

U.S. Department of Labor

Assistant Secretary for
Veterans Employment and Training
Washington, DC 20210



September 29, 2004

ASVET MEMORANDUM NO. 01-04

MEMORANDUM FOR: REGIONAL ADMINISTRATORS (RAs) AND DIRECTORS
FOR VETERANS' EMPLOYMENT AND TRAINING (DVETs)

FROM: FREDERICO JUARBE JR. 

SUBJECT: Notice of Emergency Status in case of Funding Interruption or
Emergency (and Notice of Conditional Excepted Activity)

PURPOSE: To transmit VETS' Contingency Plan for a shutdown if appropriations are not available to continue operations or in emergency situations.

REFERENCES: This memorandum supercedes ASVET Memorandum No. 6-99, dated September 28, 1999 and No. 03-00, dated August 28, 2000. This memorandum and the attached contingency plan will remain in effect until September 30, 2005.

BACKGROUND: VETS' fiscal year Appropriations expire on September 30, of each year. If neither an Appropriation nor Continuing Resolution is enacted by October 1, providing funding for the new fiscal year, the agency must be ready to suspend ongoing operations immediately after October 1.

GUIDANCE: This is to inform you that if a funding interruption occurs, all RAs and DVETs are to continue in duty status performing activities necessary for the "orderly suspension of operations" of the agency until VETS has accomplished such orderly suspension. You are also to remain available afterwards to return to your duty station as necessary to maintain the orderly suspension of operations until you are specifically notified otherwise.

As described in VETS' attached "Contingency Plan for Suspension of operations," you should plan for the following shutdown process:

Because of lessons learned from the agency's experience during the first suspension of operations in FY 1996 (November and December 1995), it is anticipated that the following progressive suspension of activities plan should be followed for any future suspension of operations due to lack of funding.

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First Day of Shutdown: VETS' Directors in each State (DVETs) would remain at work for this first day following suspension of operations for lack of funding, along with VETS' Regional Administrators (RAVETs), and VETS' National Office staff. The main focus would be the orderly shutdown of operations in each State, both within VETS (particularly with regard to USERRA services) and with respect to VETS' grantees in each State.

Second Day of Shutdown: VETS' RAVETs should remain at work for the second day of any funding-related shutdown, along with VETS' National Office staff. These employees would address any remaining issues, problems, or questions related to the orderly shutdown of operations in each State and in each of VETS' Regional Offices.

Third Day of Shutdown: Designated VETS' National Office staff would remain at work for the third day of any funding-related shutdown, to address any remaining issues, problems or questions related to the orderly shutdown of all VETS operations and all VETS grants (State, Regional, and National).

Fourth Day (and any additional days) of Shutdown: Only the Assistant Secretary, the Deputy Assistant Secretary, and the Secretaries to each of these officials, Office Directors and Lead Center Regional Administrators would remain at work for the fourth day and after that for the duration of the funding-related suspension of operations.

Conditional Excepted Activity:

Mobilization of Reserve Components and Associated USERRA Services.

The following passage is also taken from VETS' Contingency Plan for Suspension of Operations. It describes actions that might need to be taken (by the National Office, RAs, DVETs, and potentially other State staff) in case of funding interruption after a Continuing Resolution ceases to provide current fiscal year funding for operations, to ensure USERRA services for reserve components which might be called up to or be returning from active duty:

The Assistant Secretary has identified reserve component call-ups as an excepted activity (those significant activities necessary to preserve life and property) within VETS. Because of the imminent danger to property, goods, pensions, health insurance, etc. to reserve component members during their call up to active duty, particularly during emergency call-ups by the President and to ease the accomplishment of national security activities under a total force concept, the Assistant Secretary and Regional Administrators will identify certain employees as emergency staff during the time that a call-up is ongoing or is initiated during a funding interruption.

The USERRA activities would only be excepted under the specific conditions noted above.

