DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
MANPOWER AND RESERVE AFFAIRS
111 ARMY PENTAGON
WASHINGTON, DC 20310-0111

SAMR

MAY 17 2013

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Department of the Army Fiscal Year 2013 Administrative Furlough

This memorandum supersedes reference 1.c., below and is issued for planning and execution.

1. References:

a. Secretary of Defense memorandum, 14 May 2013, subject: Furloughs.

b. U.S. Office of Personnel Management Guidance for Administrative Furloughs, as amended.

c. Assistant Secretary of the Army (Manpower and Reserve Affairs) memorandum, 20 March 2013, subject: Department of the Army Administrative Furlough Planning (rescinded).

2. Reference 1.a. announced the Secretary of Defense decision to require an administrative furlough of the Department of Defense (DoD) civilian workforce in Fiscal Year (FY) 2013. An administrative furlough differs from an emergency or government shutdown furlough which occurs when there is a lapse in appropriations. But both types of furlough place employees in a temporary no-pay, non-duty status because of lack of work or funds, or for other non-disciplinary reasons. Administrative furloughs of up to 22 workdays are considered adverse actions. Reference 1.b. provides information about administrative furloughs.

3. This memorandum constitutes the Secretary of the Army's authorization to issue notices of proposed furlough and proceed to execute the furlough in accordance with reference 1.a. and this memorandum. It is the intent of DoD and the Army that all employees be furloughed, with extremely limited exceptions, in order to maximize cost savings. Accordingly, the Army intends to furlough all civilian employees for up to 88 hours, or 11 workdays, prior to the end of FY 2013, unless an employee is excepted from furlough as set forth in: reference 1.a.; paragraphs 4 through 6, below; or as authorized by the Secretary of the Army. Employees who were previously identified as "excepted" or "exempt" from past government shutdown furloughs are not automatically excepted from the current administrative furlough.

4. Pursuant to my authority under provisions of Title 10, U.S. Code, Section 3016, and at the direction of the Secretary of the Army, I hereby designate: the Commanders of Army Commands, Army Service Component Commands and Direct Reporting Units (DRU); the Commanders of U.S. European Command, U.S. Forces Korea, U.S. Southern Command, U.S. Africa Command and Joint Special Operations Command; and the Administrative Assistant to the Secretary of the Army for Headquarters, Department of the Army (HQDA), as Deciding Officials for purposes of the adverse action process associated with the FY 2013 administrative furlough.

a. For purposes of the adverse action process associated with the FY 2013 administrative furlough and the administration of the restrictions on overtime work set forth in this memorandum, the Administrative Assistant to the Secretary of the Army will exercise authority, direction and control over the personnel of the following organizations as if they were part of HQDA:

(1) Armed Services Board of Contract Appeals;

(2) DoD Explosives Safety Board;

(3) Joint Improvised Explosive Device Defeat Organization;

(4) Special Inspector General for Iraq Reconstruction;

(5) Special Inspector General for Afghanistan Reconstruction; and

(6) Military Entrance Processing Command.

b. Civilian employees of the Office of the Chief, Army Reserve (an HQDA Principal Official), who are associated with Unit Identification Code W0Z4AA, are considered a part of HQDA. By reference 1.a., the Secretary of Defense authorized the Chief, National Guard Bureau to exercise independent furlough authority for personnel of the National Guard Bureau. In accordance with DoD Directive 5105.77, *National Guard Bureau*, paragraph 7.1, the Chief, National Guard Bureau may develop and promulgate publications on National Guard matters, consistent with DoD and Department of the Army policies. Accordingly, the policies set forth in reference 1.a. and this memorandum should be applied in administering the furlough and related matters for Department of the Army civilian employees associated with National Guard Bureau Unit Identification Codes W00QAA, W39LAA, W36VAA and W3G2AA.

c. As authorized by the Secretary of the Army, for purposes of the FY 2013 administrative furlough and the restrictions on overtime work set forth in this memorandum, a DRU led by a civilian employee will be considered an HQDA organization or activity subject to the authority, direction and control of the HQDA Principal Official to whom the DRU reports.

d. As Deciding Officials in the context of the adverse action process associated with the FY 2013 administrative furlough, the officials designated as Deciding Officials in paragraph 4, above are hereby empowered to issue final furlough decisions to:

(1) except from furlough any individual employee in the grade of GS-15 (and equivalents) and below; and

