



U.S. Department of Homeland Security

Procedures Relating to a Lapse in Appropriations

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Procedures Relating to a Federal Lapse in Appropriations

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I. Requirements and Limitations

During a federal funding hiatus, or lapse in appropriations, the Department of Homeland Security (DHS) must be able to cease its government operations in an orderly fashion. Only those functions and activities that are exempt or excepted from the work restrictions specified in the Anti-Deficiency Act (ADA) may continue during a lapse in appropriations.

The ADA essentially codifies the Constitutional requirement that “No Money shall be drawn from the Treasury, but in consequence of appropriations made by Law.” Federal officials are prohibited from incurring obligations, to include entering into contracts or grants, or performing activities in the absence of a currently available appropriation, unless authorized by law. The Act further restricts acceptance of voluntary services or personal services beyond authorized levels “except for emergencies involving the safety of human life or the protection of property.” As a result, only activities that are exempt or qualify as excepted may continue to operate during a lapse in appropriations.

In accordance with Section 124 of Office of Management and Budget (OMB)’s 2018 Circular A-11, “Agency Operations in the Absence of Appropriations,” the Department has developed the procedures outlined in this document as its contingency plan. Included, and as also specified by the A-11 guidance, is the identification of the following information:

1. An estimate, to the nearest half-day, of the time necessary to accomplish an orderly closure.
2. The total number of DHS employees on-board before implementation of the plan.
3. The total number of employees expected to be exempt or excepted from a lapse in appropriations.

Upon notification from OMB and subsequent direction from the DHS Under Secretary for Management (USM), DHS Components must adhere to the guidelines as set forth in the following pages. This includes the preparation of employee notices of furlough, the processing of personnel and pay records in connection with furlough actions, and the release of employees subject to a furlough in accordance with applicable law and regulations of the Office of Personnel Management (OPM).

Failure to maintain and adhere to these procedures may result in a violation of the ADA.

II. Definitions; Determining Exempt Functions and Employees

A. Definitions

The Department uses the terms “exempt” and “excepted” to describe functions and employees that may be required to continue operating during a federal funding hiatus. The following definitions are based on OPM’s “Guidance for Shutdown Furloughs – September 2015”:

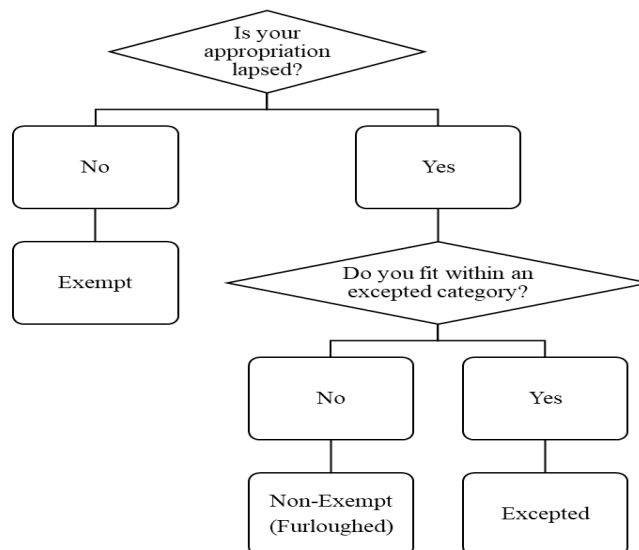
Exempt: Employees or activities funded by appropriations that have neither lapsed nor been exhausted, such as unobligated carryover balances (e.g. Disaster Relief Fund) and permanent appropriations (e.g. Immigration Examinations Fee Account).

Excepted: Employees or activities funded by lapsed (e.g. annual appropriations) or exhausted appropriations which may nonetheless continue because the work or the work they are performing by law, may continue to be performed during a lapse in appropriations. Such employees include those who are performing emergency work involving the safety of human life or the protection of property or other categories of excepted work.

Non-Exempt: Employees or activities which are funded by lapsed or exhausted appropriations and do not fit within any authorized exception, are neither exempt, nor excepted, and are therefore considered “non-exempt.” Non-exempt employees will be furloughed in the event of a lapse in appropriations.

Additionally, either an “emergency furlough” or a “federal funding hiatus” may be used to refer to a lapse in appropriations during which employees may be exempt or excepted.

Employee Status Example:



B. Exempt Functions

Guidelines for exempt activities follow. Proposals to continue activities that do not fit in the guidelines should be directed immediately to the DHS Office of the General Counsel (OGC).

1. Funded by Sources Other than Annual Appropriated or Exhausted Funds.

Some functions are covered by fee revenues or by multi-year, no-year, or revolving funds (when the authority to establish the revolving fund has not expired), or advance appropriations, and if those accounts have sufficient carry-over balance, they would not be affected by a lapse of annual appropriations. Agencies may continue to incur obligations and disburse funds from such non-lapsed funding sources. Revolving funds that operate almost entirely on offsetting collections from other federal entities may also be forced to close, unless sufficient retained earnings are available to forestall the closure. Employees paid directly from a funding source that has not lapsed during a lapse in appropriations may continue to perform normal duties and will receive pay for work performed during the lapse.

EXAMPLES:

- The Disaster Relief Fund, which is funded by a no-year appropriation and may have sufficient balances available to continue operations
- Fee-funded activities such as those funded by the Immigration Examinations Fee Account

Of note, the DHS Working Capital Fund (WCF) requires authorization through the yearly appropriations act to continue operations, and thus, activities funded through the WCF, unless excepted under one of the exceptions described below, must cease in the event of a lapse.

C. Excepted Functions

The following activities and/or functions may continue during a lapse in appropriations:

1. Authorized under Law to Continue Even without Funding.

Functions authorized by law to proceed during an appropriations lapse include “those functions as to which express statutory authority to incur obligations in advance of appropriations has been granted.”

Active duty military members are excepted because their entitlement to pay is provided under 37 U.S.C. § 204. This entitlement means that DHS is authorized by law to incur obligations for their pay. These active duty service members may perform normal duties during a lapse.

In addition, Congress provides express authority for some agencies to enter into contracts or to borrow funds to accomplish some of their functions despite a lapse in appropriations. This category does not currently apply to DHS functions; however, Components should notify OGC if they believe a function may qualify.

2. Implied by Law as Necessary to Continue Even without Funding

Functions authorized by law to proceed during an appropriations lapse also include “those functions for which such authority arises by necessary implication.” Presidentially Appointed and Senate Confirmed Officers and other political appointees who are not subject to the Annual and Sick Leave Act, 5 U.S.C. § 6301, 5 C.F.R. § 630.211, are excepted from a furlough during a lapse in appropriations. These appointees are entitled to compensation based on their status. This entitlement means that DHS is authorized by law to incur obligations for their pay. These appointees may perform normal duties during a lapse.

3. Necessary to the Discharge of the President’s Constitutional Duties and Powers.

Employees who may be detailed to the Executive Office of the White House may be excepted.

Those who are engaged in the conduct of foreign relations essential to national security are excepted.

4. Necessary for Safety of Human Life or Protection of Property.

To qualify under the exception of protection of human life or property, there must be some reasonable likelihood that the safety of human life or protection of property would be compromised in some significant degree by the delay in the performance of the function in question. Specifically, the risk should be real, not hypothetical or speculative, and must be sufficiently imminent that delay is not permissible.

Any activity and/or function that qualifies for the protection of human life or property exception must be limited only to the extent that the Component Head determines that imminent danger to life or property would result from their termination or diminution. Administrative, research, or other support functions related to an excepted activity should also continue, but only to the extent that they are essential to maintain the effectiveness of those activities and/or functions that are engaged in the protection of life or property, and at a minimum level.

For example, law enforcement officers (LEOs) whose duties include protecting human life or protecting property are excepted. However, LEOs who perform administrative functions that do not directly and demonstrably contribute to such activities are not excepted unless their work is necessary to support activities that protect life or property. While law enforcement activities are excepted, the pivotal factor is the work being performed, not the law enforcement officer status of any particular employee.

EXAMPLES:

- Maintaining law enforcement operations, including drug and illegal alien interdiction
- Continuing passenger processing and cargo inspection functions at ports of entry
- Providing the protective functions of the U.S. Secret Service
- Maintaining counter-terrorism watches or intelligence gathering or dissemination in support of terrorist threat warnings
- Retaining minimal personnel to maintain telecommunications necessary for excepted activities

5. Necessary for the Orderly Cessation of Functions.

Agencies may obligate funds during periods of lapsed appropriations to bring about the orderly cessation of non-exempt activities, which OMB has determined should generally take no more than four hours. During this time, employee activities must be wholly devoted to de-activating the function and upon completion, these employees would be released.

