DoD 7000.14 - R

DEPARTMENT OF DEFENSE

FINANCIAL MANAGEMENT REGULATION

VOLUME 8: "CIVILIAN PAY POLICY"

UNDER SECRETARY OF DEFENSE (COMPTROLLER)

VOLUME 8, CHAPTER 1: "INTRODUCTION AND OVERALL REQUIREMENTS"

SUMMARY OF MAJOR CHANGES

All changes are denoted by blue font.

Substantive revisions are denoted by an (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by *bold, italic, blue and underlined font*.

The previous version dated May 2013 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Reworded and reformatted chapter for clarity, updated references, and added electronic links.	Revision
010103	Added information for "Additional Guidance."	Addition
0105	Removed information for "Disestablishment Procedures," information maintained in Payroll Offices.	Deletion
Figures 1-13	Removed samples of letters and memos sent out prior to the disestablishment of the Payroll Office.	Deletion

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CHAPTER 1

INTRODUCTION AND OVERALL REQUIREMENTS

0101 GENERAL

010101. Purpose

This chapter prescribes the principles, objectives, and related requirements for Department of Defense (DoD) civilian employee pay operations and systems. The regulations provided in this chapter apply to any civilian pay system used for employees who are paid from appropriated, revolving, or trust funds. These requirements apply to the processes related to computing payments, leave, deductions, and maintaining records for permanent, temporary, full-time, part-time, irregular, and special category employees.

010102. Authoritative Guidance

The authority of the Department to establish payroll procedures is derived from ***Title 5 United States Code (U.S.C.) Chapters 53, 55 and 81***. Other responsibilities, duties and liabilities are established under 31 U.S.C. sections 3527, 3528, 3529, and 3541. Specific statutes, regulations, and other guidance are referenced under each section of this chapter.

*010103. Additional Guidance

Additional guidance referenced in this volume includes, but is not limited to, the following:

A. ***Title 5 Code of Federal Regulations (C.F.R)***. Interim changes and final rulings pertaining to civilian pay operations and systems are published in the Federal Register (FR) by the Executive departments, typically in Title 5. Title 5 C.F.R. is updated annually with information from the FR and both publications must be used together to determine the latest version of any rule.

B. ***Federal Register***. The FR is the official journal of the federal government that makes publically available all government agency rules, proposed rules, and public notices. The FR is published daily, except on federal holidays. The final rules posted by a Federal agency and published in the FR are ultimately reorganized by topic or subject matter and codified in the C.F.R. See ***1 C.F.R. Part 2.***

C. ***Executive Order***. An executive order is an order or regulation issued by the President in order to implement, interpret, or give effect to a federal law, treaty or provision of the Constitution. To have the effect of law, an executive order must be published in the FR.

D. ***Public Laws***. After the President signs a bill into law, it is delivered to the Office of the Federal Register where it is assigned a public law number. The public laws are

compiled, indexed and published the United States Statutes at Large, the permanent bound volume of the laws for each session of Congress.

E. ***DoD Instructions (DoDI) 1400.25***. The DoDI 1400.25, Civilian Personnel Management, is composed of several volumes. The purpose of the Instruction is to establish and implement policy, establish uniformed procedures, provide guidelines and model programs, delegate authority, and assign responsibilities regarding civilian personnel management within the DoD.

F. Policy and Guidance from the Office of Personnel Management (OPM). OPM provides leadership to other Federal agencies on pay and leave administration policies and programs. OPM maintains pay tables for General Schedule employees, manages the Federal Wage System, and develops and provides Government-wide regulations and policies on other pay and leave authorities. Ultimately, each Federal agency is responsible for complying with the law and regulations and following OPM's policies and guidance to administer pay policies and programs for its own employees. OPM issues policies and guidance in the following publications:

1. ***Benefits Administrative Letters (BALs)***. OPM is responsible for overseeing Federal benefits and publishes BALs to provide guidance to agencies on various aspects of Federal benefits administration.

2. ***Handbooks***. Handbooks provide information on various topics pertaining to Federal employee pay, leave, and work schedules.

3. ***Memoranda***. These memoranda are provided by the Chief Human Capital Officers Council (CHCOC), a forum of senior agency management officials who support OPM. The memoranda are issued to agencies to advise and coordinate on matters such as legislation affecting human resources operations and organizations.

0102 OVERALL REQUIREMENTS

010201. Overview

A. As determined by the Under Secretary of Defense (Comptroller)/Chief Financial Officer, the Defense Civilian Pay System (DCPS) is the Department's only approved standard civilian payroll system for employees paid from appropriated, revolving, or trust funds. The Defense Finance and Accounting Service (DFAS) is responsible for maintaining system requirements in compliance with all applicable laws and regulations, guidance issued by OPM, Federal, and other taxing authorities, the Department of the Treasury (Treasury), the Department of State, and the Department of Labor.

1. Any approved unique payroll system must be integrated or interfaced with other applicable systems, such as DCPS, general ledger, or installation-level general accounting system.

2. The Director of DFAS must approve continued operation of any such unique payroll system.

B. DoD payroll operations and systems must meet the following objectives:

1. Make timely and accurate payments to all those entitled to be paid, in compliance with appropriate statutes and regulations, with consideration being given to all authorized deductions from gross pay;

2. Account for and disposition of all authorized deductions from gross pay;

3. Control, retention, and disposition of all payroll related documents;

4. Prepare adequate and reliable payroll records to support managerial responsibilities; planning, preparing, executing, and reviewing the budget; and required internal and external reporting;

5. Support effective communication between employing activities and employees on payroll matters in addition to timely, accurate, and responsive customer service action to resolve payroll related inquiries from employees;

6. Control all phases of pay, leave, entitlements, and allowances;

7. Interface the payroll function with general ledger, cost accounting, and personnel functions, with provisions for reconciling common data elements in the payroll system and these interrelated systems;

8. Provide capability to query current, historical, and/or archived data;

9. Provide audit trails to permit the tracing of transactions through the payroll system;

10. Comply with accounting system development criteria specified in Volume 1;

11. Comply with internal control requirements, including data security and prevention of data disclosure, as specified in Volume 1; and

12. Comply with DoD direction to standardize data elements to promote cross-functionality and integration efforts.

010202. Funds Control

A. Funds used to pay DoD civilian employees are appropriated by Congress and apportioned to the Department by Office of Management and Budget. At least monthly, an

estimate of obligations must be made for the payroll. As the payments are made, estimates must be adjusted to reflect actual payment data.

B. Department civilian payroll systems must be integrated or interfaced with, and fully support, the accounting systems. These systems must consist of detailed accounts and records that are kept as a subsidiary to, or support for, controlling or summary accounts in the general ledger of the accounting systems. The payroll system must produce required obligation and accrual data needed by accounting systems.

010203. Requirements

The Director, DFAS, is responsible for the overall planning and general direction of the pay, leave, and allowance functions and system. This responsibility necessitates that adequate written procedures are established and implemented, that all personnel are adequately trained in their functions, and that sufficient internal controls are installed and management oversight is established and implemented to ensure compliance with payroll system objectives. See ***DoD Directive (DoDD) 5118.05***. The Director, DFAS must also ensure that payroll systems meet legal criteria and the following requirements.

A. Payroll procedures must be:

1. Clearly written and be in accordance with applicable laws, regulations, and legal decisions;

2. Amended to reflect changes in applicable laws, regulations, and legal decisions;

3. As uniform as possible throughout the Department;

4. Distributed to payroll staffs and be available to individual employees as needed to ensure efficient and effective operations; and

5. Reflective of clear assignments of responsibility, delegation of authority, and separation of duties for personnel who compute the payroll, certify payments, record payroll data in the accounts, distribute pay, review payroll transactions, and develop, test and maintain supporting computer systems.

B. Personnel engaged in pay, leave, and allowance activities must:

1. Be adequately trained and kept informed about the requirements of laws, regulations, and legal decisions;

2. Be adequately supervised to help prevent any unauthorized, fraudulent, or other irregular act;

3. Perform operations effectively, efficiently, and economically in accordance with laws, regulations, and legal decisions;

4. Review the operations, including internal controls, on an ongoing basis to ensure such performance; and

5. Identify and resolve inconsistencies in information submitted, processed, and reported during the various payroll cycles.

C. Payroll systems must be integrated or interfaced with:

1. Personnel systems to obtain current information on which to process pay entitlements, leave, and allowances. Timely information is needed to minimize the possibility of fraud, waste, and mismanagement and maximize the accuracy of employee payments;

2. The general ledger system to provide information to prepare various financial statements;

3. Cost accounting systems to distribute and charge payroll labor cost data to appropriations, jobs, projects, programs, and departments; to help in properly evaluating operations and management; and to support budget formulation and execution; and

4. Other financial management systems to meet reporting and management objectives.

D. The interfaces discussed in subparagraph 010203.C must be used to assist in timely reconciliation of data elements and discrepancies noted between systems.

E. Transactions recorded in the pay, leave, and allowance records must be adequately supported by properly authorized documents.

F. Continuity of Operations Plans and associated procedures will be established and maintained to back-up data properly in the event of power failure, equipment malfunction, terrorist threat, natural disasters, or other hazards.

G. External audits and internal examinations of payroll operations must be made by persons not engaged in those operations to determine whether such operations are efficient, effective, and economical and are in accordance with laws, regulations, and legal decisions.

H. The frequency with which payrolls must be prepared has considerable bearing upon the cost of carrying out the payroll functions. So that payroll operations may be performed without incurring undue cost, employees' pay must be computed on a biweekly basis, unless law requires a different timeframe. Special payments are prohibited except as addressed in Chapter 8. Advances of pay are covered in Chapter 3. All employees will be informed of the designated payday. Pay should be made available to the employees on the day designated as the

payday. The payday lag between the close of the pay period and payday must not exceed 12 calendar days. When a payday falls on a holiday or an "in lieu of" holiday, the payday will be on the first preceding business day.

010204. Privacy Act Requirements

A. Privacy Act Statements. All forms used to collect personal information covered by the Privacy Act of 1974, and ***5 U.S.C.552a***. Forms must have a Privacy Act statement either incorporated in the body of the document, at the top of the form, or in a separate statement accompanying each form. See DoD 5400.11-R for information on what is included in the Privacy Act statement. A Privacy Act statement must be provided to an employee when they are required to furnish personal information such as name, date of birth, or Social Security Number (SSN) for inclusion in a system of records. Refer to the ***The Office of the Secretary of Defense and Joint Staff Privacy Office*** or the ***Defense Privacy and Civil Liberties Division*** for the Privacy Act system of records information pertaining to the DCPS system.

B. Access and Accountability. Refer to ***DoD 5400.11-R***, DoD Privacy Program for guidance on employee access to records in accordance with the Privacy Act. Agencies responsible for maintaining Privacy Act information must maintain records of information released and process requests for correction of records in accordance with the DoD 5400.11-R.

0103 ELECTRONIC FUNDS TRANSFER (EFT) FOR FEDERAL CIVILIAN SALARY PAYMENTS

010301. General

A. Authority. The Debt Collection Improvement Act of 1996 (Act) required all Federal payments be made by EFT, with the exception of tax refunds, beginning January 2, 1999. See ***31 U.S.C. 3332***. Regulations implementing requirements for EFT payments were issued by Treasury, Financial Management Service (FMS) at 31 C.F.R. Part 208.

B. Policy. The Department requires participation in EFT unless a waiver applies. The policy covers all categories of DoD personnel including civilians, military, military retirees, non-appropriated fund (NAF) personnel, and annuitants. See Volume 5, Chapter 7.

C. Agency Responsibilities. An agency shall put into place procedures that allow recipients to provide the information necessary for the delivery of payments to the recipient by EFT to an account at the recipient's financial institution. See ***31 C.F.R. 208.7***.

1. Director, DFAS, in conjunction with the Office of the Deputy Chief Financial Officer must:

a. Publish EFT payment policy and implementing procedures for payment of all DoD civilian personnel;

b. Coordinate the presentation of issues and proposed exceptions in the Department's mandatory EFT policy to Treasury for approval;

c. Prepare appropriate reports for submission to Treasury;

d. Provide quarterly reports that reflect the level of EFT participation to DoD and non-DoD-serviced agencies; and

e. Furnish a report of employees paid by DFAS, who do not participate in EFT, to employing organizations at the end of each quarter.

2. DoD Component Personnel Directors must:

a. Ensure all civilian employees are informed of the conditions under which participation in the EFT program is required; and

b. Promote EFT enrollment. After the end of each fiscal year quarter, employing activities will be provided a report containing a list of employees that are not enrolled in EFT.

3. Directors or Commanders of all DoD Activities must:

a. Ensure that all personnel are made aware of, and comply with, the mandatory EFT provisions;

b. Monitor EFT participation;

c. Ensure that waivers for all eligible employees are on file;

d. Ensure reimbursements are made to civilian employees who incur charges due to the government's failure to accurately and timely deposit pay in their EFT accounts (see paragraph 010303); and

e. Provide information for reporting purposes to DFAS Sites when so requested (see paragraph 010304) including NAF personnel.

D. Waivers

1. Authorized Waivers. Payment by EFT is not required in all cases and may be waived under certain circumstances. See ***31 C.F.R. 208.4***.

2. Waiver Submission. An employee who requests a waiver shall provide, in writing, to Treasury a certification supporting that request, in such form that the Treasury may prescribe. The employee shall attest to the certification before a notary public or otherwise file the certification in such form that Treasury may prescribe. See 31 C.F.R. 208.4.

010302. EFT Enrollment

A. The preferred method of enrollment in the EFT program is by e-Commerce solutions and applications such as ***myPay***. Such tools empower the employee to establish, change, or delete an EFT election without third party intervention.

B. To enroll in the EFT program without using the self-service capability, an employee must complete one of the following Direct Deposit authorization forms and submit the form to the local Customer Service Representative (CSR):

1. Standard Form (SF) 1199A, Direct Deposit Sign-Up Form, which includes a section that must be completed by the employee's financial institution; or

2. FASTSTART Direct Deposit (***FMS Form 2231***), which does not require approval by a financial institution.

010303. Reimbursement of Financial Institution Charges

Charges by financial institutions resulting from erroneous information provided by the individual or the financial institution to the civilian payroll office (PRO) are not the liability of the government and will not be reimbursed. Reimbursement is authorized and limited to overdraft charges or minimum balance or average balance charges levied by the financial institution because of an administrative or mechanical error on the part of the government that causes pay to be deposited late, or in an incorrect manner or amount. See ***10 U.S.C. 1594***.

010304. Reporting Requirements

Each quarter, payroll offices will provide EFT participation and non-participation reports to the serviced activities for managing EFT participation. For reporting guidance, refer to Chapter 9.

010305. Payments Other than EFT

A. The disbursing officer mail checks to the non-work address provided by the employee. On an exception basis, checks may be delivered to designated agents in the employing offices for delivery to the employees at the work locations.

B. In those situations when delivery of paychecks to individuals by designated agents is authorized, persons designated to deliver these paychecks must not participate in the following activities: preparing, approving, or certifying vouchers and personnel action documents; maintaining the payroll; time and attendance records; and leave records. Each employee must be known by, or identified by, the person who delivers the employee's paycheck. Checks not delivered within the time specified by the disbursing officer must be returned to the disbursing or issuing officer. All checks must be kept in a safe or locked fireproof cabinet, pending distribution to the employee or return to the disbursing or issuing officer. For additional guidance, see Volume 5, Chapter 7.

C. If, under extraordinary circumstances, payments must be made in cash, then DoD civilian employees must properly identify themselves and must acknowledge payment by signing a receipt form when payments are received. Requiring receipts in advance of actual cash payments are prohibited. All payments must be made only by persons who have been authorized to perform disbursing functions and were not part of the pay computation process. For additional guidance, refer to Volume 5, Chapter 9.

0104 ESTABLISHMENT AND CONTROL OF EMPLOYEES' PAY RECORDS

010401. Use of the SSN for Identification

A. The SSN will be used to identify all employees paid by DFAS.

B. The SSN has nine digits, with hyphens as separators before the fourth and sixth digits. The Social Security Administration (SSA) does not issue SSNs containing alpha characters. Therefore, adding a prefix or suffix is not authorized for reporting purposes. Only the nine digits are used in internal computer processing; however, the hyphens may or may not be printed on output documents.

C. Employees, who do not have, and are not eligible to obtain, a SSN from the SSA are issued an Individual Taxpayer Identification Number (***ITIN***).

D. Civilians who are concurrently employed in more than one position must use the same identifier across every position. Person identifier data will support the capability to correct and update a person's identity information. See ***DoDI 1444.02***.

010402. Individual Employee Pay Records

A. Each employee must have an individual pay record maintained as part of the master pay record. Except in the case of multiple appointments, only one pay record must be active at any given time for each authorized position. If more than one pay record is maintained, then the rationale must be thoroughly documented, and an audit trail maintained. Sufficient information on active pay records must be retained or be accessible at the PRO to facilitate manual input, payment, and/or performance of other required administrative functions.

B. The pay record must contain all transaction information related to payments and deductions with an audit trail to the authorizing source document. The individual pay record must contain information on rates of pay pertaining to:

1. All earnings separately identified by type (e.g., overtime, night differential, danger pay);

2. All deductions separately identified by type (e.g., charity, union, Federal Employees Health Benefits (FEHB), Federal Employees Group Life Insurance (FEGLI));

3. Subject-to amounts for computation of applicable deductions (e.g., subject-to Thrift Savings Plan (TSP);

4. Subject-to Old-Age, Survivors, and Disability Insurance (OASDI) and retirement;

5. All government contribution amounts separately identified by type (e.g., FEHB, basic FEGLI, TSP matching); and

6. Gross and net pay amounts.

C. The pay records must be supported by time and attendance and leave records. Time and attendance records contain all hours for a pay period based on the effective work schedule. All hours worked (regular and premium) and leave taken (paid and unpaid) are used in the computation of pay. Leave records include annual, sick, and any other leave earned, taken, lost, forfeited, restored, or advanced, including appropriate unused leave balances. The pay record must contain other information, such as year-to-date and quarter-to-date totals, as necessary, for computing pay and preparing reports.

D. The DCPS pay record history contains data from the current pay period, plus 26 previous pay periods for stateside employees and current plus 64 pay periods for teachers and employees overseas. The DCPS pay record history is used for research and retroactive processing. Year-to-date information must be maintained for the current and prior pay years. Disposition of pay records must be in accordance with the ***NARA, General Records Schedule 2***.

010403. Payroll Substantiating Document File

A. With a centralized civilian payroll function, separate document files are required and maintained for each employee. The PRO must maintain those documents applicable to the PRO functions and responsibilities. The CSR/employing activity must maintain those documents applicable to CSR responsibilities.

B. All source documents that substantiate the employee's entitlement to compensation, leave, benefits, and authorizations or support deductions, whether maintained in hardcopy or electronic format, must be safeguarded from improper, unauthorized access or use. Disposition of payroll related documents, whether maintained by the PRO or the CSR, must be in accordance with NARA, General Records Schedule 2. Each agency may establish specific document retention policy, however, the policy must not impose a lesser retention requirement than NARA requirements.

C. Other records incidental to the payroll process, such as employee requests for tax withholding, employee requests for TSP deductions, savings bond records, and other records not pertaining to individuals, but rather to the general administration of the PRO and the payroll function, are addressed in the NARA, General Records Schedule 2.

D. All source documents must be readily available for research. The disposition of active and inactive files must be in accordance with NARA, General Records Schedule 2.

E. All documents, manual and electronic, must be protected in accordance with Privacy Act requirements.

010404. Document Control

In order to ensure timely processing of payroll documents and to facilitate audits and reconciliation of individual pay accounts, retention sites must control source documents. Local document control procedures may be used as long as appropriate control and access are maintained.

010405. Personnel Actions

A. As indicated in subparagraph 010201.A.1, the DoD payroll system is integrated or interfaced with the DoD personnel system. The payroll system must use the information authorized by the personnel system upon which to base pay and leave entitlements and some deduction calculations.

B. Source documentation for actions originating with the Human Resources Office (HRO) must be maintained by the HRO. For those instances where the systems do not permit interface of the actions, the HRO must provide the payroll office a hardcopy or electronic copy of the document, which also must be maintained by the payroll office.

010406. Payroll Controls

Appropriate controls must be established for all payroll functions.

A. The controls must ensure the timely, correct, complete, accurate, and properly authorized processing of payroll documents, which include, but are not limited to, the following:

1. Corrections and Adjustments. An authorized official must approve in writing or through electronic signature (made by entering designated codes into an automated system under safeguards to prevent unauthorized use) corrections and other adjustments to data in official records, as follows:

a. Records of all changes made after records have been approved or certified must be generated and maintained;

b. Manual corrections to documents made after the documents have been approved or certified must be made in a way that does not obliterate the original entries. Corrections must be approved by a designated authorizing official; and

c. Automated system changes to data must be made in such a way that an audit trail is maintained to show or provide a reference to documents which show the original and new data and the authorization for the change. Such changes may be made only based on properly approved documents authorizing the changes.

2. Separation of Duties. In general, this separation of duties refers to the PRO and system development personnel. In order to minimize opportunities for unauthorized, fraudulent, or otherwise irregular acts, the following list of payroll duties must be separated to ensure that no one person performs all phases of a transaction without the possibility of intervention or review by some other person or persons:

a. Certification of payments,

b. Payroll computation,

c. Recording of payroll account data,

d. Distribution of pay,

e. Review of payroll transactions,

f. Automated system development,

g. System testing,

h. System implementation, and

i. System maintenance.

3. Access Restrictions. The following access must be restricted to authorized personnel:

a. Personnel, payroll, and disbursement records or data files;

b. Forms used in authorizing special entitlements, allowances, and pay rates; and

c. Payroll processing equipment and related software.

4. Employee Access. In general, employees must not maintain or provide service for their own payroll and/or personnel records. This internal control must be incorporated into security system software that governs access to civilian payroll system records. Employees may provide authorizing source documentation to the servicing CSR or input data using an electronic self-service application. Types of employee transactions maintained by the CSR or input by the employee through such an application are:

a. Distribution of net pay election and voluntary allotments;

b. Routine deductions, such as withholding elections for federal, state, and local tax purposes; and

c. Time and attendance as provided for in Chapter 2.

5. CSR Access. Examples of transactions that the servicing CSRs have access to are:

a. Authorizations for charity contributions;

b. Authorizations for employee organization dues withholding;

c. Leave transferred-in for a new employee based on the employee's latest Leave and Earnings Statement; and

d. Restored annual leave.

6. Computerized Edits. To detect inappropriate data at the earliest time and to the extent practical, data entered into automated payroll systems must be subjected to computerized edits at the time of entry.

B. Controls that help ensure that computerized payroll operations process transactions and produce reports accurately which include but are not limited to the following techniques:

1. Employ generally accepted testing procedures for computer programs and changes to programs prior to placing them in the production/operation environment. Testing procedures must include testing the various data elements and computational procedures as needed to ensure that all are operating as intended;

2. Certify acceptance of software changes by the civilian payroll system acceptance team;

3. Perform periodic preventive maintenance on hardware, noting and promptly resolving problems;

4. Include the following techniques in the tests performed:

a. Ensure that the most current personnel data is available for verification and pay computations;

b. Use proper security authorization protocol by all authorized system users;

c. Accept data entry from authorized sources only;

d. Verify data entry using batch control procedures, when applicable; and

e. Provide system generated research tools useful in the resolution of any detected anomalies.

5. Provide audit trails for the detection and systematic correction of errors by enabling the system to trace or replicate transactions (including system-generated transactions) from the source to the resulting record or report or from the record or report back to the source.

010406. Reconciliation with Human Resource Office

Payroll offices must ensure that payroll data is complete, correct, and accurate. DCPS and HR must each perform a reconciliation of employee records to ensure that shared data matches.

A. Reconciliation of common data (for example; work schedule, salary, and date of birth.) between the human resources system and the civilian payroll system must be accomplished at least every 4 months. The appropriate HRO reviews the reconciliation and annotates any mismatches. HRO resolves mismatches where possible and provides supporting documentation to the PRO for resolution in the cases of payroll record errors. The PRO must ensure thorough reviews and necessary corrections to the civilian payroll system database. The PRO must accomplish the payroll portion of the reconciliation within 10 workdays after receipt of the annotated reconciliation documentation from HRO. The PRO must maintain historic records to ensure timely compliance with this reconciliation requirement.

B. Based on the predetermined schedule, the civilian payroll system will generate and transmit reconciliation files to the appropriate personnel system host. The schedule is established and published by the civilian payroll system manager in conjunction with the personnel system manager.

VOLUME 8, CHAPTER 2: "TIME AND ATTENDANCE (T&A)"

SUMMARY OF MAJOR CHANGES

All changes are denoted by blue font.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

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Hyperlinks are denoted by ***bold, italic, blue, and underlined font*.**

The previous version dated June 2013 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Revised chapter to include administrative updates and hyperlinks.	Revision
Multiple	Renumbered paragraphs where applicable	Revision
0201	Added General section to beginning of the chapter.	Addition
020203	Added those who can serve as timekeepers for clarification.	Addition
Previous 020206.A.2.a	Deleted paragraph since Flextime is no longer in the Office of Personnel Management's Handbook on Alternative Work Schedules.	Deletion
020306	Updated paragraph to include current reference.	Revision
0209	Added reference guidance for Labor Distribution.	Addition
Previous 0209	Deleted section, Source Data Automation Systems, due to it being procedural guidance.	Deletion

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CHAPTER 2

TIME AND ATTENDANCE (T&A)

*0201 GENERAL

020101. Overview

This chapter sets out time and attendance (T&A) policy and procedures for the Department of Defense (DoD) agencies. It contains established policies, defines responsibilities, and prescribes internal controls in support of T&A recording and reporting requirements for the Defense Civilian Pay System (DCPS).

020102. Authoritative Guidance

Statutes, regulations, and other guidance are referenced under each section of this chapter. For additional guidance, see "Maintaining Effective Control Over Employee Time and Attendance Reporting" ***GAO-03-352G***.

0202 RESPONSIBILITY OF EMPLOYING AGENCY, APPROVING OFFICIAL, AND TIMEKEEPER

020201. Employing Activity Responsibility

An employing activity must ensure compliance with the following T&A functions:

A. Individuals recording and approving T&A are properly trained;

B. The recording and approval of T&A are performed timely and accurately by the responsible individuals;

C. All supporting documentation is available for review and audit;

D. All procedural guidance is clear, adequate, and available to all individuals recording and approving T&A;

E. Every effort is made to correct errors within the pay period to which the changes apply;

F. A supervisor or other equivalent official approves all corrections or adjustments and promptly reports the approved corrections to the civilian payroll office (PRO); and

G. All individuals responsible for reporting, approving, reviewing, or processing T&A data, in any form, must be held accountable for the accuracy, integrity, and security of the information. The discovery of any violations of internal controls, improper input of

T&A data, or security breaches must be immediately reported to an appropriate supervisory official.

020202. Approving Official's/Supervisor's Responsibility

An approving official, usually the employee's supervisor, maintains the primary responsibility for authorizing and approving T&A transactions. An approving official must perform the following T&A functions:

A. When approving T&A, all supervisors, other equivalent officials, or higher-level managers must certify, to the best of their knowledge, that work schedules are accurately recorded. An employee's supervisor should be aware of an employee's work schedule, leave taken, and any absence from duty and must review and approve the T&A to ensure its accuracy. Supervisors must ensure that exceptions to the employee's normal tour of duty are recorded in a timely and accurate manner.

B. The supervisor may assign responsibility for observing daily attendance or accurately recording T&A data to a timekeeper or, in limited circumstances, to the individual employee. However, the supervisor is still ultimately responsible for the timely and accurate reporting of the T&A in accordance with applicable policies, regulations, instructions, and bargaining agreements. The supervisor must inform the timekeeper when an employee is on leave or has worked any type of premium work. The supervisor may assign an alternate timekeeper to maintain T&A during the absence of the primary timekeeper.

*020203. Timekeeper Responsibility

Timekeeping is a critical function that may be performed by the individual employee, a designated timekeeper (which can be a civilian employee, contractor, or military personnel), the employee's supervisor, or a combination of these individuals. A timekeeper must perform the following T&A functions:

A. A timekeeper must accurately and timely record T&A data and maintain all related documentation; and

B. A timekeeper must be aware of the employee's attendance and absence each day.

020204. Timekeeper Functions

Individuals performing the timekeeping function are specifically responsible for:

A. Recording all exceptions to the employee's normal tour of duty promptly and accurately; and

B. Ensuring that employees have attested to the accuracy of both their current pay period's T&A (including any exceptions such as the use of leave) and to any adjustments or

corrections to a previously approved T&A. If the employee is not available prior to the approval of the T&A, then attestation must be documented as soon as possible. An employee's attestations must be documented in writing or electronically and may be in the form of:

1. A manually completed hard copy document such as a sign-in, sign-out sheet;

2. A printout of an automated record such as a T&A report with the employee's signature written or electronic; or

3. T&A report with the employee's initials or an automated or electronic record showing that the employee has affirmed the correctness of the data; and

C. Ensuring that all entries for overtime, compensatory time earned, or holidays worked have been approved, and that total hours are correct, before submission for a supervisor's approval and certification.

0203 GENERAL T&A REQUIREMENTS

020301. Daily Record of Time

For each civilian employee, a daily record of time spent in pay and nonpay status must be maintained either by a designated timekeeper, who takes no part in preparing the payroll, or by automated or electronic devices, unless otherwise prohibited. When such devices are used, adequate supervisory surveillance must be maintained to ensure proper and accurate time recording.

020302. Time Period

The time period shown on the T&A must correspond to the length of a pay period. For example, if payment is made for a two week period, then the T&A must cover a 2-week period.

020303. Charge of Annual Leave

T&A must clearly indicate whether annual leave taken is to be charged against the employee's current leave account or to a separate leave account established for restored leave. The employee's regular leave account will be charged unless the annual leave taken is identified as being charged to the employee's restored leave account.

020304. Accounting for Time and Leave

The T&A must reflect a proper and accurate accounting of an employee's actual T&A and leave.

020305. Data Element Values

For each employee, the minimum data element values to be included on the T&A or supporting documentation are as follows:

A. Employee name;

B. Social Security number;

C. Pay period number or pay period dates;

D. Number of all hours worked by day by type and totals;

E. Number of hours of premium work by type, to which employee is entitled;

F. Dates and number of hours of leave by type, credit hours and compensatory hours earned and used;

G. Any required supporting documentation for absences, such as Office of Personnel Management (OPM) Leave Forms, jury duty orders, or military orders;

H. Handwritten signature or automated approval of the supervisor; and

I. Any other information as may be required in support of the T&A.

* 020306. Work Schedules

The work schedule defines the basic work requirement as the number of hours, excluding overtime hours, an employee is required to work or to account for by charging leave. Generally, a full-time employee's basic work requirement is 80 hours in a pay period. Attendance and absence must be consistent with the employment status for the individual. An approved work schedule for each employee will be maintained showing the planned arrival and departure for each day. Alternate Work Schedules (AWS) may be used by agencies. For additional guidance on AWS, refer to the ***OPM Handbook on Alternative Work Schedules***.

A. Flexible Work Schedule (FWS)

Under certain flexible schedules, DoD civilian employees may work longer or shorter hours, including credit hours on any given workday, without taking leave or being paid overtime, so long as their basic biweekly work requirements are met. See Title 5, United States Code (U.S.C.), ***section 6121***. By electing to work hours in excess of their tour of duty, employees may also complete the biweekly basic work requirements in fewer than 10 workdays without being paid overtime or being charged leave for the non-workdays.

1. Material Variances or Deviations. Material variances or deviations, as determined by the FWS, must be approved by the supervisor before the change occurs, or

promptly after occurring, if not feasible prior to the change. Supervisors must verify that the dates and the material variances or deviations have been recorded in the T&A.

2. Types of FWS. Full-time employees with an 80-hour biweekly work requirement may determine their own schedule within the limits set by the employing activity. A part-time employee may determine his or her own schedule for a biweekly work requirement of less than 80 hours. According to the OPM Handbook of Alternative Work Schedules, the flexible work schedules include the following:

a. Flexitour. Flexitour is a work schedule in which an employee is allowed to select starting and stopping times within the flexible hours. Once starting and stopping times are selected, the employee continues to adhere to these times until the employing activity provides further opportunities to select different starting and stopping times.

b. Gliding Schedule. Gliding schedule is a flexible work schedule in which an employee has a basic work requirement of 8 hours in each day and 40 hours in each week. Employees may select an arrival time each day and may change that arrival time daily as long as it is within the established flexible hours.

c. Maxiflex. Maxiflex is a flexible work schedule that contains core hours on fewer than 10 workdays in the biweekly pay period and in which an employee has a basic work requirement of 80 hours for the biweekly pay period. The employee may vary the number of hours worked on a given workday or the number of hours each week, within the limits established for the organization.

d. Variable Day Schedule. Variable day schedule is a flexible work schedule that contains core hours on each workday in the week. Under the variable day schedule, a full-time employee has a basic work requirement of 40 hours in each week of the biweekly pay period. The employee may vary the number of hours worked on a given workday within the week as long as the variation remains within the limits established for the organization.

e. Variable Week Schedule. Variable week schedule is a flexible work schedule that contains core hours on each workday in the biweekly pay period. Under the variable week schedule, a full-time employee has a basic work requirement of 80 hours for the biweekly pay period. The employee may vary the number of hours worked on a given workday or the number of hours each week, as long as the variation remains within the limits established for the organization.

B. Compressed Work Schedule. A compressed schedule is a fixed schedule that enables a full-time employee to complete the basic work requirements of 80 hours in fewer than 10 full workdays in each biweekly pay period by increasing the number of hours in the workday. See 5 U.S.C. 6121.

1. Set Time and Days of Work. There is no flexibility in a compressed schedule. An employee's time of arrival and departure from work is set, as are the days on which the employee is to complete the basic work requirement.

2. Overtime. For employees working under compressed schedules, overtime pay will continue to be paid for work in excess of the compressed schedule. See ***5 U.S.C. 6128***.

3. Absences. For employees working under compressed schedules, the recording of absences is treated in the same manner as for employees working a regular or alternative work schedule. Employees working a compressed work schedule must be charged leave in accordance with their basic work schedule.

4. Variations of the Compressed Work Schedule. Compressed work schedules are determined either by management or through negotiations with exclusive employee representatives. The following are variations of the compressed work schedule:

(a) 4-10 Schedule. On the 4-10 schedule, employees work 10 hours a day for 4 days each workweek;

(b) 5-4/9 Schedule. On the 5-4/9 schedule, employees work 9 hours a day for 8 days, 8 hours for 1 day, and record 1 non-working day each pay period;

(c) 3-day Workweek Schedule. On the 3-day workweek schedule, employees work 13 hours and 20 minutes a day for 3 days each workweek.

020307. Approval of Leave

Leave approval may be by handwritten or automated signature. Leave approvals must be granted in accordance with the requirements of Chapter 5.

020308. Overtime and Compensatory Time Earned Authorizations

The employee's supervisor must approve any overtime, compensatory time, or holiday work. The supervisor's approval must be documented in writing or electronically and must be retained for review and audit. Approval must be granted before the hours are worked, or if not feasible, as soon as possible after the work has been performed.

A. Regular vs. Irregular/Occasional Overtime. To properly determine an employee's overtime entitlement, the approving official should distinguish between regular overtime and irregular or occasional overtime.

B. Compensatory Time. Compensatory time earned may only be granted for irregular and occasional overtime work. Compensatory time is not authorized for regularly scheduled overtime work.

020309. Continuation of Pay (COP)

An employee who sustains a disabling job-related traumatic injury is entitled to the continuation of regular pay for up to 45 calendar days. See Chapter 6 for additional information regarding COP.

A. Counting COP Time. Controls will be established to ensure that employees do not exceed the 45-day limit. COP time will be accounted for as follows:

1. Calendar Days. Days are counted on a calendar basis. If an employee is charged COP on Friday and the disability continues through the weekend, then the employee is charged COP for Saturday and Sunday. Holidays, weekends, and regular days off following a COP day are counted as COP days. If 1 hour is used to see a physician and 7 hours are worked, the day is still counted as 1 full day of COP. The T&A must reflect the actual hours worked in order to accurately reflect the employee's work record.

2. Period Charged to COP. Unless the injury occurs before the beginning of the workday, time lost on the day of injury must be charged to administrative leave. The period charged to COP begins with the first day or shift of disability or medical treatment following the date of injury, provided the absence began within 45 days after the injury. COP must be charged for weekends and holidays if the medical evidence shows the employee was disabled on the days in question. For example, if the physician indicates that disability will continue only through Saturday for an individual who has Saturday and Sunday off, then COP will be charged only through Saturday.

3. Full Days Charged to COP. If work stoppage occurs for only a portion of a day or shift other than the date of injury, then a full day of COP will be counted against the 45 calendar day entitlement, even though the employee is not entitled to COP for the entire day or shift. For example, if an employee who has returned to work uses 3 hours in order to receive physical therapy for the effects of the injury, then the employee is entitled only to 3 hours of COP, even though 1 full calendar day will be charged against the 45 day limit. If an employee is absent for all or part of the same remaining workday, then the time lost must be covered by leave, as appropriate, since absence beyond the time needed to obtain the physical therapy must not be charged to COP.

4. Full Days Charged when Employee Works Partial Days. If the employee is only partially disabled following the injury and continues to work several hours each workday, then each day or partial day of absence from work is chargeable as a full day of COP against the 45-day period.

5. Disapproval of COP. Absences charged to COP and later disapproved by the Department of Labor will require conversion to sick or annual leave. If sick or annual leave is not available, then COP will be converted to leave without pay (LWOP) and reimbursements to the Government must be made for any gross earnings paid while in a COP status. Due process procedures apply to the collection of any such debt owed by an employee.

The amount collected must include payments made on behalf of the employee and any adjustments to the deposit fund accounts by the civilian PRO.

6. Return to Duty. The injury compensation program administrator may contact the attending physician in writing to inquire about the employee's estimated return to light duty and/or the servicing Office of Workers' Compensation Programs office for an expected date of return to duty.

B. Light Duty Status. When a determination has been made that an injured employee may return to duty in a light duty status within the first 45 days of disability following an injury, each day or portion of a day in light duty status may be counted as 1 day of COP. This also includes any day or portion of a day worked while under injury-related work restrictions imposed by a physician. See Chapter 6 for additional information on light duty status and when COP is payable.

1. Official Personnel Actions. An employee performing light duty because of an on-the-job injury, normally is not charged COP. However, COP must be charged if an employee has been assigned light duty by a ***Standard Form 50 (SF 50)***, Notification of Personnel Action, and pay loss results. The employee must be furnished with documentation of the personnel action before the effective date of the action.

2. Loss of Night Differential Pay. When an employee is detailed to a work schedule entailing loss of night differential pay earned before the injury, COP days will be charged, even though the employee is working. The cost of COP is calculated as the difference between the employee's normal pay and pay earned in the detail position.

020310. Temporary Duty (TDY)

A. Recording TDY on T&A. When an employee is on TDY, the hours worked and hours of leave must be recorded on the T&A. All time actually spent away from the permanent duty station during the basic workweek must be recorded at the employee's permanent duty station as time worked or leave taken. The travel order must support entries on the T&A for regular time.

B. Extended TDY. When an employee is on extended TDY (official government-directed travel exceeding three weeks), the supervisor may require the employee to submit the T&A. Overnight mail, electronic mail, facsimile machine, or other acceptable means of communication may be used.

0204 T&A RECORDING

020401. Requirements

Scheduled starting and ending times of the day for each employee or for groups of employees must be established and recorded. The day that an employee's shift begins is

designated as the day of work for night and shift differential purposes. These requirements must be modified for employees working a flexible or compressed work schedule under the AWS plans.

020402. Certification of Absences

Employees either must initial or sign for indicated absences; or submit an approved application for leave. A supervisor may require a medical certificate or other evidence of illness from an employee when granting sick leave. Such certification will be retained by the employing activity in accordance with section 0208.

020403. Verification of Leave Charges

Employees must confirm each leave charge, except for administrative leave, Absent Without Leave charges, suspension, or holiday absences.

020404. Leave Charges

All leave types are charged to the employee by days, hours, or fractions of hours.

020405. Daylight Savings Time

A. Hour Lost. Civilian employees working on a tour of duty when daylight saving time goes into effect are credited with the actual number of hours worked on the tour of duty. The hour lost because of the change is charged to annual leave, compensatory time used, credit hours used, or LWOP, as requested by the employee. Employees may also be allowed to work 1 hour beyond the end of their shift.

B. Hour Gained. Civilian employees working on a tour of duty when standard time goes into effect are credited with the actual number of hours worked. Time worked in excess of 8 hours, or the regular tour of duty hours, must be paid as overtime, compensatory time earned, or recorded as credit hours.

020406. Recording Clock

A recording clock may not be used to record time of an employee of an executive department in the District of Columbia. See ***5 U.S.C. 6106***.

0205 T&A CERTIFICATION

020501. Controls

A. The certification of T&A constitutes authorization for the expenditure of government funds. Each employee's T&A must be certified correct by the employee's supervisor, acting supervisor, other equivalent official, or a higher level manager authorized to act as an alternate certifier at the end of the pay period.

B. Certification ordinarily must not be made earlier than the last workday of a pay period. In some circumstances, such as when a legal holiday falls on a Friday or Monday, it is not practical to operate without an early cutoff. In such cases, additional controls, which must be demonstrated in the system design, must be in place and operating. These controls must ensure that any change in attendance or absence certified by a supervisor that occurs after the cutoff date either is identified and reported before pay computation, or is reported for the next pay computation. The employee may initial the corrected entry(ies) or submit an ***OPM Form 71***, Request for Leave or Approved Absence, or locally approved electronic leave request, for such absence, as appropriate.

020502. Responsibility

All T&A and supporting documents must be reviewed and approved by the supervisor or designated alternate certifier. The supervisor or designated alternate certifier must be aware of his or her responsibilities for ensuring accuracy of the reports and must have knowledge of the time worked and absence of employees for whom approval is given.

A. Certification of T&A. The supervisor or designated alternate certifier must have a reasonable basis for relying on systems of internal control to ensure accuracy and legal compliance if he or she does not have personal knowledge of the presence and absence of, or other information concerning employees whose T&A are being approved. This basis must involve periodic testing of internal controls to ensure they are working as intended. Certification of T&A documents must be based on:

1. Knowledge from personal observation, work output, or timekeeper verification;

2. Checking data against other independent sources such as validating starting and ending times of work, using sign-in and sign-out sheets or time clock entries;

3. Reliance on other internal controls; or

4. A combination of controls.

B. Approval of T&A. Approvals must be made individually for each employee, and a handwritten or automated signature must be provided for each T&A.

C. Approval of Multiple T&As. A single supervisory or designated alternate certifier signature for a multiple employee T&A report may be made to approve the information recorded for all employees listed on the report. There are three prerequisites for a single signature:

1. The data elements itemized in paragraph 020305 must appear on the report for each employee listed on the report;

2. Supporting documents required for the information on the report must be reviewed by the supervisor or designated alternate certifier; and

3. The supervisor or designated alternate must initial or sign each page of the report and either sign the last page of the report or enter an approval code into an automated system.

D. Electronic Approval. When a computerized ("paperless") T&A system is used and T&A data is contained in a computer file and displayed on a terminal, a single automated code may be entered by the supervisor to approve the information contained in the file. However, the data elements itemized in paragraph 020305 must be contained in the file. Prior to approving the T&A, the supervisor or designated alternate certifier must review supporting documents or computerized files. A record of changes made to a file, once approved by someone other than the original approving official, must be generated and sent to either the original approving official or a designated person other than the one who made the changes.

020503. Delay

Certification of the T&A may not be delayed for obtaining the employee's initials or signature for requested leave when the employee is not available. The employee must submit an OPM Form 71 upon return to duty to confirm the requested leave.

020504. Maintenance of T&A by Employee

A. When Maintenance of T&A by Employee is Appropriate. Situations in which employees may maintain their own official T&A are as follows:

1. The employee is the timekeeper;

2. Employees work flexible hours outside the hours of the timekeeper and supervisor;

3. An employee is working alone at a remote site;

4. Employees are based at the same location as their supervisors and timekeepers but are frequently away during working hours; or

5. The employing organization determines that individual timekeeping by all employees is warranted. The employing organization must maintain documentation demonstrating that the T&A reporting system has sufficient capacity and internal controls to ensure timely and accurate recording of T&A by these individual employees.

B. Controls. To provide reasonable assurance that employees are working when scheduled, supervisors must take reasonable measures, such as occasional telephone calls during the times they are scheduled to work, or an assessment of the reasonableness of output for the time spent, to determine the accuracy of T&As submitted by individuals who maintain their own T&A. The supervisor is responsible for the accuracy of the T&A data submitted by the individual.

020505. Prior Approval

When it is not practical for the supervisor to approve a T&A prior to the receipt of supporting documents, the employee may be paid and a subsequent review performed of the documents by the supervisor.

020506. Approval of T&A by Employee

Employees are generally prohibited from approving their own T&A. Exceptions to this general prohibition apply only when it is not feasible for employees to have their T&A approved by a supervisor. In such instances, the Component head, or his or her designee, must grant an official authorization in writing in order for the employee to approve his or her own T&A. An employee may be authorized to approve his or her own T&A under the following circumstances:

A. The employee works alone at a remote site for long periods;

B. The employee is based at, but frequently away from, the location of their supervisor and timekeeper during working hours; or

C. The employee is the head of an organization within an agency that has no supervisor on site.

0206 T&A REPORTING

020601. Methods

T&A data must be transmitted to the payroll system, as required, by using positive (100 percent) reporting or exception reporting. Under positive reporting, all T&A data is reported to the payroll system for each employee. Under exception reporting, only exceptions to the employee's scheduled tour of duty are reported to the payroll system. When reporting to the payroll system by source data automation (SDA), positive reporting must be required for each employee.

020602. Controls

Regardless of the reporting method, controls must ensure that all required T&A data, including current period corrections and prior period adjustments, are properly reviewed and approved by the supervisor and reported in a timely and accurate manner.

020603. Generating a Charge to Annual Leave

If any required T&A data is missing for an employee, then the civilian PRO must generate a charge against the employee's annual leave balance. If the annual leave balance is not sufficient to support the employee's regularly scheduled tour of duty, any remainder must be charged to another leave category in order to fulfill the employee's schedule tour of duty. The employee's pay and leave record must be corrected upon submission of the certified T&A data. T&A data is considered missing if:

A. Under positive reporting, time has not been reported for the employee's entire scheduled tour of duty; or

B. Under exception reporting, the appropriate function key has not been pressed to denote that all exceptions have been reported.

0207 ADJUSTMENTS AND CORRECTIONS

020701. Current Period Corrections

Timekeepers must correct errors in data that are discovered when performing the steps discussed in subparagraph 020202.C.

020702. Prior Period Adjustments

If the T&A for the current pay period has been processed and a change is required, then the supervisor must certify an adjusted T&A for input to the payroll system or transmittal to the PRO via the customer service representative. The adjustment must be processed in the employee's pay and/or leave record no later than the pay period following receipt for on-line adjustments.

020703. Electronic Corrections

Electronic corrections for current period corrections and prior period adjustments must be made in accordance with the DCPS user manual.

020704. Manual Corrections

T&A corrections for pay periods no longer held in DCPS (offline records) require a hard copy of the certified T&A signed by the supervisor and forwarded to PRO. PRO will process the manual correction within DCPS in accordance with established procedural guidance.

020705. Corrected Time Cards for Back Pay Awards

If an appropriate authority corrects or directs the correction of an unjustified or unwarranted personnel action under the provisions of the Back Pay Act at ***5 U.S.C. 5596***, time card corrections may be requested by the PRO for the period covered by the corrective action. Corrected time cards ensure the proper award of any pay, allowances, and differentials owed to the employee, including leave or other monetary employment benefits to which an employee is entitled by statute or regulation.

0208 RETENTION OF RECORDS

020801. Storage Location

Employing activities must establish a uniform practice to be followed as to the locations at which the T&A reports and related supporting documentation are to be maintained. T&A reports, together with approved applications for leave, overtime approvals, military orders, jury duty certification, or other supporting documents, may be retained by the timekeeper, supervisor, or sent to a designated storage location.

020802. Internal Controls

Sufficient internal controls must be established to prevent unauthorized changes to completed T&A, regardless of where they are retained.

020803. Retention Period

T&A records, to include leave application files, source records, input records, and leave records, must be retained by the employee's supervisor or activity in accordance with records retention requirements as set forth in the ***National Archives, General Records Schedule 2***. NOTE: There are different retention requirements for these four types of records.

* 0209 LABOR DISTRIBUTION

Civilian payroll systems must interface with cost accounting systems, if established, to ensure payroll labor costs are distributed and charged to appropriate cost centers. Organizations that operate a formal cost accounting system must ensure that costs are reconciled to the labor distribution processes at least once per month. See the Federal Financial Management Improvement Act of 1996 (Pub. Law 104-208, Title VIII, § 801 et seq., Sept. 30, 1996, which is set out as a note under ***31 U.S.C. 3512***).

VOLUME 8, CHAPTER 3: "PAY ADMINISTRATION"

SUMMARY OF MAJOR CHANGES

All changes are denoted by blue font.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by bold, italic, blue, and underlined font.

The previous version dated April 2013 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Revised hyperlinks and formatted chapter to comply with current administrative instructions.	Revision
0301	Added "General," "Purpose," and "Authoritative Guidance" sections.	Addition
0302	Added an introduction to the "General Provisions on Pay" section.	Addition
030203.B.4	Reformatted "Deferring Payments" section for clarity.	Revision
030212	Added information regarding "Administratively Determined Pay Plans."	Addition
030304.C	Revised the "First 40-Hour Tour of Duty" section under "Sunday Premium Pay."	Revision
030402.A.2	Reformatted "Temporary Quarters Subsistence Allowance" section for clarity.	Revision
030402.G (Previous)	Deleted Tropical Differential pay information.	Deletion
030402.G	Revised the "Employees in a Non-Pay Status" section to add information for employees in a non-pay status.	Revision
030504	Deleted procedures for payment of Uniform Allowance in the "Uniform Allowance" section.	Deletion
030507	Revised information for the "Foreign Language Proficiency Pay" section to include employees performing intelligence duties.	Revision
0306	Added an introduction to the "Recruitment, Relocation, and Retention Incentives" section.	Addition
030906	Added information for "Advances in Pay for Newly Hired Employees."	Addition
031101.B.4	Revised information for Time-Off Awards.	Revision

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CHAPTER 3

PAY ADMINISTRATION

*0301 GENERAL

030101. Purpose

This chapter provides guidance on Department of Defense (DoD) civilian employee pay and entitlements.

