



Department of Veterans Affairs

VA Contingency Plan*

Agency Operations in the Absence of Appropriations

October 7, 2013

*As required by OMB Circular A-11

1. Introduction

VA is committed to supporting Veterans and their families even during limited operations in absence of appropriations, commonly known as a government “shutdown”. The Department of Veterans Affairs (VA) is revising its shutdown plan, in accordance with Office of Management and Budget (OMB) Circular A–11, Section 124 (dated July 21, 2010), and OMB memorandum M-13-22 (dated September 17, 2013). Based on the instructions contained in Circular A-11, the Anti-Deficiency Act, and on guidance offered by VA’s Office of General Counsel, the attached document details VA’s analysis for a potential government shutdown. This contingency document is provided for a short-term shutdown. A long-term event will require further analysis and development.

This document outlines the activities being undertaken by VA in anticipation of a potential government shutdown due to a lapse in appropriations. This document is intended to ensure that VA can perform an orderly suspension of its programs and operations in the unlikely event of a shutdown.

This document outlines programs and resources necessary to ensure the shutdown of VA’s functions if normal operations are suspended. It also applies to all personnel and contractors assigned to or performing services for VA.

2. Shutdown Contingency Overview

The Department is pursuing a comprehensive approach for a potential shutdown, which includes identifying functions and programs for which there is a legal basis for exception, including those required by “necessary implication” and protection of life and property. VA Administrations and Staff Offices were asked to review their organizations and identify these specific functions and programs (and the employees required to support them). Their decisions were based on long-standing OMB and Justice Department guidance, and the legal opinions of VA’s Office of General Counsel (OGC). VA’s OGC has reviewed this document to ensure compliance with these criteria.

In its shutdown contingency deliberations, VA has consistently worked to establish which of its functions are legally excepted for carrying out services the Department is obligated to provide to the nation’s Veterans and their families. These include the provision of high-quality medical care, compensation and pension benefits, housing, and burial services.

Excepted functions that relate to the Department’s need to protect life and property including the Office of Information Technology (OI&T)’s information systems that support the provision of health services at the Veterans Health Administration (VHA)’s facilities.

During the 1995-96 government shutdowns, a number of VA functions were impacted by the lapse in appropriation:

- VHA did not have an advance appropriation – medical service, support and compliance and medical facilities were limited to those deemed excepted for protection of life and property.
- Some benefit activities and payments (e.g., Readjustment, Insurance) were delayed.
- Loan Guaranty certificates of eligibility and certificates of reasonable value were delayed.

However, in anticipating a potential shutdown in 2013, VA must take into account several factors that are different from the 1990s experience. The Department believes these factors provide ample justification for what will be a significant increase in the number of excepted VA employees and functions in the event of a shutdown. They include:

- Advance appropriations for VHA, which accounts for 86% of the VA’s discretionary budget. VA believes that certain key functions that support VHA’s research operations also qualify for exception for protection of life and property.
- Review by OGC and VA program offices determined that if there are balances in discretionary accounts (due to prior year carryover) this funding must be used to continue operations until the balances are depleted.

As a result, the Department’s current projection is that 95.6 percent of VA employees would be either fully funded or required to perform excepted functions during a shutdown event. Approximately 289,279 employees (out of a pre-shutdown total of 332,025) are VHA and funded by advance appropriations. Therefore, the number of employees to be retained under the plan meeting A-11, Section 124.2 criteria is 317,250 (of which 292,667 are funded), and number of employees, not otherwise exempt is 14,759.

Appendix A provides a summary table identifying impact of the shutdown on the workforce to each VA organization

Appendix B provides additional detail concerning VA’s excepted functions along with the Department’s current projected shutdown staffing totals

Appendix C provides a summary of suspended functions within VA

Appendix A. Impact of the Shutdown on the Workforce

VA ORGANIZATION	EMPLOYEES DURING NORMAL OPERATIONS	FULLY FUNDED: WILL CONTINUE TO WORK	EXCEPTED EMPLOYEES (OTHER LEGAL BASIS: WILL CONTINUE TO WORK)	NON-EXCEPTED EMPLOYEES (SUBJECT TO FURLOUGH)
Veterans Health Administration (VHA)	295,486	289,279	5,221	986
Veterans Benefits Administration (VBA)	21,237	307	13,678*	7,252
National Cemetery Administration (NCA)	1,809	0	746	1,063
Office of Information & Technology (OI&T)	8,026	4,125	4,670*	3,267
Board of Veterans Appeals (BVA)	637	0	1	636
Human Resources & Administration (HRA)	811	509	5	297
Office of Acquisitions, Logistics, & Construction (OALC)	1,282	1,053	6	223
General Counsel (OGC)	712	175	46	491
Office of Management (OM)	820	567	21	232
Office of Public and Inter-Governmental Affairs (OPIA)	91	0	1	90
Office of Congressional and Legislative Affairs (OCLA)	46	0	1	45
Office of the Inspector General (OIG)	645	29	161	455
Office of Operations, Security, and Preparedness (OSP)	165	70	16	79
Office of Policy and Planning (OPP)	109	0	1	108
Office of the Secretary	92	0	9	83
Office of Employment Discrimination Complaint Adjudication	20	20	0	0
Office of Small and Disadvantaged Business Utilization	37	37	0	0
Total Department	332,025	292,667	24,583	14,759

