

DEPARTMENT OF VETERANS AFFAIRS

HUMAN CAPITAL CONTINGENCY PLAN

September 2023



Agency Operations in the Absence of Appropriations

*As Required by the Office of Management and Budget Circular A-11

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Introduction

The Department of Veterans Affairs (VA) is committed to provide quality, consistent care and services to Veterans and their families. VA's mission allows no exception to this standard even when operations are limited by the absence of appropriations (commonly known as a "Government shutdown"). This document outlines which employees would be necessary for the Department's continued performance of activities that are "excepted," pursuant to applicable legal requirements or a separate funding source, and the activities that would be subject to furlough.

- VA revised its biennial contingency plan for fiscal year (FY) 2024 through FY 2025 in accordance with Office of Management and Budget (OMB) Circular A-11, Section 124, dated August 2023, and OMB Memorandum M-18-05, dated January 19, 2018. Based on the instructions contained in OMB Circular A-11 and the Antideficiency Act, this document details VA's lapse determinations to be implemented if appropriations are not passed by Congress or if appropriations are passed by Congress but not signed by the President before the beginning of the workday immediately following a lapse. It applies to all personnel and contractors assigned to or performing services for VA.

Methodology

The Department pursued a comprehensive approach to diminish the impact of a potential shutdown on Veterans, their caregivers, and survivors. In doing so, VA identified functions and programs for which there is a legal basis for designating exceptions, including those required by "necessary implication" and "for protection of life and property." VA Administrations and Staff Offices (A/SO) were asked to review their organizations and identify these specific functions and programs (and the positions required to support them). A/SO decisions were based on long-standing OMB and Department of Justice guidance, and consultation with VA's Office of General Counsel (OGC).

Federal activities that are authorized to continue during a funding lapse are excepted activities. The two main categories of excepted activities are those authorized by law and those involving the safety of human life or the protection of property. In the Department's shutdown contingency deliberations, VA identified those functions and programs legally excepted to facilitate services the Agency must provide to the Nation's Veterans and their families. These exempt (fully funded) and excepted services include providing consistent, high-quality medical care, compensation and pension benefits, housing, and burial services.

An analysis of VA functions that were impacted during the previous Government shutdowns revealed the following:

- Beginning with fiscal year (FY) 2011, the Veterans Health Administration (VHA) was authorized to request advance appropriations under P.L. 111-81. VHA received the FY 2013 advanced appropriation under P.L. 112-74 and

has continued to receive an advance appropriation since FY 2013. As a result of the advance appropriation, medical services, medical community care, medical support and compliance, and medical facilities were minimally impacted during more recent Government shutdowns since 2013.

- Some benefit activities and payments, such as benefit adjustments and insurance, were delayed.
- Loan Guaranty certificates of eligibility and certificates of reasonable value were also delayed.
- The Veterans Benefits Administration (VBA) has received advance appropriations for its entitlement programs since FY 2017.

In anticipation of a potential FY 2024 or FY 2025 shutdown, VA considered several factors that provide ample justification to support the number of excepted VA employees and functions in the event of a present-day shutdown.

- Advance appropriations and two-year appropriations prior year balances are available for VHA. VHA research operations are not funded by the advance appropriation, but certain key functions that support research operations are justifiable exceptions for protecting life and property.
- Any potential carryover balances from the prior year should be allocated to sustain continued operations until those account balances are depleted.
- The Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022 (PACT Act) (P.L. 117-168), created the Toxic Exposures Fund (TEF) to fund health care and benefits delivery for Veterans with exposure to environmental hazards. The TEF supports activities in VHA, VBA, the Office of Information and Technology (OIT), the Board of the Veterans' Appeals (Board) and other Staff Offices. The Fiscal Responsibility Act of 2023 (P.L. 118-05) provided an advance appropriation for the TEF. Carryover balances in the TEF from prior years should be allocated to sustain continued operations until those accounts' balances are depleted. This could result in some employees remaining in a "paid" status while others performing similar work would be in an "unpaid" status.

Agency Summary

As a result of the methodology and criteria outlined above, the Department's current projection is that 96 percent of VA employees would be fully funded or required to perform excepted functions during a shutdown. Approximately 411,805 employees are funded by an advance appropriation, multi-year funding or carryover, including 406,607 VHA employees. The total projected number of employees to be retained under this plan who meet OMB M-18-05 criteria, is 438,423. The number of employees not otherwise exempt is 18,760.

The table below provides an overview of the impact of a lapse in appropriations on the VA workforce.

