

January 23, 2014

A large number of IT employees received a large amount of pay recently. This was the result of NTEU's legal challenge of CBP on the Fair Labor Standards Act (FLSA) of most IT personnel. By law, most IT professionals are non-exempt; this gives the employees who work overtime time-and-a-half. CBP asserted that the employees were exempt and therefore not entitled to overtime pay. The biggest settlement was about \$45,000. One would hope that the recipients of such an unexpected bonus would come forth with NTEU membership forms.

The pay raise should be seen in your eOPF, most recent SF50--you should check to see that it is properly recorded and that no "errors" were made--the Chapter has found that routine SF-50 transactions also, mistakenly, change your FLSA (Field 35) and Bargaining Unit (Field 37) status. I suggest during new employee orientation that every employee check their eOPF several times a year.

Employees who attended the modified, seven-week canine training course between May 1, 2012 and November 18, 2013, have the opportunity to file claims for compensation for time spent studying outside regular working hours.

The link directs one to the Meeting Minutes of the September 17, 2013 CBP/NTEU Labor-Management Forum. The following subjects were addressed at the meeting: Budget Update; Trade Transformation as Reflected by the Centers of Excellence and Expertise (CEEs); Upward Mobility opportunities for employees who do not occupy positions with at least a GS-11 journeyman grade; Telework Denials; CBP Labor-Management Survey Results; CBP Officers (Enforcement) and the ability of Enforcement Officers to perform work consistent with their position descriptions and to have the ability to lateral to the CBP Officer position; Re-Promotion of former Border Patrol Agents who took a downgrade in order to move into the CBP Officer position; Boonie Hats; and Suicide Prevention Program & Alcohol Abuse Awareness.

NTEU legislative leaders from chapters across the country met to discuss NTEU's legislative program and legislative agenda for the 2014 Legislative Conference. Five issues were selected by the LAC as priorities for the 2014 Legislative Conference, and they are as follows: Ending sequestration and providing adequate agency funding to limit workforce reductions at federal agencies, including CBP, IRS, and FDA; Federal Employee Pay--providing an adequate pay raise for 2015, highlighting the negative impacts of

the three-year pay freeze; FEHBP--protecting our current employer-sponsored system, enhancing dental and vision benefits with an employer contribution; retirement, opposing efforts to increase employee contributions and cut benefits; contracting out--lower contractor reimbursement cap, end inefficient and unnecessary federal contracting.

I am working with NTEU on the CBP-imposed email storage limits.

I am part of a negotiation team working on the Mobile Workforce II Initiative. The immediate result of the negotiations is an OA survey on employee preferences (more telework at the expense of a permanently-assigned cubicle).

I am part of a negotiation team working to minimize impact on employees for a major reorganization in OTD. There should be a joint (NTEU/CBP) statement coming out this week.

If you have any concerns about the negotiations or any of the other items described above, feel free to contact me through the chapter gmail account.

December 16, 2013

Program Management Awards. DHS is requesting entries for awards in the general area of program or project management. I see no reason why CBP employees should not be in the hunt. Information is attached--the cover letter and guidebook.

Update on OTD Reorganization. NTEU has assembled a negotiation team (I am on it) and an initial proposal has been submitted to CBP. The meat of the initial proposal is that most affected employees will be allowed to telework in lieu of reporting to work in Harpers Ferry.

OTD JAC. I need a volunteer to man the OTD Joint Awards Committee. The JAC is a mechanism through which bargaining unit employees are recognized by their peers, management, and others for exceptional achievement. The JAC money pool is slightly under 1% of the BU labor budget. The JAC time commitment is about eight hours per quarter, entirely on the government's dime. If you are interested, please send me an email.

Centers for Excellence and Expertise. CBP had requested predecisional input from NTEU on its plan to restructure local import specialist teams to align with industry sectors administered by the Centers of Excellence and Expertise (Centers). CBP has provided NTEU official notice of its proposal to realign local import specialist teams with the industry sectors represented by the ten Centers rather than based on other factors usually considered by CBP at the port level. CBP would like to implement this realignment by February 17, 2014. NTEU has requested to bargain on CBP's proposal and expects to begin negotiations in January of next year.

