

>>> "Davis, Gregory (HHS/OASH/OSG)" <Gregory.Davis@HHS.GOV> 4/5/2011 4:19 PM >>>

To all non-HHS Commissioned Corps Liaisons,

The Office of the Surgeon General received notice of a significant change in the legal analysis regarding whether the Commissioned Corps is exempt from furlough. A furlough is the placement of personnel in a non-duty status without pay. We wanted to share this with you as you work with your agency leadership as they develop their Contingency Staffing Plans, in case there is a hiatus of annual appropriations.

OMB and DOJ have recently ruled that Corps officers cannot be exempted from furlough based solely on their status as active duty members of a Uniformed Service. Instead, exceptions for Corps members must be decided on the same basis as exceptions for civil service employees - if they are involved in obligations authorized by law, or involved in the safety of human life or the protection of property.

Health and Human Services Operating Divisions and Staff Divisions are amending their contingency staffing plans related to operations without appropriations to comply with DOJ/OMB legal analysis. Liaisons of non-HHS agencies should inform their chain of command of this decision so that these agencies can amend their plans for operations without appropriations to comply with DOJ/OMB legal analysis.

In terms of the need for these Contingency Staffing Plans, the President and Congressional leadership have made it clear they want to avoid a government shutdown, and negotiations to that end are continuing. That said, good management requires that we continue contingency planning for an orderly curtailment of annually appropriated activities should the negotiations not be completed by the end of the current Continuing Resolution this coming Friday, April 8th, at midnight.

We have been told that OMB will be providing more information and that later this week (but they stressed "not yet") information will be shared with employees, officers and to outside parties. Let us know if you have any questions.

RADM Boris D. Lushniak, MD, MPH
Deputy Surgeon General
US Public Health Service

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