During such periods, the following employees may be identified as emergency shut down staff for the excepted activity noted above:

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- A. *Assistant and Deputy Assistant Secretary*
- B. *Director, Office of Operations and Programs*
- C. *Regional Administrators: Regional Administrators managing USERRA/VRR operations in regions covering states in which reserve component members are being called to or returning from active duty.*
- D. *Directors for Veterans' Employment and Training (DVETs): DVETs for states in which reserve component members are being called into or returning from active duty because of a Presidential emergency call-up.*
- E. *Assistant Directors for Veterans' Employment and Training or Veterans' Program Specialists necessary for emergency call-up activities as designated by the DVETs with Regional Administrator approval. These employees would be identified based on the location of units or personnel being called into or returning from active duty and the feasibility that the DVET alone will be able to support activities necessary during emergency call-ups.*

Regional Administrators and DVETs will identify the units that are being called into or returning from active duty and based on the recommendation of the affected DVETs, approve emergency status for employees that will support the military services during the emergency call-up. A list of the approved emergency shut down employees will be coordinated with the Regional Office of the Assistant Secretary for Administration and Management and the Office of Operations and Programs, VETS. The list should be compiled and coordination undertaken the moment an emergency call-up is signed by the President.

Activities designed to support VETS' USERRA services during an emergency call-up situation constitute a property rights excepted activity during a funding interruption. Because of this, each RA and DVET as defined in sections C. and D. above should immediately collaborate to identify which VETS' staff in their State/Region will need to continue working during a shutdown to support the military services during the emergency call-up.

RAVETs are reminded to verify the telephone numbers of employees or other means of contact as discussed on page 7 of the VETS' Contingency Plan. During the shutdown, messages with any news on the status of funding or spending authority will be provided at 1-800-854-5754.

Any questions regarding this notice should be directed to Hary Puente-Duany (Director, OAMB) at (202) 693-4750.

Attachments

VETS' Contingency Plan

VETS' CONTINGENCY PLAN

1. **PURPOSE.** To outline the contingency plan that the OASVET will use in the event operations are suspended or shut down because Congress has not enacted the necessary appropriations or provided for alternative funding authority or in emergencies.
2. **BACKGROUND.** According to the Anti-Deficiency Act, 31 U.S.C. 6651, "...any supervisory officer or employee, including the head of an agency, who directs or permits agency employees to work during any period for which Congress has not enacted an appropriation for the pay of those employees violates the Anti-Deficiency Act."

The Attorney General has rendered an opinion that a lapse in appropriations requires an agency to cease ongoing operations. Initial interpretations of this opinion required agencies to engage in activities that would close down operations. Recent interpretations have changed that to require that agencies act only to suspend activities during a short-term funding situation.

3. RESPONSIBILITIES:

- A. Assistant Secretary: responsible for establishing policy with respect to VETS operations during funding interruptions. This includes determining which VETS employees are exempted or essential and when employees are furloughed from, and recalled to duty. The Assistant Secretary will also ensure that VETS has a contingency plan for handling operations during the period.
- B. Deputy Assistant Secretary: responsible for coordinating field activities related to the temporary suspension of activities, interpreting instructions for application to Directorates, RAVETS, and field staff and providing up to date information to the field staff.
- C. Director, Office of Agency Management and Budget: responsible for developing, issuing and maintaining VETS' Contingency plan; providing appropriate written and oral instructions to employees and contractors, coordinating the shutdown and start-up upon recall of information resources, funding for grantees and payroll for employees working, as necessary; and ensuring that personnel rules and regulations are observed in the event a furlough is required.
- D. Director, Office of Operations and Programs: responsible for providing shutdown information to Regional Administrators and field staff, guidance to grantees and projects funded by VETS from grant funds on the necessary actions and activities to be undertaken as part of the funding disruption, and to ensure the orderly suspension of grant activities. If there is an emergency call up or other Presidential emergency order involving national security, coordinates necessary guidance to effect support of the military services and identifies the extent of VETS' needed involvement.

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- F. Regional Administrators are responsible for establishing and maintaining plans within their own organizations to ensure compliance with the overall VETS plan, and to coordinate suspension of State grant activity. During Presidential emergency troop call-ups, coordinate the identification of emergency shut down personnel necessary to support the military services during the emergency call-up.
- G. Employees are responsible for following the VETS' instructions and for monitoring local radio and television broadcasts for information concerning a recall in the event operations are suspended. Employees can call 1-800-854-5754 for information on the status of the shut down and to obtain recall information.