(2) limit to less than 88 hours or 11 workdays the number of hours/days that any full-time individual employee in the grade of GS-15 (and equivalents) and below will be furloughed before the end of FY 2013.

e. Deciding Officials are charged with, and are accountable for, making final decisions on furloughs for individual employees based on the efficiency of the Service[1], after carefully considering the employee's reply, if any, and the needs of the Department of the Army. Deciding Officials must also ensure they make final decisions in cases in which 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 hours/days an employee will be furloughed, or granting the individual employee an exception from the furlough altogether.

f. Deciding Officials may recall an employee from furlough (resulting in an overall reduction in the number of FY 2013 furlough hours for that employee) only as necessary to protect the health, safety and security of personnel or property; to ensure the direct and timely provision of services and materiel to deployed units or to units that are preparing to deploy; or to perform similar mission critical functions. No additional funds will be authorized for furlough recall.

5. The officials designated as Deciding Officials in paragraph 4, above, may designate as a Deciding Official(s) for purposes of the adverse action process associated with the FY 2013 administrative furlough, one or more military officers or senior civilians under their supervision in grades no lower than Colonel or GS-15 (or equivalents). Designated individuals may subsequently designate as Deciding Officials other military officers or senior civilians serving under their supervision (also in grades no lower than Colonel/GS-15 (or equivalents)). No person lower than Colonel/GS-15 (or equivalents) may be designated as a Deciding Official. An individual may be designated as a Deciding Official in accordance with this paragraph only when such individuals would be in the best position to determine the fair and equitable application of the furlough to employees. Required as part of the designation of a Deciding Official is a re-delegation to that individual of the authorities enumerated in paragraph 4, above.

[1] 5 U.S.C. § 7513 (a); *see* Hatfield v. Department of the Interior, 28 M.S.P.R. 673, 675 (1985) ("[a]n adverse action promotes the efficiency of the service when the grounds for the action relate to either an employee's ability to accomplish his duties satisfactorily or to some other legitimate government interest.").

6. Any designation as a Deciding Official and re-delegation of the requisite authorities will take effect only when it is in writing and signed by the designating official. I will hold each of the officials designated as Deciding Officials in paragraph 4, above, responsible for any and all actions he or she takes as a Deciding Official, including the exercise of authorities inherent in such a designation, and for any actions taken by individuals under his/her supervision who are subsequently designated as Deciding Officials. Should conditions warrant, any designating official should suspend or rescind a subordinate's designation as a Deciding Official, as appropriate.

7. This memorandum and its Appendices do not apply to employees managed by the Civilian Senior Leader Management Office (CSLMO). Separate guidance addressing CSLMO-managed employees is forthcoming.

8. Organizations may not transfer any work from Army civilians to contractors or use premium pay (overtime or compensatory time off) to offset federal employee absence due to furlough. Organizations are reminded that furloughed employees are prohibited from working on-site or on a telework basis during furlough hours/days, and furloughed employees may not substitute paid leave or other paid time off for furlough hours/days.

9. Employee overtime work, whether paid or awarded as compensatory time off, is prohibited during the sequester through the end of FY 2013 except as necessary to protect the health, safety and security of personnel or property; to ensure the direct and timely provision of services and materiel to deployed unit or to units that are preparing to deploy; or to perform similar mission critical functions.

a. These provisions concerning overtime work apply equally to all Army employees, to include those excepted from furlough. Overtime work for an employee subject to furlough must be approved by an official designated as the Deciding Official for that employee for purposes of the FY 2013 furlough. Overtime work for employees not subject to furlough must be approved by an official designated as a Deciding Official in paragraph 4, above. The officials designated as Deciding Officials in paragraph 4 may delegate the authority to approve overtime work for employees excepted from furloughed through the chain of command or supervision to an official in a grade no lower than Colonel/GS-15 (or equivalents).

b. Before recommending the approval of overtime work, commanders, supervisors and other management officials must make every effort to meet mission requirements by using the latitude to adjust (in advance) each employee's scheduled furlough hours/days. All other options will be considered before overtime work is authorized; overtime work will be approved only when all other options are impracticable.

c. Any approval of overtime work must be documented in advance of the time and date on which the work is to be performed, signed and dated by the appropriate approving official and must also set forth: the purpose of the overtime work and the rationale for

concluding that the work meets the above criteria; whether the overtime work will be paid or awarded as compensatory time off; and the number of hours of overtime work authorized.

d. I will hold the officials designated as Deciding Officials in paragraph 4, above, together with individuals under their supervision with the authority to approve overtime work, accountable for managing workload properly and for ensuring that employees are not permitted to work overtime in contravention of this policy.

e. No additional funds will be authorized for overtime work.

