Columbia) office. This Department of Labor's [website](#) provides links to individual state offices.

3. In the event of a shutdown furlough, can an employee be furloughed without first receiving a written notice of decision to furlough?

Yes. While an employee must ultimately receive a written notice of decision to furlough, it is not required that such written notice be given prior to effecting the emergency furlough nor is it a requirement that the notice be signed in person. Advance written notice (including written notice through email) is preferable, but when prior written notice is not feasible, then any reasonable notice (e.g., telephonic, oral, personal email, or by mail promptly after the furlough) is permissible.

4. How will employees on extended leave receive furlough notices? Are they required to report to the office?

Employees on long term leave do not have to report to the office to receive their furlough notice. Furlough notices will be mailed to their address of record or sent via email.

5. How will employees on medical telework and/or telework under reasonable accommodation receive furlough notices?

Employees on approved medical telework and/or telework for reasonable accommodation will receive furlough notices via the electronic mass mailer and should follow the directions contained therein.

6. What are employees entitled to during the furlough when it comes to cost of living allowances and benefits such as post allowances, danger pay, differential pay, etc.?

(1) A furlough does not interrupt Post COLA if the nonpay status period, including periods outside the employee's regular tour of duty (e.g., weekends), does not exceed 14 consecutive calendar days. If an employee is in furlough status that results in a continuous nonpay status period that exceeds 14 consecutive calendar days, then the Post COLA is interrupted for the duration of the furlough status. Living Quarters Allowances continue without interruption while the employee is in nonpay status not excess of 30 consecutive calendar days at any one time. For periods in nonpay status longer than 30 consecutive calendar days, LQA payment shall be suspended as of the day the employee enters such status, and payment is not to be made for any part of such period.

(2) Employees do not receive Danger Pay or Post Hardship Differential for any furlough days.

7. If an employee is already approved for annual leave, can they still take the annual leave and get paid?

No. In a furlough, all paid leave during a furlough is canceled because the necessity to furlough supersedes leave rights. This applies for employees who have been designated as furloughed, shutdown, or excepted. The Anti-Deficiency Act (31 U.S.C. § 1341 et seq.) does not allow authorization of any expenditure or obligation before an appropriation is made, unless authorized by law. All paid leave during a furlough must be canceled and employees must be either (1) at work performing shutdown or excepted activities or (2) furloughed.

8. If an employee is out on sick leave/extended medical leave, will they be paid?

No. See answer above -- in an "emergency" furlough, all paid leave during a furlough is canceled because the necessity to furlough supersedes leave rights.

9. If an employee is currently using leave from the leave bank, can they continue to be on leave? If not, do the leave bank hours carry forward for future use?

No. See answer above -- employees using leave from the leave bank during a furlough also have their leave cancelled. In certain situations, the leave bank leave may be available for future use. Consult with your local Leave Bank Coordinator for specific information applicable to an individual situation.

10. Can/should employees contact their supervisor during the shutdown period?

Supervisors and staff may have limited contact during the furlough consistent with applicable laws and regulations. However, during the furlough, employees are in a nonpay, nonduty status and are not permitted to serve as an unpaid volunteer.

11. Can employees continue to work "unofficially" at home during a government shutdown?

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

12. Can I continue to work a compressed/alternate work schedule or telework from home?

No, furloughed employees may not continue to work on any schedule, including their alternative work schedule (either compressed or flexible), or telework at home.

Employees designated to continue working on shutdown or excepted activities should consult with their immediate supervisor/senior management to determine if they can continue to work an alternative work schedule or telework from home.

13. During a government shutdown, can employees leave on vacation, or should they stay local in case they are called back in?

Staff will be called back to duty as soon as funding is available. Employees should make plans accordingly. Employees should consult with their supervisor if they had previously planned to take approved leave during a day that may be impacted by the furlough.

14. Are employees responsible for TSP loan payments if the Government is shut down?

On March 4, 2011, the Thrift Savings Plan (TSP) issued a fact sheet titled "Impact of a Federal Government Shutdown on the Thrift Savings Plan." See the [TSP fact sheet](#).

