

**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 providing 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 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 and their family members. In doing so, VA identified functions and programs exempt from furlough or 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 either "exempt" or "excepted" activities. Federal activities financed with funds from a source other than annually appropriations are "exempt" and not subject to furlough during a government-wide lapse. The categories of Federal activities that may be "excepted" from a shutdown are: (1) those activities expressly authorized by law; (2) those activities necessarily implied by law; (3) those activities necessary to discharge of the President's constitutional duties and powers; and (4) those activities necessary to protect human life or Government 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 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 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 the Veterans Health Administration (VHA), the Veterans Benefits Administration (VBA), the Office of Information and Technology (OIT), the Board of the Veterans' Appeals (Board) and 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 above, the Department’s current projection is that 97 percent of VA employees would be fully funded or required to perform excepted functions during a shutdown. Approximately 418,115 employees are “exempt” because they are funded by an advance appropriation, multi-year funding or carryover, including 407,599 VHA employees. The total projected number of employees to be retained as “excepted” under this plan who meet one of the categorical exceptions described in OMB M-18-05 criteria, is 22,322. The total number of exempt and excepted is 440,437. The number of employees not otherwise exempt or excepted is 15,620.

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

**Table 1: Contingency Plan Summary Overview**

<b>Contingency Plan Summary Overview<sup>1</sup></b>	
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:	<i>456,057</i>
Total number of agency employees expected to be furloughed under the plan (unduplicated count):	<i>15,620</i>
<b>Total number of employees to be retained under the plan for each of the following categories (may include duplicated count):</b>	
Compensation is financed by a resource other than annual appropriations:	<i>418,115</i>
Necessary to perform activities expressly authorized by law:	<i>11</i>
Necessary to perform activities necessarily implied by law:	<i>13,653</i>
Necessary to the discharge of the President's constitutional duties and powers:	<i>0</i>
Necessary to protect life and property:	<i>8,658</i>
<b>Total number of employees to be retained under the plan:</b>	<b><i>440,437</i></b>

## 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 the Veterans Health Administration (VHA) will continue, as they are financed with other-than-annual appropriations.
- VHA work for medical and prosthetic research is funded by a multi-year

<sup>1</sup> Data aggregated as of July 2023.

appropriation and is therefore “exempt” from furlough (until funds are expended).

- The Veterans Benefits Administration (VBA) will continue various benefit functions, 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 processing and payments, Decision Review Operations Centers and management. These functions will continue as necessarily implied to prevent significant disruption to mandatory benefits programs.
- The National Cemetery Administration (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. These functions continue as excepted to protect human life and the property interests of the deceased.
- The Board of Veterans’ Appeals (the Board, BVA) will continue to render appellate decisions on Veterans’ benefits cases and hold hearings to consider arguments and evidence related to those cases. VA compensation and pension benefits and education benefits are funded with other-than-annual appropriations, and the processing of appeals related to the timely and accurate payment of these entitlement benefits to or on behalf of Veterans and their dependents is necessary by implication.
- The Office of Information and Technology (OIT) will maintain direct and indirect information technology support to VHA, VBA, the Board and other offices as needed to maintain their exempt or excepted functions, including network maintenance and protection, information security, data center operations, excepted benefits, and enterprise infrastructure operations. OIT functions excepted as necessary to support exempt hospital functions and funded benefits programs and to protect proprietary Government systems will continue.
- Office of General Counsel (OGC) will continue to provide legal assistance and litigation support as necessary for exempt funded activities, and will provide legal advice and services to senior VA leadership on excepted matters relating to accountability and on orderly cessation of Federal activities in the event of a shutdown.
- The Office of Management will continue to exercise fiscal oversight, financial management services and debt management center operations, financial management systems, the time and attendance system, and other critical systems. These operations, managed through the VA Financial Services Center and Debt Management Center, are funded by the VA Working Capital Fund and are therefore “exempt” from furlough.
- Human Resources and Administration /Operations, Security, and

Preparedness (HRA/OSP) will provide minimum support for Human Resources Information Service, VA Central Office (VACO) facilities oversight, VACO building safety, maintenance of the integrated operations center, executive protection, maintenance of alternate facilities for continuity of operations, and national security communications. Resources shall be managed as necessary to protect human life and as required to support exempted and excepted functions.