10. Reports.

a. The officials designated as Deciding Officials in paragraph 4, above, ***will inform me of each grant of an exception from the FY 2013 furlough; decision to limit or reduce the number of furlough hours/days to which an employee is subject; or decision to recall an employee from furlough that results in an overall reduction in FY 2013 furlough hours for that employee rendered by that official or any subordinate Deciding Official or delegate. Such reports shall be in writing and include a description of the action taken and the underlying rationale. Reports will be forwarded to me concurrent with the decision at issue.*** I will compile and submit corresponding reports to the Secretary of the Army.

b. The officials designated as Deciding Officials in paragraph 4, above, will provide periodic reports to the Assistant G-1 (Civilian Personnel), Office Deputy Chief of Staff, G-1, HQDA as to:

(1) The number of notices of proposed furlough issued to employees;

(2) The number of employees to whom notices of proposed furlough were not issued because the employee was subject to an approved furlough exception.

(3) The number of notices of final furlough decisions issued to employees;

(4) The number of individual furlough exceptions granted through the adverse action process.

The Assistant G-1 (Civilian Personnel) will issue additional guidance and reporting formats under separate cover.

c. Furlough-related actions and the approval of overtime work also will be included in the monthly reports presented at the ASA(M&RA) and ASA(FM&C) Civilian Workforce Shaping Teleconferences. The content and format for submission of these reports will be provided separately.

11. To the fullest extent practicable, management must engage its unions in pre-decisional discussions regarding the possible actions to be taken with regard to the furlough. Additionally, management must fulfill its statutory and contractual labor relations obligations in implementing actions addressed in this memorandum.

12. Both DoD and the Department of the Army will continue to keep you informed as this situation develops. It is imperative that we continue to communicate with our workforce and labor partners. As we address this difficult and fluid fiscal situation, we want you and your employees to know that your patience, hard work and continued dedication are deeply appreciated. As conditions change or senior leadership decisions provide clarity or modify direction, we will provide you further guidance.

13. Commands and organizations will execute the furlough in accordance with the timelines in Appendix C and with applicable bargaining obligations and agreements. Templates for furlough proposal and decision notices, the use of which is mandatory, have been disseminated through command human resources channels.

THOMAS R. LAMONT
Assistant Secretary of the Army
(Manpower and Reserve Affairs)

4 Appendices
A. General Administrative Furlough Guidelines and Procedures
B. Civilian Training
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D. Secretary of Defense memo, 14 May 2013 subject: Furlough

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MILITARY ENTRANCE PROCESSING COMMAND

Appendix A: General Administrative Furlough Guidelines and Procedures

1. General. Administrative furloughs differ from emergency furloughs, as outlined in reference 1.b. of the base memorandum. Administrative furloughs of up to 22 workdays are considered adverse actions. Commanders, supervisors and other management officials may find it helpful to review the references listed in paragraph 3, below.

a. As a result of major budgetary shortfalls, the Army intends to furlough all civilian employees for up to 88 hours or 11 workdays in Fiscal Year (FY) 2013. At this time, the furlough period is expected to run from 8 July through 30 September 2013, subject to fulfillment of labor relations obligations, as appropriate. As authorized by the officials designated as Deciding Officials in paragraph 4 of the base memorandum, commanders, supervisors and other management officials have latitude in scheduling furlough hours/days for furloughed employees in their chains of command or supervision, consistent with mission requirements, bargaining agreements, fairness, equity and consideration for employee preferences.

b. Furloughs may not be scheduled solely on designated federal holidays. Additionally, furloughs may not be scheduled for a three-day period where the designated holiday falls in the middle of the three days, with the purpose of saving three days of pay while only losing two days of work. *The employee will receive holiday pay if he or she is in a paid status either on the workday preceding the holiday or the workday after the holiday.* Employees may, however, be furloughed for substantial periods of time that include holidays. In all cases, organizations should select furlough days based on factors that are unrelated to the fact that the furlough period includes a holiday.

