

GAO

Report to the Ranking Minority Member,
Subcommittee on Post Office and Civil
Service, Committee on Governmental
Affairs, U.S. Senate

December 1995

RETENTION ALLOWANCES

Usage and Compliance Vary Among Federal Agencies





United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-260236

December 11, 1995

The Honorable David Pryor
Ranking Minority Member
Subcommittee on Post Office
and Civil Service
Committee on Governmental Affairs
United States Senate

Dear Senator Pryor:

This report responds to your September 30, 1994, request that we review federal agencies' use of retention allowances as salary supplements to retain essential employees. In that letter and in subsequent meetings with your office, you asked that we report on (1) the total and average values of the allowances, as well as the highest values of individual allowances, at selected federal agencies for the period 1991 through 1994; (2) the extent to which Senior Executive Service (SES) employees are receiving retention allowances; (3) any compliance issues identified during limited review of agencies' retention allowance awards; (4) whether agencies are preparing retention allowance plans in accordance with Office of Personnel Management (OPM) regulations; and (5) the extent to which OPM is performing oversight of the use of retention allowances.

Background

The retention allowance authority was established by section 208 of the Federal Employees Pay Comparability Act of 1990 (FEPCA).¹ The act required OPM to issue governmentwide regulations on retention allowances, which it did on March 28, 1991. The act and OPM's implementing regulations require agencies to document that (1) each allowance paid is based on a determination that unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee and (2) in the absence of such an allowance, the employee would be likely to leave federal employment. The agency must also document the extent to which the employee's departure would affect the agency's ability to carry out an activity or perform a function deemed essential to the agency's mission.

The regulations also require agencies to prepare retention allowance plans. The plans must include (1) criteria that must be met or considered in authorizing allowances, including criteria for determining the size of an allowance; (2) a designation of officials with authority to review and

¹5 U.S.C. 5754.

approve payment of retention allowances; (3) procedures for paying allowances; and (4) documentation and recordkeeping requirements sufficient to allow reconstruction of the actions taken to award the allowance.

Agencies are permitted to pay employees allowances of up to an additional 25 percent of their basic pay. An agency may continue to pay a retention allowance as long as the conditions giving rise to the original determination to pay the allowance still exist, but it must conduct a formal review at least annually to determine whether the retention allowance is still warranted and document this review by means of an authorized official's written certification.

Results in Brief

As of September 30, 1994, 354 of the 2.9 million civilian executive branch employees were receiving retention allowances.² On an annualized basis, the cost of these allowances was approximately \$2.8 million. Five agencies—the Departments of Defense (DOD), Energy (DOE), and Agriculture (USDA); the Export-Import Bank (Ex-Im Bank); and the Securities and Exchange Commission (SEC)—awarded 334 (94 percent) of these retention allowances.³ As agreed with your office, we focused our review on these five agencies and found that Ex-Im Bank awarded allowances to 21.7 percent of its employees in fiscal year 1994, while the other agencies gave allowances to 0.3 percent or fewer of their employees. The average allowance at the five agencies during fiscal years 1991 through 1994 was \$7,789 per employee,⁴ with the highest allowance—\$28,925—awarded to a DOD employee.⁵ Five allowances were awarded to SES employees at these agencies.

Ex-Im Bank did not appear to comply with the statutory requirement that it must determine that prospective recipients would be likely to leave the

²After completion of our review, OPM said that it had discovered that the Department of Health and Human Services (HHS) had not reported allowance data and that HHS had an estimated 20 employees who had received allowances during fiscal year 1994. Since OPM did not know the exact number of HHS employees receiving allowances as of September 30, 1994, the 354 allowances does not include HHS.

³Our work at DOD included Army, Navy, and Air Force civilian personnel who received 98 percent of all DOD retention allowances during fiscal years 1992 through 1994.

⁴The \$7,789 average was computed without including 61 retention allowances awarded by DOD in fiscal years 1992 through 1994 because DOD did not provide the award amounts in time for publication of this report.

⁵We did not evaluate the appropriateness of individual allowance amounts or of the proportion of employees at each agency who received allowances.

agency if they did not receive an allowance. We informed OPM of our preliminary compliance concerns. Subsequently, in furtherance of its oversight responsibility, OPM initiated an in-depth review of Ex-Im Bank's use of retention allowances and recruitment bonuses. Accordingly, we decided to forgo further work on this compliance issue.

While the five agencies' retention allowance plans contained most of the features required by OPM regulations, such as criteria for selecting and approving retention allowance recipients, three of the five agencies—DOD, Ex-Im Bank, and SEC—did not include the criteria to be used for determining the amount of employees' allowances in their plans.

OPM's regulations do not require agencies to review and recertify retention allowances as the result of an increase in the employee's basic pay. Most agencies told us that they allowed their employees' allowances to increase automatically if the basic pay increases during the allowance period, such as governmentwide pay increases, were minimal. However, officials at two of the agencies said that, for some situations at least, their approving officials may have permitted allowances to increase automatically even if the employees' basic pay increases were significant, such as when they were promoted.⁶ An OPM official told us that, although OPM intended in writing the regulations to give agencies flexibility in administering retention allowances, OPM nevertheless believed that agencies would likely review employees' allowances when employees received significant increases in basic pay.