Table 1: Contingency Plan Summary Overview

Contingency Plan Summary Overview¹	
Estimated time (to nearest half day) required to complete shutdown activities:	<i>3 days average</i>
Total number of agency employees expected to be on board before implementation of the plan:	456,098
Total number of agency employees expected to be furloughed under the plan (unduplicated count):	18,760
Total number of employees to be retained under the plan for each of the following categories (may include duplicated count):	
Compensation is financed by a resource other than annual appropriations:	411,805
Necessary to perform activities expressly authorized by law:	1,220
Necessary to perform activities necessarily implied by law:	1,293
Necessary to the discharge of the President's constitutional duties and powers:	3
Necessary to protect life and property:	24,102
Total number of employees to be retained under the plan:	438, 423

Summary of Significant Activities that Will Continue During Lapse

The following activities will continue during a lapse of appropriations:

- Veteran medical care and critical services within VHA.
- Various benefit functions under VBA, such as Education Benefit Claims processing and payments, insurance processing, loan guaranty programs, Veteran Readiness and Employment payment processing, VBA National Call Centers (except for Education), Compensation and Pension Claims

¹ Data aggregated as of July 2023 unless otherwise noted.

processing and payments, Decision Review Operations Centers and management.

- NCA will continue to inter Veterans and eligible family members, schedule burials and determine eligibility, process applications for headstones and markers, and update electronic files to ensure timely termination of benefits and next of kin notification of possible entitlement to survivor benefits.
- Within the Office of Information and Technology (OIT), direct and indirect information technology support to VA A/SOs as needed to maintain their excepted functions, network maintenance and protection, information security, data center operations, excepted benefits, and enterprise infrastructure operations.
- Office of General Counsel (OGC) to provide legal advice and services on excepted matters to the VA Secretary (SECVA), confidential policy support on excepted matters excepted to senior VA leadership, advising SECVA on excepted matters relating to accountability, and all other matters under 38 U.S.C. § 323 for the Office of Accountability and Whistleblower Protection.
- Fiscal oversight, financial management services and debt management center operations, VA's legacy and financial management systems, time and attendance system and other critical systems, and operations managed through the VA Financial Services Center and Debt Management Center.
- Office of Appellate Operations and the Office of the Clerk of the Board will render appellate decisions on Veteran's cases and hold hearings to consider arguments and evidence related to those cases.
- Human Resources Information Service minimum support and VA Central Office (VACO) facilities oversight, VACO building safety, processing of Equal Employment Opportunity complaints, maintaining the integrated operations center, providing executive protection, maintaining alternate facilities for continuity of operations, national security communications, and managing resources.
- Protection of property interests, acquisition operations, policy and logistics, lease build-out activities, and management of VA's major construction.
- Minimal call center operations for MyVA411 and the PACT Act Contact Center.
- Workforce management for the Electronic Health Records Modernization Integration Office will continue normal operations providing Departmental oversight of the critical mission in VA transitioning to a new electronic health record system.
- Completion of existing duties for Employment Discrimination Complaint Adjudication.
- Completion of existing duties for Office of Small and Disadvantaged Business Utilization.

Summary of Significant Activities that Will Cease During Lapse

The following agency activities will cease during a lapse of appropriations:

- Non-clinical services, such as medical/prosthetic research, not impacting Veterans care.
- Benefits administration to include data analytics, human resources, budget activities, risk management oversight, investment planning and customer support; requirements, testing, and deployment support; enterprise health record modernization and interoperability support; coordination and implementation of automated support tools; Government Accountability Office (GAO)/Office of the Inspector General (OIG) tracking; National Call Center compliance related to call quality review, personalized career planning, and site visits.
- While NCA will continue to inter individuals, there will be no: setting of permanent headstones or markers by NCA employees; grounds maintenance (mowing, trimming, mulching or other landscape management); processing of new Presidential Memorial Certificates (PMC) or pre-need applications; and awarding of new grants as part of the Veterans Cemetery Grant Program. Minimal NCA central office staffing (HR, Finance, Budget, Contracting, etc.) will be available to support the field in interment operations.
- Audits and evaluations, health care inspections, contract reviews, and special reviews, Freedom of Information Act (FOIA)/privacy, quality review, technical infrastructure, knowledge management (training), congressional relations, responding to congressional requests for information, processing testimony and questions for the record.
- Tribunal and routine legal services for VHA, VBA, NCA and Staff Offices regarding personnel law, ethics, torts, and other legal matters.
- Receiving, reviewing, and investigating allegations of misconduct, retaliation, or poor performance involving a VA senior executive; allegations of whistleblower retaliation; tracking and confirming the implementation of GAO, OIG, Office of Medical Inspector (OMI), and Office of Special Counsel (OSC) reports and recommendations.
- Liaison support to Women and Minority Veterans and Veteran Service Organizations.
- HR policy, recruiting, hiring, staffing, training, labor management relations, diversity and inclusion activities, strategy and integration initiatives, media services support, occupational safety and health policy support, transportation services, personnel security, and suitability oversight; Veteran employment outreach, Congressional, GAO, OIG, and OMB inquiries.
- All IT functions that are not covered under OMB exception categories: IT application management, enterprise portfolio management, demand management (business needs, architecture, engineering, cloud solutions,

modernization applications), and the Financial Management Business Transformation Program (financial and acquisition management).

- Financial and budget functions within the Office of Management, including Routine operations performed by VA Chief Financial Officer, budget formulation, oversight, and analysis; improper Payment Elimination and Recovery Act and STOP Fraud, Waste, and Abuse support services, asset management functions (e.g., strategic capital investment planning, energy, management program, and enhanced-use lease program), finance policy operations.
- Public affairs interactions with the media including news releases and answering queries; Veteran outreach through both digital and traditional engagement; outreach to international, state, county, municipal, faith-based and community-based partners that interface with Veterans at the local level; outreach to tribal governments, speechwriting support to the SECVA, the Deputy Secretary and VA Chief of Staff.