*In the event of a prolonged shutdown, VA would need to begin furloughing Excepted employees in VBA and OI&T, and the agency's Contingency Plan would be updated.

Appendix B. Effect of Lapse of Funding on VA Activities

Veterans Health Administration

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
Veterans Health Administration (VHA) <ul style="list-style-type: none"> • Medical services • Medical support and compliance • Medical facilities • Medical and prosthetic research 	<ul style="list-style-type: none"> • Total: 295,486 • Fully Funded: 289,279 • Excepted: 3,045 • Non-Excepted: 986 • Other support organizations required: OI&T, OGC, OALC 	289,279		Advance Appropriation	Medical services, Medical support and compliance, Medical facilities	0
			3,045	2-year Appropriation Prior Year Balance	Medical and prosthetic research	986* These employees will work until prior year funding runs out
VHA North Chicago, Captain James A. Lovell Federal Health Care Center (Lovell FHCC)* <ul style="list-style-type: none"> • Medical services • Medical support and compliance • Medical facilities 	<ul style="list-style-type: none"> • Total: 2,176 • Excepted: 2,176 • Non-Excepted: 0 • Other support organizations required: OI&T, OGC, OALC 		2,176	Protection of Life and Property	Provision of health care services to eligible VA and DoD beneficiaries at this jointly funded and staffed facility at North Chicago, IL	0

Veterans Benefits Administration

VA Unit	Total # of Employees	# of Excepted (Fully Funded; will continue work)	# of Excepted Employees (other legal basis; will continue to work)	Legal Basis for Decision	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
Veterans Benefits Administration	Total: 21,237	307 Insurance		Funded through Trust Fund Reimbursement	Administer the Insurance Program	
Administer the following benefit programs:	(Note: Carryover funding available to support all 21,237 for some period)		801 Loan Guaranty	Necessary Implication – Guaranteed loan financing account funded through Veterans’ fees	Administer the Loan Guaranty Program	
Compensation, Pension, Education, Vocational Rehabilitation & Employment, Loan Guaranty, Insurance	After carryover is exhausted:		12,067 Compensation. Pension, Education, Vocational Rehabilitation, Mgt/Support Services	Necessary Implication – funding available in mandatory appropriations	Ongoing processing and payment of compensation, pension, education, and vocational rehabilitation benefits	
	Excepted: 13,985		716 National Call Centers	Protection of Property and Rights	Staff compensation and pension National Call Centers	
	Non-Excepted: 7,252		11 Finance Center	Necessary Implication – Funding available in mandatory appropriations	Process benefit payments	
			83 Senior Leaders/Mgrs	Protection of Property and Rights	Orderly shutdown activities, communications, triage requests, oversee excepted employees, recall employees, etc.	
						7,252 VBA Total

National Cemetery Administration

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
NCA	1,809	0	746	Protection of life and property; for processing applications for headstones and markers, funding provided by VBA compensation and pension	<ul style="list-style-type: none"> • Burials (664 excepted) • Process Applications for headstone and markers (33 excepted) • First Notice of Death (10 excepted) • Oversight and Administration (39 excepted) 	1,063

Office of Information Technology

VA Unit	Total # of Employees	# of Excepted (Fully Funded; will continue work)	# of Excepted Employees (other legal basis; will continue to work)	Legal Basis for Decision	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
<p>The Office of Information and Technology (OIT) has lines of business that include: quality, performance and oversight; information security; architecture strategy and design; product development; service delivery and engineering; and IT resource management.</p>	<p>8,026 (Includes franchise fund of 551 and Reimbursable of 83)</p>	<p>4,125</p>	<p>634</p>	<p>Necessary Implications</p>	<ul style="list-style-type: none"> Direct and Indirect Support to Administrations and Staff Offices as needed to maintain their excepted functions; Network Maintenance and Protection; Information Security; Data Center Operations; and Enterprise Infrastructure Operations 	<p>3,267</p>

Board of Veterans Appeals

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
Review benefit claims determinations made by local VA offices and issue decisions on appeals	637	0	1	Protection of Life and Property	Orderly operations during ongoing shutdown	636 (all employees will remain at work until FY2013 funds are expended, then BVA would move to furlough status)

