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Contractors find little relief from government shutdown impacts

By [Josh Hicks](#), Published: October 8

Steve Shockley has burned through vacation time to shield his family from the lapse in federal appropriations that forced him out of work indefinitely last week. He planned to use his last day on Wednesday.

The resident of South Riding, Va., a contracted technical writer for the Justice Department, is supporting a wife, who just opened a new preschool last month, and three children, ages 7, 8 and 9.

“This couldn’t have come at a worse time,” he said of the cutback. “It’s kind of killing us.”

Shockley is part of a multitude of private-sector employees who say they feel overlooked in the recent discussions about government-shutdown woes, which tend to focus on federal employees and the people who benefit from public services.

The House on Saturday unanimously passed a bill to provide back pay for federal employees on furlough during the reduction in operations, setting up hundreds of thousands of civil servants for compensation if the Senate and President Obama approve that legislation.

Another bill signed into law recently by the president allows continued pay for the military and some Defense Department civilian workers.

There is virtually no chance of retroactive pay for the army of furloughed government contractors who provide services that range from safeguarding computer networks and designing military machines to cleaning offices and doing repairs. Congress has never compensated such employees for time lost during a shutdown situation.

“There’s no opportunity for the government to do anything for contractors other than get their act together and get restarted so we can execute our contracts — that’s the only way to make it up,” said Lisa Mascolo, chief executive of Reston-based Optimos, a technology company that does 80 percent of its business with the federal government.

It is unclear how many private-sector employees could be impacted by the lapse in congressional appropriations, but the federal government spent about \$518 billion on contracting in 2012. To put that in context, the amount has nearly doubled since the mid-1990s after adjusting for inflation,

according to federal procurement data.

Several factors determine whether contracted workers remain on the job during a shutdown, including whether they support “essential” government functions and whether their duties are funded through past appropriations or future funding bills.

Since the House legislation does not authorize back pay for furloughed contractors, firms must decide how to deal with personnel who have no work. Most will either pay the employees, let them take paid leave or place them on furlough, industry experts said.

Connie N. Bertram, a partner at Proskauer Rose who specializes in labor and government contracting issues, said private-sector employees who go unpaid are not likely to receive back pay from their firms when the shutdown ends.

“In most instances, they will not, because they’re only paid for the hours the employees work,” she said.

Put another way, businesses cannot bill the government for hours these employees did not work — even though federal employees would essentially do so under the House bill.

Stan Soloway, president and chief executive of the Professional Services Council, said some large firms can afford to keep employees on the payroll during work stoppages, but he added that such moves can only last a few weeks in the best cases.

“The smaller the company, the more difficult it is,” Soloway said. “Absent revenue, it almost doesn’t matter the size of a company at a certain point.”

Adding to the problem is not all agencies have complied with guidance from the White House budget office that suggests they should keep contractors on the job if they have the necessary funds.

“I think a lot of it has to do with parity,” Soloway said. “There’s a sense that if I’m not going to work, you’re not going to work. But it’s like layering bad on top of bad. There are all kinds of financial ramifications for companies.”

The Defense Department represents a unique situation. The military bill signed last week requires the agency to continue paying civilian personnel and contractors who give “support for members of the armed forces.” Defense Secretary Chuck Hagel, interpreting the decision loosely, ordered nearly all of the department’s 350,000 furloughed civilian employees back to work Saturday.

That is a relatively good development for defense contractors, some of whom will return to work with pay. But the positive results are limited.

Lockheed Martin, one of the nation’s largest defense contractors, announced Monday that its number of furloughed employees would drop from about 3,000 to approximately 2,400 because of the Pentagon’s decision. The thousands still kept from their jobs work at closed government facilities or received stop-work orders, a company spokesman said.

Lockheed said its affected employees are in 27 states, with the majority residing in the Washington

metropolitan area.

Marjorie Censer contributed to this report.

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