

**Surface Transportation Board
Plan for Agency Operations in the Absence of Appropriations**

This plan outlines the procedures the Surface Transportation Board (STB or Board) will follow in the event of a lapse in appropriations and until appropriations are restored. This plan is pursuant to Office of Management and Budget (OMB) Circular A-11, Section 124, “Agency Operations in the Absence of Appropriation.” This lapse plan has been substantially updated to reflect the Board’s experience during the most recent lapse in appropriations, including more specifically identifying and discussing excepted functions and personnel, as well as the impact of a lapse greater than five days.

The Anti-Deficiency Act, 31 U.S.C. §1342, prohibits federal agencies from incurring obligations in the absence of appropriations, except in limited circumstances. Under the Act, officers and employees of the Federal Government cannot, in the absence of appropriations, enter into obligations or employ federal personnel except:

- in emergencies involving the safety of human life or protection of property, or
- to accomplish the orderly suspension of agency operations.

During a lapse in appropriations, the STB will curtail its operations until appropriations are restored. All Board employees will be furloughed, except those who are excepted from furlough to perform specific functions as discussed below, and Board Members, who cannot be furloughed by law.

Lapse Plan Summary Overview	
Estimated time (to nearest half day) required to complete shutdown activities:	<i>4 Hours</i>
Total number of agency employees expected to be on board before implementation of the plan:	<i>117</i>
Total number of employees to be retained under the plan for each of the following categories:	
Compensation is financed by a resource other than annual appropriations:	<i>0</i>
Necessary to perform activities expressly authorized by law:	<i>2*</i>
Necessary to perform activities necessarily implied by law:	<i>2*</i>
Necessary to the discharge of the President's constitutional duties and powers:	<i>0</i>
Necessary to protect life and property:	<i>2*</i>
<i>*A total of two agency personnel would be retained to perform these duties.</i>	
Brief summary of significant agency activities that will continue during a lapse:	
Activities necessary to carry out the excepted functions of the agency.	

Brief summary of significant agency activities that will cease during a lapse:

Activities associated with case processing, regulatory filings, and most litigation will be suspended as will most administrative activities.

Process for Designating Excepted Employees

- When a shutdown appears imminent, the Chairman, in consultation with the Office of General Counsel (as required by OMB Circular A-11) and as informed by experience during the most recent lapse, will designate the employees/positions to be excepted from furlough because they are needed to perform approved excepted or emergency functions that protect life or property.
- Human Resources will notify the designated excepted employees of their obligation to report to work in the event of a shutdown and the excepted or emergency functions that they are authorized to perform.

Consistent with the exceptions set forth in the Anti-Deficiency Act and related guidance, the Board has identified certain employees/positions and activities necessary to perform excepted or emergency functions.

- As of September 20, 2021, the STB has 117 employees, including five Board Members.
- Of the 117 employees, two have been designated at this time as excepted to the extent necessary to perform specific functions to address an imminent risk to the safety of human life or the protection of property. An additional four employees have been identified at this time as subject to recall, as needed, to perform specific excepted functions to address an imminent risk to the safety of human life or the protection of property. The following chart identifies the positions that will be excepted from furlough as described above.

Position	Excepted Functions	# of employees
Managing Director	Will provide ongoing support to the excepted activities of the Board Members and excepted STB employees regarding matters relating to human resources, information technology, and finance. Will confer with the Chairman to determine whether other intermittently excepted employees in these areas are required to effectuate excepted functions. Will serve as the Board's main point of contact with the Office of Personnel Management for furlough related information.	1
General Counsel/Chief Ethics Officer	Will provide legal advice and guidance concerning the excepted activities of the Board Members and excepted STB staff, including on emergency matters and	1

	excepted functions. Such functions include providing advice regarding emergency-directed service requests, providing legal guidance related to excepted activity, and monitoring the agency's pending court litigation and responding to court orders, as needed.	
Director of Human Resources	May be recalled, as needed, to provide essential actions with respect to excepted matters relating to human resources.	1
Chief Information Officer	May be recalled, as needed, to perform essential actions to guard against imminent threats related to STB data and information systems.	1
Chief Financial Officer	May be recalled, as needed, to perform essential fiscal and accounting excepted duties.	1
Chief Information Security Officer	May be recalled, as needed, to assess and resolve threats relating to the STB's data and network security systems.	1