FLAP. CBP had proposed to all-but eliminate the Foreign Language Awards Program (FLAP) by reducing the funding for the program to \$3 million; a reduction from the previously anticipated \$19 million. In response, NTEU requested to bargain and engaged in face-to-face bargaining during the week of September 15th. However, since those initial bargaining sessions, CBP has failed to respond to NTEU's latest bargaining proposals, has instructed local FLAP coordinators to submit the traditional FLAP paperwork without applying the negotiated award percentages, and most ominously, has failed to provide employees with their FLAP awards by the end of November as it has done since the FLAP was implemented in 1997. As a result, NTEU has filed the attached national grievance.

NTEU e-newsletter for CBP. NTEU has launched a new electronic newsletter for CBP issues. The flier should be posted on bulletin boards; you must be a NTEU member to subscribe.

Morale. Believe it or not, morale at DHS is in the gutter. Objective data provide proof.

December 1, 2013

Much has been going on in the Chapter recently.

Office of Training and Development.

The OTD announced a sweeping set of reorganizations some time prior to sending official notification to the Union. The essence of the reorganization: transfer 25 or so employees to Harpers Ferry, “release” 25 or so employees to find new jobs, and bring in about 20 new managers (reportedly, Coast Guard officers, under a rather uncommon job series (1750)). The reorganization was planned to be complete in early December. The local chapter became aware of the reorganization and passed the information to NTEU/National. NTEU/National immediately acted on the information.

As a result of NTEU/National queries, CBP put a temporary halt on the reorganization and formally notified the Union of the reorganization (but failed to mention the plan to bring in Coast Guard officers). The Union formed a negotiation team headed by a NTEU/National Chief Negotiator and three Chapter Officers—I am one of the three.

A formal briefing by CBP was held on November 26. At the briefing, CBP clarified its position with respect to the two lists of affected employees, but again did not mention the hiring of new managers nor did it provide the “proposed” organization charts. CBP/OTD asserts that it has to reduce the non-uniformed staff reduced to 240.

Citing CBP policy, OTD indicated that they would not be assisting in the sale of any homes. The OTD indicated that it planned to request that the affected employees prepare resumes for submission to the Indianapolis Hiring Center. Strangely enough, OTD indicated that employees not picked up by other organizations would remain OTD employees—in effect, no immediate plans for a reduction in force.

Shortly after the formal briefing, a meeting was held with OTD employees. They expressed their concerns and a list of negotiation priorities was prepared.

Suggested actions for affected employees: (1) prepare the resumes; (2) register on the NTEU job swap web site; (3) send to me any documents concerning the reorganization, hiring practices, and reassignment of duties; and (4) don't panic. The Chief Negotiator is the principal architect of the CBP/NTEU Collective Bargaining Agreement.

Office of Administration

The OA has proposed a program, Mobile Workforce, which would substantially replace conventional telework. The key element of MW is that, in exchange for more workdays away from the office, employees would give up their permanently-assigned cubicles. Initially, the MW was to cover only OA employees in the metropolitan Washington area. The exercise has expanded to include about 20 OA employees outside of the DC area and parts of the Office of the Commissioner. Having changed from a purely local issue to a national issue, NTEU/National has re-assumed the role of negotiator.

Public Transit Incentive Plan

NTEU/National needs some witnesses to "testify" that the PTIP does not cover the cost of public transportation. The idea witness would be someone who uses the Metro on a daily basis and would allow their Metro card records to be entered into evidence. Please contact me if you wish to discuss the item further or to volunteer. This is one of those rare opportunities to impress the kids about what you do for CBP: "Yes, Junior, just like on television, testifying is one of the things I do."

Performance Review

There is an effort on the part of CBP to replace the current pass/fail performance review with a graded (perhaps five levels) system. Within CBP, the pressure comes from DHS. Both DHS and CBP have asserted that the employees and supervisors are demanding this multi-level system; I have, however, not encountered those individuals. Historically, multi-tier performance ratings fail tests of objectivity and Equal Employment Opportunity (EEO) neutrality. NTEU/National is negotiating the issue; I am on the bargaining team.

Government Shutdown

For those of you keeping track, in CBP, about 10 of 11 employees were considered essential and had to report to work those first weeks of October. Those of us who were not essential were working with NTEU/National to secure pay for all employees and get employees back to work. Among our activities were rallies on Capitol Hill, interviews with a number of media outlets, and contacting members of Congress. The foreign media were especially interested in the government shutdown—I think the stories were played internationally as “This is what the United States is pushing onto the rest of the world.”