4. **Excepted Activity.** The Assistant Secretary has identified reserve component call-ups as an excepted activity (those significant activities necessary to preserve life and property) within VETS. Because of the imminent danger to property (jobs, pensions, health insurance, etc.) to reserve component members during their call up to active duty, particularly during emergency call-ups by the President and to ease the accomplishment of national security activities under a total force concept, the Assistant Secretary and Regional Administrators will identify certain employees as emergency staff during the time that a call-up is ongoing or is initiated during a funding interruption.

The USERRA activities would only be excepted under the specific conditions noted above.

During such periods, the following employees may be identified as emergency shut down staff for the excepted activity noted above:

- A. Assistant and Deputy Assistant Secretary
- B. Director, Office of Operations and Programs
- C. Director, Office of Agency Management and Budget
- D. Regional Administrators: Regional Administrators managing USERRA/VRR operations in regions covering states in which reserve component members are being called to or returning from active duty.
- E. Directors for Veterans' Employment and Training (DVETs): DVETs for states in which reserve component members are being called into or returning from active duty because of a Presidential emergency call-up.
- F. Assistant Directors for Veterans' Employment and Training or Veterans' Program

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Specialists necessary for emergency call-up activities as designated by the DVETs with Regional Administrator approval. These employees would be identified based on the location of units or personnel being called into or returning from active duty and the feasibility that the DVET alone will be able to support activities necessary during emergency call-ups.

Regional Administrators and DVETs will identify the units that are being called into active duty and based on the recommendation of the affected DVETS, approve emergency status for employees that will support the military services during the emergency call-up. A list of the approved emergency shut down employees will be coordinated with the Regional Office of the Assistant Secretary for Administration and Management and the Director, Office of Field Operations, VETS. The list should be compiled and coordination undertaken the moment an emergency call-up is signed by the President.

5. **Emergency Shut Down Employees.** The Assistant Secretary has decided that the functions (employees) listed below and in Attachment 2 are considered essential under the definitions issued by the Office of Management and Budget in their memorandum to Agency Heads dated November 17, 1981.

- A. **Deputy Assistant Secretary (Provides agency management in collaboration with the Assistant Secretary).**
- B. **Director, Office of Agency Management and Budget: Provides contractors with written and oral instructions for their shutdown of operations and recall; assures availability of funding for grants and payroll upon shutdown, emergency operations and start-up; and obtaining and disseminating budget and Continuing Resolution information as it becomes available.**
- C. **Director, Office of Operations and Programs: Provides grantees and grant-funded projects with written and oral instructions for their shutdown of operations and recall; acts on any queries or requests from grantees or projects operated through contracts.**
- D. **Secretary to the Assistant Secretary: Provides support for the Assistant Secretary and makes telephonic contacts with essential employees as necessary to assure the discharge of their functions.**
- E. **Secretary to the Deputy Assistant Secretary: Provides support for the Deputy Assistant Secretary and makes telephonic contacts with essential employees as necessary to assure the discharge of their functions.**
- F. **Executive Assistant: Provides management and administrative support for the**

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Assistant Secretary and continuity of operations in the national office.

- F. Director, Veterans' Employment and Training in each State, the District of Columbia, and Puerto Rico/Virgin Islands: Provide for the orderly suspension of grant activities, and provide Uniformed Services Employment and Reemployment Rights Act (USERRA) services in support of any emergency call-up by the President of military personnel from the reserve or National Guard.
 - G. Regional Administrators, Veterans' Employment and Training Service in each DOL Region: Provide coordination for suspension of State activity in each State within the Region's jurisdiction. Lead Center Regional Administrators, coordinate USERRA activity and provide information on D/L Grants' status.
 - G. VETS' National Office staff: Provide coordination for suspension of operations in Regions, States, and among grantees.
6. Contingency Plan. VETS contingency plans for suspending operations during short-term periods without funds or in emergencies are as follows:

A. Before Implementation

(1) OASAM will maintain information relating to reporting to work, activities required to prepare for suspension of operations, early release, recall, use of leave, overtime, travel and training situations, salary payments, effects on benefits, processing time cards, personnel actions and requisitions, and status of contractor personnel and other items.

(2) Each Director and Regional Administrator, as appropriate, will design a telephone network system and maintain a list of employee telephone numbers so that individual employees can be contacted and advised to report for work or for other instructions.

(3) Each supervisor will ensure their employees' addresses of record are correct. This is necessary to enable OASAM to issue furlough and other notices during suspension of operations.

