

May 10, 2013

Guidance to HUD Employees Concerning the Sequestration

This document is intended as a supplement to the Office of Personnel Management's FAQs which can be found at: <http://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/>

1. What is sequestration?

Sequestration is an across-the-board reduction in Federal budgetary resources in all budget accounts that have not been exempted by statute. Under the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act of 2011 and the American Taxpayer Relief Act of 2012, across-the-board reductions are scheduled to take effect on March 1, 2013, unless legislation is enacted that avoids such reductions. If it occurs, this sequestration will reduce each agency's budgetary resources in non-exempt accounts for the remainder of the fiscal year (which runs through September 30, 2013).

2. What will be the impact of sequestration on HUD?

We will attempt to minimize the impact of sequestration to the extent permitted by law. However, HUD cannot choose which programs to exempt or what percentage cuts to apply. This will mean automatic and across-the-board budget cuts at HUD. The impact of sequestration on HUD programs will be dramatic. The Secretary has testified that over 200,000 people will lose their HUD-funded housing assistance. HUD must also reduce its salaries and expenses by \$66.6 million. This will mean up to seven (7) furlough days for virtually all HUD employees between May through August 2013. On furlough days, employees do not report to work and do not receive pay. We will require the same number of furlough days for all HUD employees and try not to schedule more than one day per pay period.

HUD will do a number of things to help offset the number of furlough days. First, we will put into effect a department-wide freeze on outside hiring. Additionally, we will cut as much discretionary spending as we can from non-personnel areas without causing irreparable harm to our mission. You will feel immediate impacts in the areas of travel and training.

3. What is a furlough?

A furlough is the placing of an employee in a temporary non-duty, non-pay status because of lack of work or funds, or other non-disciplinary reasons.

4. What is the difference between a shutdown furlough and an administrative furlough?

An administrative furlough is a planned event by an agency that is designed to absorb reductions necessitated by downsizing, reduced funding, lack of work, or any other budget situation other than a lapse in appropriations. Furloughs that would potentially result from sequestration would generally be considered administrative furloughs. For more information on administrative

furloughs, please see: <http://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/guidance-for-administrative-furloughs.pdf>.

In contrast, where there is a lapse in appropriations, a “shutdown” furlough may occur. A shutdown furlough is necessary when an agency no longer has the funds necessary to operate and must shut down those activities that are not excepted under the Anti-deficiency Act. Many Federal employees may be familiar with these types of furloughs from instances in previous years in which the Government has faced a potential shutdown. For additional information on shutdown furloughs see OPM’s guidance for shutdown furloughs related to potential lapse in appropriations at: <http://www.opm.gov/furlough/index.asp>.

5. What factors may an agency consider when identifying employees that would be subject to administrative furlough?

Agencies are responsible for identifying the employees affected by administrative furloughs based on budget conditions, funding sources, mission priorities, and other factors. The Secretary and Deputy Secretary have determined that nearly all HUD employees will be subject to administrative furlough as a result of the sequestration. By law, HUD’s nine Presidential appointees subject to Senate confirmation are excluded from furlough and reduction in force reduction in force procedures.

In addition, Ginnie Mae employees will be exempt from furloughs. In the FY2013 Budget, Congress established a fire wall between HUD’s and Ginnie Mae’s appropriations, prohibiting Ginnie Mae from contributing funds back to HUD. As such, Ginnie Mae’s S&E budgeting is separate and apart from HUD’s. Further, employees of HUD’s Office of Inspector General are paid through separate appropriations from HUD employees and, at this time, are not subject to administrative furlough.

6. Why is HUD not cutting more travel or contracts so that we don’t have to take as many furlough days?

The HUD Budget is broken into many line items or accounts, and according to the law, each of these accounts will be cut by about 5%.

- In the Salaries and Expense (or S&E) account, the total budget is \$1.3B or 3% of the total HUD budget.
 - \$1 billion is salaries, which is almost 83% of the total S&E budget.
 - Of the remaining \$230M, \$140M is for the rent, utilities and security for all of the HUD facilities; these costs cannot really be reduced.
 - \$89M is left to spend on all of the training, travel, building services, supplies, equipment and contracts for all of HUD.
- At this point in the year, even if we cut everything we have left in non-personnel services, we could not find the \$66.5M that we need to cut from S&E. We have already made commitments on contracts, and travel and training expenses have been made in the first

half of the year. We have scrubbed the accounts, and we will cut a little over \$10M in non-salaries from travel, contracts, training and equipment.

