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| Department ofVeterans Affairs | Memorandum |
| 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) and 5 C.F.R. § 359.806(a), 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.**

1. If appropriations are passed by Congress and signed by the President before the beginning of a workday, employees should report to work as usual.
2. 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 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. Supervisors must then 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 be notified by their supervisors in advance of the upcoming shutdown furlough and be ordered to return to their duty station before the furlough begins in order to avoid incurring travel expenses after the furlough period has already begun.

(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 VA’s lack 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 (va.gov), the Office of Personnel Management (OPM) website (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.