- Office Acquisition, Logistics, and Construction (OALC) will continue to provide services to protect Government property interests, including exempt acquisition operations, policy and logistics, lease build-out activities, and management of VA's major construction that are funded from other-than-annual appropriations. In the absence of carryover, such functions would continue only as necessary for protection of Government property and for the orderly cessation of government functions in the event of a shutdown.
- VEO will maintain call center operations for MyVA411 and the PACT Act Contact Center as necessary to prevent disruption to mandatory VA benefit programs and to protect the health and safety of Veterans relying on accessible health care through VHA.
- The Electronic Health Records Modernization Integration Office will continue normal operations providing Departmental oversight of the critical mission of transitioning VA to a new electronic health record system. These activities would continue using available carryover from multi-year appropriations and are, therefore, "exempt."
- Completion of existing duties for Employment Discrimination Complaint Adjudication within the Office of the Secretary is an "exempt" function relying on other-than-annual appropriations.
- The functions of the Office of Small and Disadvantaged Business Utilization within the Office of the Secretary are funded by the VA Working Capital Fund and are therefore "exempt" from furlough.

### **Summary of Significant Activities that Will Cease During Lapse**

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

- Certain VBA functions, including the Education Call Center (the GI Bill Hotline: 888-GIBILL-1 or 888-442-4551); The Native American Veterans Direct Loan program (NADL) and the Vendee loan program which offers direct loans will cease. Veteran outreach to include Veteran Readiness and Employment (also known as Chapter 31 or VR&E) and Personalized Career Planning and Guidance (PCPG), or VA Chapter 36 will be suspended.
- Certain VBA administrative functions including data analytics; human resources; budget activities; risk management oversight; investment planning and customer support; requirements, testing, and deployment support; support for Enterprise Health Record Modernization (EHRM) and

- interoperability; coordination and implementation of automated support tools; stakeholder engagement, public contact, and VSignals service recovery; Government Accountability Office (GAO)/Office of the Inspector General (OIG) tracking; and National Call Center monitoring and quality control
- Permanent headstone or marker installation 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, such as HR, Finance, Budget, Contracting, etc. will be available to support the field in interment operations).
  - Legal services provided by OGC, including tribunal and routine legal services for VHA, VBA, NCA and Staff Offices regarding personnel law, ethics, torts, and other legal matters not related to exempt functions.
  - Functions provided by the Office of Accountability and Whistleblower Protection (OAWP), including receiving, reviewing, and investigating allegations of misconduct, retaliation, or poor performance involving a VA senior executive; allegations of whistleblower retaliation; and tracking and confirming the implementation of GAO, OIG, Office of Medical Inspector (OMI), and Office of Special Counsel (OSC) reports and recommendations.
  - Liaison support within the Office of the Secretary to Women and Minority Veterans and Veteran Service Organizations.
  - Certain Human Resources (HR) and other functions provided by the HRA/OSP, to include recruiting, hiring, staffing, training, policy, 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, and responses to Congressional, GAO, OIG, and OMB inquiries.
  - All IT functions that are not covered under OMB exception categories including: 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).
  - Non-excepted 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), and finance policy operations.
  - Public affairs services provided by the Office of Public and Intergovernmental Affairs (OPIA), to include 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, to Pacific Islanders, and to rural Veterans; and speechwriting support to the SECVA, the Deputy Secretary and VA Chief of Staff.

**Table 2: VA Contingency Plan Onboard vs. Excepted Employees by Administration or Staff Office (as of July 2023)**

Administ ration/ 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	407,599	0	0	0	0	407,599	100%
VBA	29,335	6,100	1	12,405	0	980	19,486	66%
NCA	2,248	0	0	0	0	1,516	1,516	67%
OIT	8,560	499	0	0	0	5,564	6,063	71%
BVA	1,281	0	1	1,193	0	0	1,194	93%
HRA/OSP	1,041	652	1	2	0	217	872	84%
OALC	1,397	1,397	0	0	0	0	1,397	100%
OGC	884	161	0	1	0	50	212	24%
OPIA	75	0	1	0	0	0	1	1%
OCLA	43	0	1	1	0	0	2	5%
OAWP	129	0	0	2	0	0	2	2%
VEO	272	39	1	0	0	77	117	43%
OEI	70	0	1	0	0	0	1	1%
OM	1,679	1,391	1	7	0	0	1,399	83%
OIG	1,104	0	1	36	0	254	291	26%
EHRM-IO	209	209	0	0	0	0	209	100%
OSVA	141	68	2	6	0	0	76	54%
<b>TOTAL</b>	<b>456,067</b>	<b>418,115</b>	<b>11</b>	<b>13,653</b>	<b>0</b>	<b>8,658</b>	<b>440,437</b>	<b>97%</b>

