



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240



November 19, 1991

PERSONNEL MANAGEMENT LETTER NO. 91-10 (550) (553)

SUBJECT: Departmental Policy on Pay Reform - Reemployment of Military and  
Civilian Retirees to Meet Unusually Serious Employment Needs

Attached is the Department's policy regarding the implementation of provisions of Section 108 of the Federal Employees Pay and Comparability Act of 1990. This policy incorporates comments made by bureau personnel offices in response to PMB 91-195, dated September 13, 1991.

This policy will be incorporated in appropriate chapters of the Departmental Manual when they are revised in the future.

Morris A. Simms  
Director of Personnel

Attachment

INQUIRIES: Cynthia Hancock, Division of Staffing, Classification and  
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Reemployment of Military and Civilian Retirees  
to Meet Exceptional Employment Needs

I. Authorities

5 U.S.C. 5532

5 U.S.C. 8344

5 U.S.C. 8468

5 C.F.R. Parts 550 and 553

II. Policy

The Department of the Interior hereby establishes a policy for reemployment of military and civilian retirees to meet exceptional employment needs in accordance with the regulations issued by the Office of Personnel Management (OPM) in 5 CFR 550. Heads of bureaus and offices will be responsible for administering this policy.

III. Approving Officials

Requests for approval of individual cases or for delegation of authority should be addressed through the appropriate Assistant Secretary to the Director of Personnel for Departmental review, determination, and subsequent forwarding to the Office of Personnel Management. Except in very unusual circumstances, all cases must be approved by OPM. OPM will entertain requests to delegate authority to approve individual cases only when an agency can demonstrate that submission of individual requests would be impracticable in a particular emergency. A determination made in connection with one position does not require a like determination in connection with another position.

IV. Definitions. For the purposes of this subchapter, the following definitions apply:

(a) "Agency" means an Executive Agency as defined by 5 U.S.C. 105.

(b) "Annuitant" refers to a current or former civilian employee who is receiving, or meets the legal requirements and is applying or has announced intention to apply for an annuity under subchapter III of chapter 83 or 84 of title 5, United States Code, based on his or her service.

(c) "Retiree" refers to either an annuitant or a former member of a uniformed service who is receiving retired or retainer pay.

## V. Information Required for All Requests

The following information is required on all requests for exception, regardless of type:

### INFORMATION ABOUT THE INDIVIDUAL

(a) Name, social security number and CSRS or FERS claim number, as applicable.

(b) Date and type (voluntary, discontinued service, etc.) of retirement. For a military retiree, rank at retirement and type of service (regular or reserve, officer or enlisted). Amount of current annuity or retired or retainer pay.

(c) Description of how the individual's qualifications meet the agency's emergency need or critical skills shortage (attach SF-171).

(d) Documentation by the individual that he or she will not accept the job if pay or retirement is reduced. Documentation of bona fide offers of nonfederal employment, if any.

### INFORMATION ABOUT THE POSITION

(a) Title, series, grade, salary duty location and type of appointment.

(b) Copy of the position description and description of the qualifications required, including any selective factors or other specific requirements that justify the submission and the reason for the submission (emergency hiring need, severe recruiting difficulty).

VI. Requests based on an emergency hiring need. Bureaus may request retired military and civilian personnel to be employed without loss of pay or annuity when an individual's services are needed on a temporary basis to respond to an emergency involving a direct threat to life or property or other unusual circumstances.

(a) Bureau requests should identify the individual for whom the exception is requested, the appointing authority to be used and the position to which he or she will be appointed, specifically described in V. above.

(b) Requests must also describe the military threat, natural disaster or other unforeseen circumstance, the date it occurred and the expected duration of the emergency. In addition, the request must describe what the proposed appointee will do in the immediate response effort and clearly indicate how the individual is uniquely qualified for the work to be done. Requests should also clearly show that the number of positions to be filled and/or the urgency of response justifies making the particular appointment without delay. Requests to approve reemployment without penalty solely to meet normal seasonal workload fluctuations do not meet the intent of the exception criteria.