EXAMPLES:

- Performing payroll functions for the period just prior to the appropriation lapse
- Completing inventories of property and records to ensure protection of the Federal Government's interests and claims of affected private entities and individuals
- For "partially exempt or excepted" activities, the transferring of any ongoing work necessary to support an exempted or excepted function.
- Personnel functions to process furlough/reduction in force notices

The Appendix identifies total estimated exempt and excepted employees within each DHS Component.

D. Non-Exempt Functions

Non-exempt activities are all activities that do not fall within any of the categories of exempt or excepted functions described above. No obligations should be incurred to carry out non-exempt activities during a lapse in appropriations. Employees who are neither excepted, nor exempt, must be furloughed during a lapse in appropriations. This could include employees who may have to be recalled at a later date, if the furlough continues for more than a week.

EXAMPLES:

- Planning (such as strategic, business, or budgetary activities)
- Research and development activities
- Most policy functions, administrative, as well as programmatic, unless those functions can be justified by the above exceptions
- Auditing
- Regulatory, legislative, public affairs, and intergovernmental affairs
- Most training and development

E. Exempt/Excepted vs. Essential Functions

Exempt and excepted functions are those which may continue to operate during an appropriations lapse. Exempt and excepted functions and activities are described in this guidance.

Essential functions are a limited set of mission-essential or mission-critical functions that must be performed to provide continuity of operations (COOP). Each DHS Component has identified and defined its mission-essential functions separately. The identification of essential activities is different than the determination of exempt and excepted activities.

Section IV provides additional guidance on the differences between exempt and excepted employees for the purpose of a lapse in appropriations and essential employees for the purpose of a COOP event.

F. Employees: Exempt/Excepted vs. Non-Exempt

Exempt/Excepted employees have been designated by their supervisors to perform functions or activities that are exempt or excepted from work restrictions specified in the ADA and may continue to operate during a lapse in appropriations. Reference to an “exempt employee” for the purpose of government shutdown is not to be confused with an employee designated as an “exempt” employee under the Fair Labor Standards Act.

Non-exempt employees perform functions that may not continue during a lapse in appropriations. Non-exempt employees are subject to an “emergency” furlough and are not permitted to work. A non-exempt employee may be involved in the orderly cessation of

functions. However, once it is determined that non-exempt employees have completed all tasks related to the orderly cessation of functions, those employees can no longer perform work in the absence of appropriations. Non-exempt employees may not voluntarily perform non-exempt services during an “emergency” furlough.

G. Designating Exempt or Excepted Employees

Components must designate in advance (before any potential furlough) those employees who must perform functions or activities that are exempt/excepted from work restrictions specified in the ADA and may continue to operate during a lapse in appropriations. DHS maintains standard notification templates, which may be used to notify employees that they are exempt or excepted and will not be required to stop working during an emergency furlough.

Excepted employees shall only work on excepted activities during the funding lapse. Excepted employees will be paid when a full-year appropriation or Continuing Resolution is enacted. Exempt employees may be paid during a lapse in appropriations because there are funds available to pay those employees.

The activities and funding of employees on detail to other Federal Government agencies and to Congressional offices must be reviewed as well to determine whether these detailed employees and activities will be designated exempt/excepted or non-exempt based on the function and the availability of funds. In making such a designation, the detailee’s home agency supervisor should coordinate with the supervisor at the place of the detail. Similar to home agency employees, exempt/excepted detailees shall only work on exempt/excepted functions and must be included in the *U.S. Department of Homeland Security Procedures Relating to a Lapse in Appropriations Supplemental Materials* as an exempt/excepted employee. To ensure compliance with this requirement, home agency supervisors must coordinate with the supervisor at the place of the detail to determine if the exempt/excepted detailee should return to their home agency to work on exempt/excepted functions. The employee’s home agency must include the detailees in their lapse plans. For example, if a Component has an employee deployed as part of the Surge Capacity Force, then that Component must include that employee on their exempt/excepted list.

Components should ensure that information on facilities, reporting officials, and systems available to employees working during a furlough is available and distributed to all of their exempt/excepted employees.

III. Procedures for an Orderly Closure

At the direction of the Secretary through the Deputy Secretary, USM is responsible for implementing the Department’s general procedures for an orderly closure. The Head of each Component is responsible for ensuring that Component’s compliance with the Department’s procedures, and should not endeavor to make changes to such procedures without advance consultation with USM.

Given that the duration of an appropriations hiatus is inherently uncertain, and consistent with OMB guidance, the plan that follows describes Departmental procedures to be taken during the commencement and the first five days of a lapse.

USM, in coordination with OGC and the Chief Financial Officer, will adjust the Department's procedures as necessary should the lapse continue beyond five calendar days. USM will also provide direction as necessary should external factors require changes to the Department's operations, such as may be caused by a natural disaster, catastrophe, or terrorist incident.

A. Implementation of an Emergency Furlough

1. General Guidance. Upon receipt of a notice from OMB through either the Office of the Secretary or USM that there is a lapse in appropriations, Component Heads must notify their employees that an emergency shutdown furlough has been activated.
2. Notices to Exempt/Excepted Employees. Components must notify their exempt/excepted employees of their status in advance of an emergency furlough. The preferred notification process is by email. Notification also may be by telephone, by letter, or in person, if email is not feasible. Components may tailor this process to the degree needed to meet Component-specific requirements. Email messages to exempt/excepted employees do not require delivery receipt, read receipt, and return email.
3. Report for Work. Exempt employees should discuss any previously planned leave with their supervisors, to determine whether they will still be permitted to take leave or whether they will be required to work during a lapse in light of changes in coverage. Excepted employees must report for work during an emergency furlough. An employee who refuses to report for work after being ordered to do so will be considered to be in an absence without leave status and may be subject to administrative or disciplinary action for not reporting for work. During a lapse in appropriations, all excepted employees must be either (1) at work performing excepted activities or (2) in a furlough status.

If an excepted employee is unable to report for work during a furlough and the supervisor or other management official approves the absence, the supervisor may change the status of the excepted employee to non-exempt and furlough the employee to allow the employee to be "absent" from work. When an employee is not working or performing excepted activities in compliance with the ADA, he or she must be furloughed and the furlough must be documented by a furlough notice. Excepted employees should not be granted leave without pay for absences from work during a furlough. If legislation is later enacted to compensate employees who were furloughed, employees on leave without pay during the furlough would not be compensated.

4. Employee Pay. Excepted employees who work during a lapse in appropriations will not be paid during the funding hiatus. However, excepted employees will be paid when Congress passes and the President signs a new full-year appropriation or Continuing Resolution. Exempt employees whose salaries are funded by other than annual appropriations may receive pay as regularly scheduled. Human resource organizations

must also be prepared to respond in the event legislation is enacted during the lapse that permits some excepted employees such as military personnel to continue to receive pay.

5. Employee Leave. Exempt employees (i.e. employees who are exempt from furlough by reason of being funded by other than annual appropriations) may take paid leave (e.g., annual or sick leave) during a furlough. Excepted employees (i.e. employees who are excepted but not funded by other than annual appropriations) may not take paid leave, including previously approved paid leave, and must be furloughed during any period of absence. Supervisors must allow an excepted employee to continue to be absent from work for active military duty, although the employee may not use military leave or any other paid leave (e.g., annual or sick leave) during the furlough. Instead, the employee's status would be Absent-Uniformed Service (formerly Leave Without Pay-Uniformed Service).
6. "Use or Lose" Annual Leave. Many excepted and non-exempt employees may have accumulated annual leave that exceeds their applicable maximum annual leave ceiling. (Most employees are subject to the 30-day maximum annual leave ceiling. Members of the Senior Executive Service (SES) are subject to a 90-day maximum annual leave ceiling. Employees stationed overseas are subject to a 45-day annual leave ceiling.) Since excepted and non-exempt employees may not use annual leave during a lapse in appropriations, any unused annual leave in excess of the employee's applicable leave ceiling at the end of the leave year (for instance, January 06, 2018 for Leave Year 2017) is subject to forfeiture.

Employees may request restoration of forfeited annual leave, if the annual leave was scheduled and approved in advance (see Component's internal procedures), later cancelled by the supervisor due to "exigencies of the public business," and the annual leave could not be rescheduled and used before the end of the leave year. A lapse in appropriations has previously been determined by OPM/OMB to be "an exigency of the public business," and employees' forfeited annual leave can be restored. (Also see the OPM fact sheet on "Annual Leave (General Information)" at <http://www.opm.gov/oca/leave/HTML/ANNUAL.asp>.)