15. Will FSAFEDS continue to honor employee claims for reimbursement for child care and medical expenses during the furlough, or will claims' processing be placed on hold?

FSAFEDS will discontinue processing employee claims during a furlough and will resume when the furlough is over.

16. Who can an employee contact should he/she encounter a problem with their health insurance?

Employees should first contact their Federal Employees Health Benefits (FEHB) carriers with questions or concerns (i.e., coverage, claim issues, covered service, etc.).

17. If I'm not on the initial list of excepted personnel, could I be contacted later and asked to perform an excepted activity due to an emergency situation? If contacted, can I refuse to perform an excepted activity?

EPA has the authority to modify its list to address situations. If designated as essential for excepted activities, at any time, employees must report to work.

18. 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 (by 11/24/2018), but is unable to use some or all of the scheduled leave because of the shutdown furlough, does the furlough constitute an "exigency of the public business" that would permit EPA to restore the leave after the beginning of the new leave year?

An employee with scheduled leave that falls during the shutdown will have their leave cancelled. 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 (January 5, 2019). However, if this is not possible due to a lapse in appropriations, EPA has the 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 lapse in appropriations.

19. 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 restoration period—end of the leave year beyond 2 years from the restoration) but that leave is cancelled and lost due to lapse in appropriations, can EPA restore that leave again?

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 leave annual leave may not be restored after expiration of the use period.

20. What will be the impact of the furlough on my accrual of sick and annual leave?

If employees are furloughed for more than 80 hours in a leave year they will lose one pay period's worth of sick and annual leave.

21. How will we deal with employees who work a compressed schedule and have already worked 9-hour days and may have taken their compressed day in the pay period prior to the shutdown?

An employee's regular work schedule does not automatically change. The employee should enter time and attendance as the employee normally would in People Plus. An employee's compressed day off should be recorded on the day it would normally occur.

22. If there is a government shutdown due to a lapse in appropriations, may EPA's federal advisory committee activities continue during the shutdown period?

In the event of a shutdown due to a lapse in appropriations, all advisory committee activities involving appropriated funds or involving EPA personnel funded through annual appropriations must cease during the shutdown period. During the shutdown, EPA employees may not coordinate or participate in advisory committee meetings, nor may they approve travel, expense reimbursements or other advisory committee expenditures and activities. Additionally, during the shutdown period advisory committee members may not plan or begin any travel funded with appropriated dollars; incur any committee expenditures involving federal appropriations; or seek EPA reimbursement for any previously authorized travel or other expenditure. Because the Designated Federal Official is required to be present at advisory committee and subcommittee meetings, EPA's advisory committees and subcommittees may not conduct meetings, video conferences or conference calls during the shutdown.

IPA ASSIGNMENTS

1. Are persons working for federal agencies under mobility agreements pursuant to the Intergovernmental Personnel Act (IPA) affected by the furlough/shutdown?

The specific authority for furloughing personnel who are working under mobility agreements pursuant to the IPA, either inside the Federal Government 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. As a general rule, the following principles are applicable in determining whether to furlough personnel on IPA mobility assignments:

- Personnel from non-federal organizations on appointments to the Federal Government are subject to furlough in the same manner as other employees.
- Personnel on detail to federal agencies from non-federal organizations may continue working, provided that the non-federal organizations pay the total costs of the detail.
- Personnel on detail to federal agencies from non-federal organizations that share part of the costs of the detail may continue to work if the federal portion of the cost was obligated from prior appropriations at the time of the IPA mobility agreements. If a furlough takes place during a time for which no funds are appropriated, the assignment should be terminated.
- Personnel on detail to federal agencies from non-federal organizations that do not pay or share the costs of the detail are subject to furlough in the same manner as other employees.

2. Can I volunteer to work for a non-profit entity with whom I have a mobility agreement pursuant to an IPA during the shutdown period?