030102. Authoritative Guidance

Specific statutes, regulations, and other guidance are referenced under each section of this chapter.

*0302 GENERAL PROVISIONS ON PAY

* This section provides general information on computing pay and transmitting pay data to the payroll office. This section also provides guidance on statutory limits on pay ("pay caps") and general information on computing pay for General Schedule (GS), Senior Executive Service (SES) and other categories of employees.

030201. Pay and Payroll Data

A. Computing Pay. Payroll computations must be based on statutorily authorized entitlements in accordance with Title 5 of the United States Code (U.S.C) and Title 5, Code of Federal Regulations (C.F.R.), Parts ***530***, ***531***, ***532***, ***534***, ***550***, ***551***, ***575***, ***581***, ***591***, ***595***, ***610***, and ***630*** and other statutory or regulatory requirements as stated herein. The payment of any entitlement must be supported by one or more of the following source documents, as appropriate:

1. Standard Form (SF) 50s and/or other similar personnel documents;

2. Certified copies of travel orders;

3. Time and attendance reports, including any necessary supporting documents such as sign-in and sign-out registers or Office of Personnel Management (OPM) Form 71, Request for Leave or Approved Absence; and

4. Authorizations or approvals of overtime and compensatory time worked.

B. Transmitting Documents to the PRO. If the Human Resources Office (HRO) electronically transmits the pay entitlement data from source documents to the Defense Finance and Accounting Service (DFAS) Civilian Payroll Office (PRO), the HRO is not also

required to send the source documents to the PRO unless requested to do so. The HRO must monitor feedback to ensure the integrity and accuracy of the data used in the pay computation process and must establish effective controls to ensure that all data transmits successfully. The HRO must retain source documents, along with transmittal and control data, for audit purposes in accordance with the National Archives General Records ***Schedule 2***.

C. PRO Must Ensure Payroll Data is Accurate. The PRO must ensure that payroll data is complete and accurate. Specifically, the PRO must ensure that an employee's compensation is consistent with his or her grade, position classification, other entitlements, and employment location. For example, an agency may not pay any foreign area allowances, regardless of authorizing documents, to an employee assigned to stateside duties. In this example, the PRO must request the HRO that issued such entitlement documents clarify and/or correct the documents.

D. Time and Attendance Records. The PRO must ensure pay computations are based on the completed time and attendance records maintained for each employee. The PROs must complete computations as soon as possible after the close of the pay period.

E. Reconciliation. The PRO, the HRO, and the customer service representative (CSR) must communicate to ensure that all appropriate entitlement information is considered for each pay computation and that the computations are supported by the appropriate documentation. At least every 4 months, personnel and pay data must be reconciled and discrepancies corrected. The functional area that entered the incorrect data has primary responsibility for reconciling discrepancies in common data. For additional information, see Chapter 1.

030202. Notification of Changes to Pay

The servicing HRO is responsible for notifying the PRO of changes to an employee's pay. The servicing PRO must adequately inform each employee in writing as to the nature and amount of the changes in gross pay from one pay period to the next. This information may be included on the employee's Leave and Earnings Statement (LES) rather than a separate written advisory. The notification must be in sufficient detail to show total pay, allowances, deductions, and net pay.

*030203. Statutory Limits on Compensation ("Pay Caps")

A. Premium Pay Limits

1. Biweekly Premium Pay Cap. Premium pay includes night pay, the dollar value of compensatory pay, overtime pay, premium pay on an annual basis, and pay for Sunday and holiday work. See 5 C.F.R. 550.103. Except as explained in 030203.A.2 and 3, the sum of an employee's basic pay and premium pay for any pay period may not exceed the greater of the biweekly rate of basic pay payable for: 1) GS-15, step 10 (including any applicable locality pay under ***5 U.S.C. § 5304*** or special rate of pay under ***5 U.S.C. § 5305***); or 2) Level V of the Executive Schedule. See ***5 U.S.C. § 5547(a)***, 5 C.F.R. 550.105, and ***OPM Pay and Leave***.

When GS employees are receiving a locality-based comparability payment, the OPM GS Locality Pay Tables should be used to determine the maximum GS-15, step 10 rate payable for the employee's locality. Employees in established special rate occupations and/or locations may have a higher biweekly limitation equal to the special rate for GS-15, step 10. The biweekly limitation does not apply to the following:

a. Overtime pay earned by employees who are nonexempt from (covered by) the Fair Labor Standards Act (FLSA),

b. Hazardous duty pay (HDP),

c. Pay earned by Federal Wage System (FWS) employees, who are excluded from coverage under 5 U.S.C. § 5547, or

d. Compensatory Time for National Guard Technicians. National Guard technicians are not paid for overtime work pursuant to ***32 U.S.C. § 709(h)***. Therefore, compensatory time earned by National Guard technicians will not be paid and computation of the biweekly statutory pay limits for the technicians should not include compensatory time worked.

2. Types of Pay Subject to Biweekly Cap when an Annual Premium Pay Cap Applies. In certain emergency or mission critical situations, an agency may apply an annual premium pay cap in lieu of a biweekly premium pay cap, subject to the conditions provided in law and regulation. See 5 U.S.C. § 5547(b) and 5 C.F.R. 550.106-550.107. However, the following types of premium pay remain subject to the biweekly limitation while other premium payments are subject to an annual limit under 5 C.F.R. 550.106:

a. Standby duty pay,

b. Administratively uncontrollable overtime (AUO) pay,

c. Availability pay for criminal investigators, and

d. Overtime pay for hours in the regular tour of duty of a firefighter.

3. Annual Premium Pay Cap. When the head of an agency, his or her designee, or OPM determines that an emergency exists, the biweekly caps on premium pay described in subparagraph 030203.A.1 will not apply to employees who are paid premium pay for work in connection with that emergency. However, such employees remain subject to an annual maximum earnings limitation. In these circumstances, the total basic pay and premium pay for most GS employees is limited to the annual rate for GS-15, step 10 (including locality-based comparability or special salary rates) or a Level V of the Executive Schedule for the calendar year. Pay exceeding the cap is forfeited and is not deferred for payment in the next calendar year. The cap does not apply to overtime earned by FLSA nonexempt (FLSA covered)

employees. For more information on the annual maximum pay limits, refer to 5 U.S.C. § 5547(b) and 5 C.F.R. 550.106.

4. Increased Annual Premium Pay Limitation

a. In 2005, Congress authorized the Secretary of Defense to waive the annual premium pay cap under certain circumstances. Eligible DoD employees are authorized an increase to the annual premium pay limitation under 5 U.S.C. § 5547, not to exceed the annual rate of salary payable to the Vice President under ***3 U.S.C. § 104***. To be eligible, employees must perform work in response to an emergency declared by the President or in direct support of, or directly related to, a military operation. Waiver authority applies to eligible employees who perform work while in an overseas area of responsibility of the Commander of the United States (U.S.) Central Command (CENTCOM) or an overseas location that has been moved from the U.S. CENTCOM area of responsibility to the area of responsibility of the Commander of the Africa Command (AFRICOM).

b. Eligible DoD employees who are granted a waiver of the annual premium pay cap are entitled to premium payments as provided in yearly guidance published by the Office of the Under Secretary of Defense (OUSD), Personnel and Readiness based on ***Public Law*** (P.L.):

(1) Calendar Year 2005 authorized by ***P.L. 109-13***,

(2) Calendar Year 2006 authorized by ***P.L. 109-163***,

(3) Calendar Year 2007 authorized by ***P.L. 109-364***,

(4) Calendar Year 2008 authorized by ***P.L.110-181***,

(5) Calendar Year 2009 authorized by ***P.L.110-417***,

(6) Calendar Year 2010 authorized by ***P.L. 111-84***,

(7) Calendar Year 2011 authorized by ***P.L. 111-383***,

(8) Calendar Year 2012 authorized by ***P.L. 112-81***,

(9) Calendar Year 2013 authorized by ***P.L. 113-66***,

(10) Calendar Year 2014 authorized by ***P.L. 113-291***, and

(11) Calendar Year 2015 authorized by ***P.L. 114-92***.

B. Aggregate Limitation on Pay

1. Aggregate Limitation. The Federal Employees Pay Comparability Act (***FEPCA***) of 1990 and 5 C.F.R. 530, Subpart B established an aggregate limitation on pay. The aggregate limitation applies to most Federal employees, including most members of the SES who were previously covered by an aggregate limitation applied on a fiscal year basis under ***5 U.S.C. § 5383(b)***. Under ***5 U.S.C. § 5307***, a covered employee may not receive any allowance, differential, bonus, award, or other payment in any calendar year to the extent that such payment, in combination with the employee's basic pay, would cause the employee's aggregate compensation to exceed the rate payable for Level I of the Executive Schedule at the end of that calendar year.

2. Aggregate Compensation. Aggregate compensation is the total of basic pay, premium pay, allowances, differentials, bonuses, awards, incentives, and other similar cash payments. See 5 C.F.R. 530.202. Certain payments are excluded from aggregate compensation such as overtime pay under FLSA, severance pay, lump-sum payment for accrued annual leave, back pay awards, student loan repayments, and non-foreign area cost-of-living allowances (COLAs).

3. Payments of Excess Amounts. Amounts in excess of the aggregate limitation must be deferred and are generally paid in a lump-sum payment at the beginning of the next calendar year. See 5 C.F.R. 530.204. If an employee transfers to another agency, the gaining agency is responsible for this payment. If an employee separates from Federal service, the entire excess amount is payable following a 30-day break in service. If an employee dies, the agency must pay the entire excess amount as part of the deceased employee's unpaid compensation. See ***5 U.S.C. § 5582***; 5 C.F.R. 530.204.

* 4. Deferring Payments. An agency must defer payment of any portion of a discretionary payment that would cause an employee's aggregate compensation to exceed the aggregate limitation. After deferring discretionary payments, all nondiscretionary payments (other than basic pay) must be deferred if continuing to pay the nondiscretionary payments would cause the employee's aggregate compensation to exceed the aggregate limitation for the calendar year. See 5 C.F.R. 530.203(d) and (e); 5 C.F.R. 530.204.

a. Discretionary Payments. A discretionary payment is an optional payment that an agency has discretion to pay an employee (e.g. retention allowances, supervisory differentials, and physicians' comparability). 5 C.F.R. 550.202.

b. Nondiscretionary Payments. Nondiscretionary payments are payments made to an employee under the terms of a service agreement or preauthorized to be paid at a regular fixed rate each pay period (e.g. basic pay, locality-based comparability payments, COLAs, post differentials, and remote worksite allowances). An agency may not defer a nondiscretionary payment to make a discretionary payment. Basic pay may not be deferred or discontinued under any circumstances.

030204. Multiple Appointments

An employee is not entitled to receive pay from more than one position for more than an aggregate of 40 hours of work in one calendar week (Sunday through Saturday). See ***5 U.S.C. § 5533(a)***. Generally, there is no restriction on the number of appointments, only the number of hours, for which an employee may be paid. An employee may hold more than one simultaneous part-time or intermittent appointment, or an employee on leave without pay may accept another Federal appointment. However, the employee may not receive pay for more than 40 hours a week, unless the employee's regular tour of duty is for more than 40 hours a week under an authorized alternative work schedule (AWS) or from two sources for the same hours. The HRO will notify the PRO of multiple appointments via SF 50 data.

030205. General Schedule (GS) Employees

A. Basic Pay. Basic pay for GS employees is defined in 5 C.F.R. 531.203 as the rate of pay fixed by law or by administrative action for the position held by a GS employee prior to withholding any deductions and excludes additional pay of any kind.

B. Pay Computation. Computations of salaries are based on the rates contained in the OPM, Pay and Leave, ***OPM Salary Table***.

C. Determining Basic Rates

1. The hourly basic rate is determined by dividing the annual rate by 2,087, with the result adjusted to the nearest cent, counting one-half cent and over as a whole cent. See ***5 U.S.C. § 5504***.

2. The biweekly rate is determined by multiplying the hourly rate by 80 for full-time employees.

3. A daily rate is determined by multiplying the hourly basic rate by the number of daily hours of service.

4. For any employees whose pay is monthly or covers one calendar month, rules for division of time and computation of pay are governed by ***5 U.S.C. § 5505***.

D. Interim Geographic Adjustment (IGA). On February 1, 1996, OPM issued final regulations at ***61 Federal Register 3539*** to address the termination of IGAs. Locality-based comparability payments replaced the IGAs effective August 2, 1996.

E. Special Higher Minimum Base Rates for Law Enforcement Officers (LEO) at Grades GS-3 through GS-10. Special base rates for LEOs at grades GS-3 through GS-10 are authorized under section 403 of the FEPCA of 1990 and 5 C.F.R. 531.204 and are used in lieu of a GS rate. OPM publishes the special base rates for LEOs in a special salary table. These rates are the basis for computing locality payments under 5 C.F.R. 531, Subpart F. Special

geographic adjustments for LEOs under section 404 of the FEPCA of 1990 have been eliminated because they have been surpassed by regular locality payments under 5 U.S.C. § 5304.

F. Locality-Based Comparability Payments. Title 5 C.F.R. 531, Subpart F and 5 U.S.C. § 5304 govern locality payments for GS employees and other employment positions in locality pay areas. Locality pay is considered as basic pay for retirement, Federal Employees' Group Life Insurance (FEGLI), premium pay, advance pay, severance pay, lump-sum leave, and workers' compensation purposes. The HRO bases locality pay eligibility on where an employee's official duty station is, and not where he or she lives. Locality pay does not transfer with an employee from one pay locality to another. Employees must receive whatever rate of pay applies at his or her new duty station. Employees on temporary assignment in a different pay locality must continue receiving their current salary. Locality pay does not apply overseas. The official worksite for an employee covered by a telework agreement must be determined on a case-by-case basis using criteria established by OPM.

030206. Employees in Performance Management and Recognition System (PMRS)

A. General. The PMRS Termination Act of 1993 terminated the PMRS effective November 1, 1993. The provisions of this law applied to any employee covered by a PMRS position on October 31, 1993, and provided for the transition of former PMRS employees into their agency's Performance Management System and the GS pay plan. See OPM Performance Reference Materials, Instructions: How to Comply with ***P.L. 103-89***.

B. Identification of PMRS Employees. In order to identify all employees covered by the provisions of this law, OPM retained the General Merit (GM) pay plan code. The step for all employees using the GM pay plan code will continue to be zeros ("00").

C. Within-Grade Increases. All GS employees, including those still designated GM after October 31, 1993, will be eligible for within-grade increases according to the waiting periods established in the statute. The last PMRS merit increase received, including one for zero dollars, is an equivalent increase for the purpose of calculating and completing the prescribed waiting periods. Within-grade increases have the dollar value of one-ninth of the pay range. Employees will have the within-grade increase added to their basic pay rate, including an off-step rate, upon completion of the appropriate waiting period, provided performance has been at an acceptable level of competence.

D. Termination. An employee's coverage under the PMRS will end and his or her rate of basic pay will be adjusted to the designated GS step rate that meets or exceeds the current rate of pay, not to exceed step 10, if any of the following actions occur:

1. Promotion,

2. Change to a lower grade,

3. Break in service of more than 3 days,

4. Transfer to another non-DoD agency, or

5. Reassignment to a non-supervisory or non-management position.

030207. Senior Executive Service (SES) Positions

A. Definition. In accordance with ***5 U.S.C. § 3132(a)(2)*** and ***5 C.F.R. 317***, an SES position is any position within an agency above a GS-15 grade level under ***5 U.S.C. § 5108***, or in Level IV or V of the Executive Schedule, or an equivalent position, which is not required to be filled by an appointment by the President with Senate confirmation. The SES includes managerial, supervisory, and policy positions classified above a GS-15 or equivalent in the Executive Branch. Non-supervisory positions are not covered unless they carry significant policymaking responsibilities.

B. Rate of Pay. The SES pay range has a minimum rate of basic pay equal to 120 percent of GS-15, step 1, and a maximum rate equal to that of a Level III of the Executive Schedule. See ***5 U.S.C. § 5382*** and 5 C.F.R. 534.403. The maximum rate of basic pay for an SES employee covered by a performance appraisal system is set at the rate for Level II of the Executive Schedule. Minimum rates of basic pay for the SES rate range are adjusted by Executive Order issued by the President to allow for consistency with any increase in the minimum rate of basic pay for these positions. See ***5 U.S.C. § 5376***.

030208. Senior Level (SL) Positions

A. Definition. SL positions are non-SES positions classified above GS-15 pursuant to 5 U.S.C. § 5108 and ***5 C.F.R. 319.102***. These positions do not include administrative law judges or board of contract appeals positions that have their own pay schedules.

B. Rate of Pay. Title 5 U.S.C. § 5376 and 5 C.F.R. 534, Subpart E govern the rates of pay for SL positions and are located in the OPM Pay Tables, see section 030205 B. The Senior Professional Performance Act of 2008 established a new pay system for SL employees, effective April 12, 2009, providing pay ranges comparable to those available under the SES pay system. See 5 U.S.C. § 5304. The minimum rate of basic pay is set at 120 percent of GS-15, step 1, and the maximum rate equal to Level III of the Executive Schedule. The maximum rate of basic pay for an SL employee covered by a performance appraisal system is set at the rate for Level II of the Executive Schedule. Under the new pay system, locality pay is no longer paid in addition to the basic rate. There are no grades or steps under 5 U.S.C. § 5376; therefore, employees may be paid at any rate between the minimum and maximum rates.

030209. Scientific or Professional (ST) Positions

A. Definition. ST employees are those in non-executive positions classified above GS-15 who are engaged in high-level research and development in the physical, biological, medical or engineering sciences established under ***5 U.S.C. § 3104*** and 5 C.F.R. 319.103.

B. Rate of Pay. The rates of pay for ST level positions are governed by 5 U.S.C. § 5376 and 5 C.F.R. 534, Subpart E, and are located in the OPM Pay Tables, see section 030205 B. The Senior Professional Performance Act of 2008 established a new pay system for ST level employees, effective April 12, 2009, providing pay ranges comparable to those available under the SES pay system. The minimum rate of basic pay is set at 120 percent of GS-15, step 1, and the maximum rate equal to Level III of the Executive Schedule. The maximum rate of basic pay for a ST position employee covered by a performance appraisal system is set at the rate for Level II of the Executive Schedule. Under the new pay system, locality pay is no longer paid in addition to the basic rate. There are no grades or steps under 5 U.S.C. § 5376; therefore, employees may be paid at any rate between the minimum and maximum.

030210. Executive Schedule Positions

A. Definition. The Executive Schedule is, as defined in ***5 U.S.C. § 5311***, divided into five pay levels (Level I through Level V) and is the basic pay schedule for senior management positions described at ***5 U.S.C. § 5312 to 5316***. SES positions are not included.

B. Rate of Pay. The rate of pay for Executive Schedule positions is contained in the OPM Salary Table.

030211. Federal Wage System (FWS) Positions

A. Definition. The FWS was established for Federal trade, craft, and laboring employees to allow for the payment of wages comparable to prevailing private sector rates in each local wage area. These positions are also referred to "wage grade" or "wage board" positions. Title ***5 U.S.C. § 5342*** defines an FWS employee as a prevailing rate employee who is in a recognized trade or craft, other skilled mechanical craft, or in an unskilled, semi-skilled, or skilled manual labor occupation. Individuals in positions having trade, craft or laboring experience and knowledge as a paramount requirement, such as a supervisor or foreman, may be FWS employees. For additional information, see the OPM, ***FWS Overview*** and 5 C.F.R. 532. FWS employees are hourly rate employees who receive annual wage adjustments based on a review of comparability pay by wage area. Each area pay scale is divided into the following five parts or classes: wage grade, wage leader, wage supervisor, non-supervisory and supervisory employees covered by the production facilitating pay plan.

B. Rate of Pay. OPM adjusts the rates from time to time for comparable work within a local wage area. Basic pay for FWS employees means the scheduled rate of pay plus any night shift or environmental differential.

*030212. Administratively Determined Pay Plans

Pay rates may be established under an administratively determined (AD) pay system that was created under a separate statutory authority. An agency must have independent authority to administratively determine the rates of pay for any group or category of employees. See the OPM Pay and Leave, Pay Administration, Fact Sheet: ***Pay Plans***.

0303 PREMIUM PAY

030301. General

Premium pay consists of certain types of pay, such as overtime, night, and holiday pay for employees not in receipt of annual premium pay for standby duty, Sunday pay, annual premium pay for regularly scheduled standby duty, annual premium pay for administratively uncontrollable work, availability pay for LEOs, environmental pay for FWS employees, and hazard pay for GS employees. Rates and authorization for these various types of pay are contained in ***5 U.S.C. § 5542***, ***5543***, ***5544***, ***5545***, ***5545a***, ***5545b***, ***5546a***, 5547, ***5549,*** and 5 C.F.R. 550, Subpart A. SES employees, Teaching Position (TP) Pay Plan employees, and other employees identified under 5 C.F.R. 550.101 are not entitled to premium pay under any circumstances. However, the premium pay provisions apply to SL and ST positions. For information on statutory limits on premium pay, also referred to as biweekly and annual premium pay caps, see paragraph 030203.

030302. Overtime

Each employing activity is responsible for controlling overtime. Supervisors must ensure funds targeted for their employing activity will cover overtime worked. Approval or disapproval of overtime must be consistent with direction from the Deputy Secretary of Defense. The PRO may pay only approved overtime as certified on the employee's time and attendance report. Normally, employees must request approval to work overtime in writing in advance of performing the work. See 5 U.S.C. § 5542.

A. Overtime Pay

1. Regularly Scheduled. Title 5 C.F.R. 550, Subpart A sets out regulations on premium pay for overtime. Regular overtime work is overtime work that has been scheduled prior to the beginning of an employee's regularly scheduled administrative workweek. For a GS employee whose rate of pay does not exceed a minimum applicable rate for a GS-10, the overtime-hourly rate is one and one-half times the employee's hourly rate of pay. For an employee whose rate of basic pay exceeds the minimum rate for a GS-10, the overtime-hourly rate is equal to the greater of one and one-half times the applicable minimum hourly rate of basic pay for a GS-10 or the employee's hourly rate of basic pay. Agencies may authorize regular overtime for full-time, part-time, and intermittent GS employees. An intermittent work schedule is appropriate when work is unpredictable and sporadic and therefore, repetitive regularly scheduled overtime should seldom occur. See ***5 C.F.R. 340.403***.

2. Irregular/Occasional. Irregular or occasional overtime work is overtime work that is not part of an employee's regularly scheduled administrative workweek.

B. Overtime Pay for FLSA Nonexempt (Covered) Employees

1. General. Generally, the PRO must compensate a nonexempt FLSA employee pursuant to the provisions of 29 U.S.C. § 207 and 5 C.F.R. 551 Subpart E for all

hours of work in excess of 8 hours a day or 40 hours in a workweek at a rate equal to one and one-half times the employee's hourly regular rate of pay. The "hourly regular rate" of pay for all nonexempt employees is computed by adding all includible payments for the week, then dividing by the total hours of work and paid leave. See 5 C.F.R. 551.511 and 551.512 for complete instruction on overtime pay computation. The biweekly and annual premium pay caps discussed in paragraph 030203 do not apply to FLSA nonexempt employees.

a. Flexible Work Schedule. Overtime, when worked under a flexible work schedule pursuant to ***5 U.S.C. § 6122-6126,*** consists of hours officially ordered in advance and in excess of 8 hours per day or 40 hours per week. Pursuant to ***5 U.S.C. § 6121(6)***, overtime hours do not include credit hours worked voluntarily under a flexible work schedule.

b. Compressed Work Schedule. For a full-time employee, overtime work consists of all hours of work in excess of the established compressed work schedule. For a part-time employee, overtime work consists of hours in excess of the compressed work schedule for the day (more than at least 8 hours) or for the week (more than at least 40 hours).

2. Calculation of Overtime after FEPCA. Under section 210 of the FEPCA, effective May 4, 1991, overtime pay computations for FLSA nonexempt (covered) employees must be made solely in accordance with FLSA regulations at 5 C.F.R. 551, as amended. Agencies are no longer required to compare overtime pay entitlements for nonexempt employees under 5 C.F.R. 550 and 551 and pay whichever amount is greater. Entitlements prior to May 3, 1991, must be calculated using the previous rules. FLSA nonexempt employees continue to be covered by other premium pay provisions of 5 U.S.C., Chapter 55, Subchapter V for night, Sunday, or holiday and annual premium pay for regularly scheduled standby duty or AUO work.

3. Other. According to 5 U.S.C. § 5544(a), hours of work, as defined under 5 U.S.C. § 5542, in excess of 8 hours in a day are deemed to be overtime hours for the purposes of Section 7 of FLSA. See ***29 U.S.C. § 207(e)(7)***. The excess hours are considered overtime only if an employee is not receiving annual premium pay for regularly scheduled standby duty ***5 U.S.C. § 5545(c)(1)*** or annual premium pay for AUO work under 5 U.S.C. § 5545(c)(2), or 5 U.S.C. § 5544(a) for FWS employees. Under FLSA, such hours are overtime hours regardless of the total number of hours of work in the workweek. For example, an employee on a flexible work schedule who works 10 hours on the first day of the workweek and is on Leave Without Pay (LWOP) for the remainder of the workweek is entitled to 2 hours of overtime pay under FLSA, even though the employee has worked a total of only 10 hours in the workweek. However, an employee working a compressed work schedule of eight 10-hour days would not receive overtime pay until they work in excess of 10 hours on a scheduled day.

C. Callback Overtime. Pursuant to 5 C.F.R. 550.112(h), a minimum of 2 hours of overtime will be paid if an employee is required to return to the place of employment for unscheduled overtime work or to work unscheduled overtime on a nonscheduled workday. If the callback occurs on a holiday during the employee's regular schedule, then a minimum of 2 hours holiday premium pay is paid. Pursuant to 5 C.F.R. 551.401(e), when an FLSA nonexempt

employee performs unscheduled overtime work on a day when work was not scheduled for the employee, or for which the employee is required to return to the place of employment, the employee is paid for 2 hours of work or the actual number of hours worked, whichever is greater. In all cases, the employee must record the actual time worked.

D. Excluded Employees. The provisions of ***5 U.S.C. § 5541*** exclude SES employees from premium pay. See 5 C.F.R. 534.408. Certain GS and all Executive Schedule employees are also excluded because premium pay may be paid only to the extent that aggregate pay does not exceed the maximum rate of pay for a GS-15 employee. See 5 U.S.C. § 5547. National Guard technicians are not entitled to premium pay for overtime; instead, they may earn compensatory time.

E. Compensatory Time Off

1. Eligibility. Under 5 U.S.C. § 5543 and 5 C.F.R. 550.114, eligible employees, including FWS and FLSA nonexempt employees, may request compensatory time off from their scheduled tour of duty instead of payment for an equal amount of time spent in irregular or occasional overtime work. Mandatory compensatory time off is required only for FLSA exempt employees (who are not prevailing rate employees) whose rate of basic pay is greater than the rate for GS-10, step 10. See 5 C.F.R. 550.114(c). An agency may not require FWS and FLSA nonexempt employees to take compensatory time off instead of being paid overtime pay, unless the employee requests compensatory time. See 5 C.F.R. 532.504 and 551.531.

2. Dollar Value of Compensatory Time Off and Premium Pay Cap Limitations. An employee must receive advanced written approval for compensatory time worked. Such approval must be made in accordance with Chapter 2. Compensatory time off is an alternative form of payment for overtime work. For the purpose of applying pay cap limitations or liquidating compensatory time, the dollar value of the compensatory time equals the amount of overtime pay the employee would otherwise have received for performing the same number of hours of overtime work. Pay limitations apply as follows:

a. Biweekly Premium Pay Cap. If invoking the biweekly cap, an employee cannot receive credit for compensatory time worked if the basic rate of pay equals or exceeds the maximum rate for grade GS-15, step 10, or Level V of the Executive Schedule. An employee whose basic rate is less than the maximum rate of GS-15, step 10, or Level V of the Executive Schedule, may earn compensatory time. However, it may only be credited to the extent that the monetary value of the compensatory time does not cause the total rate of pay to exceed the maximum earnings limitations under 5 C.F.R. 550.106(c).

b. Annual Premium Pay Cap. If invoking an annual premium pay cap, an employee may only receive credit for compensatory time to the extent that the monetary value of the compensatory time does not cause the total rate of pay to exceed the maximum earnings limitations. See 5 C.F.R. 550.106(c).

c. FLSA Considerations. The granting of compensatory time off in lieu of overtime pay under 5 U.S.C. § 5542 must not violate the overtime pay requirements of FLSA. For instructions on compensatory time off for nonexempt employees, refer to 5 C.F.R.551.531. For FLSA exempt employees, refer to 5 C.F.R. 550.114.

3. Occasional or Irregular Overtime Work. FWS, FLSA nonexempt and FLSA exempt GS employees may choose to earn compensatory time in place of payment for an equal amount of time spent in occasional or irregular overtime work, i.e. overtime work not scheduled in advance of the employee's workweek. Compensatory time off may be approved in lieu of regularly scheduled overtime work for FLSA exempt employees who are ordered to work overtime hours under a flexible work schedule under 5 U.S.C. § 6122. Additionally, an FWS or FLSA nonexempt employee may request compensatory time off if the employee is on a flexible work schedule under 5 U.S.C. § 6122. In this situation, the compensatory time off is granted instead of payment under 5 C.F.R. 532.504 and 5 C.F.R. 551.501 for an equal amount of time spent in overtime work, without regard to whether the overtime work was irregular or occasional in nature.

4. Time Limits. Pursuant to 5 C.F.R. 550.114 and 551.531, the limit for the use of compensatory time off is the end of the 26th pay period after that in which the overtime was worked.

a. FLSA/FWS Employees. Compensatory time off must be granted to an FLSA exempt or non-exempt employee within a reasonable time after the overtime is worked. If an FLSA exempt or nonexempt employee fails to take earned compensatory time off within 26 pay periods, the unused compensatory time worked pays out at the overtime rate earned. If an FWS or FLSA nonexempt employee fails to use compensatory time before the expiration of the established period, the employee is entitled to receive payment for the overtime work at FLSA overtime rate in effect at the time it was earned. See 5 C.F.R. 532.504 and 5 C.F.R. 551.531.

b. National Guard Employees. National Guard employees are not entitled to overtime may not receive payment for unused compensatory time worked. National Guard employees must use their compensatory time by the end of the 26th pay period after it is earned or the compensatory time will be forfeited.

5. AWS. Employees on a flexible work schedule or compressed work schedule may earn compensatory time off in lieu of overtime pay.

a. Flexible Work Schedule. An agency may approve compensatory time off in lieu of overtime pay for non-SES employees under a flexible work schedule at the employee's request. See 5 U.S.C. § 6123(a)(1).

b. Compressed Work Schedule. Compensatory time off may be approved in lieu of overtime pay only for irregular or occasional overtime work by an employee as defined in 5 U.S.C. § 5541(2) or by an FWS prevailing rate employee as defined in 5 U.S.C. § 5342(a)(2), but may not be approved for an SES member. Mandatory compensatory

time off is limited to FLSA exempt employees, who are not prevailing rate employees, whose rate of basic pay is greater than the rate for GS-10, step 10.

6. Compensatory Time Off in Relation to Night Pay. When a GS employee takes compensatory time off during his or her scheduled tour of duty that includes night pay, the employee is still entitled to night pay for that time only if the scheduled tour of duty is between 6 p.m. and 6 a.m. and the employee's leave total is less than 8 hours in a pay period. See 5 C.F.R 550.122.

7. Compensatory Time Off in Relation to Annual Leave. Compensatory time off may be granted before annual leave is approved except when annual leave would otherwise be forfeited. If the use of earned compensatory time off or credit hours that are about to expire results in the forfeiture of excess annual leave, the forfeited leave cannot be restored. See the OPM Pay and Leave, Pay and Leave Administration, Fact Sheet: ***Restoration of Annual Leave***.

8. Payment for Unused Compensatory Time

a. Separation or Transfers. When an FLSA exempt or nonexempt employee separates, dies, or transfers to another DoD Component (e.g., from Army to Navy, or Air Force to the Defense Logistics Agency) or the employee moves to a non-DoD agency (e.g., Army to Department of the Treasury), the losing Component must pay for any unused compensatory time balances. The agency must pay the balance at the overtime rate in effect when the employee earned the compensatory time. National Guard employees are not paid for unused compensatory time. For more information, see DoD Instructions (DoDI) ***1400.25, V550***, 5 C.F.R. 550.114 and 551.531.

b. Uniformed Service or Injury-on-the-Job. Agencies must pay an FLSA exempt or nonexempt employee for compensatory time off not used by the end of the 26th pay period after the pay period earned. Payment is at the overtime rate in effect when earned when the employee is unable to use the compensatory time off because of separation or placement in a leave without pay status because of:

(1) Performing service in the uniformed services (5 C.F.R. 550.114(f)), or

(2) An on-the-job injury with an entitlement to injury compensation under ***5 U.S.C., Chapter 81***.

F. Time Off for Religious Reasons. Employees may earn compensatory time off for religious observances under provisions of ***5 U.S.C. § 5550a*** and 5 C.F.R. 550.1002. The PRO records time off for religious reasons in a special leave account and the employee may work either before or after the time off. Time off balances do not transfer. When an employee separates, dies, or transfers to another DoD Component, any unused time off balance must be paid by the losing activity at the basic hourly rate in effect when the time was worked. If the employee has an advanced time off balance at the time of separation, death, or transfer, a debt

must be created. Compensatory overtime worked in this manner is exempt from maximum pay limitations and all other provisions of overtime and premium pay contained in 5 C.F.R. 550.1001-1002, 5 U.S.C., Chapter 55, Subchapter V, and 29 U.S.C. § 207. For additional information on compensatory time off for religious reasons, see 5 U.S.C. § 5550a.

030303. Night Pay Differential (GS) and Night Shift Differential (FWS)

A. GS Employees. Under 5 U.S.C. § 5545(a), night pay differential, at the rate of 10 percent of the hourly basic rate, is payable to employees for regularly scheduled work performed between 6 p.m. and 6 a.m. Accordingly, the hourly basic rate is multiplied by 10 percent, with the result adjusted to the nearest cent, counting one-half cent and over as a whole cent. Night pay differential is not included in the rate of basic pay used to calculate overtime, Sunday, or holiday pay. Night pay differential is in addition to overtime, Sunday, or holiday pay. The head of a department may designate another time between 6 p.m. and 6 a.m., as the beginning and end of the night work for activities outside of the U.S. See 5 C.F.R 550.122(b). Employees are not entitled to night pay differential while engaged in training, except where the situation they are learning to handle occurs only at night. An employee is entitled to night pay differential under the following circumstances:

1. For the hours actually worked between 6 p.m. and 6 a.m. when such hours are part of the employee's regularly scheduled work;

2. For overtime work performed between the hours of 6 p.m. and 6 a.m. if the overtime is regularly scheduled in advance of the administrative workweek;

3. For a period of paid leave during night work hours, only when the total amount of leave in a pay period, including both night and day hours, is less than 8 hours. Exceptions to this rule are employees on court leave; military leave, including leave for law enforcement and encampment purposes; time off with pay for a holiday; official travel status; administrative leave; compensatory time used; credit hours used; Continuation of Pay (COP); and time-off awards;

4. When excused from night work during a tour of duty while on official travel status, whether performing actual duty or not. See 5 C.F.R. 550.122(a);

5. When temporarily assigned during the administrative workweek to a daily tour of duty that includes night work. See 5 C.F.R. 550.122(d); or

6. When excused from night work on a holiday or other non-workday. See 5 C.F.R. 550.122(a).

B. Part-Time Employees. Part-time GS employees are eligible for night pay differential for work performed between 6 p.m. and 6 a.m. as part of their regularly scheduled administrative workweek.

C. Intermittent Employees. Intermittent GS employees who have no regularly scheduled tour of duty are not eligible for night pay differential. These employees are eligible for night pay differential during temporary assignment to a regular tour of duty with night work.

D. FWS Employees. Under ***5 U.S.C. § 5343(f)***, FWS employees receive night shift differential at one of the two following rates: 1) the rate of 7.5 percent of their hourly rate for non-overtime work when a majority of their scheduled hours occur between 3 p.m. and midnight; or 2) 10 percent of their hourly rate for non-overtime work when the majority of scheduled hours occur between 11 p.m. and 8 a.m. For additional information, see 5 C.F.R. 532.505. Night shift differential is considered as part of basic pay in the calculation of overtime pay, Sunday pay, holiday pay, and deductions for retirement and FEGLI. An employee regularly assigned to a night shift is entitled to night shift differential under the following circumstances:

1. For all non-overtime hours worked during an entire shift when the majority of hours fall within the specified periods;

2. On paid leave, such as court leave, holiday leave, compensatory time used, and administrative leave. See 5 C.F.R 532.505(e);

3. During a tour of duty while on official travel status, whether performing actual duty or not. See 5 C.F.R 532.505(c);

4. When temporarily assigned to a different tour of duty. See 5 C.F.R 532.505(d); or

5. When excused from night work on a holiday or other non-workday. See 5 C.F.R. 532.505(b).

E. National Guard Technicians. Army and Air National Guard technicians are not entitled to payment of night differential or premium pay for overtime pay during periods of overtime worked. National Guard technicians earn compensatory time.

*030304. Sunday Premium Pay

Additional pay at a rate of 25 percent of the hourly basic rate is payable to full and part-time employees whose regularly scheduled workweek, which does not include overtime hours, includes Sunday. Part-time employees are eligible for Sunday premium pay. See December 8, 2009, OPM Memorandum; Fathauer v. U.S. 566 F.3d 1352 (Fed. Cir. 2009). Sunday premium pay is payable for the entire period of non-overtime work during an employee's regularly scheduled daily tour of duty, not to exceed 8 hours, that begins or ends on a Sunday. Employees who do not actually perform work on Sunday do not earn Sunday premium pay. See 5 U.S.C. § 5546. Therefore, employees who are regularly scheduled to work on Sunday and who are on paid leave, excused absence, taking compensatory time off, using credit hours, or not working because Sunday is a holiday, are not entitled to Sunday premium pay. Intermittent

employees are not entitled to Sunday premium pay. See 5 U.S.C. §§ 5544 and ***5546***. FWS employees are entitled to Sunday premium pay under 5 U.S.C. § 5544(a).

A. Flexible Work Schedule. A full-time or part-time employee on a flexible work schedule who performs regularly scheduled non-overtime work during a period of duty, a part of which is performed on Sunday, is entitled to Sunday pay for the entire period of duty, not to exceed 8 hours.

B. Compressed Work Schedule. A full-time or part-time employee on a compressed work schedule who performs non-overtime work during a period of duty, a part of which is on Sunday, is entitled to Sunday pay for the entire period of duty on that day, even if the hours worked exceeded 8 hours. See ***5 U.S.C. § 6128***.

* C. First 40-Hour Tour of Duty. A first 40-hour tour of duty is regularly scheduled work. An employee under a first 40-hour schedule is entitled to up to 8 hours of Sunday premium pay when performing non-overtime work on a Sunday. See 5 C.F.R. § 610.111 and OPM, Pay and Leave, ***Work Schedules***. Any additional hours over 8 hours in a day are paid as overtime unless the employee is: 1) engaged in professional or technical engineering or scientific activities for whom the first 40 hours of duty in an administrative workweek is the basic workweek; or 2) the employee's basic pay exceeds the minimum rate for GS-10, step 1 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) for whom the first 40 hours of duty in an administrative workweek is the basic workweek. An employee on a first-40 tour who does not fall under one of these two exceptions is entitled to overtime pay for hours worked in excess of 8 hours in a day or 40 hours in an administrative workweek. See 5 U.S.C. § 5542; 5 C.F.R. 550.111(d)(2).

D. Maximum hours. The maximum number of hours of Sunday premium pay that an employee is paid for one Sunday is 16 hours. The 16 hours would include two 8-hour tours: one starting on Saturday night and ending on Sunday morning; and the next tour starting Sunday night and ending on Monday morning.

E. Rate of Payment. The hourly basic rate is multiplied by 25 percent with the result adjusted to the nearest cent, counting one-half cent and over as a whole cent. See OPM Operating Manual, Federal Wage System - Appropriated Fund, ***Subchapter S8 4e***.

030305. Holiday Premium Pay

In accordance with 5 U.S.C. § 5546 and 5 C.F.R. 550.131, an employee who performs work on a holiday designated by Federal statute is entitled to holiday premium pay. Holiday premium pay is equal to the employee's rate of basic pay. An employee receives basic pay, plus holiday premium pay, for each hour of holiday work that is not in excess of their regularly scheduled non-overtime basic tour of duty, not to exceed 8 hours. An employee required to perform any work on a designated holiday is entitled to pay for at least 2 hours of holiday work. Holiday premium pay is in addition to overtime pay, night pay differential, or Sunday pay.

A. Flexible Work Schedule. For an employee working a flexible work schedule, holiday pay for non-overtime work is limited to 8 hours in a day. A part-time employee, scheduled to work on a day designated as an "in lieu of" holiday for full-time employees, is not entitled to a premium for work performed on that day. See 5 U.S.C. § 6123.

B. Compressed Work Schedule. For an employee working a compressed work schedule, holiday pay for non-overtime work is limited to the number of hours normally scheduled for that day. A part-time employee, scheduled to work on a day designated as an "in lieu of" holiday for full-time employees, is not entitled to a premium for work performed on that day. See 5 U.S.C. § 6128.

C. GS Employees. GS employees receive their basic pay, including any night differential, for holidays on which they are not required to work. Employees are entitled to additional holiday premium pay for work performed on a holiday not to exceed 8 hours, during the hours of their regularly scheduled tour of duty.

D. FWS Employees. FWS employees who have a regular tour of duty and are not required to work due to a holiday are entitled to the same rate of pay for that day as if they had worked. For work performed on a holiday, FWS employees are entitled to their basic rate plus premium pay at a rate equal to their basic pay for holiday work that is not more than 8 hours or is not overtime work. For additional information, see 5 C.F.R. 532.507.

E. Callback. Unscheduled overtime work performed by an employee on a day when work was not scheduled, or for which the employee is required to return to the place of employment is deemed to be at least 2 hours in duration. See 5 U.S.C. § 5542. If the callback occurs on a holiday during the employee's regular schedule, an agency must pay a minimum of 2 hours holiday premium. The employee must record the actual time worked for time and attendance purposes. Employees working more than 2 hours are entitled to pay for the actual number of hours worked.

F. Training. An employee is not entitled to holiday premium pay while engaged in training, except under limited circumstances set out at ***5 C.F.R. 410.402***.

030306. Annual Premium Pay for Standby Duty

Employees may receive premium pay on an annual basis when working in a position regularly requiring them to remain at, or within the confines of, their station during longer than ordinary periods of duty, and a substantial part of which consists of remaining in a standby status rather than performing work. See 5 U.S.C. § 5545(c); 5 C.F.R. 550.141-550.144. Annual premium pay for standby duty is in lieu of premiums for regularly scheduled overtime, night, holiday, and Sunday work.

A. Irregular or Unscheduled Overtime. Additional hours of irregular or unscheduled overtime duty in excess of the regularly scheduled weekly tour are not compensated by standby premium pay, but are eligible for overtime pay consideration under 5 U.S.C. § 5542 or the FLSA overtime provisions at 29 U.S.C. § 207.

B. Rate of Payment. Premium pay is determined as an appropriate percentage, not in excess of 25 percent, of the rate of basic pay for the position not exceeding the minimum applicable rate of basic pay for GS-10, including any applicable locality-based comparability payment or similar provision of law, and any applicable special rate of or similar provisions of law. See 5 C.F.R. 550.141 and 5 U.S.C. § 5304.

030307. Annual Premium Pay for Administrative Uncontrollable Overtime (AUO)

A. Eligibility Criteria. Premium pay may be paid on an annual basis instead of other premium pay (except premium pay for regular overtime work and work at night, on Sundays, and on holidays) when an employee is in a position in which the hours of duty cannot be controlled administratively. The position must require substantial amounts of irregular, unscheduled overtime work, with the employee generally being responsible for recognizing, without supervision, circumstances that require an employee to remain on duty. The circumstances under which payment of AUO is appropriate are extremely limited; in particular, AUO is not appropriate for FLSA nonexempt employees.

B. Rate of Payment. Title 5 U.S.C. § 5545(c)(2) provides that premium pay for AUO is an appropriate percentage, not less than 10 percent nor more than 25 percent, of the employee's rate of basic pay. This includes any special rate of pay for LEOs, or special pay adjustment for LEOs under section 302 and 403 of the FEPCA, a locality-based comparability payment under 5 U.S.C. § 5304**,** and any applicable special rate of pay under 5 U.S.C. § 5305, or similar provision of law. See 5 C.F.R. 550.151. The HRO determines the rate and forwards the rate information to the PRO via SF 50 data. AUO for law enforcement personnel, which includes the office of special investigations agents, is subject to retirement and FEGLI deductions. See ***5 U.S.C. § 8331(3)(D)*** and ***8704(c)(2)***. The AUO for Open Mess/Club Managers is not subject to retirement or FEGLI deductions. See 5 U.S.C. § 8331(3)(C) and (D), and 5 U.S.C. § 8704(c)(1) and (2). For additional information, see CPM Guidance on AUO (***CPM 97-5***).

030308. Hazardous Duty Pay (HDP) and Environmental Differential Pay (EDP)

A. Hazardous Duty Pay

1. General. Under 5 U.S.C. § 5545(d) and 5 C.F.R. 550.901-907, GS employees who are assigned hazardous duty or duty involving physical hardship may be entitled to premium pay in the form of HDP. The HRO determines whether an employee is entitled to receive HDP. Hazardous duty means duty performed under conditions in which an accident could result in serious injury or death. Duty involving physical hardship means duty that may not be hazardous, but may causes extreme physical discomfort or distress that is not adequately alleviated by protective or mechanical devices. Some examples of duty involving physical hardship include duties involving exposure to extreme temperatures for a long period, arduous physical exertion, or exposure to fumes, dust, or noise that causes nausea, skin, eye, ear, or nose irritation.

2. Rate of Pay. The amount of HDP is determined by multiplying the percentage rate authorized for the exposure, found in 5 C.F.R. 550, Subpart I, by the employee's hourly rate of pay. The PRO multiplies that amount by the number of HDP hours to be paid. The PRO computes and pays HDP for overtime hours based on the employee's hourly rate of basic pay, not the hourly overtime rate.

3. Other

a. HDP is not included as part of the employee's basic rate of pay for computation of overtime, holiday pay, Sunday premium, or the amount of retirement, Thrift Savings Plan (TSP), and FEGLI deductions.

b. The PRO pays HDP for all hours in a pay status the day on which the exposure occurs.

c. Payment of HDP is not subject to the biweekly pay cap placed on other premium pay as discussed in subparagraph 030203.A. However, HDP is included in the aggregate limitation on pay as discussed in subparagraph 030203.B.

d. HDP may not be more than 25 percent of the employee's rate of basic pay.

e. TP Pay Plan employees are not authorized HDP.

f. Agencies may not pay HDP for hours of work during which an employee is paid annual premium pay for standby duty, AUO work, or availability pay.

B. Environmental Differential Pay

1. General. Under 5 U.S.C. § 5343(c)(4), an FWS employee is entitled to an environmental differential when exposed to a working condition or hazard that falls within one of the categories approved by OPM. Pursuant to 5 C.F.R. 532.511, EDP is included as part of an FWS employee's basic rate of pay for computation of overtime, holiday pay, Sunday premium, and the amount of retirement, TSP, and FEGLI deductions. It is not part of basic pay for purposes of lump-sum leave payments and severance pay. The HRO determines when EDP is payable and obtains approval from OPM for additional categories not listed in Appropriated Fund Operating Manual, ***Appendix J***, Federal Wage System. TP pay plan employees are not authorized EDP.

2. Pay Rate. EDP is payable on an actual exposure basis and is payable for all hours the employee is in a pay status on the day on which exposure to the situation occurs, including overtime hours. The amount that is payable is determined by multiplying the percentage rate authorized for the exposure by the basic hourly rate of a WG 10, step 2, then multiplying that amount by the number of EDP hours to be paid. When EDP is payable for actual exposure, each exposure is separately considered. Hours posted must not exceed the hours of active duty on the day of exposure. If the exposure is less than 1 hour,

agencies must pay a minimum of 1 hour. If the exposure is longer than 1 hour, the actual amount of time exposed is payable in 15 minute increments. See 5 C.F.R. 532.511.

0304 FOREIGN AND NON-FOREIGN ALLOWANCES AND DIFFERENTIALS

030401. General

A. Foreign Area. Allowances and differentials payable to employees officially stationed in foreign areas are established by the Secretary of State and published in the Department of State Standardized Regulations (***DSSR***). See ***5 U.S.C. § 5921 - 5928***. DoD Instruction 1400.25, ***Volume (V)1250*** sets forth additional rules regarding foreign allowances and differentials for DoD civilian employees. The PRO will pay foreign differentials and allowances upon receipt through the interface of the ***SF 1190***, Foreign Allowances Application, Grant, and Report.

B. Nonforeign Area. Allowances and differentials payable to employees officially stationed in non-foreign areas and the 50 states are established by OPM. See ***5 U.S.C. § 5941*** and 5 C.F.R. 591. The HRO will interface SF 50 data to inform the PRO when an employee is eligible for a non-foreign differential or allowance.

*030402. Foreign Area Allowances and Differentials

A. Quarters Allowances. Quarters allowances are intended to reimburse an employee substantially for all costs associated with either temporary or residence quarters whenever government-owned or government-rented quarters are not provided to the employee without charge. See ***5 U.S.C. § 5923(a)(1) and (2)*** and DoDI 1400.25, V1250.

1. Living Quarters Allowance (LQA). The LQA entitlement is intended to reimburse an employee for rent and any costs not included in the rent amount for heat, light, fuel, gas, electricity, and water. Employees receiving LQA may not receive the Temporary Quarters Subsistence Allowance (TQSA) for the same period except under special circumstances as specified in DSSR, Chapter 100 ***sections 124.1*** and ***132.41***.

a. LQA Rate. The PRO determines the daily rate by dividing the annual amount by the number of days in a calendar year. This daily rate is paid for all applicable days in a pay period. Agencies pay LQA on a biweekly basis. LQA is not paid to an employee who is Absent Without Leave (AWOL) or on a suspension.

b. LQA Advance. Agencies may advance LQA for a period of not less than 3 months or more than 1 year (unless specifically approved by the officer designated to authorize allowances). Advanced LQA must not exceed the lesser of the total rent advanced to the lessor, or the employee's maximum LQA rate as authorized in the DSSR, Chapter 900, ***section 920***.