OPM has developed regulations and conducted longitudinal studies of FEPCA's incentive pay programs, including some on-site compliance reviews of FEPCA actions by selected installations. These reviews did not reveal systemic problems in the use of these authorities. However, after we discussed our preliminary findings with OPM, it began an in-depth review of Ex-Im Bank's use of pay flexibilities provided by FEPCA, including retention allowances.

Scope and Methodology

To identify which agencies gave the largest number of retention allowances and the highest amounts awarded, as well as to determine the total value of retention allowances and the number of SES employees awarded allowances, we reviewed OPM retention allowance reports for

⁶We did not expand our sample to verify whether some officials had permitted allowances to increase automatically.

fiscal years 1991 through 1994,⁷ which were derived from OPM's Central Personnel Data File (CPDF).⁸ We selected the five agencies that the data showed had the most allowances from fiscal years 1991 through 1994—DOD, Ex-Im Bank, SEC, DOE, and USDA.

To assess whether agencies were preparing retention allowance plans in accordance with OPM regulations, we obtained and reviewed agencies' retention allowance plans and compared the provisions and other information in these documents with requirements in OPM retention allowance regulations. In addition, we interviewed agency officials about their plans. To perform a limited review of agencies' retention allowance awards, we interviewed agency officials about their award procedures and reviewed individual retention allowance justification documents for 43 selected awards at the five agencies. We did not evaluate the appropriateness of individual allowance amounts or the proportion of agencies' employees who received allowances. The 43 awards, although randomly selected from groups of retention allowances that were stratified based on grade levels, are not projectable because we were unable to review sufficient numbers of awards at each agency due to time constraints.⁹

To determine the extent of OPM's oversight efforts, we interviewed OPM program and oversight officials and reviewed documentation they provided, including reports statistically analyzing retention allowances by agency. We also informed OPM's program and oversight officials of our preliminary compliance concerns at Ex-Im Bank. Subsequently, OPM officials decided to conduct an in-depth review of Ex-Im Bank's use of retention allowances and recruitment bonus programs.

We provided a draft of this report for comment to the heads of DOD, DOE, Ex-Im Bank, OPM, SEC, and USDA. Their comments are summarized on pages 12 through 14. Written comments from DOD, Ex-Im Bank, and SEC are reproduced in appendixes I through III, respectively.

Our review was conducted in the agencies' Washington, D.C., headquarters offices from November 1994 to September 1995 in accordance with generally accepted government auditing standards.

⁷Office of Workforce Information Central Personnel Data File Report, prepared quarterly by OPM.

⁸The CPDF is OPM's automated system that contains personnel information for most federal civilian employees in the executive branch, as well as for employees at selected agencies in the legislative branch. We did not independently verify the accuracy of CPDF data for the allowance reports.

⁹We reviewed 19 allowances at DOD, 7 allowances at Ex-Im Bank, 12 allowances at USDA, 2 allowances at DOE, and 3 allowances at SEC.

Retention Allowances Were Generally Awarded to a Limited Number of Employees

As of September 30, 1994, 354 employees (excluding HHS employees), or about 0.01 percent of the approximately 2.9 million federal civilian employees, were receiving retention allowances.¹⁰ Of these allowances, 334 (94 percent) had been awarded by the five agencies we reviewed. The number and amount of retention allowances awarded at the five agencies in fiscal years 1991 through 1994 are presented in table 1. As shown in the table, the annualized value of retention allowances for these agencies increased from approximately \$21,000 in fiscal year 1991 to about \$2.8 million in fiscal year 1994.

Table 1: Numbers and Amounts of Five Agencies' Retention Allowances, Fiscal Years 1991 Through 1994

Dollars in thousands

Agency	1991		1992		1993		1994	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
DOD	0	\$0	76	\$351.3	158	\$1,077.3	248	\$1,993.3
Ex-Im Bank	0	0	0	0	0	0	100	498.9
DOE	1	10.6	3	56.9	4	63.3	6	89.6
USDA	1	10.5	6	40.0	4	31.3	12	124.4
SEC	0	0	0	0	3	16.3	8	68.5
Total	2	\$21.1	85	\$448.2	169	\$1,188.2	374 ^a	\$2,774.7

^aThe 374 allowances represent cumulative awards during fiscal year 1994 as compared to the 334 allowances mentioned previously, which were in effect as of September 30, 1994.

Source: Data provided by officials in personnel offices of the listed agencies.

The average allowance at the five agencies during fiscal years 1991 through 1994 was \$7,789 per employee.¹¹ In fiscal year 1994, the highest allowance of \$28,925 was awarded by DOD, and the average amounts awarded per agency varied from \$4,989 at Ex-Im Bank to \$14,928 at DOE. In addition, five retention allowances were awarded to SES employees in four of the five agencies during fiscal years 1991 through 1994.¹² Table 2 presents the average and highest amounts for retention allowances awarded by each of the five agencies in fiscal years 1991 through 1994.