\*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**

<b>A/SO</b>	<b>Description of Functions to be Suspended</b>
<b>VHA</b>	None.
<b>VBA</b>	Administration to include data analytics, some human resources functions, budget activities, risk management oversight, investment planning and customer support; requirements, testing, and deployment support; EHRM and interoperability support; communications to include stakeholder engagement, public contact, and VSignals service recovery; coordination and implementation of automated support tools; GAO/OIG tracking; National Call Center compliance, personalized career planning for Veterans.
<b>NCA</b>	Permanent headstone or marker installation 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.
<b>OIT</b>	All IT functions that are not covered under OMB exception categories, including 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).
<b>BVA</b>	Audits and evaluations, health care inspections, contract reviews, quality reviews, Freedom of Information Act (FOIA)/privacy processing, and knowledge management (training), administrative functions including FOIA/privacy, quality review, human resources, logistics, budget, planning, technical infrastructure, and knowledge management.
<b>HRA/OSP</b>	HR, recruiting, hiring, staffing, training, policy 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, and responses to Congressional, GAO, OIG, and OMB inquiries.
<b>OALC</b>	None.
<b>OGC</b>	Tribunal and routine legal services for VHA, VBA, NCA and Staff Offices regarding personnel law, ethics, torts, and other legal matters not necessary for exempt or excepted functions.
<b>OPIA</b>	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 to Pacific Islanders and to rural

A/SO	Description of Functions to be Suspended
	Veterans; and speechwriting support to the SECVA, Deputy Secretary and VA Chief of Staff.
<b>OCLA</b>	Significantly diminished Congressional relations, including delays in responding to congressional requests for information, processing testimony, hearing preparation, constituent casework, fulfilling reporting requirements and questions for the record, Congressional correspondence, GAO coordination, office administrative functions.
<b>OAWP</b>	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.
<b>VEO</b>	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.
<b>OEI</b>	Strategic planning, performance management, evidence-based valuation, VA governance functions, data management, statistical analysis, and predictive modeling, including data engineering for PACT Act implementation.
<b>OM</b>	Financial and budget functions within the Office of Management, including 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, asset management functions (e.g., strategic capital investment planning, energy management program, and enhanced-use lease program), and finance policy operations.
<b>OIG</b>	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.
<b>EHRM-IO</b>	None.
<b>OSVA</b>	Administrative operations, protocol, mission travel, executive correspondence support, advisory and liaison support to women and

A/SO	Description of Functions to be Suspended
	minority Veterans, and Veterans Service Organizations.

**Table 4: Description of Exempt or Excepted Functions**

Office	Description of Exempt or Excepted Functions
<b>VHA</b>	<p>406,607 Exempt, includes</p> <ul style="list-style-type: none"> <li>• Functions funded by four medical care appropriations which have an advance appropriation for FY 2024</li> <li>• Functions supported by the Medical and Prosthetic Research appropriation which is a multi-year appropriation (FY 2023-2024).</li> <li>• Employees of the Veterans Canteen Service, which is funded by a revolving fund.</li> </ul>
<b>VBA</b>	<p>6,100 Exempt, includes</p> <ul style="list-style-type: none"> <li>• Staff funded by the               <ul style="list-style-type: none"> <li>○ Toxic Exposures Fund (TEF), a multi-year appropriation.</li> <li>○ Insurance Service – Funded through Trust Fund Reimbursement.</li> </ul> </li> </ul> <p>13,386 Excepted, includes</p> <ul style="list-style-type: none"> <li>• 1 position authorized by law, which is the Under Secretary for Benefits.</li> <li>• 12,405 necessarily implied by law which are claims processors doing work to grant Veterans benefits which are appropriated by advance funding in the compensation and pension, readjustment benefits, and Veterans Insurance and Indemnities appropriations accounts. Also includes finance center staff making payments to Veterans. Also includes Senior Leaders managing orderly cessation of Federal activities in the event of a shutdown, overseeing excepted employees and functions, recalling employees.</li> <li>• 980 to protect life and property through the National Call Centers (except Education), which serve to protect the date of claim for Veterans seeking benefits.</li> </ul>
<b>NCA</b>	<p>1,516 Excepted, includes</p> <ul style="list-style-type: none"> <li>• Staff working to protect life and property as described above.</li> </ul>
<b>OIT</b>	<p>499 Exempt, includes</p> <ul style="list-style-type: none"> <li>• Functions funded by the TEF, a multi-year appropriation, the Franchise Fund (a working capital fund) and reimbursable funding received from VHA with an advance appropriation.</li> </ul> <p>5,564 Excepted, includes</p> <ul style="list-style-type: none"> <li>• The OIT functions will continue to support exempt hospital functions and funded benefits programs and to protect proprietary Government systems.</li> </ul>