c. A furloughed employee may not volunteer to perform his/her duties on a no-pay basis during any hours or days designated as furlough time for that employee. Unless otherwise authorized by law, an organization may not accept the voluntary services of any employee.

d. Furloughed employees may not take paid leave or substitute any form of paid time off for any hours or days designated as the employee's furlough time.

e. Based on operational needs or due to established use of alternate (compressed and flexible) work schedules, supervisors/managers may manage furloughs by hours to ensure that employees are furloughed exactly 88 hours over the period designated for furlough. Alternate work schedules may be modified or temporarily suspended to accommodate employee absences for furlough. Supervisors and managers must be aware, however, that pursuant to Title 5, U.S. Code, Section 6126, termination of an employee's flexible work schedule may obligate the Army to pay the employee for up to 24 hours of accumulated credit hours. Employees should be informed of work schedule changes at least a week in advance of the change. Labor relations obligations will be met before action is taken to change established work schedules.

f. Careful consideration should be given to the timing of furlough hours and days. Some organizations may need to rotate employee furlough time to enable continued operations. Other commands and organizations may be able to furlough all employees during the same period to garner added savings. Commanders, supervisors and other management officials

should consider opportunities for cost savings in base operations and utilities by synchronizing employee furlough schedules across an installation. For example, organizations may establish the same day each week to furlough employees across an installation, thereby reducing both staffing levels and the installation's utility bills.

g. To the extent possible, furlough hours/days should not be scheduled during periods of temporary duty (TDY). If furlough during an employee's TDY appears unavoidable and the employee is not approved for an exception to the furlough, consideration should be given to cancelling the TDY. Either per diem or actual expenses must be provided to an employee whose travel status requires a stay that includes a furlough day (even though the employee is in a no-pay, non-duty status).

h. The furlough hours of part-time employees will be pro-rated. An employee working only 40 hours per pay period, for instance, will be furloughed only 44 hours over the period during which furloughs will occur (one-half of the 88 hours mandated for full-time employees). Similarly, employees who are currently in a furlough-excepted category or position, but who subsequently become subject to furlough, or vice versa, will have their furlough hours pro-rated across the pay periods remaining in FY 2013 from the day after a notice of final furlough decision is issued or the statutory 30-day notice period expires, whichever is later.

i. Furlough guidance applicable to employees on detail is provided in reference 1.b. of the base memo. Detailed employees remain officially assigned to their permanent positions during the detail. During a furlough, each ***parent organization*** will determine the status of each of its employees. If furlough is required, the ***parent organization*** will determine how and when the detailed employee will be affected. Parent organizations are encouraged to work with the detailed organization in scheduling the detailee's furlough days.

j. If an employee is scheduled to be on Leave Without Pay (LWOP) during the furlough period, the supervisor/manager has discretion whether or not to furlough the employee. If the supervisor/manager decides to place the employee in a furlough status during hours that were originally scheduled for LWOP, all applicable procedural requirements must be met, to include providing a notice of proposed furlough. No proposed furlough notice or notice of final furlough decision is required for employees who are on LWOP and not expected to return to work at all during the period of furlough (e.g., an employee on a one-year period of LWOP to accompany a military spouse on assignment). Should an employee who was expected to be on LWOP for the entire period of the furlough return to work during the furlough period, the supervisor/manager should issue a notice of proposed furlough to the employee as soon as possible after the employee's return to duty. The Office of the Deputy Chief of Staff, G-1 will update you should this guidance change.

k. Newly hired Army employees; employees moving within Army from a position excepted from furlough to a position subject to furlough; employees permanently moving from one Army position to another position under a different Deciding Official; and employees moving to Army from another DoD Component or from another Federal agency, will be provided a 30-day notice of proposed furlough immediately on reporting to the new Army position. If furloughed, the employee's hours of furlough will be pro-rated across the pay periods remaining from the

day after a notice of final furlough decision is issued or the statutory 30-day notice period expires, whichever is later. Under no circumstance may any individual employee exceed 88 total furlough hours in FY 2013, regardless of where employed.

l. Firefighters and other employees serving "uncommon" tours of duty also shall be furloughed for 88 hours, absent an approved exception to the furlough. However, the furlough should not disproportionately impact these employees and care should be taken to ensure that their regular pay is not disproportionately reduced in comparison to other furloughed employees. For instance, if full time employees on a normal work schedule are furloughed for two days per 10-day pay period, the reduction in firefighter regular pay as a result of furlough should not exceed 20% per pay period.