VII. Requests based on severe recruiting difficulty. Bureaus may submit requests for exception based on exceptional difficulty in recruiting a qualified candidate for a particular position.

(a) Requests must contain the information described in V. above. In addition, bureaus should include a description of the length, breadth and results of the agency's recruiting efforts for the position and any other factors demonstrating that a legitimate recruiting need cannot be met without the requested waiver. These factors must include:

- number of vacancies in the series, grade and location; length of time the particular position has been vacant, and average length of vacancies in such positions; average annual turnover in the series, grade and location.

- description of recruiting efforts (type of publicity, sources contacted, geographic scope, etc); number and quality of applicants responding to these efforts; and the number of declinations based on pay/retirement issues (indicate how many specifically cited pay/retirement offset concern, how many cited nonfederal job offers which would not require any reduction, and how many cited dissatisfaction with the combined compensation they would receive).

(b) Requests should also describe other staffing alternatives which were considered but which were found to be unacceptable. Examples include: reengineering or redistribution of work; contracting; use of a recruitment bonus; training (including formal education), cooperative education, and similar programs to increase the supply of qualified candidates.

VIII. Requests based on the need to retain a particular individual. Bureaus may submit requests for an exception based on the need to retain the services of a particular individual for an ongoing project. It is anticipated that this provision will be used in very rare instances.

(a) Requests must contain the information specified in V, in addition to describing the importance of the project to the mission, the potential costs of project failure or delay, legislative or Presidential deadlines and any other pertinent information which demonstrates the critical nature of the project.

(b) The bureau must also describe the knowledges, skills and abilities which the individual possesses which are essential to the successful completion of the project and that could not be acquired by another appointee within a reasonable period of time. In addition, the bureau must indicate why the work could not be assigned to other employees currently involved with the project. The bureau must show good cause to believe that the employee will retire or, in the case of a military retiree employed in a civilian position, will resign from that position.

Appropriate documentation might include a bona fide offer of nonfederal employment or information about changes in or expiration of benefits (such as retirement, health benefits or life insurance) or other circumstances to support the claim that the employee cannot or will not delay retirement.

(c) Discuss the possibility of using a retention allowance to retain the employee through completion of the critical project.

IX. Requests for delegation of authority to approve individual cases in particular emergency situations. Requests for delegation must involve an emergency which poses an immediate and direct threat to life or property. A potential or indirect threat is not sufficient and the emergency must be beyond the scope of the agency's normal responsibilities.

(a) Requests must describe the occupations, grades and location of the positions to be filled under the delegation.

(b) Positions to be filled must be directly connected with the immediate response effort and not involved in providing administrative or clerical support or long-term follow-up.

(c) Positions must be involved in the prevention or reduction of the threat to life or property (e.g., treating casualties resulting from a major disaster or military action, cleaning up a major oil spill, or assessing structural soundness following a disaster). Requests for delegation to approve appointments to positions involved in reimbursement or compensation for damage that has already happened will not be approved.

X. Application and Length of Exceptions. An exception granted under this authority applies only to the particular individual for whom it was authorized and only while that person serves in

the same or a successor position. Approvals will generally specify a time limit. If a bureau wishes to continue the exception for an individual beyond the specified time, the request for renewal must clearly show that the same conditions upon which the original approval was based, still exist.

XI. Status of employees serving without penalty. Civilian annuitants reemployed with full salary and annuity under the exception described above are not considered employees for purposes of subchapter III of chapter 83 or 84 of title 5, United States Code. As such, they may not elect to have retirement contributions withheld from their pay; they may not use any employment for which an exception has been granted as a basis for a supplemental or recomputed annuity; and they may not participate in the Thrift Savings Plan. Retired military members employed without reduction in retired or retainer pay under the provisions are considered employees for the purposes of subchapter III of chapter 83 or 84 of title 5, United States Code.