- \$10M represents about 2 1/2 furlough days, and at this level, HUD will still have some funds left to ensure that the most critical training and travel occurs.
- Travel funds provide a critical component and means for HUD's oversight and enforcement responsibilities for grantees, public housing agencies, and other industry partners. We need to ensure that these funds are well spent, even if it requires more sacrifices in salaries.
- Most of the contracts support government-wide oversight functions such as audits on our improper payments level, financial statements, OPM directed workforce studies, as well as cleaning and maintenances services in our building. Some of these functions will be curtailed or scaled back so that we can reduce the number of furlough days.
- The cuts in non-salaries in S&E are mostly in travel, training and contracts. These cuts are on top of an austere budget for these areas that we have been implementing over the past two years.
 - The FY13 travel budget is being reduced by another 6% for Sequestration, which is a cut of nearly 30% from what we had been spending since FY10
 - Training is being cut by almost 20% for the Sequestration
 - Contracts are being reduced by another 10% in FY13, which represents a 36% reduction to S&E contracts since FY10.

7. Is HUD developing an agency sequestration plan?

HUD's sequestration plan is in development in accordance with Congressional requirements. HUD's plan will explain how a sequestration will affect the agency's operations and how it will affect employees, contractors, and recipients of HUD funding.

8. I have been told that I am an "essential" employee who must come to work during an agency shutdown or in weather emergencies. Should I come to work on the administrative furlough days?

No, in the event of sequestration, you are subject to administrative furlough and should not come to work on the designated administrative furlough days. "Essential employee" is a term of art used when there are "shutdown furloughs" and does not apply in the context of an administrative furlough.

9. In planning a furlough, how is HUD working with its unions concerning the sequestration procedure?

Yes. HUD has engaged and negotiations have been completed with all the unions. Links to the Memorandum of Understanding of both the NFEE and AFGE Unions can be found at <http://hudatwork.hud.gov/po/arh/notices/sequestrationinfo.cfm>.

10. What days will I be furloughed if sequestration occurs?

At this time, HUD's sequestration plan calls for all HUD offices to close on up to seven days to pay for the sequestration cuts. At this time, we believe that full time employees will be furloughed no more than 7 days or 56 hours. Part-time employees' furlough days and hours will be calculated to reflect a 10 percent reduction in the designated pay periods. HUD has determined that HUD will close and the furlough affecting HUD employees will be on intermittent days over seven pay periods:

- a. May 24, pay period 10
- b. June 14, pay period 11
- c. July 5, pay period 13
- d. July 22, pay period 14
- e. August 2, pay period 15
- f. August 16, pay period 16
- g. August 30, pay period 17

11. Because of the furlough, will I be paid at the same time periods as I normally would receive my salary payments?

Yes. Employees will still be paid at the same times as they would normally receive their salary payments in the absence of the furlough.

12. May I take paid leave or other forms of paid time off (e.g., annual, sick, court, or military leave, credit hour earned, any compensatory time off earned, or time off awards) instead of taking administrative furlough time off?

No. During an administrative furlough, an employee may not substitute paid leave or other forms of paid time off for any hours or days designated as furlough time off. An employee must reschedule annual, sick, court or military leave that has already been approved for designated furlough days.

13. What about hiring? Will there be a hiring freeze?

HUD froze new offers to candidates beginning on Monday, March 4th. This means that if your office has a vacancy and the potential employees had not been given a firm date (entry on duty date) by Monday March 4th or did not report to duty by March 8th), they did not receive a final firm offer. There will be some limited exceptions to this freeze, especially to ensure key

management positions in the program offices are filled and other critical functions are staffed. Internal hires, even those that involve a promotion can continue, and grade and step increases for career ladder promotions will continue.