* 2. TQSA. TQSA is an allowance granted to an employee for the reasonable cost of temporary quarters, meals, and laundry expenses incurred by the employee

and/or family members. See 5 U.S.C. § 5923; DSSR, Chapter 100, section 120, and DoDI 1400.25, V1250. TQSA is payable; 1) for a period not to exceed 90 days after first arrival at a new post in a foreign area, or for a period ending with the occupation of residence (permanent) quarters, if earlier; or 2) for a period not to exceed 30 days immediately preceding final departure from the post when the employee must vacate residence quarters. Receipts are required for lodging and laundry expenses, and the employee must submit a certified statement for the daily cost of meals. TQSA is based on the maximum per diem rate for the foreign location found in the DSSR, Chapter 900, ***Foreign Per Diem Rates by location***. In accordance with the DSSR, Chapter 100, section 120:

a. Travel. TQSA may continue during periods of official travel which authorize per diem, if the head of the agency determines the employee acted responsibly in retaining temporary quarters during the period of travel. See DSSR, Chapter 100, section 126.2.

b. Extension. The 90 and 30 day TQSE period may be extended up to 60 additional days if it is determined by the head of the agency that compelling reasons beyond the control of the employee require continued occupancy of temporary quarters. See DSSR, Chapter 100, section 122.2.

c. Post Allowance. Employees are not authorized post allowance while receiving TQSA. See DSSR, Chapter 100, section 127.

d. Payments. Payment of TQSA may be made:

(1) In advance for up to 30-day increments,

(2) In biweekly payments, or

(3) Upon completion of the TQSA period at the request of the employee and as authorized by the HRO.

e. Prior to Termination of LQA. The HRO may authorize payment of TQSA for up to 5 days prior to the termination of LQA when it is necessary to vacate permanent quarters in order to meet lease requirements for heavy cleaning, painting, or repairs when preceding final departure from the post. See DSSR, Chapter 100, section 124.1.

B. COLAs. COLAs are intended to reimburse an employee for certain excess costs, exclusive of any quarters cost, which result from being officially stationed in a foreign area. COLAs include post allowance, the foreign transfer allowance (FTA), the home service transfer allowance (HSTA), the separate maintenance allowance (SMA), the education allowance, and the educational travel reimbursement. See DSSR, Chapter 200 and ***5 U.S.C. § 5924***.

1. Post Allowance. Post Allowance is a COLA granted to an employee officially stationed at a post in a foreign area where the cost-of-living, exclusive of the

cost of quarters, is substantially higher than in Washington, District of Columbia (D.C.). See DSSR, Chapter 200, section 220 and DoDI 1400.25, V1250.

a. Pay Rate. The amount paid is a flat rate varying only by basic salary, size of the family, and location of the assigned post. The PRO determines the daily rate by dividing the annual amount by the number of days in a calendar year, then multiplying the daily rate by the number of days involved to obtain the biweekly amount. The daily rate is paid for all applicable days in a pay period, with the exception of days on AWOL or a suspension. Post allowance is not authorized to be paid at the same time an employee is receiving TQSA.

b. Payment upon Separation. Post allowance is included in the computation of lump-sum leave payments upon separation from Federal service if the employee's official duty station is in the foreign area when the employee becomes eligible for the lump-sum payment.

2. Foreign Transfer Allowance (FTA). FTA is an allowance for extraordinary, necessary, and reasonable expenses, not otherwise compensated for, that the employee incurs incident to being established at any post of assignment in a foreign area. The subsistence expense portion of FTA reimburses an employee for allowable expenses incurred prior to departure from a post in the U.S., its territories, possessions, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands to a post in a foreign area. FTA consists of four elements of which the following three are authorized within DoD for payment: the miscellaneous expense portion, the lease penalty expense portion, and the subsistence expense portion. The wardrobe expense portion is not authorized for payment within DoD. See DSSR, Chapter 200, ***section 240*** and DoDI 1400.25, V1250.

3. Home Service Transfer Allowance (HSTA). HSTA is an allowance for extraordinary, necessary, and reasonable expenses, not otherwise compensated for, incurred by an employee in connection with a transfer to a post of assignment in the U.S. The employee must sign a certification indicating he or she agrees to complete 12 months of government service following the effective date of transfer. HSTA consists of four elements of which the following three are authorized within DoD for payment: the miscellaneous expense portion, the lease penalty expense portion, and the subsistence expense portion. The wardrobe expense portion is not authorized for payment within DoD. See DSSR, Chapter 200, ***section 250*** and DoDI 1400.25, V1250.

4. Separate Maintenance Allowance (SMA). SMA is an additional COLA paid to assist an employee to maintain a separate household other than at the employee's foreign post of assignment for the employee's family or a member of the family. The agency must determine the employee is compelled to obtain separate family quarters for reasons such as: 1) dangerous, notably unhealthy, or excessively adverse living conditions; 2) for the convenience of the government; or 3) because of special family needs. The rate is determined by the number of dependents maintained other than at the post of assignment and is computed at an annual rate. Agencies pay SMA for all applicable days in a pay period. The daily rate is determined by dividing the annual amount by the number of days in a calendar year. The biweekly amount is

determined by multiplying the daily rate by 14. If any other period is involved, the amount payable is determined by multiplying the daily rate by the number of days involved. See DSSR, Chapter 200, ***section 260*** and DoDI 1400.25, V1250.

5. Education Allowance. The education allowance assists the employee with the extraordinary and necessary expenses incurred because of service in a foreign area in providing adequate elementary and secondary education for a child or children. The education allowance covers expenses for which the employee is not otherwise compensated. The education allowance is not authorized for payment within DoD. However, reimbursement is authorized for transportation costs of dormitory student family members of eligible employees between the employee's overseas duty station and the DoD Education Activity (DoDEA) approved school. See DSSR, Chapter 200, ***section 270***, 5 U.S.C. § 5924, and DoDI 1400.25, V1250.

6. Educational Travel. Educational travel is reimbursement for travel to and from a school in the U.S. for purposes of attending a full-time course for secondary or college education. Reimbursement will be limited to one annual roundtrip. An annual roundtrip is defined as one roundtrip at any time within any one 12-month period. Any portion of the roundtrip not taken in the 12-month period does not accrue to a subsequent period. See DSSR, Chapter 200, ***section 280***, DoDI 1400.25, V1250, and 5 U.S.C. § 5924.

C. Representation Allowance. Representation allowances are intended to cover allowable items of expenditure by employees, including foreign national employees, whose official positions entail responsibility for establishing and maintaining relationships of value to the U.S. in foreign countries and by adult family members acting with, or on behalf of, these employees. Examples of allowable items are those of an entertainment or protocol nature, tips and gratuities, flowers and wreaths, or other representational expenses, which the head of an agency may authorize or approve as being of the type to promote the interest of the U.S. The employee's position first must be designated by the Deputy Under Secretary of Defense for Civilian Personnel Policy as eligible for the allowance. A voucher of expenses incurred will be the basis for payment. See DSSR, Chapter 300 and DoDI 1400.25, V1250.

D. Official Residence Allowance. The defraying of official residence expenses is intended to make possible the operation and maintenance of official residences in which a principal representative can properly represent the U.S. abroad. Such representation includes extending official (as distinct from personal) hospitality to foreign dignitaries and important visitors, receiving official deputations and callers, and holding requisite and appropriate ceremonies smoothly and with dignity. This representation also includes keeping the residence appropriately staffed and operating. The Secretary of State must designate eligible employees. See DSSR, Chapter 400, ***5 U.S.C. § 5913***, and DoDI 1400.25, V1250.

E. Post Hardship Differential. Post hardship differential is additional compensation paid as an established percentage over basic compensation ranging from 5 to 35 percent. Post hardship differential is paid on an employee living in a location with extraordinarily difficult living conditions, excessive physical hardship, or notably unhealthful conditions, as determined by the Secretary of State. Living costs are not considered in the

determination. The PRO pays post hardship differential on a biweekly basis with regular salary and only for hours for which basic compensation is paid. Post hardship differential is included in gross income and is subject to Social Security (Old Age, Survivors, and Disability Insurance (OASDI)) and/or Medicare, Federal, state, and local tax withholding. For employees with tours of duty commencing on or after October 28, 1991, post hardship differential is excluded from the lump-sum leave payment. See DSSR, Chapter 500, ***5 U.S.C. § 5551***, ***5 U.S.C. § 5925***, and DoDI 1400.25, V1250. In accordance with the DSSR, Chapter 500:

1. Post hardship differential is granted to full-time employees and temporary employees who are appointed on a full-time basis and who are U.S. citizens permanently assigned or on extended detail to a post where the differential is granted.

2. Post hardship differential for employees permanently assigned to a post commences on the latest of the following dates:

a. The date the employee arrives at the post or the date the employee enters on duty if recruited locally,

b. The effective date of assignment, if the employee is already at the new post on detail or leave, or

c. The effective date a post is classified for a differential.

3. Post hardship differential for employees temporarily assigned to a post commences after the employee has spent 42 cumulative days at one or more differential locations without returning to a non-differential permanent post of assignment. The PRO pays the differential starting on day 43.

F. Danger Pay Allowance (DPA) and Imminent Danger Pay (IDP). Two forms of danger pay are available to eligible civilian employees:

1. DPA. DPA under the DSSR, ***Chapter 650***, section 652(f) may be paid to an employee serving in a foreign area or post where certain conditions exist, as established by the Secretary of State. Conditions include civil insurrection, civil war, terrorism, or wartime conditions that threaten physical harm or present imminent danger to the health or well-being of the employee. DPA is additional compensation of up to 35 percent of the basic pay of the employee.

a. The PRO pays DPA to full-time employees, temporary employees, and part-time and intermittent employees assigned for a minimum of 4 cumulative hours in 1 day to a danger pay post or area. All periods of leave taken while present at the danger pay post or areas may be included to meet the 4-hour requirement, but days of absence away from the post or area may not be included. When the employee is detailed to a danger pay post or area for 4 hours or more, he/she may receive DPA for the full day.

b. For full-time employees and temporary employees, the PRO computes DPA at the percentage of basic compensation established for the post or area. For part-time regularly scheduled employees and intermittent employees, the PRO computes DPA at the prescribed percentage of basic compensation earned during the applicable period. DPA is not subject to any ceiling that would provide less than the full percentage rate authorized for the post or area. DPA is paid only for those hours for which basic compensation is paid and is subject to OASDI and/or Medicare, Federal, state, and local tax withholding. Where there is no duplication of benefits for the same living condition, a civilian employee may receive DPA and post hardship differential pay for the same period. DPA is not included as part of the lump-sum leave payment. See DSSR Chapter 650, section 656.

2. IDP. IDP is paid to a civilian employee who accompanies U.S. military forces in areas designated by the Secretary of Defense as being subject to hostile fire or imminent danger. See ***5 U.S.C. § 5928***, DSSR, Chapters 650 and 652(g) and DoDI 1400.25, V1250. On October 1, 1995, the State Department, at DoD's request, added section 652(g) to the DSSR concerning IDP. The monthly amount of IDP is the same as the monthly flat rate paid to uniformed military personnel.

a. An employee may not receive IDP and a post hardship differential that would duplicate political violence credit. Nor may an employee receive IDP and DPA at the same time.

b. The PRO calculates IDP as a daily rate and pays it on a monthly basis. Daily rates are determined by dividing the monthly amount by the number of days in a month. This rate will change based on the number of days in a month. For periods of less than a month, an employee is entitled to the daily rate times the number of days in the month the employee is in the eligible area. IDP is subject to OASDI and/or Medicare, Federal, state, and local tax withholding. The IDP is not included as part of the lump-sum leave payment.

3. Commencement of DPA or IDP. DPA or IDP commences on the date of designation by the Secretary of State for employees already present at the post on assignment or detail. DPA or IDP commences on the date of arrival at the post or detail for subsequently assigned or detailed employees, or for employees returning after a temporary absence.

4. Receiving both DPA/IDP and a Post Hardship Differential. If authorized by the agency, an employee may receive both DPA/IDP and the post hardship differential. Extra pay from either an allowance or a differential is limited to no more than 35 percent of the employee's rate of basic pay. When an agency authorizes both an allowance and a differential, the total pay for the allowance and the differential may not exceed 70 percent of the employee's rate of basic pay.

* G. Employees in a Non-Pay Status. All allowances granted under the DSSR may continue during periods when the employee is in a non-pay status not in excess of 14 calendar days at any one time. If a non-pay status lasts longer than 14 calendar days, allowances are suspended as of the day the employee enters the non-pay status, and payment is not to be

made for any part of such period, unless otherwise specifically provided under the DSSR. See DSSR, Chapter 000, ***section 051.2***. For information on the continuation of living quarters allowances during periods of a non-pay status, see DSSR, Chapter 100, section 132.2.b(2).

030403. Non-Foreign Area Allowances and Differentials

A. Non-Foreign COLA. Non-foreign COLA is an allowance that OPM established at a location in a non-foreign area where living cost is substantially higher than the living cost in the area of Washington, D.C. Rates are available on the OPM, Pay and Leave, ***Non-Foreign Areas*** website.

1. Non-foreign areas are the states of Alaska and Hawaii, the Commonwealths of Northern Mariana Islands and Puerto Rico, and territories and possessions of the U.S. and any additional areas as designated by the Secretary of State. See 5 U.S.C. § 5941.

2. The Non-foreign Area Retirement Equity Assurance Act transitioned the non-foreign area COLA authorized under 5 U.S.C. § 5941(a)(1) to locality pay authorized under 5 U.S.C. § 5304 in the non-foreign areas as listed in 5 C.F.R. 591.205. The Act also extended locality pay to American Samoa and other non-foreign territories and possessions of the U.S. where no COLA rate applied. OPM phased in locality pay over a 3-year period beginning in January 2010. Under the law, COLA rates issued under 5 C.F.R. 591 were frozen on October 28, 2009, the date of enactment. As locality pay increased under the Act, payable COLA rates were reduced as specified in ***CPM Memorandum 2010-23***, Retained Rate Adjustments in Non-foreign Areas. Consequently, covered employees may have received both locality pay and a reduced COLA for a number of years.

B. Non-foreign Post Differential. Non-foreign post differential is payable under 5 U.S.C. § 5941(a)(2), if conditions of the duty station's environment differ substantially from the conditions of the environment in the continental U.S. and warrant an allowance as a recruitment incentive. Non-foreign post differentials are designed to attract persons from outside the non-foreign area to work for the Federal Government in the post differential area. Rates and locations are available on the OPM, Pay and Leave, Non-Foreign Areas website. Agencies must make these payments to all eligible civilian employees in the area whose basic pay is fixed by statute. Generally, allowances and differentials are not paid during periods an employee does not receive basic pay. The pay of FWS employees is based on the wages paid in the locality and is not covered under this section.

C. Processing Non-foreign COLA and Non-foreign Post Differentials

1. Limitation. Extra pay from an allowance or a differential, or both, may not exceed 25 percent of the employee's rate of basic pay. In areas where OPM has authorized both a non-foreign COLA and a non-foreign post differential, the employee receives the full COLA and a partial post differential so as not to exceed the 25 percent of the employee's hourly rate of basic pay. See 5 C.F.R. 591.238.

2. Computation. Employees receive non-foreign COLA and non-foreign post differential as a percentage of the employee's hourly rate of basic pay, including a retained rate of pay under ***5 U.S.C. § 3594(c)*** or ***5363***, for those hours during which the employee receives basic pay. This includes all periods of paid leave, detail, or travel status outside COLA or non-foreign post-differential area. See OPM, Pay and Leave, Non-Foreign Areas website for rates.

3. Taxation. Non-foreign COLA is not included in gross income for OASDI and/or Medicare, Federal, or state income tax withholding. Non-foreign post differential is included in gross income for OASDI and/or Medicare, Federal, state, and local income tax withholding. See Table 4-1of Chapter 4.

4. Treatment for the Purposes of Overtime and other Entitlements. Non-foreign COLA and non-foreign post differential may not be included as part of an employee's rate of basic pay for the purpose of computing entitlements to overtime pay, retirement, TSP, FEGLI or any other additional pay. See 5 C.F.R. 591.239. The allowance or differential is included in an employee's regular rate of pay for computing overtime pay for FLSA nonexempt employees. See 5 C.F.R. 591.239. The allowance or differential is included in the computation of lump-sum leave payments if the employee's official duty station is in the non-foreign area when he or she becomes eligible for a lump-sum payment under 5 C.F.R. 550.1203. See 5 C.F.R 550.1205(b)(8).

0305 OTHER PAY, DIFFERENTIALS, AND ALLOWANCES

030501. Physicians' Comparability Allowance

A. Eligible Federal physicians who enter into service agreements with their agencies may be authorized a physician comparability allowance. See 5 C.F.R. 595 and ***5 U.S.C. § 5948***. The allowances are paid only for certain categories of physicians that are the subject of recruitment and retention problems for the agency. The allowance is fixed at the minimum amounts necessary. Unless otherwise provided in the agreement, if the physician fails to complete at least 1 year of service, either voluntarily or because of misconduct, the physician must refund of the total amount received (unless the head of the agency determines that the failure was beyond the control of the physician). If the physician completes more than 1 year of service, but fails to complete the full period of service specified in the agreement, the physician must refund the amount of allowance he or she received under the agreement for the 26 weeks of service immediately preceding the termination (or longer if specified in the service agreement).

B. The amount received must not exceed:

1. $14,000 per annum if, at the time the agreement is entered into, the government physician had served as a government physician for 24 months or less; or

2. $30,000 per annum if the government physician has served as a government physician for more than 24 months. See 5 U.S.C. § 5948(a).

C. The PRO may not pay an allowance pursuant to this section to any physician who:

1. Is employed less than 20 hours per week or on an intermittent basis,

2. Is employed in an internship or residency training position,

3. Is a reemployed annuitant, or

4. Is fulfilling a scholarship obligation to the U.S. Government.

D. Any allowance paid under this section is not considered basic pay for the purposes of 5 U.S.C. § 5551 (lump sum leave payments), ***5552*** (lump sum leave on entering active duty), and ***5595*** (severance pay), 5 U.S.C. Chapters 81 (compensation for work injuries), and ***87*** (FEGLI), or other benefits related to basic pay. See also 5 U.S.C. § 5948(h)(1). However, this allowance is included as basic pay for computing Civil Service Retirement System (CSRS), Federal Employees Retirement System (FERS) and TSP contribution amounts, and for computing disability retirement benefits and survivor benefits for death-in-service. See OPM Benefits Administration Letter ***(BAL) 04-102***.

E. The PRO must pay any allowance under this section for a government physician in the same manner and at the same time as the physician's basic pay is paid. This allowance is subject to retirement and TSP deductions. This allowance is subject to OASDI and/or Medicare, Federal, state, and local income tax withholding. The allowance is subject to the aggregate limitation on pay discussed in subparagraph 030203.B.

030502. Supervisory Differential

A. The authority to approve payment of supervisory differentials under ***5 U.S.C. § 5755*** and 5 C.F.R. 575, Subpart D is delegated through, and subject to, the authority of the head of the DoD Component and the Component chain of command to the official(s) who exercises personnel-appointing authority (normally, the head of an installation or activity). Only the Secretary or Deputy Secretary of Defense may approve a supervisory differential for an individual appointed to a Schedule C position, as defined by ***5 C.F.R. 213***. The DoDI 1400.25, ***V575*** contains additional detailed guidance on the supervisory differential entitlement. The agency authorizes payment of a supervisory differential to a GS employee who has supervisory responsibility for one or more non-GS employees. The agency may authorize the differential if one or more of the subordinate civilian employees would be paid more than the supervisory employee in the absence of such a differential.

B. The HRO will provide a dollar amount equal to the value of the authorized percentage by submission of SF 50 data. The PRO calculates the supervisory differential as a percentage of the supervisor's rate of basic pay. The PRO pays the supervisory differential in the same manner and at the same time as basic pay. The supervisory differential is not considered part of basic pay for any purpose, including retirement, FEGLI, or TSP. This

differential is subject to OASDI and/or Medicare, Federal, state, and local income tax withholding. The supervisory differential is subject to the aggregate limitation on pay discussed in subparagraph 030203.B.

030503. Remote Site Allowance

The remote site allowance is paid to an employee who is assigned to duty, except temporary duty, at a site so remote from the nearest established community or suitable place of residence as to require an appreciable degree of expense, hardship, and inconvenience in commuting. Such hardships and inconveniences must extend beyond those normally encountered in metropolitan commuting. When so assigned, the employee is entitled to an allowance not to exceed $10 per day, in addition to pay otherwise due to the employee. See ***5 U.S.C. § 5942*** and 5 C.F.R. 591, Subpart C.

030504. Uniform Allowance

Defense agency employees required by law or regulation to wear uniforms during the performance of official duties may be reimbursed a uniform allowance in accordance with the rates posted in the DoDI 1400.25, ***V591***. The agency's authorized management official must approve the payment of a uniform allowance. Uniform allowances are not considered wages.

030505. Qualified Transportation Fringe Benefits

A. ***Title 5 U.S.C. § 7905*** authorizes Federal agencies to offer transportation fringe benefits to employees in accordance with ***26 C.F.R. 1.132-9***. Pursuant to ***26 U.S.C. § 132***, qualified transportation fringe benefits provided to employees, including transit passes, qualified parking, and transportation in commuter highway vehicles, is not included in gross income for Federal tax purposes. ***DoDI 1000.27*** implemented the Mass Transportation Benefit Program (MTBP) on October 28, 2008, for eligible DoD employees. The MTBP provides benefits for qualified means of transportation, such as commuter bus or train, subway or light rail, ferry or vanpool. A DoD employee who receives subsidized parking is not eligible to participate in the MTBP. Each DoD Component implements policy and procedures in accordance with the MTBP. Agencies may offer qualified Federal employees transit-pass-transportation fringe benefits in the National Capital Region as described in ***Executive Order 13150***. See 26 U.S.C. § 132 (f).

B. Each year, the Internal Revenue Service (IRS) sets limits on the amount that may be excluded from an employee's taxable wages each month for the total value of qualified transportation fringe benefits. See ***IRS Publication 15-B***, Employer's Tax Guide to Fringe Benefits. Amounts within the monthly limit are not considered wages and therefore, are paid through the servicing commercial accounts office. If the value of the benefit for any month is in excess of the qualified published limits, the amount over the limit is includible as gross income and is subject to OASDI and/or Medicare, Federal, state, and local income tax withholding. The value of the benefit is not subject to retirement, FEGLI, or TSP deductions. See Chapter 9 for reporting information.

030506. Government-Provided Home-to-Work Transportation

A. ***Title 26 C.F.R., section 1.61-21*** provides detailed rules for determining the employer-provided home-to-work benefit that is reported on an eligible employee's Form W-2, Wage and Tax Statement. The ***DoD 4500.36-R*** requires the OUSD Comptroller, in coordination with the OUSD for Personnel and Readiness, provide annual guidance concerning the valuation methods for home-to-work transportation. Employers are responsible for determining the value of the employer-provided benefit and reporting it to the DFAS for the employee's Form W-2. The benefit is subject to OASDI and/or Medicare, Federal, state, and local income tax withholding. The benefit is not subject to retirement, FEGLI, or TSP deductions.

B. Employers must submit the required information to the servicing payroll office by December 1 of each year. However, DoD employing activities will not report on a calendar year basis. Rather, they will report for the 12-month period from November 1 through October 31. The value of the benefits received in November and December will be considered paid in the next year as authorized by the IRS Publication 15-B.

*030507. Foreign Language Proficiency Pay (FLPP)

Under ***10 U.S.C. § 1596*** and ***1596a***, the Secretary of Defense is authorized to pay FLPP to eligible DoD employees who are performing intelligence or non-intelligence duties requiring proficiency in foreign languages. FLPP is not considered basic pay for any purpose and does not count toward retirement, TSP, FEGLI or any other benefit related to basic pay. FLPP is not pay for the purposes of lump-sum payments for leave under 5 U.S.C. § 5551 or 5552. FLPP is considered a discretionary, continuing payment for calculation of the aggregate limitation on pay. See information regarding aggregate limitation on pay in subparagraph 030203.B. FLPP is not to be paid if the employee is in a LWOP or other unpaid status in excess of 10 consecutive work days, or in an extended paid absence in excess of 30 consecutive work days.

A. FLPP for Intelligence Interests under 10 U.S.C. § 1596. The annual rate of special pay under 10 U.S.C. § 1596 is determined by the Secretary of Defense. FLPP may be paid in addition to pay under 10 U.S.C. § 1602. See ***DoDI 1400.25, V2016***. The Secretary of Defense has the authority to pay special pay to an employee of DoD who:

1. Has been certified as being proficient in a foreign language identified by the Secretary of Defense as being a language in which proficiency by civilian personnel of the Department is important for the effective collection, production, or dissemination of foreign intelligence information; and

2. Is serving in a position, or is subject to assignment to a position, in which proficiency in that language facilitates performance of officially assigned intelligence or intelligence-related duties.

B. FLPP for Non-intelligence Interests under 10 U.S.C. § 1596a. The rate of special pay for an employee under 10 U.S.C. § 1596a shall be prescribed by the Secretary of

Defense, but may not exceed 5 percent of the employee's rate of basic pay. Special pay under 10 U.S.C. § 1596a is in addition to any other pay or allowances to which the employee is entitled. See DoD Memorandum dated November 3, 2006 "Foreign Language Proficiency Pay for DoD Civilian Employees Performing Non-Intelligence Duties." Pursuant to 10 U.S.C. § 1596a the Secretary of Defense has the authority to pay special pay to a DoD employee who:

1. Has been certified by the Secretary of Defense to be proficient in a foreign language identified by the Secretary of Defense as being a language in which proficiency by civilian personnel of the Department is necessary because of national security interests;

2. Is assigned duties requiring proficiency in that foreign language; and

3. Is not receiving special pay under 5 U.S.C. § 1596.

030508. Market Pay

A. Purpose. Under ***10 U.S.C. § 1599c***, each physician and dentist covered by DoDI 1400.25, ***V543***, is eligible for market pay in lieu of locality pay. Market pay is an element of annual pay (base pay rate plus market pay) intended to reflect the recruitment and retention needs for the specialty or assignment of a particular DoD physician or dentist.

B. Payment Determinations. A compensation panel must make a recommendation to an authorized management official regarding the appropriate market pay amounts for individual physicians and dentists according to guidelines established by the Health Professions Civilian Compensation Standing Committee (HPCCSC). Market pay is based on criteria such as level of experience, need for medical specialty practice, the healthcare labor market, board certifications, and personal accomplishments. See DoDI 1400.25, V543.

1. The authorized management official determines the amount of market pay for the physician or dentist, which may require additional approval of the HPCCSC. Once set, market pay for an individual may not be reduced unless the physician or dentist changes assignment. The compensation panel must review the market pay of each physician or dentist upon changes in assignment and not less than once every 24 months.

2. The agency must approve market pay for newly appointed physicians or dentists within 30 days following their appointment; all payments are retroactive to the effective date of the appointment.

C. Limitations. Physicians or dentists who receive market pay are not eligible for the physicians' comparability allowance under paragraph 030501, or premium pay (such as overtime, night pay, compensatory time off) under paragraph 030301. A physician or dentist receiving market pay may not receive grade or pay retention under ***5 U.S.C. Chapter 53***. The sum of all payments paid to the physician or dentist including base pay, but excluding market pay, is subject to the Executive Level I annual limitation. The sum of all payments

subject to the Executive Level I annual limitation and market pay cannot exceed the annual salary of the President, excluding expenses.

030509. Reservist Differential

A. Purpose. Under ***5 U.S.C. § 5538***, effective March 15, 2009, Federal agencies are required to make reservist differential payments to eligible Federal civilian employees who are members of the Reserve or National Guard called or ordered to active duty under certain specified provisions of law. A reservist differential is payable to an employee during a qualifying period in the amount of basic pay which would have been payable had they not been called or ordered to active duty in the uniformed service. Additional information on this topic is provided in OPM's ***Reservist Differential***, Agency Implementation Guidance and OPM ***Frequently Asked Questions***.

B. Payment. Reservist differential is payable when an eligible employee's projected civilian basic pay for a covered pay period exceeds actual military pay and allowances allocable to that pay period. See 5 U.S.C. § 5538. Payroll makes payments from the same appropriation that is used when the employee is in a pay status. Reservist differential is considered due no later than 8 weeks after the normal scheduled civilian pay date, unless the necessary information is not received 4 weeks prior to that date. Reservist differential is not considered as basic pay for any purposes; it is a supplemental payment based on a comparison of projected civilian basic pay and military pay and allowances. Payments are not subject to OASDI, and/or Medicare tax withholding for periods of active duty of more than 30 days. However, reservist differential is subject to:

1. Federal tax (must appear in box 1 of the Form W-2), and

2. OASDI and/or Medicare tax withholding for periods of active duty 30 days or less.

C. Leave and LWOP. An employee receiving reservist differential is still considered to be on LWOP unless on paid leave or paid time off (including military leave). An employee may not receive reservist differential for a period for which the employee receives basic pay for time worked, the use of any type paid leave, or other paid time off.

*0306 RECRUITMENT, RELOCATION, AND RETENTION INCENTIVES

Recruitment, relocation, and retention incentives are compensation flexibilities available to help Federal agencies recruit and retain employees. See 5 U.S.C. § 5753 and 5754 and 5 C.F.R. part 575, subparts A, B, and C.

030601. Recruitment Incentive

A. Purpose. Payment of recruitment incentives is authorized by ***5 U.S.C. § 5753*** and 5 C.F.R. 575, Subpart A. An agency may pay a recruitment incentive to an eligible newly appointed employee, under the conditions specified in the regulations, provided

the agency has determined that the employee's position is likely to be difficult to fill in the absence of an incentive. The total amount of recruitment incentive payments paid to an employee in a service period may not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (including fractions of a year) in the service period, not to exceed 4 years. OPM may waive the 25 percent limitation based on critical agency need. The agency must document the justification for paying a recruitment incentive.

B. Service Agreement. Before a recruitment incentive may be paid, the employee must sign a written agreement to serve a specified period of employment with the agency. The service period may not be less than 6 months or more than 4 years. See 5 C.F.R. 575.110.

C. Payment Options. The agency authorizes and establishes payment options. See 5 C.F.R. 575.109. An agency may pay the recruitment incentive by any of the following methods, or combination thereof, as specified in the service agreement:

1. An initial lump-sum payment at the commencement of the service period, or before the start of the service period once the employee has signed the agreement;

2. Installment payments throughout the service period; or

3. A lump-sum payment upon completion of the full service period.

D. Payment of Recruitment Incentive. Recruitment incentives are not considered part of the employee's basic pay for any reason.

1. An incentive may only be paid to an employee who has received a written offer of employment and signed a written service agreement.

2. The recruitment incentive is subject to OASDI and/or Medicare, Federal, state, and local income tax withholding. This incentive is not subject to retirement, FEGLI, or TSP.

3. The recruitment incentive is included in the aggregate limitation on pay as discussed at subparagraph 030203.B. See 5 C.F.R. 530, Subpart B.

4. The incentive will be included with regular salary payments and separately identified on the LES.

E. Termination of a Service Agreement. An agency must notify an employee in writing when it terminates the service agreement. The employee may not grieve or appeal the termination of a service agreement.

1. Mandatory Termination. A demotion or separation for cause, or a less than "Fully Successful" or equivalent rating terminates the service agreement. An employee

who fails to complete the period of service for these reasons, or otherwise fails to fulfill the terms of the agreement, must repay any portion of the incentive attributable to uncompleted service. The PRO prorates the full amount of the authorized recruitment incentive across the length of the service period to determine the amount attributable to completed and uncompleted service. The PRO must recover the amount owed by the employee in accordance with provisions established by debt collection regulations. See Volume 16. The HRO must notify the PRO of the recruitment incentive repayment/debt via SF 50 data.

2. Discretionary Termination. An authorized management official may terminate the agreement based solely on management needs, such as reduction in force or insufficient funds. An employee who does not fulfill a service agreement due to a termination based on management needs is entitled to all incentive payments already received.

F. Documentation and Recordkeeping. The HRO must document each recruitment incentive via information derived from an SF 50.

030602. Relocation Incentive

A. Purpose. Payment of relocation incentives is authorized by 5 U.S.C. § 5753 and 5 C.F.R. 575, Subpart B. An agency may pay a relocation incentive to a current eligible employee who must relocate, without a break in service, to accept a position in a different geographic area that is likely to be difficult to fill in the absence of an incentive. See 5 C.F.R. 575.205(b). The total amount of relocation incentive payments paid to an employee in a service period may not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (including fractions of a year) in the service period, not to exceed 4 years. OPM may waive the 25 percent limitation based on critical agency need. Agencies must document the justification for paying a relocation incentive.

B. Service Agreement. Before a relocation incentive may be paid, the employee must sign a written agreement to serve a specified period of employment with the agency. The service period may not be more than 4 years. See 5 C.F.R. 575.210.

C. Group Relocation Incentives. An authorized management official may make a determination to approve group relocation incentives rather than on a case-by-case basis. The determination is appropriate if a group of employees is subject to a mobility agreement and relocation incentives are necessary to ensure continuation of operations, or when a major organization unit is relocating to a new duty station and the incentive will ensure continued operations of that unit without disruption. The group incentive is supported by written determinations that specifies the group and the period of time during which the authorization is valid.

D. Payment Options. The agency authorizes and establishes the payment options for relocation incentives. See 5 C.F.R. 575.209. An agency may pay the relocation incentive by any of the following methods as specified in the service agreement:

1. An initial lump-sum payment at the commencement of the service period, or before the start of the service period once the employee has signed the agreement;

2. Installment payments throughout the service period; or

3. A lump-sum payment upon completion of the full service period.

E. Payment of Relocation Incentive. The relocation incentive must not be considered a part of the employee's basic pay for any reason.

1. The relocation incentive is subject to OASDI and/or Medicare and Federal, state, and local income tax withholding. This incentive is not subject to retirement, FEGLI, or TSP.

2. The relocation incentive is included in the aggregate limitation on pay as discussed at subparagraph 030203.B. See 5 C.F.R. 530, Subpart B.

3. The incentive will be included with regular salary payments and separately identified on the LES.

4. The agency will not pay the incentive until the employee establishes a residence in the new geographic location.

F. Termination of a Service Agreement. An agency must notify an employee in writing when it terminates the service agreement for the relocation incentive. The employee may not grieve or appeal the termination of a service agreement.

1. Mandatory Termination. If the employee is demoted for cause, separates for cause, or the employee receives a less than "Fully Successful" or equivalent rating, the service agreement will terminate. An employee who fails to complete the period of service for these reasons, or otherwise fails to fulfill the terms of the agreement, must reimburse DoD for the amount of all benefits received under the agreement that is in excess of the amount attributable to completed service. The PRO must prorate the full amount of the authorized relocation incentive across the length of the service period to determine the amount of the relocation incentive attributable to completed service and uncompleted service. The PRO must recover the amount owed by the employee in accordance with agency debt collection regulations. See Volume 16. The HRO must notify the PRO of the relocation incentive repayment/debt via SF 50 data.

2. Discretionary Termination. An authorized management official may terminate the agreement based solely on management needs, such as reduction in force or insufficient funds. An employee who does not fulfill a service agreement due to the termination based on management needs is entitled to all incentive payments already received.

G. Documentation and Recordkeeping. The HRO must document each relocation incentive via an SF 50.

030603. Retention Incentive

A. Purpose. ***Title 5 U.S.C. § 5754*** and 5 C.F.R. 575, Subpart C authorizes a payment of retention incentives. An agency may offer a retention incentive of up to 25 percent of basic pay to a current eligible employee who has unusually high or unique qualifications or when the agency has a special need for the employee's services making it essential to retain the employee. See 5 C.F.R. 575.305. OPM may waive the 25 percent limitation based on critical agency need. Agencies must document justification for paying retention incentives.

B. Service Agreement. The employee must sign a written agreement to serve a specified period of employment with the agency before a retention incentive is paid. However, a service agreement is required for biweekly installment payments only when the incentive is granted under special provisions by the DoD or the employee receives a reduced percentage for each installment made prior to the final payment.

C. Group Retention Incentives. An authorized management official may make a determination to approve group retention incentives rather than on a case-by-case basis. The determination is appropriate if a group of employees has unusually high or unique qualifications or the group's services make it essential to retain the employees in that group. Additionally, there must be a high risk that a significant number of the employees in the group would be likely to leave Federal service without the retention incentive. Unless OPM authorizes a higher rate, group retention incentives may be up to 10 percent of an employee's rate of basic pay. Agencies may not pay group retention incentives to employees in SL, ST, or Executive Schedule positions or other employees with approved recruitment incentives from OPM.

D. Payment Options. Title 5 U.S.C. § 5754 and 5 C.F.R. 575.309 set out payment options for retention incentives. Agencies may not pay retention incentives as an initial lump-sum payment at the start of a service period or as an installment paid in advance. An agency may pay retention incentives using the following methods as specified in the service agreement:

1. Installments after the completion of specified periods of service, or

2. A single lump-sum payment after completion of the full service period.

E. Payment of Retention Incentive. Retention incentives are not considered a part of the employee's basic pay for any purpose.

1. The retention incentive is subject to OASDI and/or Medicare and Federal, state and local income tax withholding. This incentive is not subject to retirement, FEGLI or TSP.

2. The retention incentive is included in the aggregate limitation on pay as discussed at subparagraph 030203.B. See 5 C.F.R. 530, Subpart B.

3. The incentive will be included with regular salary payments and separately identified on the LES.

F. Termination of a Service Agreement

1. Mandatory Termination. If an employee is demoted for cause, separates for cause, or the employee receives a less than "Fully Successful" or equivalent rating, the service agreement will terminate. An employee who fails to complete the period of service for these reasons, or otherwise fails to fulfill the terms of the agreement, must reimburse DoD for the amount of all benefits received under the agreement that are in excess of the amount attributable to completed service. The employee is entitled to retain any retention incentive payments attributable to completed service and is entitled to receive any portion of a retention incentive payment owed by the agency for completed service. The PRO must recover the amount owed by the employee in accordance with agency debt collection regulations. See Chapter 8 and Volume 16, Chapter 3. The HRO must notify the PRO of the retention incentive repayment/debt via SF 50 data.

2. Discretionary Termination. An authorized management official may terminate the agreement based solely on management needs, such as reduction in force or insufficient funds. An employee who does not fulfill a service agreement due to a termination based on management needs is entitled to all incentive payments already received.

3. Decisions to Terminate. Employees may not grieve or appeal decisions to terminate the service agreement.

G. Documentation and Recordkeeping. The HRO documents each retention incentive via an SF 50.

0307 LUMP-SUM LEAVE PAYMENTS

030701. Lump-Sum Payments for Annual Leave

Lump-sum payments for unused annual leave are generally payable when an employee separates from Federal service, dies, transfers to a position not under a leave system under ***5 U.S.C. Chapter 63, Subchapter I***, or enters active duty in the armed forces. See 5 U.S.C. § 5551, 5552, ***6306*** and 5 C.F.R. 550, Subpart L.

030702. Lump-Sum Payable

Lump-sum payments for accumulated and accrued annual leave are paid as follows:

A. Payment to Separated Employees. An employee, as defined by ***5 U.S.C. § 2105***, who separates or retires from Federal service is paid in a lump-sum for all unused annual leave through the last full pay period before separation. If the employee is separated or has a break in service (from one agency to another) and is reemployed in a position before a lump-sum is paid, then payment is made for the days the employee was not in the

Federal service (less withholding tax). The remainder of the annual leave is transferred to the gaining agency.

B. Payment to Certain Other Employees. An employee is entitled to a lump-sum payment for accumulated and accrued annual leave when he or she:

1. Transfers to a position not under a leave system to which annual leave may be transferred;

2. Moves to a position as an intermittent employee with no established regular tour of duty or to a position as a temporary employee engaged in construction work at hourly rates;

3. Enters active duty in the armed forces, provided the employee does not elect to retain the annual leave to his or her credit. See 5 U.S.C. § 5552. However, leave previously restored under ***5 U.S.C. § 6304(d)*** must be liquidated by lump-sum payment when the employee enters active duty. The agency may not re-credit the previously restored leave when the employee returns to Federal service. See 5 U.S.C. § 6304(d)(2); or

4. Transfers to a public international organization, provided the employee does not elect to retain the annual leave to his or her credit. See ***5 U.S.C. § 3582***. However, leave previously restored under 5 U.S.C. § 6304(d) must be liquidated by lump-sum payment when an employee transfers to the public international organization. The agency may not re-credit the previously restored leave under these circumstances. Additionally, only employees who the agency reemploys within 6 months after the transfer are required to refund the lump-sum payment.

C. Payment to Beneficiary. The balance of the annual leave of a deceased employee shall be paid in a lump-sum to his or her designated beneficiary. If an employee has not designated a beneficiary, a lump-sum is paid in the established order of precedence under 5 U.S.C. § 5582(b).

030703. Lump-Sum Not Payable

The PRO may not make a lump-sum payment to an employee for accumulated annual leave when he or she is:

A. An employee transferring to another Federal position to which annual leave is transferable without a break in service of one workday or more;

B. A DoD or non-appropriated fund employee who moves without a break in service of more than 3 days to an appropriated fund position within DoD. See ***5 U.S.C. § 6308(b)***;

C. A student trainee placed in an intermittent status between full-time tours of duty when no separation actually takes place;

D. An employee who transfers to the government of Washington D.C. or the U.S. Postal Service;

E. An employee employed in more than one part-time position who separates from one of the part-time positions. The former employing agency must transfer the accumulated and accrued leave to the current agency if the positions are in different agencies. If the positions are in the same agency, credit the accumulated and accrued leave to the employee's current leave account in the current position; or

F. An employee who elects to retain his or her leave upon accepting a Presidential appointment. See ***5 U.S C. 3392(c)***.

030704. Computation of Lump-Sum Payment

A. General. The PRO calculates the lump-sum payment for annual leave, including restored and reinstated annual leave, and includes all pay changes the employee would have received had he or she remained in a duty status throughout the projected leave period. See the OPM Pay and Leave, Pay and Leave Administration, Fact Sheet: ***Lump-Sum Payments*** for Annual Leave and 5 U.S.C. § 5551. Holidays count as workdays in projecting the lump-sum leave period. For example, an employee whose retained pay is scheduled to terminate during the projected leave period should have the lump-sum leave payment computed based on the pay being received at the time of separation for the period covered by the retained rate, with the remainder computed at the scheduled reduced rate. An employee is entitled to an adjustment in the lump-sum leave payment when a statutory change in pay becomes effective on a date that occurs during the projected leave period. Pay included in a lump-sum payment is as follows:

1. Rate of basic pay;

2. Locality pay or other geographic adjustment;

3. Within-grade increases (if waiting period met on date of separation);

4. Across-the-board annual pay adjustments;

5. AUO pay, availability pay, and standby duty pay;

6. Night shift differential (FWS employees only, see 5 U.S.C. § 5343(f));

7. Regularly scheduled overtime pay under FLSA for employees on uncommon tours of duty;

8. Supervisory differentials;

9. Non-foreign area COLAs and post differentials; and

10. Foreign area post allowances.

B. FWS Employees. The lump-sum payment for an FWS employee is adjusted if the separation occurs after the issue date of a wage schedule or after a wage survey was ordered, but before the effective date of the wage increase, as follows:

1. When an FWS employee separates before the effective date of a wage increase and his or her accrued annual leave extends beyond the effective date, the employee is entitled to have his or her lump-sum annual leave payment paid at the higher rate for the leave that extends beyond the effective date of the increase.

2. When an FWS employee separates after a wage survey is ordered, but before the date of the order granting the wage increase is issued, the employee is entitled to have the lump-sum annual leave payment paid at the higher rate for the leave that extends beyond the effective date of the increase. The order that grants the new wage rate must be issued before the effective date set by ***5 U.S.C. § 5344(b)(1) and (2)***.

C. Projecting the Leave. Lump-sum payments must equal the pay an employee would have received had he or she remained in Federal service and used this leave. Non-workdays, except holidays, do not count against the leave when projecting the period for payment of lump-sum leave. The period covered by a lump-sum leave payment is not counted as Federal civilian service. See ***5 U.S.C. § 6103*** and 5 C.F.R. 550.1204.

D. Reemployed Annuitants. The lump-sum payment for reemployed annuitants upon separation from the service is based on the full pay rate without any reduction by the amount of the annuity. See 5 C.F.R. 550.1203

E. Temporary Promotions. If the temporary promotion is not terminated prior to, or as of, the employee's separation date, the lump-sum leave will be paid at the rate of the temporary promotion through the not to exceed date. After that time, the rate will revert to the employee's permanent rate of pay.

F. Payment. DFAS pays lump-sum leave at the end of the pay period in which it receives the separation transaction. Thus, lump-sum leave may or may not be included with any regular pay earned, depending on when DFAS receives the separation transaction. DFAS identifies payments separately, allowing for taxation of the lump-sum leave at a flat 25 percent for Federal withholding, except when the employee's exemptions claimed on the Form W-4, Employee's Withholding Allowance Certificate, exceed the regular pay. In the latter situation, the lump-sum leave and the regular pay for the pay period are combined and the taxes will be computed as if the total were a single payment. Lump sum annual leave payments are not subject to deductions for FEHB, FERS, FEGLI or TSP. Payments are subject to offset for debts owed to the United States. See 5 CFR 550.1205.

030705. Refunds

When an employee receives a lump-sum leave payment, and subsequently returns to the Federal service in a position subject to a formal leave system, the employee is required to refund the unexpired portion of the period covered by the lump-sum leave payment. The refund amount is equal to the payment covering the period between the date of reemployment and the expiration of the lump-sum period. This refund is required because all such unexpired leave is subject to re-credit even though transfer to a different leave system is involved. Re-credit of leave will be determined subject to the following subparagraphs.

A. Regular Annual Leave

1. If reemployment is in the same leave year, any part of the refund (which is for a period of leave in excess of the employee's formerly established leave ceiling for the year) is subject to the regular procedures regarding forfeiture or possible restoration at the end of the leave year. The PRO may pay excess leave in another lump-sum payment if another separation occurs before the end of the leave year.

2. If reemployment is in a subsequent leave year, and any part of the refund is for a period exceeding the leave ceiling (e.g., 240 hours for stateside and 360 for overseas), a refund will be required of the unexpired portion. However, only a maximum of the leave ceiling hours may be credited to the regular leave account and any hours in excess of the leave ceiling are considered forfeited, unless it can clearly be established that the excess would have become restored in a separate account if the separation had not occurred.

B. Restored Annual Leave. A period of restored leave under 5 U.S.C. § 6304(d) is not subject to refund if the agency reemploys the employee prior to the expiration of the lump-sum leave period. The PRO subtracts such leave from the lump-sum leave period before calculating the refund. If the employee is reemployed, the agency will not credit restored annual leave to an employee prior to the expiration date of the lump-sum leave period.

030706. Payment for Restored Leave for Base Realignment and Closure (BRAC)

Title 5, U.S.C. § 5551 requires payment of restored annual leave under 5 U.S.C. § 6304(d)(3) in certain situations. A lump-sum payment must be made to any DoD employee moving to a position in any non-DoD Federal agency or to any position within DoD that is not located at an installation being closed or realigned under 5 U.S.C. § 6304(d)(3). The servicing HRO must notify the PRO via SF 50 data when the employee is no longer authorized the restored leave under this authority. The lump-sum payment calculation is the rate of pay at the time of the separation or transfer to the non-BRAC installation.

0308 SEVERANCE

030801. Qualifications

An employee who qualifies under 5 U.S.C. § 5595 is entitled to severance pay in regular pay period intervals and amounts equal to that paid immediately before separation. Title 5 U.S.C. § 5595(i) allows for the heads of DoD Components to authorize payment of severance pay in a lump-sum rather than on a biweekly basis for separations taking effect before October 1, 2014. An employee separated within a pay period rather than at the end of the pay period receives an initial payment of severance pay for the remainder of that pay period. The PRO will compute severance pay for employees with variable work schedules or rates of basic pay using the average rate of basic pay for the last position held during the 26 biweekly pay periods immediately preceding separation. See 5 C.F.R. 550.707(b).

030802. Payments

A. Severance Payments. The servicing payroll office pays authorized severance payments either biweekly or in a lump-sum based on the information processed on an SF 50. Severance payments for employees are subject to appropriate withholding for income and OASDI/Medicare taxes. See 5 C.F.R. 550.709(b).

B. Severance Payments upon Death of Employee. If an employee dies prior to the end of the period covered by severance pay, then the severance pay will continue to be paid as if the employee were still living (5 U.S.C. § 5595(e)), and must be paid to the employee's beneficiary in accordance with 5 U.S.C. § 5582(b). Appropriate withholding will be made for OASDI and/or Medicare and Federal, state, and local income taxes. Payments made to beneficiaries are not subject to Federal tax withholding requirements. However, if a beneficiary receives payment in the year in which the employee dies, the payment is subject to the withholding of OASDI and/or Medicare taxes.

C. Debt Collection and Garnishment. Collection of indebtedness from an employee's severance pay is permissible under ***31 U.S.C. § 3716***. These payments are subject to collection for any outstanding debts owed to the Government. Additionally, under 5 C.F.R. 581.103, severance pay is subject to court-ordered garnishments for alimony, child support, and commercial debts. Court-ordered garnishments are cancelled upon the death of the employee.

030803. Withholding Tax Reporting

Severance pay is taxable in the year that the employee receives the pay. The PRO must include this amount on the employee's Form W-2 and will withhold appropriate Federal and state taxes. If an employee dies, the PRO must report any severance pay paid to the beneficiaries on Form 1099-MISC.

030804. Termination of Severance Pay

If an agency reemploys a former employee in Federal service, severance pay will be discontinued when the PRO receives official notification from the HRO. Discontinuation of payments is effective on the date of reemployment. The losing agency must report the total of amounts paid to the gaining activity or agency. The agency uses this information to determine future entitlement to severance pay since total severance pay during an employee's lifetime cannot exceed one year's pay at the rate received immediately before separation. See 5 U.S.C. § 5595(c).

0309 ADVANCED PAY

030901. Foreign Post Assignment Advances

Advances of pay for DoD civilian employees proceeding to or arriving at a post of assignment in a foreign area are authorized, when applicable. An advance of pay is a prepayment made available to an employee in a pay status. With each permanent change of station (PCS) to a foreign area, an employee may be authorized a single, lump-sum pay advance of up to 3 months of base pay. The purpose of advances is to finance unusual employee expenses associated with overseas assignments and to aid foreign assignment recruitment and retention. Such expenses may include transportation, storage of household goods, shipping costs, deposits on living quarters overseas, and purchase of household items. See ***5 U.S.C. § 5927*** and DoDI 1400.25, V1250. For additional information pertaining to advances of LQA and TQSA, see subparagraphs 030402.A.