Joint Award Committee

The JAC is a mechanism through which bargaining unit employees are recognized by their peers, management, and others for exceptional achievement. The JAC money pool is slightly under 1% of the BU labor budget. The Chapter needs to provide nominations for representatives for the various JACs. Under the Collective Bargaining Agreement, each Office in CBP has at least one JAC. Each JAC has equal numbers of management and Union members (usually three each). Some large organizations, such as OA and the Office of Information and Technology, have multiple JACs. The JAC time commitment is

about eight hours per quarter, entirely on the government's dime. If you are interested, please send me an email and include your organization name.

October 16, 2013

This evening the House and Senate approved legislation that would end the government shutdown by funding federal agencies at current levels through Jan. 15, 2014, and provide back pay for furloughed federal workers. The legislation, authored by Senate Majority Leader Harry Reid and Minority Leader Mitch McConnell, would also immediately lift the debt ceiling until Feb. 7, 2014.

In addition to ending the shutdown and raising the debt ceiling, the legislation would create a bicameral conference committee charged with negotiating a final budget agreement for FY '14 by Dec. 13, 2013, so that Congress would have sufficient time to consider and pass the agreement before funding runs out on January 15.

While NTEU is pleased that Congress has reached an agreement to end the government shutdown, provide back pay for furloughed federal workers and meet our Nation's financial obligations, we are concerned the agreement only provides funding for federal agencies until Jan. 15. Should the conference committee fail to reach agreement on a final budget for FY '14 by Jan. 15, federal workers could face the threat of another government shutdown.

You can be assured in the coming days and weeks NTEU will continue to work with our supporters in the House and Senate to ensure any final FY '14 agreement provides NTEU represented federal agencies with sufficient resources to meet their missions, and ends sequestration once and for all.

Colleen M. Kelley

NTEU National President

October 15, 2013

CBP has come forth with a letter that can be used to deal with creditors. Likewise, OPM has provided prototype form letters to send to your creditors. It is recommended that you keep a copy for defensive purposes if financial problems are flagged during your periodic background investigations.

October 15, 2013

The following was received from the NTEU National President. I believe the source information was a CBP mailing to its employees. Those of us on furlough would, of course, would not have received it.

SUBJECT: Employee Pay during the Funding Hiatus

This is a very challenging time for DHS employees and, unfortunately, many will see a negative impact to their pay during the funding hiatus. Although I hope that this situation will be resolved soon, I want to make sure employees know what to expect.

The first pay check impacted by the funding hiatus is for pay period 19. Pay period 19 covers September 22, through October 5, 2013. The National Finance Center expects payroll for pay period 19 to occur on the regularly scheduled official pay date of October 17th. Some employees may see deposits to their accounts before that date depending on their bank or credit union policies. All DHS employees perform

valuable and important work; however, during the funding hiatus employees' pay is impacted differently depending on the source of funding for their positions and the nature of their work.

Employees not impacted by the lapse of appropriations (for example, employees paid from fee funded and multi-year accounts) will continue to receive their pay notwithstanding the lapse in appropriations.

Employees who are covered by appropriations that have lapsed but who have been declared exempt from the furlough will be paid for time worked and paid leave taken from 9/22/2013 through 9/30/2013. Hours worked from 10/01-10/05/2013 will be paid once Congress approves and the President signs an appropriations bill or a continuing resolution.

Furloughed employees will be paid for time worked and paid leave taken from 9/22/2013-9/30/2013. Hours worked on October 1st, to conduct an orderly shutdown (up to 4 hours) will be paid once Congress approves and the President signs an appropriations bill or a continuing resolution. If Congress passes and the President signs a bill to retroactively compensate furloughed employees, employees will also be compensated for the furlough period.

Component Employee Assistance Programs (EAP) are expected to continue to operate during the furlough and employees may benefit from counseling assistance from their Component EAPs during this stressful time (see<http://www.dhs.gov/employee-assistance-program-eap>). In addition, employees may want to contact their bank, credit union, other financial institutions, or the Thrift Savings Plan (<http://www.tsp.gov>) to learn about other options for financial assistance.

I understand and regret the impact the funding hiatus is having on our employees' personal lives. I encourage you to take advantage of these resources and I sincerely hope that we will all be back at work together again soon. I also want to stress that our inability to fund the payroll does not diminish the respect and appreciation that I have for our employees.

//Signed: Colleen Kelley, NTEU National President//

October 12, 2013

A procedural vote in the Senate to allow debate on S. 1569, a bill to extend the debt ceiling to Dec. 31, 2014 failed today when no Republicans voted in favor of the motion. Cloture motions require 60 votes to pass. Talks between parties and the White House have brought no result to solving the crises in Washington.