As we move through the rest of the fiscal year, OCHCO, CFO and the Offices will work together to move forward with back filling positions (announcing vacancies, recruiting, interviewing and selecting new employees), with the caveat that the new employees may not be brought aboard until later in the fiscal year or into the next fiscal year. The ability to hire new employees in any office will be dependent on how many people leave through the rest of the fiscal year, and whether any other savings in costs or expenditures can be achieved. It will be a very challenging time, but we are committed to ensuring that HUD has the right talent to get the work done.

14. I have a delayed performance rating for FY 2012. Will the furlough affect my ability to obtain a performance award?

No. FY 2012 award money is not affected by the furlough.

15. May I volunteer to do my job on a non-pay basis during any hours or days designated as furlough time off?

No. Unless otherwise authorized by law, an agency may not accept the voluntary services of an employee. (See 31 U.S.C. 1342.) Employees may not come to HUD facilities, may not telework, and may not access HUD email or work on any HUD computer or mobile systems. Employees are not permitted to serve as an unpaid volunteer, must remain away from the workplace, and may not telework. If an employee works on a designated furlough day, that employee will be subject to disciplinary action. Employees will not be compensated on furlough days.

16. May I use my HUD-issued Blackberry or other HUD-issued equipment during the furlough days?

Yes, but only for limited personal use. On administrative furlough days, you may not check your work-related HUD email and should not remotely work on any HUD systems. HUD employees may not work on the furlough days.

17. Will I have access to HUD offices on the designated furlough days?

No. Employees will not be allowed to access HUD offices on the designated furlough days. HUD OIG employees will be allowed access to their offices.

18. When will HUD offices close to the general public?

HUD offices will be closed to the general public on the designated furlough days.

19. What facilities at HUD headquarters will remain open when HUD is closed?

The Children’s Center at HUD Headquarters will remain open. However, it is presently contemplated that the following facilities will be closed during the shutdown:

▢ Credit union. The Credit Union will have alternate sites available in the Washington D.C. metro area. Log on to www.cuservicecenters.com or call (800) 919-2872 for more information.

▢ HUD Fitness Center

▢ HUD Cafeteria, Dunkin Donuts, Urban Cafe, Cyber Café/Starbucks

▢ Occupation Health Center. Field staff and headquarters staff who work out of a building other than the Weaver Building should consult their managers to determine what facilities in their buildings may or may not be open during a shutdown.

Any updated information on facilities status during the furlough will be posted on the HUD sequestration website.

20. What resources are available for employees facing hardships as a result of furloughs?

Furloughs may raise hardships for many employees. HUD’s Employee Assistance Program (EAP) provides a broad range of private and confidential services to all HUD employees and their immediate family members. Information on EAP is available on HUD@Work.

HUD employees may additionally obtain counseling services, including financial counseling, from Federal Occupational Health (FOH), a non-appropriated agency within the [U.S. Department of Health and Human Services](http://www.dhs.gov). FOH provides occupational health and wellness services exclusively to federal employees. You may contact FOH by calling 1-800-222-0364 or 1-888-262-7878 (TTY) or through their website at: www.FOH4you.com 24 hours, 7 days a week.

21. Can HUD issue me a letter to provide to my mortgage company noting that I will be furloughed for seven days as a means of explaining a short-fall in income for purposes of credit evaluation for a loan?

Yes. HUD’s Office of the Chief Human Capital Office can issue you a letter noting that you will be furloughed for the seven days during the applicable pay periods for your assistance in explaining a short-fall in income for purposes of credit evaluation for a home mortgage. Please be advised though that there is no guarantee that the lender will act favorably based on the HUD letter.

22. May I work a compressed or alternative work schedule during a pay period with a designated furlough day?

The work schedules of employees participating in Alternate Work Schedules (AWS) and Compressed Work Schedules (CWS) are impacted by the furlough. Employees may continue to work such schedules during the furlough periods. However, employees may not take compressed days off in lieu of furlough time. Please see the following adjustments below:

5-4-9 Schedules: In order to have a compressed work schedule during the furlough pay period, employees who work eight nine hour days and one eight-

hour day per pay period will be permitted to adjust their schedule so that their eight-hour day falls on a furlough day.