Table 2: 2023 VA Contingency Plan Onboard vs. Excepted Employees by Administration or Staff Office

Administration/ Staff Office Name	Total Onboard	Exempt	Performing Excepted Functions				Total	Percent Excepted or Exempt
		(Fully Funded)	Exception Category					
		Compensation is financed by other than annual appropriations	Necessary to perform activities expressly authorized by law	Necessary to perform activities necessarily implied by law	Necessary to the discharge of the President's constitutional duties and powers	Necessary to protect life and property		
VHA	407,599	406,607	0	0	0	0	406,607	99.8% ²
VBA	29,335	298	1	1,150	0	16,228	17,677	60%
NCA	2,248	0	0	0	0	1,677	1,677	75%
OIT	8,560	499	0	0	0	5,564	6,063	71%
BVA	1,281	0	1,194	0	0	0	1,194	93%
HRA/OSP	1,041	144	10	1	0	204	359	34%
OALC	1,397	1,397	0	0	0	171	1,568	112% ³
OGC ⁴	911	116	0	21	0	3	140	15%
OPIA	75	0	0	0	1	0	1	1%
OCLA	43	0	1	1	0	0	2	5%
OAWP	129	0	1	1	0	0	2	2%
VEO	272	0	0	64	0	0	64	24%
OEI	74	4	1	0	0	0	5	7%
OM	1,679	1,391	1	7	0	0	1,399	83%
OIG	1,104	1,104	1	36	0	254	1,395	126%
EHRM-IO	209	209	0	0	0	0	209	100%
OSVA	141	36	10	12	2	1	61	43%
TOTAL	456,098	411,805	1,220	1,293	3	24,102	438,423	96%

² All VHA positions (except for research) are advance funded and would continue in the case of a lapse.

³ OMB Circular A-11, Section 124 allows for the inclusion of duplicated counts in the retention categories. This resulted in the percent excepted or exempt to exceed 100% for some organizations.

⁴ The Office of General Counsel's (OGC) submission was aggregated as of 8/21/2023.

Table 3: VA Functions to be Suspended by Administration or Staff Office

A/SO	Description of Functions to be Suspended
VHA	Non-clinical services, such as medical/prosthetic research.
VBA	Administration to include data analytics, some human resources functions, budget activities, risk management oversight, IT system investment planning, security, program oversight, investment planning and customer support; requirements, testing, and deployment support; EHRM and interoperability support; Benefits Executive Council /Joint Executive Council Initiatives; communications to include stakeholder engagement, public contact, and VSignals service recovery; contract support, training, quality oversight, data analytics, and metrics tracking; coordination and implementation of automated support tools; GAO/OIG tracking; conducting national field calls, quality, trend analysis; providing critical policy updates, legislative proposals, and regulations; national or local quality reviews; policy and procedures and systems development; quality review and training; outreach, transition assistance, National Call Center compliance, personalized career planning.
NCA	While NCA will continue to inter individuals, there will be no: setting of permanent headstones or markers by NCA employees; grounds maintenance (mowing, trimming, mulching or other landscape management); processing of new Presidential Memorial Certificates (PMC) or pre-need applications; and awarding of new grants as part of the Veterans Cemetery Grant Program. Minimal NCA central office staffing (HR, Finance, Budget, Contracting, etc.) will be available to support the field in interment operations.
OIT	All IT functions that do not fall under “necessary implication” and relate to one of the specific functions permitted, IT application management, enterprise portfolio management, demand management (business needs, architecture, engineering, cloud solutions, modernization applications), and the Financial Management Business Transformation Program (financial and acquisition management).
BVA	Administrative functions including FOIA/privacy, quality review, human resources, logistics, budget, planning, technical infrastructure, and knowledge management.
HRA/OSP	HR policy, recruiting, hiring, staffing, training, labor management relations, Office of Resolution Management, Diversity & Inclusion, media services support, occupational safety and health policy support, records management support for VACO, transportation services, personnel security and suitability oversight, Veteran employment outreach, correspondence management, and Congressional, GAO, OIG, and OMB inquiries.
OALC	None.

