

ARTICLE 34
FURLOUGHS FOR THIRTY (30) DAYS OR LESS

Section 34.01 - General. To the extent that is practicable and not prohibited by law, and without interfering with the accomplishment of the Department mission, the Department will resort to a planned furlough after other good faith alternatives have been considered (e.g., unpaid leave, hiring freeze). This Article sets forth definitions and procedures which shall be followed if Management determines it is necessary to furlough employees for thirty (30) days or less.

1. Planned Furloughs are due to the lack of work or lack of funds.
2. Emergency Furloughs, including Shutdown Furloughs, are due to unforeseeable circumstances such as a sudden breakdown of equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities. Unforeseeable circumstances, in addition to meeting the definition of emergency, also include the inability of Management to continue operations to a practical extent. A shutdown furlough is necessary when funds are not available through an appropriations law or continuing resolution and an agency no longer has the necessary funds to operate, requiring the shutdown of those activities which are not excepted pursuant to the Anti-deficiency Act.

These procedures shall be carried out in accordance with law and Government-wide regulations. Furloughs of thirty (30) days or more must be carried out according to reduction-in-force procedures.

Section 34.02 - Furlough Employee/Position Designations.

- (1) Emergency Furlough Excepted Positions/Employees. "Excepted" employees are described as "employees who are excepted from a furlough by law because they are (1) performing work involving the safety of human life or the protection of property, (2) involved in the orderly suspension of agency operations, or (3) performing other functions exempted from the furlough. For the purpose of this Article excepted employees is the term used to refer to employees in positions who are funded through annual appropriations that are excepted from the furlough because of the duties as required by law that may continue to be performed during a lapse in appropriations. Excepted employees include those employees who are performing emergency work involving the safety of human life or the protection of property or performing certain other types of excepted work. All work place provisions of this Agreement shall apply to employees considered excepted during a furlough.
- (2) Planned Furlough Employee Designations. As required, Management will determine the numbers, types and grades of employees necessary to accomplish the mission of the Department.
- (3) Union Officials. If permitted by law, rule, regulation, or executive order, union officials can be excepted employees by virtue of their official Departmental position.

Employee Voluntary Unpaid Leave to Avoid Planned Furloughs. Once the Department determines the number, types, and grades of employees necessary to accomplish the work, the Department shall notify the affected employees at the work site and shall solicit volunteers for the liberal use of leave without pay (LWOP) as a means to avoid a planned furlough. The rules regarding leave approval in Article 15 apply. If insufficient numbers of volunteers do not come forth for LWOP to avoid a planned furlough, the Department will accept those volunteers and create a limited planned furlough for the remaining positions in the affected program areas.

Section 34.03 - Notification to Union and Impact Bargaining.

- (1) For Emergency Furloughs: Under an Emergency Furlough, as time and circumstances permit, the Department will provide employees and the Union with information, as soon as it becomes available. For emergency furloughs, bargaining may take place as soon as possible or post-implementation.
- (2) For Planned Furloughs: Impact and implementation bargaining which is necessitated by a Management decision to furlough employees shall take place at the local or National level as appropriate. If differences arise, the procedure for handling an impasse shall be resolved during impact bargaining.

Note: OMB does not currently require the Department to submit an Administrative Furlough Plan for approval so management cannot meet the language provided by the union.

- (3) Content of Notice:
 - (a) The reason for the furlough(s);
 - (b) The organizational segments affected by the furlough(s);
 - (c) The estimated number of employees to be furloughed; and
 - (d) Information on outside employment. HUD shall provide a plain language ethics questions and answer information sheet on outside employment prior to any furlough. This shall be included in the notice and posted on the HUD.gov site.
- (4) The Department and the Union agree that alternatives to furlough shall be considered in the event of lack of work or funds to minimize the need for furloughs.
- (5) Impact and implementation bargaining may include appropriate arrangements for employees affected by the furlough, such as seniority determinations, delivery of exempt position lists, methods of notifying employees, and other applicable provisions. Bargaining shall take place at the National or local level as appropriate and as soon as possible.

Section 34.04 - Scheduling Planned Furlough Days.

When Management has made a decision to furlough employees for a specified number of weeks, days, or hours during a specified period of time, employees shall be provided an opportunity to submit a schedule identifying their preferences in accomplishing the necessary number of weeks, days, or hours off. These schedules shall be accommodated as much as practicable giving due consideration to workload, employee hardship, staffing, and office coverage requirements.

Section 34.05 - Notice to Employees for Planned Furloughs.

Management shall provide written, individual notices to those employees who are to be furloughed thirty (30) days prior to the effective date of the furlough. The furlough notice shall include at a minimum the expected start and end of the furlough, the expected number of days, the reason, contact information with HUD management, as necessary, and information on unemployment benefits availability, eligibility, and location and phone number(s) of the state unemployment office(s).

Section 34.06 - Employee Benefits During Planned or Emergency Furloughs.

- (1) **Continuous Furlough.** Life insurance and health benefits enrollment shall continue without cost to the employee on consecutive and continuous furlough of thirty (30) days or less.
- (2) **Discontinuous Furlough.** Life insurance and health benefits enrollment shall continue. Contributions by the employee shall continue if the salary in the pay period is sufficient to cover the full deduction.

Section 34.07 - Employee Compensation During an Emergency Furlough.

- (1) Excepted employees who are required to report for duty during an emergency furlough shall be fully compensated in accordance with law and regulation.
- (2) Non-excepted employees who are furloughed shall not be retroactively paid and otherwise compensated unless authorized by law.

Section 34.08 - Employee Leave During an Emergency Furlough.

- (1) Upon an emergency furlough, all leave is cancelled (annual leave, sick leave, or other).
- (2) The period of a furlough does not count against the leave entitlement granted under the provisions of FMLA.

Section 34.09 - Union Officials and Office Access During an Emergency Furlough.

Union officials cannot work on official time during a shutdown. Furloughed employees are prohibited from working on official time, because official time is a paid status, and agencies may not incur financial obligations during a lapse in appropriations. Excepted employees are only permitted to work on activities that are authorized under the Anti-deficiency Act. Access to facilities during a furlough may be

restricted based on funding, security or other issues. If the offices are accessible and furloughed union officials are allowed access, it will be solely for the purpose of performing voluntary unpaid representational functions (i.e., they could not be working on official time or in any other way incurring obligations that would require subsequent agency payment).