¹⁰Office of Workforce Information Central Personnel Data File Report, dated September 1994. This OPM report lists allowances awarded during the previous quarter and ongoing allowances awarded during prior quarters.

¹¹The \$7,789 average was computed without including 61 retention allowances awarded by DOD in fiscal years 1992 through 1994 because DOD did not provide the award amounts in time for publication of this report.

¹²Ex-Im Bank does not have any SES positions, and its policy does not permit use of retention allowances for its equivalent Senior Level positions.

Table 2: Average and Highest Amounts for Retention Allowances Awarded by Five Agencies, Fiscal Years 1991 Through 1994

Agency	1991		1992		1993		1994	
	Average	High amount	Average	High amount	Average	High amount	Average	High amount
DOD	\$0	\$0	\$5,516	\$25,125	\$6,950	\$21,647	\$9,771	\$28,925
Ex-Im Bank	0	0	0	0	0	0	4,989	12,836
DOE	10,513	10,513	18,962	28,025	15,814	20,598	14,928	21,092
USDA	10,567	10,567	6,668	11,010	7,834	11,418	10,364	17,097
SEC	0	0	0	0	5,431	7,708	8,558	10,148

Source: Data provided by officials in personnel offices of the listed agencies.

Among the five agencies, Ex-Im Bank awarded allowances to the largest proportion of its employees. Ex-Im Bank awarded allowances to 21.7 percent of its 462 employees during fiscal year 1994, while none of the other agencies awarded allowances to more than 0.3 percent of their employees.¹³ Table 3 presents the percentage of employees receiving allowances at each of the five agencies during fiscal year 1994.

Table 3: Percentage of Employees Receiving Allowances in Fiscal Year 1994 at Five Agencies

Agency	Number of allowances	Number of employees	Percent
DOD	248	731,321	0.03%
Ex-Im Bank	100	462	21.65
DOE	6	19,899	0.03
USDA	12	119,558	0.01
SEC	8	2,689	0.30
Total	374	873,929	0.04%

Source: Developed by GAO from OPM and agencies' data.

¹³We did not evaluate the appropriateness of individual allowance amounts or the proportion of employees at each agency who received allowances.

When Awarding Allowances, Ex-Im Bank Did Not Appear to Determine That an Employee Was Likely to Leave, Absent an Allowance

Ex-Im Bank did not appear to comply with the statutory requirement that it determine that the employee was likely to leave if the employee did not receive an allowance, which could result in unnecessarily spending funds for allowances. None of the seven Ex-Im Bank allowances we reviewed contained information that indicated the employee was considering leaving the agency. Bank officials stated that approximately 90 percent of the 100 allowances awarded were initiated based on management's recognition of the employees' special talents and their attractiveness to other employers, rather than on more definitive information, such as whether the employees were considering other job offers.

Ex-Im Bank officials said that high level performance is a major criterion for selecting award recipients; that is, allowance recipients are generally selected from those employees who have outstanding performance ratings because this group includes those most necessary to the Bank's successful accomplishment of its mission. Officials said that they time the awards of new retention allowances and the recertification of existing allowances to coincide with the results of their performance appraisal process. Ex-Im Bank officials noted, however, that there is no direct linkage between a performance rating and a retention allowance. In justifying the use of performance ratings in awarding retention allowances, Ex-Im Bank officials said that high performing employees have been found to be particularly attractive to the private sector and, therefore, more likely to have opportunities to leave the agency.

In 1992, prior to initiating its retention allowance program, Ex-Im Bank requested special pay rate authorities from OPM to pay certain of its employees more money. Ex-Im Bank officials said that OPM denied their request and encouraged them to consider other remedies to their staffing problems, including retention allowances. OPM officials told us that they had discussed various pay and nonpay flexibilities, including retention allowances, with Ex-Im Bank officials. OPM officials also provided us with copies of the governmentwide guidance that they had provided to Ex-Im Bank. They noted that, while they encourage agencies to use available pay flexibilities, agencies need to follow established regulations—for example, determining whether the employee was likely to leave without the retention allowance and documenting the extent to which the employee's departure would affect the agency's ability to carry out its mission. OPM officials said that the fact that an employee had a high performance rating is not sufficient to meet these requirements.

We discussed with OPM officials our concern that, in the seven cases we reviewed, Ex-Im Bank did not appear to determine that the employee was likely to leave if the employee did not receive an allowance. After these discussions and in furtherance of its oversight responsibility, OPM initiated an in-depth review of Ex-Im Bank's use of pay flexibilities, including retention allowances and recruitment bonuses. Because of OPM's oversight role and its decision to review a larger number of Ex-Im Bank cases to pursue the compliance issue on a systemic basis, we decided to forgo further work on the issue.

Three Agencies' Plans Failed to Include Required Rationale for Allowance Amount

While the five agencies' retention allowance plans included most provisions required by OPM regulations, including designating officials with authority to review and approve allowances and providing criteria for selecting allowance recipients, DOD, Ex-Im Bank, and SEC did not include their rationales for determining the amount of the retention allowances in any of their plans. Without the documented rationale, it is impossible for an approving official to readily assess the appropriateness of the proposed award amount and to ensure that the agency is not awarding higher amounts than are necessary to retain the employee.

