

## **Retroactive Pay Guidance**

January 25, 2019

The Government Employee Fair Treatment Act of 2019 (ACT), signed by the President on January 16, 2019, provides Federal employees furloughed as a result of the period of lapse in appropriations that began on December 22, 2018, retroactive pay, at the employee's "standard rate of pay," at the earliest date possible after the lapse in appropriation ends. The Act also provides Federal employees who were designation as "Excepted," who did not receive pay during the lapse in appropriations, to receive pay for hours worked, including additional overtime work beyond the normal requirements for his or her job, at the employee's "standard rate of pay," at the earliest date possible after the lapse in appropriation ends.

**Furloughed Employees** – "Standard Rate of Pay" is the pay the employee would have received for the furlough hours had the lapse in appropriations not occurred and the employee had performed work. It includes the following types of payments:

- The employee's rate of basic pay;
- Overtime and other premium pay for regularly scheduled work;
- Regular premium payments (such as law enforcement availability pay); and
- Allowances and differential payable on a regular basis.

Employees who were on previously approved leave without pay (LWOP) or who were absent without leave (AWOL) during the lapse in appropriations will not receive pay for those hours.

**Excepted Employees (Not-Funded)** – "Standard Rate of Pay" is the pay the employee is entitled to for the actual hours worked under the normally applicable pay rule (e.g., including any overtime or other premium pay, allowances, and differentials earned based on actual hours worked. Anytime that an excepted employee is placed in a furlough status will be compensated under the rules for furloughed employees.

**All Employees** – Retroactive pay will be processed and distributed as separate pay periods as they would have absent the lapse in appropriations, with all appropriate deductions per individual pay period (i.e., retirement, social security (OASDI), medicare tax, Federal income tax, health insurance premium, life insurance premium, state income tax, local income tax, collection of debts owed to U.S. Government, court-ordered collections/debts, optional benefits (i.e., dental/vision insurance premium, long-term care insurance, FSA, TSP, etc.), other voluntary deductions and/or allotments (i.e., military service deposits, professional associations, union dues, personal account allotments, etc.).

Employees will accrue annual and sick leave, upon the retroactive processing of the effected pay periods, as they would have otherwise accrued, absent the lapse in appropriations. The furlough hours will also be considered to be paid hours of work in applying overtime rules, including the Fair Labor Standards Act overtime rules.