No. What you propose is that you work as a volunteer at the same organization to which EPA assigned you to work as part of your official duty. Because this outside activity – even though uncompensated – involves the same entity, you will have to seek prior approval from your Deputy Ethics Official pursuant to the ethics rules, [5 C.F.R. § 2635.802](#) and [5 C.F.R. § 6401.103](#). Be advised that OGC/Ethics believes that it is extremely unlikely that we could ethically approve an employee to provide volunteer services at the same organization to which he is assigned to work in his official capacity. Once the employee volunteers for the non-profit, he becomes an active participant and, under the impartiality regulations, has a “covered relationship” with that entity. [5 C.F.R. § 2635.502\(b\)\(1\)\(v\)](#). The individual must recuse themselves from participating as part of their official duty with that entity, which will obviously cause a material impairment to the IPA. So, in summary, the employee is required to seek prior approval for the volunteer activity pursuant to [5 C.F.R. § 6401.103\(a\)\(4\)](#), but the ethics official cannot approve the request pursuant to [5 C.F.R. § 2635.802](#).

3. What if I’m on an IPA assignment now but will return to the Agency prior to a shutdown. During the shutdown, may I volunteer to work at the non-profit where I worked on my IPA?

You will have to request prior approval of this outside activity because the activity relates in significant part to official duties to which you have been assigned in the previous year. See [5 C.F.R. § 6401.103\(a\)\(4\)](#). Unlike the above example, however, this time the ethics official may be able to grant the request.

4. I am on an IPA assignment to a non-profit entity. Can I still go to work for the non-profit during a shutdown?

No, you are not allowed to work on any day that EPA is shut down. Most likely, EPA pays your salary and benefits while you are on the IPA. Even though you are not paid during the shutdown, you remain an EPA employee who is subject to our laws, rules and policies. You must abide by the shutdown and cannot work for the non-profit on those days.

5. Okay, I’m still on an IPA assignment to a non-profit entity and won’t go to work for it during the shutdown. But can I volunteer to work there during the shutdown period?

No. What you propose is that you work as a volunteer at the same organization to which EPA assigned you to work as part of your official duty. Because this outside activity – even though uncompensated – involves the same entity, you will have to seek prior approval from your Deputy Ethics Official pursuant to the ethics rules, [5 C.F.R. § 2635.802](#) and [5 C.F.R. § 6401.103](#). Be advised that OGC/Ethics believes that it is extremely unlikely that we could ethically approve an employee to provide volunteer services at the same organization to which he is assigned to work in his official capacity. Once the employee volunteers for the non-profit, he becomes an active participant and, under the impartiality regulations, has a “covered relationship” with that entity. [5 C.F.R. § 2635.502\(b\)\(1\)\(v\)](#). The individual must recuse themselves from participating as part of their official duty with that entity, which will obviously cause a material impairment to the IPA. So, in summary, the employee is required to seek prior approval for the volunteer activity pursuant to [5 C.F.R. § 6401.103\(a\)\(4\)](#), but the ethics official cannot approve the request pursuant to [5 C.F.R. § 2635.802](#).

6. Can I volunteer to work at another non-profit during the shutdown?

You need to consider whether the volunteer activity requires that you seek prior approval from an ethics officer. You do not need prior approval to work at a retail store or to volunteer at a hospital or animal shelter, for example, but you will need prior approval to work at an environmental consulting firm.

IT MANAGEMENT

1. Will employees that are on furlough be allowed access to email and other agency systems?

Employees are prohibited from working while furloughed, including the use of agency owned computers, mobile devices (e.g. iPhones), and utilizing the Agency's remote access service to access email or other applications.

2. Will mobile device service through EPA issued devices be maintained during a shutdown or only for the excepted personnel?

EPA's email system (including on mobile devices) will remain in operational status but can only be used by non-furloughed employees.

3. Does EPA equipment (computers, mobile devices, etc.) need to be secured before an employee departs the office upon furlough?

There are no plans to secure these devices before employees depart on furlough status.

4. Should employees identify any sensitive PII material and ensure it is returned to the office before furlough?

Sensitive PII should be properly protected and secured according to existing EPA policy, regardless of a furlough (see <http://intranet.epa.gov/privacy/>). OMB recommends limiting access to those who need access, reducing its collection, and using encryption, strong authentication procedures, and other security controls to make information unusable by unauthorized individuals. Removing sensitive PII from the workplace without sufficient need and protections (such as those listed above) increases the potential for inadvertent disclosure and should be avoided.