A. Eligibility. For purposes of this section, a DoD civilian employee is defined as a full-time DoD employee who is a U.S. citizen paid from appropriated, revolving, or trust funds. New hires that are in a pay status and traveling to a foreign area on travel orders are also included.

B. Foreign Areas. A foreign area is an area located outside the U.S., exclusive of the Commonwealth of Puerto Rico, territories of the U.S., and other areas designated by the Secretary of State.

C. Payment Procedures. Advances of pay for overseas transfers will be paid only by the disbursing officer (or the disbursing officer's overseas agent) who supports the PRO servicing the overseas area, or Outside the Continental U.S. (OCONUS) from a disbursing officer who is a deputy to the Continental U.S. (CONUS) office. Payment may be included in the next regular biweekly pay or made in a single lump-sum. An employee may request an advance of pay 3 weeks before the estimated departure date for an assignment to a foreign duty post or up to 2 months after arrival. The employee must request an advance on the SF 1190 for employees proceeding to or arriving at a post of assignment in a foreign area. The form serves as the request, authorization, and voucher document.

D. HRO Duties. The HRO responsible for the employee must verify the eligibility for an advance by confirming the travel orders and the appropriate pay grade and step

at the foreign post. If the HRO does not provide confirmation of the foreign pay grade or step, the PRO may use the current gross pay at the time of the advance. The HRO counsels each employee eligible for an advance concerning authorized purposes of the advance, repayment requirements, anticipated expenses at the foreign assignment, and application procedures.

030902. Advance Payments to Evacuees

Guidance on advance payments for DoD civilians ordered to evacuate can be found in ***5 U.S.C. § 5522***, 5 C.F.R. 550.403, 5 C.F.R. 550.404. For more information concerning emergency evacuation, see Chapter 6.

030903. Collection of Advance Payments

A. The PRO collects repayment by payroll deduction over a maximum of 26 pay periods. Deductions must begin the first pay period after receipt of the advance or following arrival at the foreign post, whichever is later. The losing agency must forward a copy of the SF 1190 to the gaining PRO for collection.

B. Partial or lump-sum repayments, in addition to payroll deductions, may be accepted.

C. When an employee separates or transfers, the outstanding balance is due in full. Advances of pay are recoverable from the employee or the employee's estate by deduction from accrued pay, amount of retirement credit, other amounts due the employee from the Government, or by other methods as provided by ***5 U.S.C. § 5514*** and 31 U.S.C. § 3716 and corresponding regulations.

D. The Defense Debt and Claims Management Office (DCMO), DFAS-Indianapolis Center, may waive, in certain cases, the Government's right of recovery of an erroneous pay advance in accordance with the requirements in the ***DoDI 1340.23***, Waiver Procedures for Debts Resulting from Erroneous Pay and Allowances and ***5 U.S.C. § 5584***.

030904. Other Requirements or Conditions for Advances

A. An employee is authorized only one outstanding advance at a time, regardless of the frequency of PCS. If an employee becomes eligible for a second advance, the employee must liquidate the first advance before the employee requests the first payment of the second advance.

B. More than one member of a household may be eligible for an advance.

C. Allotments and assignments of advances are not authorized.

D. Advances are paid to employees of another Federal agency on a reimbursable basis provided there is an agreement between the other agency and DFAS to make similar payments to DoD employees.

E. Submission of statements and documents from the employee establishing the need for, and the use of, an advance may be required.

F. Management must develop controls to ensure only authorized employees obtain an advance and that complete accountability procedures exist for the disbursement and collection of pay advances. Accounting records must include current, accurate, and complete records of obligations, receivables, and collections.

030905. Additional Advance Payments

Agencies may authorize an additional advance payment when circumstances warrant and the employee has not received the full amount of the maximum possible advance consistent with the employee's pay grade. Examples of exceptional circumstances warranting a second payment include: a substantial understatement of the maximum advance authorized; inadequate or inappropriate counseling on the purpose of the advance; and unforeseeable events leading to a significant increase in the cash outlay requirements of an employee at the foreign assignment location.

*030906. Advances in Pay for Newly Hired Employees

The head of agency has the authority to provide for the advance payment of basic pay to an employee who is newly appointed to a position in the agency. See 5 C.F.R. 550.203. The authority to advance pay is delegated to officials who exercise personnel appointing authority (normally the head of an installation or activity). This authority is delegated through and subject to the authority of the DoD Component heads to be used on a case-by-case basis. See DoDI 1400.25, V550.

0310 SPECIAL PAYMENTS

Special salary payments (e.g., beneficiary payments, employees erroneously omitted from the payroll) are made in accordance with Chapter 8.

0311 AWARDS

*031101. General

Title ***5 U.S.C. Chapter 45*** is the legal basis for the government wide incentive awards program for civilian employees. OPM regulations regarding agency award programs are published at ***5 C.F.R. Part 451***. The DoDI 1400.25, ***V451*** prescribes award policies governing the award program for DoD civilian employees.

A. Incentive Awards. DoDI 1400.25 delegates to the heads of the DoD Components the authority to pay cash awards, grant time off as an award, and incur the necessary expense for the honorary recognition of an employee (either as an individual or as a member of a group) based on:

1. Suggestions, inventions, superior accomplishments, productivity gains, or other personal efforts that contribute to the efficiency, economy, or other improvements of Government operations;

2. A special act or service in the public interest in connection with or related to official employment; or

3. Performance as reflected in the employee's most recent record of rating.

B. Time Off as an Incentive Award. Authorized by ***5 U.S.C. § 4502(e)***, a time-off award may be granted in lieu of cash. See 5 C.F.R. 451.101-451.107 and DoDI 1400.25, V451.

1. An employee must use the time off granted as an incentive award within 1 year from the effective date. Supervisors and employees are responsible for scheduling the use of this leave within 1 year. If an employee does not use the time-off award within the one-year timeframe, the employee will forfeit the incentive leave. There is no provision for restoring time-off awards.

2. Provisions should be made to accommodate employees who are on long term training, extended sick leave, called to active duty, or similar situations so that the employee does not forfeit his or her time-off award. Agencies may approve sick leave if an employee is unable to perform duty during a period of time off.

3. The maximum amount of time off granted to any one individual for a single achievement should not exceed 40 hours. The maximum amount of time off granted to any one individual within one leave year should not exceed 80 hours. Agencies may grant part-time employees or those with uncommon tours of duty a maximum of one-half the average number of hours in their biweekly tour of duty for a single achievement. The maximum amount of time off which can be granted to part-time employees and employees with uncommon tours of duty during any one leave year is the average number of hours of work in the employee's biweekly scheduled tour of duty.

* 4. A time-off award cannot be transferred between DoD Components or outside of the DoD. Managers and supervisors should make every effort to ensure that the employee is able to use the time-off award before he or she leaves the granting Component. DoD Components may establish procedures to accommodate the transfer of time-off awards within their respective Components. Time-off awards cannot be converted to a cash award under any circumstances. Unused time-off awards will be lost when an employee separates or transfers to another agency or component. See 5 C.F.R. 451.104(f) and DoD 1400.25, V451.

5. Awards are processed on an SF 50 and issued by the HRO to the PRO as authorization for payment of cash awards or granting of time-off awards. The award is paid to the employees in the same manner as their net pay. Incentive award payments are not distributed to the worksite.

6. Time-off awards must be posted to the employee's record and reduced when the time-off is taken and/or forfeited. Usage reported prior to the receipt of notification of the award shall be reflected as a negative balance in the civilian payroll system. Failure of HRO to provide notification of the granting of the award within two pay periods of the usage shall be assumed to be a time-and-attendance error.

C. Foreign Language Awards. An agency may pay a cash award, up to 5 percent of basic pay, to any law enforcement officer employed in or under such agency that possesses and makes substantial use of one or more foreign languages in the performance of official duties. Additional information is in 5 U.S.C Chapter 45, Subchapter III.

D. Presidential Rank Awards for SES Employees. The President may award the rank of Distinguished Executive and Meritorious Executive Service to an SES career appointee in accordance with the guidance in ***5 U.S.C. § 4507*** and 5 C.F.R. 451.301. To be eligible for a rank award, an SES must:

1. Hold a career appointment as defined by 5 U.S.C. § 3132(a)(4),

2. Be an employee of the agency, as defined at 5 U.S.C. § 3132(a)(1), and

3. Have at least 3 years of career or career-type Federal civilian service at the SES level.

E. Presidential Rank Awards for Senior Career Employees. The President may award the rank of Distinguished Senior Professional and Meritorious Senior Professional to a senior career employee as set forth in 5 U.S.C. § 4507a and 5 C.F.R. 451.302. To be eligible for a rank award, a senior career employee must:

1. Hold a career appointment in a SL or ST position as defined by 5 C.F.R. 319, Subpart A and paid under 5 U.S.C. § 5376 on the nomination deadline,

2. Be employed by the agency on the nomination deadline, and

3. Have at least 3 years of career or career-type Federal civilian service above a GS-15 level.

F. Referral Bonus Awards. A referral bonus award was established for agency heads to authorize award payments to employees, as defined by 5 U.S.C. § 2105, for referring new employees who are subsequently selected and employed in hard-to-fill positions in accordance with ***5 U.S.C. § 4503*** and 5 C.F.R. 451. Referral bonus awards are granted at management's discretion and are not considered an entitlement.

031102. Payment of Awards

A. Cash Awards. Cash award payments are subject to the withholding provisions of Federal, state, and local income tax laws. The payroll system will deduct 25 percent Federal tax automatically on special earnings of this nature. The PRO computes the applicable state and local tax and OASDI and/or Medicare withholding based on tax information in the employee's current master record. The PRO will not withhold state and local taxes for employees assigned to overseas duty locations unless requested by the employee.

B. Payment of Awards to Separated Employees

1. When possible, the agency must reestablish the employee on the payroll using the last known information on the employee's master account record for applicable deductions and mailing address.

2. If an agency cannot reestablish the employee on the payroll, the agency must pay the employee using an SF 1034, Public Voucher for Purchases and Services Other Than Personal.

C. Reporting Awards. Cash award payments must be included on an employee's LES as well as the Form W-2.

VOLUME 8, CHAPTER 4: "MANDATORY DEDUCTIONS"

SUMMARY OF MAJOR CHANGES

All changes are denoted by blue font.

Substantive revisions are denoted by an asterisk (*) preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue and underlined font*.**

The previous version dated September 2012 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated to comply with current format guidance.	Revision
Multiple	Updated hyperlinks.	Revision
040301.A.2	Added information regarding the Federal Employees Retirement System Revised Annuity Employees and the Further Revised Annuity Employees.	Addition
040302	Added sentence stating historical information on contribution agreements can be found in archived versions of the chapter.	Addition
040302.B-D (Previous Version)	Deleted paragraphs due to information being outdated.	Deletion
040508.A	Deleted statement regarding off-line payments for tax collection due to all payments must be made by Electronic Funds Transfer.	Deletion
040602.A.2.b	Deleted statement regarding Corps of Engineers Deposit Account since –X6275 is to be used regardless of agency.	Deletion
Table 4-3	Updated Table for Years 2012-2015.	Revision

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CHAPTER 4

MANDATORY DEDUCTIONS

0401 GENERAL

040101. General

Mandatory deductions are required by law, regulation, or by court order and include Federal or state income tax, Old-Age, Survivors and Disability Insurance (OASDI), Medicare, and child support. Voluntary deductions are implemented at the employee's request and require written authorization from the employee prior to withholding the deduction. Voluntary deductions include health and life insurance premiums, flexible spending account program contributions, and Thrift Savings Plan (TSP) contributions. See Chapter 11 for information on voluntary deductions and allotments.

040102. Mandatory Deductions

Mandatory payroll deductions withheld from a Department of Defense (DoD) employee's pay must:

A. Contain sufficient information to properly establish the deduction,

B. Be adequately documented and certified,

C. Be paid to the appropriate recipient in the correct amount, and

D. Be based on a particular provision of law or court order.

040103. Deduction Authorizations

Deduction authorizations must be retained in the Civilian Payroll Office (PRO), with the Customer Service Representative (CSR), or retained at a designated storage site in accordance with ***General Records Schedule 2***.

0402 ORDER OF PRECEDENCE

040201. Deductions

The Office of Personnel Management (OPM) issued policy guidance to standardize the order of precedence for processing mandatory and voluntary deductions when gross pay is not sufficient to permit all deductions. See OPM Memorandum "***PPM-2008-01***; Order of Precedence When Gross Pay Is Not Sufficient To Permit All Deductions" (July 30, 2008).

A. When Gross Pay is not Sufficient. If a DoD employee's gross pay is not sufficient to permit all required deductions, the order of precedence under which deductions must be withheld is as indicated in the following list.

1. Retirement Deductions

a. Civil Service Retirement System (CSRS)

b. Federal Employees Retirement System (FERS)

c. Civil Service Retirement System - Offset (CSRS-Offset)

d. Title 32 National Guard

e. Nonappropriated Fund Instrumentality (NAFI) Employee Retirement Contributions

2. OASDI (Social Security) taxes collected under the authority of the Federal Insurance Contribution Act (FICA)

3. Medicare Tax

4. Federal Income Tax

5. Health Insurance Premiums (may be pre-tax)

6. Basic Group Life Insurance Premiums

a. Federal Employees Group Life Insurance (FEGLI)

b. State Life Insurance Premiums

7. State Income Tax

8. Local Income Tax

9. Collection of Debts Owed to the United States (U.S.)

a. Continuous Levy under the Federal Payment Levy Program (tax debt)

b. Salary Offsets

10. Court-Ordered Collection/Debt

a. Child Support

b. Alimony

c. Bankruptcy

d. Commercial Garnishments

11. Optional Benefits (see Chapter 11)

a. Health Care/Limited-Expense Health Care Flexible Spending Accounts (pre-tax benefit under Federal Flexible Benefits Plan or cafeteria plan)

b. Dental (pre-tax)

c. Vision (pre-tax)

d. Health Savings Account (pre-tax)

e. Optional Life Insurance Premiums

f. Long-Term Care Insurance Premiums

g. Dependent Care Flexible Spending Accounts (pre-tax)

h. TSP

(1) Loan Payments

(2) Basic Contributions (pre-tax)

(3) Catch-up Contributions (pre-tax)

i. Other Optional Benefits

12. Other Voluntary Deductions/Allotments

a. Military Service Deposits

b. Professional Associations

c. Union Dues

d. Charities

e. Bonds

f. Personal Account Allotments (to savings or checking accounts)

g. Additional Voluntary Deductions (on first-come, first-served basis)

13. Internal Revenue Service (IRS) Paper Levies

B. Priority of Deductions vs. Net Pay Exclusions. The order of precedence is used to determine which authorized deductions from the employee's pay will be applied first in the event that the gross pay is not sufficient to cover all deductions. This issue is separate from determining the net amount of an employee's pay subject to a particular deduction. Pay applied toward certain other deductions may be excluded in determining the net amount of pay for which a given deduction is made; however, that does not necessarily mean that any of the other deductions listed are applied first. For example:

1. Federal income tax deductions are deducted from the net amount of pay subject to Federal income taxes (taxable pay). An employee's deduction for TSP contributions is pre-tax, meaning the contribution is excluded from the net amount of taxable pay. However, the TSP deduction is lower in the order of precedence than Federal income taxes.

2. Court-ordered alimony payments are deducted from the net amount of pay subject to garnishment (garnishable pay). An employee's TSP deduction is excluded from the net amount of garnishable pay (Title 5 Code of Federal Regulations, ***(C.F.R.) 581.105(e))***. However, the TSP deduction is lower in the order of precedence than the alimony garnishment.

040202. Available Pay

An employee's available gross pay is reduced by the amount of each deduction withheld in the specific order of precedence listed in paragraph 040201. After an authorized deduction is withheld, if an employee's remaining pay is not sufficient to allow for the deduction next in the order of precedence to be withheld in its entirety, the following applies:

A. Mandatory Deduction. If the deduction next in the order of precedence is a mandatory deduction, the PRO will use the remaining available pay to make a partial deduction. When this situation occurs, the employee's net pay will be zero.

B. Voluntary Deduction. If the deduction next in the order of precedence is a voluntary deduction, the PRO will not make the next voluntary deduction or any other deductions thereafter. The employee's remaining available pay should be paid to the employee as net pay.

0403 RETIREMENT DEDUCTIONS

*040301. CSRS, CSRS-Offset, and FERS Administration and Recordkeeping

A. General. The CSRS and FERS Handbook for Personnel and Payroll Offices (***CSRS and FERS Handbook***) contains the instructions necessary for the PRO to report:

1. The withholding of mandatory deductions from employees enrolled in the CSRS; and

* 2. The basic retirement benefits under FERS. Employees under the FERS program were hired after January 1, 1987. Employees who were hired from January 1, 2013, through December 31, 2013, are FERS Revised Annuity Employees (FERS-RAE). See 5 U.S.C. ***8401 (37)***. Employees hired on or after January 1, 2014, are FERS Further Revised Annuity Employees (FERS-FRAE). See 5 U.S.C. ***8401 (38)***.

B. Coverage. For employees subject to retirement deductions, the Standard Form (SF) ***50***, Notification of Personnel Action, will reflect the correct retirement system for each employee. See Table 4-1 for pay subject to retirement deductions. For current deduction rates and employer contributions, refer to the ***OPM website***.

C. Responsibilities. The PRO must fulfill the general responsibilities relating to CSRS, CSRS-Offset and FERS retirement contributions as listed in the CSRS and FERS Handbook Chapter 1, ***Section 1C3.1-D***.

D. Communication with OPM. Forward records of separated employees to OPM Retirement Operations Center, Boyers, PA, as follows:

1. Office of Personnel Management
CSRS Retirement Records
P.O. Box 45
Boyers, PA 16017

2. Office of Personnel Management
FERS Retirement Records
P.O. Box 200
Boyers, PA 16017

E. Maintaining the Individual Retirement Record (IRR) SF 2806/3100

1. General. The PRO will maintain the IRR for each employee subject to CSRS, CSRS-Offset or FERS according to the CSRS and FERS Handbook at Chapter 81, ***part 81A2***. Because the IRR is used by OPM to adjudicate the retirement rights of separated employees or their survivors, it is important that each IRR be complete, correct, clear in every detail, and properly certified. Timely and accurate maintenance of each IRR will expedite closeout when an employee is separated or transferred to the paying jurisdiction of another agency.

2. Required Information. Certain information is required to be posted on the IRR for all employees. There are additional requirements for law enforcement officers, firefighters, foreign nationals, customs officers, and employees who have any periods of active

duty service. All data should be obtained from the SF 50 and posted to the IRR as it occurs. The ***OPM Operating Manual,*** The Guide to Personnel Data Standards includes the standard abbreviations and remarks required for completing the IRR. Examples of how to post the service history are located in the CSRS/FERS Handbook at Chapter 81, Section 81A2.2-2. IRRs should be reviewed to ensure that the service history is complete and that accurate dates and types of appointments are reflected for each period of service.

a. Sick Leave. When an employee dies, retires, converts to FERS with a CSRS annuity component, has an uncommon tour of duty or applies for disability retirement, the amount of unused sick leave must be recorded on the IRR. An employee who has had a break-in-service is entitled to a recredit of sick leave (without regard to the date of his or her separation) if he or she returns to Federal employment on or after December 2, 1994. However, sick leave may not be recredited to employees who were reemployed in the Federal Service before December 2, 1994, and who previously forfeited sick leave under the former rules. See ***5 C.F.R. 630.502(b)***. For further information, see examples in the CSRS and FERS Handbook at Chapter 81, subchapter 81A2.3-1.

b. Health Benefits Data. IRRs sent to OPM for regular retirement, disability retirement, or deceased employees must be annotated with the status of health benefits. Examples are shown in the CSRS and FERS Handbook at Chapter 81, subchapter 81B.

c. FEGLI. FEGLI must be shown on the IRR as specified in the CSRS and FERS Handbook. For further information see the ***FEGLI Program Handbook***.

3. Closing Out the IRR. Information on the closing out, certification and forwarding to OPM of an IRR upon an employee's separation can be found in the CSRS and FERS Handbook at Chapter 81, Section 81A2.2-4.

a. Employee Death. When the PRO receives notification of an employee's death, the PRO must send the IRR to OPM within 5 days of the date the final pay is computed. The deceased employee's records and associated applications must be received by OPM within 30 days of the date of death. For information on retirement deductions and matching agency contributions in final pay, see ***CSRS and FERS Handbook at Chapter 80***.

b. Separation and Application for Refund of Retirement. A refund is the lump-sum payment to a former employee, or an employee who is no longer covered by CSRS or FERS, of the amount of his or her retirement contributions. An individual seeking a refund must meet certain eligibility requirements. The PRO is responsible for sending the employee's IRR to OPM with the employee's refund application (***SF 2802*** Application for Refund of Retirement Deductions CSRS) or ***SF 3106*** (Application for Refund of Retirement Deductions FERS). See ***CSRS and FERS Handbook at Chapter 32***, subchapter 32A (CSRS) and 32B (FERS). A refund payment may include any of the following:

(1) Retirement contributions deducted from basic pay, including CSRS-Offset contributions for employees covered under CSRS-Offset, or FERS basic annuity deductions from pay;

(2) Deposits and/or redeposits;

(3) Military service credit deposits;

(4) Voluntary contributions; or

(5) Interest payable under law.

c. Disability Retirement Separations. Disability cases require different close out procedures due to the approval or denial of the application submitted by the employee for disability retirement. Agencies must execute both a preliminary and final IRR. Information. Examples on closing out an IRR for disability retirement are located in the CSRS and FERS Handbook at Chapter 81, subchapter 81A.2.3-2.

d. Nondisability Retirement Separations. When a separation occurs for reasons other than a disability retirement, the PRO must close out, certify, and forward the IRR to the address annotated in subparagraph 040301.D. Information and examples on the process required to close out an IRR are located in the CSRS and FERS Handbook at Chapter 81, Section 81A2.3-1.

e. Service Credit Deposits for Post-1956 Military Service. Preparation of the IRR for deposits of creditable post-1956 military service is discussed in the CSRS and FERS Handbook at ***Chapter 23.*** For additional information, see Chapter 11.

F. Storing, Safeguarding and Disposing of the IRR

1. IRRs not maintained in a mechanized manner must be stored in a lockable metal file cabinet or in a secured facility with limited access provided only to employees whose official duties require access. Manually maintained IRRs must be electronically stored after being manually posted, and must be stored separately from the record itself, in accordance with the OPM requirements.

2. Records of a claim for retirement, life insurance, health benefits, and tax withholdings are maintained permanently in paper and/or electronic imaged format. Medical records used to determine suitability are maintained for 18 months. Requests for review of health benefits claims should be maintained for up to 3 years.

3. Manual records should be disposed of by shredding.

G. Register of Separations and Transfers (SF 2807/SF 3103)

1. ***SF 2807*** (CSRS) and ***SF 3103*** (FERS), Register of Separations and Transfers, serve to authenticate the IRR for transmittal to other PROs and to OPM. Together with other fiscal and accounting data available to OPM, the SF 2807/SF 3103 is an essential document controlling retirement monies. For information on how to prepare and maintain the SF 2807/3103, see the CSRS and FERS Handbook at Chapter 81, part 81A3.

2. More than one IRR may be submitted with each SF 2807/3103. However, the transmittal of completed retirement records should not be delayed while other IRRs are being prepared for forwarding to OPM.

H. Adjustments and Corrections. Adjustments and Corrections to the IRR should be made on the retirement record if the error is detected before the record is submitted to OPM. If the error is detected after the record is sent to OPM, prepare an ***SF 2806-1 (CSRS)*** or ***SF 3101 (FERS)***, Notice of Correction of Individual Retirement Record. See CSRS and FERS Handbook at Chapter 81, part 81A2.3-3.

1. Current Employees

a. Overdeduction. If an overdeduction was made for retirement from the pay of a current employee, the PRO must make an adjustment during the next payroll cycle. The PRO must decrease the current retirement deductions from the employee's current pay period earnings, and make a corresponding adjustment in the employer's contributions.

b. Underdeduction. If an underdeduction occurred, or if deductions were not made for a period when an employee was covered by CSRS/FERS, then that employee must be afforded due process rights before being requested to repay the overpayment. If deductions were made for a nonappropriated fund (NAF) retirement plan when deductions are required for CSRS/FERS, then the PRO must adjust the NAF retirement deductions and contributions and the Social Security deductions and contributions in the next pay period. These amounts should then be offset against the amounts that should have been submitted for CSRS/FERS to determine the net amount that must be withheld from the employee's current period pay.

2. Separated Employees

a. Overdeduction

(1) When excess retirement amounts have been deducted from a former employee's pay and the IRR ***SF 2806 (CSRS)***/***3100 (FERS)*** has not yet been forwarded to OPM, the PRO must correct the amount in the current calendar year and correct the accumulated deductions posted on the SF 2806/3100 prior to forwarding to OPM.

(2) If an overdeduction for retirement is found after the IRR SF 2806/3100 was sent to OPM, the PRO must prepare an SF 2806-1 or an SF 3101 and submit the form to OPM.

(3) If an overdeduction from a former employee's pay results in excess employer contributions for retirement, the PRO must deduct the amount of the excess from the next pay period's submission of the Retirement and Insurance Transfer System (RITS) file.

b. Underdeduction

(1) When an insufficient amount for retirement has been deducted from a former employee's pay and the SF 2806/3100 has not yet been submitted to OPM, the PRO must note the amount of the deficiency on the SF 2806/3100. If the SF 2806/3100 has been submitted, then another SF 2806/3100 must be prepared and annotated "Supplemental" in the upper left margin.

(2) When an underdeduction from a former employee's pay results in insufficient employer retirement benefits contributions, the insufficient amount will normally be included in the RITS file for the next pay period.

3. Transferred Employees

a. Overdeduction

(1) When excess retirement amounts have been deducted from a transferred employee's pay and the SF 2806/3100 has not been forwarded to OPM, the PRO must correct the amount in the current calendar year and correct the total accumulative deductions posted on the SF 2806/3100 prior to forwarding.

(2) If the overdeduction for retirement is found after the SF 2806 was forwarded to another PRO within the Department, an SF 2806-1 must be prepared and submitted to the gaining PRO.

(3) When an overdeduction from a transferred employee's pay results in excess employer retirement contributions, the PRO must deduct the amount of excess employer contributions from the RITS file for the next pay period.

b. Underdeduction. When an insufficient retirement amount has been deducted from a former employee's pay and the SF 2806 has not yet been forwarded to another PRO within the same Component, the losing PRO must note the amount of underdeductions on the SF 2806. The losing PRO must prepare and forward a supplemental SF 2806 to the gaining PRO, if the SF 2806 has previously been submitted.

c. Service History Corrections. The PRO must correct the "Service History" portion of the SF 2806 if the error is detected before the record is sent to another PRO within the same Component. If the error is detected after the record is submitted, the losing PRO must prepare and submit an SF 2806-1 to the gaining PRO.

4. Retroactive Payments

a. The PRO must report CSRS/FERS deductions withheld from a retroactive salary payment for a separated employee by preparing a supplemental SF 2806/3100, and forwarding it to OPM using an SF 2807/3103.

b. For a current employee, the PRO must include CSRS/FERS deductions withheld from a retroactive salary payment in the current year salary deduction on the SF 2806/3100 being maintained for the employee.

c. A losing PRO must report CSRS/FERS deductions withheld from a retroactive salary payment for an employee transferred to another PRO within the same Component by preparing a supplemental SF 2806/3100. The losing PRO must send the SF 2806 to the gaining PRO using an SF 2807. The losing PRO must send the SF 3100 to OPM using an SF 3103.

I. Availability of Retirement Funds for Loans, Garnishments, and Indebtedness

1. Loans and Garnishments. See CSRS and FERS Handbook, Chapter 5. An employee cannot borrow from the retirement fund or use money credited to his or her account as security for a loan or any other purpose. Additionally, an employee's retirement account is not subject to the execution of levies, attachments, garnishments, or other legal processes except as follows:

a. OPM will comply with a garnishment or attachment order issued to enforce child support or alimony obligation.

b. OPM will comply with the assignment of retirement benefits in a qualifying state court order, decree, or community property settlement agreement in connection with a divorce, annulment of marriage, or legal separation of a Federal employee or retiree.

2. Indebtedness. The PRO may request OPM use administrative offset to collect a debt owed to the U.S. by use of administrative offset against any money due and payable to a separated employee from his or her CSRS or FERS benefits. See Chapter 8 for recovering debts from retirement funds. The PRO must ensure the former employee has been given due process rights as specified in Chapter 8. See also CSRS and FERS Handbook at Chapters 4 and 5.

J. Submission of Deductions and Contributions. Employee deductions and employer contributions for CSRS and FERS must be reported separately to OPM each pay period. PROs reporting to OPM via the RITS must report deductions and contributions using procedures described in Chapter 9. Employer contributions must be charged to the appropriation(s) from which the employee's salary is paid. See CSRS and FERS Handbook at Chapter 80.

*040302. State Retirement Programs for National Guard Technicians

Effective January 1, 1969, pursuant to ***32 U.S.C. 709***, all National Guard Technicians appointed in a position not excluded from coverage are considered Federal employees who are automatically covered by CSRS or FERS. However, technicians that were employed on December 31, 1968, had the option of irrevocably electing to remain covered by a state retirement

system. The DoD negotiated agreements with states for Federal employee contributions to a state or state-sponsored contributory retirement program. For further information, see ***CSRS and FERS Handbook at Chapter 12***. Historical information on contribution agreements for state retirement programs may be found in archived versions of this chapter.

040303. DoD Employees Covered By Retirement Systems for Nonappropriated Fund Instrumentalities

A. General. NAF employees are Federal employees within DoD. However, NAF employees are not subject to many of the personnel laws administered by OPM for appropriated fund (APF) employees. The status of NAF employees is explained at ***5 U.S.C. 2105(c)***. NAF employee retirement benefits are not subject to the same requirements as that of civil service positions. Each NAF employer administers its own retirement program pursuant to DoD Instruction (DoDI) 1400.25-***V1408***, DoD Civilian Personnel Management System, Volume 1408, Insurance and Annuities for NAF Employees.

B. Portability. If a NAF employee moves to an APF position, unless specifically provided by law, the employee's NAF service is not creditable for civil service benefits. Likewise, service in an APF position is not creditable for NAF benefits. Laws and regulations regarding service credit and portability of benefits for employees who move between NAF and APF positions are discussed in this section and in the reference guide entitled, "***Portability of Benefits for Moves Between Civil Service and Nonappropriated Fund Employment Systems***" published by the DoD Civilian Personnel Management Service (CPMS). See also ***5 C.F.R. Part 847*** and ***5 C.F.R. Part 1620, subpart D***.

C. DoD Components that offer NAF Retirement Plans. The following DoD Components offer NAF retirement plans for eligible DoD NAF employees:

1. Department of the Army,

2. Department of the Air Force,

3. U. S. Marine Corps,

4. Bureau of Naval Personnel,

5. Navy Exchange Service Command,

6. Army and Air Force Exchange Service, and

7. Coast Guard.

D. History of Public Laws Relating to Portability of Retirement Benefits for NAF Employees.

1. NAFI Employee's Retirement Credit Act of 1986, Public Law (P. L.) 99-638, (***5 U.S.C. 8332***). The Act was the first to permit CSRS credit for former NAF service. The law required that NAF service be provided in certain morale, welfare, and recreation (MWR) positions after June 18, 1952, and before January 1, 1966. Covered employees were primarily Army NAF employees in recreation, youth activities, or arts and crafts positions which were not covered with a NAF retirement system.

2. The Portability of Benefits for NAF Employees Act of 1990, P. L. 101-508, Section 7202, (5 U.S.C. 8332). The law provides pay and benefit portability for employees who move between NAF and APF positions. The law covers moves between DoD NAF and DoD APF positions made on or after January 1, 1987. An employee who moves with a break-in-service of no more than 3 days between such positions may be eligible for pay, leave, reduction-in-force, and retirement benefit protection. An employee who moves between positions may remain in his or her civil service or NAF retirement plan, if vested.

3. Fiscal Year 1996 National Defense Authorization Act, P. L. 104-106, Section 1043, (5 U.S.C. 8332). The law further expanded portability, primarily in the area of retirement coverage. Retirement election provisions were expanded to include moves to APF positions outside of DoD and to cover moves on or after August 10, 1996, with a break-in-service of not more than 1 year. Employees must be vested in the losing employment system's retirement plan in order to elect to retain coverage. The law provided eligible FERS or NAF employees the opportunity to combine FERS and NAF service credit retroactively if the move occurred on or after January 1, 1966, but before August 10, 1996, with an election deadline of August 11, 1997. Waivers of this deadline are authorized for employees who did not receive notice and counseling from their Human Resources Office (HRO).

4. Fiscal Year 2002 National Defense Authorization Act, P. L. 107-107, Sections 1131 and 1132, (5 U.S.C. 8332). The law further expanded the retirement election opportunity making it easier for employees who have performed service with a DoD or Coast Guard NAFI to continue retirement coverage after moving between NAF and APF positions. Section 1131 permits employees moving between NAF and APF positions on or after December 28, 2001, to continue coverage in the retirement plan under which they were covered immediately before the move, even if they were not vested in that retirement plan. Employee moves between retirement covered positions must not involve a break of more than 1 year. Additionally, section 1132 permits employees in CSRS and FERS to use prior NAF service to qualify for an immediate retirement on or after December 28, 2001. Credit for NAF service under section 1132 will not result in higher CSRS or FERS annuity benefits.

E. Elections to Continue Retirement Coverage After a Qualifying Move from a NAF Position. In accordance with ***5 C.F.R. 847.202***, NAF employees must meet the requirements of a qualifying move in order to be eligible to retain NAF retirement coverage after moving to a civil position covered by CSRS or FERS. A qualifying move for the following specified time periods is defined as follows:

1. Qualifying Move Between January 1, 1987, and August 9, 1996. A qualifying move occurring between January 1, 1987, and August 9, 1996, that would allow a NAF

employee the opportunity to elect to continue retirement coverage under a NAF retirement system must meet all the following criteria:

a. Employee must not have had a prior opportunity to elect to continue NAF retirement system coverage,

b. Employee must have been a vested participant in the NAF retirement system prior to the move to the civil service,

c. Employee must have moved from an NAF to a CSRS or FERS covered position within DoD or the U.S. Coast Guard, and

d. Employee must be appointed to a CSRS or FERS covered position no later than 4 days after separation from retirement covered NAF employment.

2. Qualifying Move between August 10, 1996, and December 28, 2001. A qualifying move occurring on or after August 10, 1996, and before December 28, 2001, that would allow a NAF employee an opportunity to elect to continue retirement coverage under a NAF retirement system must meet all the following criteria:

a. Employee must not have had a prior opportunity to elect to continue NAF retirement system coverage,

b. Employee must have been a vested participant in the NAF retirement system prior to the move to a CSRS or FERS covered position,

c. Employee must have moved from a NAF to a civil service position subject to CSRS or FERS coverage, and

d. Employee must be appointed to a CSRS or FERS covered position no later than 1 year after separation from retirement covered NAF employment.

3. Qualifying Move after December 28, 2001. A qualifying move occurring on or after December 28, 2001, that would allow a NAF employee an opportunity to elect to continue retirement coverage under a NAF retirement system must meet all the following criteria:

a. Employee must not have had a prior opportunity to elect to continue NAF retirement system coverage,

b. Employee must have moved from a NAF to a civil service position subject to CSRS or FERS coverage, and

c. Employee must be appointed to a CSRS or FERS covered position no later than 1 year after separation from retirement covered NAF employment.

F. Electing NAF Retirement System Coverage after a Qualifying Move

1. Employees who elect to retain coverage under a NAF retirement system will have their SF 50 annotated as "5-Other" for the retirement code. The SF 50 will state that the employee has elected to retain coverage under a NAF retirement system.

2. Employees who elect to remain covered by a NAF retirement plan are excluded from coverage under CSRS or FERS during that and all subsequent periods of employment, including periods of service as a reemployed annuitant.

3. Employee retirement deductions, employer contributions, employee contributions to applicable 401(k) plans, and loan repayments will be made biweekly and submitted to the appropriate NAF employee benefit system. FICA must be withheld and reported in accordance with current guidance from the Department of the Treasury.

4. Employees who elect to retain coverage under a NAF retirement system are eligible to contribute to the applicable NAF 401(k) plan, but are not eligible to participate in TSP.

5. Employees who elect to retain NAF retirement coverage will continue to be covered with the NAF retirement plan in effect at the time of election.

040304. Uniformed Services University of the Health Sciences (USUHS) Faculty Retirement

A. The USUHS has established a policy on granting of retirement benefits for faculty and staff who are covered under the Administratively Determined (AD) pay plan. See ***10 U.S.C. 2113*** and ***USUHS Instruction 1418, Civilian Faculty Benefits Plan***. All full-time civilian faculty members of the USUHS appointed to an AD position with an appointment of more than 1 year may elect coverage under one the following plan options:

1. Teachers Insurance and Annuity Association College Retirement Equities Fund (TIAA-CREF). This is a tax-deferred retirement plan offering both fixed and variable annuity distributions which allows employees to enroll in any of 10 available funds. Amounts collected should be remitted to TIAA-CREF, 8500 Andrew Carnegie Blvd, Charlotte, NC 28626. Any offline collections will be deposited into and disbursed from deposit fund –X6875 and remitted to this same address. Additional information on TIAA-CREF may be found at the ***TIAA-CREF website***.

2. Fidelity Investments. This is a tax-deferred investment program through which the employee may enroll in any of 120 available funds. Amounts collected should be sent to Fidelity Retirement Services, P. O. Box 770002, Cincinnati, OH 45277-0089.

B. A total of 15 percent of the employee's total salary will be contributed to either TIAA-CREF or Fidelity Investments. The employer (USUHS) will contribute 10 percent and the employee will contribute a mandatory 5 percent through payroll deduction.

C. Part-time AD employees, visiting employees who carry a J-1 visa, faculty whose titles have the prefix Visiting and Postdoctoral Fellows are not eligible to participate in TIAA-CREF or Fidelity Investments.

0404 FEDERAL INSURANCE CONTRIBUTIONS ACT (FICA) TAX

040401. Authority

The Federal Insurance Contributions Act provides for a Federal system of OASDI and hospital insurance. See Title 26 U.S.C., ***Subtitle C, Chapter 21***. The OASDI program is financed by the Social Security tax, and the Hospital Insurance program is financed by the Medicare tax. Wages for covered employment are taxable regardless of the worker's age or whether the worker is receiving Social Security or Medicare benefits. Employers must match the taxes withheld from employee wages. The term FICA applies to the combined amount of the deductions withheld for both Social Security and Medicare. However, each of the taxes is reported separately. For purposes of this guidance, taxes withheld under FICA will be referred to separately as Social Security tax and Medicare tax. The guidance applies to both Social Security and Medicare withholding. For additional information, see the ***Social Security Handbook***.

A. Coverage. Federal employees are generally subject to both Social Security and Medicare tax withholding, but some employees are subject to only Medicare tax. Prior to 1984, most Federal civilian employment was exempt from Social Security coverage. However, for Federal employees hired on or after January 1, 1984, most services are covered by Social Security. Whether an employee is covered under Social Security is based on the type of appointment and is determined by the HRO and reflected on the SF 50. Federal employees became subject to Medicare withholding the first pay period in calendar year 1983. See ***Social Security Handbook at § 940.*** Social Security and/or Medicare taxes are withheld on the same wages, but only Social Security taxes have a wage base limit (i.e. the maximum wage amount subject to Social Security tax for the year). The deductions are shown separately on the ***IRS Form W-2*** (Wage and Tax Statement). The Department is considered one employer for purposes of determining the maximum wages subject to Social Security and/or Medicare withholding. Employees who are exempt from the Social Security and/or Medicare withholding are:

1. Noncitizens employed outside the U.S., the U.S. Virgin Islands, and Puerto Rico;

2. Interns, (except medical and dental interns and residents), student nurses, and other student employees of Federal hospitals (***26 U.S.C. 3121(b)(6)***);

3. Employees hired temporarily to handle fires, storms, earthquakes, floods, and other similar emergencies and disasters (26 U.S.C. 3121(b)(6));

4. If a civilian chaplain wants to be covered under Social Security and/or Medicare, he or she must apply as a self-employed person. If the order under which the chaplain belongs has elected its members to be covered by Social Security and/or Medicare, then the chaplain may also be covered by Social Security and/or Medicare;

5. Employees of instrumentalities of the U.S. Government that are specifically exempt from Social Security and/or Medicare by law (***26 U.S.C. 3112***); and

6. Title 32 National Guard technicians in Massachusetts and Nevada who elected to remain in the state employees retirement systems.

B. Transfers Between DoD Components. Beginning January 1, 1984, based on FICA, OPM directed that all newly hired Federal employees be subject to Social Security and Medicare withholding, as well as retirement deductions. If an employee transfers between DoD Components, then the gaining PRO must count those Social Security and/or Medicare taxes already deducted by the losing PRO in order not to exceed the maximum Social Security and/or Medicare tax liability due for that payroll year. When an employee transfers, the PRO must include Social Security and/or Medicare year-to-date wages, and Social Security and/or Medicare year-to-date taxes on the ***SF 1150***, Record of Leave Data.

040402. Compensation Subject to Social Security and/or Medicare Taxes

A. Current Earnings and Allowances. For employees covered under FICA, compensation subject to Federal income tax (without regard to exemption status) is generally subject to Social Security and Medicare deductions (see Table 4-1). Employees covered under CSRS are subject only to Medicare withholding. The basis for Social Security and/or Medicare tax deductions is the employee's gross pay for each pay period.

B. Back Pay Awards. Employee and employer portions of Social Security and/or Medicare taxes computed for back pay awards must be calculated at the rate in effect at the time the payment of back pay is made.

040403. Tax Amounts

Social Security and Medicare taxes have different tax rate percentages, and Social Security is subject to a wage base limitation. Therefore, Social Security and/or Medicare taxes must be computed and reported separately.

A. Employee Deductions. For each pay period, deduct the appropriate Social Security and/or Medicare tax amount from the gross pay of each employee covered by Social Security and/or Medicare. With respect to the Social Security wage base limit, when the employee's earnings reach the applicable maximum limitation in a taxable year, discontinue the deductions for Social Security for the remainder of that tax year. Refer to IRS Publication 15, ***IRS Circular E***, Employer's Tax Guide, for the yearly update. Maximum limitations for prior years are listed in Table 4-2 and Table 4-3.

B. Employer's Social Security and/or Medicare Tax. The U.S. Government must pay the employer's contribution equal to the same tax rate used for employees.

C. Official Social Security and Medicare Tax Tables. Tax tables are published in IRS Circular E.

040404. Voucher Entry

For each pay period, enter the employees' deductions and the employer's contributions for Social Security and/or Medicare taxes on the appropriate line of the ***Department of Defense (DD) Form 592***, Payroll for Personal Services Certification and Summary. The employer's portion is charged to the same appropriation(s) as the employee's salary.

040405. Adjustments

Adjustments due to errors and cancellation of paychecks are outlined in Chapter 8, Section 0808.

040406. Panama Social Security System

All non-U.S. citizens employed by the Panama Canal Commission after September 30, 1979, were covered by the Panama Social Security System (Social Security Provisions of the Agreement in Implementation of Article III of the Panama Canal Treaty). The employee's withholding was 7.25 percent of salary, and the employer's contribution was 12.45 percent of salary. Non-U.S. citizens covered by CSRS prior to October 1, 1979, and who were employed by the Panama Canal Company or Canal Zone Government and were covered by CSRS, continued to be covered under CSRS until termination. Note: The Panama Canal Treaty of September 7, 1977, relinquished U.S. control over the Canal and transferred authority to the Panama Canal Authority on December 31, 1999. The guidance contained in this paragraph is retained strictly for historical purposes. For further information, see ***22 U.S.C., Chapter 51***.

0405 FEDERAL INCOME TAX WITHHOLDING (FITW)

040501. General

A. Withholding Authority for Federal Income Tax. The Internal Revenue Code at ***26 U.S.C. 3402*** requires each Federal agency withhold Federal income taxes from wages paid to employees. The current IRS Circular E summarizes the employer's responsibilities and contains rates and tables for withholding. ***Title 26, U.S.C. Section 3306*** provides that services performed in the employ of the U.S. are exempt from the tax imposed under the Federal Unemployment Tax Act (FUTA).

B. Employer's Identification Number (EIN). An EIN is assigned by the appropriate District Director of the IRS to identify the tax accounts of employers. Only one identification number per PRO is authorized for use in reporting all Federal and Social Security and/or Medicare taxes. The PRO must collect Federal and Social Security and/or Medicare taxes from employee wages and report all taxes using ***IRS Form 941***, Employer’s Quarterly Federal Tax Return. The current IRS Circular E should be consulted for guidance on withholding and reporting Federal income tax and Social Security and/or Medicare.

C. Method of Withholding. The two most common methods for withholding tax provided by the IRS are the percentage method and the wage-bracket method. Refer to IRS Circular E for information on these two methods.

040502. Form W-4, Employee's Withholding Allowance Certificate

The PRO must use ***Form W-4*** to support statutory deductions for Federal income taxes from each employee. The W-4 states the number of exemptions claimed or extra withholding authorized by the employee. IRS Forms W-4 may be obtained from the nearest HRO or CSR. An employee is also allowed to process tax changes through an automated computer program, such as myPay, by using a personal identification code.

A. Withholding Allowances. At the start of employment, an employee must complete a Form W-4 and any additional forms required for withholding state or local taxes. The employee's marital status and number of allowances claimed provide the basis to compute FITW. If an employee fails to submit a Form W-4, the PRO must assume the employee is single and has zero withholding allowances. Once filed, a Form W-4 remains in effect until the employee amends it or files a new withholding certificate.

1. Permissible allowances are described on the Form W-4. Determining the accuracy of the number of allowances claimed is not the responsibility of the PRO.

2. The number of allowances claimed on the IRS Form W-4 may be different from the number of exemptions claimed on the employee's tax return. Employees may use the worksheet on the Form W-4 to determine if they qualify for claiming extra allowances.

B. Additional Withholding. An employee may claim additional withholding allowances, as computed using the table on Form W-4. An employee who wants to increase the amount of tax withheld may reduce the number of exemptions to which the employee is entitled. If an increase in Federal tax withholding is desired, the employee may also specify a fixed dollar amount to be withheld in addition to the amount of withholding based on filing status and withholding allowances claimed on Form W-4. The amount of withholding remains in effect until changed by the employee.

C. Reporting Certain Forms W-4 to the IRS

1. Employers may be directed by a written notice from IRS to send certain Forms W-4 to the IRS for review. If the PRO receives a written notice, then the PRO will contact the CSR to obtain a copy of the requested Form W-4. The PRO will follow the guidance in the written notice for submitting the Form W-4 to the IRS.

2. If the IRS determines that an employee does not have enough withholding, then the IRS may send the PRO a letter commonly called a lock-in-letter. The lock-in-letter will specify the maximum number of withholding allowances permitted for the employee.

The PRO must furnish a copy of this letter to the employee within 10 business days of receipt of the letter. The PRO will begin the withholding based on the date specified in the letter.

040503. Allowance Status Change

If an employee submits a new Form W-4, the PRO will change the withholding effective the next pay period. No retroactive adjustment is permitted if an employee claims the Form W-4 on file is erroneous and submits a corrected one.

040504. Compensation Subject to Income Tax

See Table 4-1 for taxability of particular types of compensation.

040505. Withholding Allowances

A. Exemption from Withholding. An employer is not required to deduct and withhold any Federal income tax from wages paid to an employee who has certified to the employer (as prescribed by IRS) that the employee incurred no income tax liability for the preceding year and that the employee expects no liability for the current year. The employee uses the Form W-4 to make this certification. The employee must file a Form W-4 each year by February 15 to claim exemption from withholding. If the employee fails to file the Form W-4 claiming exemption from withholding by February 15, the PRO will withhold tax as if the employee is single with zero withholding allowances. If the employee provides a new Form W-4 claiming exemption from withholding on February 16 or later, the PRO will apply it to future wages but will not refund any taxes already withheld.

B. Retained Copies of IRS Form 941 and Related Reports. As forms become superseded or obsolete, the PRO should remove them from the active file and place in an inactive file. Treasury Department forms (e.g., IRS Forms 941 or W-4) do not have to be sent to the IRS District Director. However, if requested, the PRO must show that the information is on file as a supporting record.

040506. Tax Tables and Tax Periods

Refer to IRS Circular E for the current tax tables or applicable payroll system tax package.

040507. Adjustments in Tax Withheld

A. Underwithheld Taxes. If the PRO does not withhold income, Social Security, or Medicare taxes, or if less than the correct amount is withheld from the employee's wages, the adjustment to the employee's pay may be made in a later pay period of the same calendar year. The underpayment must be paid to the IRS by the employer. Underwithheld income tax should be recovered from the employee on or before the last day of the calendar year that the tax was due. See Chapter 8 and IRS Publication 15, Circular E for information on collection of a prior year tax debts. Make no adjustment if the error occurred in a prior calendar year or the employee is no longer on the payroll.

B. Refunding Taxes Incorrectly Withheld. If more than the correct amount of income, Social Security, or Medicare tax is withheld from employee's wages, the excess amount must be refunded to the employee before the end of the 3-year statute of limitations that applies to tax refunds. For example, if excess Social Security taxes were withheld from an employee's pay in calendar year 2011, the excess Social Security taxes could be refunded to the employee through April 15, 2014.

040508. Tax Payments - Payment of Withheld Tax

A. Tax Collection. All Federal income, Social Security, and Medicare taxes collected by the PRO are directly remitted to IRS through the Electronic Federal Tax Payment System (EFTPS). EFTPS is a service offered by Treasury that allows an agency to electronically file and make payments for IRS Form 941 taxes each quarter.

B. Accounting. The PRO making the tax collection is responsible for preparing and issuing the ***Form W-2***, Wage and Tax Statement, to the employee.

C. Disbursement. The disbursing office will disburse all taxes withheld based on the information provided by the PRO and the frequency of the payroll involved. The taxes are remitted for amounts withheld from wages for Federal income, Social Security and/or Medicare taxes, and employer's contributions for Social Security and/or Medicare via the EFTPS.

040509. Resident and Nonresident Aliens

A. Withholding Tax. Wages paid to both resident and nonresident aliens for services performed in the U.S. are subject to the withholding of Federal income tax. The same regulations, procedures, and rates that govern U.S. citizens apply to resident and nonresident aliens. Generally, resident aliens are taxed in the same manner as U.S. citizens. However, for nonresident aliens, employers may be instructed to withhold an additional amount from a nonresident alien's wages. See IRS Circular E for any additional withholding adjustments.