Office	Description of Exempt or Excepted Functions
<b>Board (BVA)</b>	<p>1,193 Excepted, includes</p> <ul style="list-style-type: none"> <li>• Functions to review and grant appeals of benefits claims. VA compensation and pension benefits and education benefits are funded with other-than-annual appropriations, and the processing of appeals related to the timely and accurate payment of these entitlement benefits to or on behalf of Veterans and their dependents is necessary by implication.</li> </ul>
<b>HRA/OSP</b>	<p>652 Exempt, includes</p> <ul style="list-style-type: none"> <li>• Functions funded by the Franchise Fund (a working capital fund) and by Reimbursable Agreements from VHA which has an advance appropriation. Franchise funded work includes HR IT system, policy training at the Law Enforcement Training Center. Reimbursable work includes Child Care Subsidy program.</li> </ul> <p>220 Excepted, includes</p> <ul style="list-style-type: none"> <li>• 1 position authorized by law, which is the Assistant Secretary for HRA/OSP.</li> <li>• 2 staff performing activities necessarily implied by law which are the VA Chief Human Capital Officer and the VA Chief Security Officer who are needed to provide advice to exempt and excepted programs in VHA, VBA, NCA, OIT and the Board and to support orderly cessation of Federal activities in the event of a shutdown.</li> <li>• 217 staff performing activities necessarily to protect life and property. This includes facilities management, Personnel Suitability/Access, Emergency Operations Center, and Executive Protection Detail.</li> </ul>
<b>OALC</b>	<p>1,297 Exempt, includes</p> <ul style="list-style-type: none"> <li>• Functions funded by the Supply Fund (a working capital fund) and by the Construction Major Projects appropriation, a multi-year appropriation.</li> </ul>
<b>OGC</b>	<p>161 Exempt, includes</p> <ul style="list-style-type: none"> <li>• Functions funded by the Reimbursable funds, including <ul style="list-style-type: none"> <li>○ 55 positions supported by the TEF, a multi-year appropriation.</li> <li>○ 63 positions providing legal support for the VA medical collection program. This is funded by the VHA medical support</li> </ul> </li> </ul>

Office	Description of Exempt or Excepted Functions
	<p>and compliance appropriation account which has an advance appropriation.</p> <ul style="list-style-type: none"> <li>○ 43 positions providing legal support for the VA procurement program. This is funded by the supply fund, a VA working capital fund.</li> </ul> <p>51 Excepted, includes</p> <ul style="list-style-type: none"> <li>• 1 staff performing activities necessarily implied by law, which includes providing legal assistance and litigation support as necessary for exempt funded activities, and will provide legal advice on orderly cessation of Federal activities in the event of a shutdown. As of October 1, 2023 the Presidentially appointed and Senate Confirmed (PAS) position will be vacant. Excepted duties will be performed by an acting official.</li> <li>• 20 total staff performing activities necessary to protect life and property in the VA loan program, for both direct and guaranteed loans.</li> <li>• 10 total staff performing activities necessary to protect life and property. These staff would represent the VA before the US Court of Appeals for Veterans Claims (CAVC) if the CAVC remains open, but does not grant continuances. These employees would be excepted to protect VA property interests in those cases.</li> <li>• 20 total staff performing activities necessary to protect life and property. These staff would perform orderly shutdown activities; provide legal advice for funded programs where life and property interests are a stake and support to courts. Additionally supervisors would oversee excepted work functions, triage requests for protection of life &amp; property (e.g. guardianship requests, end of-life decisions, etc.) and decide whether other employees must be recalled</li> </ul>
<b>OPIA</b>	<p>1 Excepted, includes</p> <ul style="list-style-type: none"> <li>• 1 position authorized by law, which is the Assistant Secretary for OPIA (a PAS position).</li> </ul>
<b>OCLA</b>	<p>1 Excepted, includes</p> <ul style="list-style-type: none"> <li>• 1 position authorized by law, which is the Assistant Secretary for OCLA (a PAS position).</li> </ul>
<b>OAWP</b>	<p>1 Excepted, includes</p> <ul style="list-style-type: none"> <li>• 1 position performing activities necessarily implied by law, which the functions of the Office of the Accountability and Whistleblower protection. As of October 1, 2023 the Presidentially appointed and</li> </ul>