House and Senate Democrats and Republicans met separately with the White House this week to discuss plans to end the government shutdown and raise the debt limit ceiling. The talks ended with little agreement on how to proceed. The Senate will be in tomorrow and the House comes back on Monday. A previously scheduled recess for next week has been canceled.

October 11, 2013

Yesterday, the House again passed a "mini CR", this time providing continuing appropriations for certain parts of the Department of Homeland Security, including Customs and Border Protection, ICE, and the Coast Guard, until December 15. Also, meetings were held between the President and Members of the House and Senate to discuss possible resolution of the government shutdown and debt ceiling increase stalemates.

House Republicans continued their effort to open the government on a piecemeal basis. The DHS resolution will not be taken up by the Senate. Rather, both the House and Senate are devising plans to end the government shutdown and raise the debt limit ceiling. No bills have been introduced at this point, but NTEU continues to voice its support for an end to this crisis. NTEU has sent a clear message to Congress: Open the government. We want to work.

If you were deemed essential, you are painfully aware, yesterday CBP began implementing a draconian leave/excused absence policy that essentially prohibited the granting of all leave, whether annual, sick, or leave-without-pay, with employees being told that they would be considered AWOL if they did not report to work.

Within hours, NTEU began receiving reports from employees that:

An employee was prohibited from attending his own wedding unless he could arrange an RDO swap. However, "he could forget" about going on a honeymoon;

All pre-approved leave was rescinded unless the employee would forfeit at least \$1,000 in expenses;

All doctor's appointments were canceled unless it was "urgent";

An employee who came to work sick as ordered was told that he was being charged AWOL because he came to work without a doctor's note where he was unable to get an appointment with his doctor;

A severely distraught officer in the middle of bad migraine attack was told she could not go home on sick leave because the matter was not "life-threatening";

An employee was not permitted to take care of his newborn child in the absence of his wife because he had an in-law that lived 50 miles away that could watch the child;

Headquarters must approve all leave requests in excess of 8 hours;

If annual and sick leave was canceled and in the event an employee's spouses was required to visit the doctor, s/he was to get a ride from a neighbor;

Supervisors are to report the extent of an employee's illness so that the Port Director can determine whether the employee is sick;

Incredulous about what CBP was doing, NTEU contacted CBP at the highest levels demanding an explanation and the justification, legal or otherwise for why it was punishing its employees for the shutdown.

While CBP did not provide a response to NTEU questions, it has informed NTEU that it is issuing the attached Clarifying Guidance on Leave and Excusals that will hopefully bring some sanity to the excusal/leave process. The key sentences in this guidance are as follows:

However, the supervisor of an exempt employee who is unable to work during the furlough may change the status of the employee to 'non-exempt' on either a temporary or permanent basis in order to

approve the employee's absence. In determining whether an employee assigned to an excepted function can be released, supervisors and managers should consider the impact of the employee's release on the agency's ability to perform the excepted function in combination with the needs of the employee. Where the impact of the employee's release on the excepted function is minimal, or coverage can be accommodated through alternative methods (e.g., adjusting the employee's work schedule or recalling another employee to perform the released employee's excepted work), the employee's release should be permitted.

Of course, NTEU will be watching closely to ensure that these words are actually properly implemented at the local level. Please contact your chapter president if you have any further information on this important subject.

Treasury Credit Union has information available for those running into financial problems.

October 8, 2013

NTEU is holding a rally near the Capitol to help bring an end to the current mess--furloughs, debt ceiling, lack of a budget, sequestration, legislative impasse, and the like. The previous furlough involved a number of labor organizations and attracted a very large contingent of international news outlets. Make yourself and the issues heard--attend the rally.

October 7, 2013

The full House on October 5 approved H.R. 3223, the Federal Employee Retroactive Pay Fairness Act. The bill passed with 407 votes and not a single member opposing. Once the Government is funded, this bill will retroactively compensate Federal employees furloughed as a result of any lapse in appropriations beginning on October 1, 2013, for the period of the lapse. Federal workers keep the Nation safe and secure and provide vital services that support the economic security of American families.

This bill alone, however, will not address the serious consequences of the funding lapse, nor will a piecemeal approach to appropriations bills. The House of Representatives should allow a straight up or down vote on Senate-passed H.J. Res. 59, a clean Continuing Resolution, to fund the Government and bring the Nation's dedicated civil servants back to work.