B. Withholding Allowances and Exemptions. Resident aliens may claim the full number of withholding allowances to which they would be entitled if they were U.S. citizens. Generally, nonresident aliens may claim one withholding allowance on Form W-4. Nonresident aliens who are residents of Canada, Mexico or South Korea, or a student/business apprentice from India, or a U.S. National may be able to claim additional withholding allowances. See ***IRS Publication 519***, U.S. Tax Guide for Aliens, for additional information. In general, Federal income taxes on the wages of nonresident alien employees must be withheld. However, see ***IRS Publication 515***, Withholding of Tax on Nonresident Aliens and Foreign Entities, for exemptions to wage withholding.

C. Payment of Taxes and Tax Return. Federal income and Social Security/Medicare taxes withheld for resident and nonresident aliens covered in this chapter will be included with the total tax deposit payment and reported on the IRS Form 941.

040510. Lump-Sum Leave Payment Refunds

A. General. When a separated employee who received a lump-sum payment for annual leave is reemployed in Federal service prior to the end of the period covered by the lump-sum payment, the employee must refund an amount equal to the pay covering the period between the date of reemployment and the expiration of the lump-sum period. See ***5 U.S.C. 6306***. Refer to Chapter 8, Section 0808 regarding procedures on corrections of overpayments and underpayments.

B. Preparing a Statement Regarding Refunded Lump-Sum Leave Payments. When the entire amount of the refunded lump-sum leave payment has been collected from the reemployed individual, the PRO must prepare a statement (a sample format is shown in Figure 4-1) to be distributed as follows:

1. Send the original to the employee, with one copy for each taxing authority for which tax has been withheld from the employee's pay; and

2. Send one signed copy to the IRS, the state (if applicable), the city or county (if applicable), and any other authorized taxing authority.

040511. Advance Earned Income Credit (EIC)

The Education Jobs and Medicaid Assistance Act of 2010 (***P. L. 111-226***) signed into law on August 10, 2010, repealed the Advance EIC. After December 31, 2010, workers may not receive Advance EIC in their paychecks.

0406 STATE INCOME TAX WITHHOLDING (SITW)

040601. General

Title 5, U.S.C. Section 5517 provides for the withholding of state and territorial income taxes from the compensation of Federal employees if an agreement has been entered into between the Secretary of the Treasury and the proper official of the state or territory. Agreements exist between the Secretary of the Treasury and many of the states for withholding income tax from the compensation of Federal employees whose regular place of employment is within the state. See Treasury Financial Manual (TFM), Volume 1, Part Three, Chapter 5000, ***Appendix 2*** for additional information. If an agreement has not been reached between a state and the Secretary of Treasury, then the employee may elect to have discretionary withholding for a state.

A. Wages Subject to State Withholding. Wages and salaries subject to Federal income tax withholding are generally subject to state withholding. Cost-of-living allowances paid to employees in Hawaii are included as taxable income. Severance pay paid in accordance with ***5 U.S.C. 5595*** is included; however, state income tax should not be withheld from severance pay paid to the survivor of a deceased employee.

B. Withholding Requirements. When a state statute provides for the collection of a tax by the employer, withholding is required for any DoD employee who is subject to the tax and whose regular place of Federal employment is within the state (if the state has entered into an agreement). Generally, the employee's official duty station is where the employee reports regularly to perform services. For an employee whose duties are performed at a place other than his or her official duty station, the regular place of Federal employment is the place where the employee actually and normally performs their duties.

C. Withholding Certificate. DoD employees must complete a state tax withholding certificate as a basis for proper withholding. The certificate must specify if the employee is subject to the tax as well as the employee's place of residence, regular place of employment, exemptions, and allowances. This certificate remains in effect until the employee submits a new certificate. If an employee does not furnish a withholding certificate for a designated state, the maximum amount applicable to the employee's annual compensation will be withheld.

D. Determination of Exemptions. The number of exemptions claimed may be based on the state withholding certificate or as shown on Form W-4 depending on individual state regulations or the agreements with the Secretary of the Treasury.

1. The PRO will withhold amounts based on personal exemptions and either:

a. The state withholding tax tables, or

b. Percentage or formula methods in accordance with the proper withholding agreement.

2. Generally, the tax withheld, after subtracting proper exemptions and allowances, should not be less than:

a. The amount set in the state withholding table, or

b. The amount determined by the percentage or formula method prescribed.

3. The PRO may use the employee's Form W-4 to determine state withholding in place of state forms if:

a. The withholding agreement authorizes it, and

b. The state and Federal exemptions allowed are the same.

4. Employees must file a state employee withholding exemption certificate if:

a. Exemptions under state law are not the same as under Federal law, or

b. The state requires the use of a separate form.

E. Reciprocal Agreements. The state requirements for withholding income tax may be modified by reciprocal agreements between states. The effect of reciprocal agreements generally is to relieve nonresident employees of their tax liability to the state in which they are employed. Reciprocal agreements also relieve the employer of the duty to withhold such taxes. To comply with Treasury-state withholding agreements, agencies must conform to the withholding provisions of reciprocal agreements. If an employee is subject to withholding in more than one state, use separate deduction codes to identify tax remittance for each state.

1. Employees usually are subject to withholding for the state in which their duty station is located. The employee's SF 50 shows the duty location. The duty station also governs withholding for employees in continual travel status. For an employee who performs duties at a place other than the official duty station, the place where the employee regularly performs his or her duties is considered the regular place of employment for state tax withholding purposes.

2. Reciprocal agreements between states may affect automatic withholding according to the duty station. In all disputed cases, the PRO will:

a. Withhold the tax, and

b. Advise the employee to negotiate the tax liability directly with the proper taxing authority.

F. Nonresident Employees

1. Some states permit nonresident employees to certify their compensation is not subject to that state's income tax. When the agreement or state law contains such a provision, the employee's signed statement is accepted as justification to discontinue withholding of state income tax. The statement is filed with the employee's IRS Form W-4.

2. Nonresident employees, who under the state income tax law are required to allocate at least three-fourths of their compensation to the state, are subject to withholding on their entire compensation. Nonresident employees, who under the state income tax law are required to allocate less than three-fourths of their compensation to the state, may elect to:

a. Have state income tax withheld on their entire compensation, or

b. Have no state income tax withheld on their compensation (***31 C.F.R. 215.10(a)***).

G. State Income Tax Discretionary Deductions

1. When a state provides for discretionary allotment withholdings, PROs will withhold state taxes only for those employees who have a legal obligation to pay and who elect such withholding. This applies whether or not the Department of the Treasury has a withholding agreement with the state.

a. Employees must request the allotment on a proper withholding certificate.

b. Employee tenure does not affect the allotment.

2. Employees located in foreign areas must assume the responsibility for determining the need for state and local taxes. However, before submitting a request, an employee must be advised to:

a. Obtain assistance from the employing activity legal staff available to him or her; or

b. Contact the appropriate state or local income tax office as to the applicability of withholding taxes while on an overseas assignment. Preferably, this should be done prior to an employee's departure from the continental U.S. (CONUS). If the employee determines a withholding liability applies, then PROs will honor the request.

3. The PRO must comply with the agreement, regulations, and instructions of the state concerned.

a. The PRO will base the allotment amount on either:

(1) The amount (in whole dollars) set by an employee, or

(2) The withholding certificate filed by an employee and the state withholding tables or formulas.

b. The PRO will pay withheld state income taxes to each state concerned as prescribed for that state.

H. State Exemption Certificates. Employees are subject to mandatory withholding under Treasury-state withholding agreements; however, an employee may claim exemption from withholding under certain conditions. PROs must:

1. Require the use of state-furnished tax exemption certificates, if available.

2. Give the designated official of the taxing state the following information (on request) about employees claiming exemption:

a. Name,

b. SSN, and

c. The basis for the claimed exemption.

I. Military Spouses Residency Relief Act (MSRRA)

1. ***Public Law 111-97*****,** enacted November 11, 2009 (50 U.S.C. 571), allows for an employee who is a spouse of a military service member to claim an exemption from state withholding on wages because:

a. The employee's spouse is a member of the Armed Forces assigned to duty in the state of the employee's employment in compliance with military orders;

b. The employee is present in the state of employment solely to be with the employee's military spouse; and

c. The employee maintains a residence or domicile in another state.

2. Under the MSRRA, the employee must establish that the employee has a residence or domicile in a state other than the state of employment. An employee who is a military spouse is still liable for income taxes imposed by his or her state of legal residence or domicile. Once an employee establishes that the employee has a residence or domicile in a state other than the employee's state of employment, the employee may claim an exemption from state tax in the state of employment.

040602. Procedures

The PRO will send copies of Forms W-2 to states that have negotiated agreements with the Secretary of the Treasury with respect to employees who are subject to mandatory state withholding, or who may elect withholding under a state law (***TFM, paragraph 3-5070.10***).

A. Accounting for Withheld Taxes

1. Employee Pay Records. The PRO will record the amounts withheld each pay period on an employee's pay record when a special payment occurs; otherwise, the system will automatically update an employee's records.

2. Deposit Accounts. The PRO will:

a. List the total of withheld state taxes under the amount column of the Payroll Summary on DD Form 592, Payroll for Personal Services Certification and Summary.

b. Deposit the total in deposit fund account --X6275, (Withheld State Income Taxes). This account will be credited regardless of the employing activity of the employee, ***Federal Account Symbols and Titles (FAST) Book II*** .

3. Error Corrections. The PRO should correct a clerical error made in the prior pay period to the current calendar year if the employee is still on the payroll. If the error resulted in the underdeduction of taxes, the PRO must follow due process procedures to collect the taxes paid on behalf of the employee. If the error resulted in the overdeduction of withheld taxes, the PRO must refund the amount of the overdeduction to the employee on the next regular payroll cycle. The PRO will not make any adjustment if:

a. The employee is no longer on the payroll, or

b. The error was in a prior calendar year.

4. Paying Out Withheld Taxes

a. Frequency. PROs will comply with the state's current tax law, whether payment is required biweekly, monthly, or quarterly. PROs will not make payments more often than required under state tax law.

b. Payment Identification. The disbursing officer will issue checks on the basis of approved voucher prepared by the PRO. The PRO must prepare required tax payment documents.

5. Balancing State Wage and Tax Information. The PRO will balance the amounts reported on the Form W-2 or magnetic tape to each state with year-to-date control totals for state taxes withheld and state taxable wages. These amounts must be balanced before Forms W-2 are distributed to employees and forwarded to the states.

6. Collection of Delinquent Taxes. ***Title 5, C.F.R. Part 582*** authorizes the collection of a tax levy from a state or local government. The Defense Finance and Accounting Service-Cleveland Site (DFAS-CL/L) has been designated as the agent to accept legal process for DoD civilian employees for state or local tax levies. All state income tax liens will be sent to: Defense Finance and Accounting Service Cleveland Site, Office of General Counsel, Attention: Code L, P.O. Box 998002, Cleveland, Ohio 44199-8002.

7. Notice to Employees. The DoD Components should advise their employees that information returns will be sent to state and other taxing authorities of the employee's state of employment (and, in some cases, residence) where such authorities have requested the information. Only information properly releasable under the Privacy Act or the applicable notice of routine use may be released.

B. Recordkeeping

1. The PROs must retain the following records of state tax deductions:

a. EIN assigned by the state;

b. Amounts and dates of all payments and wages subject to state tax withholding;

c. Names, addresses, and Social Security Numbers (SSNs) of employees; and

d. Dates and amounts of tax deposits made.

2. The CSR will retain the following:

a. The employee's state withholding allowance certificate which will be kept until superseded or canceled, and

b. Dates of employment.

C. Annual Form W-2 Reporting. Refer to Chapter 9 for procedures.

D. Official State and Territory Codes and Abbreviations. The official abbreviations and state codes for all the states of the U.S. (including D.C.) and U.S. possessions and territories are listed in Table 4-4. No other abbreviations or codes may be used.

040603. Guam or the Commonwealth of Northern Mariana Islands Federal Income Taxes

The total amount of Federal income taxes withheld from employee salaries creditable to Guam or the Commonwealth of Northern Mariana Islands must be certified and submitted each calendar quarter to the IRS. The certifications must include the employer identification number, the quarter covered by the certifications, and the dollar amount withheld. The submission may contain one certification, but amounts attributable to Guam and the Commonwealth of Northern Mariana Islands must be reported separately. Refer to ***TFM, Part 3, section 4090*** for additional information.

0407 CITY AND LOCAL INCOME AND EMPLOYMENT TAX WITHHOLDING

040701. Withholding Authority

Title 5, U.S.C., Section 5520 authorizes withholding of city, county or employment tax from compensation of Federal employees who are subject to tax and whose regular place of Federal employment is within the city or county which has entered into a proper agreement with the Secretary of the Treasury. Withholding is also required if the employee is a resident of the city

or county. Each DoD employee must complete a withholding certificate for city or local taxes as a basis for proper withholding. An out-of-state employee's consent to have city or local taxes withheld is also required when applicable.

A. Treasury Agreements. An agreement must be reached between the Secretary of the Treasury and the applicable city, county, or local taxing authority before withholding is required (***TFM, Part Three, Chapter 5000, Appendix 3***). The agreement provides for mandatory withholding of income or employment tax from the compensation of Federal employees whose regular place of employment is within the city or county or who are residents of the city or county. Generally, this is based on where employees report for work. In the case of employees who perform their services other than where they report, the regular place of employment is where the employee regularly performs his or her services.

B. Wages Subject to City and County Withholding. PROs must apply policies .and follow procedures as prescribed for each state in the determination of employee wages subject to mandatory city and county withholding.

1. Basic Wages. All wages and salaries subject to Federal income tax withholding are normally subject to city and county withholding. Severance pay paid to an employee is generally included; however, severance pay paid to the survivor of a deceased employee is excluded.

2. Mandatory Withholding

a. The PRO must withhold tax from wages of Federal employees who reside in cities or counties that have entered into withholding agreements.

b. The PRO must withhold tax from the wages of Federal employees whose regular place of Federal employment is within a city or county where they are subject to tax. If employees reside in a state other than the state in which the city or county is located, then they are exempt from mandatory withholding.

c. The Federal employee's regular place of employment usually is the employee's official duty station that is shown on the SF 50. If an employee actually performs service at a location other than the official duty station, that alternate location will be considered the regular place of employment.

d. Many local ordinances tax only wages for services performed within the city or county; in most cases, this applies only to nonresident employees. Employees eligible to exclude part of their annual income under such provisions must submit a withholding certificate that specifies the amount or percentage. The PRO must reduce withholding accordingly. If the employee does not file a certificate, the PRO must withhold tax based on the employee’s total compensation. PROs must not make an adjustment in withholding if employees perform less than 25 percent of their services outside the city or county.

C. Withholding Certificates

1. Employees must submit withholding certificates. They must provide the CSR with all the information needed to properly deduct city or county income taxes. If employees do not provide a certificate, then the PRO must withhold tax at the highest level that applies to their annual wages; however, the PRO must not withhold any tax from wages of out-of-state employees until they present a form consenting to withholding.

2. Employing activities may use a withholding or exemption certificate furnished by a city or county only if it contains all required information. If the form does not contain all needed information, then employing activities may use Financial Management Service Form 7311, Employee Withholding Certificate for Local Taxes. See TFM, Volume 1, Part Three, Chapter 5000, ***section 5040.40***.

3. The CSR may provide copies of completed withholding forms to the city or county upon request. See ***TFM, Volume I, Part Three, Chapter 5000, section 5040.50***.

D. Discretionary Withholding of City or Local Tax

1. Nonresident Employees. An employee who does not reside in the state in which the city or county (place of employment) is located is exempt from mandatory withholding; however, the PRO may withhold tax with the employee's consent. The employee must submit a withholding certificate.

2. Allotment for Discretionary Deduction. Employees have the option of making discretionary allotments for the payroll deduction of taxes of their city or county of residence if they are employed outside that location. The fact that taxes are withheld for the city or county of employment does not affect the employee's discretionary allotment.

a. An employee may make a discretionary allotment for withholding even though the city or county does not have a withholding agreement.

b. The PRO must set the allotment amount on the city or county withholding method or deduct a whole dollar amount set by the employee. The employee must submit a proper withholding certificate.

3. Accounting for Discretionary Withholding. The PRO must account for discretionary tax deductions as prescribed for mandatory withholdings.

4. Amount of Withholding. The PRO must withhold tax based on:

a. The proper city or county tax withholding rate set in the city or county instructions,

b. The prescribed percentage or formula method, or

c. Computation of a set amount to be deducted from the employee's pay each pay period.

5. Minimum Withholding. The PRO must deduct an amount, at a minimum, nearly equal to the tax required by the city or county.

040702. Procedures.

The PRO must record amounts withheld each pay period in the employee's pay record when a special payment occurs; otherwise, the system will automatically update an employee's record.

A. Deposits. The PRO must make a one-line entry on the DD Form 592 as follows:

1. Enter withheld city (or county) income tax below state or territorial tax and the total amount withheld each pay period.

2. Credit the withheld tax to deposit fund account --X6275 for city and county tax.

B. Correcting Errors. PROs must apply the same instructions applicable to the withholding of state taxes. Refer to subparagraph 040602.A.3.

C. Paying Out Withheld Taxes. PROs must apply instructions for state tax.

D. Annual Form W-2 Reporting. See Chapter 9.

040703. Recordkeeping

A. PROs must keep all records of city or county income tax deductions. Records should include the:

1. EIN assigned by the city or county;

2. Amounts and dates of all wages subject to city or county tax withholding;

3. Names, addresses, and SSN of employees;

4. Dates and amounts of city or county tax paid; and

5. Copies of all returns filed.

B. The employing activity must retain withholding authorization certificates for city tax deductions for each employee until superseded or canceled.

Figure 4-1: Lump-Sum Annual Leave Repayment (Sample Format)

REPAYMENT OF LUMP-SUM ANNUAL LEAVE	Date
To:	From:
Under the provisions of the Lump-Sum Payment Act (December 21, 1944), the following statement is furnished for submission with your Federal and state income tax returns for calendar year Name and Number of Employee refunded during the calendar year _____ the sum of $_____, representing refund of Lump-Sum Annual Leave payment under the provisions of the Lump-Sum Payment Act. The Form W-2 (Wage and Tax Statement) for calendar year _____ has not been decreased by this amount.	
Duty Station	Federal Employer's Identification Number
	State Identification Number
Typed Name, Title and Telephone	Signature
Copy Forwarded To: Internal Revenue Service State of City or County of	

Table 4-1: Mandatory Deductions Withheld From Civilian Pay for CSRS and FERS Employees

	FED. TAX	SOCIAL SECURITY	MEDI-CARE	STATE	CITY/ LOCAL	RET	TSP
1. Premium pay: Sunday, Holiday and Overtime;	YES	YES	YES	YES	YES	NO	NO
Standby Duty, Availability Pay, and Administratively Uncontrollable Overtime	YES	YES	YES	YES	YES	YES	YES
2. Basic Pay	YES	YES	YES	YES	YES	YES	YES
3. Differentials include Night, Hazardous, Post (nonforeign & foreign), Staffing, Supervisory	YES	YES	YES	YES	YES	NO	NO
4. Other Differentials: Shift, Environmental, and Tropical	YES	YES	YES	YES	YES	YES	YES
5. Lump-Sum Leave	YES	YES	YES	YES	YES	NO	NO
6. Severance Pay	YES	YES	YES	YES	YES	NO	NO
7. Awards	YES	YES	YES	YES	YES	NO	NO
8. Allowances include Living Quarters, Temporary Quarters Subsistence, Post, Foreign Transfer, Home Service Transfer, Separate Maintenance, Official Residence, Representation, Cuba Benefit	NO	NO	NO	NO	NO	NO	NO
9. Other Allowances:							
a. Non-foreign Cost-of-Living	NO	NO	NO	*	*	NO	NO
b. Physicians Comparability	YES	YES	YES	YES	YES	YES	YES
c. Remote Site	YES	YES	YES	*	*	NO	NO
d. Danger Pay	YES	YES	YES	YES	YES	NO	NO
10. Recruitment, Relocation, and Retention Incentives	YES	YES*	YES	YES	YES	NO	NO
11. Separation Incentive Pay	YES	YES	YES	YES	YES	NO	NO

Varies by state and city/local taxing authority. See also Chapter 3 for additional guidance.

Table 4-2: 1963 through 1993 Percentage Rates of FICA: Social Security Tax and Medicare Tax Deductions and Total Maximum Tax

CALENDAR YEAR	MAXIMUM GROSS PAY (applies to both Social Security and Medicare taxes except where noted)	SOCIAL SECURITY	MEDICARE	-	TOTAL TAX RATE APPLIED TO MAXIMUM GROSS PAY* (Refers to combined Medicare and Social Security Tax Rates through 1993	MAXIMUM TAX PAYABLE (Refers to combined Medicare and Social Security tax through 1993)*
1963-1965	$4,800	3.625%	0.00%		3.625%	$174.00
1966	6,600	3.85%	0.35%		4.20%	277.20
1967	6,600	3.90%	0.50%		4.40%	290.40
1968	7,800	3.80%	0.60%		4.40%	343.20
1969-1970	7,800	4.20%	0.60%		4.80%	374.40
1971	7,800	4.60%	0.60%		5.20%	405.60
1972	9,000	4.60%	0.60%		5.20%	468.00
1973	10,800	4.85%	1.00%		5.85%	631.80
1974	13,200	4.95%	0.90%		5.85%	772.20
1975	14,100	4.95%	0.90%		5.85%	824.85
1976	15,300	4.95%	0.90%		5.85%	895.05
1977	16,500	4.95%	0.90%		5.85%	965.25
1978	17,700	5.05%	1.00%		6.05%	1,070.85
1979	22,900	5.08%	1.05%		6.13%	1,403.77
1980	25,900	5.08%	1.05%		6.13%	1,587.67
1981	29,700	5.35%	1.30%		6.65%	1,975.05
1982	32,400	5.40%	1.30%		6.70%	2,170.80
1983	35,700	5.40%	1.30%		6.70%	2,391.90
1984	37,800	5.70%	1.30%	**	6.70%	2,532.60
1985	39,600	5.70%	1.35%		7.05%	2,791.80
1986	42,000	5.70%	1.45%		7.15%	3,003.00
1987	43,800	5.70%	1.45%		7.15%	3,131.70
1988	45,000	6.06%	1.45%		7.51%	3,379.50
1989	48,000	6.06%	1.45%		7.51%	3,604.80
1990	51,300	6.20%	1.45%		7.65%	3,924.45
1991	53,400	6.20%	0.00%	***	6.20%	3,310.80
***	125,000	0.00%	1.45%		1.45%	1,812.50
1992	55,500	6.20%	0.00%	***	6.20%	3,441.00
	130,200	0.00%	1.45%		1.45%	1,887.90
1993	57,600	6.20%	0.00%	***	6.20%	3,571.20
	135,000	0.00%	1.45%		1.45%	1,957.50

*Table 4-3: 1994 to 2015 Percentage Rates of FICA: Social Security Tax and Total Maximum Tax

CALENDAR YEAR	MAXIMUM GROSS PAY (applies to Social Security tax only after 1994)	SOCIAL SECURITY	MEDICARE ****	MAXIMUM TAX PAYABLE (Refers Social Security tax only after 1994)*
1994	60,600	6.20%		3,757.20
1995	61,200	6.20%		3,794.40
1996	62,700	6.20%		3,887.40
1997	65,400	6.20%		4,054.80
1998	68,400	6.20%		4,240.80
1999	72,600	6.20%		4,501.20
2000	76,200	6.20%		4,724.40
2001	80,400	6.20%		4,984.80
2002	84,900	6.20%		5,263.00
2003	87,000	6.20%		5,394.00
2004	87,900	6.20%		5,449.80
2005	90,000	6.20%		5,580.00
2006	94,200	6.20%		5,840.40
2007	97,500	6.20%		6,045.00
2008	102,000	6.20%		6,324.00
2009-2010	106,800	6.20%		6,621.60
2011*****	106,800	4.20%		4,485.60
2012******	110,100	4.20%		4,624.20
2013*******	113,700	6.20%		7,049.40
2014	117,000	6.20%		7,254.00
2015	118,500	6.20%		7,347.00

*The OASDI program sets the limits on the amount of earnings subject to be taxed in any given year. Beginning in 1994, the limitation on maximum gross wages subject to Medicare tax was removed. Therefore, from 1963 to 1993, the "Maximum Tax Payable" column in Table 4-2 refers to the maximum amount of tax payable for both Social Security tax and Medicare tax. Beginning with 1994, the "Maximum Tax Payable" column refers only to the maximum amount of Social Security tax payable. Similarly, the "Total Tax Rate Applied to Maximum Gross Pay" is a sum total of the Medicare tax rate and the Social Security Tax rate until 1993.
**Beginning in 1984 the Social Security/Medicare rate was combined for a total of 7% and employees were given a .3% credit applied to the portion.
***From 1991 through 1993, the maximum gross wages subject to FICA tax were separated for Social Security and Medicare tax purposes. For 1991 through 1993, the maximum gross taxable wages subject to Social Security tax is listed on the chart first followed by the maximum amount of taxable wages for Medicare in the row below.
**** From 1994 to 2011, the Medicare tax is 1.45% with no limit on the maximum amount of taxable wages for Medicare. Beginning with the 2013 tax year, the employee's portion of the Medicare tax is increased by an additional 0.9% (for a total of 2.35%) for wages in excess of $200,000.
*****For 2011, the employee's portion of the Social Security tax is 4.2%. The employer's portion of the Social Security tax in 2011 remains at 6.2% for the employee's first $106,800 of taxable earnings. In addition to the Social Security tax, an employee is subject to a Medicare tax of 1.45%, with no limit on the maximum amount of taxable wages for Medicare. The employer must pay a Medicare tax of 1.45% and the combined Medicare tax for 2011 remains at 2.9% on all employee earnings.
******For 2012, the employee's portion of the Social Security tax remained at 4.2%.

Table 4-4: State Abbreviations and Numeric Codes

STATE	ABBREVIATION	CODE
Alabama	AL	01
Alaska	AK	02
Arizona	AZ	04
Arkansas	AR	05
California	CA	06
Colorado	CO	08
Connecticut	CT	09
Delaware	DE	10
District of Columbia	DC	11
Florida	FL	12
Georgia	GA	13
Hawaii	HI	15
Idaho	ID	16
Illinois	IL	17
Indiana	IN	18
Iowa	IA	19
Kansas	KS	20
Kentucky	KY	21
Louisiana	LA	22
Maine	ME	23
Maryland	MD	24
Massachusetts	MA	25
Michigan	MI	26
Minnesota	MN	27
Mississippi	MS	28
Missouri	MO	29
Montana	MT	30
Nebraska	NE	31
Nevada	NV	32
New Hampshire	NH	33
New Jersey	NJ	34
New Mexico	NM	35
New York	NY	36
North Carolina	NC	37
North Dakota	ND	38
Ohio	OH	39
Oklahoma	OK	40
Oregon	OR	41

Table 4-4: State Abbreviations and Numeric Codes (Continued)

STATE	ABBREVIATION	CODE
Pennsylvania	PA	42
Rhode Island	RI	44
South Carolina	SC	45
South Dakota	SD	46
Tennessee	TN	47
Texas	TX	48
Utah	UT	49
Vermont	VT	50
Virginia	VA	51
Washington	WA	53
West Virginia	WV	54
Wisconsin	WI	55
Wyoming	WY	56

AREAS OUTSIDE THE U.S.

POSSESSION OR TERRITORY	CODE
American Samoa	60
Defense Complex Panama	61
Canton and Enderbury Islands	62
Guam	66
Johnston Atoll	67
Midway Islands	71
Puerto Rico	72
Ryuku Islands, Southern	73
Swan Islands	74
Trust Territories of Pacific Islands	75
U.S. Miscellaneous Caribbean Islands	76
U.S. Miscellaneous Pacific Islands	77
Virgin Islands	78
Wake Island	79

VOLUME 8, CHAPTER 5: "LEAVE AND OTHER ABSENCES"

SUMMARY OF MAJOR CHANGES

All changes are denoted by blue font.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by *bold, italic, blue, and underlined font*.

The previous version dated April 2013 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Reworded, renumbered, and reformatted chapter for clarity, updated references, and added electronic links.	Revision
050203	Revised information for Rate of Leave Accrual.	Revision
050302	Revised information for Uncommon Tour of Duty.	Revision
050306.C.4	Added information for National Emergency by Reason of Certain Terrorist Attacks.	Addition
0506	Added a new section for Leave Flexibilities for Childbirth, Adoption, and Foster Care.	Addition
051410	Revised information for Absence of Veterans to Attend Funeral Services.	Revision
051411	Revised information for Absence for Employees Returning from Active Military Duty.	Revision
051702	Added information on Computation of Service Abroad.	Addition
052002.C.	Added information for Crediting Military Leave After Change in a Tour of Duty.	Addition
052103	Added information for Administrative Furlough.	Addition

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CHAPTER 5

LEAVE AND OTHER ABSENCES

0501 GENERAL

050101. Purpose

The Office of Personnel Management (OPM) provides government-wide information on Federal leave policies and programs. Each Federal agency is responsible for administering leave policies and programs for its employees. The purpose of this chapter is to provide information on leave policies specific to Department of Defense (DoD) employees as they apply to the various types of leave, including: annual leave, sick leave, various forms of family friendly leave, leave sharing, leave under the Family and Medical Leave Act (FMLA), and time off for special circumstances, such as weather emergencies. The type, amount, and nature of leave benefits are dependent on the type and length of employment, military status, and other eligibility requirements.

050102. Authoritative Guidance

Specific statutes, regulations, and other guidance are referenced under each section of this chapter.

0502 GENERAL REQUIREMENTS AND RESPONSIBILITIES

050201. Objectives

Civilian Payroll Offices (PRO) and payroll systems areas are responsible for meeting the following objectives:

A. Maintaining leave records and balances for each employee as provided in paragraph 050203;

B. Recording accrued and accumulated leave. Accrued leave is leave earned by an employee during the current leave year that is unused at any given time in that year. Accumulated leave means unused leave remaining to the credit of an employee at the beginning of the leave year;

C. Reporting all leave taken; and

D. Reporting accurate data on leave use and accruals in order to simplify the collection of leave related debts and preparation of financial reports.

050202. Maintaining Leave Records

PROs must maintain leave records for each employee in order to show:

A. Rate of accrual for each type of leave,

B. Hours or days accrued and type of leave used,

C. Hours or days of leave advanced by leave type, and

D. Leave balances.

*050203. Rate of Leave Accrual

A. Leave Year. The leave year begins on the first day of the first full biweekly pay period in a calendar year. A leave year ends on the day immediately before the first day of the first full biweekly pay period in the following calendar year. Refer to the leave years for 2002 through 2020 at ***http://www.opm.gov/oca/leave/HTML/Leaveyeardates.asp***.

B. System Requirements for Accurate Leave Records. To ensure proper accrual rates, the civilian payroll system must contain accurate information on the type of appointment for each employee and the types of leave hours or days to which the employee is entitled. The PRO must accurately record leave earned for each type of leave using the correct rates effective for the proper times.

C. Reductions in Leave Credits. Reductions in the leave balances are made at the beginning of each leave year for any accumulated leave that exceeds statutory limits. The PRO Reductions in leave credits shall be made in accordance with ***5 C.F.R. 630.208***.

D. Reductions Resulting in a Debit. When a reduction in leave credits results in a debit to an employee's annual leave account at the end of a leave year, the agency shall:

1. Carry the debit forward as a charge against the annual leave to be earned by the employee in the next leave year; or

2. Require the employee to refund the amount paid him for the period covering the excess leave that resulted in the debit.

E. Recording Leave Credits and Usage. The PRO must post annual and sick leave earned for each pay period to the employee's leave record. The leave record must also reflect all leave used during the same pay period.

F. Prorating the Accrual of Leave. When an employee's service is interrupted by a non-leave-earning period, leave is earned on a pro rata basis for the portion of the pay period that the employee is in a pay status. See ***5 C.F.R. 630.204***. Refer to Table 5-1, for proration of leave.

050204. Approval

To support the time and attendance record, employees must request approval of leave.

Supervisors designated to approve leave must document leave used in writing. Documentation for leave used must show the dates, times, and types of leave taken.

050205. Minimum Charge

Heads of DoD Components and their designees have the authority to establish minimum charges for leave as outlined in the Department of Defense Instruction ***(DoDI) 1400.25-V630***. The minimum charge for leave will be 1 hour unless an agency determines a need to establish a minimum charge for leave of less than 1 hour or establishes a different minimal charge through negotiations. In any case, the agency may not charge for leave in increments of less than 6 minutes. See ***5 C.F.R. 630.206***.

0503 ANNUAL LEAVE

050301. General

Annual leave is an approved leave of absence from duty with pay for personal, emergency, or other reasons. An employee may use annual leave for vacations, rest and relaxation, and personal business or emergencies. Annual leave may be used for pregnancy, childbirth and recovery, bonding with or caring for a baby, or for other childcare responsibilities. An employee has a right to take annual leave, subject to the right of the supervisor to schedule the time at which annual leave may be taken. An employee will receive a lump-sum payment for accumulated and accrued annual leave when he or she separates from Federal service. An employee may also elect to have a lump-sum payment at the time they enter on active duty in the Armed Forces. See ***5 C.F.R. 630, Subpart C***; and for guidance refer to OPM's ***Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care***.

A. Creditable Service for Annual Leave Accrual. When a new employee is hired, the hiring agency establishes a Service Computation Date (SCD) at the time of the appointment. The SCD is used to determine the rate that the employee accrues annual leave (4, 6, or 8 hours per pay period for most employees), refer to subparagraph 050302.B and OPM's ***Creditable Service for Leave Accrual***.

B. Charging Annual Leave Accrued During the Same Pay Period. To ensure the proper documentation of leave, the PRO posts any annual leave earned in a pay period to the employee's record before charging the leave taken during the same pay period.

C. Substituting Annual Leave for Sick Leave. If requested by an employee (and approved by a supervisor), any absence that is otherwise chargeable to sick leave may be charged to annual leave. Retroactively substituting annual leave for sick leave is not authorized except to liquidate advanced sick leave indebtedness. The substitution of annual leave for sick leave may not be made retroactively for the purpose of avoiding a forfeiture of annual leave at the end of the leave year.

D. Scheduling of Annual Leave. Employees and their supervisors are mutually responsible for planning and scheduling the use of employees' annual leave throughout

the leave year. Employees should request annual leave in a timely manner, and supervisors should provide timely responses to employees' requests.

*050302. Annual Leave Accrual for Civilian Employees

A. The following regulations do not apply to civilian employees who are Senior Executive Service (SES), Senior Level (SL)/Scientific or Professional (ST) employees. See paragraph 050303 for leave accrual for SES, SL/ST employees.

B. Eligibility for Annual Leave. Generally, most employees are eligible to take authorized absences from work using accrued annual leave, subject to the following:

1. Uncommon Tour of Duty. Full-time, part-time, temporary, and employees on uncommon tours of duty are eligible to accrue annual leave. Employees with an uncommon tour of duty accrue leave directly proportional (based on the number of hours in the biweekly tour of duty and the accrual rate of the corresponding leave category) to the standard leave accrual rates for employees who accrue and use leave on the basis of an 80-hour biweekly tour of duty. When an employee is converted to a different tour of duty for leave purposes, his or her leave balances shall be converted to the proper number of hours based on the proportion of hours in the new tour of duty compared to the former tour of duty. See ***5 C.F.R. 630.210(b)***.

2. Temporary Employees. Temporary employees with an appointment of less than 90 days are entitled to accrue annual leave only after being employed for a 90-day continuous period under successive appointments with no break in service. After completing the 90-day period of continuous employment, the employee is entitled to be credited with the leave that would have accrued during that period.

3. Intermittent and Seasonal Employees. Employees without an established scheduled tour of duty during the administrative workweek are not eligible to accrue annual leave. See ***5 C.F.R. 340 subpart D***.

B. Accrual Rates. The amount of annual leave earned is based on the length of Federal service, including creditable military service or service credit for prior non-Federal service under 5 U.S.C. 6303(e). Full-time employees with less than 3 years of service earn 4 hours of annual leave per biweekly pay period or a total of 13 days per year. Full-time employees with over 3 years, but less than 15 years of service, earn 6 hours per biweekly pay period or a total of 20 days per year. These employees earn an additional 4 hours in the last full pay period of the calendar year. Full-time employees with 15 or more years of service earn 8 hours per biweekly pay period or a total of 26 days per year. Refer to Table 5-1. Employees must be employed for the full biweekly pay period to accrue leave for that pay period. An employee is considered to be employed for a full biweekly pay period if they are employed during the days falling within that period, exclusive of holidays and non-workdays established by Federal statute, Executive Order, or administrative order. See ***5 U.S.C. 6302 (b)***.

C. Nonpay Status and Annual Leave Accrual. The accumulation of nonpay status hours during the leave year may affect the accrual of annual leave. Each time the number of

hours in a nonpay status in a full-time employee's leave year equals the number of base pay hours in a pay period, the civilian payroll system reduces leave credits by the amount of leave the employee earned during the pay period. When an employee's accumulated nonpay hours do not require a reduction of leave credits, the civilian payroll system drops the nonpay hours at the end of the employee's leave year. Annual leave does not accrue for employees who are in a nonpay status and who are receiving compensation from the Office of Workers' Compensation Program (OWCP). Therefore, for such employees, no reduction in leave credits is required. See 5 C.F.R. 630.208.

D. Part-Time Employee Annual Leave Accrual

1. Under ***5 C.F.R. 630.303*** part-time employees with regularly scheduled tours of duty earn annual leave on a pro rata basis for the time they are in a pay status. Leave is earned as follows:

a. Part-time employees with less than 3 years of service earn 1 hour of annual leave for each 20 hours in a pay status.

b. Part-time employees with 3 years but less than 15 years of service earn 1 hour of annual leave for each 13 hours in a pay status.

c. Part-time employees with 15 or more years of service earn 1 hour of annual leave for each 10 hours in a pay status.

2. Hours in a pay status that exceed the activity's basic work hours in a pay period (normally 80 hours) are disregarded when computing the leave earnings for part-time employees. See ***5 C.F.R. 630.202(b)***.

3. Part-time employees may carry forward from one pay period to the next those excess hours that are not evenly divisible by 10, 13, or 20 hours; as applicable, the PRO must add these hours to the next pay period work hours for leave accrual.

4. Part-time employees who work concurrently in two part-time Federal positions may earn annual leave on the same pro rata basis for the hours worked in each part-time position. Only the leave earned in the given part-time position may be used for absences from that position.

E. Uncommon Tours of Duty and Annual Leave Accrual. An uncommon tour of duty means an established tour of duty that exceeds 80 hours of work in a biweekly pay period. See ***5 C.F.R. 630.201(a)***. Employees working uncommon tours of duty accrue leave in direct proportion to the standard leave rates for employees who accrue and use leave based on an 80-hour biweekly tour of duty. See 5 C.F.R. 630.210(a). Refer to the Application of the Directionally Proportional Table in DoDI 1400.25-V630 to determine the appropriate amount of leave to credit an employee working an uncommon tour of duty. For employees on uncommon tours of duty, 1 hour of leave is charged for each hour of absence from the uncommon tour of duty.

050303. Annual Leave Accrual Rates for SES, SL/ST or Defense Intelligence Senior Level (DISL) Employees

A. General. ***Section 202(b) of the Federal Workforce Flexibility Act of 2004***, effective October 30, 2004, provides a higher annual leave accrual rate of 1 full day (8 hours) per biweekly pay period, without regard to the length of service with the Federal Government. This act affects members of the SES (***5 U.S.C. 5383***), SL and ST positions (***5 U.S.C. 5376***), and the DISL (***10 U.S.C.1607(a)***), hereinafter SES members. See 5 U.S.C. 6303(f) and ***5 C.F.R. 630.301***.

B. OPM Approval of Additional Categories of Employees. The head of an agency may request that OPM authorize an annual leave accrual rate of 1 full day (8 hours) for each biweekly pay period for additional categories of employees who are covered by 5 U.S.C. 6301. The positions must be determined by OPM to be equivalent to positions subject to the pay systems under 5 U.S.C. 5383 or 5376. Such requests must include an explanation of the rationale for considering the affected pay system to be equivalent to the SES member pay system. See 5 C.F.R. 630.301(b). Once OPM approves an agency's request to cover additional categories of employees, the higher annual leave accrual rate will become effective for the pay period that OPM approves the agency's request. Agencies must credit annual leave at the 8-hour accrual rate for affected employees employed for the full pay period.

C. SES Members Who Change Positions

1. Revising Accrual Rates. SES members who move to a position not covered by the higher annual leave accrual rate will no longer be entitled to the higher rate. Upon movement to a non-covered position, an SES Member's annual leave accrual rate must be determined based on his or her years of creditable service, as provided in 5 U.S.C. 6303(a) and 5 C.F.R. 630.301(d).

2. Crediting Accumulated Annual Leave. An SES member moving from a position not covered by the higher annual leave accrual rate to a new position that is covered by the higher accrual rate retains any annual leave accumulated prior to the move and the leave remains to the employee's credit. See 5 C.F.R. 630.301(f).

a. Forfeited Leave. Annual leave accumulated before an employee moves to a position covered by the higher annual leave accrual rate that exceeds the amount allowed under ***5 U.S.C. 6304(a)*** or ***(b)***, and that is not used by the beginning of the first full biweekly pay period in the next leave year, is subject to forfeiture under 5 U.S.C. 6304(c).

b. Special Circumstances. If an employee serves less than a full pay period in a position covered by the higher annual leave accrual rate, then the annual leave accrued for that portion of the pay period will be subject to the 720 hour (90 day) limitation on accumulation of annual leave. Annual leave accrued during the remainder of the pay period that the employee was not covered by the higher annual leave accrual rate is subject to the limitations under 5 U.S.C. 6304 (a), (b), and (c), as appropriate.

D. Presidential Appointees. Executive Schedule employees appointed by the President do not accrue leave and therefore, an absence from work is not charged as leave. See

5 U.S.C. 6301(2)(x) and ***5 C.F.R. 630.211***.

1. Lump-Sum Payments of Accrued Annual Leave for Presidential Appointees. A current Federal employee who receives a Presidential appointment is not entitled to a lump-sum payment for his or her unused annual leave. See ***5 C.F. 550.1203(e)*** and Chapter 3. Maintain the unused annual leave credit on the employee's record in the event the employee is reemployed in a position covered by the Federal leave system. However, if the employee separates from Federal service while under a Presidential appointment, the employee will receive a lump-sum payment for unused annual leave based on the rate of pay in effect for the position the employee held immediately before the employee accepted the appointment. See ***5 U.S.C. 5551(b)***.

2. Exceptions for Certain SES Career Appointees. An SES career appointee appointed at a rate of basic pay equal to or greater than the rate payable for Level V of the Executive Schedule may elect to retain certain SES benefits, including annual and sick leave accrual, upon accepting the Presidential appointment. If the appointee elects to continue their leave benefits, then the liquidation of leave by lump-sum payment would not apply. See ***5 U.S.C. 3392(c)***, 5 C.F.R. 550.1203(e), and ***5 C.F.R. 317.801***.

050304. Advanced Annual Leave

A. General. Under 5 U.S.C. 6302(d), annual leave may be advanced to an employee in the amount not to exceed the total amount the employee would accrue within the leave year. A supervisor must have reasonable assurance the employee will be in a duty status long enough to earn the advanced leave. Leave should not be advanced to an employee when it is known or expected that the employee will not return to duty, such as when the employee has applied for disability retirement. Annual leave should be advanced to the maximum extent practicable for purposes related to pregnancy and childbirth.

B. Refunding Advanced Annual Leave

1. General. Advanced leave is liquidated with any subsequently earned annual leave. An employee who separates from Federal service must refund the amount of the advanced leave, or the agency may deduct the amount from any pay due the employee. See ***5 C.F.R. 630.209(a)***.

2. Exceptions. An employee who dies or retires for disability is not required to refund the amount of advanced leave due. An employee who has been determined by the employing office as having separated or resigned because of disability is not required to refund the amount of advanced leave. However, medical evidence may be required by the employing office in order to determine if the disability prevents return to duty or continued service. See 5 C.F.R. 630.209(b).

3. Military Service. An employee who enters active military service with a right to restoration is not considered separated and is not required to refund the advanced annual leave when entering military service. The employee must liquidate the advanced annual

leave after the employee returns to duty or refund the advanced leave if the employee is separated from Federal service. See 5 C.F.R. 630.209(a).

4. Transfers to Another Federal Agency. If an employee has been indebted for advanced annual leave and transfers to another Federal agency without a break in service, the losing agency must certify the annual leave account to the new agency for charge. An employee is not required to refund the advanced annual leave in order to achieve a zero balance before the time of transfer. See ***5 C.F.R. 630.501***.

050305. Annual Leave Ceilings

A. General. Under 5 U.S.C. 6304, Federal employees are subject to a limit, or annual leave ceiling, on the maximum amount of annual leave that may be carried forward into the next leave year. Most employees may carry 240 hours (30 days) of annual leave from one year to the next. See ***5 C.F.R. 630.302***.

B. "Use or Lose" Annual Leave. "Use or lose" annual leave is the amount of leave in excess of the employee's annual leave ceiling. The employee forfeits excess leave not used by the final day of the leave year. Forfeited annual leave may be restored under certain circumstances. Refer to paragraph 050306. "Use or lose" annual leave must be scheduled in writing before the start of the third biweekly pay period prior to the end of the leave year. The employee forfeits any annual leave not scheduled by that date and not used by the final day of the leave year.

C. 30-Day Annual Leave Ceiling for Federal Employees Stationed Within the U.S. The maximum carried forward from one leave year to another is usually 240 hours (30 days). Refer to paragraph 050306 regarding annual leave carryover for civilian DoD employees who are employed at installations that are facing planned base closures. See 5 U.S.C. 6304.

D. 45-Day Annual Leave Ceiling for Federal Employees Assigned Outside of the Continental U.S. (OCONUS)

1. 45-Day Limit and Effective Date. Employees stationed outside the U.S., who meet the conditions for eligibility established by 5 U.S.C. 6304(b) and 5 C.F.R. 630.302, may carry forward a maximum of 360 hours (45 days). The effective date that an employee becomes subject to Title 5 U.S.C. 6304(b), is the:

a. Date of entry on duty when employed locally,

b. Date of arrival at a post of regular assignment for duty, or

c. Date on which the employee begins to perform duty in an area outside the U.S. when the employee is required to perform duty en route to his post of regular assignment for duty.

2. Returning from OCONUS Assignment. Employees returning from

an assignment OCONUS may carry forward the balance of leave to their credit at the end of the pay period, including the date the employee departs for reassignment. If detailed to another OCONUS assignment, the date they cease to perform duty at the detailed post is considered the date of departure for reassignment. Annual leave in excess of 240 hours that was accumulated under 5 U.S.C. 6304(b) by an employee who becomes subject to the 240-hour maximum carry forward, remains to the credit of the employee until used. The excess annual leave is reduced at the beginning of the first full biweekly pay period occurring in a leave year, by the amount of annual leave the employee used during the preceding year that is in excess of the amount that accrued during that year. This process continues until the employee's accumulated leave does not exceed 240 hours.

E. Annual Leave Ceiling for Part-Time Employees. Part-time employees may not carry forward more than 240 hours of annual leave if serving in the U.S. or 360 hours of annual leave if serving outside the U.S. See ***5 C.F.R. 630.304***.

F. 90-Day Annual Leave Ceiling for SES Members

1. General. Under 5 U.S.C. 6304(f), the annual leave ceiling for SES members is 720 hours (90 days). Unused annual leave accrued by SES members must accumulate for use in subsequent years until the leave totals not more than 720 hours at the beginning of the first full biweekly pay period, or corresponding period for an employee whose pay is not based on a biweekly pay period, occurring in a calendar year. See 5 C.F.R. 630.301(e).

2. Personal Leave Ceiling for SES Members. There is a 90-day (720-hour) maximum limitation on the amount of annual leave that an SES member may carry forward from one leave year to the next. The 720-hour limit became effective October 13, 1994, under Public Law (P.L.) 103-356. Prior to the implementation of the law, there was no limit. Effective October 13, 1994, any SES member who had accumulated annual leave that exceeded 720 hours was permitted allowed to carry the balance forward as a personal leave ceiling.

a. The amount of annual leave credited to an SES member's personal leave ceiling will be based on the amount of annual leave accumulated by the employee as of the end of the pay period preceding the first applicable pay period beginning after October 13, 1994.

b. The PRO prorates annual leave accrued for any pay period during which only a portion the employee served under an appointment to the SES.

c. The personal leave ceiling is reduced by the number of hours used in excess of the number of hours earned during the previous year.

d. When the personal leave ceiling falls below 720 hours, the PRO eliminates the personal ceiling, and the SES member becomes subject to the regular 720-hour limit. See 5 C.F.R. 630.301(h).

3. Changing Positions

a. Partial Pay Periods. If an employee serves less than a full pay period in an SES appointment, only that portion of accrued annual leave that is earned while serving in that position must be subject to the 720-hour limitation. Annual leave accrued during the remainder of the pay period is subject to the limitations in 5 U.S.C. 6304(a), (b), and (c), as appropriate. See 5 C.F.R. 630.301(f)(2).

b. Moving to an SES Appointment. If an employee moves from a non-SES appointment to an SES appointment, any annual leave accumulated in the non-SES position that exceeds the amount allowed for that position under 5 U.S.C. 6304(a), (b), and (c) that is not used by the beginning of the first full biweekly pay period in the next leave year, is subject to forfeiture. See 5 U.S.C. 6304(c) and 5 C.F.R. 630.301(f)(1). Although an employee serving in an SES position may not accumulate credit hours, credit hours earned in a prior non-SES appointment may remain in the employee's account for use.

c. Moving from an SES Appointment. When the SES member moves to a non-SES position, any annual leave accumulated while serving in the SES position that is in excess of the amount allowed for the non-SES position under 5 U.S.C. 6304(a), (b), and (c), remains to the employee's credit. Any excess annual leave must be subject to reduction as described under 5 U.S.C. 6304(c) and 5 C.F.R. 630.301(g).

*050306. Restoring Forfeited Annual Leave

A. A. General. Agencies may restore annual leave that was forfeited because it was in excess of the maximum leave ceilings (i.e., 30, 45, or 90 days) if the leave was forfeited because of administrative error, exigency of the public business, or sickness of the employee.