B. Implementation

(1) OASAM will keep VETS organizations up to date on developments relating to a possible suspension of operations due to lack of funds or funding authority through communications with Directors and Regional Administrators.

(2) The last regular work day before funding will expire, OASAM will issue updated instructions, if needed, to VETS supervisors, employees and contractor personnel in the national and field offices.

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(3) Employees will continue to report to work unless advised not to by their supervisor or an official announcement is made through the news media. Once they have reported, employees will remain on the job preparing for an orderly suspension of activities until officially released by their supervisor. VETS' emergency shut down employees will perform the functions listed below to ensure the orderly suspension of operations of the agency--performing these functions until they have accomplished such orderly suspension.

These emergency shut down employees will thereafter only return to their duty station during the suspension of operations if their return is necessary to maintain the orderly suspension or recall back to operations.

Emergency shut down employees will notify clients and providers directly affected by the suspension; cancel or postpone travel, meetings and other similar commitments; prepare time cards and other administrative paperwork in anticipation of a furlough; update telephone listings and issue final contingency plan instructions; document the status of ongoing activities and assemble and file all related material. They also clear all areas, unplugging and securing all equipment, including the shutdown or startup (as appropriate) of computer support equipment, and making safety and security checks before closing the office. Some emergency shut down employees (i.e., the VETS Director in each State) may remain on duty, or be called back to work, if this becomes necessary to provide Uniformed Services Employment and Recombination Rights Act (USERRA) services in support of any emergency call-up by the President of military personnel from the reserve or National Guard.

The Assistant Secretary will decide when VETS employees are to be released and will advise the ASAM. Because of lessons learned from the agency's experience during the first suspension of operations in FY 1996 (November and December, 1995), it is anticipated that the following progressive suspension of activities plan would be followed for any future suspension of operations due to lack of funding:

First Day of Shutdown: VETS' Directors in each State (DVETs) would remain at work for this first day following suspension of operations for lack of funding, along with VETS' Regional Administrators (RAVETs), and VETS' National Office staff. The main focus would be the orderly shutdown of operations in each State, both within VETS (particularly with regard to USERRA services) and with respect to VETS' grantees in each State.

Second Day of Shutdown: VETS' RAVETs would remain at work for the second day of any funding-related shutdown, along with VETS' National Office staff. These employees would address any remaining issues/problems/questions related to the orderly shutdown of operations in each State and in each of VETS' Regional Offices.

Third Day of Shutdown: Designated VETS' National Office staff would remain at work for the third day of any funding-related shutdown, to address any remaining issues/problems/questions related to the orderly shutdown of all VETS operations and all VETS grants (State, Regional, and National).

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Fourth Day (and any additional days) of Shutdown: Only the Assistant Secretary, the Deputy Assistant Secretary, and the Secretaries to each of these officials, Office Directors and Lead Center Regional Administrators would remain at work for the fourth day and after that for the duration of the funding-related suspension of operations.

After the Assistant Secretary has decided when to release VETS employees from work, the Director, OOP will then advise all Regional Administrators who will relay the message through regular supervisory channels in each organization.

(4) Emergency shut down employees will remain on duty and continue to report for duty during the regular duty hours established for that office, except that after they have accomplished the orderly suspension of operations, they will only report to duty as necessary to maintain the orderly suspension or restart of operations. All other employees will be released with the instructions to monitor local news broadcasts for information on when to report for duty. They will be advised that an official news announcement of the signing of an appropriation or continuing resolution and Federal employees should report for duty, is sufficient reason to return to work. A specific telephone call from the supervisor is not required, although an effort will be made to make one. If an employee has a question, he or she can call the Office of Personnel Management Services (field staff) or the Office of Human Resources (headquarters staff) during regular business hours for information. Should continuing resolutions or appropriations proceed separately instead of together, employees, contractors and grantees can call 1-800-854-5754 for current information on the status of VETS/DOL funding availability. This number is also to be used to obtain information should the President sign an emergency call-up of reserve components to active duty or any other national security emergency involving a Presidential order.