OUTSIDE EMPLOYMENT

1. Can I work in another job during the shutdown?

You may be able to work at another job but you need to know the ethics rules and procedures. If you are considering working during the shutdown, then please review OGC/Ethics' [outside activity quick tips](#) and follow the prior approval process if necessary prior to the furlough. You may be required to seek prior approval even if you will not be compensated for the work. Although you may not need to seek formal prior approval for certain outside activities, OGC/Ethics always recommends that you seek ethics counseling. If you have questions that arise during the shutdown, consult with Justina Fugh, the Director of the Ethics Law Office, at fugh.justina@epa.gov or ethics@epa.gov. Justina is permitted to answer ethics-related questions during the shutdown.

2. Before the shutdown, can I apply for another job so that I have some income?

You should consult with an ethics official. Depending on what you want to do, you may or may not be able to be compensated. In addition, there are several criminal conflict of interest statutes to know. Here's a quick summary:

- Do not engage in outside activity -- compensated or not -- that will conflict with your EPA official duties and/or violate the laws and regulations.
- You cannot be compensated for teaching, speaking, or writing that deals in significant part with the Agency's program, policies, or operations. While there is a small exception to allow for compensation for teaching a course at certain institutions, that exception does not likely apply to consulting work. The teaching exception extends only to teaching a course involving multiple presentations at certain institutions. 5 C.F.R. § 2635.807(a)(3).
- You cannot represent the interests of another back to the United States Government.

EXAMPLE: You are a lawyer who wants to represent veterans before the VA. You cannot do so because 18 U.S.C. §§ 203 and 205 prohibit federal employees from serving as agent or attorney for another in any particular matter in which the US is a party. Taken together, these statutes prohibit representation for compensation and without compensation.

- Be careful if you seek employment with an entity that does business with EPA or that you deal with in your EPA capacity. You should consult an ethics official to be sure that you do not run afoul of the financial conflict of interest statute or the seeking employment regulations.

There is a higher likelihood for conflicts when there is a nexus between your official duties or the Agency's mission and the outside activity. For example, getting paid for consulting work that deals in significant part with the mission of the Agency may present ethics issues, while working at a retail store will not. You do not have to seek prior approval to work at a retail store or to give music lessons.

3. When do I have to seek prior approval for outside activity?

You do not need to seek prior approval for all outside activities. Rather, you are required to seek prior approval when you wish to engage in employment – with or without compensation – that involves:

- (a) Consulting services;
- (b) Practicing a profession;
- (c) Holding State or local public office;

(d) Subject matter that deals in significant part with the policies, programs or operations of EPA, or any matter to which you are currently assigned or to which you have been assigned in the previous year;

(e) Providing services to an EPA contractor or subcontractor; the holder of an EPA assistance agreement or sub-agreement; or a firm that is regulated by your Region or Office.

For more information, please see EPA's supplemental regulations at [5 C.F.R. § 6401.103\(a\)](#).

4. How do I seek prior approval?

If your anticipated activity does require prior approval, then you should ordinarily send a written request (email is acceptable) through your supervisor to your Deputy Ethics Official (DEO). But a shutdown is not an ordinary time, so you can send your request directly to your DEO or to OGC/Ethics. To find your own DEO, go to this EPA lapse internet site link:

https://www.epa.gov/sites/production/files/2019-01/documents/epa_deputy_ethics_officials_1-8-2019.pdf

To reach OGC/Ethics, write to ethics@epa.gov. Your request is not approved unless and until an ethics official approves it. Your request must address the following:

- your name, title and grade;
- the nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected;
- the name and business of the person or organization for which the work will be done (in cases of self-employment, indicate the type of services to be rendered and estimate the number of clients or customers anticipated during the next six months);
- the estimated time to be devoted to the activity;
- whether the service will be performed entirely outside of normal duty hours (if not, estimate the number of hours of absence from work required);
- a statement that no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment;
- the basis for compensation (e.g., fee, per diem, per annum, etc.)
- a statement that you have read, are familiar with, and will abide by the restrictions described in 5 CFR Part 2635 (Subpart H on "Outside Activities) and Section 6401.102 (EPA's Supplemental Regulations); and
- an identification of any EPA assistance agreements or contracts held by a person to or for whom services would be provided.