1. The agency makes the determination as to what constitutes an administrative error.

2. Exigency of the public business means there is an urgent need for the employee to be at work such that excess annual leave cannot be used. An employee's use of earned compensatory time off or credit hours does not constitute an exigency of the public business. If the use of earned compensatory time off or credit hours that are about to expire results in the forfeiture of excess annual leave, the forfeited leave may not be restored.

3. An employee's sickness or injury must occur late in the leave year or be of such duration that it prevented the scheduling of the excess annual leave before the end of the leave year.

See OPM ***Fact Sheet: Restoration of Annual Leave***.

B. Requirements for Restoring Annual Leave. One of the following requirements must be met before consideration for restoration of forfeited leave:

1. An agency may consider for restoration annual leave that was forfeited due to an exigency of the public business or sickness of the employee only if the annual leave was scheduled in writing before the start of the third biweekly pay period prior to the end of the leave year; or

2. If restoration is based on exigency of the public business, the determination that an exigency is of major importance and that annual leave may not be used must be made by the head of an activity no lower than a major field headquarters or major field installation. See ***5 C.F.R. 630.305*** and DoDI 1400.25-V630.4.

C. Time Limit for Using Restored Annual Leave

1. General. Under ***5 C.F.R. 630.306***, and except as otherwise authorized by regulation, annual leave restored under 5 U.S.C. 6304(d) must be scheduled and used not later than the end of the leave year ending 2 years after:

a. The date of restoration of the annual leave forfeited because of administrative error;

b. The date fixed by the agency head, or his or her designated official, as the termination date of the exigency of the public business that resulted in forfeiture of the annual leave; or

c. The date the employee is determined to be recovered and able to return to duty if the leave is forfeited because of sickness or injury.

2. Time Limits for SES Members. To avoid forfeiture of restored leave, the time limit established under 5 C.F.R. 630.306 must be met. The time limit is not changed when the employee receives an SES appointment.

3. Extended Exigency of the Public Business. For an extended exigency of the public business, the time-period for use of restored leave is 2 years for each calendar year, or part thereof, during which the exigency existed. This time-period starts at the beginning of the leave year following the leave year in which the exigency is declared to be ended. An extended exigency is one that: threatens the national security, safety, or welfare; lasts more than three calendar years; affects a segment of an agency or occupational class; and precludes subsequent use of both restored and accrued annual leave within the time limit specified in 5 C.F.R. 630.306.

* 4. National Emergency by Reason of Certain Terrorist Attacks. On March 4, 2002, OPM issued final regulations that permit "use or lose" annual leave to be restored to employees whose services are determined to be necessary for the current national emergency. Such employees are entitled to have their excess annual leave restored without the administrative burden of scheduling and canceling such leave. In addition, the time limitations for using restored annual leave are suspended for the entire period during which employees' services are determined to be essential for activities associated with the national emergency. A new time

limit for using all restored leave available to the employee will be established at the end of the national emergency, or when the services of the employee no longer are determined to be necessary. See ***5 C.F.R. 630.311***.

D. Separate Leave Account for Restored Annual Leave. The payroll system must maintain separate restored leave accounts for each calendar year. Credit restored annual leave to a separate leave account identifying the date of restoration, the date of forfeiture, the amount credited for use, the amount of usage, and the unused balance. Restored annual leave is not included in, and does not increase, the maximum annual leave carryover for an employee. See 5 U.S.C. 6304(d)(2).

E. Time and Attendance Reports. Timekeeping instructions in Chapter 2 specify the method used to identify the leave account to be charged.

F. Forfeiture of Restored Annual Leave. Restored annual leave, if unused at the expiration of the time limitation, forfeits with no further right to restoration. Administrative error may not serve as the basis to extend the time limit to use the restored leave.

G. Lump-sum Payment. Upon separation, the PRO will pay employees entitled to lump-sum payment for their unused restored annual leave, excluding forfeited leave. If the leave is forfeited because of an administrative error, the employee must file a claim within 3 years of the discovery of the administrative error leading to the forfeiture. See 5 U.S.C. 6304(e). Employees entering active duty in the Armed Forces may elect to have leave remain to their credit until their return from active duty. See ***5 U.S.C. 5552***. Refer to Chapter 3 for additional information on lump-sum leave payments.

H. Restored Annual Leave Resulting from Correction of Unjustified or Unwarranted Personnel Action under the Back Pay Act. Annual leave that is restored to an employee as a result of the correction of an unjustified or unwarranted personnel action in excess of the maximum leave accumulation authorized by law must be credited to a separate leave account for use by the employee. See ***5 C.F. R. 550.805(g)***. The restored leave, also referred to as reinstated leave, must be scheduled, and used as provided in the following paragraphs. Unused reinstated leave is forfeited if not used within the prescribed timeframe. Refer to ***5 U.S.C. 5596(b)(1)(B)*** for additional information.

1. Full-time Employees. Excess annual leave of 416 hours or less must be scheduled and used by the end of the leave year ending 2 years after the date on which the leave is credited to the separate account. This period is extended by 1 leave year for each additional 208 hours of excess annual leave or any portion thereof. Refer to Table 5-2.

2. Part-Time Employees. These employees must schedule and use excess annual leave in an amount equal to or less than 20 percent of the employee's scheduled tour of duty over a period of 52 calendar weeks by the end of the leave year ending 2 years after the date that the annual leave credits to the separate account. This period is extended by one leave year for each additional number of hours of excess annual leave or any portion thereof, equal to 10 percent of the scheduled tour of duty over a period of 52 calendar weeks. Refer to Table 5-2.

I. Base Realignment and Closure (BRAC) Restored Leave. In accordance with section 5 U.S.C. 6304(d)(3), employees assigned to DoD activities designated by the BRAC Commission for closure or realignment, deemed to create an exigency of the public business, are entitled to have forfeited annual leave restored. The PRO will restore leave in excess of the statutory maximum (normally 240 hours) and place in a separate leave account. There is no requirement for an employee to use restored leave prior to using other available annual leave. Lump-sum payment of annual leave in a BRAC restored leave account is required under certain situations. Under ***5 U.S.C. 5551(c)***, lump-sum payments are made to eligible DoD employees upon their being assigned to a position in any other Federal agency or department outside the DoD, or to any DoD position at an installation that is not being closed or realigned. If it is determined that the required lump-sum payment was not processed at the time of transfer, then see ***DoDI 1400.25-V1705*** for additional information on liquidating leave and computing any interest due.

050307. Lump-Sum Payments of Annual Leave Upon Retirement or Separation.

Lump-sum payments for unused annual leave are generally payable when an employee separates from Federal service, dies, or transfers to a position under a different leave system. Employees who enter active duty in the Armed Forces are entitled to elect to have their leave remain to their credit until they return from active duty. See 5 U.S.C. 5551, 5552, ***6306*** and ***5 C.F.R. 550 subpart L***. For details on requirements, regarding lump-sum payments for accumulated and accrued annual leave, refer to Chapter 3.

0504 SICK LEAVE

050401. General

Under ***5 U.S.C. 6307*** and 5 C.F.R. 630 subparts B and D, sick leave is authorized for personal medical needs, care of a family member, care of a family member with a serious health condition, adoption-related purposes and for bereavement. Refer to section 050404 for authorized uses for sick leave.

A. Expanded Family and Medical Leave Policies. The Federal Employees Family Friendly Leave Act (FEFFLA), October 22, 1994, expanded the use of accrued sick leave for family care or bereavement purposes. Refer to subparagraph 050404.B. In addition, employees may be entitled to unpaid leave under FMLA to care for a family member or covered servicemember. Refer to section 0505. There is no certain order for using various family friendly leave policies. Refer to Table 5-3 for information on leave flexibilities available to care for a family member or a covered servicemember. Refer to section 0506 for information on leave flexibilities for childbirth, adoption and fostor care.

B. Substituting Sick Leave for Annual Leave. Employees may substitute sick leave for annual leave if they become ill during a period of annual leave. See ***5 C.F.R. 630.406***.

C. Charging Sick Leave. The PRO posts earned sick leave to an employee's record each pay period before any sick leave taken in that period is charged against the employee's sick leave balance.

050402. Sick Leave Accrual

A. General. Full-time employees earn 4 hours of sick leave for each full biweekly pay period. Other employees accrue sick leave at the following rates:

1. Uncommon Tours of Duty. Employees working uncommon tours of duty accrue leave in direct proportion to the standard leave rates for employees who accrue leave based on an 80-hour biweekly tour of duty**.** See 5 C.F.R. 630.210(a). To determine the appropriate amount of sick leave to credit an employee working an uncommon tour of duty, refer to the Application of the Directionally Proportional Table in DoDI 1400.25-V630. For example, employees on uncommon tours of duty accrue 7 hours and 12 minutes of sick leave per pay period for a 72-hour workweek and 5 hours and 36 minutes of sick leave per pay period for a 56-hour workweek.

2. Part-Time Employees. Part-time employees earn 1 hour of sick leave for each 20 hours in a pay status. Part-time employees may not earn more than 4 hours of sick leave for 80 hours in a pay status during any biweekly pay period.

3. Other Employees. SES members and SL/ST employees earn sick leave at the same rate as non-SES employees. Employees without a regularly scheduled tour of duty do not earn sick leave.

B. Nonpay Status and Sick Leave Accrual. The accumulation of nonpay status hours during the leave year may affect the accrual of sick leave. Each time the number of hours in a nonpay status in a full-time employee's leave year equals the number of base pay hours in a pay period, the civilian payroll system reduces the employee's credits for sick leave by an amount equal to the amount of sick leave the employee earns during the pay period. When the employee's accumulated nonpay hours do not require a reduction of leave credits, the civilian payroll system drops the nonpay hours at the end of the employee's leave year. An employee in a nonpay status due to receiving compensation from the OWCP, or in a nonpay status due to absence while in uniformed service, does not accrue sick leave and a reduction in leave credits is not required see 5 C.F.R. 630.208.

C. Limitation on Sick Leave Accrual. There is no limit on the amount of sick leave that may be accumulated. See 5 U.S.C. 6307.

D. Presidential Appointees. Executive Schedule employees appointed by the President do not accrue leave. See 5 U.S.C. 6301(2)(x) and 5 C.F.R. 630.211. When an employee moves to an appointment under the Executive Schedule, the PRO certifies the employee's sick leave balance on a Standard Form (SF) 1150, Record of Leave Data. The SF 1150 is sent to the HRO for retention in the Official Personnel Folder in the event the employee is reemployed in a leave accruing position or separated from the Executive Schedule position. SES Members

appointed at a rate of basic pay equal to or greater than the rate payable for Level V of the Executive Schedule may elect to retain certain SES benefits, including annual and sick leave accrual. See 5 C.F.R. 317.801.

050403. Recrediting Sick Leave after Transfer or Break in Service

A. Transferring Employees. When an employee transfers to a different Federal agency using the same leave system under 5 U.S.C. Chapter 63, the losing agency must certify the employee's sick leave account to the gaining agency for credit or charge. If the employee is transferred to an agency operating under a different leave system, refer to ***5 U.S.C. 6308*** and ***5 C.F.R. 630.502***.

B. Recredit After a Break in Service. Prior to 1994, regulations provided that an employee was entitled to a recredit of sick leave only if he or she was reemployed in another Federal position within 3 years after separation. On December 2, 1994, the 3-year break-in-service limitation on the recredit of sick leave for former employees was removed for those who were reemployed on or after December 2, 1994. Sick leave may not be recredited to employees who were reemployed in the Federal service before December 2, 1994, and who previously forfeited sick leave under the former rule. Therefore, under 5 C.F.R. 630.502, an employee who has a break in service and returns to work for the Federal Government on or after December 2, 1994, is entitled to the recredit of sick leave, regardless of the length of the break in service, unless:

1. The employee was reemployed in the Federal Government before December 2, 1994, and the employee forfeited the sick leave under the previous regulation; or

2. For reemployed annuitants, the sick leave was used in the computation of an annuity for the employee. See ***5 C.F.R. 630.407***.

050404. Authorized Uses for Sick Leave

A. Granting Sick Leave. Pursuant to ***5 C.F.R. 630.401***, an agency must grant sick leave to an employee when the employee:

1. Is unable to perform duties because of physical or mental illness, injury, pregnancy, or childbirth;

2. Is receiving medical, dental, or optical examination or treatment;

3. Must provide care for a family member:

a. Who is incapacitated by a medical or mental condition, or attends to a family member receiving medical, dental or optical examination or treatment;

b. With a serious health condition; or

c. Who would, jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease (as determined by the health authorities having jurisdiction or by a health care provider);

4. Must make arrangements due to a death in the family or attend the funeral of a family member;

5. Would jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease; or

6. Must be absent from duty for purposes relating to the adoption of a child.

B. Using Accrued Sick Leave to Care for Family Members

1. General. An employee is entitled to use accrued sick leave to care for a family member. A family member includes spouse, parents, parents-in-law, children, siblings, grandparents, and other family members as defined under 5 C.F.R. 630.201. An employee may be requested to document their relationship with the family member. An employee must request advanced approval for sick leave, to the extent possible, for caring for a family member, making arrangements necessitated by the death of a family member, attending the funeral of a family member, or for absence related to the adoption of a child. See 5 C.F.R. 630.404. In addition to using paid sick leave to care for a family member, an employee may be entitled to unpaid leave under the FMLA. Refer to Table 5-3.

2. Limits Per Year

a. 104 Hours for General Care of Family Member and/or Bereavement. A covered full-time employee may use a total of up to 104 hours (13 days) of accrued sick leave each year for general family care or for bereavement. For part-time employees and employees with an uncommon tour of duty, the amount of sick leave permitted for family care and bereavement purposes is the number of hours of sick leave the employee normally accrues during the leave year. See 5 C.F.R. 630.401(b).

b. 480 Hours for Care of a Family Member with a Serious Health Condition. Most Federal employees may use a total of up to 480 hours (12 administrative workweeks) of accrued sick leave each leave year to care for a family member with a serious health condition. A serious health condition includes cancer, strokes, severe injuries, Alzheimer's disease, pregnancy and other conditions as defined under ***5 C.F.R. 630.1202***. An employee is entitled to a total of 12 weeks of sick leave each year for all family care purposes. See 5 C.F.R. 630.401(c) and (d).

(1) For a part-time employee or an employee with an uncommon tour of duty, the amount of sick leave is equal to 12 times the average number of hours in the employee's scheduled tour of duty each week.

(2) For an employee who has previously used any portion of the 13 days of sick leave for family care or bereavement purposes in a leave year, the PRO must subtract that amount from the 12-week entitlement.

(3) For an employee who has already used 12 weeks of sick leave to care for a family member with a serious health condition, the employee cannot use an additional 13 days in the same leave year for general family care purposes.

C. Sick Leave for Adoption. An employee may use accrued sick leave for purposes related to the adoption of a child including appointments with adoption agencies, social workers, attorneys, court proceedings, required travel, and any other activities necessary to allow the adoption to proceed. This includes the time the employee is ordered by a court, or required by the adoption agency, to take time off from work to care for the child. There is no limit on the amount of sick leave that may be used for adoption-related purposes. The sick leave for adoption-related purposes does not count toward the 104-hour limit of sick leave for family care and bereavement purposes, or the overall limit of 12 weeks of sick leave for all family care purposes. The agency may advance up to 240 hours (30 days) of sick leave for adoption-related purposes. See 5 C.F.R. 630.401 and section 0505 regarding FMLA leave for adoption-related purposes.

D. Sick Leave for Exposure to a Communicable Disease. An employee is authorized to use accrued sick leave if health authorities or a health care provider determines that the employee's presence on the job would jeopardize the health of others because of exposure to a communicable disease. An employee may also use sick leave to care for a family member who has been similarly exposed. The agency determination as to what constitutes a communicable disease is based on guidance issued by the Center for Disease Control (CDC). The Secretary of Health and Human Services publishes a list of communicable diseases for which Federal isolation and quarantine are authorized. The communicable diseases currently listed include, but are not limited to cholera, diphtheria, infectious tuberculosis, plague, smallpox, Severe Acute Respiratory Syndrome and influenza that causes or has the potential to cause a pandemic. The current list of communicable diseases is available on the CDC website for use in the authorization of this type of sick leave. See 5 C.F.R. 630.401.

050405. Advanced Sick Leave

A. General. In cases of serious disability or illness, employees may be advanced sick leave. Before granting advanced sick leave, the approving authority must consider whether the employee expects to return to duty, the need for the employee's services, and the benefits to the agency of retaining the employee. Advanced sick leave is not available to an employee when it is known, or reasonably expected, that the employee will not return to duty. For example, advanced sick leave is not appropriate if the employee has applied for disability retirement. Advanced sick leave may be granted regardless of an employee's annual leave balance. Employees should submit requests in writing for advanced sick leave to the approving official. Employees must liquidate the advanced sick leave indebtedness as discussed in section 050405.C. See ***5 C.F.R. 630.402***.

B. Limitations. The maximum amount of advanced sick leave a full-time employee may have to their credit at any one time is 240 hours (30 days). Prorate the amount of advanced sick leave for part-time employees and employees on uncommon tours of duty based on the number of hours in the employee's biweekly work schedule. An agency may grant advanced sick leave in the amount of:

1. Up to 240 hours (30 days) to a full-time employee for the following reasons pursuant to 5 C.F.R. 630.402(a) (1):

a. The employee is unable to perform work duties due to incapacitation by physical or mental illness, injury, pregnancy, or childbirth;

b. The employee or a family member has a serious health condition;

c. The employee's presence on the job would jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease;

d. For purposes related to the adoption of a child; or

e. For the care of a covered servicemember with a serious injury or illness, provided the employee is exercising his or her entitlement to FMLA leave to care for the covered servicemember.

2. Up to 104 hours (13 days) to a full-time employee for the following reasons (5 C.F.R. 630.402(a)(2)):

a. To receive medical, dental or optical examinations or treatment;

b. To provide care for a family member incapacitated by a medical or mental condition, or to attend to a family member receiving medical, dental, or optical examination or treatment;

c. To provide care for a family member who would jeopardize the health of others by their presence in the community because of exposure to a communicable disease; or

d. To make arrangements necessitated by the death of a family member or attend the funeral of a family member.

C. Liquidating Advanced Sick Leave Indebtedness

1. General. Advanced sick leave indebtedness is liquidated by subsequently earned sick leave, by charges against annual leave, or by a refund upon separation. An employee who is a participant in the agency's Voluntary Leave Transfer Program (VLTP) or

Voluntary Leave Bank Program (VLBP) may liquidate the advanced sick leave by substituting donated annual leave for sick leave that was advanced on or after the date of the medical emergency. See ***5 C.F.R. 630.906***. The agency may also allow an employee to refund advanced sick leave in cash, at the pay rate in effect at the time the employee used the advanced sick leave.

2. Transferring Employees. If an employee with a debt for advanced sick leave transfers to another Federal agency without a break in service, the losing agency must certify the employee's sick leave account to the receiving agency for charge. An employee is not required to refund the advanced sick leave in order to achieve a zero balance before transfer. A negative sick leave balance transfers to the gaining agency. Refer to Chapter 9, for instructions on preparing the SF 1150 to transfer sick leave balances.

3. Separated Employees. If an employee indebted for advanced sick leave separates from Federal service, the employee must refund the amount of advanced sick leave, or the agency may deduct the amount from any pay due the employee upon separation. If the employee dies, retires for disability, or separates or resigns because of disability as determined by the agency, the repayment requirement does not apply. An employee who enters active military service with a right of restoration is not considered separated for refund purposes, and advanced sick leave should be liquidated either after the employee returns to duty or is separated from Federal service. See 5 C.F.R. 630.209.

050406. Unused Sick Leave Upon Separation

Employees are not paid for unused sick leave upon separation. Unused sick leave is used in the calculation of an employee's or survivor's annuity based on retirement with an immediate annuity or a death in service. The PRO must show the unused sick leave balance upon retirement or death in the remarks column of the SF 2806, Service History on the Civil Service Retirement System (CSRS) Individual Retirement Record, or the SF 3100, Federal Employees Retirement System (FERS) Individual Retirement Record. See 5 C.F.R. 630.209. Sick leave that is used in the computation of an annuity and may not thereafter be used, transferred, or recredited. See ***5 U.S.C. 8415(l)(2)***, ***5 U.S.C. 8339(m)***, and 5 C.F.R. 630.407.

0505 FAMILY MEDICAL LEAVE ACT (FMLA)

050501. General

FMLA provides eligible Federal employees with up to 12 administrative workweeks of leave without pay (LWOP) during any 12-month period for family and medical needs. See ***5 U.S.C. 6381 to 6387*** and ***5 C.F.R. 630, subpart L*** (Note: OPM is responsible for the regulations for Title II of the FMLA that govern Federal employees. Department of Labor is responsible for regulations under Title I of the FMLA for the non-Federal sector). For definitions pertaining to FMLA, refer to 5 U.S.C. 6381 and 5 C.F.R. 630.1202.

A. Entitlement. To qualify for FMLA leave, an employee must have completed at least 12 months of Federal service. See ***5 C.F.R. 630.1201(b)***. FMLA leave is available to full and part-time employees however, temporary employees serving under an

appointment of 1 year or less and employees without a regularly scheduled tour of duty are not entitled to FMLA leave. A total of up to 12 administrative workweeks of unpaid leave, or 26 administrative workweeks if the leave is to care for a covered servicemember, are available during any 12-month period. The 12-month period begins when FMLA leave is first used and ends 12 months later. An employee may elect to substitute annual leave, sick leave, educator leave, or leave made available to the employee under the VLTP or the VLBP for LWOP. See ***5 C.F.R. 630.1205***. The normal leave year limitations on the use of sick leave to care for a family member still apply, except when substituting sick leave to care for a covered servicemember.

B. Calculating the FMLA Entitlement. FMLA leave is available in direct proportion to the number of hours in the employee's regularly scheduled administrative workweek. The PRO must calculate the 12 administrative workweeks of FMLA on an hourly basis, which equals 12 times the average number of hours in the regularly scheduled administrative workweek. For example, an 80-hour full-time employee will have 480 hours available for FMLA leave (40 hours per week x 12 weeks = 480 hours). If the employee's administrative workweek varies from week to week, the PRO must use a weekly average of the hours scheduled over the 12 administrative workweeks prior to the date FMLA leave begins for the calculation. Holidays and non-workdays that occur during the period that the employee is on FMLA do not count toward the 12 administrative workweek entitlement. See ***5 U.S.C. 6382*** and ***5 C.F.R. 630.1203***.

C. Regular FMLA Leave. Under 5 C.F.R. 630.1203 (a), an eligible employee may take 12 workweeks of FMLA leave in a 12-month period for one or more of the following reasons:

1. The birth of a child, or to care for the newborn child within 1 year of birth (may not be taken intermittently);

2. Placement of a child adopted, or foster care and to care for the newly placed child within 1 year (may not be taken intermittently);

3. Care of a spouse, son, daughter, or parent with a serious health condition (may be taken intermittently);

4. Serious health condition that makes the employee unable to perform their duties (may be taken intermittently); or

5. A qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on covered active duty (or notified of an impending call or order) in the Armed Forces under ***10 U.S.C. 101***. Leave may be taken intermittently. Employees must provide notice as soon as practicable if the need for leave is foreseeable. An employee may be requested to provide certification for the leave as provided under ***5 C.F.R. 630.1209***. Under ***5 C.F.R. 630.1204***, qualifying exigencies include:

a. Addressing issues associated with short-notice deployment,

b. Attending military events and related activities,

c. Arranging and attending childcare and school activities,

d. Making financial and legal arrangements,

e. Attending counseling,

f. Spending time with a servicemember on rest and recuperation,

g. Attending post-deployment activities, or

h. Addressing other events that arise out of the military member's covered active duty that qualify as exigencies.

D. FMLA Leave to Care for a Covered Servicemember. An employee is eligible for 26 workweeks of unpaid leave during a single 12-month period to care for a covered servicemember, who is a current or veteran of the Armed Forces as defined under 5 U.S.C. 6381, with a serious injury or illness. The covered servicemember must be the employee's spouse, son, daughter, parent, or next of kin. Refer to the OPM guidance in ***CPM 2010-06*** issued March 5, 2010 for additional information regarding the following:

1. The injury or illness incurred by the servicemember was in the line of duty while on active duty in the Armed Forces.

2. During a single 12-month period, an employee is entitled to a combined total of 26 weeks of regular FMLA leave and FMLA leave to care for a covered servicemember. For example: if during the 12-month period the employee takes 6 weeks of regular FMLA leave for the birth of a child, the employee would have 20 weeks of FMLA leave to care for a covered servicemember.

3. Use of FMLA leave to care for a covered servicemember in one 12-month period does not limit the use of regular FMLA leave during any other subsequent 12-month period.

4. The normal leave year limitations on the use of sick leave to care for a family member do not apply. Specifically, the 480-hour (12 weeks) limitation per leave year on the use of sick leave to care for a family member with a serious health condition does not apply. The employee may substitute accrued sick leave or annual leave for any or all of the 26 workweeks of FMLA leave to care for a covered servicemember. See ***5 C.F.R. 630.403***. An eligible employee may potentially take leave for up to 38 weeks of leave. For example: An employee may take 12 weeks of sick leave to care for a family member with a serious illness and also 26 weeks of FMLA leave to care for a covered servicemember.

E. Intermittent FMLA Leave or Reduced Leave Schedule. Under certain conditions, FMLA leave may be taken intermittently, or the employee may work under a work schedule that is reduced by the number of hours of leave taken as FMLA leave. FMLA leave is in

addition to other paid time off available to an employee. See 5 C.F.R. 630.1205.

050502. Advance Notice of FMLA Leave and Medical Certification

If FMLA leave is foreseeable, based on an expected birth, placement for adoption or foster care, or planned medical treatment, the employee must provide notice to the agency of his or her intention to take leave not less than 30 calendar days before the date the leave is to begin. See ***5 C.F.R. 630.1207***. An agency may require that a request for leave under certain circumstances be supported by evidence that is administratively acceptable to the agency. See ***5 C.F.R. 630.1208***.

*0506 LEAVE FLEXIBILITIES FOR CHILDBIRTH, ADOPTION AND FOSTER CARE

050601. General

On January 15, 2015, the President issued a ***memorandum*** entitled "Modernizing Federal Leave Policies for Childbirth, Adoption and Foster Care to Recruit and Retain Talent and Improve Productivity" directing all Federal agencies to:

A. Offer 240 hours of advanced sick leave, at the request of an employee and in appropriate circumstances, in connection with the birth or adoption of a child or for other sick leave eligible uses. See 050405.

B. Offer the maximum amount of advanced annual leave, at the request of an employee, for foster care placement in their home or bonding with a healthy newborn or newly adopted child. See 050304.

Agencies have been directed to provide this advanced leave for purposes specified in law and regulation irrespective of existing leave balances.

050602. OPM Handbook

A. General. OPM has published a ***Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care***. The handbook contains guidance on the use of advanced sick and annual leave policies as required by the President's memorandum, and provides information on the various leave entitlements and flexibilities available to assist employees.

B. Utilization of Leave Flexibilities. The Handbook is divided into three sections; each addresses the specific circumstance of the employee:

1. Pregnancy and childbirth,

2. Adoption and foster care, and

3. Information on the interaction of the various leave programs and workplace flexibilities and how they can be used together.

0507 BONE MARROW OR ORGAN DONOR LEAVE

The use of up to 7 days (56 hours) of paid leave in a calendar year, in addition to sick or annual leave, to serve as a bone marrow donor, or up to 30 days (240 hours) of paid leave in a calendar year to serve as an organ donor is authorized under ***5 U.S.C. 6327***. The directly proportional rule applies to an employee whose leave is administered on other than an 80-hour biweekly pay period. See DoDI 1400.25-V630. An individual having bone marrow removed and stored for their future personal use is not considered a donor and the benefit of 7 days of paid time off does not apply. In such a case, the employee must use sick leave, annual leave, or advanced annual and sick leave.

0508 FEDERAL LEAVE SHARING PROGRAMS

The Voluntary Leave Transfer Program (VLTP) allows Federal employees to donate annual leave to other employees who have personal or other family medical emergencies and who have exhausted their own leave. Alternatively, the Voluntary Leave Bank Program (VLBP) allows members with medical emergencies to withdraw leave from the bank if they exhaust their own leave. Each agency has established its own method of administering these programs and employees may participate in both programs. Additionally, an Emergency Leave Transfer Program (ELTP) has been established to transfer annual leave from donors to employees in other agencies who are adversely affected by disasters or emergencies.

050801. VLTP

In accordance with ***5 U.S.C. 6332*** and ***5 C.F.R. 630 subpart I***, Federal employees may donate unused accrued annual leave directly to a specified employee (leave recipient) who needs leave because of a medical emergency and who has exhausted his or her available paid leave. Medical emergency is defined as a medical condition of an employee or a family member of an employee that is likely to require the employee to be absent from duty for a prolonged period, of at least 24 work hours, and result in a substantial loss of income to the employee because of the unavailability of paid leave. See ***5 C.F.R. 630.902***.

A. Leave Donors

1. General. A leave donor is an employee who makes a request to transfer annual leave to the annual leave account of a leave recipient. Leave donors may not contribute to an immediate supervisor. The annual leave donated must be accrued and available at the date of donation.

2. Maximum Donation Amount. Maximum limitations exist for the amount of leave an employee may donate in any one leave year. See ***5 C.F.R. 630.908***. Each agency shall establish written criteria for waiving the limitations on donating annual leave. The maximum amount of annual leave that may be donated during the leave year is:

a. For leave donors with no "use or lose" annual leave: One-half of the amount of annual leave the leave donor would be entitled to accrue during the leave year in that the donation is made;

b. For leave donors who have "use or lose" annual leave: The maximum amount of annual leave that may be donated is the lesser of either:

(1) One-half of the amount of annual leave the donor would be entitled to accrue during the leave year in which the donation is made; or

(2) The number of hours remaining in the leave year, as of the date of the transfer, for which the donor is scheduled to work and receive pay.

B. Leave Recipients

1. General. A leave recipient is a current employee approved by the employing agency to receive annual leave from the annual leave accounts of one or more leave donors. There is no limit on the amount of donated annual leave a leave recipient may receive.

2. Limits on Use of Donated Leave. A leave recipient may use the donated leave transferred to his or her annual leave account under 5 C.F.R. 630.906 only for the purpose of a medical emergency for which the leave recipient was approved. See ***5 C.F.R. 630.909***. Substitution of donated leave is permitted for a prior period of LWOP or to liquidate a debt for advanced annual or sick leave. Donated leave may not be included in a lump sum payment for annual leave. The PRO may not recredit donated leave to a former employee who returns to Federal service. See 5 C.F.R. 630.906 and 630.909.

3. Requirement to Exhaust Accrued Annual and Sick Leave. Except for leave placed in a separate leave account (set aside leave account), any annual or sick leave accrued or accumulated by the leave recipient and available for the medical emergency must be exhausted before any donated leave may be used. See 5 C.F.R. 630.909. However, this does not apply to a recipient who:

a. Sustains a combat-related disability while a member of the Armed Forces, including a reserve component of the Armed Forces, and

b. Is undergoing medical treatment for that disability. See ***5 U.S.C. 6333(b)(2)***; or

c. Exhausts a total of 12 weeks of sick leave for family care purposes. If an employee applies to receive donated leave for a medical emergency affecting a family member and the employee has already exhausted the 12 weeks of sick leave for family care purposes in that leave year, he or she would not be required to exhaust his or her sick leave balance before being eligible for donated leave.

4. Leave Recipient's Accrual of Annual and Sick Leave. A leave recipient may earn annual and sick leave while using donated leave, but only up to 40 hours of each type. In the case of a part-time employee or employee with an uncommon tour of duty, the employee may earn up to the average number of hours in the employee's weekly scheduled tour of duty.

a. Set Aside Leave Account. The PRO must place any accrued annual or sick leave earned by the leave recipient in a separate leave account, referred to as a set aside leave account. The accrued annual or sick leave in the set aside leave account is available for transfer to the leave recipient's regular leave account after the leave recipient either exhausts all donated leave or the medical emergency ends. Leave in a set aside leave account is not available for use until transferred to the leave recipient's regular leave account. See ***5 C.F.R. 630.907***.

b. Intermittent Use of Donated Leave and Accrued Leave. Leave accruals for an employee who uses donated leave intermittently must be prorated between the regular leave account and the set-aside leave account until it reaches the maximum accrual or the medical emergency ends. Accruals are prorated based on the number of hours of donated leave used within the pay period.

C. Interagency Transfers of Donated Leave. Under 5 C.F.R. 630.909(f), an agency must accept the transfer of annual leave from the leave donors employed by other agencies when any of the following conditions are met:

1. A family member of a leave recipient is employed by another agency and requests the transfer of annual leave to the leave recipient;

2. If, in the judgment of the leave recipient's employing agency, the amount of annual leave transferred from leave donors employed by the leave recipient's employing agency may not be sufficient to meet the needs of the leave recipient; or

3. If, in the judgment of the leave recipient's employing agency, acceptance of leave transferred from another agency would further the purpose of the VLTP.

D. Restoring Transferred Leave to the Donor. Upon termination of the medical emergency, any unused donated leave must be transferred pro rata back to each donor. See ***5 C.F.R. 630.911***. The leave is not restored if the leave donor retires, dies, or separates from Federal service before the date the unused transferred annual leave can be restored. If returned to the leave donor's account, the leave is treated the same as other annual leave and becomes subject to the "use or lose" carryover limitations. Each donor may elect how the leave is to be recredited from the following options:

1. Crediting the donated annual leave to the donor's annual leave account in the current leave year;

2. Crediting the donated annual leave to the donor's annual leave account effective as of the first day of the first leave year beginning after the date of election; or

3. Donating it, in whole or part, to another leave recipient.

050802. VLBP

Under the VLBP at ***5 U.S.C. 6361*** and ***5 C.F.R. 630 subpart J***, employees may contribute unused accrued annual leave to their agency's leave bank for use by other leave bank members who are experiencing a personal or family medical emergency and who have exhausted all available paid leave. Each agency establishes a leave bank board to administer the VLBP. See ***5 C.F.R. 630.1003***. An employee may participate in both the VLTP and the VLBP in the same agency for the same medical emergency if his or her agency has established both programs. See ***5 U.S.C. 6373*** and ***5 C.F.R. 630.1013***.

A. Leave Bank Members and Minimum Donations. An employee must make an application to become a leave bank member and must contribute a minimum amount of annual leave to the leave bank each year. The minimum donation may not be less than the amount of annual leave the employee normally accrues in a pay period (i.e., 4, 6 or 8 hours). See ***5 C.F.R. 630.1004 (g) through (i)***. An employee must make the donation to establish leave bank membership during the annual open enrollment period, or within 30 days of the employee's appointment to the agency or return from extended absence.

B. Leave Bank Recipients

1. Application and Approval by Leave Bank Board. A leave bank member, or a personal representative on behalf of the employee, who is affected by a personal or family medical emergency must make a written application to the leave bank board in order to become a leave bank recipient. See ***5 C.F.R. 630.1006***. The board must find that the leave recipient's absence from duty without paid leave is expected to be at least 24 work hours for a full-time employee, this leave may be intermittent. A part-time employee or employee with an uncommon tour of duty expects to be absent without available paid leave at least 30 percent of the average number of hours in the employee's biweekly scheduled tour of duty. See ***5 C.F.R. 630.1007***.

2. Limits on Use of Leave from the Leave Bank. Donated annual leave withdrawn from the leave bank may be used only for the approved medical emergency. A leave recipient may use donated leave retroactively to substitute for a period of LWOP or to liquidate the advanced annual or sick leave that began on or after the date fixed by the leave bank board at the start of the medical emergency. Donated leave may not be included in a lump-sum payment for annual leave. The PRO may not recredit donated leave to a former employee who returns to Federal service. See ***5 C.F.R. 630.1009***.

3. Requirement to Exhaust Accrued Annual and Sick Leave. The leave bank recipient must use any available paid leave, but not leave from a set aside leave account, before using any donated leave. See 5 C.F.R. 630.1009.

4. Leave Bank Recipient's Accrual of Annual and Sick Leave. A leave bank recipient may earn annual and sick leave while using donated leave, but only up to 40

hours of each type. In the case of a part-time employee or employee with an uncommon tour of duty, the employee may earn up to the average number of hours in the employee's weekly scheduled tour of duty. See ***5 C.F.R. 630.1008***.

a. Set Aside Leave Account. The PRO must place any accrued annual or sick leave earned by the leave bank recipient in a separate leave account, referred to as a set aside leave account. The accrued annual or sick leave in the set aside leave account is available for transfer to the leave recipient's regular leave account after the leave recipient either exhausts all donated leave or the medical emergency ends. Leave in a set aside leave account is not available for use until transferred to the leave recipient's regular leave account. See 5 C.F.R. 630.1008.

b. Intermittent Use of Donated Leave and Accrued Leave. Leave accruals for an employee who uses donated leave intermittently must be prorated between the regular leave account and the set-aside leave account until the maximum accrual is reached or the medical emergency ends. Accruals are prorated based on the number of hours of donated leave used within the pay period.

C. Termination of the Medical Emergency. The PRO must return any unused leave withdrawn from the leave bank and not used before the termination of the leave recipient's medical emergency to the leave bank. The medical emergency of the leave recipient terminates when the following occurs:

1. The leave recipient's Federal service is terminated;

2. The leave recipient leaves the agency or participating organization, unless determined otherwise by the leave bank board;

3. At the end of the biweekly pay period in which the leave recipient provides written notice that the medical emergency is over;

4. At the end of the biweekly period in which the leave bank board determines, after written notice to the leave recipient and opportunity for response, that the medical emergency is over; or

5. At the end of the biweekly pay period in which the agency receives notice that the leave recipient has been approved for disability retirement.

D. Transferring Between Agencies

1. If an employee moves between an agency operating a leave bank to another agency operating a different leave bank, the following procedures apply:

a. On the date the employee moves to the new agency, the employee will become subject to the policies and procedures of the new agency's leave bank.

b. The employee's right to submit an application to become a leave contributor or leave recipient in accordance with the new agency's policies and procedures of the leave bank, must not be restricted by ***5 C.F.R. 630.1010(a) (2) or (b)***.

2. See ***5 C.F.R. 630.1015*** for similar procedures for transfers between an agency covered by a VLBP and an agency covered by a VLTP.

050803. Emergency Leave Transfer Program (ELTP)

A. Authority. ***Title 5 U.S.C. 6391*** and ***5 C.F.R. 630, subpart K*** provide that in the event of a major disaster or emergency, as declared by the President, resulting in severe adverse effects for a substantial number of Federal employees, the President may direct OPM to establish an ELTP. Such disasters or emergencies involve loss of life or property, serious injury, or mental illness because of a direct threat to life or health. Under the ELTP, an employee in an executive agency may donate annual leave for transfer to employees of the employing agency or to employees in other agencies adversely affected by such disaster or emergency.

B. Establishing ELTP Program. OPM will notify agencies of the establishment of an ELTP for a specific disaster or emergency, as declared by the President. Immediately after a disaster or an emergency, agencies can typically grant excused absence or advanced annual leave or sick leave as appropriate to affected employees. Once notified, each agency affected by the disaster or emergency is authorized to:

1. Determine the amount of donated annual leave needed by affected employees;

2. Approve emergency leave donors and/or emergency leave recipients within the agency, as appropriate;

3. Facilitate the distribution of donated annual leave from approved emergency leave donors to approved emergency leave recipients within the agency; and

4. Determine the period of time that donated annual leave may be accepted for distribution to approved emergency leave recipients.

C. ELTP Leave Donor. An employee may voluntarily submit a written request to transfer a specified number of hours of their accrued annual leave to the employing agency's ELTP using ***OPM Form 1638***, Request to Donate Annual Leave Under the ELTP. The donor may not contribute less than 1 hour nor more than 104 hours of annual leave in a leave year. Each agency may establish written criteria for waiving the 104-hour limitation per employee for donating annual leave in a leave year. After the initial 1 hour donation, leave may be donated in 15-minute increments. A donor may not donate annual leave for transfer to a specific emergency leave recipient; rather it goes to the ELTP bank. Annual leave donated to an ELTP is not applied against limits on donations of annual leave to a VLBP or VLTP. See ***5 C.F.R. 630.1109*** and ***630.1110***.

D. ELTP Leave Recipient

1. Eligibility. An employee, as defined in ***5 U.S.C. 6331(1)***, who has been adversely affected by a major disaster or emergency may receive donated leave under the ELTP. An employee who has a family member adversely affected by a disaster or emergency and does not have reasonable access to other forms of assistance may receive donated leave under the ELTP. An employee is considered adversely affected if the disaster or emergency has caused severe hardship to the employee or family member to such a degree that the employee's absence from work is required. See ***5 C.F.R. 630.1105***.

2. Limitation on Amount of ELTP Leave Received. The ELTP recipient may receive a maximum of 240 hours of donated annual leave at any one time for each disaster or emergency. Refer to ***5 C.F.R. 630.1111*** for exceptions.

3. Application and Notification of Approval/Disapproval. An employee, personal representative or the agency on the employee's behalf, must make a written application to become an ELTP recipient using OPM Form 1637, Application to Become a Leave Recipient Under the ELTP. Agency written notification of approval or disapproval must be issued to the employee within 10 calendar days (excluding Saturdays, Sundays, and legal public holidays) after the receipt of the application (or a date established by the agency if that date is later). If disapproved, the agency must state the reason(s) for the disapproval. If approved, the agency must specify the major disaster or emergency for which the recipient was approved.

4. Leave Recipient's Accrual of Annual and Sick Leave. An ELTP recipient is not required to exhaust his or her accrued annual or sick leave before receiving donated leave under the ELTP. Annual and sick leave will continue to accrue to the credit of the recipient at the same rate as if the recipient were in a paid leave status.

5. Limitations on Use of ELTP Leave. Donated leave must be used only for the purposes related to the approved disaster or emergency for which the leave recipient was approved. Donated ELTP leave may be substituted retroactively by the recipient for any period of LWOP used because of the adverse effects of the disaster or emergency. ELTP leave may be used to liquidate indebtedness incurred by the ELTP recipient for any advanced annual or sick leave used due to the adverse effects of the disaster or emergency. The PRO must transfer the leave if the recipient transfers to another agency without a break in service. The ELTP leave transferred to a recipient may not be included in a lump-sum payment upon separation or entry into active duty, recredited to a former employee reemployed by a Federal agency, or used to establish eligibility for immediate retirement or to continue health benefits into retirement. See ***5 C.F.R. 630.1113*** and ***630.1114***.

E. Insufficient Agency ELTP Donated Leave. If a Federal agency does not have sufficient donated leave to meet the needs of its approved emergency leave recipients, then the agency must notify OPM. OPM will coordinate a government-wide transfer of annual leave from donating agencies to affected agencies for crediting to their emergency leave recipients. The OPM Form 1639, Transfer of Donated Annual Leave To or From the ELTP, is used for the purpose of donating or receiving annual leave from other agencies. OPM will facilitate the transfer

of donated leave to/from agencies. See ***5 C.F.R. 630.1112***. In addition, an agency's VLBP under 5 U.S.C. Chapter 63, with the concurrence of the leave bank board, may also donate annual leave to the employing agency's ELTP or another agency's ELTP. See ***5 C.F.R. 630.1104***.

F. Procedures Upon Termination of Disaster or Emergency

1. Determining Termination of Disaster or Emergency. The disaster or emergency ends when OPM or the agency determines the termination or the recipient's Federal service terminates. See ***5 C.F.R. 630.1116***. The emergency terminates at the end of the biweekly pay period when:

a. The recipient or his or her personal representative notifies the agency that the recipient is no longer affected by the disaster or emergency;

b. The agency determines that the emergency leave recipient is no longer affected by such disaster or emergency (refer to 5 C.F.R. 630.1116(d) for notice requirements); or

c. The recipient's agency receives notice that OPM has approved an application for disability retirement.

2. Recrediting Donated Leave to Donors and Leave Banks. When a disaster or emergency affecting an emergency leave recipient terminates, the PRO must return any unused ELTP leave to the emergency leave donors, or if donated by a leave bank, to the leave bank. The ELTP administrator will determine the amount of remaining annual leave to be restored to each emergency leave donor who, on the date of the leave restoration, is employed by a Federal agency. The unused ELTP leave returned must be proportional to the amount of annual leave donated by the employee (or leave bank) to the ELTP for such disaster or emergency. Annual leave donated to an ELTP for a specific disaster or emergency may not be transferred to another ELTP established for a different disaster or emergency. An emergency leave donor may request the agency restore unused donated annual leave by crediting the leave to the leave donor's annual leave account in either the current leave year, or on the first pay period of the following leave year. See ***5 C.F.R. 630.1117***.

0509 NON-APPROPRIATED FUND (NAF) TRANSFER OF LEAVE UNDER EMPLOYEE BENEFITS PORTABILITY PROGRAM

050901. General

In accordance with 5 U.S.C. 5551(a); 5 U.S.C. 6308(b), and ***6312*** an employee who transfers from a NAF position to an appropriated fund position (APF), or the reverse, without a break in service of more than 3 days must transfer their entire annual and sick leave balances to the gaining employment office. The employee may not be paid for any accrued hours of annual leave. Leave will be administered in accordance with the rules of the gaining employment system (APF or NAF). The PRO credits the employee with the full amount of leave even in those cases where the employee may receive a higher rate of pay from the gaining employment system (APF or NAF). Refer to ***DoDI 1400.25-V1401***, Personnel Policy for NAF Instrumentalities, and ***OPM site***.

050902. Annual Leave Accrual Rates

Employees who move between DoD NAF and civil service positions without a break in service of more than 3 days receive service credit for annual leave purposes. Service in the losing employment system (civil service or NAF) is credited when determining the appropriate leave accrual rate. The employee's leave accrual rate is applied in exactly the same manner, regardless of whether the move is voluntary or involuntary, and regardless of the direction of the move, civil service to NAF or NAF to civil service.

0510 COMPENSATORY TIME

051001. General

Compensatory time off means time off in lieu of overtime pay for irregular or occasional overtime work. One hour of compensatory time off is granted for each hour of overtime. At the request of an employee, the head of an agency may grant an eligible employee compensatory time off from the employee's scheduled tour of duty instead of payment for an equal amount of time spent in irregular or occasional overtime work. Compensatory time off must be granted to an employee within a reasonable time after the overtime is worked. Refer to ***5 U.S.C. 5542***, ***5543***, ***5544***, ***6122***, ***6123***, ***6127***, ***6128***, ***5 C.F.R. 550.114***, and ***5 C.F.R. 551.531***.

051002. Eligible Employees

A. Fair Labor Standards Act (FLSA) Exempt and Nonexempt Employees. Compensatory time off may be approved in lieu of overtime for irregular or occasional overtime work for both FLSA exempt and FLSA nonexempt (i.e. FLSA covered) employees who meet the definition of employee under ***5 U.S.C. 5541(2)***. An agency may require that an FLSA exempt employee with a rate of basic pay above the rate of GS-10, step 10 receive compensatory time off for irregular or occasional overtime.

B. Prevailing Rate Employees. Compensatory time off may be approved for prevailing rate employees (wage employees), as defined at ***5 U.S.C. 5342(2)***. There is no requirement to compensate a prevailing rate employee irregular or occasional overtime by granting compensatory time off.

C. Flexible Work Schedules. Compensatory time off may be approved (but not required) in lieu of regularly schedule overtime only for employees (including prevailing rate employees) who are ordered to work overtime hours under flexible work schedules. See 5 U.S.C. 6123(a)(1).

051003. Forfeiture of Unused Compensatory Time Off

A. FLSA Exempt Employees. The time limit for using compensatory time is the end of the 26th pay period after the pay period during which it was earned. An agency may provide that an FLSA exempt employee who fails to take the compensatory time within 26 pay

periods, or who transfers to another agency or separates from service before the compensatory time expires, must:

1. Receive payment for unused compensatory time at the overtime rate in effect when earned; or

2. Forfeit the unused compensatory time unless failure to use the compensatory time is due to an exigency of the service beyond the employee's control. An FLSA employee whose compensatory time off was forfeited due to an exigency of service beyond the employee's control must receive payment for the unused compensatory time at the overtime rate in effect when earned. See 5 C.F.R. 550.114.

B. FLSA Nonexempt (FLSA Covered) Employees. The time limit for using compensatory time is the end of the 26th pay period after the pay period when it was earned. If the FLSA nonexempt employee fails to take the compensatory time within 26 pay periods, or the employee transfers to another agency or separates from Federal service before the compensatory time expires, pay the earned compensatory time off at the overtime rate in effect when earned. See 5 C.F.R. 551.531.

C. National Guard Technicians. National Guard employees are not paid for unused compensatory time worked. Compensatory time must be used by the end of the 26th pay period after it is earned or it will be forfeited. See ***32 U.S.C. 709 (h)***.

051004. Separation or Transfer

When a DoD employee separates or transfers to another DoD Component or Federal agency before the expiration of the 26 pay period time limit, unused compensatory time balances must be paid at the overtime rate in effect when the compensatory time was earned. Title 32 National Guard technicians forfeit any unused compensatory time when they separate or transfer to another DoD Component or Federal agency.

051005. Compensatory Time Off for Religious Observances

An employee whose personal religious beliefs require not working during certain periods may elect to work compensatory time for the time lost to meet those religious requirements. See ***5 U.S.C. 5550a*** and ***5 C.F.R. 550 subpart J***. An employee who works compensatory time for religious reasons must be granted equal compensatory time off from the scheduled tour of duty. The employee may work the compensatory overtime before or after the grant of compensatory time off. The PRO must credit compensatory overtime to the employee on an hour for hour basis, or authorized fraction thereof. See ***5 C.F.R. 550.1002***. Refer to Chapter 3, for additional information regarding compensatory time off for religious reasons.

051006. Compensatory Time Off for Travel

An employee may earn compensatory time off for travel for time spent in travel status away from the employee's official duty station. An employee may earn compensatory time off for

travel only for hours that are not otherwise compensable. Because an employee is entitled to their rate of basic pay for travel during basic (non-overtime) holiday hours, an employee may not earn compensatory time off for travel during holiday hours. See 5 C.F.R. ***550 subpart N, 5 U.S.C. 5550b***, and ***OPM Fact Sheet***.

A. Eligible Employees. Compensatory time off for travel may be earned by an employee, as defined in ***5 U.S.C. 5541(2)*** who is employed in an Executive agency, as defined in ***5 U.S.C. 105***, without regard to whether the employee is exempt from or covered by the overtime pay provisions of the FLSA of 1938, as amended. The definition includes employees in SL and ST positions, but not members of the SES. Prevailing rate (wage) employees are eligible for compensatory time off for travel.