Office	Description of Exempt or Excepted Functions
	<p>Senate Confirmed (PAS) position will be vacant. Excepted duties will be performed by an acting official. Excepted duties will include provide support for exempt funded activities and providing support and advice for on excepted matters to the Secretary and on orderly cessation of Federal activities in the event of a shutdown.</p> <ul style="list-style-type: none"> <li>• 1 position performing activities necessarily implied by law to manage intake functions. By receiving allegations and referring them for action to VBA, VHA, NCA and the OIG OAWAP is protecting the benefits and health care of Veterans that may otherwise be improperly provided.</li> </ul>
<b>VEO</b>	<p>39 Exempt, includes</p> <ul style="list-style-type: none"> <li>• 39 staff in the Tools &amp; Implementation Team funded by reimbursable funding from VHA, which has an advance appropriation.</li> </ul> <p>4 Excepted, includes</p> <ul style="list-style-type: none"> <li>• 1 position authorized by law, which is the Chief Veterans Experience Officer.</li> <li>• 77 staff performing activities necessarily to protect life and property. This includes 70 from the Enterprise Contact Center Operations (ECCO) Division and 7 from the Office of Client Relations. This staff support the main VA contact center (MyVA411 main information line: 800-698-2411) to prevent disruption to mandatory VA benefit programs and to assist Veteran to receive VHA health care, an exempt function.</li> </ul>
<b>OEI</b>	<p>1 Excepted, includes</p> <ul style="list-style-type: none"> <li>• 1 position authorized by law, which is the Assistant Secretary for OEI.</li> </ul>
<b>OM</b>	<p>1,391 Exempt, includes</p> <ul style="list-style-type: none"> <li>• Staff at the Debt Management Center and the Financial Services Center and staff managing the VA working capital fund. These functions are all funded by the VA working capital fund.</li> </ul> <p>4 Excepted, includes</p> <ul style="list-style-type: none"> <li>• 1 position authorized by law, which is the Assistant Secretary for Management and Chief Financial Officer.</li> <li>• 7 staff performing activities necessarily implied by law, which includes providing financial management assistance and support as necessary for exempt funded activities, and to will provide financial advice on orderly cessation of Federal activities in the event of a shutdown.</li> </ul>

Office	Description of Exempt or Excepted Functions
<b>OIG</b>	291 Exempt, includes <ul style="list-style-type: none"> <li>• 1 position authorized by law, which is the VA Inspector General.</li> <li>• 36 staff performing activities necessarily implied by law, which includes staff continue call center and web submission volume for the VA hotline and healthcare inspections in support of exempt and excepted functions at VHA, VBA, NCA, the Board and OIT.</li> <li>• 254 staff performing activities necessarily to protect life and property. These are agents performing investigative operations across field offices to protect life and property.</li> </ul>
<b>EHRM-IO</b>	209 Exempt, includes <ul style="list-style-type: none"> <li>• EHRM is funded by a multi-year appropriation. Sufficient funds remain to support current activities.</li> </ul>
<b>OSVA</b>	68 Exempt, includes <ul style="list-style-type: none"> <li>• 68 positions Exempt from furlough, which includes employees assigned to the Office of Small and Disadvantage Business Utilization (OSDBU) which is funded by the Supply Fund and the Office as Employment, Discrimination Complaint Adjudication Staff which is funded by reimbursable funding from VHA which has an advance appropriation.</li> </ul> 8 Excepted, includes <ul style="list-style-type: none"> <li>• 2 positions authorized by law, which are the Secretary and the Deputy Secretary.</li> <li>• 6 staff performing activities necessarily implied by law, which includes issuing furlough notices, consulting with VA and other Government officials with respect to orderly shutdown activities, overseeing excepted work functions, triaging requests, and deciding whether other employees must be recalled from furlough to perform excepted work.</li> </ul>

## 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](http://va.gov) (va.gov), the [Office of Personnel Management \(OPM\) website](http://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 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.