For more information, see EPA supplemental regulations at [5 C.F.R. § 6401.103\(b\)](#).

5. Do I have ethics implications regarding my former employer during the shutdown when I return to EPA duty status?

Yes, you will have been an employee of this entity, and there may be appearance concerns or actual criminal conflict of interest issues when you return to work. For one year, you cannot participate as part of your official duty in any specific party matter that involves that entity. If you continue to work for the entity after a shutdown, then you will have a financial conflict of interest issue with it. Again, consult an ethics official.

6. Can I use EPA equipment, email or resources to assist my outside employment?

No. The *de minimis* exception under the Agency's limited personal use of resources does not extend to compensated, outside employment.

7. Can I volunteer to work at a non-profit during the shutdown?

You need to consider whether the volunteer activity requires that you seek prior approval from an ethics officer. You do not need prior approval to work at a retail store or to volunteer at a hospital or animal shelter, for example, but you will need prior approval to work at an environmental consulting firm.

PARTICIPATING IN RALLIES

Can I participate in rallies, union activities, or other group activities before Congress?

From an ethics perspective, employees in their personal capacity may participate in rallies, but they must make clear that they are not speaking on behalf of the Agency. They should take annual leave to participate and CANNOT use EPA equipment, resources, email addresses or official time to engage in this sort of personal activity.

PAY, TIME AND ATTENDANCE

1. Do we maintain normal office hours or can we have a limited schedule?

Most employees will be furloughed during a shutdown. If an employee is designated as shutdown or excepted, the employee's office hours will be contingent upon the degree of work required to perform approved shutdown or excepted functions and activities.

2. Will employees working under a telework agreement be required to report to their office locations rather than their alternative work locations?

Employees who are approved to telework by their supervisor on the day EPA shuts down normal operations can perform their shutdown activities at their alternate work location and are not required to report to their duty site. They should complete as many shutdown activities as possible before leaving work on the day prior to the shutdown day, and will, like other employees, receive their email furlough notification (if not designated as shutdown or excepted). Employees are always encouraged to consult with their supervisor if they have any questions

about their telework arrangements. Per OPM guidance, employees do not need to have a telework agreement to perform shutdown activities remotely.

3. Does a shutdown furlough affect the accrual of annual leave and sick leave?

If an employee is furloughed (i.e., placed in nonpay status) for part of a biweekly pay period, the employee's leave accrual will generally not be affected for that pay period. However, the accumulation of nonpay status hours during a leave year can affect the accrual of annual leave and sick leave over a period of time. For example, when a full-time employee with an 80-hour biweekly tour of duty accumulates a total of 80 hours of nonpay status from the beginning of the leave year (either in one pay period, or over the course of several pay periods), the employee will not earn annual and sick leave in the pay period in which that 80-hour accumulation is reached. If the employee again accumulates 80 hours of nonpay status, he or she will again not earn leave in the pay period in which that new 80-hour total is reached. At the end of the leave year, any accumulation of nonpay status hours of less than 80 hours is zeroed out so that the accumulation of nonpay status hours for the next leave year starts at zero.

For part-time employees, the rule blocking accrual of leave based on the accumulation of nonpay status hours does not apply. Instead, leave accrual for part-time employees is prorated based on hours in a pay status in each pay period; thus, time in nonpay status reduces leave accrual in each pay period containing such time

Please see OPM's [fact sheet](#) on the *Effect of Extended Leave Without Pay*, which has a section entitled, "Accrual of annual and sick leave."

4. What about return to work notification - what are EPA's plans?

Employee furlough notification instructs employees to return to work on their next regular duty day after a continuing resolution or an appropriation has been enacted into law. Employees are encouraged to monitor public news broadcasts and the Office of Personnel Management's website for regular updates. Employees may also call 1-888-EPA-TALK (1-888-372-8255) for EPA information.

