



**DEPARTMENT OF VETERANS AFFAIRS
OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER
WASHINGTON DC 20420**

March 19, 2021

Mr. Austin Evers
foia@americanoversight.org
1030 15th Street, NW
Suite B255
Washington, D.C. 20005

Dear Mr. Evers:

On July 28, 2020, you filed a Freedom of Information Act (FOIA) request 21-01198-F, seeking all calendars and calendar entries for the following individuals: Secretary Robert Wilkie, Acting Deputy Secretary Pamela J. Powers, and Acting Chief of Staff Brooks D. Tucker. This search should include any calendars maintained on their behalf, reflecting events that took place from January 1, 2020 to the date the search is conducted. For calendar entries created in Outlook or similar programs, the documents should be produced in "memo" form to include all invitees, any notes, and all attachments. Please do not limit your search to Outlook calendars—we request the production of any calendar—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business. The search should include any calendars associated with an agency official's individual email account, as well as any official calendars maintained for the official, including by his or her administrative assistant or scheduler. Your request was assigned the FOIA Tracking Number 21-01198-F.

I am writing today to respond to your request on behalf of the Department of Veterans Affairs Office of the Chief Human Capital Officer. Information responsive to this request is attached as a PDF document, totaling 2 pages.

If you have any questions regarding our response to your request, or any other issues discussed in this letter, you may contact me directly at (202)-461-7547 or by email at erica.cabbagestalk@va.gov.

Sincerely,

Erica Cabbagestalk

Erica Cabbagestalk
Program Specialist

Date: DRAFT

From: Chief Human Capital Officer (05)

Subj: Authorization to Waive Certain Limitations on Pay During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency (VIEWS 02659603)

To: Human Capital Executives

1. **Purpose.** This memorandum provides guidance on waiving certain limitations on pay for employees during the COVID-19 public health emergency for work done in support of response to the emergency.
2. **Background.** On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, was signed into law. Section 20008 of the CARES Act authorizes the Secretary of the Department of Veterans (VA) to waive limitations on pay for employees during a public health emergency for work done in support of response to the emergency. Section 20003 limits the scope of the authority by defining public health emergency as one with respect to COVID-19 declared by a federal, state, or local authority.
3. **Coverage.** This guidance applies to the pay categories and limitations outlined in Attachment A, Waiver of Pay Limitations Under Public Law 116-136.
4. **Delegation.** This authority may be redelegated in writing to a member of the Senior Executive Service (SES) or Title 38 appointed SES-equivalent with knowledge of the guidance issued by VA's Chief Human Capital Officer (CHCO) and requirements for waiving limitations on pay for work done in support of the COVID-19 public health emergency. No further redelegations are authorized.
5. **Procedures.** Agency Officials with delegated authority may request to waive certain limitations for employees during the COVID-19 public health emergency. Each Administration and Staff Office may establish internal procedures to route requests through appropriate channels for review and decision.
 - a. Waiver requests must be documented in writing and include employee name, position title, series, location (i.e., facility, duty station, etc.), pay limitation to be waived, and a description of the work performed to justify such request.
 - b. Waivers must only be authorized for employees performing work done in support of the COVID-19 public health emergency. It may include mission critical work

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required to complete the VA's Fourth Mission to support national, state, and local emergency management, public health, safety, and homeland security efforts, in addition to maintaining critical support services to our Nation's Veterans during the public health emergency.