B. Employees Who Receive Availability Pay. Availability pay is premium pay paid to Federal law enforcement officers who are criminal investigators required to work substantial amounts of unscheduled duty. See ***5 C.F.R. 550.181***.

1. When Travel Hours are not Eligible. For availability pay recipients, travel hours are not eligible for compensatory time off if the hours are: 1) compensated by basic pay; 2) regularly scheduled overtime hours creditable under 5 U.S.C. 5542 or 5543; or 3) unscheduled duty hours. The term unscheduled duty hours means: 1) irregular overtime hours; or 2) the first 2 overtime hours on a day containing part of the employee's basic 40 hour workweek, without regard to whether the hours are unscheduled or regularly scheduled; or 3) any approved non-work availability hours. See ***5 C.F.R. 550.182(a), (c) and (d)***. An availability pay recipient may not earn compensatory time off for travel during unscheduled duty hours because the employee is entitled to availability pay for those hours. Compensatory time off for travel is earned only for hours not otherwise compensable.

2. When Travel Hours Are Eligible. For availability pay recipients, travel hours are eligible for compensatory time off for travel when, the employee is required to travel on a non-workday or on a regular workday (in excess of the basic workday), and the travel does not meet one of the four criteria listed under 5 U.S.C. 5542(b)(2)(B) and ***5 C.F.R. 550.112(g)(2)***. In such cases, since the travel time is not compensable as overtime hours of work for regular overtime or availability pay, the employee may earn compensatory time off for such travel subject to the exclusions specified in ***5 C.F.R. 550.1404(b)(2)*** and the requirements in 5 C.F.R. 550.1404(c), (d) and (e). Refer to 5 U.S.C. 5542(b)(2)(B) and 5 C.F.R. 550.112(g)(2) for information regarding when travel time is compensable as overtime hours of work.

C. Creditable Travel Time. To be creditable, travel time must be for work purposes and must be approved by an authorized agency official or otherwise authorized under agency policy. Once the employee arrives at a temporary duty station, the employee is not considered to be in a travel status just because he or she is away from the official duty station. In other words, do not credit the time spent at a temporary duty station between arrival and departure as time in a travel status. Time in travel status includes:

1. Time an employee actually spends traveling between the official duty station and a temporary duty station;

2. Time an employee spend traveling between two temporary duty stations; and

3. The usual waiting time that precedes or interrupts such travel, such as waiting at an airport or train station for departure. This does not include any extended or unusual waiting time between actual period of travel when the employee is free to rest, sleep, or otherwise use the time for his or her own purposes.

D. Deducting Commuting Time

1. Travel between Home and Temporary Duty Station or Transportation Terminal Outside of Official Duty Station Limits. Time spent traveling directly between home and a temporary duty station (or transportation terminal) outside the limits of the employee's official duty station is creditable as travel time. However, the agency must deduct from such travel hours the time the employee would have spent in normal home-to-work or work-to-home commuting (the commuting time offset). See 5 C.F.R. 550.1404.

2. Between Home and Transportation Terminal Within Official Duty Station Limits. Time spent traveling outside of regular work hours between home and to or from a transportation terminal that is within the official duty station as part of travel away from that duty station is considered equivalent to commuting time and is not creditable travel time. See 5 C.F.R. 550.1404(d).

3. Between Worksite and Transportation Terminal Within Duty Station Limits. Time spent traveling outside of regular work hours between the employee's worksite and a transportation terminal is creditable travel time, and no commuting time offset applies.

E. Crediting Compensatory Time Off for Travel. An employee must comply with the procedures for requesting credit of compensatory time off for travel. Within five workdays after returning to the official duty station, the employee must submit his or her travel itinerary, or any other documentation acceptable to the employee's supervisor, in support of a request for credit for compensatory time off for travel. Upon receipt of a proper and complete request from the employee, the agency must credit the employee with compensatory time off for creditable time in a travel status. The agency may authorize credit in increments of one-tenth of an hour (6 minutes) or one-quarter of an hour (15 minutes). There is no limit on the amount of compensatory time off for travel an employee may earn. Agencies must track and manage compensatory time granted for time in a travel status separately from other forms of compensatory time off.

F. Use of Accrued Compensatory Time Off for Travel. An employee must request permission from his or her supervisor to schedule the use of his or her accrued compensatory time off in accordance with agency-established policies and procedures. Compensatory time off for travel may be used when the employee is granted time off from scheduled tour of duty established for leave purposes. An employee must use earned compensatory time off in increments of one-tenth of an hour (6 minutes) or one-quarter of an hour (15 minutes). If the employee elects to use earned compensatory time off for travel instead of

using excess annual leave, there is no legal authority to restore an employee's forfeited annual leave.

G. Forfeiture of Unused Compensatory Time Off for Travel

1. Forfeiture. Compensatory time off for travel is forfeited in the following circumstances. See ***5 C.F.R. 550.1407***.

a. Not Used Within 26 Pay Periods. Compensatory time off for travel is forfeited unless it is used by the end of the 26th pay period after the pay period it was credited.

b. Upon Transfer or Separation. When an employee voluntarily transfers to another agency or separates from Federal service, any unused compensatory time off is forfeited. Agency means an Executive agency as defined in 5 U.S.C. 105 (e.g., DoD). An employee does not receive a lump-sum payment for accrued compensatory time off for travel upon separation from an agency.

c. Upon Movement to Non-covered Position. Compensatory time off for travel is forfeited when the employee transfers to a non-covered position (such as to the U.S. Postal Service).

2. Exceptions to the 26 Pay Period Limit

a. LWOP. Special circumstances apply when an employee has unused compensatory time for travel and the employee separates from Federal service or is placed on LWOP status under the circumstances. If the employee later returns to service with the same agency, the employee must use all of the compensatory time off by the end of the 26th pay period following the pay period that the employee returns to duty, otherwise the compensatory time off is forfeited. See 5 C.F.R. 550.1407(a)(2). The LWOP may involve the following:

(1) LWOP to Perform Uniformed Service. The employee separates or is placed on LWOP status to perform service in the uniformed services, as defined in ***38 U.S.C. 4303*** and ***5 C.F.R. 353.102***, and later returns to service through the exercise of a reemployment right provided by law, Executive order, or regulation; or

(2) LWOP for Work Injury. The employee separates or is placed on LWOP status because of an on-the-job injury with entitlement to injury compensation under ***5 U.S.C. Chapter 81*** and later recovers sufficiently to return to work.

b. Exigency. If an employee fails to use compensatory time off for travel within 26 pay periods after earned due to an exigency of the service beyond the employee's control, an authorized agency official may extend the time limit for using such compensatory time off for travel for up to an additional 26 pay periods. See 5 C.F.R. 550.1407(e).

H. Prohibition Against Payment for Unused Compensatory Time Off for Travel. As provided by 5 U.S.C. 5550b(b), an individual must not receive payment under any circumstances for any unused compensatory time off for travel earned under 5 C.F.R. 550, subpart N. This prohibition against payment also applies to surviving beneficiaries of deceased civilian employees.

I. Inapplicability of Premium Pay and Aggregate Pay Caps. Accrued compensatory time off for travel is not considered when applying the premium pay limitations established under ***5 U.S.C. 5547*** and ***5 C.F.R. 550.105*** through ***550.107*** or the aggregate limitation of pay established under ***5 U.S.C. 5307*** and ***5 C.F.R. 530 subpart B***. There is no pay cap limitation on the amount of compensatory time off for travel an employee may earn.

0511 HOLIDAY LEAVE

051101. General

Employees must be in a pay status or a paid time off status (i.e. leave, compensatory time off, compensatory time off for travel, or using credit hours) on their scheduled workdays either before or after a holiday in order to be entitled to regular pay for a holiday. Employees in a nonpay status for the workdays immediately before and after the holiday may not receive compensation for that holiday.

051102. Work Schedules

A. Full-time Employees. Regular full-time employees who are not required to work on a holiday receive their regular straight-time pay, including night and shift differential.

1. Flexible Work Schedule. A full-time employee on a flexible work schedule, who is prevented from working on a holiday, or an in lieu of holiday, is entitled to 8 hours of holiday leave for each holiday. See ***5 U.S.C. 6124***. Employees under flexible work schedules are credited with 8 holiday hours even if they would otherwise work more hours on that day.

2. Compressed Work Schedule. A full-time employee on a compressed work schedule who is prevented from working on a holiday, or an in lieu of holiday, is entitled to holiday leave for the number of hours of the compressed work schedule for the employee on that day. See ***5 U.S.C. 6121(5)***. For example, if a holiday falls on a 9 or 10 hour basic workday, the employee's holiday is 9 or 10 hours, respectively. See ***5 C.F.R. 610.406***.

B. Part-Time Employees. Part-time employees receive their regular pay for holidays that fall on their regularly scheduled workdays; this does not include overtime work. When a holiday falls on a part-time employee's non-workday, there is no entitlement to pay for an in lieu of holiday. When prevented from working because the activity is closed due to an in lieu of holiday, the part-time employee may either be placed in an appropriate leave category or be excused, placed on administrative leave, without loss of pay for the number of hours they are

regularly scheduled to work on that day. See ***DoDI 1400.25-V610***. For more information on part-time employees, refer to the OPM Fact Sheet ***Federal Holidays***.

1. Flexible Work Schedule. A part-time employee on a flexible work schedule who is prevented from working on a holiday is entitled to leave for the number of hours they would have worked but for the holiday, not to exceed 8 hours. See ***5 C.F.R. 610.405***.

2. Compressed Work Schedule. A part-time employee prevented from working on a holiday is entitled to leave for the number of hours of the compressed work schedule on that day. See 5 C.F.R. 610.406.

C. Intermittent Employment. Intermittent employees, including experts and consultants, means employees without a regularly scheduled tour of duty. Intermittent employees receive compensation only when work is actually performed.

0512 CREDIT HOURS

051201. General

Credit hours are any hours within a flexible schedule established under 5 U.S.C. 6122 that are in excess of an employee's basic work requirement, and that the employee elects (consistent with agency policy) to work to vary the length of a workweek or a workday. Credit hours are distinguished from overtime hours in that they are not officially ordered and approved in advance by management. See ***5 U.S.C. 6121-6126***.

051202. Requirements for Earning and Using Credit Hours

A. Earning Credit Hours. Only full-time and part-time employees under flexible work schedules may earn credit hours. SES members may not earn credit hours. See ***5 C.F.R. 610.408***. Credit hours may be earned only within the flexible time bands established by the agency or union agreement. Work hours that count toward the employee's basic work requirement should not be considered credit hours. Credit hours are those hours that are in excess of the employee's basic work requirement (8 hours in a day, 40 hours in a week, or 80 hours in the biweekly pay period). There is no legal authority to advance credit hours to an employee. See 5 U.S.C. 6121(4).

B. Using Credit Hours. Credit hours must be used within the tour of duty. Credit hours must be earned and used in the same increments as other absences with pay.

051203. Accumulation

A full-time employee may accumulate up to 24 credit hours to be carried forward for credit against a later pay period. The 24 credit hours carried forward must be accounted for the same as other types of absences with pay. See 5 U.S.C. 6126.

051204. Part-Time Employees

A part-time employee under a flexible work schedule may earn credit hours. A part-time employee may carry forward credit hours from one biweekly pay period to a subsequent biweekly pay period, in an amount equal to 25 percent of the biweekly scheduled hours of work. See 5 U.S.C. 6126(a).

051205. Payment for Credit Hours

Generally, an employee receives no additional pay for credit hours. When used by the employee, credit hours are considered a part of the basic work requirement (non-overtime work) in the biweekly pay period that they are applied. An employee is entitled to his or her basic rate of pay for any credit hours used. However, upon separation from Federal service, or when an employee is no longer subject to a flexible work schedule program or transfers to another employing activity, (provided the agency and Major Claimant/Command changes), any accumulated credit hours must be liquidated/paid at the employee's current hourly rate. For full-time employees, not more than 24 accumulated hours may be paid. For part-time employees, accumulated credit hours may be paid in an amount that is not more than 25 percent of the employee's biweekly scheduled hours. See 5 U.S.C. 6126(b). Premium pay limitations under 5 U.S.C. 5547 do not apply to payment for credit hours even though the limits apply to payments for unused compensatory time off.

051206. Entitlement

A. Overtime. An employee must not use credit hours to increase the entitlement of overtime pay. No overtime pay or compensatory time off will be paid when employees earn credit hours or when credit hours are liquidated when Federal service ends. See 5 U.S.C. 6123(b) and 6126.

B. Sundays. An employee will not be paid Sunday pay when earning credit hours on a Sunday. Sunday premium pay is limited to 8 hours for each regularly scheduled basic tour of duty that begins or ends on Sunday. Since credit hours may only be earned when employees work in excess of their regularly scheduled basic work requirement, Sunday premium pay may not be paid when employees earn credit hours on Sunday. Neither may employees receive Sunday premium pay if they use credit hours in order to be absent from regularly scheduled Sunday work. Employees may not receive Sunday premium pay for any period of time they do not actually perform work on a Sunday.

C. Nights. An employee must not be paid night pay when credit hours are earned at night. Night pay is authorized for work performed at night during an employee's regularly scheduled tour of duty. See ***5 U.S.C. 5545(a)***. Since employees who earn credit hours are not performing regularly scheduled work, they may not be paid night pay for credit hours earned at night. Neither may employees be paid for credit hours used at night to be absent from the employee's basic tour of duty. There is no provision of law or regulation permitting night pay to be paid when credit hours are used to be absent from regularly scheduled night work. Consider credit hours as daytime hours. For example, when an employee's schedule includes daytime and

nighttime hours, apply the credit hours only to the daytime portion of the schedule. See 5 U.S.C. 6123(c). For requirements on entitlement to night differential when credit hours are earned by prevailing rate (wage) employees and employees under Title 38 U.S. Code (Title 38 employees), refer to 5 U.S.C. 6123(c)(2).

D. Holidays. An employee may not earn additional compensation or credit hours for voluntarily working during holiday hours. If permitted by agency policy or negotiated agreements for union members, supervisors may approve requests from employees working under flexible work schedules to earn credit hours for work in excess of their basic work requirement on a holiday. Full-time employees under flexible work schedules are excused from 8 hours of their basic work requirement because of a holiday. See 5 U.S.C. 6124. If an employee is scheduled to complete 9 or 10 hours of basic work requirement on a holiday, the agency may permit the employee to use previously accrued credit hours or annual leave in order to be absent with pay during the ninth and tenth hours.

E. Excused Absences. An employee may not earn credit hours during excused absences, such as a weather emergency. If employees work during the hours of their basic work requirement, despite being excused from work, they are not entitled to additional compensation or credit hours. However, if permitted by policy or negotiated agreements, a supervisor may approve a request from an employee to earn credit hours for work in excess of their basic work requirement on a day when an excused absence is granted.

F. Training. An employee cannot earn credit hours for training required by an agency.

051207. Biweekly Pay Period

There is no limit on the accumulated number of credit hours during the biweekly pay period, subject to a supervisor's approval. Any credit hours worked in a pay period that exceeds the 24-hour maximum carryover will be forfeited if not used during that pay period. Credit hours must be earned before they are used. Employees may carry forward only 24 credit hours into the succeeding pay period. Credit hours under a maxi-flex schedule may be used during the pay period that they are earned.

0513 TIME OFF AS AN INCENTIVE AWARD

As authorized by ***5 U.S.C. 4502(e)***, a time-off award may be granted in lieu of cash. See ***5 C.F.R. 451.101*** to ***451.107***. A time-off award is an absence with pay without charge to leave. Refer to Chapter 3 for additional information.

0514 EXCUSED ABSENCE (ADMINISTRATIVE LEAVE)

051401. General

Excused absence is an absence from duty, administratively authorized, without loss of pay and without charge to leave. Excused absence is also referred to as administrative leave. Agencies

have discretionary authority to grant excused absence to the extent that it does not interfere with agency operations. Periods of excused absence are considered part of an employee's basic workday even though the employee does not perform regular duties. The following are some of the more common situations in which agencies generally excuse absence without charge to leave. See DoDI 1400.25-V630 for additional situations.

051402. Blood Donation

Employees serving as blood donors may be excused from work without charge to leave for the time necessary to donate the blood, for recuperation following blood donation, and for necessary travel to and from the donation site. This provision does not cover an employee who gives blood for his or her personal use or receives compensation for giving blood.

051403. Closure of Installations or Activities

Administrative leave may be granted when employees are prevented from working due to extreme weather conditions or other severe disruptions.

051404. Tardiness and Brief Absence

If an employee is unavoidably or necessarily absent for less than one hour, or tardy, the agency, for adequate reason, may excuse the employee without charge to leave. See ***5 C.F.R.630.206***.

051405. Registering and/or Voting

Excusal from duty for a reasonable period of time is authorized for registering and/or voting in any election. Generally, excuse employees from duty to permit them to report for work 3 hours after the polls open or to leave work 3 hours before the polls close, whichever results in the lesser amount of time off. Employees on flexible work schedules may only be excused for those hours that are not accommodated by their flexible schedules.

051406. Taking Examinations

This applies only to examinations given by or taken at the request of the employing activity. Excuse employees, without charge to leave or loss of pay, for all examinations required for converting to career-conditional appointments or for required noncompetitive examinations within the same employing activity.

051407. Attending Conferences or Conventions

Employees may be excused to attend conferences or conventions when it is determined that the attendance will serve the best interest of the Federal service. Such absences may be restricted to those situations that the employee is an official representative of the organization involved or is a contributor on the agenda. Employees may not be excused to attend conferences or conventions of political parties or partisan political groups or committees.

051408. Representing Employee Organizations

Representative leave hours must be reported using three separate categories. The categories are negotiations, grievance and appeals, and on-going labor and management committees. Absence charged as representative leave may be subject to the provisions of local negotiated agreements and/or supervisory approval. See ***5 C.F.R. 551.424***.

051409. Official Duty Status Funerals of Fellow Federal Law Enforcement Officers or Federal Firefighters

A Federal firefighter or Federal law enforcement officer may be excused from duty without charge to pay or leave in order to attend the funeral of a fellow Federal firefighter or Federal law enforcement officer who was killed in the line of duty. See ***5 U.S.C. 6328***. When excused from duty, attendance at the funeral service is considered as official duty for the firefighter or officer. Under ***31 U.S.C. 1345***, an agency may pay the expenses of an official or employee of the U.S. carrying out an official function.

*051410. Absence of Veterans to Attend Funeral Services

An eligible employee may be excused from duty to participate as an active pallbearer, a member of a firing squad, or a guard of honor in a funeral ceremony for a member of the Armed Forces whose remains are returned from abroad for final interment in the U.S. (not to exceed 4 hours in any 1 day). See ***5 U.S.C. 6321***.

*051411. Excused Absence for Employees Returning from Active Military Duty

A. Entitlement. Pursuant to a Presidential Memorandum of November 14, 2003 a Federal civilian employee is entitled to 5 days of excused absence after he or she returns from active military service in connection with the continuing Overseas Contingency Operations (OCO). Upon receiving notification from a returning employee of his or her intent to return to civilian duty on a specific date, an agency must grant an eligible employee 5 days of excused absence immediately prior to the employee's actual resumption of his or her duties. For additional guidance, refer to ***OPM Fact Sheet***

B. Usage. The commencement of the 5 days of excused absence represents a return to Federal civilian employment, and the employee is obligated to report for work at the end of the 5-day period. The excused absence is intended to provide returning employees with continuous paid time off to spend with their families before returning to Federal civilian service, therefore, the 5 days must be used as consecutively. If the employee does not use all 5 days at once, the remaining days may not be carried over for later use.

C. Eligibility

1. Minimum Service Requirement. An employee must be on active duty in support of the OCO for at least 42 consecutive days to qualify for 5 days of excused absence. An employee does not qualify if the period of active duty is less than 42 days. The 42

days must be consecutively served and an accumulation of 42 or more nonconsecutive days of active duty does not meet the requirement.

2. Multiple Deployments. An employee deployed on multiple occasions is entitled to receive 5 days of excused absence for each deployment as long as the deployment meets the 42-day requirement and the employee has not received 5 days of excused absence during the previous 365 days.

3. New Employees. A new employee who was not a Federal civilian employee at the time of his or her activation does not qualify for the 5 days of excused absence.

4. Employees with an Uncommon Tour of Duty. The period of excused absence for an employee on an uncommon tour of duty or an employee on a part-time work schedule will be prorated according to the number of hours in the employee's regularly scheduled workweek.

0515 COURT LEAVE AND JURY DUTY

051501. General

Employees are authorized paid time off (court leave) when summoned to serve as a juror or as a witness in a nonofficial capacity on behalf of any party in connection with any judicial proceeding that the U.S., the District of Columbia, or a state or local government is a party. See ***5 U.S.C. 6322***, ***5537***, and ***5515***.

051502. Summoned While on Annual Leave

If an employee is on annual leave when called for jury duty or witness service, then the PRO may substitute court leave. No charge should be made to annual leave for the court service.

051503. Requirements

An employee who is under summons from a court to serve on a jury should be granted court leave for the entire period, regardless of the number of hours per day or days per week, the employee actually serves on the jury during the period. However, jury service for which an employee is entitled to court leave does not include periods when the employee is excused or discharged by the court, subject to call by the court, for an indefinite period, or for a definite period in excess of 1 day. Therefore, an employee may be required to return to duty or be charged annual leave if excused from jury service for 1 day or even a substantial part of a day. However, the employee should not be required to return to work if it will cause a hardship.

051504. Intermittent Employment

Employees hired with no scheduled tour of duty are not eligible for court leave. See ***5 U.S.C. 2105***.

051505. FLSA Nonexempt Employees

FLSA nonexempt (i.e. FLSA covered) employees must not have their pay reduced under FLSA due to court leave for jury duty or witness service during their regularly scheduled tour of duty. See 5 U.S.C. 6322.

051506. Documentation Required

When an employee is called for court service (as a witness or juror), the court order, subpoena, or summons, if one was issued, must be presented to the supervisor as far in advance as possible.

051507. Jury Duty Service Payment

Employees may not retain fees paid for jury duty service. If an employee performs jury duty service for a state or local court and the employee is paid jury duty fees, the fees must be collected from the employee. Employees who perform jury duty service for the U.S. or the District of Columbia governments are not paid jury duty fees. See 5 U.S.C. 5537.

051508. Official Capacity Witness

Employees who perform witness service in an official capacity on behalf of the U.S. or the District of Columbia government, a state or local government, or a private party must not be paid witness fees, nor must the time served as a witness be charged to court leave or annual leave. The time must be recorded as official duty. If any fees are paid, they must be turned in to the employing activity.

051509. Nonofficial Capacity Witness

An employee is not entitled to court leave if the employee testifies as a witness in a nonofficial capacity on behalf of a private party in a matter that the U.S., the District of Columbia, a state, or local government is not a party. The employee must take annual leave or LWOP to serve in such a capacity. Employees are entitled to the fees and expenses related to such witness service.

051510. Certificate of Attendance and Collection of Fees Paid

A. Amounts Subject to Collection. An employee may not retain fees received for jury duty or witness services. The employee must submit any fees received to their employing activity in the form of a money order or personal check. A certificate of attendance from the clerk of the court must also be submitted. The certificate of attendance should show inclusive dates of jury duty or witness service and any amount of fees the court paid to the employee. The certificate of attendance should separately identify fees and other allowances or expenses. Fees received by the employee are collected; however, monies received in the form of allowances or reimbursement for expenses (such as transportation or parking expenses) are not collected. If the certificate of attendance does not identify allowances separately, then all monies

received are considered fees and must be collected. An employee serving on a jury in a state or local court who waives or refuses to accept jury fees is still liable to the U.S. Government for the fees they would have received.

B. Amounts not Subject to Collection. The employee may keep reimbursements for expenses received from the court, authority, or party that summoned the employee. An employee may keep fees that exceed the employee's compensation for the days of service.

051511. Collection of Fees Paid Incorrectly

If fees are paid incorrectly to an employee who is serving in a nonofficial capacity, then the employee may not retain the fees. The fees must be turned in to the Customer Service Representative (CSR) at the employing activity.

051512. Holiday

When a holiday occurs during the time an employee is on jury duty or witness service, the employee may keep the jury duty or witness service fee paid for the holiday.

051513. Non-workday

If called to jury duty on a non-workday, then the employee may keep the fees paid.

051514. Submission and Crediting of Fees Collected

Monies submitted to the CSR for fees collected by employees for jury duty or witness service must be accounted for on a DoD ***(DD) Form 1131***, Cash Collection Voucher. The PRO must credit the appropriation and accounting classification that paid the employee's salary while the employee was on jury duty or serving as a witness with these monies. See 5 U.S.C. 5515

051515. Employee Absence

Refer to Table 5-4 for employee absences for court or court-related services.

051516. Payroll Deduction

Fees not submitted in a timely manner are subject to payroll deduction. Payroll deductions to collect the fees will be made in the next regular pay period. See 5 U.S.C. 5515.

0516 SHORE LEAVE

051601. General

Shore leave means paid leave authorized under 5 U.S.C. 6305(c) and 5 C.F.R. 630, Subpart G that is earned by a civilian employee who is regularly assigned to duties onboard an oceangoing

vessel. The employee appointed in the civil service can be an officer, crewmember, or other employee serving aboard an oceangoing vessel on an extended voyage. An employee is considered to be regularly assigned when his or her continuing duties are such that all or a significant part of them require that they serve aboard an oceangoing vessel. Temporary assignments of a shore-based employee, such as for limited work projects or for training, do not constitute a regular assignment. An eligible officer, crew member, or other employee serving onboard an oceangoing vessel on an extended voyage earns shore leave ***5 U.S.C. 6305(c)*** and ***5 C.F.R. 630.701-704*** at a rate not to exceed 1 day for each 15 calendar days of absence on one or more extended voyages.

051602. Extended Voyage

Shore leave is earned by eligible employees who are on an extended voyage. An extended voyage must be at least 7 consecutive calendar days in duration, including voyage-preparation time on board the vessel. See 5 C.F.R. 630.701.

051603. Computing Shore Leave

An employee earns shore leave at the rate of 1 day of shore leave for each 15-calendar days of absence on one or more extended voyages. The master of the vessel will keep a record of the accrual of shore leave for each employee. See 5 C.F.R. 630.703.

A. Officer and Crewmembers. For an employee who is an officer or crewmember, a voyage begins either on the date the employee assumes duties aboard an oceangoing vessel to begin preparation for a voyage or on the date the employee comes aboard when a voyage is in progress. The voyage terminates on the earliest of the following dates:

1. The employee ceases to be an officer or crewmember of the oceangoing vessel, or

2. The date that the employee is released from assigned duties relating to the voyage aboard the oceangoing vessel at the port of origin or port of final discharge.

B. Other Employees. For an employee, other than an officer or crewmember, a voyage begins on the date of sailing and terminates on the earliest of the following dates:

1. The oceangoing vessel returns to a port where the employee will disembark in completion of his or her assignment aboard the vessel, or

2. The date the employee is released from the assignment aboard the vessel.

051604. Computing Days of Absence

The master of the vessel keeps a record on the use of shore leave for each employee. When computing the days of absence, an agency must use the guidance set out at 5 C.F.R. 630.703(c).

051605. Granting Shore Leave

An employee has an absolute right to use shore leave, subject to the right of the head of the agency, to fix the time when shore leave may be used. Shore leave may be granted during a voyage at the written request of the employee. If so requested and denied, the denial must also be in writing. See 5 C.F.R. 630.704.

051606. Minimum Charge

The minimum charge for shore leave is 1 day; additional charges are in whole days.

051607. Time and Attendance Report

The PRO must accept shore leave taken on the time and attendance report.

051608. Limitation

Shore leave is in addition to annual leave, and it may be accumulated for future use without limitation.

051609. Lump-Sum Leave Payment

Shore leave is not included in a lump-sum leave payment.

051610. Terminal Leave

An agency must not grant shore leave to an employee as terminal leave. Terminal leave is an approved absence immediately before an employee's separation when an agency knows the employee will not return to duty before the date of their separation. The exception to this rule is that an agency must grant shore leave as terminal leave when the employee's inability to use shore leave was due to circumstances beyond their control and not due to his or her own act or omission.

051611. Forfeiture

Shore leave is forfeited if not granted before:

A. Separation from the service; or

B. An official assignment, other than by temporary detail, to a position in which the employee does not earn shore leave. To the extent administratively practicable, the employing activity must give an employee an opportunity to use the shore leave to their credit either before the reassignment or not later than 6 months after the date of their reassignment when the employing activity is unable to grant the shore leave before the reassignment.

051612. Transfer

At the time of an employee's transfer to a position at another employing activity or agency, accumulated shore leave must be transferred if:

A. The employee is entitled to shore leave in the new position, and

B. There is no break in service.

0517 HOME LEAVE

051701. General

Home leave means leave authorized by 5 U.S.C. 6305(a) and ***5 C.F.R. 630.601*** and earned by service abroad. Home leave can be earned and granted to eligible employees who have been recruited for overseas duty and who meet the requirements of 5 U.S.C. 6304(b) for the accumulation of a maximum of 45 days of annual leave. There is no maximum accumulation of home leave. Balances are posted on the SF 1150 for future use.

*051702. Earning Home Leave

To determine the rate of accrual for home leave, the computation of service abroad must be completed. When computing service abroad full credit is given for the day of arrival and the day of departure.

A. Computation of Service Abroad. Service abroad means service on and after September 6, 1960, at a post of duty outside the U.S. and outside the employee's residence if it is in the Commonwealth of Puerto Rico or a territory or possession of the U.S. Computation of service abroad:

1. Begins on the date of the employee's arrival at a post of duty outside the United States, or on the date of his entrance on duty when recruited abroad;

2. Ends on the date of the employee's departure from the post for separation or for assignment in the U.S., or on the date of his separation from duty when separated abroad; and

3. Includes:

a. Absence in a nonpay status up to a maximum of 2 workweeks within each 12 months of service abroad,

b. Authorized leave with pay,

c. Time spent in the Armed Forces of the United States which interrupts service abroad (but only for eligibility, not leave-earning, purposes), and

d. A period of detail.

B. Earning Rates. For each 12 months of service abroad, an employee earns home leave at the following rate:

1. An employee who accepts an appointment to, or occupies, a position for which the agency has prescribed the requirement that the incumbent accept assignments anywhere in the world as the needs of the agency dictate earns 15 days.

2. An employee serving with a U.S. mission to a public international organization earns 15 days.

3. An employee serving at a post that payment of a foreign or non-foreign (but not a tropical) differential of 20 percent or more is authorized by law or regulation earns 15 days.

4. An employee not included in 051702.B.1, 2, or 3, who is serving at a post that payment of a foreign or territorial (but not a tropical) differential of at least 10 percent but less than 20 percent is authorized by law or regulation earns 10 days.

5. An employee not included in 051702.B.1, 2, 3, or 4 of this section earns 5 days.

6. An employee not included in 051702.B.1 through 5 of this section whose civilian service abroad is interrupted by a tour of duty in the Armed Forces of the U.S., for the duration of such tour earns 0 days.

C. Home Leave Earning Table. The employee earns home leave under the rates fixed by ***5 C.F.R. 630.604*** for each month of service abroad. An agency must credit home leave to an employee's leave account, as earned, in multiples of 1 day as set forth in the table under ***5 C.F.R. 630.605***.

D. Varying Rates. When a change in the employee's earning rate occurs, the agency must credit the employee with the amount of home leave for the month at the rate that they were entitled to prior to the change.

051703. Home Leave Usage

A grant of home leave is at the discretion of the employee's agency. An agency may grant home leave in combination with other leaves of absence in accordance with established agency policy.

A. Entitlement. Except as otherwise authorized by statute, an employee is entitled to home leave only when they have completed a basic service period of 24 months of continuous service abroad. The 24 months of continuous service abroad is a one-time requirement. This basic service period is terminated by a break in service of 1 or more workdays or an

assignment (other than a detail) to a position that an employee is no longer subject to 5 U.S.C. 6305(a). An employee is entitled to home leave upon completion of 12-month overseas assignments in certain areas affected by OCO. See ***22 U.S.C. 4083(a)***.

B. Limitations. An agency may grant home leave only under the following circumstances:

1. For use in the U.S., the Commonwealth of Puerto Rico, or a territory or possession of the U.S.; and

2. During an employee's period of service abroad, or within a reasonable period after his or her return from service abroad when it is contemplated that the employee will return to service aboard immediately or on completion of an assignment in the U.S. See 5 U.S.C. 6305(a)(1) and ***5 C.F.R. 630.606***.

051704. Charging of Home Leave

The minimum charge for home leave is 1 day and additional charges are in multiples thereof.

051705. Indebtedness

An employee is indebted for the home leave used when the employee fails to return to service abroad after the period of home leave or after the completion of an assignment in the U.S. However, a refund for this indebtedness is not required when:

A. The employee has completed at least 6 months service in an assignment in the U.S. following the period of home leave;

B. The agency determines the employee's failure to return was due to compelling personal reasons of a humanitarian or compassionate nature, such as may involve physical or mental health issues, or circumstances of which the employee has no control; or

C. The agency that granted the home leave determines that it is in the public interest not to return the employee to their overseas assignment.

051706. Transfer and Recredit of Home Leave

An employee is entitled to have their home leave account transferred or recredited to his or her account when the employee moves between agencies or is reemployed without a break in service of more than 90 days. Home leave is not included in lump-sum leave calculations.

0518 FUNERAL LEAVE

051801. General

Funeral leave is granted to allow an employee to arrange for or to attend the funeral or memorial service for an immediate relative who died as a result of wounds, disease, or injury incurred while serving as a member of the Armed Forces in a combat zone. Title ***5 U.S.C. 6326*** and ***5 C.F.R. 630, subpart H*** require an activity to grant an employee funeral leave as is needed and requested, not to exceed 3 workdays, without loss of or reduction in pay, leave that they are otherwise entitled, or credit for time or service, and without adversely affecting an employee's performance or efficiency rating. Under ***31 U.S.C. 1345***, an agency is authorized to pay the expenses of an official or employee of the U.S. carrying out an official function as part of the funeral or memorial service. The 3 days need not be consecutive, but if not, the employee must furnish the approving authority with satisfactory reasons justifying a grant of funeral leave for nonconsecutive days. Combat zone means those areas determined by the President under the authority of ***26 U.S.C. 112***. An activity may grant funeral leave only from a prescribed tour of duty, including regularly scheduled overtime. An immediate relative is an individual with any of the following relationships to the employee:

A. Spouse and their parents;

B. Sons and daughters, including adopted, step or foster, and their spouses;

C. Parents and their spouses;

D. Brothers and sisters, and their spouses;

E. Grandparents and grandchildren, and their spouses;

F. Domestic partner and their parents, including domestic partners of any individual in paragraph 051801 B. through E; or

G. Any person related by blood or affinity whose close association with the employee was the equivalent of a family relationship. See ***5 C.F.R. 630.801-804*** and 5 U.S.C. 6326.

051802. Official Duty Status

Refer to 051409 for information concerning the official duty status of an employee in connection with funerals of fellow Federal law enforcement officers or Federal firefighters under 5 U.S.C. 6328.

0519 CONTINUATION OF PAY (COP) AND OFFICE OF WORKERS' COMPENSATION PROGRAM (OWCP)

051901. General

The Federal Employees' Compensation Act (FECA) ***5 U.S.C. Chapter 81***, provides for the payment of workers' compensation benefits and authorized medical care for all civilian employees of the U.S. for disability due to personal injury sustained while in the performance of duty. For information on placing employees who are eligible for COP in a leave status for time lost from work due to injury in excess of the 45 days of COP, see Chapter 6. See 5 U.S.C. Chapter 81, ***20 C.F.R. 10***, and ***DoDI 1400.25-V810***.

051902. Use of Leave

An employee may use annual, sick, or advanced leave to cover all or part of an absence due to an injury.

0520 MILITARY LEAVE

052001. Four Types of Military Leave

Eligible employees are entitled to time off with full pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces. The four types of military leave are as follows:

A. Leave under ***5 U.S.C. 6323(a)*** provides employees with 120 hours (15 days) of leave per fiscal year for active duty, active duty training, and inactive duty training. Refer to 052002.

B. Leave under 5 U.S.C. 6323(b) provides 22 workdays per calendar year for employees who perform military duties in support of civil authorities in the protection of life and property, or who perform full-time military service as a result of a call or order to active duty in support of a contingency operation. Refer to paragraph 052003.

C. Leave under 5 U.S.C. 6323(c) provides unlimited military leave to members of the National Guard of the District of Columbia for certain types of duty. Refer to 052004.

D. Leave under 5 U.S.C. 6323(d) provides that military reserve technicians are entitled to 44 workdays of military leave for duties overseas under certain conditions. Refer to 052005.

*052002. Military Leave for Active Duty, Active Duty Training, and Inactive Duty Training under 5 U.S.C. 6323(a)

Military leave is available for active duty, active duty training, inactive duty training,

funeral honors duty, or engaging in field or coast defense training. See 5 U.S.C. 6323(a). Eligible employees are entitled to 120 hours (15 days) of military leave on a fiscal year rather than a calendar year basis. Unused military leave must carry forward to the next fiscal year, not to exceed a maximum balance of up to 30 days. Eligible part-time employees, as defined by ***5 U.S.C. 3401(2)***, are entitled to military leave on a prorated basis. Employees with temporary appointments of 1 year or less or intermittent work schedules are not entitled to military leave. Employees with appointments exceeding 1 year are entitled to military leave.

A. Receipt of Both Military Pay and Civilian Pay. Employees using military leave under 5 U.S.C. 6323(a) keep both their military and civilian pay.

B. Crediting Military Leave. At the beginning of each fiscal year (1 October), eligible full-time employees must be credited with 120 hours (15 days) of military leave. Eligible part-time employees must be credited with leave on a prorated basis. The prorated percentage is determined by dividing 40 into the number of hours in the employee's regularly scheduled workweek during that fiscal year. Any portion of military leave unused at the end of the fiscal year, not to exceed 120 hours (15 days), must be carried forward to the next fiscal year (not to exceed a maximum balance of 240 hours (30 days)). Newly eligible employees and new members of Reserve Components must be credited with the full 120 hours (15 days) (prorated if employed part-time) when entering upon duty or upon joining the Reserve unit. The 120 hours must not be prorated for a partial year for newly eligible employees or new members of the Reserve unit.

* C. Crediting Military Leave After Change in a Tour of Duty. If a civilian employee changes their tour of duty from part-time to full-time in the middle of the fiscal year. The PRO must first determine the number of days of military leave used by the employee during that fiscal year. The days of used leave are subtracted from the days authorized under the current tour of duty in the case of an employee who increases the hours in their workweek.

1. Example. An employee worked a 32 hour workweek and was entitled to 96 hours of military leave (120 hours x (32/40 = .8) = 96 hours). The employee used 40 military leave hours before the tour of duty was changed to full-time in the middle of the fiscal year. The employee had a balance of 56 hours. After changing to full-time, the employee's available military leave hours would equal the number of hours on the current full-time tour of duty (120) minus the number of used hours on the previous tour of duty (40 hours) or 120-40 = 80 remaining hours of military leave.

2. Formula. The formula is as follows:

(military leave hours authorized in current tour) - (military leave hours used from previous tour) = military leave hours available for the remainder of the fiscal year.

D. Charging Leave. Military leave under 5 U.S.C. 6323(a) is charged on a daily basis, and the minimum charge is 1 hour. Military leave may be taken intermittently, a day at a time, or all at one time, regardless of the number of training sessions. Hours in the regularly scheduled workday that are not chargeable to military leave must be worked or charged to another leave category such as annual leave, LWOP or compensatory time. No charge is made for non-

workdays at the beginning and end of a period of absence on active military duty. Military leave is not charged for weekends and holidays that occur within the period of service. Under 5 C.F.R. 353.208, an employee performing military service must be permitted to also use any accrued annual leave, earned compensatory time off for travel, or accrued sick leave (consistent with requirements for using sick leave), during military service. An employee may use annual leave, military leave, and earned compensatory time off for travel or sick leave intermittently with LWOP while on active duty or active/inactive duty training.

E. Weekend Drills. Civilian employees whose regular workweek includes Saturday and Sunday may take military leave under 5 U.S.C. 6323(a) to attend weekend drills.

F. Inactive Duty Training (Drills). Inactive duty training means authorized training performed by members of a Reserve component, not on active duty and performed in connection with the prescribed activities of the Reserve component. It consists of regular scheduled unit training periods, additional training periods, and equivalent training.

G. Using Carryover Leave. A maximum of 240 hours (30 days) of military leave may be used in any fiscal year. The military leave may be used during one or more periods of military duty during the fiscal year. Employees may take the full 120 hours (15 days) of military leave immediately at the beginning of a fiscal year, even if up to a maximum of 240 hours (30 days) had been taken during the prior fiscal year, and even if the military duty is continuous.

052003. Military Leave for Mobilized Federal Civilian Employees in Support of Contingency Operations or Employees who Assist with Law Enforcement under 5 U.S.C. 6323(b)

A. Entitlement. There are two conditions under which employees are entitled to an additional 22 workdays of military leave under the provisions of 5 U.S.C. 6323(b):

1. Military Service In Support of a Contingency Operation. Employees who perform full-time military service as a result of a call or order to active duty in support of a contingency operation as defined in section ***10 U.S.C. 101(a)(13)***.

2. Military Duty In Support of Civil Authorities. Reservists or National Guard members who perform military duty in support of civil authorities in the protection of life and property are eligible for an additional 22 workdays of military leave.

B. Reduction of Civilian Pay for Leave under 5 U.S.C. 6323(b). An employee's civilian pay is reduced (offset) by the amount received by the employee for military service as a member of the Reserves or National Guard for the period for that the employee is granted military leave under 5 U.S.C. 6323(b). The military pay to be offset against the civilian pay does not include travel, transportation or per diem paid by the military. If the military pay exceeds the employee's civilian pay, the employee may retain that portion of military pay that exceeds the civilian pay. If the employee uses annual leave or compensatory time, the offset rules do not apply, and the employee receives full military pay and full civilian pay. See ***5 U.S.C. 5519***.

C. Crediting Leave. The PRO must credit leave to the employee upon each eligible occurrence. Leave remaining at the end of the calendar year may not be carried over into the next calendar year.

D. Charging Leave. The 22 workdays (176 hours) are charged on the same basis as annual and sick leave. An employee working an uncommon tour of duty must have this additional leave entitlement adjusted on a pro rata basis. Leave may also be charged to the employee's accrued annual leave or to accrued compensatory time instead of being charged as leave to which the employee is entitled under this subsection. The period of absence may not be charged to sick leave.

052004. Leave for National Guard of the District of Columbia under 5 U.S.C 6323(c)

Employees who are members of the National Guard of the District of Columbia are entitled to unlimited military leave without loss of pay or leave for each day of a parade or encampment ordered or authorized under Title 49, District of Columbia Code. This covers each day of service or a portion thereof the National Guard is ordered to perform by the commanding general. See 5 U.S.C. 6323 (c).

A. Reduction of Civilian Pay for Leave under 5 U.S.C. 6323(c). Under the provisions of 5 U.S.C. 5519, an employee's civilian pay is reduced (offset) by the amount received by the employee for military service as a member of the Reserve or National Guard for the period for which the employee is granted military leave under 5 U.S.C. 6323(c). The military pay to be offset against the civilian pay does not include travel, transportation or per diem paid by the military. If the military pay exceeds the employee's civilian pay, the employee may retain that portion of military pay that exceeds the civilian pay. If the employee uses annual leave or compensatory time, the offset rules do not apply and the employee receives full military pay and full civilian pay.

B. Crediting Leave. The PROs credit this leave to the employee upon each eligible occurrence. The balances at the end of each calendar do not carry into the next calendar year.

C. Charging Leave. The 22 workdays (176 hours) are charged on the same basis as annual and sick leave. An employee working an uncommon tour of duty must have this additional leave entitlement adjusted on a pro rata basis.

052005. Leave for Military Reserve Technicians (Military Technicians (Dual Status)) under 5 U.S.C. 6323(d)

Under 5 U.S.C. 6323(d), employees who are defined by ***5 U.S.C. 8401(30)*** as military reserve technicians are entitled to an additional 44 workdays (352 hours) of military leave in a calendar year. This military leave is in addition to the military leave already available under 5 U.S.C. 6323(a), (b), and (c). To be eligible, the military reserve technician must be on active duty without pay under ***10 U.S.C. 12315***, ***12301(b)***, or 12301(d) for participation in noncombat

operations outside the U.S., its territories, and its possessions. This military leave does not apply to active duty during a war or national emergency declared by the President or the Congress. A copy of the military orders or a statement by the employee's commanding officer that shows either 10 U.S.C. 12301(b) or 12301(d) authority is required as acceptable evidence that the military duty was performed and was without military pay.

A. No Offset of Civilian Pay. The compensation of an employee granted leave under 5 U.S.C. 6323(d) will not be reduced by reason of such absence since the employee will be on active duty without pay. An employee will receive the same civilian pay they would have received for regularly scheduled work.

B. Charging Leave. There is no charge for holidays and non-workdays. At the employee's request, the period the employee is absent to perform service may be charged to the employee's accrued annual leave or available compensatory time. The period may not be charged to sick leave. Refer to 5 U.S.C. 6323(d)(2) for additional information. The unused portion of the 44 workdays may not be carried forward to the next calendar year.

052006. Substantiating All Military Leave Charges

To substantiate all types of military leave charges, the employee is required to submit a copy of their military orders or substantiating documentation directing them to report to active military duty. Upon return to civilian status from military leave, the employee is required to submit a certified verification of attendance. If an employee has separate sets of orders or orders that cover separate periods with return to civilian status between the periods covered in the orders, then the military leave must not be charged for the time the employee is returned to civilian status.

052007. Separation from Federal Service and Military Leave

Before a Reservist or National Guard member separates from civilian employment, they are given the chance to use any accrued military leave. If a member takes military leave and then separates, the date the separation is effective must be the date the military leave expires.

052008. FLSA Nonexempt Employees

FLSA nonexempt (i.e. FLSA covered) employees may not have their customary and regular pay, including overtime pay under the FLSA, reduced during periods of military leave. Thus, if overtime pay is a part of the employee's regularly scheduled administrative workweek (not irregular or occasional) the employee is entitled to receive the overtime pay even for pay periods in which military leave is used by the employee. In such a case, the employee's civilian pay will still be offset by the amount received by the employee for military service as provided under 5 U.S.C. 5519. For example, an employee with a regularly scheduled tour of duty of 144 hours per biweekly pay period (106 hours plus 38 hours of overtime) is entitled to receive pay for all 144 hours while on military leave, provided the civilian pay is offset by military pay pursuant to 5 U.S.C. 5519.

052009. Additional Information Regarding Absence During Uniformed Service

A. Deemed to be on Leave of Absence. The Uniformed Services Employment and Reemployment Rights Act (USERRA) at ***38 U.S.C. 4316(b)(1)*** provides that when an employee is absent from employment due to service in the uniformed services, the employee is deemed to be on furlough or leave of absence. Service includes:

1. Active duty, active duty for training, initial active duty for training, inactive duty training;

2. Full-time National Guard duty;

3. A period in which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any such duty; and

4. A period in which a person is absent from employment for the purpose of performing funeral honors duty as authorized by ***10 U.S.C. 12503*** or ***32 U.S.C. 115***.

B. Provisions Under 5 U.S.C. Chapter 83 (CSRS). An absence from work to perform military duty for purposes of ***5 U.S.C. Chapter 83*** ordinarily should be processed as a military separation except during a period of war or national emergency when the provisions of ***5 U.S.C. 8332(g)*** have been explicitly invoked. Under 5 U.S.C. 8332(g), an employee who enters on military duty will be granted a leave of absence unless the employee has applied for and received a lump-sum credit under 5 U.S.C. Chapter 83. See ***38 U.S.C. Chapter 43*** and 5 C.F.R. Part 353.

C. Use of Other Leave. Regulations under 5 C.F.R. 353.208 implementing the USERRA provide that an employee performing service with the uniformed services must be permitted, upon request, to use any accrued annual leave, military leave, earned compensatory time off for travel, or accrued sick leave (consistent with the statutory and regulatory criteria for using sick leave), during such service. An employee is entitled to use these types of leave intermittently with LWOP while on active duty or active/inactive duty training.

0521 FURLOUGH

052101. General

There are two types of furloughs, shutdown and administrative. In a furlough situation, the PRO must rely on the detailed guidance issued by OPM and Defense Civilian Personnel Advisory System (DCPAS). See OPM ***Guidance and Information on Furlough*** and DCPAS ***Furlough Guidance***. Furloughs of 30 calendar days or less are covered under adverse action procedures found under ***5 C.F.R. 752, subpart D***. Furloughs of more than 30 calendar days are covered under reduction in force (RIF) procedures found under ***5 C.F.R. 351, subpart B***. Furloughs for SES members are covered in ***5 C.F.R. 359, subpart H***.

052102. Shutdown Furlough

A. General. A shutdown furlough (also referred to as an emergency furlough) occurs when funds are not available through an appropriations law or continuing resolution and an agency no longer has the necessary funds to operate. Unlike an administrative furlough, agencies will not prepare a Standard Form (SF) 50, Notification of Personnel Action, for submission to the PRO, at the outset of a shutdown furlough. At the conclusion of a shutdown furlough, OPM will release specific guidance on how to prepare an SF50 for each individual subject to furlough. See OPM ***Guidance For Shutdown Furloughs*** and DCPAS Furlough Guidance. During a shutdown furlough, the agency must shut down any activities that are not excepted pursuant to the Antideficiency Act. See ***31 U.S.C. 1341***. An employee on furlough may not volunteer to do his or her job on a nonpay basis. See ***31 U.S.C. 1342***. An employee scheduled for training during a furlough must be placed in furlough status and ordered not to attend the scheduled training. The following employees may continue to work during a shutdown furlough:

1. Excepted Employees. Excepted employees are employees who are funded through annual appropriations, but who are excepted from the furlough because they are performing work that, by law, may continue to be performed during a lapse in appropriations. Each agency must determine which employees are excepted employees.

2. Exempt Employees. Employees are exempt from furlough if not affected by the lapse in appropriations. This includes employees not funded by annually appropriated funds. Employees performing such functions will generally continue to be governed by the normal pay, leave and other civil service rules.

B. Pay During a Shutdown Furlough

1. Furloughed Employees. Congress determines whether furloughed employees receive pay for the furlough period. Furloughed employees receive pay for any hours worked prior to the lapse in appropriations. If a furlough occurs in the middle of a pay period and employees receive a partial paycheck, the ***order of precedence*** in applying deductions must be used.

2. Excepted Employees. Excepted employees who perform services during a furlough period will be paid when Congress passes and the President signs a new appropriation or continuing resolution. Excepted employees are permitted to earn premium pay in accordance with applicable rules and subject to relevant pay limitations.