A DOD wage administration specialist told us that a specific DOD-wide rationale was not included in its plan because DOD wanted to give the individual approving officials flexibility in awarding allowances, including the authority to determine the amounts of retention allowances. The official said, however, that a planned revision of the plan will indicate that appointing officials should apply criteria for determining retention allowance amounts consistent with OPM's regulations. SEC said that, as a small agency, it is able to handle the retention allowance process on a case-by-case basis and thus had not seen a need to formalize criteria for determining the size of an allowance. Both the Vice President for Management Services and a personnel specialist at Ex-Im Bank said that the omission of a rationale in their retention allowance plan was an oversight. Both individuals said that the agency wants the plan to comply with all of OPM's regulations and that the plan would be revised accordingly.

Agencies Have Varying Views About OPM's Regulatory Requirements for Recertification of Retention Allowances

OPM regulations do not require written recertification when an employee receives an increase in basic pay. However, the agencies we reviewed generally believed that retention allowances should be recertified when their employees received significant increases in basic pay. For minimal increases, such as government-wide pay raises, DOD, DOE, Ex-Im Bank, and USDA do not specifically require recertification, thereby permitting the allowances to continue at the same percentage rates, recognizing that the allowances increase in amounts proportionate to the increases in employees' basic pay. Ex-Im Bank said that it also allows for automatic recertification for promotions at lower grade levels. Conversely, SEC believed all allowances should be recertified whenever basic pay increases, regardless of the size of the increase.

A USDA official told us that, while most approving officials recertify allowances when employees are promoted, some officials have interpreted OPM's regulations as allowing the allowances to continue at the same percentage rate when any basic pay increase occurs, including those due to promotions. Similarly, DOD officials said that they believed most approving officials recertify promoted employees' allowances, but that they could not be sure that some officials do not automatically increase allowances in proportion to promotions or other significant pay increases. DOE and Ex-Im Bank officials said that they believed that promotion to a new position with significantly higher pay results in changes to the conditions that justified the allowance and that the regulations therefore require that a new decision be made regarding the retention allowance.

An SEC personnel official told us that he believed a recertification is required for any increase to an employee's allowance. He added that it would be unlikely for SEC to increase the value of an allowance when the basic pay rates increased, because the initial award established an amount that the employee in effect agreed was sufficient to retain his/her services. Thus, it would be more likely that the allowance would be decreased or terminated when the employee's basic pay was increased.

OPM Compensation Administration Division officials said that OPM regulations do not require that the allowance percentage be changed when an employee receives an increase in his/her basic pay. OPM officials pointed out that the law (5 U.S.C. 5754(b)) requires that a retention allowance be stated as a percentage of the rate of basic pay and that this supports the notion that it may be appropriate to adjust retention allowances automatically based on changes in the rate of basic pay. One of the OPM officials told us that OPM intended to allow agencies flexibility in

their approaches to these increases, including not necessarily requiring recertification, but that OPM believed that agencies would likely review employees' allowances when employees received significant increases in basic pay.

OPM noted that, as part of their responsibility for administering the program, agencies are expected to reduce or terminate a retention allowance whenever they become aware that the original set of conditions justifying the allowance have changed to the extent that the approved allowance is no longer warranted. Further, OPM believes that agency evaluations of changes in a variety of related factors—for example, the employee's rate of basic pay, an agency's continuing need for the services of the employee, the employee's performance, and staffing and labor market factors—like the original determinations for granting retention allowances, are matters of judgment that cannot easily be reduced to a precise formula. Moreover, changes in a single factor, such as an increase in the rate of basic pay, do not necessarily mean that a full review and a new written certification are necessary. OPM believes that approving officials need to weigh all relevant factors and that they are in the best position to determine whether and when a formal review or changes are necessary. In any event, OPM's regulations require agencies to review each retention allowance annually and to certify in writing whether the payment is still warranted.

OPM's Oversight of the Retention Allowance Program

In carrying out its oversight responsibility, OPM has relied on agencies to report retention allowance activity to OPM's CPDF. Most federal agencies report specific personnel-related information on the awarding of retention allowances, including the recipient's name, pay plan, performance rating, basic pay rate, position, and the value of the allowance. OPM has used this information to produce quarterly reports showing active retention allowance data governmentwide. To monitor the program, OPM has done statistical analyses of the agency-provided information, which included determining whether the allowance exceeded the 25-percent limitation and whether the allowance—when added to the total compensation received by the employee during the calendar year—exceeded the rate payable for level I of the Executive Schedule, the current statutory maximum pay rate. OPM officials said that they had not identified any noncompliance using these analyses.

Until March 1994, OPM also conducted periodic longitudinal studies of FEPCA's incentive pay programs, including retention allowances, to

examine both OPM's and agencies' implementation of the act. The studies, which began in 1991, resulted in three reports that addressed such issues as statistical comparisons, by sex and race, of retention allowances awarded. OPM officials said that they terminated these studies in fiscal year 1995 because they were not finding any significant problems and because of budget concerns. However, OPM said that it conducted on-site compliance reviews of FEPCA actions at randomly selected installations during this same period.