A/SO	Description of Functions to be Suspended
OGC	Nonessential services that do not affect the representation of the SECVA and Administrations before courts; other tribunal and routine legal services for VHA, VBA, NCA and Staff Offices regarding personnel law, ethics, torts, and other legal matters.
OPIA	Public affairs interactions with the media including news releases and answering queries; Veteran outreach through both digital and traditional engagement; outreach to international, state, county, municipal, faith-based, and community-based partners that interface with Veterans at the local level; outreach to tribal governments; speechwriting support to the SECVA, Deputy Secretary and VA Chief of Staff.
OCLA	Congressional relations, responding to congressional requests for information, processing testimony and questions for the record, Congressional correspondence, constituent casework, advisory committee management; GAO coordination, office administrative functions.
OAWP	Receiving, reviewing, and investigating allegations of misconduct, retaliation, or poor performance involving a VA senior executive; allegations of whistleblower retaliation; tracking and confirming the implementation of GAO, OIG, OMI, and OSC reports and recommendations.
VEO	VA.gov component management (i.e. VA Profile, VBA debt management, eBenefits, Login.gov, etc.); Veterans Experience Action Center events and support; Federal Advisory Committee activities; Veteran (Vsignals) and employee (Esignals) survey configuration/management and results processing; customer experience consultative services; VA Customer Experience (CX) Institute; CX/EX engagements; Own The Moment (OTM), Tour of Duty (TOD), and experience data set training; patient experience deep dive and environmental scans; voice of the Veteran data presentations; #VetResources newsletter publication; call center data reporting to the VA Secretary.
OEI	Strategic planning, performance management, evidence-based valuation, VA governance functions, data management, statistical analysis, and predictive modeling, including data engineering for PACT Act implementation.
OM	Routine operations performed by VA Chief Financial Officer, including budget formulation, oversight, and analysis; improper Payment Elimination and Recovery Act and STOP Fraud, Waste, and Abuse support services, Financial Management Business Transformation, asset management functions (e.g., strategic capital investment planning, energy management program, and enhanced-use lease program), financial policy operations.
OIG	After exhausting carryover, most non-law enforcement functions would be suspended, including audits and evaluations, health care inspections, contract reviews, special reviews, and non-essential administrative support.

A/SO	Description of Functions to be Suspended
EHRM-IO	None.
OSVA	Administrative operations, protocol, mission travel, executive correspondence support, advisory and liaison support to women and minority Veterans, and Veterans Service Organizations.

Appendices

Appendix A: Agency Contacts During a Funding Lapse

Role	Name	Primary Phone	Primary Email
Chief Human Capital Officer	Ms. Tracey Therit	202-461-0235	Tracey.Therit@va.gov

Appendix B: VA Memorandum for Lapse of Appropriation Implementation Procedures Template

Date: TBD

From: Assistant Secretary for Human Resources and Administration/Operations, Security, and Preparedness (006)

Subj: Lapse of Appropriation Implementation Procedures

To: Department of Veterans Affairs Managers, Supervisors, and Human Resources Management Officers

1. **Purpose.** The purpose of this memo is to provide guidance for the emergency shutdown of Department of Veterans Affairs (VA or the Department) operations due to lapse in appropriation. The following guidance addresses the process for notifying employees of a shutdown furlough.

2. **Policy.** When an Appropriation Act or a Continuing Resolution has not been signed by the President, thereby causing a lapse in appropriations, it is the policy of the Department that all employees who are not performing excepted or funded activities be placed on emergency furlough. Employees performing non-excepted activities may not perform any services other than those involved in the orderly suspension of non-excepted activities; excepted activities that may be continued are generally those that are authorized by law or that protect life and property. Employees will not be permitted to volunteer non-excepted services.

3. **Authorization Coverage.** A furlough of 30 calendar days or less is covered under Subpart D of 5 C.F.R. Part§ 752, adverse action procedures. A furlough of more than 30 calendar days is covered under 5 C.F.R. Part§ 351, reduction in force procedures. All furloughs for Senior Executive Service members are covered under Subpart H of 5 C.F.R. Part§ 359.

4. **Notice.** In accordance with 5 C.F.R. § 752.404(d)(2), the advance written notice and opportunity to answer are not required for furlough without pay due to unforeseeable circumstances such as sudden breakdowns in equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities.

5. Procedures for Issuing Notices.

a. If appropriations are passed by Congress and signed by the President before the beginning of a workday, employees should report to work as usual.

b. On the first day appropriations are not passed by Congress and signed by the President before the beginning of a workday, the following actions are required:

(1) Employees will report to work as scheduled to begin phase-down activities and to await instructions on whether a furlough will be necessary. Supervisors must ensure shutdown activities are completed in the most expeditious manner possible; generally, such activities may not exceed three to four hours. These

shutdown activities may include receiving and acknowledging furlough notices, completing any required time and attendance reporting, setting email/voicemail out-of-office notifications, securing files, and other activities necessary to preserve the employee's work. Employees performing these activities will be entitled to compensation.

(2) Employees in travel status must return to their duty station immediately upon finding out or being notified of the furlough.

(3) Employees who are scheduled to telework (or who are remote) are permitted on their next scheduled workday to perform necessary shutdown activities from their telework location if an existing telework agreement is in place. To the greatest extent practical, and as locally determined, the supervisor may allow other employees to conduct necessary shutdown activities from a remote location without an existing telework agreement, if the nature of the employees' shutdown activities are de minimis (i.e., can be completed in approximately 15 minutes). For example, such activities would include receiving and acknowledging receipt of an electronic furlough notice and adjusting voicemail and email to reflect current work status.