5. If EPA is shut down for two days, for example, and employees are furloughed two days, how is pay calculated?

Pay is calculated on an hourly basis. Employees will be paid for the number of hours worked and the number of hours furloughed will be designated as nonpay status.

6. Does EPA have any plans to offer loans to employees who are living paycheck to paycheck?

The Agency has no authority to offer loans to employees. Employees who contribute to the TSP may be eligible for a loan. You can access the TSP Fact Sheet on "Impact of a Federal Government Shutdown on the Thrift Savings Plan" at: <https://www.tsp.gov/PDF/memos/oc11-5.pdf>

7. If the Agency implements a shutdown, when will employees receive pay for the last pay period that they worked?

Employees will be paid on schedule for their hours worked prior to the shutdown. In this case, employees will receive pay no later than the agency's official pay date of January 15, 2019, for the pay period from December 23, 2018 through January 5, 2019.

8. During a shutdown, will excepted employees be paid?

During the shutdown, excepted and shutdown employees will be paid for actual hours worked during the shutdown upon the next regular payday following passage of a funding bill.

9. How will time be handled and processed during a shutdown?

Employees who have been identified as furloughed should report for duty on the first working day that they were previously scheduled to return following expiration of annual funding for the government. Please note, the process is different for people who are returning and conducting shut down activities on or after January 3, 2019 or who did not attest their time before noon EST on January 2, 2019.

Employees scheduled to return on or before Wednesday, January 2, 2019: Employees should record, submit and attest to their time in PeoplePlus for the pay period ending January 5, 2019 **no later than noon EST**. Employees should record actual hours worked up to Friday 12/28/18 at midnight, plus the actual hours worked performing appropriate shutdown activities (up to 4 hours) on the day they perform them. Employees should record the remainder of their scheduled hours for that day and the pay period using the Furlough Time Reporting Code (FURSD).

Employees scheduled to return on or after Thursday, January 3, 2019 or who did not attest time by noon EST on January 2, 2019: Employee timecards for the pay period ending January 5, 2019 will be submitted automatically. Employees must NOT attempt to revise, save or submit their timecard until they receive additional guidance on how to record their time for shutdown activities.

The Furlough Time Reporting Codes (FURSD and FURWK) do not require work codes similar to the holiday time reporting code, HLDY.

Employees who have been identified as shutdown or excepted, and who continue to work during some portion of the furlough, should record actual hours worked up to Friday 12/28/18 at midnight. Employees should record actual hours performing shutdown activities or working on excepted activities using the Furlough Time Reporting Code (FURWK). Employees should record the remainder of their scheduled hours for the pay period using the Furlough Time Reporting Code (FURSD).

Employees who have been identified as exempted should report their time as normal.

Additional time and attendance guidance will be issued upon conclusion of the shutdown, including how to make time card corrections for those furloughed employees unable to enter their time by noon EST on Wednesday, January 2, 2019.

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

Yes. Excepted employees who met 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.

11. Some employees have other payroll deductions being paid to banks, mortgage companies, and other automatic deductions. Will employees need to make changes so their payments will not be late?

Yes. In the event of a furlough significantly impacting pay for any pay period, employees should plan to avoid/contain late payments for voluntary deductions or personal account allotments.

12. What is the difference between excepted and shutdown employees and how and why do they get paid during a government shutdown?

There are two classifications of employees who may continue to do some work during an emergency furlough: excepted and shutdown employees.

OPM defines excepted employees as “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.” Excepted employees work and get paid only as necessary and are furloughed during periods they are not needed to perform excepted work.

EPA will designate some personnel as shutdown employees, who will work for a limited period of time to implement specific activities necessary for the orderly shutdown of the agency. After performing this work, shutdown employees are furloughed like the rest of the employee workforce that is not designated as excepted.

Employees who fall into the excepted and shutdown categories will be notified by their management of their responsibilities during an emergency furlough. All employees in these categories are paid for only those hours that they actually work and will be paid after Congress passes and the President signs a new appropriation or continuing resolution.