As previously noted, we discussed with OPM our concerns about Ex-Im Bank's retention allowance award process, and OPM subsequently decided to conduct an in-depth review of Ex-Im Bank's use of retention allowances.

Conclusions

Retention allowances were awarded to a limited number of employees governmentwide. With the exception of the Ex-Im Bank, the proportion of agencies' employees who received allowances was low.

Ex-Im Bank did not appear to comply with a statutory requirement in awarding retention allowances, and Ex-Im Bank's, DOD's, and SEC's retention allowance plans did not satisfy an OPM planning requirement. Also, OPM's regulations did not address whether agencies should review and/or recertify allowances when employees receive significant pay increases during the year.

Ex-Im Bank appeared to award allowances without determining that employees would be likely to leave in the absence of allowances, a practice which could result in unnecessarily spending allowance funds. OPM, as the agency responsible for governmentwide oversight of retention allowances, is conducting a review of compensation practices at Ex-Im Bank that should enable it to determine whether Ex-Im Bank needs to more adequately address this issue. Accordingly, we decided to forgo further work on the issue.

The retention allowance plans for DOD, Ex-Im Bank, and SEC did not include criteria for determining the amounts of allowances. Without a documented agencywide rationale, lower level managers did not have guidance for establishing the amounts of individual allowances. In addition, since the individual award justifications developed by these managers were not required to include the rationale for the award amount, and thus frequently did not, agency officials and others reviewing the

awards lacked sufficient information with which to assess the appropriateness of the amounts awarded. Thus, the agencies could not ensure that the amounts awarded were not in excess of amounts necessary to retain the employee.

OPM's regulations do not require that allowances be reviewed or recertified in writing whenever there are significant increases to employees' basic pay during the year. As a result, agencies may not be reviewing or recertifying allowances in conjunction with increases to employees' basic pay in circumstances where such increases might affect the conditions justifying the allowances. In such circumstances, a review might make a significant difference.

Recommendations

We recommend that the Chairman of Ex-Im Bank, the Secretary of Defense, and the Chairman of SEC include the required criteria for determining the value of retention allowances in their retention allowance plans.

We recommend that the Director of OPM take action to ensure that retention allowance regulations are revised to explicitly address whether, and if so when, an agency should review or recertify the amount of an allowance as a result of basic pay rate increases or other relevant changes in the conditions justifying the allowance.

Agency Comments and Our Evaluation

DOD, DOE, Ex-Im Bank, OPM, SEC, and USDA provided comments on a draft of this report; these comments are summarized below. DOD, Ex-Im Bank, and SEC provided written comments, which are included in their entirety in appendixes I through III, respectively. We received oral comments from the Deputy Assistant Secretary for Human Resources, DOE, on September 25, 1995; the Chief of the Compensation Administration Division, OPM, on September 26, 1995; and the Director of Personnel, USDA, on September 26, 1995.

DOD, DOE, SEC, and USDA concurred with the findings and conclusions in our report. In addition, DOD and SEC agreed to implement our recommendation to them and suggested some technical changes, which we have incorporated in the report. OPM offered a proposed revision to our recommendation that OPM revise its regulations to clearly define whether, and if so when, reviews or recertifications should be performed. OPM also provided technical comments, which we incorporated where appropriate.

Ex-Im Bank granted that it may have “cut some procedural corners” but distinguished this from substance by asserting that its actions were consistent with legislative intent and regulatory guidelines as applied to its particular human resources requirements. Ex-Im Bank also expressed concern that we believed their rationales for determining allowance amounts were suspect or in some way unprincipled because the rationales were insufficiently documented. Ex-Im Bank did concur with our recommendation that it incorporate criteria for determining the amount of an allowance in its plan.

While we agree that a failure to document retention allowance decisions—including the reasoning behind those decisions—is a procedural deficiency, we believe the Bank’s apparent failure to systematically determine that, in the absence of an allowance, an employee would be likely to leave would, if confirmed, be a deficiency of substance. This is the reason we decided to inform OPM of our concerns regarding this issue. Further, both the act and OPM regulations clearly require that each allowance paid should include a determination that, in the absence of such an allowance, the employee would be likely to leave. We note that the Ex-Im Bank’s First Vice President and Vice Chairman, in commenting on a draft of this report, confirmed that he did not typically base his award decisions on whether there might be an actual or imminent competing offer of employment. However, we neither state nor intend to imply in the report that Ex-Im Bank’s rationales for allowance amounts were suspect or unprincipled.

To avoid the misinterpretation that we viewed Ex-Im Bank’s apparent noncompliance as a procedural rather than a substantive deficiency, we eliminated the wording in our draft report that could imply that all five agencies generally complied with federal requirements. We now make it clear that our review showed that Ex-Im Bank did not appear to comply with the “likely to leave” requirement, but we decided to forgo further work when OPM decided to start an in-depth review of Ex-Im Bank’s award decisions. Our draft wording that the agencies generally complied with the requirements was not intended to excuse the Ex-Im Bank’s apparent noncompliance with that specific requirement.