4-10 Schedules: In order to have a compressed work schedule during the furlough pay period, employees who work four ten-hour days per week will be permitted to adjust their schedules so that they work a 4-10 schedule one week of the pay period. During the week of the scheduled furlough day, the employee's schedule must change to 8 hours for four days and one 8 hour day as the furlough day.

23. May an employee earn or use credit hours or religious compensatory time on furlough days?

No. An employee may not earn or use credit hours or religious compensatory time on a furlough day; however, credit hours and religious compensatory time may be earned or used on non-furlough days during the furlough pay periods.

24. Is there a limit on earning compensatory time and overtime during sequestration?

Yes. Full-time employees may not work more than 72 hours in pay periods 9, 10, 11, 13, 14, 16, and 17 and may not earn overtime, travel compensatory time or compensatory time during these pay periods.

25. I am a part-time employee and do not work on Mondays or Fridays. Will I still be furloughed?

Yes. During pay periods 10, 11, 13, 14, 15, 16, and 17, your hours will be reduced by 10 percent. You and your supervisor should adjust your work schedule and reduce your hours of work in these pay periods by 10 percent. For example, if a part-time employee's regular schedule is 48 hours per pay period, the employee's furlough time will be 4.8 hours. Part-time employees' furlough days will be the same as all other HUD employees.

26. If I am furloughed, am I separated from service?

No. Employees who are furloughed are not separated from Federal service. They are placed in a temporary non-duty, non-pay status.

27. Are furloughed detailees returned to their home agencies following any furlough?

Detailed employees remain officially assigned to their permanent positions during the detail. During a furlough, HUD will determine the status of their employees on detail within the agency or to another agency. If a detailed employee is being reimbursed by another agency during the HUD furlough period, there might be no need for the detailed employee to be furloughed by HUD.

28. Are employees serving a probationary period subject to furlough?

Yes. Employees serving a probationary period are subject to furlough. A probationary employee whose position is in a bargaining unit (a HUD union such as AFGE or NFFE) is covered by the applicable provisions of their union's collective bargaining agreement with the Department. Any non-pay time, including furlough, in excess of 22 work days extends the probationary period by that number of days. However, HUD does not anticipate that employees will be furloughed in excess of 22 work days. There are no specific notice requirements or appeal rights for probationary employees (with the exception of SES) who are subject to furlough.

For a probationary SES as well as SES who have completed their probationary period a written notice must tell the appointee the reason for the furlough; the expected duration of the furlough and the effective dates; the basis for selecting the appointee when some but not all SES appointees in a given organizational unit are being furloughed; the location where the appointee may inspect the regulations and records pertinent to the action; the reason, if the notice period is less than 30 calendar days; and the appointee's appeal rights to the Merit Systems Protection Board. For a probationary SES, the notice should also explain the effect (if any) on the duration of the probationary period.

29. Are employees employed under the PMF and Pathways programs subject to furlough?

Yes. Any ongoing training requirements will have to be reviewed by the applicable program office to determine if there are sufficient funds to fund required training. The program office will evaluate less costly training opportunities and other options in lieu of formal training.

30. Are furloughed employees entitled to severance pay?

No. Because furloughed employees are not separated from Federal service, they are not entitled to severance pay.

31. May employees take other jobs while on furlough?

Yes, but you must follow specific rules. While on furlough, an individual remains an employee of the Federal Government. Therefore, executive branch-wide standards of ethical conduct and rules regarding outside employment continue to apply when an individual is furloughed (specifically, the executive branch-wide standards of ethical conduct at 5 CFR part 2635). In addition, there are specific statutes that prohibit certain outside activities, and agency-specific supplemental rules that require prior approval of, and sometimes prohibit, outside employment. Before engaging in outside employment, employees should review these regulations and then consult their agency ethics officials to learn if there are any agency-specific supplemental rules governing the employee.

32. 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 1-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 "Unemployment Compensation for Federal Employees" at: <http://workforcesecurity.doleta.gov/unemploy/unemcomp.asp>).

Agencies or employees should submit questions to the appropriate State (or District of Columbia) office. The Department of Labor's website provides links to individual State offices at <http://www.servicelocator.org/OWSLinks.asp>.