To find out more and see what you can do, go to the NTEU Legislative Action Center.

October 3, 2013

Not a whole lot to write--the government remains shut down with no apparent restart in sight.

NTEU, other labor organizations, and responsible elements of Congress are holding a rally October 4. If you have the opportunity, please participate. I have attended these things in the past--the permit is handled by the organizer, signs are distributed, and speeches are made. Usually, the events are covered by the local media--THIS IS A CHANCE TO BE ON TV.

A number of NTEU members have asked about applying for unemployment benefits. You can do this; in the event that Congress acts and reimburses you for your furlough days, you will need to return the money to the your state or DC.

Virginia Unemployment Compensation forms are on line.

October 1, 2013, 12:05AM

The House and Senate have not passed funding legislation to keep the government operating beyond the midnight deadline. The House and Senate will continue debating tonight. We will update you in the morning as to whether the shutdown will continue.

The government is in shutdown mode. Visit the OPM website for shutdown guidance.

September 30, 2013, 9:45PM

SUMMARY: The Senate has rejected the House passed amendments to a Continuing Resolution and sent a "clean" CR back to the House.

The Senate voted to reject the House passed amendments to a Continuing Resolution and sent a "clean" CR back to the House.

It is unclear what the House will do next. We will keep you updated on any developments.

September 30, 2013, 8:45PM

SUMMARY: The House has voted again to add controversial provisions to the Continuing Resolution (CR) needed to fund the federal government and avoid a shutdown at midnight tonight.

The House has voted again to add controversial provisions to the Continuing Resolution (CR) needed to fund the federal government and avoid a shutdown at midnight tonight. The House added provisions to delay the individual mandate in the Affordable Care Act and to clarify that all Members of Congress and Congressional staff, as well as the President and Vice President and all political appointees of the Executive Branch will be prohibited from participating in the Federal Employees Health Benefit Program.

It would also prevent all of those individuals from receiving any government/employer contribution toward their health care premiums under the new health care exchanges, which would be their only source of health care coverage. These individuals would have to pay the whole cost of those premiums for coverage designed for individuals without employer provided health care. Those individuals would also no longer be eligible to continue FEHBP coverage into retirement unless they retire before January 1, 2014.

It is extremely unlikely that the Senate will approve these changes. It is unclear what the next step will be and whether a CR will clear the House and Senate and be signed by the President before funding runs out triggering a government shutdown at midnight. We will keep you informed of any developments.

September 29, 2013

The House has passed another Continuing Resolution (H.J.Res 59) that would fund the government through December 15th, 2013. It made several changes to the version passed by the Senate. It added a provision that would delay Obamacare for a year and a provision that would repeal a tax on medical devices that is a funding source for Obamacare. It also changed the duration of the CR from November 15th to December 15th.

The House also passed a bill, H.R. 3210, which would provide appropriations necessary to fund pay and benefits for active duty military and a small number of civilians who support them until other appropriations legislation is enacted or January, 2015, whichever is sooner.

The amended version of the CR must now go back to the Senate for further consideration. It is very unlikely that the Senate will pass this version of the CR. It is unclear whether the Senate will pass anything other than a "clean" CR without any extraneous provisions. In addition, unlike the House, procedural delay options can be triggered by a minority of Senators, which could make it difficult for the Senate to pass another CR by the midnight Monday, September 30th deadline.

The Senate was not scheduled to be back in session until Monday, but could possibly reconvene on Sunday. We will provide you with further updates as they become available. For more information and to see what you can do, [click here](#) or go to the [NTEU Government Shutdown page](#).

September 28, 2013

The news of the day is that employees have been given notice of whether or not they are exempt from the furlough that could impact 10,000 of CBP's 60,000 bargaining unit employees. Your Chapter President is one of the 10K. Per CBP, Union activity, such as grievances and representational meetings is prohibited,

CBP has informed NTEU that in the event of a lapse in appropriations as a result of a government shutdown, official time cannot be approved. Furloughed employees are prohibited from working on official time because official time is considered to be a paid status and agencies are not permitted to incur financial obligations during a lapse in appropriations. Employees who are exempt from the furlough are also prohibited from working on official time because they are only permitted to work on activities that are authorized under the Anti-deficiency Act, which does not include official time used for union representational activities.

In the event of a government shutdown, CBP has advised NTEU that our union representatives on block official time are to report to their supervisor of record to obtain reporting instructions.

The practical consequence of the above is not to get into trouble--the Union can not help you until the end of the furlough.