OPM would prefer that we merely recommend that it consider revising the regulations. We continue to believe, however, that, given the agencies’ varying interpretations of OPM’s regulations, OPM needs to explicitly address the issue of whether and when retention allowance reviews and recertifications, other than the current annual requirement, should be

conducted. We did modify the draft recommendation, as OPM suggested, to include other reasons for reviewing allowances in addition to the basic one of a pay rate increase.

As arranged with your office, we plan no further distribution of this document until 14 days after the date of issuance unless you publicly announce its contents earlier. At that time, we will send copies of this report to the Chairmen and Ranking Minority Members of the Senate Committee on Governmental Affairs, the House Committee on Government Reform and Oversight, and the House Subcommittee on Civil Service; the Secretaries of Agriculture, Defense, and Energy; the Chairmen of Ex-Im Bank and SEC; and the Director of OPM; and will make copies available to other interested parties.

Major contributors to this report are listed in appendix IV. If you have any questions about this report, please call me at (202) 512-7680.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Timothy P. Bowling". The signature is fluid and cursive, with the first name being the most prominent.

Timothy P. Bowling
Associate Director
Federal Management
and Workforce Issues

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Abbreviations

CPDF	Central Personnel Data File
DOD	Department of Defense
DOE	Department of Energy
FEPCA	Federal Employees Pay Comparability Act of 1990
HHS	Department of Health and Human Services
OPM	Office of Personnel Management
SEC	Securities and Exchange Commission
SES	Senior Executive Service
USDA	U.S. Department of Agriculture

Comments From the Department of Defense



FORCE MANAGEMENT
POLICY

ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000



OCT 11 1995

Mr. L. Nye Stevens
Director, Federal Management and Workforce Issues
General Government Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Stevens:

This is the Department of Defense (DoD) response to the General Accounting Office (GAO) draft report, "FEDERAL WORKFORCE: Retention Allowance Programs Generally Comply with Regulations," (GAO Code 966637/OSD Case 1022) dated September 12, 1995.

The DoD agrees with the report's overall content and the recommendation for the Secretary of Defense. While your review did not evaluate the appropriateness of individual allowance amounts, it did provide DoD an opportunity to evaluate its granting of these allowances and their propriety. As the report indicates, only 248 DoD employees (.03% of the workforce) were receiving retention allowances. The preponderance of these employees were medical and engineering professionals. Through economy of regulation and by delegating authority to the lowest practical level, DoD has made effective use of this allowance during a period of unprecedented fiscal constraint.

Within 120 days, we will update our regulations to indicate that appointing officials shall apply criteria for determining retention allowance amounts that are consistent with Office of Personnel Management criteria. We believe that this will address the issue that prompted your DoD recommendation, while allowing the promulgation of regulations that reflect the values and goals established by the National Performance Review.

Suggested technical changes have been provided separately. The Department appreciates the opportunity to review the report in draft form.

Sincerely,


F. Pang



Comments From the Export-Import Bank

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



EXPORT-IMPORT BANK
OF THE UNITED STATES

September 27, 1995

L. Nye Stevens, Director
Federal Management and Workforce Issues
United States General Accounting Office
Washington, DC 20548

Dear Mr. Stevens:

Thank you for the opportunity to offer comments on your draft report about the awarding of retention allowances throughout the Federal Government. We are providing you with suggested language changes to the draft report because we believe it is important to clarify in the report the situation regarding documentation of allowance determinations by the Bank. If you and your staff do not agree to the proposed changes, we will be glad to meet with you to discuss our concerns.

This letter represents the Export-Import Bank's comments on the final report, and it is my understanding that this letter is going to be made a part of the final report to the Congress. I would appreciate your letting us know if this is not to be the case.

As the report shows, the Export-Import Bank ("Ex-Im Bank" or the "Bank") is an enthusiastic user of the pay flexibilities afforded to agencies under the Federal Employees Pay Comparability Act of 1990 (FEPCA). With the benefit of hindsight, we see that our enthusiasm may have led us to cut some procedural corners -- specifically in documenting our decisions in awarding retention allowances and the reasoning behind those decisions. Please be assured that we will correct this problem and take appropriate measures to protect against its recurrence. There is, however, a distinction between procedure and substance in this context -- a distinction that should be respected in the interests of "reinventing" government. In substance:

- Ex-Im Bank had sound and compelling reasons for granting retention allowances in all cases.
- We applied that reasoning and used the program in a manner consistent with reasonable interpretations of the legislative intent behind FEPCA and with current regulatory guidelines -- as applied to the Bank's particular human resources management requirements.

811 VERMONT AVENUE, N.W. WASHINGTON, D.C. 20571

See comment 1.

See pp. 12-13.

Appendix II
Comments From the Export-Import Bank

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L. Nye Stevens, Director
September 27, 1995

As noted in your report, OPM is currently reviewing these interpretations and, as the agency charged with administering the retention allowance program government-wide, OPM may ultimately determine that it cannot accommodate the particular needs of this small agency. If so, of course, we will comply with any resulting directives or refinements of the regulations.