(4) Employees that are on their scheduled compressed workday off (also known as regular day off (RDO)) must be contacted via phone or email by their supervisor and notified of the furlough and their designation as furloughed, excepted, or funded. The supervisor must provide the employee with a written notice as soon as possible and should receive written confirmation and the employee's acknowledgment that they received the notice. A copy of the notice should be provided to the servicing HR office to retain in the furlough folder for up to two years.

(5) VA employees who are on detail out of VA on Intergovernmental Personnel Act (IPA) assignments and are being paid directly from VA should prepare to return to their VA duty station of record. These employees will be notified by their VA manager or supervisor when to return, if necessary. VA employees paid by the sponsors of their IPA assignments are not affected by the lapse of appropriations.

(6) Employees in a training status off VA premises must return to their duty station. Employees in training on VA premises will immediately contact their supervisor's office for instructions regarding returning to their duty station.

(7) Employees on approved leave (annual, sick, court, or military) at the time of a lapse of appropriations will be treated for pay purposes in the same manner as those employees not on leave. Employees performing nonexcepted activities must be provided a furlough notice instructing them to cease performing nonexcepted or funded activities; and employees performing excepted or funded activities must be provided a notice indicating that they have been deemed as such.

(8) Employees that have received Permanent Change of Station (PCS) orders and are in route should continue to their destination. Employees that have

received their PCS orders but have not begun travel should not begin travel.

(9) Employees designated as “excepted” employees will continue to perform necessary activities to ensure the protection of human life or protection of Government property in the event that a delay in the performance of their assigned activities would compromise the protection of human life or property. When their work is complete, if there is still a lapse in appropriations, they will be placed on emergency furlough. These employees may be required to work on an intermittent basis during the emergency furlough.

c. Managers and supervisors should avoid, if possible, assigning an excepted activity to an employee that is not reachable as a result of: 1) being on annual leave and on personal travel in a remote and/or distant geographical location; or 2) is on sick leave and is incapacitated due to an illness during the furlough. The employee should be placed in a non-pay status and the activity should be assigned to another qualified employee within the competitive level to perform the activity.

d. The servicing Human Resources office (HRO) must maintain notification records that certify each employee’s receipt and acknowledgment of the notice of furlough. Furlough records should be maintained in the servicing HRO for two years for future reporting.

e. The manager and supervisor must ensure timecards are processed, approved, and released for all “excepted” employees working during the furlough. Since “nonexcepted” employees will not be working and will be in a non-pay status, timecards for “nonexcepted” employees should not be processed, approved and released during the furlough period.

6. End of Furlough.

a. Furloughed employees should be instructed to check the [VA website](https://www.va.gov) (va.gov), the [Office of Personnel Management \(OPM\) website](https://www.opm.gov) (opm.gov), and major news broadcasts for information on when to return to duty. Furloughed employees must return to work at the beginning of their next regularly scheduled tour of duty following notification that the emergency furlough period has ended.

b. Managers and Supervisors may communicate to their employees that the emergency furlough period has ended. This communication can be sent to an employee’s personal contact (i.e., home email, personal cell phone, home phone).

Employees that do not return to work at the beginning of their next regularly scheduled tour of duty will be determined to be absent without leave (AWOL) and placed in non-pay status. Employees that had approved scheduled leave interrupted as a result of the furlough should defer to their supervisor to confirm if they should resume the leave after the furlough.

7. Pay, Benefits and Leave During Furlough.

a. Furloughed employees are in a non-pay, nonduty status during an emergency furlough. Employees identified as “excepted” may or may not receive pay in the

absence of appropriations.

b. Furloughed employees may be eligible for Unemployment Compensation, especially if they are on consecutive furlough days. Supervisors should provide each employee an [SF-8](#), Notice to Federal Employee about Unemployment Insurance, at the same time the furlough letter is issued. State Unemployment Compensation requirements differ. Agencies or employees should submit their questions to the appropriate state office within their geographic location.

The [SF-8](#) informs employees of their right to file a claim for Unemployment Compensation, explains the basic eligibility requirements, provides general information as to how, when, and where to file a claim, and describes the documents that the individual should take when filing a claim (20 C.F.R. § 609.20). Components must annotate the address and agency code of the separating federal agency where wage and separation information can be obtained. This document may be posted to an accessible automated information sharing site used to communicate useful and required information that would normally be attached to the furlough notice.

c. The furlough will have no effect on an employee's entitlement to health and life insurance; and

d. The furlough causes cancellation of any paid leave (annual, sick, court, etc.) previously approved or planned for use during the furlough period.