6. Weather-Related Leave. Excepted employees are required to report for work on time even if, during a lapse in appropriations, OPM announces that "Federal agencies are operating under an unscheduled leave" policy because of emergency weather conditions. Although "essential employees" who have been furloughed because they are not designated as exempt or excepted employees should not come to work during a weather emergency occurring in the middle of a furlough, they should be aware that their non-exempt designation may change to excepted based on conditions and they would then be required to report for work. Should an excepted employee be unable to report for work because of emergency conditions, he or she must be placed in a furlough status until such time as the employee is able to report for work.

B. Furlough of Non-Exempt Employees

1. General Guidance. The procedures outlined as follows apply to DHS operations that are non-exempt during a lapse in appropriations. They should be implemented by Component Heads upon receipt of a notice from OMB through either the Office of the Secretary or the USM.

If a funding lapse begins at midnight on a Friday, furlough notices should be issued on Saturday to non-exempt employees whose next scheduled workday is on Saturday, on Sunday to non-exempt employees whose next scheduled workday is on Sunday, and on Monday for non-exempt employees whose next scheduled workday is on Monday.

2. Employee Notices. Components must be sure to contact all employees who have been designated as non-exempt including those on detail, on travel, in training/conferences, overseas, on leave, etc. Those employees should be provided advance notice of their non-exempt status. This can be accomplished verbally or with a “Notice to Non-Exempt Employees;” a template will be maintained and available through the Department’s Office of the Chief Human Capital Officer (OCHCO). This notice informs employees of their non-exempt status in the event of a funding hiatus; it is not a furlough notice. Servicing Human Resources Offices shall immediately transmit the employee notices that supervisors and managers must distribute to their employees.

Employee furlough notices must be delivered via email or in person using the template maintained by the Department’s OCHCO. A read receipt or delivery receipt is preferred where feasible.

3. Non-Exempt Employees on Travel. Even with approved travel orders, non-mission critical travel should not commence within three business days of the date of a potential funding lapse. Non-exempt employees planning temporary duty assignments away from their normal duty stations at the time of a lapse in funding should change their travel plans and instead should report to their permanent duty station before the effective date of the funding lapse. Such employees should work with the Department travel management service provider to affect such changes and should be sure to terminate other reservations such as lodging or rental car.

Non-exempt employees already serving at temporary duty locations at the time of a lapse in funding may hold in place until their employing agency makes a determination that they must return to their permanent duty stations. Components should determine the reasonableness and practicality of changes to temporary duty travel on the basis of the length of the assignment and the time required for return travel, compared to the anticipated length of the lapse, and should in general minimize the burdens and costs associated with a return to permanent duty stations.

4. Notice to Federal Employees About Unemployment Insurance, Standard Form 8. It is possible that furloughed employees may become eligible for unemployment compensation and Components should provide them an SF-8 at the same time the

furlough letter is issued. State unemployment compensation requirements differ; some states require a one-week waiting period before an individual qualifies for payments. Agencies or employees should submit questions to the appropriate state (or District of Columbia) office. (Also see the Department of Labor website "Unemployment Compensation for Federal Employees" at <http://workforcesecurity.doleta.gov/unemploy/unemcomp.asp>.)

The SF-8 informs employees of their right to file a claim for Unemployment Compensation, explains the basic eligibility requirements, provides general information as to how, when, and where to file a claim, and describes the documents which the individual should take when filing a claim (20 CFR Part 609.20). Components must annotate the address and Agency Code of the separating federal agency where wage and separation information can be obtained. This document may be posted to an accessible automated information-sharing site used to communicate useful and required information that would normally be attached to the furlough notice.

5. Shutdown Activities. Non-exempt employees may be engaged in shutdown activities during the first four hours of the first working day of a lapse in appropriations, such as:
 - a. Supervisor notifications to non-exempt employees that they are furloughed
 - b. Consolidating and organizing employee notices, including email receipt/read notices and employee return emails, for forwarding to the servicing human resources office upon request
 - c. Consolidating and storing files
 - d. Safeguarding classified materials
 - e. Protecting government property
 - f. Notifying the public and other agencies of the shutdown of DHS operations
 - g. Documenting the status of projects to facilitate resumption when regular operations are resumed
 - h. Processing appropriate personnel/payroll actions and filing documentation

6. Employee Pay. Component human resource organizations should ensure all employees will receive compensation as regularly scheduled for time worked prior to the lapse. OCHCO will provide Component human resource officers with a special code for input into employee time and attendance systems (such as WebTA) to identify hours not worked because of furlough. Components must ensure such code is utilized to help prevent over-payment of compensation to non-exempt employees for time worked prior to the lapse.

Non-exempt employees will receive pay for performing shutdown activities if Congress enacts a full-year appropriation or a Continuing Resolution permitting such payments.

7. End of Furlough. Furloughed employees will be instructed to monitor the media and to regularly check the DHS website as well as their DHS-issued electronic devices for notice on when the furlough has ended and when to return to work. (See Section I(2) for more information).

8. Other Considerations.

- a. Component Employee Assistance Programs (EAP) are expected to continue to operate during a lapse in appropriations. All employees – including those that are non-exempt, may benefit from counseling assistance from their Component EAPs during this stressful time. In addition, employees may want to contact their financial institution, credit union or learn about other options for financial assistance through the Thrift Savings Plan (www.tsp.gov).
- b. Regardless of whether an approved Travel Authorization has been obtained, non-exempt employees may not start new travel in the event of a lapse in appropriations.
- c. In light of the uncertainty of the budget situation during a lapse in appropriations, Components should delay the enter-on-duty date for new employees and transfer employees (transferring from another government agency) who are scheduled to enter on duty on the first day or anytime during a furlough. Components should notify these employees that DHS is under an emergency furlough and they should NOT report for work until they receive further instructions. New and transfer employees should be in-processed after the furlough ends.

C. Management Controls

1. General Guidance. DHS internal control standards will continue for exempt/excepted operations during a temporary funding hiatus. Components with continuing operations must (if possible), modify or develop procedures to ensure adequate controls in a streamlined environment to achieve the same internal control results expected during normal operations. This includes ensuring adequate reviewing, authorizing, and approving functions are in place. Additionally, Components must maintain key separation of duties for important business functions such as the following:
 - a. Authorizations
 - b. Records and documenting
 - c. Custody of assets, whether directly or indirectly (e.g., receiving checks in mail)
2. Record Keeping and Reporting. Special care must be taken throughout the lapse in appropriations to maintain logs, formal records, and file copies of all transactions and expenditures to provide adequate accountability and justification for exempt activities, including the costs expended for exempt activities.

At the conclusion of the hiatus, Components must be able to achieve the same reporting outputs that occur in a normal environment. For example, at the conclusion of the hiatus, Components will process any backlog of accumulated transactions not entered into the financial system and report compliance with internal control standards. Examples of activities and documentation includes, but is not limited to, tracking obligation data,

exercising contract authority, managing revenue collection activities, and processing exempted travel processing.

Component reporting procedures will include gathering performance metrics data during the hiatus period to capture costs and savings data at the conclusion of the hiatus. Components must have procedures in place such that when appropriations become available to continue Federal Government functions, Components can report all costs incurred due to the lapse in appropriations. See Section V, Reporting of Costs Incurred.

D. Financial Operations

1. General Guidance. In the event of a temporary funding hiatus, DHS and its Components will stop all financial operations and financial system operations, including processing payments, receipts or performing funds control, except for the following exempt/excepted activities:
 - a. U.S. Customs and Border Protection revenue collections
 - b. Federal Emergency Management Agency disaster payments
 - c. Organizational Program Coordinators needed to support credit card programs for exempt/excepted activities
 - d. Financial operations funded by U.S. Citizenship and Immigration Services fees
 - e. Electronic travel approvals and processing to support exempt activities

Whether DHS will incur interest due to delays in making payments caused by the funding lapse does not provide a justification to make payments. Except for the activities noted above, DHS personnel may make a payment during a funding lapse only when the failure to make the payment would result in an imminent threat to life or property.

2. Accounting Center Operations. Accounting centers will not run funds availability checks during a hiatus. Therefore, Components must keep a clear accounting record so that the accounting center may process complete transactions into the financial systems when normal operations resume.
3. Documentation and Reporting. Ensuring proper documentation and internal controls when conducting financial operations during a funding hiatus is mandatory. Components must maintain and control documentation of all transactions initiated and processed during a temporary funding hiatus. When the hiatus is over, Components must be able to account for all activities and meet reporting requirements just as under normal operations. In addition, Components must collect performance and cost data which can be analyzed for the purposes of determining the impact of a hiatus. Components will provide specific instructions on what data to collect.
4. Travel Management. Minimum travel management support will be available to support exempt/excepted functions. Travel expense reports will not be processed during a lapse in funding, and reimbursements for travel costs will not be made until the lapse has

ended. Each traveler with an individually billed account is still responsible for the timely payment of their travel card balance.