(5) The Assistant Secretary's Office will be advised when funding has been restored. If this occurs during the regular business day, a recall will be initiated by the Assistant Secretary's office by contacting the Director, Office of Agency Management and Budget (who will contact other Directors and Executive Staff) and Regional Administrators. They in turn will initiate contact with their employees using lists maintained for this purpose. If the recall announcement comes after the regular business day, VETS will rely on the news media announcements advising employees to report for duty, and will also initiate a recorded message available via the 800 number (above) to provide employees specific instructions regarding their return to duty or the status of appropriate DOL/VETS appropriation or continuing resolution.

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6. Actions Required:

A. 15 days before suspension of operations:

- ASVET determines whether any emergency call up or other national security emergency is in effect, or about to be initiated. If so, the shut-down plan will be modified to provide for emergency shut down employees for this excepted activity to be identified.

- DOOP coordinates the development and preparation for issuance of letters to grantees advising of status and providing guidance as to suspension or continuance of operations.

- DAMB develops and prepares for issuance letters to contractors advising of status and providing guidance as to suspension or continuance of operations.

B. Upon ASVET determination that no further Continuing Resolutions are planned, and an Appropriations Bill enactment does not seem plausible:

- ASVET notifies all employees and supervisors of proposed suspension or shutdown of operations and provides guidance via ASVET Memorandum.

- Supervisors ensure that all employees verify their address of record and update a list of telephones or other means of contact (these lists will be kept for suspension or shutdown purposes only). Employees who do not wish to provide their telephone number must provide other means of contact or must call their supervisor or designated person daily to determine whether they should be returning to work.

- All employees are notified that paid leave cannot be approved during the suspension or shutdown period, and that any paid leave already approved is canceled each day the suspension or shut down is ongoing (paid leave cannot legally exist during a funding interruption).

In the event the ASVET determines that there is a national security emergency or a Presidential order calling up reserve components for active duty is imminent or has been issued:

- DVETs will identify (with Regional Administrator and National office staff assistance), the units from their states being called into active duty and determine the need for identifying staff as emergency shut down staff for this excepted activity for the period of the emergency. The staff identified as emergency is recommended to the Regional Administrator for approval.

- Regional Administrators will coordinate with their Regional OASAM to designate staff they approve after consultation with the Director, OOP, as emergency shut down staff for the excepted activity. The coordination should result in the preparation of letters designating such staff as emergency shut down staff during the emergency call-up.

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- The Director, OOP, will coordinate with the Solicitor to obtain their concurrence in the designation of the emergency as an excepted activity and the consequential designation of emergency shut down staff.

- The Director, OAMB, will coordinate with the OASAM Directorate of Personnel to ensure that personnel so identified are noted as emergency shut down staff.

U.S. DEPARTMENT OF LABOR
LIST OF EXCEPTED ACTIVITIES/EMERGENCY EMPLOYEES

Agency: Veterans' Employment and Training Service

Date: September 1, 2004

1. <u>"Excepted" Activities 1/ Program Name Only (No Employee Names Required)</u>	<u>Number of Excepted & Emergency Employees</u>		
	<u>Regional</u>	<u>National</u>	<u>Total</u>
USERRA Briefings and Technical Assistance	60*	9	69
* Number depends on the number of States and sites involved in current Presidential Order Call-ups, but would not exceed 60			
Subtotal.	60	9	69

II. Emergency Activities 2/

<u>Employee Name</u>	<u>Office/Location</u>	<u>Office Phone</u>	<u>Cell Phone</u>
Frederico Juarbe Jr.	OASVET, FPB	202-693-4701	<u>(202) 368-2858</u>
Charles S. Ciccolella	OASVET, FPB	202-693-4701	<u>(202) 255-8552</u>
John Muckelbauer	OASVET, FPB	202-693-4741	<u>(202) 257-0649</u>
Gwendolyn Franklin	OASVET, FPB	202-693-4738	<u>(301) 350-0539*</u>
Vicki Sinnott	OASVET, FPB	202-693-4743	<u>(202) 257-1601</u>
Gordon Burke	VETS/COO, FPB	202-693-4707	<u>(202) 412-4661</u>
Robert Wilson	VETS/OOP, FPB	202-693-4717	<u>(301) 924-8650</u>
Charles (Nick) Dawson	VETS/OOP, FPB	202-693-4711	<u>(703) 522-7937*</u>
Hary Puente-Duany	VETS/OAMB, FPB	202-693-4750	<u>(202) 365-2132</u>

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