*Notice for Excepted Non-SES Employee*

**To:** [Name of Excepted Non-SES Employee]

**Subject:** Exception from Furlough Notice During Lapse of Appropriations (5 CFR Part 752)

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 June 2019, 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 CFR 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