5. Bank Card Program. Purchase cards, travel cards, and fleet cards will still be available to fund exempt/excepted activities. Component Organization Program Coordinators (OPCs) will consider a reduction in spending limits for non-exempt cardholders to one dollar for the duration of the furlough. Each Component will provide support to cardholders for exempt/excepted activities through designated OPCs. Each Component will provide guidance and specific points of contact to its employees.
6. Reimbursements. Reimbursements cannot be processed for activities for which DHS Components receive reimbursements from other than annual appropriations if the servicing Component's activities are funded from a lapsed appropriation. Because the servicing Component's appropriation is lapsed, there is no account to reimburse until after a full year appropriation or a continuing resolution has been enacted.

E. Contracting

1. General Guidance. The "Department of Homeland Security Contracting Contingency Plan" shall be maintained and, prior to a lapse in appropriations, distributed to the Heads of the Contracting Activities (HCAs) with a list of frequently asked questions through an Acquisition Alert. HCAs must work with their Component Heads to proactively survey and identify contracts that, in whole or in part, support activities that will continue to support exempt functions. This will serve two major purposes for DHS contracting activities:
 - a. To identify and maintain a list of contracts for which Stop Work Orders or Partial Terminations for the Convenience of the Government should be issued to contractors, and to allow Contracting Officers sufficient lead time to prepare modifications to de-scope contracts and prepare any necessary justifications and other supporting documentation for contracts that will be partially terminated.
 - b. To allow HCAs to determine an effective distribution of warranted Contracting Officers to support an orderly shutdown and the management of contracts supporting exempted functions.
2. No New Obligations. DHS may not incur a new obligation by signing a new contract, by extending a contract, or by exercising an option when the funding source for that obligation is a lapsed appropriation unless the contract is required to support those functions defined as excepted for DHS, such as safeguarding human life or protecting property.
 - a. The ADA prohibits agencies from incurring obligations that are in advance of, or that exceed, an appropriation. Thus, except in limited circumstances, DHS may not incur obligations when the funding source for the obligation would be an appropriation that has lapsed unless the obligation is needed to support those

functions defined as excepted for DHS. Even when a contract, order, agreement or other transaction may be awarded or modified in order to preserve life or safeguard property, DHS cannot pay the contractor until appropriations are enacted.

- b. In addition to those contracts directly supporting exempt or excepted functions, many contracts are fully funded. Contractors performing under a fully funded contract may continue to perform unless government oversight or day-to-day interaction with non-exempt government employees is critical to the contractor's continued performance during that period.
3. Federal Employees Supporting Contracting Operations. If there is a lapse in the appropriation that funds the federal employees who supervise or support the performance of a contract, those federal employees cannot continue these activities during the funding lapse unless the contract supports an excepted activity. Routine ongoing activities related to contract administration are not authorized to continue when there has been a lapse in the appropriation that funds the contract administration activities. In other words, during a federal funding hiatus the performance by contracting officers, contracting officer technical representatives and contract administration personnel of routine oversight, inspection, accounting, administration, payment processing and other contracting activity would generally not continue, when there has been a lapse in the appropriation that funds these activities.
 - a. In the absence of federal oversight, DHS may, however, allow the contractor to continue performance during the lapse period if the continued oversight is not critical to the contractor's continued performance during that period. This is the case, for example, for all firm fixed price contracts and orders that are fully funded at the time of award. DHS does not have to issue an affirmative direction to the contractor to continue performance. Instead, the contractor continues to perform work in accordance with the contract. However, it is always prudent to communicate with the contractor to avoid potential misunderstandings.
 - b. Depending on the duration of a funding lapse, the absence of available federal employee oversight may lead DHS to reconsider whether the contract activity should continue to be performed. In particular, if the continued oversight during the lapse period is critical to the contractor's continued performance during that period then – where consistent with law and the terms of the contract – DHS should instruct the contractor to suspend performance.
 - c. Additionally, if continued performance is not statutorily required, then DHS should consider whether having the contracting activity continue is a sensible use of taxpayer funds in light of the lapse of appropriations. In this regard, there may be situations in which the continued performance of a contract would be wasteful due to the impact that the funding lapse is having on other agency activities.

For example, it may be wasteful to have a contractor perform regular trash collection every day in the offices of a federal building that has closed due to the funding lapse. Should the relevant Component head decide that continued performance would be wasteful and thus should be suspended during the funding lapse, appropriate contractual action should be taken (which would be part of the agency's orderly-shutdown activities). Contracting staff will need to work closely with Component procurement counsel in making and implementing these decisions to minimize costs to the Federal Government.

F. Grants and Other Forms of Financial Assistance

1. General Guidance. The "Department of Homeland Security Financial Assistance Contingency Plan" shall be maintained and, prior to a lapse in appropriations, distributed to the Heads of the Financial Assistance Activities with a list of frequently asked questions through a Grant Alert. Heads of the Financial Assistance Activities must work with their Component Heads to proactively survey and identify grants or other forms of financial assistance that, in whole or in part, funds activities that will continue to support exempt or excepted functions. This will serve two major purposes for DHS financial assistance activities:
 - a. To identify and maintain a list of grants and other forms of financial assistance that may be awarded during a funding hiatus.
 - b. To allow Heads of the Financial Assistance Activity to determine an effective distribution of Financial Assistance/Grant Officers to support an orderly shutdown and the management of grants and other forms of financial assistance supporting exempted functions.
2. No New Obligations. DHS may not incur a new obligation by signing a new grant or other form of financial assistance, by extending a grant or other form of financial assistance, or by exercising an option when the funding source for that obligation is a lapsed appropriation unless the obligation is required to support those functions defined as excepted for DHS, such as safeguarding human life or protecting property.
 - a. The ADA prohibits agencies from incurring obligations that are in advance of, or that exceed, an appropriation. Except in limited circumstances, DHS may not incur obligations when the funding source for the obligation would be an appropriation that has lapsed unless the obligation is needed to support those functions defined as excepted for DHS. Even when a grant or other form of financial assistance may be awarded or modified in order to protect human life or property, DHS cannot pay the awardee until appropriations are enacted that provide the necessary funding.
 - b. In addition to those grants or other forms of financial assistance directly supporting exempt or excepted functions, grant awards or option periods for continuation awards that have already been awarded are fully funded. Those

awardees may continue to perform. In certain cases, existing grants and cooperative agreements require prior approvals or coordination with government non-exempt employees. In cases where the terms of the grant or cooperative agreement require prior approvals or coordination before the awardee proceeds, non-exempt employees will not be available to provide the required approvals or coordination. In those cases, the awardees work must cease per the terms of the award until the required approvals can be obtained or the required coordination can take place.

3. Federal Employees Supporting Financial Assistance Operations. If there is a lapse in the appropriation that funds the federal employees who supervise or support the performance of a financial assistance program, those federal employees cannot continue these activities during the funding lapse, unless these grants or other forms of financial assistance are necessary to support an excepted activity. Routine ongoing activities, related to a grant or other form of financial assistance administration, are not authorized to continue when there has been a lapse in the appropriation that funds the award administration activities. In other words, during a federal funding hiatus, the performance by financial assistance/grant officers, program officials, and financial assistance administration personnel of routine oversight, monitoring, accounting, administration, payment processing, and other financial assistance activity would generally not continue when there has been a lapse in the appropriation that funds these activities.
 - a. In the absence of federal oversight, DHS may, however, allow the awardee to continue performance during the lapse period if the continued oversight is not critical to the awardee's continued performance during that period. This is the case, for example, for all existing financial assistance awards that are fully funded at inception. DHS does not have to issue an affirmative direction to the awardee to continue performance. Instead, the awardee continues to perform work in accordance with the grant or other form of financial assistance. However, it is always prudent to communicate with the awardee to avoid potential misunderstandings.
 - b. Depending on the duration of a funding lapse, the absence of available federal employee oversight may make continued performance by the awardee of a grant or other financial assistance award practically impossible, depending on the terms of the award. In particular, if the continued oversight, during the lapse period, is required by the terms of the award to permit the awardee to perform, then performance must cease. For awards where this is likely to be the case, e.g. those that require prior approvals for certain activities or cooperative agreements that have required coordination with DHS, DHS should remind awardees of these requirements and advise them that they must not perform work without receiving the approvals required by the terms of their awards.