33. How will furlough time off affect an employee's leave accrual and benefits?

Generally, furlough time off is treated like regular leave without pay (LWOP) for leave accrual and benefit purposes. Detailed guidance can be found under Benefits and Service Credit for Various Purposes on pages 6–8 of OPM's Guidance for Administrative Furloughs. Please also see: http://www.opm.gov/oca/leave/html/LWOP_eff.asp for information on the effect of extended LWOP or other non-pay status on Federal benefits and programs.

34. Who pays for the Federal Employees Health Benefits (FEHB) of furloughed employees? Will sequestration impact an employee's benefits under FEHB?

Agencies continue to be responsible for the agency contribution of any furloughed employees and each employee remains responsible for his or her employee contribution. If an employee's paycheck is insufficient to cover his/her share, the enrollee share will accumulate and will then be withheld from pay upon return to pay status. Detailed guidance on employee benefits during an administrative furlough is found on page 6 of OPM's Guidance on Administrative Furloughs.

35. What if I am sick or on previously scheduled paid leave on a furlough day?

All paid leave is cancelled on a furlough day.

36. What if I am on work-related travel on a furlough day?

During sequestration, travel will be extremely limited. You should not be in travel status on a furlough day and should not plan a work trip that includes a furlough day.

37. If employees have a designated administrative furlough day off on the last workday before a holiday *or* the first workday after a holiday (but not on both days), will they be paid for the holiday?

The general rule is that an employee is entitled to pay for a holiday so long as he or she is in a pay status on either the workday preceding a holiday or the workday following a holiday. All of the three designated furlough days (May 24, July 5 and August 30) around federal holidays (Memorial Day, Fourth of July, and Labor Day) fall in the middle of a pay period and are not the last workday before a holiday or the first workday after a holiday. CWS and AWS schedules will be adjusted during the designated furlough weeks so employees will be in pay status on either the workdays preceding these holidays or the workdays following these holidays. It is HUD's intent to pay its employees for these holidays.

38. How will awards be affected as a result of the sequestration?

OMB Memorandum 13-05 directs that discretionary monetary awards should not be issued while sequestration is in place, unless issuance of such awards is legally required. Legal requirements include compliance with provisions in collective bargaining agreements governing awards. Discretionary monetary awards include annual performance awards, group awards, and special act awards. Until further notice, the Department will not issue monetary awards from sequestered accounts unless agency counsel determines the awards are legally required.

Consistent with past guidance, certain types of incentives are not considered discretionary monetary awards for purposes of this policy. These include quality step increases (QSIs); travel incentives recognizing employee savings on official travel; recruitment, retention, and relocation incentives; student loan repayments, and time-off awards. While these items are permitted, in light of current budgetary constraints, expenditures will be incurred only on a highly limited basis by each office and in circumstances where the expenditures are necessary and critical for maintaining the Department's mission. In addition, spending for QSIs and recruitment, retention, and relocation should not exceed the level of spending on such incentives for fiscal year 2010.

39. Can agencies offer early retirements (VERAs) or separation incentives (VSIPs) to furloughed employees? Can VERA/VSIP be offered during sequestration? Can VERA/VSIP be offered in lieu of a furlough?

Both Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Payments (VSIP) are programs to incentivize voluntary separations to avoid involuntary personnel actions associated with an agency's decision to restructure its workforce. HUD may continue offering these options to covered employees during a furlough. VERA and VSIP result in permanent separations from the agency workforce. (Please note that VSIP recipients may not be reemployed by the Federal Government within 5 years unless they repay the VSIP to the agency that paid it.)

40. How will HUD employees receive additional information about sequestration?

HUD will continue to provide updated e-mail and HUD@work information to all employees about the sequestration process and the administrative furlough process as information becomes available. Please continue to monitor your e-mails and the HUD homepage for the latest information. HUD will also be setting up a sequestration website for you to view information and documents regarding sequestration as they become available. If you have questions that are not answered in this question and answer document or on the OPM website concerning sequestration and administrative furloughs, please e-mail your question to the following e-mail address: Sequestration@hud.gov.