- c. A waiver pursuant to Section 20008 may be authorized from the effective date of the CARES Act, March 27, 2020, through the duration of the public health COVID-19 emergency. Any pay earned for work that is not done in support of the response to the emergency will not be subject to the pay limitation waiver.
- d. Human Resources Offices (HRO) must maintain records for each waiver request for a minimum of 6 years following the last payment made that exceeded the statutory limitation in place prior to the waiver. Each VA organization that receives approval of a waiver must keep a record of the monthly report required and make such records available for review upon request by their servicing HRO, the OCHCO, and other authorized organizations consistent with governing laws, rules, and regulations.
- e. HROs must submit Attachment B, Employee Data Sheet, to the Financial Service Center by close of business on Thursday in the second week of the each pay period to ensure employees receive the proper payments. This is critical to ensure the limitations are waived, payments are made timely, and required controls are monitored.
- f. Oversight, Review and Reporting. VA must report to Congress on a monthly basis, the use of any pay limitation waiver. The Administrations are required to submit a monthly report to the OCHCO, which must include where the waiver or waivers were used, for how many employees the waiver or waivers were used, disaggregated by component of the VA, the average amount by which each payment exceeded the waived pay limitation. The due date for the first report and the format for the report will be provided by April 20, 2020.

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6. For additional information and assistance, send inquires to the Compensation and Classification Service group box at vacocomp@va.gov or the Compensation Specialist assigned to your geographic area as shown in the Contact Us section on the OHRM Pay Administration webpage. This memorandum will be posted on OCHCO's website under HR Policy and HR Library.

/s/
Tracey Therit

Attachments:

Pay Waiver Limitation
Employee Data Sheet

Date: April 27, 2020

From: Secretary (00)

Subj: Delegation of Authority of Authorization to Waive Certain Limitations on Pay During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency (VIEWS 2659603)

To: Under Secretaries, Assistant Secretaries, and Other Key Officials

1. DELEGATION. This memorandum delegates to the Department of Veterans Affairs (VA) Under Secretaries, Assistant Secretaries, and Other Key Officials at equivalent level of authority, the authority to waive certain limitations on pay for work done in support of the response to the COVID-19 public health emergency. This delegation is only applicable to the pay categories and limitations covered in the guidance issued by VA's Chief Human Capital Officer (CHCO) and consistent with section 20008 of Public Law 116-136, The Coronavirus Aid, Relief, and Economic Security Act. This memorandum delegates to VA Under Secretaries, Assistant Secretaries, and Other Key Officials at equivalent level of authority, the authority to waive certain limitations on pay for work done in support of the response to the COVID-19 public health emergency. This delegation is only applicable to the pay categories and limitations covered in the guidance issued by VA's CHCO and consistent with section 20008 of Public Law 116-136, The Coronavirus Aid, Relief, and Economic Security Act.

2. AUTHORITY. Section 20008, Public Law 116-136; 38 United States Code (U.S.C.) §§ 303, 512; and VA Directive 0000, *Delegations of Authority*.

3. REFERENCES. 5 U.S.C. §§ 5307, 5533, 5547; 38 U.S.C. §§ 7404, 7410, 7431, 7451, 7452; 5 Code of Federal Regulations §§ 451, 530, 550; VA Directive and Handbook 5007, *Pay Administration*; and VA Directive 5001, *System of VA Human Resources Management Directives and Handbooks General Introduction and Administration*.

4. RESTRICTIONS. The authority delegated herein is intended solely to respond to a public health emergency for work done in support of response to the COVID-19 public health emergency. Except as described herein, this delegation does not otherwise affect the approval authorities authorized in VA Directive and Handbook 5007. This delegation of authority is concurrent with the Secretary's authority to grant such waivers, and does not preclude the Secretary from exercising, modifying, or further delegating such authority.

5. REDELEGATION. This authority may be redelegated in writing to a member of the Senior Executive Service (SES) or title 38 appointed SES-equivalent with knowledge of the guidance issued by VA's CHCO, and requirements for waiving

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limitations on pay for work done in support of the COVID-19 public health emergency. No further redelegations are authorized.

6. EFFECTIVE DATE. This delegation is effective upon signature and will expire 1 year from the effective date, unless rescinded or modified by the Secretary at an earlier date, or if a determination is made that there is no longer a requirement to perform work in support of the COVID-19 public health emergency.

A handwritten signature in black ink, appearing to read "Robert L. Wilkie". The signature is written in a cursive, flowing style.

Robert L. Wilkie