Financial Assistance staff will need to work closely with Component general counsel in making and implementing these decisions to minimize costs and liability to the Federal Government.

G. Use of DHS Facilities

1. General Guidance. Procedures outlined below provide guidance on the management and disposition of DHS facilities and assets during a lapse in appropriations. They should be implemented by Component Heads upon receipt of orders from OMB through either the Office of the Secretary or USM.
 - a. Component Heads shall notify the senior real property official to direct real property management personnel to oversee the temporary closure of non-exempt facilities, coordinate and support staff consolidation, and to supervise the establishment of designated facilities for use in support of exempt/excepted functions.
 - b. A funding hiatus plan shall be implemented to provide notification and details for appropriate use of facilities. It should be distributed to the relevant workforces and should include the identification and contact information of real property Points of Contacts (POCs) for operations during and following a lapse in appropriations. The real property POCs should be designated staff who have the lead responsibility for facility shutdown and start-up operations.
2. Facilities Occupied with Exempt/Excepted Functions.
 - a. Consolidation – Consolidate exempt/excepted functions in the absolute minimum space needed to maintain exempt/excepted operations.
 - b. Building Operations – Maintain minimum operations to support exempted/excepted functions.
 - c. Security – Maintain physical security for exempted/excepted facilities including monitoring facilities as appropriate. The Headquarters (HQ) Office of the Chief Security Officer (OCSO) will maintain essential security support and services to DHS HQ's facilities and personnel, as well as appropriate and required service to DHS Components. Collateral and Sensitive Compartmented Information security support to HQs and Components through the Special Security Office Program and Sensitive Compartmented Information Facilities support will continue. This includes working closely with the Federal Protective Service to ensure HQ facilities and exempt/excepted personnel are protected.
 - d. General Services Administration (GSA) Notice – Provide notification to GSA Building Management Representative of exempt/excepted activities that will continue normal operations in GSA controlled space.

3. Facilities Occupied with Non-Exempt Functions.

- a. Discontinue use – Ensure facilities are vacated. For DHS-owned facilities, ensure essential shutdown and start-up procedures have been defined for the impacted assets, and notifications given to service providers for major systems such as elevators, electrical, mechanical, water and sewer supply, and security.
 - b. Building Operations – Reduce operating systems to minimal requirements needed to ensure asset protection and maintain safety measures. For DHS-owned facilities, utilities should be set to weekend settings, and building systems should be placed in sleep mode/weekend service levels-lowered to minimum levels needed to maintain life, safety and security systems. Confirm emergency back-up systems are operational.
 - c. Security – Maintain physical security monitoring. The DHS OCSO will maintain essential security support and services to DHS HQ facilities and personnel as needed. Non-exempt facilities will be secured and card readers deactivated as needed. This includes working closely with the Federal Protective Service to ensure HQ facilities and exempt/excepted personnel are protected.
 - d. Notifications – Provide notification to GSA Building Management Representative of vacated non-exempt facilities leased by GSA to DHS, and similarly to other lessors if applicable. For DHS-owned facilities, develop a list of external notifications for use at time of a lapse in appropriations, such as monitoring companies, local safety and security offices, and mail operations.
4. Mail Operations. – Operational considerations for the Mail Surety exempt/excepted functions are based on assumptions that the primary mail delivery vendors, United Parcel Service (UPS), FedEx, and the United States Postal Service (USPS) will continue to process some level of mail for DHS and its Components.
- a. In the event of a lapse in appropriations, Components shall determine how to accommodate existing mail surety services for operational functions. Service levels and arrangements may vary from location to location but should utilize minimum staffing levels. Designated points of contacts shall be responsible for receiving items identified as registered, sensitive, medical-related, and items requiring refrigeration.
 - b. Mail delivery: The DHS Consolidated Remote Delivery Site will deliver mail to the designated DHS exempt/excepted facility locations. The DHS Office of the Chief Readiness Support Officer (OCRSO) in coordination with the DHS OCHCO and the DHS OCSO will provide a list of exempt/excepted personnel during a lapse in appropriations.

5. Transportation Shuttle Service Operations for Exempt/Excepted Employees.
 - a. The DHS Shuttle service will continue operations and is available to DHS exempt/excepted employees utilizing the OCRSO HQ shuttle service activity.
 - b. Shuttle Service support to U.S. Coast Guard, the Federal Emergency Management Agency and the Transportation Security Administration will operate at normal schedules due to limited access to public transportation.
 - c. Limited shuttle services will be available for the DHS HQ components within the National Capital region (NCR) and the OCRSO will distribute guidance based on exempt functions at specific locations in the NCR.

H. Use of Mobile Assets and Personal Property

1. Exempt/Excepted Functions. The guidance provided below regarding DHS Mobile Assets (Fleet, Air, and Marine) and Personal Property functions is intended to reaffirm the continuance of only those functions which are required for exempt/excepted activities. Component managers responsible for the control, maintenance, and operational readiness of critical assets necessary for the continuance of exempted/excepted activities must take the following actions:
 - a. Determine the bare minimum number of support personnel necessary.
 - b. Consolidate equipment, operations, and supporting facilities.
 - c. Ensure that only the minimum amount of recordkeeping necessary to document the expenditure of funds and disposition of assets.
 - d. Acquire only the minimum amount of parts and supplies necessary for continued operation of critical assets.
 - e. Secure all property not used for critical activities in a manner that protects the asset and ensures its immediate availability upon reactivation.
 - f. Discontinue all contractor support not directly associated with the maintenance of critical assets.
 - g. Discontinue the acquisition of new or replacement assets unless the new or replacement asset is critical to the execution of an exempt/excepted activity and cannot be sourced from idle assets within the immediate inventory or located within the organization's or Department's regional inventory.
 - h. Utilize shared mobile assets and personal property resources within the Component, Department, and where possible through inter-agency means.
2. Non-Exempt Functions. Maintenance and support activities and personnel whose absence would not cause an unacceptable interruption in the execution of exempted/excepted activities outlined by DHS HQ include:
 - a. Air, marine, and fleet assets used for training or administrative functions.
 - b. Operations and maintenance activities necessary to support training or administrative functions.

- c. Home-to-Work Transportation not in direct support of exempted functions (emergency response on a 24×7 basis).
- d. Department and Component management activities which do not directly support exempted/excepted activities.
- e. Recurring inventory for the sole purpose of property accountability;
- f. Record keeping including reporting (field level, Component, Component HQ, or DHS HQ).
- g. Acquisition and procurement functions (excluding parts and supplies otherwise mentioned in this guidance).
- h. Planning.
- i. Work order management not associated with the continuance of maintenance activities associated with critical assets.
- j. Oversight, audit, and assessment not essential to the mitigation of fraud, waste, and abuse during the lapse in appropriations.

I. Use of Information Technology (IT) Equipment

1. Exempt/Excepted Functions. DHS exempt/excepted personnel performing exempt/excepted functions may continue to use their DHS-issued information technology resources including portable communication devices, computer software and hardware equipment without restrictions, except that some personnel may need to utilize temporary equipment at consolidated locations.
2. Non-Exempt Functions. Once OMB notifies DHS that a lapse in appropriations has commenced, non-exempt employees may use their DHS-issued electronic devices, to receive furlough notices, acknowledge delivery receipt and read receipt of furlough notices, and acknowledge receipt of notices via return email.

During a hiatus, non-exempt personnel may continue to retain and monitor their DHS-issued electronic devices for status updates and emergency notifications from their supervisors or other management officials; however, employees are prohibited from using this equipment for any other purposes (e.g., employees may only use their DHS electronic devices for one-way communication to monitor the status of the furlough, which is strictly an option (employees are not on standby duty). Failure to follow this policy may result in a violation of law, specifically the ADA, which has a criminal component, and may result in severe penalties.

3. Internet Services and DHS Network Access. The Department's public website will remain accessible, but will not be maintained or updated. The DHS network will remain accessible to support exempt functions.

J. Training Functions

1. New Hire Training. The training of newly hired employees, including those in law enforcement, is generally not permissible unless such training and related support activities are funded by other than annual appropriations or is necessary to continue

carrying out an excepted activity. Upon a funding lapse, such training functions and associated facilities should proceed with an orderly closure, unless exempt/excepted.