- In addition, a limited number of additional employees could be recalled, as needed, to implement STB disposition of emergency-directed rail service matters.
- During any lapse in appropriations, the Chairman, in consultation with the Managing Director and the General Counsel, will continually evaluate whether adjustments to the plan are needed in order to ensure that excepted and emergency functions can be carried out.

Orderly Shutdown of Activities

When there is a lapse in funding, the STB will conduct orderly shutdown of its operations on the designated date. During orderly shutdown, all STB Employees must:

- Update their contact information (non-STB phone number and email) in AtHoc to ensure that they receive any required notification during the furlough and once the furlough period is over.
- Update their hours worked and leave taken in the STB's timekeeping system.
- Secure agency property for which they have custody, including all files and records in their possession – both paper and electronic – in the same manner as if they were to be on leave. This particularly includes the duty to secure personally identifiable information and other sensitive information.
- Acknowledge their furlough notice. If a lapse extends beyond 30 days, a second furlough notice will be sent to each employee's email address listed in AtHoc. Furlough notices should be acknowledged promptly.

Employees Subject to Furlough (not excepted) must:

- Complete shutdown activities within four hours on the first business day following the lapse in appropriations;

- Set an autoreply for their STB email address and record an out of office message on STB issued devices;
- Cancel meetings, hearings, and other previously arranged business and notify appropriate parties of the cessation of normal agency business due to a lapse in appropriations;
- Document the status of cases and projects; and
- Take appropriate steps to safeguard and secure all records and property to ensure protection of any sensitive information.

Activities Suspended During Furlough

Summary of suspended activities:

- Receipt of filings and pleadings
- Case processing
- Procedural schedules and decisional activities
- Oral arguments and voting conferences
- Data collection and analysis
- Tariff filings
- Recordation filings
- Site visits, public hearings, and staff meetings with stakeholders
- Litigation and court appearances, except to the extent work on a particular litigation matter has been determined to be an excepted function
- Customer hotline and responses to public inquiries
- Staff Congressional support and staff responses to Congressional inquiries
- All administrative support activities (except for those excepted above)

Leave. All paid leave during a furlough is cancelled because the necessity to furlough supersedes leave requests. The Anti-Deficiency Act does not allow authorization of any expenditure or obligation before an appropriation is made, unless authorized by law. Paid leave creates a debt on the part of the Government that is not authorized by the Act. Therefore, all paid leave during a furlough is cancelled and employees must be either (1) at work performing excepted activities or (2) furloughed. Any employee who was on or scheduled for leave (for example, annual, sick, comp time, etc.) will be put in a non-pay status. Any leave that was not used due to the furlough will be restored to the employee's leave balance once the furlough period has ended, to the extent authorized. No advanced sick or annual leave is authorized for use during a furlough.

Travel. Until the anticipated funding lapse is resolved, employees cannot begin an official trip, even if it has been previously approved, at any time after the furlough is effective. Any authorization for such travel is automatically revoked. If employees are on travel for official business on the first day of the funding lapse, they must immediately stop any work and return to the Washington, D.C. area, as promptly as possible in order to minimize any further funding obligations.

Training. Employees absent from the worksite in connection with training at local facilities must be advised that they will be placed on furlough for the duration of the funding lapse. Such employees must no longer participate or attend such training. After the enactment of appropriations, employees must notify human resources to determine if the class can be rescheduled at a later date.

Resumption of Operations

Employees are expected to report to work on the next business day following the restoration of appropriations. Employees are responsible for monitoring the media regarding updates to the government's funding status. Employees will be notified through AtHoc when agency operations have resumed. Upon returning to work, employees must remove the autoreply from their STB email address and remove their out of office message on STB issued devices.

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