2. Procedures.

a. Administrative furloughs of 22 workdays or less are covered under adverse action procedures. Each employee, as defined in Title 5, U.S. Code, Section 7511, must receive at least a 30-calendar-day advance notice of proposed furlough, a minimum 7-calendar-day response period and a notice of final furlough decision. The 7-calendar-day response period runs concurrently with the 30-day advance notice. A notice of final furlough decision must be issued whether or not the employee submits a response to the notice of proposed furlough.

b. Key Personnel in the Furlough Process:

(1) An employee's first line supervisor generally will serve as the Furlough Proposing Official. Proposing Officials will issue individual notices of proposed furlough to each employee to be furloughed.

(2) Deciding Officials will be designated in accordance with paragraphs 4 through 6 of the base memorandum and empowered with all requisite authorities. Deciding Officials are charged with, and accountable for, making and issuing notices of final furlough decision to each individual employee subject to furlough, whether or not that employee submits any response to the notice of proposed furlough. In making a final decision on the proposed notice of furlough of each employee, the Deciding Official must carefully review and consider all evidence of record, giving full and fair consideration to any response that may be submitted by an employee to the notice of proposed furlough.

(3) The Deciding Official may appoint one or more designated Reply Official(s). A Reply Official must be appointed in writing and may be either a military officer or a civilian employee. The Reply Official will: (1) serve as the official designated to hear, receive and document any verbal and/or written replies made by an employee in response to a notice of proposed furlough; (2) receive and respond to any requests for an extension to the period allocated for employee reply to a notice of proposed furlough; (3) prepare a written summary of an employee's oral reply, if any, and present the summary to the employee for review for accuracy; (4) provide the Deciding Official with a copy of all documents or information provided by the employee and a summary of any verbal reply provided by the employee; and (5) based solely on the information provided in support of the notice of proposed furlough and the

employee's reply, if any, recommend to the Deciding Official a final decision on the proposed furlough of the employee and the rationale for any such recommendation.

c. OSD-approved notices of proposed furlough and final furlough decision templates, the use of which is mandatory, have been disseminated through human resources channels. To the extent possible, management officials will deliver to the receiving employee in person both the notice of proposed furlough and the notice of final furlough decision rendered by the Deciding Official. Each employee will be asked to sign a copy of the notice of proposed furlough and notice of final furlough decision, acknowledging receipt. A copy of the employee's acknowledgment will be retained in the adverse action file. Should an employee decline to acknowledge receipt, a management official will annotate the delivery and the employee's refusal to sign on a copy of the notice and/or decision and retain that copy in the adverse action file. When an employee is absent from the workplace at the time notices or decisions are to be delivered personally, a management official must mail the notice by certified mail with return receipt to the employee's current mailing address. It is recommended, however, that supervisors/managers send notices to the employee by both first class mail and certified mail with return receipt. Supervisors/managers also may undertake personal delivery to the employee's home. Although not the preferred method, the officials designated as Deciding Officials in paragraph 4 of the base memorandum may permit their subordinate Proposing and Deciding Officials to issue furlough-related notices by email. Additional guidance on the use of email will be published through human resources channels. In each case, the Proposing and Deciding Officials must retain a record documenting the means by which each furlough-related document was provided to the employee and proof of employee receipt.

d. Other:

(1) The servicing Civilian Personnel Advisory Center (CPAC) will provide advice and guidance on: (1) Impact and Implementation bargaining; (2) preparation of notices of proposed furlough and final furlough decision; (3) processing of Standard Form (SF)-50, *Notification of Personnel Action*; and (4) other questions and issues that may arise during the furlough.

(2) The Civilian Human Resources Agency (CHRA) will process a *Notification of Personnel Action* (SF-50) for each employee furloughed. CHRA will provide additional processing guidance and guidance on records retention and maintenance, through the servicing CPACs, under separate cover.

(3) Employees and supervisors/managers must document furlough hours/days in the Automated Time Attendance and Production System (ATAAPS) or other approved time and attendance system. Furlough hours/days will be coded as KE.

(4) Throughout the process, statutory and contractual labor relations obligations must be met for bargaining unit employees. Servicing CPACs will assist in this effort.