However, by way of background, it is important for readers of your report to understand the Bank's unique situation. We are an anomaly among Federal agencies in more respects than in our use of retention allowance authority -- and in ways that dictate special human resources management strategies. Ex-Im Bank does not regulate, grant money or administer programs. Our mission is to support the financing of individual export transactions on the basis of sound credit judgments, when such financing is not otherwise available from the private sector. This means that, in order to be effective, the Bank must be transaction driven and market sensitive. When our customers need us, they *really* need us, and any delays or uncertainties in our meeting their needs have real, immediate costs in dollars and jobs. And there are clear trends of increasing demands on the resources required to meet those needs, as the numbers of inquiries and applications increase steadily and as the structures of the resulting transactions become more complex.

However, like all other agencies, Ex-Im Bank must accommodate the fiscal imperative for smaller, less expensive, more efficient operations.

In the face of these pressing demands, we have worked out a budget and FTE strategy with OMB that were shaped by a guiding vision developed under the aegis of the National Performance Review ("NPR") and embodied in the Bank's "Streamlining Plan." Our goals for an Ex-Im Bank that "works better and costs less" contemplate a significantly smaller agency (12% reduction in FTE by 1999), with the core mission-related functions divided among: (1) a cadre of highly credentialed, senior transactors to whom maximum decision-making authority has been delegated for closing the big, complicated deals; (2) a frontline staff of junior professionals and paraprofessionals, to whom will be delegated responsibility for handling high volume, standardized tasks; and (3) a "skeleton crew" for management and support functions. Results-oriented performance will be measured by a unique "360° Performance Appraisal" system (initiated this year with the help of the Federal Quality Institute) and motivated by a pay-for-performance program that offers the relatively few top performers the prospect of significant differentials in compensation over time.

Across the board, our deliberate and self-conscious strategy is to align our human resources management policies with this vision. In this context, we welcomed the opportunity under FEPCA authorities to confront the Bank's long-standing retention problems. While we were well aware that other agencies have made rather limited use of the FEPCA authorities, including retention allowance authorities, we deliberately opted to use a more "systematic" approach, congruent with the Bank's plan to phase in a customized pay-for-performance system -- which, in turn, flows from our larger human resources management strategy.

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In 1994 we applied to OPM for approval to develop a proposal to conduct a demonstration project and develop state-of-the-art human resources management systems, including pay-for-performance, that would be "customized" to the Bank's particular needs. With OPM's active encouragement and with the approval of OMB and NPR, we experimented with the development of the pay-for-performance component, starting in 1994, using the appropriate tools available to us for managing compensation. Our plan for using retention allowance authority dovetailed with this initiative.

In all cases, however, we have been careful to restrict the use of retention allowances in this larger strategy to instances in which they are justified and appropriate under applicable regulations and in order to carry out the intent of the FEPCA legislation. Past surveys have demonstrated marked disparities between what the Bank can pay its employees and the salaries that are available to them in the private sector and other competitor Government organizations that have extensive flexibility under FIRREA. We recently commissioned a current market survey, which confirmed earlier findings: There are substantial differences between what the Bank can pay as an agency governed by Title V USC provisions and the kinds of compensation/benefits packages readily available to our employees in the private sector. As "deal doers," the Bank's staff constantly interact with the private sector and have no illusions about this disparity or about how marketable they are.

The loss of highly qualified staff to the private sector for higher compensation has long plagued Ex-Im Bank. The Bank, until it started making more aggressive use of its primary alternatives -- the limited AD pay authority and retention allowances -- lost some of its most valuable employees, ones who had years of experience and knowledge and were the key link to the future. Unlike other large departments where departures of skilled individuals can be lessened by reassignments, Ex-Im Bank relies heavily on individuals with specialized areas of technical expertise.

Because of the specialized nature of our work, much of which is not done anywhere else in the country, there is no pool of well-qualified individuals to draw from, either elsewhere in government or in the private sector. Consequently, Ex-Im Bank devotes disproportionate resources to training and developing staff to exercise soundly the myriad judgments required in structuring, closing, booking and managing the risk in the billions of dollars of financing transactions that pass through their hands -- all with speed, self-confidence and minimal supervision. The trade finance and related experience gained at Ex-Im Bank is highly valuable to exporting businesses and their bankers, a universe of competing employers that grows larger and competes more aggressively for talented staff every year. And the resulting opportunities for higher pay/better benefits in the private sector do not extend only to front line professionals (loan or business development officers,

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economists, lawyers). As banks and exporters rebuild their trade finance capabilities, there is equal or greater demand for "back office" specialists in accounting, systems and documentary control (and for the support staffs who serve them) who know the difference between factoring and forfaiting and how letters of credit work.

Given (1) the importance of maintaining a large core of seasoned, expert staff to our organizational model for "reinventing Ex-Im Bank;" (2) the Bank's substantial investment in staff training and development; (3) the increasingly high value of that experience and training to the private sector; compounded by (4) the historical and continuing disparities between General Schedule pay authorities and available compensation for comparable positions in the private sector -- we determined that the Bank's particular circumstances required a proactive approach to retention allowance authority under FEPCA. This means that, in practice, when we review compensation in connection with performance evaluations, supervisors have been asked to identify employees who have special talents that would make them particularly attractive to the private sector. These valued employees are all considered by top management for retention allowances as a group.

