SECRETARY OF DEFENSE
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MAY 14 2013

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
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UNDER SECRETARIES OF DEFENSE
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CHIEFS OF THE MILITARY SERVICES
COMMANDERS OF THE COMBATANT COMMANDS
CHIEF OF THE NATIONAL GUARD BUREAU
DIRECTOR, COST ASSESSMENT AND PROGRAM EVALUATION
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ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Furloughs

This memo directs defense managers to prepare to furlough most Department of Defense (DoD) civilians for up to 11 days. The schedule for furloughs, and some specific exceptions, are described later in this memo and in the attachment. I have made this decision very reluctantly, because I know that the furloughs will disrupt lives and impact DoD operations. I, along with the senior civilian and military leadership of the Department, have spent considerable time reviewing information related to the need for furloughs, and I would like to share with you the reasoning that led me to this difficult decision.

Major budgetary shortfalls drove the basic furlough decision. On March 1, sequestration went into effect across the federal government. DoD's budget for FY 2013 was reduced by $37 billion, including $20 billion in the operation and maintenance (O&M) accounts that pay many of our civilian workers. In addition, because our wartime budget is also subject to sequestration, we must utilize funds originally budgeted for other purposes in order to provide our troops at war with every resource they need. To compound our problems, when we estimated future wartime operating costs more than a year ago, we planned on fuel costs below what we are currently experiencing. Taken together, all these factors lead to a shortfall in our O&M accounts of more than $30 billion – a level that exceeds 15 percent of our budget request, with fewer than six months left in the fiscal year in which to accommodate this dramatic reduction in available resources.

We are taking actions to reduce this shortfall. One main priority has governed our decisions: to minimize the adverse effects on our military mission, including military readiness. With this in mind, early this calendar year we cut back sharply on facilities maintenance and worked to hold down base operating costs -- decisions we knew would build a backlog of maintenance and adversely affect our bases. We are also preparing a request to Congress that would permit us to shift some funding from investment and military personnel accounts into the O&M accounts. If approved by Congress, this initiative – known as a reprogramming – would help close the gap.

But these actions are not enough. We have begun making sharp cuts in the training and maintenance of our operating forces – cutbacks that are seriously harming military readiness. The Army, for example, has terminated most remaining FY 2013 training rotations at its combat training centers. The Air Force has or soon will stop all flying at about one-third of its combat-coded squadrons in the active forces. The Navy and Marine Corps are cutting back on training and on deployments – including a decision not to send a second carrier strike group to the Gulf. These are only a few of the many cutbacks we have made in training and maintenance. These actions reduce our ability to handle future military contingency needs, both this year and in subsequent years.

Even after taking all these actions, we are still short of needed operating funds for FY 2013, and we cannot rule out unexpected increases in costs during the next few months. So we confront a difficult set of trade offs. We can make even larger cutbacks in training and maintenance, further reducing readiness to handle contingency operations and putting into even greater jeopardy our military readiness in future fiscal years. Alternatively, we can furlough civilian personnel to help close the gap and, knowing that morale, productivity and readiness would be affected. This is an unpleasant set of choices, but this is the situation we face.

Before making a decision, I sought advice and inputs from senior leaders in the military departments and agencies as well as advice from my senior civilian and military staff. I asked them to keep in mind our fundamental criterion to minimize adverse mission effects and, subject to that criterion, to ensure reasonable consistency and fairness across the Department for any furloughs that we impose.

Based on all these inputs, I have decided to direct furloughs of up to 11 days for most of the Department's civilian personnel. Furloughs for up to 11 days represent about half of the 22 days that can legally be imposed in a year and also about half the number we had originally planned. This halving of previous furlough plans reflects vigorous efforts to meet our budgetary shortfalls through actions other than furloughs as well as Congressional passage of an appropriations bill in late March that reduced the shortfalls in our operating budget and expectations of Congressional action on our reprogramming request.

Furloughs will be imposed in every military department as well as almost every agency and in our working capital funds. All of our civilian employees are important, and I would prefer not to furlough any of them. However, there will only be limited exceptions driven by law and by the need to minimize harm to mission execution. We will except civilians deployed to combat zones and civilians necessary to protect life and property (but only to the extent needed to provide that protection). A few categories of workers will be excepted for specific mission reasons while some categories of workers will be excepted because furloughing them would not

free up money for critical DoD mission needs. The attachment provides details regarding approved exceptions. Fewer than one fifth of all civilians paid with appropriated funds will be excepted from furloughs.