If DHS Components have employees receiving, or scheduled to receive, new hire training at the Federal Law Enforcement Training Centers (FLETC) during a lapse in appropriations, the Components must coordinate with FLETC. Specifically, DHS Components must, in coordination with FLETC, ensure that any required FLETC personnel and the justification that the training is necessary to continue a function excepted because it is necessary for the safety of human life or protection of property, are included in the FLETC lapse plan. Please note that the mere fact that the new hires at issue have been hired to perform excepted functions necessary for the safety of human life or protection of property (e.g. law enforcement) is not, without more, sufficient to qualify such new hire training as excepted. The justification must instead establish that there is some reasonable likelihood that the delay in the new hire training would significantly compromise the safety of human life or protection of property. Coordinating any such justification with your Component Chief Counsel and CFO is recommended.

2. Skills Training. Training necessary to maintain specific perishable skills associated with excepted law enforcement functions is excepted. Such activities may include training of canine units, Federal Air Marshals marksmanship training, and Secret Service presidential protection exercises.

General skills training, including such activities provided by the Federal Law Enforcement Training Centers, is generally not excepted, although may be exempt where funded by other than annual appropriations. Trainees who are on temporary duty assignment and receiving training at a DHS Component training facility and are non-exempt may hold in place until their employing agency makes a determination that they must return to their permanent duty stations, if a funding hiatus occurs and only extends for a short period of time (one to two days). Should the determination be made that a funding hiatus will continue for an extended period of time, the trainees should return to their permanent duty station, the planned training should be rescheduled, and the training facility should proceed with an orderly cessation of that training.

K. Travel Guidance

1. Excepted personnel may travel during a funding lapse only when necessary for excepted activities, such as when necessary for safety of human life or protection of property. The heads of the Operational Components, the Inspector General, the Director of Cybersecurity and Infrastructure Security Agency, the Director of the Federal Law Enforcement Training Centers, and OGC shall have authority to approve domestic travel by their employees for excepted activities in consultation with their chief counsel and chief financial officer (CFO). Excepted travel for all other employees shall be approved by the Under Secretary for Management. Any such travel conducted must be limited in duration and performed only when absolutely necessary with no alternative means of

carrying out the excepted activity. Examples of excepted activities for which travel may be taken include travel necessary for:

- ongoing litigation in Federal court for which a stay has not been issued
 - participation in the Department's security coordination efforts at a Level 1 SEAR event
 - travel related to the conduct of foreign relations
2. Exempt employees whose domestic travel is funded by other than annual appropriations may continue to travel during a general funding lapse. Travel of exempt employees, which is funded by other than annual appropriations will be approved using the ordinary travel approval process. Components heads should limit travel funded by other than annual appropriations, where appropriate (i.e. where activities are funded by finite carryover balances as opposed to a permanent, indefinite appropriation), to ensure that non-lapsed funds are not exhausted and remain available, to the extent possible, to carry out operations until the funding lapse ends.
 3. All international travel during a funding hiatus, to include travel necessary to carry out exempt/excepted functions, is strongly discouraged and requires written approval by the USM in advance of incurring any costs related to the travel.

IV. Procedures in the Event of an Incident Requiring Recall

A. Essential Employees.

An emergency situation may arise for which federal assistance is needed to supplement State and local efforts and capabilities to save human lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States. Such emergency situations may require certain DHS essential employees to report for work. Essential employees generally are employees in jobs that are vital to public health, safety, welfare, and national defense, front line law enforcement, or the operation of essential facilities and functions.

Although some employees identified as "essential" will likely be determined to be "excepted employees," many will not since they do not perform functions or activities that are "excepted" from work restrictions specified in the ADA – e.g., functions/activities that are necessary for the safety of human life or protection of property.

The categories of "essential personnel" within DHS are as follows:

1. Mission Critical Personnel. Those employees occupying positions and performing functions that must be maintained under all circumstances to ensure the safety and security of the Nation and its citizens. The critical nature of these positions is inherent in the position description (e.g., securing the Nation's borders, protecting the Nation's transportation system, etc.). These employees must report for duty regardless of the

emergency or operating status. Employees whose work is critical to the ability of DHS to perform its national or homeland security mission.

2. COOP Personnel. Personnel occupying positions identified to sustain an organization's primary mission essential functions (PMEFs) and mission essential functions (MEFs). These personnel:
 - a. May conduct these activities at an alternate site, virtually or through the observance of an alternate work schedule.
 - b. Are expected to initiate and remain in contact with their Component during an emergency to maintain continuity of operations (COOP).
 - c. Are Emergency Relocation Group (ERG) members and alternate ERG members.
3. Contingency/Incident Personnel. Employees who are in positions identified for possible activation, as needed, depending on the emergency, including:
 - a. Personnel designated in positions that ensure three-deep backup to mission critical or emergency personnel.
 - b. Subject Matter Experts (SMEs).
 - c. Personnel in positions pre-identified as part of a Crisis Action Team, and other operational teams established in response to a specific incident or situation.
 - d. Federal Emergency Response Officials.
 - e. Reconstitution Personnel in positions identified as Reconstitution Staff.
 - f. Personnel in positions identified as Devolution Staff.
 - g. Persons in positions identified in an order of succession.
4. Emergency Personnel. Employees who are assigned to positions required to sustain a facility or function in the event of a localized situation, such as inclement weather or a dismissal or closure of DHS operations or services. These employees will be expected to work even when DHS applies dismissal or closure procedures. Because of the diversity in Component missions, employee occupations/skills, nature of the emergency, geographic location, and other factors, the designation of emergency personnel will be the responsibility of the Component Heads. It is advised that Component Heads designate, in advance of an emergency, those personnel that provide operational support or perform support functions (including security and maintaining infrastructure) which must continue following the release/non-reporting requirements of other personnel.
5. Exempt/Excepted Employees: Employees who have been designated by their supervisors to perform functions or activities that are exempt/excepted from work restrictions specified in the ADA and may continue to operate during a lapse in appropriations. See Section II of this Plan (*Procedures Relating to a Lapse in appropriations*) for definitions of DHS exempt/excepted functions and employees.

Management Directive 250-05, Designation of Essential and Exempt Personnel, and its associated instructions provide further guidance. Please note that Management Directive 250-05, consistent with prior versions of the DHS Procedures related to a Lapse in Appropriations, uses

the term “exempt” to describe both “excepted” and “exempt” employees. The nomenclature adopted by the current version of these procedures is intended to clarify, but not substantively change, the description and designations of covered personnel.

B. Recall of Non-Exempt Employee

During a furlough, a situation may arise under which an office or Component may need to recall a non-exempt employee to carry out an excepted function. Such situations could include (1) an unplanned or unexpected project or activity that qualifies as an excepted function; (2) a determination that existing excepted functions require additional personnel; or (3) a need to replace an excepted employee who is unable to work.

In such a situation, DHS may recall from furlough the minimum number of non-exempt employees required to effectively respond to a specific project. If recalled to work on a specific excepted project, such an employee may work only on that project.

Each Component must designate a Senior Executive Service employee, who is already designated as an exempt/excepted employee, to serve as its Recall Approval Official, and who will either approve or deny requests for temporary or permanent recall. The USM may consult with OGC as necessary and may veto any recall approval. The servicing human resources office should be informed. The procedures are as follows:

1. The Component must complete a Return to Work Notice, and have it signed by the Recall Approval Official. In particular, the form must include (a) the purpose for which the employee is to be recalled; and (b) how that function qualifies as an excepted function (e.g., how it is necessary to protect life or property from imminent threat). A copy is available from Component servicing human resources offices.
2. Prior to recall of one or more operating Component employee(s), the Component Recall Approval Official must provide to USM a signed certification, to be accompanied by the aforementioned Return to Work Notice, that the planned recall has been reviewed and approved in conjunction with the Component’s Chief Counsel and CFO.
3. Prior to recall of one or more DHS HQ personnel, the head of that Office must provide to USM a signed certification that the recall is needed along with the aforementioned Return to Work Notice. USM shall serve as the Recall Approval Official for headquarters offices and shall coordinate review as appropriate with the DHS Offices of General Counsel and CFO, and make a determination of either approval or disapproval of the proposed recall.
4. Complete and send the Return to Work Notice by email to the employee. If the employee does not have a DHS electronic device, the employee may be notified verbally by telephone and provided with the recall notice upon reporting to duty.

5. Once the project/function that the employee was recalled to support is completed, that employee must be re-furloughed for the duration of the lapse in appropriations. The employee must be issued a new furlough notice, with a new effective date.
6. The servicing human resources office will be provided a copy of the recall notice and any new furlough notice (along with all furlough notices).