3. Additional Resources. Commanders, supervisors/managers and other leaders are encouraged to review the websites referenced below for assistance in planning for the furlough. Leaders also may find it helpful to refer employees to one or more of the websites below for information.

a. Office of Personnel Management Furlough Guidance at http:/www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/

b. Defense Civilian Personnel Administrative Services Furlough Guidance at http://www.cpms.osd.mil/Subpage/FurloughGuidance/

c. Army Information, Frequently Asked Questions and Fact Sheets at http://cpol.army.mil/library/general/2013sequestration/

d. Thrift Savings Plan information at https://www.tsp.gov/PDF/formspubs/oc13-7.pdf

Appendix B: Administrative Furlough Guidance – Civilian Training

1. General. Administrative furloughs differ from emergency or government shutdown furloughs, as outlined in reference 1.b. of the base memorandum. Organizations should review and apply that reference and the guidance below in planning for the Fiscal Year (FY) 2013 administrative furlough.

a. The Army will continue to support mission critical functional and leader development training within available funding. Career Program (CP) Managers and commands must continue to spend every training dollar wisely, considering mission essential training, career program and command priorities, together with revised funding levels. The Army encourages all commands and organizations to continue to support CP and other centrally funded training (Senior Leader Seminar, Army Civilian Education System, DoD Leader Development Programs, etc.), but will also support a commander's/supervisor's decision to impose travel and training restrictions on their employees.

b. Reference 1.b. states: "In the event that scheduled training occurs during a furlough period, affected employees must be placed in a furlough status and ordered **NOT** to attend the scheduled training on the day of their scheduled furlough." The following guidance is provided with regard to Army Civilians participating in long- and short-term training during the furlough period.

(1) Long-Term training is defined in AR 350-1 as continuous, full-time training for more than 120 calendar days and is most applicable to the military Senior Service Colleges (SSCs) (i.e., Army War College, Air War College, Naval War College, Dwight D. Eisenhower School for National Security and Resource Strategy, etc.). Civilian students and employees of the military SSCs are not exempt from furlough.

(2) Army Civilian employees attending civilian-managed college or university long-term training (i.e., Comptroller Career Program employees attending the fourteen-month Defense Comptrollership Program at Syracuse University—a civilian-managed university) or attending long-term developmental assignments (internal or external to Army) will be furloughed in accordance with the procedures implemented by the employee's ***parent organization***. Parent organizations may give consideration to adjusting the employee's/student's furlough schedule to accommodate course work and educational requirements while still meeting the mandated 88 hours of furlough before the end of FY 2013.

(3) Short Term Training: Short–term training is defined as training for less than 120 days. An employee attending short term Civilian training will be furloughed in accordance with the procedures implemented by the employee's ***parent organization***. This includes students attending the Army's Civilian Education System program as well as civilian-managed college and university courses. Parent organizations may give consideration to adjusting the employee's/student's furlough schedule to accommodate course work and educational requirements while still meeting the mandated 88 hours of furlough before the end of FY 2013.

c. Travel and per diem in a training context: In reference 1.b., OPM states: "Agencies must provide per diem or actual expenses to employees whose travel status requires a stay that includes a furlough day" (even though the employee is in a no-pay, non-duty status). This guidance applies to all travel, whether centrally funded or command funded.

2. Additional guidance as it relates to Civilian employee training during the administrative furlough will be provided as it becomes available.

FURLOUGH SCHEDULE*

- Notices of proposed furlough served on employees
  - 28 May through 5 June
- Employee reply period
  - 7 days after receipt of notice of proposed furlough
- Notice of final furlough decision issued to employees
  - 5 June through 5 July, but in any case, only after the reply period has passed
- Furlough period
  - No earlier than 8 July through 30 September

*Timelines for bargaining unit employees are subject to fulfillment of labor relations obligations

Appendix C

SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

MAY 14 2013

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
CHIEFS OF THE MILITARY SERVICES
COMMANDERS OF THE COMBATANT COMMANDS
CHIEF OF THE NATIONAL GUARD BUREAU
DIRECTOR, COST ASSESSMENT AND PROGRAM EVALUATION
DIRECTOR, OPERATIONAL TEST AND EVALUATION
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANT SECRETARIES OF DEFENSE
DEPARTMENT OF DEFENSE CHIEF INFORMATION OFFICER
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.

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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.