Human Resources and Administration

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
Office of Human Resources and Administration (HRA) <ul style="list-style-type: none"> • Administration • Corporate Senior Executive Mgmt • Diversity & Inclusion • Human Resources Management • Labor-Mgmt Relations • Resolution Management 	811	509		Reimbursable (VHA)	Reimbursable funding (VHA). Will provide VHA-related Human Capital Investment Plan support	297
			4	Necessary Implications	2 to provide support for VHA-related disciplinary action review boards 2 persons to maintain building operations for the entire VACO campus	
			1	PA; exceeds maximum GS salary cap		

Office of Acquisition, Logistics and Construction

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
Office of Acquisition, Logistics, and Construction (OALC) Includes: Office of Acquisition and Logistics (502), the Office of Acquisition Operations (378), and the Office of Construction and Facilities Management (394)	1282				Major construction and facilities management support functions will be suspended, specifically: Land actions; Development of design standards, criteria, and guides; Technical architectural and engineering (A/E) consulting support; Technical real property/architectural and engineering design support; Cost estimating and A/E selection	223
		888		Positions funded by Revolving Fund	Acquisition operations, policy and logistics	
		35		Reimbursed from VHA Advance Appropriation	Oversee lease build-out activities	
		130		5-year Appropriations	Oversee major construction project execution at job sites	
			6	Functions that support activities funded by appropriations that do not expire	Contracting officers and program managers who support VA's major construction and lease projects	

Office of General Counsel

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
Office of General Counsel (OGC) - OGC provides legal advice and services to the SECVA and all organizational components of the Department	712	39	0	Reimbursed through the Credit Reform (Loan Guaranty) revolving fund	Legal advice for funded programs (i.e. the Department's Loan Guaranty program)	
		77	0	Reimbursed through the Medical Savings Support & Compliance advance appropriation	Legal support for the Department's medical collections program	
		59	0	Reimbursed through the Supply Fund revolving fund	Legal support for the Department's procurement program	
			15*	* If the US Court of Appeals for Veterans Claims (CAVC) remains open, but does not grant continuances, the employees would be excepted in order to protect VA property interests in those cases.	Representation of the Secretary for appeals filed with CAVC	
			31	Protection of life and property (to support VHA, VBA, and other funded programs);	Legal advice for funded programs and support to courts; Supervisors to oversee work of excepted employees, triage requests for the protection of life and property (e.g. guardianship requests, end-of-life decisions, etc.) and to decide whether other employees must be recalled	
					491 (506 if CAVC grants continuances)	

Office of Management

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
Office of Management (OM) <ul style="list-style-type: none"> • Budget • Financial Management • Asset Enterprise Management • Business Oversight • Performance Management • Enterprise Risk Management • Energy & Greening 	<ul style="list-style-type: none"> • Total: 820 • 24/7: 0 • Funded: 566 • Excepted: 21 • Non-Excepted: 233[^] <p>Note: Time & Attendance (T&A) included for OM staff</p> <p>[^]Non-expected employees also include 10 in Performance Management and 5 in Enterprise Risk Management. All employees will remain at work until FY2013 funds are expended; then OM would move to furlough status.</p>	0	4	Necessary Implication	Budget Execution/Controls	28
		368	0	Revolving Fund	Financial Services (Austin)	0
		160	0	Revolving Fund	Debt Management Center (Minneapolis)	0
		0	17	Necessary Implication	Payroll, Travel card administration	83
		8	1	Advanced Appropriation (VHA)/Safety and Property	Asset Enterprise Management	43
		30	0	Revolving Fund -7/Advanced Appropriation (VHA)-23	Business Oversight	63

Office of Public and Intergovernmental Affairs

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
Office of Public & Intergovernmental Affairs (OPIA) <ul style="list-style-type: none"> • Public Affairs • Digital Communications • Field Operations • Media Relations • Intergovernmental Affairs • International Affairs • Tribal Relations • Outreach • Sports Programs 	91	0	1	PA – Protection of Life and Property	Communicate with Veterans regarding availability and location of continued VA services	90

Office of Congressional and Legislative Affairs

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
Office of Congressional and Legislative Affairs: - Congressional Relations - Communications with Congress - Veterans Legislation - Constituent Casework - GAO	46	0	1	PAS	Confidential policy support to senior VA leadership. Very limited communications with Congress.	45

Office of the Inspector General

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
Office of the Inspector General (OIG) <ul style="list-style-type: none"> • Investigations • Audits • Healthcare Inspections • Management & Administration 	645	0	1	PAS	Oversight of excepted employees	
		29	0	Continuing Funding from Supply Fund	Supply Fund Audits	
		0	148	Protection of Life and Property - Law Enforcement	Support ongoing criminal cases, investigations, and prosecutions	
		0	12	Necessary implication	Support essential functions of excepted staff	