The planning and implementation of furloughs will be carried out based on the schedule below:

- May 28 - June 5: Furlough proposal notices will be served to individual employees subject to furloughs.
- June 4 - June 12: Individual employee reply periods end 7 calendar days from when the proposal was received, unless Component procedures allow for a different reply period.
- June 5 - July 5: Furlough decision letters will be served to individual employees subject to furloughs, depending on when the proposal was received and prior to the first day of furlough.
- July 8: Furlough period begins no earlier than this date.

We will begin furloughs on July 8 at the rate of 1 furlough day per week for most personnel. For now, we plan to continue furloughs through the end of FY 2013. That schedule would lead to 11 furlough days – one fifth of the week for about one quarter of the year. Moreover, I am directing all components to monitor funding closely for the remainder of FY 2013. If our budgetary situation permits us to end furloughs early, I would strongly prefer to do so. That is a decision I will make later in the year.

Consistent with this memo and with applicable laws and rules, commanders and managers will have the authority to develop the specifics of furlough procedures in order to minimize adverse mission effects and also limit the harm to morale and productivity. Further bargaining with unions may also be required. The Under Secretary for Personnel and Readiness has already issued guidance as appropriate regarding personnel and union issues related to furloughs and will issue additional guidance as needed. Overall coordination of sequester and furlough policies will be the responsibility of the Under Secretary of Defense (Comptroller).

Each of the Department's civilian employees makes an important contribution to the readiness of our Department to meet the nation's national security needs. I understand that the decision to impose furloughs imposes financial burdens on our valued employees, harms overall morale, and corrodes the long-term ability of the Department to carry out the national defense mission. I deeply regret this decision. I will continue to urge that our nation's leaders reach an agreement to reduce the deficit and de-trigger sequestration. If no agreement is reached, I will continue to look for ways to limit the adverse effects of sequestration and associated budgetary shortfalls both on the men and women of the Department of Defense, and on our national defense.

Attachment:
As stated.

Department of Defense Furlough Exceptions

This attachment provides Components with final dispositions on categorical exceptions to the Department of Defense (DoD) plan to furlough civilian employees for a maximum of 88 hours or 11 discontinuous workdays because of the current financial crisis caused by a sequestration for Fiscal Year (FY) 2013, increased costs for ongoing Overseas Contingency Operations, and other emerging requirements. In order to minimize adverse effects on mission, employees in the following categories are excepted from furlough for the reasons noted:

a) In order to avoid harm to war efforts, all employees deployed (in a Temporary Duty status) or temporarily assigned (to include Temporary Change of Station) to a combat zone (as defined in notes below) are excepted from furlough.

b) In order to avoid harm to mission, those employees necessary to protect safety of life and property are excepted to the extent necessary to protect life and property. This includes selected medical personnel. Later portions of this attachment provide details.

c) Employees in Navy shipyards will be excepted from furlough because it would be particularly difficult to make up delays in maintenance work on nuclear vessels and these vessels are critical to mission success. All other depot employees, whether mission-funded or working capital fund employees, will be subject to furlough.

d) Furloughs for employees funded with National Intelligence Program (NIP) funds will be determined by the Director of National Intelligence. Employees funded with Military Intelligence Program (MIP) funds will be subject to furlough.

e) Because there would be no savings, Foreign Military Sales (FMS) employees whose positions are exclusively funded from FMS Administrative and FMS case funds (case number may be required to validate funding source) and from Foreign Military Financing accounts are excepted from furlough. Furloughing employees in this category would not reduce the expenditure of DoD budgetary resources and so would not assist in meeting sequestration reductions. The FMS case-funded positions funded in whole or part by DoD appropriations (to include "pseudo-FMS" cases) are subject to furlough.

f) By law, all individuals appointed by the President, with Senate confirmation, who are not covered by the leave system in title 5, U.S. Code, chapter 63, or an equivalent formal leave system, are excepted from furlough.

g) All employees funded by non-appropriated funds (NAF) [1] (regardless of source of NAF funding) are excepted from furlough. Furloughing employees in this category would not reduce the DoD budget and so would not assist in meeting sequestration reductions.

h) All Outside Contiguous United States foreign national employees, many of whom are subject to Status of Forces Agreements, are excepted from furlough because their situation vary greatly by country/region and because, in some cases, they are paid by host governments.

