



UNDER SECRETARY OF DEFENSE  
1100 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1100

COMPTROLLER

JUL - 5 2013

The Honorable Derek Kilmer  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Kilmer:

Thank you for your letter of June 21, 2013 concerning the furlough of working capital fund civilians of the Department of Defense (DoD). Secretary of Defense Hagel asked me to respond on his behalf. I can say in summary that in FY 2013 DoD faced a budget cut of \$37 billion caused by sequestration, in addition to shortfalls in wartime funding. The Department does not want to furlough any of its valued civilian employees but must do so to help meet these budgetary shortfalls. Furloughs of civilians at working capital fund activities are legal and result in personnel cost savings.

Secretary Hagel regrets having to furlough any DoD civilian employees, whether they serve in the Department's working capital fund activities or elsewhere. Unfortunately, in FY 2013 DoD faces a large shortfall in our operating budgets both because of sequestration and a lack of funds to meet all our wartime operating requirements. The Department has taken many steps to close this shortfall including sharp cuts in facilities maintenance, hiring freezes, and layoffs of temporary and term employees. DoD has asked Congress to let us "reprogram" or move money from our investment accounts into operating accounts to help pay DoD's wartime bills, though our Congressional Committees have not yet approved a significant part of that request. The Department has also cut back sharply on training and maintenance, actions that have led to serious damage to our readiness. Finally, and reluctantly, DoD has imposed furloughs for up to 11 days on most of its civilian employees.

You requested the Department's views on the legality of furloughing civilians in working capital fund activities, in particular with respect to section 129 of title 10, United States Code. The Department believes short-term furloughs of working capital fund civilians -- who are indirectly funded Government employees -- are permissible under that statute. Indirectly funded Government employees may not be subjected to constraints or limitations based on the number of such personnel who may be employed on the last day of a fiscal year, and may not be managed on the basis of man years, end strength, full-time equivalent positions, or maximum number of employees. They also may not be controlled under any policy of a Military Department Secretary with respect to civilian manpower resources. A short-term furlough directed by the Secretary of Defense does not contradict these prohibitions. Further, Section 129 directs the Department to manage our civilian workforce based on workload and on the "funds made available to the department for such fiscal year". The \$37 billion reduction levied on the Department by sequestration is a major cause of these furloughs, and therefore our actions satisfy the requirements of section 129. Indeed, section 129 directs the Department to manage our civilian workforce based on workload and funding.

As for your cost concerns, furloughs for all DoD civilians will save about \$2 billion in FY 2013, including more than \$500 million associated with reduced personnel costs in working capital fund activities. These working capital fund personnel savings provide us the flexibility to adjust maintenance funding downward to meet higher-priority needs. The Air Force, for example, currently expects to reduce funded orders in their working capital funds by about \$700 million to meet higher-priority needs while the Army expects to reduce orders by \$500 million. Because Congress has not yet approved about \$2.5 billion of our reprogramming request as of the date of this letter, it is unfortunately possible that these maintenance cutbacks may have to be increased.

The Secretary and the Department appreciate and share your concerns for the efficiency of our operations, the welfare of our civilian employees, and the impact of furloughs on our defense communities. The Department is also seriously concerned with the adverse effects on readiness caused by cutbacks in training and maintenance. The best way for Congress to address all these concerns to is to pass a balanced deficit reduction plan that the President can sign and then repeal sequestration.

An identical letter is being provided to the other signatories to your letter.

Sincerely,

A handwritten signature in cursive script that reads "Robert F. Hale".

Robert F. Hale