Simply for efficiency, to ensure system integrity and to meet the requirement for an annual review of existing retention allowances, the Bank chose to review usage of retention allowance authority one time each year. Frankly, we also believe it would be silly to undertake this review independently of performance and other compensation considerations for the sake of appearances, because higher-paying employment alternatives can be generally assumed to be limited to top performers -- and because those who do not continue to meet standards of excellence in performance should not continue to receive retention allowances, no matter what their actual prospects may be for other employment. However, the outcomes demonstrate that, in keeping with the intention of FEPCA, there is overlap, *not* identification, between the Bank's pay for performance strategies and usage of retention allowance authority. Not all employees rated "Outstanding" receive retention allowances, and not all employees receiving retention allowances are rated "Outstanding."

Now that we have begun taking aggressive steps to counteract the extreme competitive advantages of our competitors in the labor markets, we have experienced a significant reduction in our turnover. Our use of this authority enables us to accomplish the stated purpose for use of retention allowance authority -- retaining our most valued and valuable employees who play integral roles within their organizations and are essential to the successful accomplishment of the Bank's mission. This result is of central importance to achievement of our overarching goal of a "streamlined" Ex-Im Bank and is, we think, fully consistent with the letter and spirit of FEPCA.

Finally, I must note that there is one particular point in the report with which I take strong issue on a personal level. Form and substance do seem to be conflated in a tacit assumption that, if the rationales supporting the grants of retention allowances were insufficiently documented in some cases, then those rationales must themselves be suspect. Such an inference is emphatically not warranted in this case. Ex-Im Bank is a very small agency. I personally approve all retention

See pp.12-13.

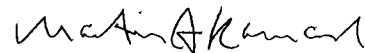
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allowances, based on full information as to the aptitudes and credentials of the individuals, their levels of performance, their value to the Bank and their marketability. It *is* true that I have not typically based my decision on whether there may be an actual or imminent competing offer of employment -- and, possibly, on that narrow ground, OPM could ultimately determine that Ex-Im Bank's systematic approach to retention allowance authority is not appropriate for a Government-wide program. And it *is* true that our recordkeeping of this decisionmaking process must be improved. However, it is *not* justifiable from either or both of the latter premises to imply that Ex-Im Bank's system is in any way unprincipled.

Chairman Brody has challenged Ex-Im Bank's management and staff to plan and operate according to three fundamental standards: make a difference, serve the customer and give good value to the taxpayer. As in all our endeavors, our design and implementation of the Bank's retention allowance system was intended in good faith to promote and balance those three principles.

Sincerely,



Martin A. Kamarck
First Vice President and Vice Chairman

Attachment: As Stated

The following is GAO's comment on Ex-Im Bank's letter dated September 27, 1995.

GAO Comment

While we made most of the language changes proposed by Ex-Im Bank, we did not revise our report sections addressing allowance determinations. Our reasons for not revising the sections on determinations are addressed on page 13.

Comments From the Securities and Exchange Commission



OFFICE OF
ADMINISTRATIVE AND
PERSONNEL MANAGEMENT

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

October 10, 1995

Mr. L. Nye Stevens
Director
Federal Management and Workforce Issues
General Accounting Office
Washington, D.C. 20548

Dear Mr. Stevens:

We appreciate the opportunity to provide comments on the draft report on Retention Allowance Programs. The report states that the SEC did "not include the criteria to be used for determining the amount of employees' allowances" in its retention allowance policy. While our retention allowance policy does not have a specific formula for determining the amount of the allowance, we would like to explain our procedures so that the report conveys the methodology we use to set each allowance.

The SEC's policy states that a supervisor may recommend an allowance provided he/she can document that the person is likely to leave, that the employee is a significant contributor to the mission of the agency, and that losing the employee would be a severe detriment to the accomplishment of the agency's mission. A senior management official reviews the recommendation and forwards it to the Office of Administrative and Personnel Management (OAPM). In the OAPM, the request is reviewed to ensure that it meets regulatory requirements, is within budget limitations, and is consistent with previous allowances. It is then forwarded to the Executive Director for further review. Under SEC policy, the Executive Director may approve allowances of up to 10% of an employee's base pay. Allowances above 10% must be approved by the Chairman.

As a small agency, the SEC is able to handle the retention allowance process on a case by case basis and thus has not formalized criteria for determining the size of an allowance. Nevertheless, the agency plans to establish formal procedures to supplement

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Exchange Commission**


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its existing review process, that include consideration of:

1. regulatory requirements;
2. budget impact;
3. the impact on existing staff within the office; and
4. how the requested amount equates to other retention allowances authorized for similar positions.

Again, we appreciate the opportunity to comment on the draft report. If you have any questions, please contact Jim Wohlgenuth on 942-4061.

Sincerely,


Fernando L. Alegria, Jr.
Associate Executive Director

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