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28 Sep 23

MEMORANDUM

From: Human Resources Specialist, Labor and Employee Relations, Naval Facilities Engineering Command, Mid-Atlantic
To: Tidewater Virginia Federal Employees Metal Trades Council of Portsmouth, Virginia AFL-CIO
Subj: NOTICE OF POTENTIAL FURLOUGH DUE TO ABSENCE OF AVAILABLE APPROPRIATIONS

Ref: (a) Negotiated Agreement between the Naval Facilities Engineering Command, Mid-Atlantic and Tidewater Virginia Federal Employees Metal Trades Council of Portsmouth, Virginia AFL-CIO

Encl: (1) SF-8, Notice to Federal Employee About Unemployment Insurance
(2) Information for Furloughed Federal Workers – Unemployment Compensation for Federal Employees

1. In the absence of either a Fiscal Year (FY) 2024 appropriation, or a continuing resolution for the Department of Defense (DoD), no further financial obligations may be incurred after *30 September 2023* by the Department of the Navy (DON), except for those related to the orderly suspension of DON operations or the performance of exempt and excepted activities as defined by the Office of Management and Budget.

2. Due to a sudden emergency requiring curtailment of DON activities, no advance notice is possible. The customary 30-day advance notice period and opportunity to answer are suspended under the provisions of 5 C.F.R. § 752.404(d)(2). During the furlough period, furloughed employees would be in a non-pay, non-duty status. Employees will not be permitted to serve as unpaid volunteers to their workplace and must remain from the workplace and refrain from working at remote locations (i.e., telework) unless and until recalled. Upon furlough, all scheduled leave (e.g., annual, sick, or administrative leave) is cancelled for all furloughed employees, and absences during the furlough may not be charged to leave.

3. Under 31 United States Code section 1341(c)(2), after the lapse ends, an employee who was furloughed as a result of a lapse in appropriations must be paid for furlough periods. A furloughed employee is not entitled to retroactive pay for furlough periods if the employee had been previously (before the lapse) scheduled to be in non-pay status (i.e. scheduled leave without pay for an extended period) during those furlough periods.

4. Given that the furlough is necessary to carry out the Agency mission during emergencies pursuant to 5 U.S.C. § 7106(a)(2)(D), the procedures set forth in the collective bargaining agreement for notification could not be followed. To that end, and in the event any requested negotiations are not completed by implementation date of the furlough, we are committed to keeping the union informed of any actions that will be taken and we welcome any comments or suggestions you may have on this issue per reference (a). The Command will also complete any impact and implementation bargaining in a post-implementation fashion.

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5. Enclosure (1), a Standard Form (SF) 8, "Notice to Federal Employee About Unemployment Insurance", which is needed to file for unemployment compensation, and enclosure (2) will be provided to affected employees and is included with this notice for your information. Please feel free to contact me at Rebecca.j.flannery2.civ@us.navy.mil if you have any comments.

R. J. FLANNERY

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