

March 27, 2008

MEMORANDUM TO: Luis A. Reyes  
Executive Director for Operations

FROM: Andrew L. Bates, Acting Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS - COMSECY-07-0039 – POLICY AND PROCEDURES FOR IMPLEMENTATION OF AUTHORITY TO WAIVE PENSION OFFSET

The Commission has approved of the guidance updating and clarifying the policy and procedures for implementing the NRC's authority to waive pension offset, subject to the changes indicated below.

1. Add the following definition for a "temporary emergency hiring need." A "temporary emergency hiring need" is defined as the absence of a skill necessary to complete or initiate specific mission-required work within the next 12 months and caused by the departure of an employee with such skills or a new or substantially expanded work requirement. Any other basis for requesting a pension offset waiver as a "temporary emergency hiring need" will be considered an exception to the policy and must be fully justified. In addition, an intensive recruitment effort should have been recently completed, be underway at the time the request to use pension offset waiver authority is submitted, or be expected to be initiated within a reasonable time from the date of the pension offset waiver request. Requests for pension offset waivers should describe this recruitment effort or fully justify why no such effort has been undertaken or planned (for example, B5b inspections). Requests to extend a current pension offset waiver justified as a "temporary emergency hiring need" will be considered an exception to the policy and will not be authorized beyond a few additional months unless they can be fully justified and documented. A "temporary emergency hiring need" justified solely as a knowledge transfer activity should have a "not to exceed date" of six months or less and will normally be for part-time or intermittent work.
2. Add the following definition for "exceptional difficulty recruiting or retaining a qualified employee." "Exceptional difficulty recruiting or retaining a qualified employee" is defined as the inability to fill a vacancy by recruitment with an individual possessing the required skills or to retain a recently hired employee with such skills. Historical difficulty in finding qualified candidates is not sufficient to meet this requirement in the absence of an intensive ongoing recruitment effort but may be included in the justification statement as background information. A waiver request based on the "exceptional difficulty" standard may be renewed annually for up to three years. Longer periods will be considered an exception to the policy and will be authorized only when fully justified and documented.
3. More emphasis should be placed on the specific case-by-case circumstances that are believed to exist in each instance to justify the request. The current check-the-box format should be eliminated or, at a minimum, each check should require written

explanation. Justification statements must contain sufficient narrative information to explain the office director's request to rehire a retired annuitant as either a consultant or non-consultant and whether employment will be intermittent, part-time, or full-time.

4. The proposed memorandum to Office Directors and Regional Administrators should be revised to delete the sentence "OHR may determine in a particular instance that the FEPCA panel review is either unnecessary or inappropriate." No pension offset waiver request should be forwarded to a deciding official without a FEPCA panel review and recommendation. If the sentence is intended to mean that in cases where OHR determines that a request does not meet the criteria for a pension offset waiver, OHR will return the package to the originating office for revision or other appropriate action, then the sentence should be revised to make this point clear.
5. The Office of Human Resources and the FEPCA Panel should provide comments to deciding officials to support their determinations that a request meets the criteria for the use of pension offset waiver authority and/or recommendations to approve or disapprove the request. In that regard, the format on page 3, section III, should be revised to include the option that the FEPCA Panel Chair "recommends" or "does not recommend" that the request be approved.
6. When modifying the forms and determining the nature and format of the information that would be useful, staff should consider both the use of the form for documenting the rationale behind the case specific request and the use of the form for future tracking purposes.

cc: Chairman Klein  
Commissioner Jaczko  
Commissioner Lyons  
OGC  
CFO  
OCA  
OPA  
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)  
PDR