C. Emergency Relocation Group

An employee may be designated both as an essential employee and as a member of the ERG. Essential employees must be ready, willing, and able to serve during emergency furloughs and continuity events without regard to declarations of unscheduled leave or government closures due to weather, protests, and acts of terrorism or lack of funding. Essential employees may be designated as exempt/excepted employees in such events. Designation as an essential employee requires that the Department Emergency Notification System, the COOP point of contact, and/or the supervisor is able to contact the employee for notification of emergency conditions applicable to the employee's designation.

An employee's manager or supervisor will advise him or her regarding what the employee must do should a continuity event occur during an emergency furlough. The employee should immediately provide all personal contact information to his or her supervisor, and provide any changes or updates in contact information as soon as known.

If an employee is on the ERG and his or her position is designated as non-exempt during an emergency furlough, the employee would not remain "on call" and would not be compensated for remaining "on call." However, in the event COOP is activated and ERG personnel are notified to report to duty, they would be compensated for the hours worked based on appropriate statutes and laws.

V. Procedures Following Conclusion of a Hiatus

A. Notification Procedures

Upon appropriate notification from OMB, the Secretary will notify DHS officials that the lapse in appropriations has concluded and order them to direct employees to return to work. The DHS Office of Public Affairs will ensure that appropriate employee communications are delivered promptly and efficiently.

Although employees likely will receive an email notifying them when Congress has reached a funding agreement, they will be encouraged to watch the news and regularly check the DHS website for additional information on when to return to work. Typically, employees will be required to return to work at the beginning of their next regular workday following the President signing a continuing resolution or full-year appropriation providing funding for federal agencies.

B. Workforce Compensation

Without further specific direction or enactment by Congress, all exempt/excepted employees are entitled to receive payment for obligations incurred by their agencies for their performance of exempt/excepted work during the period of the appropriations lapse. This includes obligations incurred by furloughed employees who performed shut-down activities. After appropriations are enacted, payroll centers will pay all exempt/excepted employees for time worked. NFC will issue additional guidance on payroll processing.

Depending on whether Congress enacts legislation to provide furloughed employees with compensation during the period of furlough, OMB and OPM will issue additional guidance on employee compensation, benefits, and personnel processing.

C. Reporting of Costs Incurred

As soon as appropriations become available to continue Federal Government functions, Components must report all costs incurred due to the lapse in appropriations including, but not limited to the following:

1. Interest incurred for late payments.
2. Amount of discounts lost due to late payments.
3. Unplanned travel expenses to send staff home and to return them to the field.
4. Other costs of stopping then restarting operations, such as shutting down information technology systems.

VI. Appendix



U.S. Department of Homeland Security Procedures Relating to a Lapse in Appropriations

Closure Times and Exempt/Excepted Employees by Component

Office of the Secretary and Executive Management

I. Number of Employees On-Board Prior to a Lapse in Appropriations

As of November 10, 2018, the Office of the Secretary and Executive Management (OSEM) had 592 on-board employees.

II. Estimated Time to Complete an Orderly Cessation of Activities

OSEM expects to complete an orderly cessation of all other activities not identified as exempt/excepted functions within 4 business hours following notification of a lapse in appropriations.

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

OSEM estimates 70 employees as the total number exempt/excepted and estimated to be retained during a lapse in appropriations.

Management Directorate

I. Number of Employees On-Board Prior to a Lapse in Appropriations

As of November 10, 2018, the Management Directorate had 1,777 on-board employees.

II. Estimated Time to Complete an Orderly Cessation of Activities

MGMT expects to complete an orderly cessation of all other activities not identified as exempt/excepted functions within 4 business hours following notification of a lapse in appropriations, with the following exception:

The Office of the Chief Readiness Support Officer expects that it may be necessary to retain 2 employees for a period of an additional 4 business hours (totaling 1 business day) to accomplish the orderly closure of facilities and the government fleet of vehicle functions. The 2 employees will be required during this period, which is wholly devoted to closing down the vehicle fleet functions and non-exempt government facilities. The additional time is required because of the necessity to close out the DHS vehicle fleet, which will require involvement to protect government-owned property, and because the Department is geographically dispersed with facilities and assets spread over 40 locations across the National Capital Region. The intent is to close as many DHS facilities as possible and have exempt/excepted personnel consolidate at designated exempt/excepted facilities in the National Capital Region

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

MGMT estimates 193 employees as the total number exempt/excepted and estimated to be retained during a lapse in appropriations.

Office of Intelligence and Analysis

I. Number of Employees On-Board Prior to a Lapse in Appropriations

The total number of employees in the Office of Intelligence and Analysis (I&A) is classified. As of November 10, 2018 the Department had a total of 857 on-board employees under the Analysis and Operations account (I&A and Ops combined).

II. Estimated Time to Complete an Orderly Cessation of Activities

I&A expects to complete an orderly cessation of all other activities not identified as exempt functions within 4 business hours following notification of a lapse in appropriations.

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

I&A has 345 employees who are exempt/excepted and will be retained during a lapse in appropriations.

Office of Operations Coordination

I. Number of Employees On-Board Prior to a Lapse in Appropriations

The total number of employees in the Office of Operations Coordination (OPS) is classified. The total on board numbers for the Office of Operations Coordination as of November 10, 2018 is reported in the Office of Intelligence and Analysis section.

II. Estimated Time to Complete an Orderly Cessation of Activities

OPS expects to complete an orderly cessation of all other activities not identified as exempt/excepted functions within 4 business hours following notification of a lapse in appropriations.

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

OPS has 130 total employees who are exempt/excepted and will be retained during a lapse in appropriations.

Office of Inspector General

I. Number of Employees On-Board Prior to a Lapse in Appropriations

As of November 10, 2018, the Office of Inspector General (OIG) had 786 on-board employees.

II. Estimated Time to Complete an Orderly Cessation of Activities

OIG expects to complete an orderly cessation of all other activities not identified as exempt/excepted functions within four business hours following notification of a lapse in appropriations.

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

OIG estimates 270 employees as the total number exempt/excepted and estimated to be retained during a lapse in appropriations.

U.S. Customs and Border Protection

I. Number of Employees On-Board Prior to a Lapse in Appropriations

As of November 10, 2018, U.S. Customs and Border Protection (CBP) had 60,109 on-board employees.

II. Estimated Time to Complete an Orderly Cessation of Activities

CBP expects to complete an orderly cessation of all other activities not identified as exempt/excepted functions within 4 business hours following notification of a lapse in appropriations, with the following exceptions:

- **Function:** Legal Counsel and Support
 - *Exempt Employees:* 4 employees are necessary to perform activities that facilitate the orderly cessation of functions.
 - *Justification:* These employees are needed for no longer than 3 days to assist in expediting the adequate transfer, resolution and/or disposition of pending procurement, contracting, budgetary, information technology, and personnel actions for the Office of Chief Counsel. Specific tasks would include: coordinating shutdown financial procedures with the Enterprise Services Office and Office of Human Resources Management, resolving year end procurement issues, creating necessary purchase card documents, processing necessary PARTS actions, assuring connectivity of all devices to CBP's network, and transitioning the ongoing workload to Chief Counsel employees who are deemed necessary to perform excepted work during the hiatus.

- **Function:** Labor and Employee Relations
 - *Exempt Employees:* 63 employees are necessary to perform activities that facilitate the orderly cessation of functions.
 - *Justification:* These employees are needed for no more than 3 days to close out labor and employee relations case files and other documents, ensure that CBP's approximately 60,000 employees are notified of their furlough status, and identify requirements of and render assistance to excepted legal counsel functions in matters such as active litigation in a variety of judicial and administrative venues, which requires additional time due to CBP's large workforce.

- **Function:** Advanced Training Center (ATC) Site Security
 - *Exempt Employees:* 5 employees are necessary to perform activities that facilitate the orderly cessation of functions.
 - *Justification:* An estimated 1 day is required for ATC to facilitate the orderly relocation of approximately 150-300 law enforcement students that are locally housed. Because of the local housing arrangement, ATC requires additional time to execute an orderly cessation of its operations. This

process requires coordination with local hotels, Partner Organizations (many of which are not within DHS), and contract employees, as well as the students themselves. (The students are not employees of the ATC but of CBP's component organizations.) In order to cease operations, ATC must: (1) coordinate with students' employing organizations to facilitate outgoing air transportation; (2) assign, account for, and organize students' transportation to regional airports, sometimes as far as 50 miles away; (3) receive sensitive inventory belonging to ATC that had been signed out to students; and (4) provide food and lodging to students until they depart the training facility.