Office of Operations, Security and Preparedness

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
Office of Operations, Security, and Preparedness (OSP) <ul style="list-style-type: none"> • Office of Security and Law Enforcement • Office of Emergency Management • Office of Personnel Security and Identity Management • Office of Resource Management 	165	70	16	Protection of life and property	Maintain the Integrated Operations Center and provide Executive Protection	79

Office of Policy and Planning

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
Office of Policy and Planning <ul style="list-style-type: none"> • Strategic Planning • Policy Analysis and Development • VA Governance • Data and Statistical Analysis • Predictive Modeling • Data Governance • VA/DoD Collaboration • Interagency Integration and Collaboration • Multi-year Programming • Program Analysis and Evaluation • Program Management and Oversight of Major Initiatives. 	109	0	1	Protection of Life and Property	Orderly operations during ongoing shutdown	108

Office of the Secretary

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
The Office of the Secretary (OSVA) provides day-to-day operations support for SECVA, as well as executive-level support and guidance to the entire Administration	92	0	9	Necessary Implication	Department oversight of critical VA operations (SECVA/COSVA); Senior advisors/staff to SECVA/COSVA; Executive support; Strategic communication	83

Office of Employment Discrimination Complaint Adjudication

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
The Office of the Secretary (OSVA) provides day-to-day operations support for SECVA, as well as executive-level support and guidance to the entire Administration	20	20	0	Reimbursable fund (VHA)	Existing duties (Office of Employment Discrimination Complaint Adjudication)	0

Office of Small and Disadvantaged Business Utilization

VA Unit	Total # of Employees	# of Fully Funded (not subject to lapse; will continue to work)	# of Excepted Employees (legal basis; will continue to work)	Legal Basis for Decision or Full Funding Source	Functions to be Performed	# of Non-Excepted Employees (subject to furlough)
The Office of the Secretary (OSVA) provides day-to-day operations support for SECVA, as well as executive-level support and guidance to the entire Administration	37	37	0	Reimbursable fund (Supply Fund)	Existing duties (Office of Small and Disadvantaged Business Utilization)	0

Appendix C – Suspended Functions in 2013

Organization	Functions to be Suspended
VHA	None
VBA	Overseas Military Coordinator; All Outreach; Education Call Center; All Public Contact Activities; Appeals Teams; Transition Assistance/Predischarge Activities; Chapter 36 Counseling; Vet Success on Campus; Education Compliance; Quality Review/Assurance Programs
NCA	Processing applications for Presidential Memorial Certificates; Activities at NCA Training Center; NCA will bring in contractors to accomplish interments at those national cemeteries already under contract. NCA will also restrict the number of interments at mid-range cemeteries to 8 per day.
OSVA	Special program activities; Executive correspondence and communication; Strategic planning and communications; protocol
OALC	Development of design standards, criteria, and guides; Technical architectural and engineering (A/E) consulting support; Technical real property/architectural and engineering design support; Cost estimating and A/E Selection; Administrative support functions for IT, space, human resources and financial administration
BVA	Claims appeals will be discontinued.
OCLA	All functions including: 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
OGC	Represent the Secretary before courts, including the US Court of Appeals for Veterans Claims, and other tribunals; Routine legal services for VHA, VBA, NCA and Staff Offices regarding personnel law, ethics, torts, and other legal matters
HR&A	HR Policy; Recruiting; Hiring; Staffing; Training; Labor-Management Relations; ADR; Diversity; Classification; VACO building maintenance support; Veteran Employment Outreach
OI&T	Oversight and compliance; Policy functions; Planning functions; Correspondence management; Congressional, GAO, IG, OMB inquires about VA Directives, FOIA, Records Mgmt., and System of Records Management
IG	Audits and Evaluations; Administrative Investigations; OIG Hotline; Healthcare Inspections; OIG Legal and Release of Information
OM	Performance Management; Asset Enterprise Management; Green/Energy programs ; Financial policy; Budget Formulation and analysis
OPIA	All functions including: National programs and special events; Tribal Government Relations; National Veterans Awareness Campaign; Interaction with state and local government and international visitors
OSP	National Security Planning and Operations; Policy Program Inspections; HSPD-12; Personnel Security and Suitability; Resource Management
OPP	All functions including: Strategic Planning; Policy Analysis and Development; VA Governance; Data and Statistical Analysis; Predictive Modeling; Data Governance; VA/DoD Collaboration; Interagency Integration and Collaboration; Multi-year Programming; Program Analysis and Evaluation; and Program Management and Oversight of Major Initiatives.