Appendix C: Employee Furlough Notice Templates

Notice for Furloughed Non-Senior Executive Service (SES) Employee

To: [Name of Furloughed Non-SES Employee]
Subject: Furlough Decision Notice Due to Lapse of Appropriations (5 C.F.R. § 752.404)

1. The purpose of this letter is to notify you that _____ (VA organization) is placing you on furlough without pay effective _____ (enter month, day, and year). The Department of Veterans Affairs (VA) does not expect this furlough to exceed 30 calendar days (22 workdays). Therefore, this furlough notice expires no later than _____ (enter month, day, and year).
2. The reason for this furlough is that _____ (VA organization) does not have full funding through either a continuing Federal Government budget resolution or a fiscal year (FY) 2024 appropriation. Thus, VA may incur no further financial obligations except for those related to the orderly suspension of affected VA operations, those covered by 2024 appropriations, or those in the performance of excepted activities as defined in the Office of Management and Budget (OMB) Circular No. A-11, dated August 2023, and OMB Memorandum M-18-05 dated January 19, 2018.
3. Though the work you perform is valued, your position is not required to facilitate the orderly suspension of affected VA operations, is not an activity with available appropriations, or is not engaged in one of the excepted functions; therefore, you must be placed in a furlough status.
4. During the furlough period, you will be in a non-pay, nonduty status. Also, during the furlough, you will not be permitted to serve as an unpaid volunteer, must remain away from your workplace unless and until recalled, and should not perform any work in a nonexcepted or unfunded activity. An employee of VA and the United States Government who “knowingly and willfully” violates this law shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office and shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both. The furlough also causes cancellation of any paid leave (annual, sick, court, etc.) previously approved or planned for use during the furlough period.
5. This action is taken because of a sudden emergency requiring curtailment of VA activities; therefore, no advance notification is possible. Thus, the customary 30-day advance notice period and opportunity to answer are suspended under the provisions of 5 C.F.R. § 752.404(d)(2).
6. You should check the [VA website](http://va.gov) (va.gov), the [Office of Personnel Management \(OPM\) website](http://opm.gov) (opm.gov), and major news broadcasts for notice that either a continuing Federal Government budget resolution or an FY 2024 appropriation for all of the Department of Veterans Affairs has taken effect. Once either of those events occurs,

you should return to work on your next regular scheduled duty day. Employees that do not return to duty after the furlough has adjourned will be determined to be absent without leave (AWOL). AWOL is an unauthorized absence from duty in which the employee receives no pay and is subject to disciplinary action.

7. As a furloughed employee, you have the following appeal or grievance rights:

a. Employees who have completed a probationary or trial period or 1 year of current continuous employment in the competitive service under other than a temporary appointment may appeal this action to the Merit Systems Protection Board. See paragraph 9 below for specific instructions on how to file an appeal.

b. Employees in the excepted service who have Veterans' preference may appeal to the Merit Systems Protection Board if they have completed 1 year of current continuous service in the same or similar positions as the one they now hold. See paragraph 9 below for specific instructions on how to file an appeal.

c. Employees in the excepted service who do not have Veterans' preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service may appeal to the Merit Systems Protection Board if they have completed 2 years of current continuous service in the same or similar positions in an Executive department or agency under other than a temporary appointment limited to 2 years or less. See paragraph 9 below for specific instructions on how to file an appeal.

d. Employees in the excepted service who do not have Veterans' preference and who have completed more than 1 year (but less than 2 years) of current continuous service in the same or similar positions in an Executive department or agency under other than a temporary appointment limited to 2 years or less may appeal the action under the VA grievance procedure. Your formal grievance must be addressed to the official that signed the letter of furlough, within 15 calendar days after you receive this furlough. For further information about the VA grievance procedure, you may consult your local Human Resources Office.

e. Bargaining unit employees may grieve this action in accordance with the applicable negotiated agreement (*provide citation to negotiated agreement*), if covered by the agreement, or may appeal to Merit Systems Protection Board in accordance with the procedures outlined in paragraph 9, but not both. However, to be eligible to appeal to the Merit Systems Protection Board, in lieu of filing a negotiated grievance, you must meet one of the criteria in paragraphs a through d above. To obtain information on filing a grievance under the negotiated grievance procedure, contact (*name of exclusive union representative*).

f. If you do not meet any of the criteria under paragraphs a through e above, you do not have any appeal or grievance rights.

8. Employees have a right to representation in this matter and may choose an attorney or other person to represent them.

9. If you have the right of appeal to Merit Systems Protection Board, your appeal may be submitted by mail, facsimile, commercial overnight delivery, electronic filing at <https://e-appeal.mspb.gov/>, or in person at any time after you receive this letter but not later than (30) calendar days after the separation went into effect.

10. The address to mail your appeal to is _____ (*insert address from list below*). You must submit an original and one copy of your appeal and all attachments. If you do not submit an appeal within the time set by statute, regulation, or order of a judge, it will be dismissed as untimely filed unless a good reason for the delay is shown. The judge will provide you an opportunity to show why the appeal should not be dismissed as untimely. Copies of the Instructions for the Merit Systems Protection Board Appeal Form (Form 185) are available at <http://www.mspb.gov/appeals/appeals.htm>. Please refer to www.mspb.gov for information regarding the appeals process and procedures that must be followed. You may be represented by an attorney or other representative of your choice.

11. Attached is the [SF-8](#), Notice to Federal Employee about Unemployment Insurance. Additional information about unemployment insurance is available at: <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Unemployment-Insurance-Resources>

We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding agency funding becomes available. If you have questions, contact [*contact name, phone number, and email address*].

Deciding Official

Date

I acknowledge receipt of this decision and notice to furlough.