13. How does a government shutdown impact Public Health Service (PHS) Officers?

Commissioned Officers are employees of the PHS. If EPA has a lapse in appropriations, PHS Officers will continue to work at the EPA because they are authorized by law to continue working. They will be paid after Congress passes and the President signs a new appropriation or continuing resolution.

14. Is it likely that we will receive “back pay” for any time lost due to a shutdown?

Congress will determine whether furloughed employees receive pay for the furlough period.

TRAVEL - (EPA Paid Travel)

1. I have been approved for travel beginning sometime after January 2, 2019. Can I continue to travel?

There should be no official travel during a shutdown except in certain limited circumstances. All current employees on travel must return to their duty station no later than midnight on the day before EPA shuts down, and any planned travel scheduled with a departure date prior to the day before the EPA shuts down that would extend to or beyond the day EPA shuts down, must be either cancelled or rescheduled.

The only travel exceptions include the following:

- Travel necessary for excepted activities where there is carryover or other funds to pay the travel costs. This travel should be approved by senior managers and occur only if there are no alternate means to complete excepted work.
- Employees assigned overseas who are not considered to be in travel status because their overseas location is considered their permanent station.
- Employees on extended TDY travel where a detail personnel action (SF52) was issued and funded. Employees should not return to their home location unless instructed by their receiving office.

2. Will EPA approved travel agencies be accessible? How?

The Agency Travel Management Centers (TMC) will be open. Employees performing excepted activities can make reservations through Concur or by calling the TMC (BCD Travel) at 1-866-964-1346. Furloughed employees can cancel upcoming reservations by calling BCD Travel. EPA's Cincinnati Finance Center travel help desk (513-487-2346) will also have someone available to assist with travel arrangements.

3. Who will approve travel if the approving official is in furlough status?

Requests for travel during the shutdown need to be requested by the RA/DRA or AA/DAA via an email to David Bloom. Final decisions on travel will be made by the CFO.

4. The Agency funded my participation at a conference which includes a non-refundable registration fee. If EPA is shut down during the days of my scheduled training, may I travel in my personal capacity and still make use of the registration since it's not refundable anyway?

No, you cannot use the registration for your own personal use. This is a misuse of position issue in that you can't use government-paid benefits for your own personal use. If you wish to attend in your personal capacity, you must pay for your own registration. If attending a conference in your personal capacity, you cannot represent yourself as an EPA official, i.e., you would not be able to moderate or speak on a panel, present your poster, etc. You may attend in your personal capacity only and at your own expense and cannot conduct any Agency business. Please consult with OGC/Ethics at ethics@epa.gov.

TRAVEL - (Payment of travel expenses by a non-federal source)

1. A non-federal source is paying for me to travel to speak at a conference. OGC/Ethics already approved the acceptance of these travel benefits. May I still travel?

No, you may not travel. Because the government is shut down, you cannot travel on official travel orders. You also cannot accept the gift of travel in your personal capacity, because doing so is a misuse of government position (using federal office or authority for private gain). Please advise the source that is funding your travel that you are not able to speak and must decline this invitation. Please cancel all travel arrangements.

2. My supervisor has canceled my upcoming travel. OGC/Ethics already approved the acceptance of these travel benefits to be paid by a non-federal source. Do I need to do anything?

Please contact OGC/Ethics (ethics@epa.gov) so they can cancel your ethics travel form.

3. Can I instead travel on my own time as a personal activity?

No, if the travel was accepted by EPA, then you cannot now “convert” the gift for your own personal advantage. You cannot accept the gift of travel in your personal capacity. Doing so is a misuse of government position (using federal office or authority for private gain). Please advise the source that is funding your travel that you are not able to participate and now must decline the invitation. Please cancel or advise the source to cancel all travel arrangements they made on your behalf.

WRITING TO A CONGRESSMAN

Can I write a letter to or contact my Senator/Representative about the sequestration, furloughs, etc.? Can I write social media posts?

From an ethics perspective, employees in their personal capacity may contact their legislators and/or post opinions on social media. They may refer in passing to their EPA or federal employment, personal and individual capacity. Be advised, however, that employees CANNOT use EPA equipment, resources, email addresses or official time to engage in this sort of personal activity during a shutdown.