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[1] NAF employees are not covered by the requirements and procedures applicable to furloughs of appropriated fund employees under FY13 sequestration. However, NAF employees may be furloughed under DoD NAF and Component policies and procedures for business-based reasons.

i) Any employees who are not paid directly by accounts included in the Department of Defense-Military (subfunction 051) budget are excepted from furlough. For example, this would include employees funded by the Arlington National Cemetery (705 function) and DoD Civil Works (various non-051 functions) programs. These exceptions have been identified by the Components. Furloughing these employees would not reduce the expenditure of DoD budgetary resources and so would not assist in meeting sequestration reductions.

The following portion of this document provides the definitive list of additional approved exceptions beyond those listed in the preceding paragraph. The exceptions approved for the safety of life and protection of property category are granted with the understanding that these are the minimum exceptions needed to maintain operations and provide security on a 24/7 basis and that furloughing these employees would result in the Department incurring additional costs for premium pay. Similarly, the exceptions for the medical category are approved with the understanding these exceptions preserve the minimum level of personnel needed to maintain quality of care in 24/7 emergency rooms and other critical care areas such as behavioral health, wounded warrior support, and disability evaluation. Furloughing these employees would result in unacceptable care being provided, and the Department would incur increased costs for premium pay or TRICARE. The exception for Child Development Centers is granted with the understanding that this is the minimum level needed to maintain accreditation and maintain quality care for children in military families. Some Department of Defense Education Activity employees, while not excepted from furlough, may only be furloughed when they are in a pay status. Therefore, they will only be subject to furlough for up to five days at the beginning of the 2013 school year.

Recognizing that circumstances can change in this dynamic environment, the Secretaries of the Military Departments, and the Principal Staff Assistants for the Defense Agencies and Field Activities, may approve up to 50 additional individual, mission-based, exceptions as needed to ensure safe and efficient operations of their respective Departments. Any such exception must be reported to the Acting Under Secretary of Defense (USD) for Personnel and Readiness and the USD Comptroller. There are no other approved exceptions provided based on the Components' submissions. Furlough proposal notices should be issued to all impacted employees beginning May 28, 2013.

Relative to the review and decision on individual employee requests for exception, per guidance issued via the Principal Deputy Assistant Secretary of Defense, Readiness and Force Management, memorandum, dated March 13, 2013, activities should designate the Deciding Official. The designated Deciding Official will be no lower than a local Installation Commander, senior civilian or equivalent who would be in the best position to determine the fair and equitable application of the furlough. Deciding Official responsibilities may not be further delegated. Deciding Officials are charged with, and are accountable for, making final decisions on furloughs for individual employees after carefully considering the employee's reply, if any, and the needs of the Department. Deciding Officials must also ensure they make final decisions in cases where an employee does not submit a reply. Deciding Officials will have the authority to execute the full range of options with respect to providing relief in individual employee cases. This authority includes, but is not limited to, reducing the number of days/hours an individual employee is furloughed, or granting the individual employee an exception from the furlough altogether.

Component	Safety of Life & Property	Medical Personnel	Others	Comments
DoN	7,543	1,418	212 CIVPERS at Sea	CIVPERS deployed at sea are subject to furlough upon return from deployment
			4,712 CIVMARS	CIVMARS are subject to furlough upon return from deployment
			514 Appropriated Fund (APF) Child Development Centers (CDCs)	Maintain safety standards and quality of care
			15	Support to classified programs
			28,000	Shipyard Workers, General
			1,657	Shipyard Workers, Nuclear and Naval Reactors Staff
USA	263	Up to 6,600	555 APF CDC Employees	Maintain safety standards and quality of care
			75	ARNG Dual Status Technicians for Alerts, Firefighting, Personnel Recovery and other missions
			17	Support to classified programs
			257	Non-immigrant employees requiring H-1B visas at Defense Language Institute

Component	Safety of Life & Property	Medical Personnel	Others	Comments
USAF	933	410	62	Support to classified programs
			1,123	ANG Dual Status Technicians for Alerts, Firefighting, Personnel Recovery and other missions
			30 Students	Intel School & FLETC
			94 Multi-IOC 24/7 Plant Operators	Heating/Waste Water Plant minimum safe manning
			2	Contingency Planners
			3	Special Law Enforcement Pay
			1,634 APF CDCs	Maintain safety standards and quality of care
DLA	363			
DA&M	623			546 are from the Pentagon Force Protection Agency; the remaining 77 are Washington Headquarters Services for Pentagon safety and emergency communications. Most will be furloughed fewer than 11 days due to the need to maintain operations and security 24/7.
US Court of Appeals for Armed Services			59	The Chief Judge will decide how many days to furlough employees, if at all.
JTFCAPMED		368		165 @ Walter Reed 203 @ Fort Belvoir