Employee's Signature

Date

Attachment: [SF-8](#)

Notice for Furloughed Senior Executive Service (SES) Employee

To: [Furloughed SES]

Subject: Furlough Decision Notice Due to Lapse of Appropriations (5 C.F.R. § 359.806)

1. The purpose of this letter is to notify you that (*this VA organization*) is placing you on furlough without pay effective _____ (*enter month, day, and year*). The Department of Veterans Affairs (VA) does not expect this furlough to exceed 30 calendar days (22 workdays). Therefore, this furlough notice expires no later than _____ (*enter month, day, and year*).

2. The reason for this furlough is that (*this VA organization*) does not have funding through either a continuing Federal Government budget resolution or a fiscal year (FY) 2024 appropriation. Thus, VA may incur no further financial obligations except for those related to the orderly suspension of affected VA operations or performance of excepted activities as defined in the Office of Management and Budget (OMB) Circular No. A-11, dated August 2023, and OMB Memorandum M-18-05 dated January 19, 2018. Because the Veterans Health Administration (VHA) has received its FY 2024 appropriation, the furlough does not apply to VHA facilities or VHA employees except for those engaged in some VHA Research and Development activities whose funding expires. The furlough also does not apply to those other VA employees who either must handle the orderly suspension of affected VA operations or are performing one of the excepted activities defined in the OMB circular and memorandum.

3. Though VA values the work that you perform, because you are not engaged in the orderly suspension of affected VA operations, and you are not engaged in one of the excepted functions VA must place you in a furlough status. You should access VA website (www.va.gov) or monitor public broadcasts for notice that either a continuing Federal Government budget resolution or an FY 2024 appropriation for all of the Department of Veterans Affairs has taken effect. Once either of those events occurs, VA recalls you to return to work on your next regular duty day.

4. Because a sudden emergency requiring curtailment of VA activities has caused this furlough action, no advance notification is possible. Thus, the customary 30-day advance notice period and opportunity to answer will not occur, in accordance with the provisions of 5 C.F.R. § 359.806(a) for Senior Executive Service (SES) career appointees.

5. During the furlough period, you will be in a non-pay, nonduty status. During the furlough, you may not serve as an unpaid volunteer to perform your duties but must remain away from your workplace unless and until recalled. The furlough also causes cancellation of any paid leave (annual, sick, court, etc.) previously approved or planned for use during the furlough period.

6. This furlough will have no effect on your entitlement to health and life insurance. Nor will the furlough change your service computation date.

7. Furloughed SES noncareer or limited appointees, and reemployed annuitants holding career SES appointments, may not appeal this action to the Merit Systems Protection Board. SES career appointees adversely affected may appeal this action to Merit Systems Protection Board and have a right to representation in this matter and may choose an attorney or other person to represent them.

8. If you have the right of appeal to Merit Systems Protection Board and wish to so appeal this action, you must file the appeal within 30 calendar days of the effective date of your furlough. To obtain a copy of the Merit Systems Protection Board regulations and appeal form and the address of the Merit Systems Protection Board Regional Office having jurisdiction, notify (*VA contact and telephone number*).

9. Attached is the [SF-8](#), Notice to Federal Employee about Unemployment Insurance. Additional information about unemployment insurance is available at: <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Unemployment-Insurance-Resources>.

We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding agency funding becomes available. If you have questions, contact [*contact name, phone number, and email address*]

Deciding Official

Date

I acknowledge receipt of this decision and notice to furlough.

Employee's Signature

Date

Attachment: [SF-8](#)

Notice for Excepted Non-Senior Executive Service (SES) Employee

To: [Name of Excepted Non-SES Employee]
Subject: Exception from Furlough Notice During Lapse of Appropriations (5 CFR Part 752.404)

1. The purpose of this letter is to notify you that _____ (*VA organization*) is retaining you for duty to perform excepted activities as defined in the Office of Management and Budget (OMB) Circular No. A-11, dated August 2023 and OMB Memorandum M-18-05 dated January 19, 2018. As an excepted employee, you will continue to perform your VA functions during the furlough.
2. In accordance with 5. U.S.C. § 1342, it is unlawful to accept voluntary services for the United States, or employ personal services not authorized by law if you are performing a nonexcepted or unfunded activity. An officer and employee of VA and the United States Government who “knowingly and willfully” violates this law shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office and shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.
3. Because a sudden emergency requiring curtailment of VA activities has caused this furlough action, no advance notification is possible. Thus, the customary 30-day advance notice period and opportunity to answer will not occur, in accordance with the provisions of 5 C.F.R. § 752.404(d)(2).
4. The furlough also causes cancellation of any paid leave (annual, sick, court, etc.) previously approved or planned for use during the furlough period.
5. This furlough will have no effect on your entitlement to health and life insurance. Nor will the furlough change your service computation date.
6. Employees who have completed a probationary or trial period or 1 year of current continuous employment in the competitive service under other than a temporary appointment may appeal this action to the Merit Systems Protection Board. Employees in the excepted service who have Veterans’ preference may appeal to the Merit Systems Protection Board if they have completed 1 year of current continuous service in the same or similar positions as the ones they now hold. Employees in the excepted service who do not have Veterans’ preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service may appeal to the Merit Systems Protection Board if they have completed 2 years of current continuous service in the same or similar positions in an Executive department or agency under other than a temporary appointment limited to 2 years or less. Employees have a right to representation in this matter and may choose an attorney or other person to represent them.
7. If you have the right of appeal to Merit Systems Protection Board and wish to so appeal this action, you must file the appeal within 30 calendar days of the effective date of your furlough. To obtain a copy of the Merit Systems Protection Board regulations and appeal form and the address of the Merit Systems Protection Board Regional Office having jurisdiction, notify (*VA contact and telephone number*).

