



TRUMP MOVES TO ILLEGALLY FIRE EMPLOYEES AND WITHHOLD BACKPAY

October 10, 2025

EXECUTIVE SUMMARY

President Trump and Project 2025 author Russell Vought, head of the Office of Management and Budget (OMB), are moving to illegally fire thousands of federal employees during the government shutdown that began on October 1, 2025. They may also try to withhold backpay for furloughed employees who remain employed, which would be a clear violation of the Government Employee Fair Treatment Act that Trump himself signed in 2019.

This follows months of [mass firings](#) across the executive branch, and their efforts would likely continue even without a lapse in appropriations. Multiple courts have found that the Trump Administration performed these earlier reductions-in-force (RIF) illegally, and the administration does not plan to follow the law during the shutdown, either.

NO AUTHORITY FOR REDUCTIONS-IN-FORCE DURING SHUTDOWN

As of late September 2025, [over 200,000 employees](#) had left the federal workforce because of Trump's actions, including about 55,000 that were fired. Now, Trump and Vought want to fire thousands more, targeting programs, projects, and activities that do not align with the President's priorities. To do so, they are claiming authorities that go far beyond what is allowed in the Constitution or the law.

No statutory authority exists that allows or requires the President to conduct mass firings during a government shutdown. Contrary to existing law, OMB falsely claimed that programs whose funding has lapsed are no longer statutorily required to be carried out. However, a temporary lapse in [appropriations](#) does not repeal an agency's statutory duties or obligations. The President does not have the authority to unilaterally end programs that he disagrees with. That power—the power of the purse—lies with Congress.

During a government shutdown, most employees are furloughed, while some perform excepted work activities that support legislative and executive constitutional duties or protect life and property. These excepted employees include air traffic controllers, workplace and food safety inspectors, employees responding to public health and national emergencies, and others whose work is so essential that it must continue without funding. According to Vought's shutdown guidance, though, even these employees could be fired if they work in a program that Trump does not like, despite performing critical work for the

American people. Vought further amended shutdown guidance on October 3 to strip away references to [guaranteed backpay](#) for furloughed employees.

The work required to carry out these RIFs would be a direct violation of the Antideficiency Act, which prevents the government from spending money that Congress has not appropriated. Agencies would need to compile a list of employees to fire and send 60-day RIF notices to those employees. The work this would require does not fall under any of the exceptions for continuing during a lapse in appropriations. Agency leaders who direct this work and Human Resources employees who conduct this work run the risk of being prosecuted under the Antideficiency Act, which could result in fines or imprisonment.

LEGAL RESPONSE TO MASS FIRINGS

On September 30, 2025, multiple unions representing federal employees [sued](#) OMB and the Office of Personnel Management (OPM) to prevent mass firings during the impending government shutdown. They claim that any such RIFs would violate the Administrative Procedure Act and exceed the administration's statutory authority, and that the RIFs would be arbitrary and capricious agency actions. The unions are seeking a ruling that OMB and OPM guidance, and any resulting RIFs, are illegal. They also seek preliminary and permanent injunctive relief against any RIFs.

Other organizations have had success in similar cases this year. For example, 19 states [sued](#) Robert F. Kennedy, Jr. to halt mass firings at the Department of Health and Human Services (HHS). A district court judge granted a preliminary injunction to stop HHS from implementing its proposed reorganization and mass workforce reduction, which the First Circuit Court of Appeals upheld, agreeing that these actions were likely arbitrary and capricious under the Administrative Procedure Act. Similarly, another district court judge [ruled](#) that OPM's directive that federal agencies terminate tens of thousands of probationary employees *en masse* unlawfully exceeded OPM's powers and usurped and exercised powers reserved by Congress to each individual agency. The court found that OPM's actions were arbitrary and capricious, and that the *en masse* terminations were unlawful.

This document has not been reviewed and approved by the Democratic Caucus of the Budget Committee and may not necessarily reflect the views of all members.



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