Component	Safety of Life & Property	Medical Personnel	Others	Comments
USUHS	22		5	Animal Husbandry Technicians Non-immigrant employees requiring H-1B visas
Office of the Military Commissions – Defense Legal Services Agency			9	Civilian Trial Practitioners
Department of Defense Education Activity (DoDEA)			10,950	9-month DoDEA employees, which includes teachers, educational aids, and support staff may only be furloughed for up to 5 days at the beginning of the 2013 school year.
DCAA			1	Non-immigrant employees requiring H-1B visa

Notes:

1. Safety of life and property exceptions are based on need for 24/7 coverage in most instances. It is expected all Components will furlough for less than 88 hours in these areas where feasible.

2. Individuals for whom law enforcement premium pay would result in no loss of pay if furloughed will be excepted from the furlough.

3. 20 CFR 655.731 requires that the employer of a H-1B non-immigrant who is not performing work and is placed in a nonproductive status due to a decision by the employer (e.g., placed in a non-pay/non-duty status due to administrative furlough) pay the salaried employee the full pro-rata amount due, or to pay the hourly-wage employee for a full-time week (40 hours or such other number of hours as the employer can demonstrate to be full-time employment for hourly employees, or the full amount of the weekly salary for salaried employees) at the required wage for the occupation.

1. References.

a) Title 26, U.S. Code, Section 112, Certain combat zone compensation of members of the Armed Forces

b) Executive Order 12744, January 21, 1991

c) Executive Order 13119, April 13, 1999

d) Executive Order 13239, December 12, 2001

e) Public Law 104-117, To provide that members of the Armed Forces performing services for peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone.

2. The following locations are designated as "Combat Zones" by law, Presidential Executive Order or by DoD certification that members of the Armed Forces serving in such locations are serving in direct support of military operations in a combat zone:

Countries:

Afghanistan (EO 13239)

Albania (EO 13119)

Bahrain (EO 12744)

Bosnia (PL 104-117)

Djibouti (DoD certification)

Iraq (EO 12744)

Kuwait (EO 12744)

Macedonia (PL 104-1170)

Oman (EO 12744)

Philippines (Only troops with orders referencing Operation Enduring Freedom) (DoD certification)

Saudi Arabia (EO 12744)

Somalia (DoD certification)

United Arab Emirates (EO 12744)

Uzbekistan (DoD certification)

Yemen (DoD certification)

Croatia (PL 104-117)

Herzegovina (PL 104-117)

Jordan (DoD certification)

Kyrgyzstan (DoD certification)

Montenegro (EO 13119)

Pakistan (DoD certification)

Qatar (EO 12744)

Serbia (includes Kosovo) (EO 13119)

Tajikistan (DoD certification)

Sea Areas:

Adriatic Sea (EO 13119)

That portion of the Arabian Sea that lies north of 10 degrees north latitude, and west of 68 degrees east longitude (EO 12744)

Gulf of Aden (EO 12744)

Gulf of Oman (EO 12744)

Ionian Sea north of the 39th Parallel (EO 13119)

Persian Gulf (EO 12744)

Red Sea (EO 12744)

3. Adherence to the following principles ensures consistency in applying the "deployed to combat zone" exemption to civilian employees in the context of the administrative furlough:

a) "Deployed civilian" is defined as a civilian employee who is deployed (in temporary duty (TDY) status) or temporarily assigned (to include temporary change of station (TCS)) to a "combat zone" as set forth above.

b) "Combat zone" is defined as those locations listed as combat zones in Executive Orders 12744, 13119 or 13239 and locations where military are eligible for combat zone tax benefits under law or because DoD has certified that they are providing direct support to military operations.

c) A "deployed civilian's" period of deployment includes time spent in attendance at mandatory pre-deployment training as well as in completing mandatory post-deployment requirements.

d) A civilian employee who was deployed to a combat zone but redeploys mid-way through the furlough period will receive a notice of proposed furlough upon return to their parent organization and prior to any furlough. Further, the number of hours for which the employee will be furloughed will be pro-rated.