8. Bargaining unit employees may grieve this action in accordance with the applicable negotiated agreement (*provide citation to negotiated agreement*) or may appeal to Merit Systems Protection Board in accordance with the procedures outlined above, but not both. To obtain information on filing a grievance under the negotiated grievance procedure, contact (*name of exclusive union representative*).
9. Attached is the [SF-8](#), Notice to Federal Employee about Unemployment Insurance. Additional information about unemployment insurance is available at: <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Unemployment-Insurance-Resources>

We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding agency funding becomes available. If you have questions, contact [*contact name, phone number, and email address*]

Deciding Official

Date

I acknowledge receipt of this decision and notice to furlough.

Employee's Signature

Date

Attachment: [SF-8](#)

Notice for Excepted Senior Executive Service (SES) Employee

To: [Excepted SES]

Subject: Retention and Conditional Furlough Decision Notice Due to Lapse of Appropriations (5 CFR Part 359.806)

1. The purpose of this letter is to notify you that (*this VA organization*) is temporarily retaining you for duty as an excepted employee to assist in the orderly suspension of VA operations affected by the furlough that is effective _____ (*enter month, day, and year*). The Department of Veterans Affairs (VA) does not expect this furlough to exceed 30 calendar days (22 workdays), or _____ (*enter month, day, and year*).
2. The reason for this furlough is that (*this VA organization*) does not have funding through either a continuing Federal Government budget resolution or a fiscal year (FY) 2024 appropriation. Thus, VA may incur no further financial obligations except for those related to the orderly suspension of affected VA operations or performance of excepted activities as defined in the Office of Management and Budget (OMB) Circular No. A-11, dated August 2023, and OMB Memorandum M-18-05 dated January 19, 2018. Because the Veterans Health Administration (VHA) has received its FY 2024 appropriation, the furlough does not apply to VHA facilities or VHA employees except for those engaged in some VHA Research and Development activities whose funding expires. The furlough also does not apply to VA employees who are performing one of the excepted activities defined in the OMB circular and memorandum or to employees like you during the period/s that you must handle the orderly suspension of affected VA operations.
3. Because you will be engaged in the orderly suspension of affected VA operations, VA must retain you for part or all of 1 or more workdays, of which your supervisor will notify you. Though VA values the work that you perform, after you complete your duties on the assigned workdays assisting in the suspension of affected VA operations, VA must also then place you on furlough in a non-pay, nonduty status. You should access VA website (www.va.gov) for public broadcasts for notice that either a continuing Federal Government budget resolution or an FY 2024 appropriation for all of the Department of Veterans Affairs has taken effect. Once either of those events occurs, VA recalls you to return to work on your next regular duty day.
4. Because a sudden emergency requiring curtailment of VA activities has caused this furlough action, no advance notification is possible. Thus, the customary 30-day advance notice period and opportunity to answer will not occur, in accordance with the provisions of 5 C.F.R. § 359.806(a) for Senior Executive Service (SES) career appointees.
5. When not performing duties to assist in the suspension of affected VA operations, you will be on furlough and may not serve as an unpaid volunteer to perform your duties but must remain away from your workplace unless and until recalled. The furlough also causes cancellation of any paid leave (annual, sick, court, etc.) previously approved or planned for use during the furlough period.

6. This furlough will have no effect on your entitlement to health and life insurance. Nor will the furlough change your service computation date.
7. Furloughed SES noncareer or limited appointees and reemployed annuitants holding career SES appointments may not appeal this action to the Merit Systems Protection Board. SES career appointees adversely affected may appeal this action to Merit Systems Protection Board and have a right to representation in this matter and may choose an attorney or other person to represent them.
8. If you have the right of appeal to Merit Systems Protection Board and wish to appeal this action, you must file the appeal within 30 calendar days of the effective date of your furlough. To obtain a copy of the Merit Systems Protection Board regulations and appeal form and the address of the Merit Systems Protection Board Regional Office having jurisdiction, notify (*VA contact and telephone number*).
9. Attached is the [SF-8](#), Notice to Federal Employee about Unemployment Insurance. Additional information about unemployment insurance is available at: <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Unemployment-Insurance-Resources>

We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding agency funding becomes available. If you have questions, contact [*contact name, phone number, and email address*]

Deciding Official

Date

I acknowledge receipt of this decision and notice to furlough.

Employee's Signature

Date

Attachment: [SF-8](#)