- **Function: Border Patrol and Field Operations Academies**
 - Excepted Employees: 93 employees are necessary to perform activities that facilitate the orderly cessation of functions.
 - Justification: An estimated 1-½ days are required for basic training academies to facilitate the orderly relocation of hundreds of law enforcement students that are housed at the Federal Law Enforcement Training Center (FLETC). Basic Academies require additional time to execute an orderly cessation of operations because they must (1) receive inventory belonging to OTD that had been signed out to students, (2) create travel authorizations, (3) arrange airline transportation, and (4) bus students several hours to a major airport. This process requires coordination with FLETC, Sectors and Field Offices and the travel management contractor.

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

CBP estimates 54,935 employees as the total number exempt/excepted and estimated to be retained during a lapse in appropriations.

U.S. Immigration and Customs Enforcement

I. Number of Employees On-Board Prior to a Lapse in Appropriations

As of November 10, 2018, U.S. Immigration and Customs Enforcement (ICE) had 20,052 onboard employees.

II. Estimated Time to Complete an Orderly Cessation of Activities

ICE expects to complete an orderly cessation of all other activities not identified as exempt/excepted functions within 4 business hours following notification of a lapse in appropriations.

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

ICE estimates 16,254 employees as the total number exempt/excepted and estimated to be retained during a lapse in appropriations.

Transportation Security Administration

I. Number of Employees On-Board Prior to a Lapse in Appropriations

As of November 10, 2018, the Transportation Security Administration (TSA) had 60,078 on-board employees. This number does not include Law Enforcement Officers serving in the Federal Air Marshal Service (FAMS), as that number is Sensitive Security Information.

II. Estimated Time to Complete an Orderly Cessation of Activities

TSA expects to complete an orderly cessation of all other activities not identified as exempt/excepted functions within 4 business hours following notification of a lapse in appropriations except the following:

Federal Law Enforcement Training Center (FLETC): The 14 TSA FTE at FLETC will be used to conduct an orderly shutdown of classes in session at the TSA Academy. At any given week, there are 4 classes of 170 students each in session. It is anticipated the staff will assist the students as they depart for home station and will not remain in place for more than 3 days.

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

TSA estimates 55,182 employees as the total number of employees exempt/excepted and estimated to be retained during a lapse in appropriations. This number does not include Law Enforcement Officers serving in the Federal Air Marshal Service (FAMS), who are exempt; as the total employee number is Sensitive Security Information.

U.S. Coast Guard

I. Number of Employees On-Board Prior to a Lapse in Appropriations

As of November 10, 2018, the U.S. Coast Guard (USCG) had 50,861 on-board employees.

II. Estimated Time to Complete an Orderly Cessation of Activities

USCG expects to complete an orderly cessation of all other activities not identified as exempt/excepted functions within 4 business hours following notification of a lapse in appropriations.

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

USCG estimates 44,298 employees as the total number exempt/excepted and estimated to be retained during a lapse in appropriations.

U.S. Secret Service

I. Number of Employees On-Board Prior to a Lapse in Appropriations

As of November 10, 2018, the U.S. Secret Service (USSS) had 7,222 on-board employees.

II. Estimated Time to Complete an Orderly Cessation of Activities

USSS expects to complete an orderly cessation of all other activities not identified as exempt/excepted functions within 4 business hours following notification of a lapse in appropriations.

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

USSS estimates 5,978 employees as the total number exempt/excepted and estimated to be retained during a lapse in appropriations.

Exempt functions in USSS follow, along with the identification of exempt employees estimated to be necessary for each.

Cybersecurity and Infrastructure Security Agency

I. Number of Employees On-Board Prior to a Lapse in Appropriations

As of November 10, 2018, the Cybersecurity and Infrastructure Security Agency (CISA) had 3,531 on-board employees.

II. Estimated Time to Complete an Orderly Cessation of Activities

Following notification of the lapse in appropriations, the non-exempt CISA staff will need four business hours to complete an orderly cessation of all other activities.

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

CISA estimates 2,008 employees as the total number exempt/excepted and estimated to be retained during a lapse in appropriations.

Federal Emergency Management Agency

I. Number of Employees On-Board Prior to a Federal Funding Hiatus

As of November 10, 2018, the Federal Emergency Management Agency (FEMA) had 19,631 on-board employees.

II. Estimated Time to Complete an Orderly Cessation of Activities

FEMA expects to complete an orderly cessation of all other activities not identified as exempt/excepted functions within 4 business hours following notification of a lapse in appropriations. Recognizing exceptions may occur requiring up to a full day for any employees in travel status.

III. Exempt/Excepted Functions and Employees Retained During a Federal Funding Hiatus

FEMA estimates 15,208 employees as the total number exempt/excepted and estimated to be retained during a lapse in appropriations.

U.S. Citizenship and Immigration Services

I. Number of Employees On-Board Prior to a Lapse in Appropriations

As of November 10, 2018, U.S. Citizenship and Immigration Services (USCIS) had 17,973 on-board employees.

II. Estimated Time to Complete an Orderly Cessation of Activities

USCIS expects to complete an orderly cessation of all other activities not identified as exempt/excepted functions within 4 business hours following notification of a lapse in appropriations.

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

USCIS estimates 17,674 employees as the total number exempt/excepted and estimated to be retained during a lapse in appropriations.

Federal Law Enforcement Training Centers

I. Number of Employees On-Board Prior to a Lapse in Appropriations

As of November 10, 2018, the Federal Law Enforcement Training Centers (FLETC) had 1,278 on-board employees.

II. Estimated Time to Complete an Orderly Cessation of Activities

Consistent with Federal Government-wide contingency plans, basic training of new employees in occupations that are generally designated as emergency will initially be suspended. Students and instructors will remain at the training site during the temporary suspension; if a determination is made after several days that the funding lapse will be prolonged, the students and instructors may be given direction to return to their permanent duty stations.

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

FLETC estimates 66 employees as the total number exempt/excepted and estimated to be retained during a lapse in appropriations.

Science and Technology Directorate

I. Number of Employees On-Board Prior to a Lapse in Appropriations

As of November 10, 2018, the Science and Technology Directorate (S&T) had 454 on-board employees.

II. Estimated Time to Complete an Orderly Cessation of Activities

S&T expects to complete an orderly cessation of all other activities not identified as exempt/excepted functions within 4 business hours following notification of a lapse in appropriations.

III. Exempt Functions and Employees Retained During a Lapse in Appropriations

S&T estimates 23 employees as the total number exempt/excepted and estimated to be retained during a lapse in appropriations.

Countering Weapons of Mass Destruction Office

I. Number of Employees On-Board Prior to a Lapse in Appropriations

As of November 10, 2018, the Countering Weapons of Mass Destruction (CWMD) Office had 204 on-board employees funded by the Domestic Nuclear Detection Office (DNDO) and Office of Health Affairs appropriations.

II. Estimated Time to Complete an Orderly Cessation of Activities

CWMD expects to complete an orderly cessation of all other activities not identified as exempt/excepted functions within 4 business hours following notification of a lapse in appropriations.

III. Exempt/Excepted Functions and Employees Retained During a Lapse in Appropriations

CWMD estimates 65 employees as the total number exempt/excepted and estimated to be retained during a lapse in appropriations.

VII. Total Employees: On-Board vs. Exempt/Excepted

DHS Component	Total Employees On-Board, 11/10/2018	Total Exempt/ Excepted Employees
OSEM	592	70
MGMT ¹	1,777	193
A&O	857	475
OIG	786	270
CBP ²	60,109	54,935
ICE	20,052	16,254
TSA ³	60,078	55,182
USCG	50,861	44,298
USSS	7,222	5,978
CISA	3,531	2,008
FEMA ⁴	19,631	15,208
USCIS	17,973	17,674
FLETC	1,278	66
S&T	454	23
CWMD	204	65
TOTALS⁵	245,405	212,699

NOTES: On-Board employees include permanent and temporary employees as of 11/10/2018 (unless otherwise stated in the body of the document); the number of temporary employees changes on a frequent basis.

¹ In order to affect an orderly shutdown, MGMT will require an additional 2 personnel for a period of 4 business hours.

² OIG provided estimated maximum number of employees which may be required to continue operations in support of recent disasters in Section A.

³ In order to affect an orderly shutdown, CBP will require an additional 165 personnel for a period of up to 3 business days.

⁴ The total number of employed Federal Air Marshals is Sensitive Security Information and consequently is not included in this table.

⁵ Does not include personnel who work at Mt. Weather and other FEMA personnel carrying out sensitive programs.

⁶ These totals do not include additional personnel who may qualify as excepted or exempt in the event of an emergency. Rough estimates for each component are listed in the body of the document.