3. Holidays. Furloughed employees and excepted employees who do not work on a holiday do not receive pay for a holiday that occurs during a shutdown furlough.

C. Previously Approved Leave During a Shutdown Furlough. The Antideficiency Act at 31 U.S.C. 1341 does not allow for the authorization of any expenditure or obligation before an appropriation is made, unless authorized by law. Paid time off creates a debt that is not authorized by the Act. Therefore, all paid time off during a shutdown furlough must be canceled. Any unpaid leave under the FMLA that was scheduled to be taken during a

shutdown furlough does not count toward the employee's 12-week FMLA leave entitlement. Military leave under 5 U.S.C. 6323 must be cancelled for days covered by the furlough. The following requirements apply to excepted employees, such employees:

1. Must either be performing excepted activities or be furloughed during any absence from work;

2. May not take previously approved paid time off or be granted new requests for paid time off during a shutdown furlough;

3. May be permitted to earn compensatory time off and credit hours during the shutdown furlough;

4. Are not permitted to use the compensatory time off or credit hours during the shutdown period.

*052103. Administrative Furlough

A. General. An administrative furlough is a planned event by an agency which is designed to absorb reductions necessitated by downsizing, reduced funding, lack of work, or any budget situation other than a lapse in appropriations. Furloughs that would potentially result from sequestration would generally be considered administrative furloughs. For more information on administrative furlough, refer to the OPM Guidance for Administrative ***Furlough.***

B. Covered Employees. Agencies are responsible for identifying the employees affected by administrative furloughs based on budget conditions, funding sources, mission priorities (including the need to perform emergency work involving the safety of human life or protection of property), and other mission-related factors.

1. All political appointees who are covered by the leave system in 5 U.S.C. Chapter 63, or an equivalent formal leave system, are subject to administrative furlough.

2. Individuals appointed by the President, with or without Senate confirmation, who are not covered by the leave system in 5 U.S.C. chapter 63, or an equivalent formal leave system, are not subject to furlough. A leave-exempt Presidential appointee cannot be placed on non-duty status.

C. Pay During an Administrative Furlough

1. Ordered to Work. If an employee is ordered to work during the furlough hours, the assignment of work cancels the employee's furlough status for the duration of the order and such work is subject to normal compensation requirements.

2. Work Outside of Basic Workweek. Employees who are required to work hours outside of a basic workweek during which they have been furloughed are compensated with their rate of basic pay if overtime thresholds have not been met, and/or with overtime pay or compensatory time off in lieu of overtime pay, as appropriate, once the thresholds have been met.

3. Post Allowance. Post Allowance continues without interruption while the employee is in nonpay status not in excess of 14 consecutive calendar days, including periods outside the employee's regular tour of duty (e.g., weekends).

4. Living Quarters Allowance (LQA). LQA continues without interruption while the employee is in nonpay status not in excess of 30 consecutive calendar days at any one time. For periods in nonpay status longer than 30 consecutive calendar days, LQA payment shall be suspended as of the day the employee enters such status, and payment is not to be made for any part of such period.

D. Voluntary Services. An employee on administrative furlough may not volunteer to do his or her job on a nonpay basis. See ***31 U.S.C. 1342***.

0522 LWOP

052201. General

LWOP is a temporary nonpay status and absence from duty that, in most cases, is granted at the employee's request. In most instances, granting LWOP is a matter of supervisory discretion and limited by agency internal policy.

052202. Employee Request

An employee's request for paid leave of absence, such as for annual or sick leave, will convert to a request for LWOP if annual or sick leave is insufficient.

052203. Authorization

Authorizing LWOP is a matter of administrative discretion. An employee generally cannot demand LWOP as a matter of right. However, in some instances, employees may have an entitlement to LWOP:

A. FMLA. Employees may be entitled to unpaid leave under the FMLA to care for a family member or covered servicemember. Refer to section 0505.

B. Disabled Veterans. Disabled veterans are entitled to LWOP if required for medical treatment under Executive Order 5396, July 17, 1930.

C. Reserve and National Guard Members. Reserve and National Guard members are entitled to LWOP if required to perform military training duties under

38 U.S.C. 4316(b)(1). Refer to section 052002 for additional information.

D. Workers' Compensation. For limited periods, employees are entitled to LWOP if receiving injury compensation under ***5 U.S.C. Chapter 81***. Generally, when receiving workers' compensation from the Department of Labor, employees may not be in a pay status.

052204. Leave Conversion

LWOP that has been granted to an employee will not be converted to annual or sick leave except in the case of:

A. Administrative error,

B. Participation in the voluntary leave transfer or voluntary leave bank programs,

C. Disability retirement and employee compensation cases in which claims are disallowed, or

D. When there has been a settlement or an order of an arbitrator, Administrative law judge, or Federal judge in an employee dispute.

052205. Reduction of Leave Accrual

When the number of LWOP status hours in a full-time employee's leave year equals the employee's biweekly tour of duty (for example 80, 112, 144 hours), the employee's leave accrual is reduced by an amount equal to the amount of leave (sick and annual) earned during the pay period. For example, when reduction of accrual is required during the last pay period in the calendar year for an employee in the 6-hour accrual category (entitled to accrue 10 hours of leave in such period); leave accrual for that period reduces by 10 hours. When an employee has one or more breaks in service during the leave year, the PRO will include all hours in a LWOP status (other than nonpay status during a fractional pay period when no leave accrues). When an employee's number of LWOP hours at the end of the leave year is less than his or her biweekly tour of duty, the LWOP hours are dropped. See 5 C.F.R. 630.208.

0523 ABSENCE WITHOUT LEAVE (AWOL)

052301. General

If an employee who is required to work fails to report for duty without adequate reason for their absence, the agency may choose to place the employee on AWOL, and the employee may potentially be disciplined for the AWOL at the agency's discretion. The agency makes the determination as to whether the employee has adequate reason for his or her absence. An absence from duty which is not authorized or approved, or for which a leave request has been denied, is properly charged as AWOL.

052302. Reduction of Leave Accrual

The reduction of leave accrual is the same as for LWOP.

0524 SUSPENSION

Suspension is the placement of an employee in a temporary nonpay and non-duty status for disciplinary reasons. An SF 50 must be issued for all suspensions. See ***5 U.S.C. Chapter 75*** and ***5 C.F.R. 752***.

Table 5-1. Leave Proration for Fractional Pay Periods

LEAVE PRORATION FOR FRACTIONAL PAY PERIODS

Biweekly Pay Period	Hourly Accrual Rate		
Workdays	Category 1 4-hour accrual	Category 2 6-hour accrual	Category 3 8-hour accrual
1	1	1	1
2	1	1	2
3	1	2	2
4	2	2	3
5	2	3	4
6	2	4	5
7	3	4	6
8	3	5	6
9	3	5	7
10	4	6	8

Note: Use Category 1 for sick leave purposes.

Table 5-2. Time Limitations for Use of Reinstated Leave

TIME LIMITATIONS FOR USE OF REINSTATED LEAVE

Full-time Employees	
Hours in excess of maximum accumulation	Time limitation for use of reinstated leave (end of the leave year in progress after)
416 or less	2 years
417 – 624	3 years
625 – 832	4 years
833 – 1040	5 years
1041 – 1248	6 years

Part-Time Employees	
Hours in excess of maximum accumulation	Time limitation for use of reinstated leave (end of leave year in progress after)
If 208 or less multiply tour of duty by 20% (1 40 × 20% = 208)	2 years
If 209 – 312 multiply tour of duty by 10% (1 40 ×10% = 104)	3 years
313 – 416	4 years
417 – 520	5 years
521 – 624	6 years

Table 5-3. Leave Flexibilities Available to Care for a Family Member and/or a Covered Servicemember

Entitlement	Amount of Hours	Purpose	Family Members for whom Leave May be Taken
Accrued Sick Leave for General Care of a Family Member and Bereavement	13 days (104 hours) of paid leave	1-Provide care for a family member who is incapacitated by medical or mental condition. 2-Provide care for a family member with a serious health condition. 3-Attend to a family member receiving medical, dental or optical examination or treatment. 4-Make arrangements necessary due to a death of a family member or attend the funeral of a family member. 5-Who would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease.	See definition of a family member at 5 CFR 630.201(b). Family members include: 1-Spouse and their parents 2-Sons/daughters and their spouses 3-Parents and their spouses 4-Brothers/sisters and their spouses 5-Grandparents/grandchildren and their spouses 6- Domestic partners and their parents (including domestic partners of any individual in 2-5) 7-Any individual related by blood or whose relationship with the employee is equivalent of a family.
Accrued Sick Leave for Care of a Family Member with a Serious Health Condition	12 weeks (480 hours) of paid leave	To care for a family member with a serious health condition as defined by 5 C.F.R. 630.1202.	See the definition of a family member at 5 CFR 630.201(b) as stated above.
Advanced Sick Leave	up to 30 days (240 hours) of paid leave	To care for a family member with a serious disability or ailment. (Agency discretion)	See the definition of a family member at 5 CFR 630.201(b) as stated above.
FMLA (Basic/Regular)	12 weeks (480 hours) of unpaid leave during a 12-month period	To care for a family member with a serious health condition. For the birth or adoption/foster care of a child For a qualifying exigency arising out the fact that the spouse, son, daughter or parent of the employee is on covered active duty.	Spouse, son, daughter or parent with a serious health condition. The son or daughter must be under 18, or over 18 but incapable of self-care due to a mental or physical disability. (5 CFR 630.1203 (a) (3) and 630.1202). Newborn child within 1 year of birth or child placed with employee for adoption or foster care within 1 year of placement. Employee's spouse, son, daughter or parent.
FMLA to Care for a Covered Servicemember	26 weeks (1,040 hours) of unpaid leave in a 12-month period	To care for a covered servicemember with a serious injury or illness.	Spouse, son, daughter, parent or next of kin of a covered servicemember. Next of kin means the nearest blood relative of that individual.

Table 5-4. Employee Absences for Court or Court-Related Services

EMPLOYEE ABSENCES FOR COURT OR COURT RELATED SERVICES

Nature of Service	Type of Absence			Fees			Government Travel Expenses	
	Court Leave	Official Duty	Annual leave or LWOP	No	Yes		No	Yes*
					Retain	Turn into Agency		
I. JURY SEVICE								
A. U.S. or D.C. court	X			X			X	
B. State or local court	X					X	X	
II. WITNESS SERVICE								
A. On behalf of U.S. or D.C.		X		X				X
B. On behalf of state or local:								
1. Official capacity, or		X				X		X
2. Nonofficial capacity	X					X	X	
C. On behalf of a private party:								
1. Official capacity, or		X				X		
2. Nonofficial capacity:						X		X
a. When party is U.S., D.C. or local government	X						X	
b. When party is not U.S., D.C. or local government			X		X		X	

* Offset to the extent paid by the court, authority, or party that caused the employee to be summoned.

VOLUME 8, CHAPTER 6 "MISCELLANEOUS ACTIONS (SPECIAL ACTIONS)"

SUMMARY OF MAJOR CHANGES

All changes are denoted by blue font.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph,
table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue and underlined font*.**

The previous version dated April 2013 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated to comply with current format guidance.	Revision
Multiple	Updated hyperlinks.	Revision
Multiple	Renumbered paragraphs where applicable.	Revision
0601	Added General section to the beginning of chapter.	Addition
Previous 0603	Deleted section due to this being procedural guidance, which is no longer performed by the Payroll Office, instead of policy.	Deletion
060701.A	Changed Civilian Personnel Management Service to Defense Personnel Advisory Service.	Revision
060704	Updated section concerning reviewing and reconciling an employee's pay account after evacuation.	Revision

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CHAPTER 6

MISCELLANEOUS ACTIONS (SPECIAL ACTIONS)

*0601 GENERAL

060101. Purpose

This chapter prescribes the policy and procedures for miscellaneous actions which occur outside of normal payroll processing.

060102. Authoritative Guidance

Statutes, regulations, and other guidance are referenced under each section of this chapter.

0602 UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES

060201. General

A. Purpose. The Unemployment Compensation for Federal Employees (UCFE) program provides eligible former Federal civilian employees with unemployment compensation benefits during periods of unemployment. The Department of Labor (DOL) is responsible for implementing the UCFE Program.

B. UCFE Program Administration. UCFE is administered by the states as agents of the Federal government under ***5 United States Code (U.S.C.) Chapter 85*** and 20 Code of Federal Regulations (C.F.R.) ***Part 609***. UCFE operates under the same terms and conditions as those that apply to regular state unemployment insurance programs. Generally, UCFE benefits are determined under the law of the state where the employee's last official duty station as a Federal civilian employee was located. State laws are not uniform and there may be variations in eligibility requirements. Each Department of Defense (DoD) component is responsible for managing its respective UCFE program. The employing agency is responsible for the payment of these benefits; therefore there is no payroll deduction from a Federal employee's wages for UCFE protection. See ***Department of Defense Instruction (DoDI) 1400.25-V850*** for additional information.

060202. UCFE Claim-Related Forms

There are two primary claim forms pertaining to UCFE. Various state employment security agencies (SESAs) may require other claim forms. See DoDI 1400.25-V850 for other UCFE claim forms.

A. Standard Form (SF)-8, Notice to Federal Employees About Unemployment Insurance. The Human Resources Office (HRO) must issue the ***SF-8*** to the employee when the employee separates from Federal civilian service, transfers, or is placed in a non-pay status for seven consecutive days or more. The form explains eligibility requirements for the UCFE program

and provides general information on how to file a claim. HRO should explain the form during an employee's out-processing. For additional information on the SF-8, see DoDI 1400.25-V850.

B. Employment Security (ES)-931 (Request for Wage and Separation Information). SESA generates an ES-931 when a former Federal employee files an initial claim for unemployment compensation. The state forwards the ES-931 to the servicing HRO to obtain wage information for specific work-year quarters. HRO must complete and return the ES-931 to SESA within 4 workdays of receipt. For additional information, see ***20 C.F.R. 609.21-22*** and the ***"UCFE Instructions for Federal Agencies," Chapter VI***.

060203. Civilian Payroll Office (PRO) Duties

A. Provide Accurate Wage Data. For SESA to accurately determine the former employee's weekly and maximum unemployment benefit amounts, PRO must provide exact wage data to SESA through HRO. The PRO must accurately report all monetary information affecting the claim, such as lump-sum annual leave payments, severance pay, annuity pay, or incentive pay.

B. Defense Civilian Pay System (DCPS) Interface. DCPS provides a biweekly interface extract to support the Injury Compensation-Unemployment Compensation (IC-UC) application. The servicing HRO uses this data to complete the ES-931. If requested, PRO will provide additional information to HRO for employees recently transferred to DCPS. If PRO is unable to provide the requested information within a four workday period, PRO must notify HRO immediately and HRO must follow the procedures in 20 C.F.R. 609.21(b).

C. Refer All Inquiries to HRO. The central point of contact for all UCFE matters is the servicing HRO. All inquiries received by PROs (such as state queries, telephone calls, and requests for UCFE documentation) will be referred to the servicing HRO. The servicing HRO must contact PRO for any additional information.

060204. Base-Period Wages and Annual Leave Information

A. Base-Period. Each state sets the amount and duration of UCFE payable to individuals. A "base-period" is used for determining the amount payable and is defined by state law. A base-period is comprised of either four consecutive quarters or 52 weeks. Most states use a base-period that includes the first four of the last five completed calendar quarters. The amount of UCFE benefits is based on the gross Federal wages paid to or earned by an employee during the base-period preceding the date of claim. Most states require six or eight quarters of information which is reported by HRO on the ES-931.

B. Reportable Federal Wages. Federal wages for purposes of UCFE means all allowances and pay in cash or in kind (including cash allowances and remuneration in any medium other than cash) for Federal civilian service. See ***5 U.S.C. 8501***.

1. Report Gross Amount of Federal Wages. The amounts to be reported as base-period wages are gross wages before deductions for Social Security/Medicare,

Civil Service Retirement System (CSRS), Federal Employees Retirement System (FERS), Thrift Savings Plan (TSP), and Federal, state, and local taxes. Gross wages also include allowances and pay in a medium other than cash. Do not include expenses for official business, such as taxi fares, per diem, or mileage. Do not include payments for uniform allowances.

2. Types of Wages Included. The following must be included in gross wages:

a. Foreign and Non-Foreign Differentials and Allowances. Federal wages include cost of living differentials paid at various foreign posts and cash allowances for quarters and subsistence. An exemption from Federal income tax for any such item does not exclude the payment from gross wages for the purposes of UCFE.

b. Back Pay. Federal wages include back pay awards which are counted as wages in the period for which they are paid. Include wages paid during the base-period, even though earned prior to that period. For additional information, see section 0605.

c. Salaries Paid by DoD to Reemployed Annuitants. In the case of a civil service annuitant who is being paid the difference between the salary rate and the amount of annuity, only the amount paid by the employing agency is considered Federal wages. Thus, Federal wages for UCFE is the amount equal to the difference between the salary of the position and the annuity received. The annuity paid by the Office of Personnel Management ***(OPM)*** is not Federal wages for UCFE purposes.

d. Increases in Rates of Compensation Authorized by Acts of Congress. Such increases must be reported as wages for the pay period in which the increases are paid. This is required even if the first payment covers a retroactive period. If the base-period begins or ends during the pay period in which this payment was made, then the entire payment should be allocated to the second week of the pay period.

e. Lump-Sum Payments for Annual Leave or Severance Pay. Federal wages include all payments for leave, but do not report lump-sum payments for annual leave and severance payments as base-period wages since payments for leave are reported separately.

3. Reporting Methods

a. General. The PRO must report wages the same way the records are kept. Do not attempt to add or subtract wages earned by the employee for any days before the beginning of the quarter or the remaining days between the last payroll cutoff date and the end of the quarter. For example, if the pay period ends March 28, do not add March 29 through 31 to the wages reported for the January 1 to March 31 quarter. Do not report wages for periods other than, or in addition to, those periods requested. If the claimant had no base-period wages, then so indicate.

b. Reporting Lump-Sum Annual Leave or Severance Pay. All lump-sum payments are Federal wages for purposes of UCFE, however, report these items separately from gross wages (base-period wages).

(1) Annual Leave. If the employee received a lump-sum payment for annual leave after the beginning date of the base-period, the PRO must furnish the following:

(a) Amount of payment,

(b) Date(s) of payment,

(c) Amount of annual leave (days and hours), and

(d) Period of lump-sum annual leave.

If lump-sum annual leave is payable but has not been paid, then report "annual leave payment due but not paid," and provide details (period covered, amount of payment, when it will be paid) if known.

(2). Severance Pay. If the employee receives or is entitled to receive severance pay, the PRO must report the information to HRO via the interface supporting IC-UC. States with laws that require an offset of severance pay from UCFE benefits must be advised whether the former employee is receiving or will receive severance pay. SESA obtains severance pay details from the employee's copy of the ***SF 50***, Notification of Personnel Action, and/or the ES-931, if appropriate.

4. Voluntary Early Retirement Authority (VERA) or Voluntary Separation Incentive Payment (VSIP). If the employee received authorization for VERA or VSIP, report the information in accordance with subparagraph 060204.B.3.

060205. Employees on Leave Without Pay (LWOP)

Upon HRO's receipt of ES-931, HRO must report the non-pay status of an employee to SESA. HRO must report LWOP from the starting date through the ending date, and must include any other pertinent data. If the employee is in a non-pay status for more than 30 days, then the SF 50 provides the LWOP information. For LWOP of 30 days or less, the biweekly interface extract provides this information to HRO. HRO must indicate whether employees on LWOP are awaiting an on-the-job injury approval or disability retirement from the Office of Workers' Compensation Programs (OWCP). If an employee is awaiting an OWCP determination, then SESA is responsible for contacting OWCP for any necessary data it needs.

060206. Obtaining Data From the National Personnel Records Center (NPRC)

A. Requesting Official Records. If the necessary records required to furnish wage data to HRO have already been forwarded to NPRC, the records must be requested via written authorization. This information is subject to the ***Privacy Act of 1974***; therefore, PRO must handle the records in accordance with the provisions of that Act. The written request must clearly identify the office requesting the information and be addressed to ***NPRC-Annex***, 1411 Boulder Blvd, Valmeyer, IL 62295. The request should state: "Unemployment insurance request for wages for four calendar quarters, enter period as shown on the ES-931, and statement of reasons for separation (last name, first name, and middle initial), (name under which employed, if different), (date of birth), and Social Security number (SSN)."

B. Prohibited Actions. PROs should not send the ES-931 to NPRC for completion, nor must PRO ask SESA to obtain data from NPRC. Once PRO has requested the necessary information from NPRC, PRO must inform HRO who will inform SESA that the information has been requested.

C. NPRC Reply. NPRC will respond in writing and mail a photocopy of the individual's pay record to PRO. PRO will furnish wage data based on the information received from NPRC. Upon receipt of the pay record, compare it with all wage data furnished to HRO. PRO will identify errors and notify HRO and HRO will notify SESA.

0603 EMPLOYMENT INSURANCE FOR CANADIAN EMPLOYEES

060301. The Canadian Employment Insurance Program

The U.S. government participates in the ***Canadian Employment Insurance Program*** for Canadians employed in Canada by DoD. PRO must follow the procedures in this section for employment insurance withholdings and contributions for covered employees. Any DoD installation that employs personnel in Canada should follow the guidance as issued by the ***Canada Revenue Agency***.

060302. Policies Governing DoD Participation

A. Modifications Specific to DoD. The following requirements do not apply to DoD:

1. Standing deposit of one month's combined contribution;

2. Application to operate on a calendar year basis. DoD installations will operate based on a payroll year, which, for this purpose, will be a calendar year; and

3. Remittance of contributions and withholding by certified check.

B. Coverage

1. PRO must use ***Canada Revenue Agency T4001 Employer's Guide - Payroll Deductions and Remittances*** to determine insurable employment and earnings for withholding. Exceptions are in subparagraph 060302.B.2.

2. The PRO may not withhold contributions from Canadian employees who are spouses of U.S. citizens that are employed by DoD Components or from U.S. civilians paid from appropriated and nonappropriated funds. If a Canadian employee's marital status changes such that it would affect the employee's insurability, then the Canadian employee must notify HRO, and HRO will in turn forward the information to PRO. Deductions for Canadian Employment Insurance will stop at the end of the pay period in which notice of marital status change is received. If the Canadian employee receives notice of a divorce, then the deductions must start at the beginning of the next pay period after receipt of notification.

C. Refund of Deductions. If a refund of deductions is required, then DoD installations will refund only amounts totaling $1 or more.

D. Retroactive Payments. DoD may not make retroactive payments of deductions to the Canada Revenue Agency if the employee concerned has not given correct information to the employing installation. This includes cases that have been adjudicated.

E. Audit by the Canada Revenue Agency. DoD records of deductions, contributions, and remittances are subject to audit. The audit requirements may be met by sending copies of records of covered personnel and insurance remittance documents to the proper Canada Revenue Agency district office. PRO must send copies of records required by Canadian authorities on request.

060303. Amount of Contributions

A. Employee's Share. The PRO must withhold funds from the pay of all insurable employees at the rate set in the Canada Revenue Agency T4001 Employer's Guide - Payroll Deductions and Remittances.

B. Employer's Share. The employer's share must equal 1.4 times the amount withheld from the employee's pay on each payroll voucher. The contribution must be charged to the fund from which employees' salaries are paid.

060304. Disposition of Contributions

A. Payroll Collection. The employee and employer contributions must be made as a voucher deduction on the payroll voucher. For example, the accounting classification for the DoD PROs will be deposit fund account 97X6875, "Suspense, Department of Defense."

B. Remittance to Canada Revenue Agency. PRO must request a bulk payment permit and information on deviation from remittance procedures from the Chief Coverage Officer,

Employment Insurance Commission, Ottawa 1, Ontario, Canada. An SF 1049, Public Voucher for Refunds, must be used to make the biweekly remittance to the Commission from the deposit fund account **X6875.

0604 CLAIMS FROM EMPLOYEES FOR ADDITIONAL COMPENSATION

060401. General

A. Authority to Settle Claims. Employees may file claims involving compensation or leave under 31 U.S.C. 3702. The General Accounting Office Act of 1996, Public Law No. ***104-316***, transferred the claims settlement functions previously performed by the Government Accountability Office (GAO) to certain executive branch agencies. For additional information, see ***http://gao.gov/legal/functions.html***. Therefore, both former and current employees, must submit claims for additional compensation to the DoD employing activity in accordance with Volume 5, Chapter 12. Claims must be individually processed and an administrative determination must be made as to whether or not the employee is entitled to the amount claimed. If the claim relates to the determination of an entitlement or similar matter that is the responsibility of HRO, then the claim should be negotiated and documented through the employing activity's personnel channels.

B. Review of Denied Claims. If a claim for payment is denied and the employee wishes to request further review, then PRO must assemble all documentation pertaining to the claim, including documents from any review process, and forward the file to the Defense Finance and Accounting Service-Indianapolis Center (DFAS-IN), Directorate of Debt and Claims Management Office (DCMO), Department 3300, ATTN: Customer Care Center, 8899 East 56th Street, Indianapolis, IN 46249-3300. The OPM Office of Merit Systems Oversight and Effectiveness (OMSOE) maintains the final authority to settle claims involving Federal employees' compensation and leave and deceased employees' compensation. See ***5 C.F.R. Part 178*** and Volume 5, Chapter 12.

C. Fair Labor Standards Act (FLSA) Claims. If an employee is not required to file an FLSA claim using a negotiated grievance procedure, he or she may file a claim with either the employing agency during the claim period or to OPM, but not to both at the same time. An employee whose claim is denied by the agency may file the claim with OPM. See ***5 C.F.R.551.703*** and ***551.705***.

D. Statute of Limitations for Filing a Claim. Under ***31 U.S.C. 3702***, a claim for payment must be filed within 6 years of the date the right to payment accrued. Claims for overtime pay under FLSA are generally subject to a 2-year statute of limitations (3-years for willful violations). See ***5 C.F.R. 551.702***.

060402. Procedures for Submitting Claims

A. Filing a Claim. Claims should be filed with the activity at which the individual was/is employed during the period for which the additional compensation is claimed. When civilian pay claims cannot be resolved at the employing activity or major command level,

the fully documented claim should be sent to DCMO at the address listed in subparagraph 060401.B.

B. Processing Claims

1. Approved Claims

a. Paying Unquestionable Claims. Claims received by PRO from the claimant may be approved and paid when there is no question of law or fact.

b. Claims Subsequently Approved by OPM. Any claim received by PRO from OPM, including those originally received by DCMO and forwarded to OPM for final review, must be acted upon in accordance with instructions in the letter or order transmitting the claim to PRO. When payment is to be made by PRO, the claim must be paid as part of the regular payroll.

2. Disapproved Claims. Claims not received through OPM that are denied administratively by PRO must be returned to the claimant with a letter providing a detailed explanation concerning why the claim was disapproved. If the employee appeals the denial of the claim, then PRO must forward the claim with a transmittal letter (prepared by PRO) to OPM via DCMO. See subparagraph 060401.B.

C. Content of Claims. All claims submitted by the claimant/employee to the employing activity must be in writing and signed by the claimant or his/her representative. While no specific form is required, the request should describe the basis for the claim and state the monetary amount sought.

D. Submission of Disapproved/Denied Claims to OPM for Review. If a denied claim is submitted at the claimant's request for final review by OPM, the claim should include:

1. Claimant's name, address, telephone number, and facsimile number, if available;

2. Name, address, telephone number, and facsimile number of the agency employee who denied the claim;

3. A copy of the agency's denial of the claim; and

4. Any other information the claimant wants OPM to consider.

E. Administrative Report. At OPM's request, PRO/DCMO will submit an administrative report, which will include:

1. Factual findings;

2. Conclusions of law with relevant citations;

3. Recommendation for the claims disposition;

4. Copy of any supporting regulations or policy memorandums;

5. A statement that the claimant is or is not a member of a collective bargaining unit and, if so, a statement that the claim is or is not covered by a negotiated grievance procedure that specifically excludes the claim from coverage; and

6. Any other information that OPM should consider.

060403. Advance Decisions

OPM maintains the authority to issue advance decisions for claims settlement.

0605 BACK PAY UNDER 5 U.S.C. 5596 (THE BACK PAY ACT)

060501. General

A. Authority. The Back Pay Act at ***5 U.S.C. 5596*** provides the authority for the payment of back pay, interest, and reasonable attorney fees for the purpose of making a Federal employee financially whole (to the extent possible) after an unwarranted or unjustified personnel action. See also ***5 C.F.R. 550, Subpart H***.

B. Introduction. Back pay is appropriate when, based on a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance), an appropriate authority finds that the employee was affected by an unjustified or unwarranted personnel action. Such action must have resulted in the withdrawal, reduction, or denial of all or part of the pay, allowances, and differentials otherwise due the employee under an applicable law, rule, regulation, or provision of a collective bargaining agreement. HRO will determine an employee's entitlement to back pay and document the determination in the remarks section of the SF 50. Note: Not all settlement agreements or orders invoke the requirements of the Back Pay Act. For example, an employee may be awarded back pay under Title VII Equal Employment Opportunity Commission (EEOC) discrimination cases.

060502. Correcting an Unjustified or Unwarranted Personnel Action

A. Back Pay May Not Exceed Originally Owed Entitlements. When an unjustified or unwarranted personnel action is corrected or awaiting correction, the employee may receive credit for performing Federal service during the period covered by the corrective action (back pay period). PRO must compute, for the back pay period, the employee's pay, allowances, and differentials as if the improper personnel action never occurred. Any pay, allowances, or differentials (including leave benefits) that are paid under the Back Pay Act, may not exceed what the employee would have been entitled to had the unwarranted personnel action not occurred. See 5 C.F.R. 550.805.

B. Employees Who Return to Duty or Resign from Duty. When an employee has been separated, corrective action will be completed on the date DoD has reasonably set for the employee's return to duty. DoD will notify the employee of the return date in writing. Until that date, the erroneous action remains in effect. Failure by the employee to report for duty on the date set by DoD may result in the employee being charged annual leave, leave without pay, or absence without leave for the period from the date set for return to duty until the date the employee actually returns to work. An employee who resigns instead of returning to duty is still entitled to back pay since there is no requirement that the employee return to duty. In that event, the employee will receive back pay up to the date that he or she is considered separated from Federal service, which may or may not be the date that he or she is requested to report for duty.

060503. Statute of Limitations

A. Six-Year Limitation. Under the Back Pay Act, an agency may not authorize pay, allowances, and differentials for a period beginning more than 6 years before the date of the filing of a timely written claim, or absent such filing, the date of the administrative determination that the employee is entitled to back pay. See ***5 C.F.R. 550.804***.

B. FLSA Claims. If a back pay claim involves an entitlement under FLSA at ***29 U.S.C. 207***, then an agency must apply a 2-year statute of limitations (3 years for willful violations). This applies to all FLSA claims filed on or after June 30, 1994. See ***5 C.F.R. 551, Subpart G***.

060504. Gross Back Pay Computations

A. General. When computing the amount of gross back pay due an employee, the agency must compute all pay, allowances, and differentials the employee would have received if the unjustified or unwarranted personnel action had not occurred. This includes pay, leave, and other monetary employment benefits the employee would have been entitled to receive during the back pay period. PRO must include premium pay and any changes that would affect the amount of pay owed. See 5 C.F.R. 550.805.

B. Periods Excluded from Back Pay Computations. The following periods of time are not included in the computation of back pay. See ***5 C.F.R. 550.805(c) and (d)***.

1. Periods of Incapacitating Illness. The PRO may not pay back pay for any period during which the employee was not ready, willing, and able to perform his or her duties because of an incapacitating illness. However, the employing agency must grant, upon request of the employee, any accrued sick or annual leave to cover the period of incapacity due to illness or injury.

2. Periods of Unavailability. The PRO may not pay back pay for any period during which the employee was unavailable for performance of his or her duties for reasons not related to, or caused by, the unjustified or unwarranted personnel action.

C. Within-Grade Increases. When computing an employee's pay, the PRO must include any within-grade increases (WGI) to which the employee became entitled during the back pay period. If the grant or denial of a WGI requires an acceptable level of competence determination under ***5 C.F.R. 531, Subpart D***, the requirements for such a determination, including the right of reconsideration and appeal, must be followed before the WGI may be included in the computation of the amount of back pay due the employee. This also applies to determinations made retroactively. Regulations governing WGIs allow for a waiver of the requirement of an acceptable level of competence determination when the employee has not served in any position for the minimum period during the final 52 calendar weeks of the waiting period because the employee received service credit under the Back Pay Act.

D. Overtime the Employee Would Have Earned. When computing the back pay of an employee who is restored to duty, any overtime the employee would have earned during the period of wrongful suspension or separation should be included in the back pay even though the overtime was not actually scheduled. The method of computing overtime incident to a back pay award due an employee may be based on the average number of overtime hours worked by fellow employees occupying similar positions during the same period.

E. Overtime Under a Collective Bargaining Agreement or Regulation. An employee who should have been selected for overtime work because a regulation or a collective bargaining agreement provided for assignment of overtime work in a prescribed manner is entitled to back pay for the overtime if the regulation or nondiscretionary provision of the agreement was violated. The appropriate authority must find that the action taken was unjustified or unwarranted, and direct that corrective action be taken. The overtime will be computed based on the number of hours worked by an employee who was actually selected to perform the overtime work during the same period.

F. Allowances or Differentials. The PRO must include in the back pay owed to the employee any allowances or differentials that the employee would have received if the improper personnel action had not occurred. This is true even though the employee did not physically remain in the location giving rise to the entitlement.

G. Hazardous Duty Pay. A General Schedule (GS) employee may have been entitled to irregular or intermittent pay for physical hardship or hazard duty. PRO may assist HRO to determine the number of days per week the employee performed the irregular or intermittent hardship or hazard duty during the 52 weeks preceding the wrongful suspension or separation for which the employee would have been compensated. PRO may use an average of the amounts to make the necessary computations as authorized by HRO.

H. Environmental Differentials. Payment of environmental differentials on an actual exposure basis, or based on hours in a pay status, must be computed in accordance with OPM regulations and instructions. DoD determines entitlement to such differentials based on the 52 weeks preceding the wrongful suspension or separation for which the Federal Wage System (FWS) employee would have been compensated.

I. Intermittent Employees. When DoD is not able to determine with certainty the number of hours that the intermittent employee would have worked during the back pay period, HRO may estimate the amount of back pay due. This estimate is determined by taking an average of the number of hours worked by other DoD employees under the same type of appointment and performing the same kind of work that the employee would have been assigned to during this period. HRO also may determine the average number of hours a week the employee actually worked to obtain a representative period preceding the unjustified or unwarranted personnel action (such as 26 or 52 weeks, whichever would represent a fairer approximation of the employee's earnings if he or she had actually worked), and use these average weekly hours to make the necessary computations.

060505. Computation of Adjusted Gross Back Pay

A. General. Adjusted gross back pay means gross back pay less the offset for outside earnings under ***5 C.F.R. 550.805(e)(1)***, but before adding interest. See Figures 6-1 and 6-2 for examples showing various entitlements, deductions for erroneous payments, and other authorized deductions in the computation of back pay.

B. Outside or Interim Earnings

1. Interim Earnings Defined. Under 5 C.F.R. 550.805(e)(1), interim or outside earnings refer to gross earnings, less any associated business loses or expenses, received by an employee for any employment or business enterprise undertaken to replace the employment from which the employee was separated due to the unjustified or unwarranted personnel action. However, deductions for losses sustained in a venture unrelated to the separation are not allowable.

2. PRO Duties. PRO must determine the adjusted gross back pay by offsetting (deducting) any outside earnings that were earned by an employee from other employment during the period of wrongful suspension or separation. The amount of back pay entitlement is the difference between the amount of compensation the employee would have earned in government service, and the amount actually earned in other employment undertaken by the employee to replace the government employment. Overtime earned during the period of wrongful suspension or separation that is in excess of that overtime which would have been earned in the position from which the employee was separated should not be offset. When an employee's total outside earnings (including those from other Federal employment) exceed the total amount of back pay, the excess amount may be retained by the employee.

C. Exception for Additional or "Moonlight" Employment. The only earnings from other employment that may not be deducted from back pay are earnings from outside employment the employee already had before the period of wrongful suspension or separation. For example, if an employee usually worked 20 hours at a second part-time job ("moonlighting") prior to separation from government employment, and during the period of separation worked 40 hours at the outside job, then the amount representing the extra 20 hours worked would be offset against the back pay computation. To clearly establish whether the pay for outside employment

increased substantially during the period of separation, DoD should obtain a statement or affidavits from the employee covering his or her outside earnings.

060506. Computation of Interest on Back Pay Awards

A. General. Under ***5 U.S.C. 5596***, interest is paid on all back pay awards that are finalized on or after December 22, 1987. In most cases, the actual date of the award or decision is not the date the decision becomes final, i.e., no longer subject to reconsideration or higher-level review or appeal. Interest begins to accrue on the effective date on which the employee would have received the pay, allowances, and differentials had the unjustified or unwarranted personnel action not occurred. As a result, most computations will involve a series of effective dates, one for each date (usually a pay date) on which the employee failed to receive an amount of pay, allowances, and differentials because of the unjustified or unwarranted personnel action. See ***5 C.F.R. 550.806***.

B. Outside Earnings Offset. For purposes of computing back pay interest, an outside earnings offset is applied as a constant percentage offset to each payment of back pay for each pay period during the period covered by the corrected action. This percentage offset is determined by dividing the employee's outside earnings under 5 C.F.R. 550.805(e)(1) by the total amount of back pay owed to the employee prior to any deductions. See 5 C.F.R. 550.806(b).

C. Date Interest Accrual Ends. DoD must issue interest within 30 calendar days of the date on which accrual of interest ends. If issuance of the interest payment is delayed more than 30 calendar days after the date on which accrual of interest ends, then interest must be recomputed based on a new ending date meeting the 30-day requirement.

D. Interest Rate. The applicable interest rate is the "overpayment rate" adjusted quarterly by the Secretary of the Treasury and published in an Internal Revenue Service (IRS) bulletin issued before the beginning of each quarter.

E. OPM Interest Calculator and Taxation of Interest. The PRO must compute interest in accordance with the formula or computer software provided to PROs by OPM. The PRO may not withhold taxes from interest payments on back pay awards. PROs will provide employees with a ***Form 1099-INT***, Interest Income, for all interest payments.

060507. Deductions of Erroneous Payments from Back Pay

A. General. The following deductions for erroneous payments received by the employee from the Government as a result of the unjustified or unwarranted personnel action must be returned. Such payments must be recovered from the back pay award. See ***5 C.F.R. 550.805(e)(2)***.

1. Retirement Annuity Payments.

a. An erroneously separated employee who received retirement annuity payments (either special payments or regular annuity payments) as a result of the separation is indebted to the government for the gross amount of retirement annuity payments paid to the employee during the period of wrongful separation.

b. Because the gross amount of annuity payments has already been reduced by required health and life insurance premiums, PRO will recover an annuity amount from the back pay award that equals the gross annuity less health and life insurance premiums.

c. PRO must transfer the recovered annuity amount to the retirement system.

d. The government will recover amounts paid from the CSRS or FERS gross annuity for health and life insurance premiums from the respective carriers for those programs, and, as a result, the retired employee's account will be settled.

e. PRO then must collect from the back pay any required health insurance premiums for coverage during the period following restoration and transfer that amount, plus the agency's share, to OPM.

2. Refund of Retirement Contributions. ***Title 5 U.S.C. 8342(a)*** authorizes a refund of an employee's retirement contributions only upon absolute separation from the service or transfer to a position not subject to the law. An employee must be separated or transferred for at least 31 consecutive days to be eligible for this refund. Therefore, a refund of retirement contributions paid to an employee based on a separation, which subsequently is found erroneous and canceled by restoring the employee to duty retroactively so that there was no break in service, removes the legal basis for the refund. A refund that was paid in error represents a debt due the retirement fund that must be deducted from any back pay entitlement. If the restored employee is entitled to back pay, then PRO must contact OPM to determine if the employee received such a refund and then offset the amount from the back pay entitlement. PRO must remit the appropriate amount to OPM.

3. Severance Pay. The gross severance pay paid to an erroneously separated employee at the time of his or her removal must be deducted from the back pay award upon restoration to duty.

4. Lump-Sum Payment for Annual Leave. Any erroneously separated employee who receives a lump-sum payment under ***5 U.S.C. 5551(a)*** prior to separation, must repay the lump-sum payment upon reinstatement to duty. PRO must restore the employee to duty and cancel the separation, thereby making the lump-sum payment erroneous. The PRO must offset any lump-sum payment received by the employee against the employee's back pay award and credit the leave to the employee's leave account. There is no authority that permits an employee to retain the lump sum payment or receive credit for the leave.

B. Order of Precedence. The order of precedence for deducting erroneous payments from back pay awards when the net amount of back pay is insufficient to cover all the deductions is as follows:

1. Retirement annuity payments,

2. Refunds of retirement contributions,

3. Severance pay, then

4. Any lump-sum payment for accrued annual leave.

C. Waiver of Erroneous Payments.

1. Retirement Fund Payments. Employees may request OPM to waive recovery of erroneous payments from the Civil Service Retirement and Disability Fund (CSRDF). Requests for waiver should be submitted to the U.S. Office of Personnel Management, Office of Retirement Programs, Reconsideration and Debt Collection Division, Room 3H30, 1900 E Street, NW, Washington, D.C. 20415. Employees also may submit requests to the same address to repay debts owed to CSRDF by installment deductions from salary.

2. Waiver of Lump-Sum Annual Leave and Severance Payments. For severance pay and lump-sum annual leave payments, any net indebtedness remaining after liquidation of back pay may be eligible for a waiver of repayment (by GAO or DFAS, as applicable) under the authority of ***5 U.S.C. 5584***.

060508. Other Authorized Deductions from Back Pay

Authorized deductions that would have been made from the employee's pay (if paid when properly due) should be made by PRO in accordance with the normal order of precedence for deductions from pay. See ***5 C.F.R. 550.805(e)(3)***. Authorized deductions include the following:

A. Mandatory Employee Retirement Contributions. The PRO must compute the employee retirement contributions on the employee's gross back pay subject to retirement, and deduct the contributions after subtracting the earnings from outside employment. Even if no amount of back pay is due because of excessive outside earnings, the employee must remit the appropriate amount of retirement fund contributions in order to receive full retirement credit for the period of the unjustified or unwarranted separation. See ***5 U.S.C. 8334(c)***. If an employee is retroactively placed in a LWOP status under the terms of a settlement agreement or order, both the employee and agency contributions for the LWOP period must still be submitted to OPM.

B. Social Security and Medicare Taxes. The PRO must compute and deduct the Social Security taxes, also known as Old Age Survivor Disability Insurance (OASDI), and Medicare taxes on the adjusted gross back pay and deduct.

C. Federal Income Tax Withholding. The PRO must compute income tax withholdings on the adjusted gross back pay less any part of back pay not subject to income tax deductions. Therefore, if the back pay amount includes any amount not subject to income tax deductions, such as non-foreign area cost-of-living allowances and contributions to TSP, the PRO must compute the taxes after reducing the adjusted gross back pay by these nontaxable amounts.

D. Insurance Premiums and TSP. If applicable, health and life insurance premiums and TSP contributions may be made from the remaining back pay due the employee. Health insurance premiums for an employee restored to duty following an erroneous separation for retirement must be deducted if coverage under the health benefits program continued without interruption during the erroneous retirement. The PRO must withhold any additional premiums the employee owes due to a retroactive increase in basic pay. See section 060510.

060509. Restoration of Leave

A. Annual Leave. Annual leave that is restored to an employee as a result of the correction of an unjustified or unwarranted personnel action in excess of the maximum leave accumulation amount authorized by law must be credited to a separate leave account for use by the employee. See ***5 C.F.R. 550.805(g)***. The restored leave is referred to as "reinstated leave" and must be scheduled and used as provided in this section. If reinstated leave is not used within the prescribed time frames, it is forfeited. Refer to ***5 U.S.C. 5596(b)(1)(B)*** for additional information.

1. Full-Time Employees. For a full-time employee, excess annual leave of 416 hours or less must be scheduled and used by the end of the leave year in progress 2 years after the date on which the annual leave is credited to the separate account. This period is extended by 1 leave year for each additional 208 hours of excess annual leave or any portion thereof.

2. Part-Time Employees. A part-time employee must schedule and use excess annual leave in an amount equal to or less than 20 percent of the employee's scheduled tour of duty over a 52 calendar week period by the end of the leave year in progress 2 years after the date on which the annual leave is credited to the separate account. The agency will extend this period by 1 leave year for each additional number of hours of excess annual leave, or any portion thereof, equal to 10 percent of the employee's scheduled tour of duty over a period of 52 calendar weeks.

NOTE: For both part-time and full-time employees, the ending date of the time limit for use of excess annual leave may not be exactly 2 years from the date on which the annual leave is credited to the separate account (or exactly at the end of any additional year added to the 2-year period). Rather, the time limit ends at the end of the leave year ending 2 years after the restoration. For example, if the 2-year period ends in July, an employee would have until the end of the current leave year (December or January) to use the restored annual leave.

3. Additional Information. To determine the time limitations for use of restored leave, see Volume 8, Chapter 5.

B. Sick Leave. If an employee is reinstated to an agency as a result of an appeal, the agency must reestablish the employee's sick leave account as a credit or charge as it was at the time of separation. See ***5 C.F.R. 630.502***. Upon request of an employee, the PRO may grant any sick or annual leave available to the employee for a period of incapacitation if the employee can establish that the period of incapacitation was the result of illness or injury. See subparagraph 060504.B.1 and ***5 C.F.R. 550.805(d)***.

060510. Health Insurance and Life Insurance Coverage

A. Health Insurance (FEHB). Under ***5 U.S.C. 8908***, an employee who was removed or suspended without pay, and who was restored to duty on the grounds that the removal or suspension was unjustified, may elect options one or two:

1. Have the prior enrollment reinstated retroactive to the termination date, with appropriate adjustments made in contributions and claims, as if no removal or suspension had occurred. If the employee elects to have the enrollment retroactively reinstated, then payroll deductions for the period of suspension or removal must be made from the back pay award and the government premium contributions should be made as though the suspension or removal had not occurred.

2. Enroll in the same manner as a new employee.

NOTE: The statutory provisions of 5 U.S.C. 8908 do not apply to an employee separated erroneously for retirement under conditions entitling him or her to continued enrollment. In such cases, there is no need to restore health benefits coverage since coverage was transferred to the retirement system and automatically continued. For additional information, refer to the ***Federal Employees Health Benefits (FEHB) Program Handbook***.

B. Life Insurance (FEGLI)

1. Withholding for Employees with Coverage at the Time of Removal. If an employee is retroactively restored to duty with back pay after a period of wrongful suspension or separation, no life insurance premium withholding is made from the retroactive pay adjustment for the period of suspension or separation. However, if death or dismemberment occurred during the period of wrongful suspension or separation, premiums are withheld from the back pay. Additionally, if the employee maintains Option C coverage and a covered family member dies during the period of separation or removal, Option C premiums should be withheld from the back pay award. See ***5 C.F.R. 880.304*** and the Federal Employees Group Life Insurance ***(FEGLI) Handbook*** for additional information.

2. Employees with Coverage Who Missed Open Season. If an employee had life insurance coverage prior to a wrongful suspension or removal, and the employee is restored to duty after the closing date of an open season for life insurance that occurred during the employee's period of wrongful suspension or separation, the employee is entitled upon restoration to elect additional life insurance coverage as permitted during the open

season. The effective date is the first day in a pay-and-duty status on or after the date the employing office receives the ***SF 2817*** (Life Insurance Election).

3. Employees Who Had No Coverage Prior to Removal. If an employee had no life insurance coverage prior to a wrongful suspension or separation, and the employee is restored to duty after the closing date of open season for life insurance that occurred during the employee's period of wrongful suspension or separation, the employee is entitled upon restoration to elect life insurance coverage as permitted during the open season. Since coverage for basic life insurance is automatic, the effective date is the first day in a pay-and-duty status. For options A, B, and C, the effective date is the first day in a pay-and-duty status on or after the date the SF 2817 is received by the employing office.

060511. Thrift Savings Plan (TSP)

An erroneously separated employee may request that any employee TSP contributions not made during the period of erroneous separation be deducted from his or her back pay award. The makeup contributions may be elected by reinstating the employee's contribution election on file at the time of separation. Alternatively, the employee may submit a new contribution election if he or she would have been eligible to make such an election but for the erroneous separation. Breakage or "lost earnings" is paid on all makeup contributions at the G Fund rate of return (unless otherwise specified by the agency or reinstatement order). The employee will receive the tax benefit in the year the contributions are made. PRO must calculate the TSP amount using the gross basic pay amount of the back pay award prior to any offset for outside earnings. For additional information, see ***5 C.F.R. 1605*** or refer to Volume 8, Chapter 11.

060512. Payment of Reasonable Attorney Fees

Title 5 U.S.C. 5596(b)(1)(A)(ii) provides for payment of reasonable attorney fees in accordance with the standards established under ***5 U.S.C. 7701(g)***, under certain conditions. Under ***5 C.F.R. 550.807***, an employee, or an employee's personal representative, may request payment of reasonable attorney fees related to an unjustified or unwarranted personnel action that resulted in the withdrawal, reduction, or denial of all or part of the amount due the employee.

060513. Back Pay and Offsetting Unemployment Compensation for Federal Employees (UCFE)

A. If a reinstated employee is entitled to back pay, then HRO must determine if the employee applied for UCFE within the last 52 weeks. If the employee applied for or received UCFE, then HRO must promptly notify SESA of the date of the back pay payment, the amount, and the period covered.

B. DoD will not deduct the amount of unemployment compensation paid during the back pay period from the back pay award unless state law requires the employer (rather than the employee) to reimburse the state for overpayments. In some cases, a state agency may also determine that an overpayment has occurred and notify the Federal government as the

employing agency. See DoDI 1400.25-V850. See also "***Comparison of State Unemployment Insurance Laws***" published by DOL at Chapter 5, table 5-15, ***65 Comp. Gen 865 (1986)***.

0606 CONTINUATION OF PAY (COP) (INJURY COMPENSATION) FOR FEDERAL EMPLOYEES

060601. General

The Federal Employees' Compensation Act (FECA), at ***5 U.S.C. Chapter 81***, provides for the payment of workers' compensation benefits and authorized medical care for all civilian employees of the U.S. for disability due to personal injury sustained while in the performance of duty. Regulations governing injury compensation are contained in ***20 C.F.R. Part 10***. For additional information, see Injury Compensation in DoDI 1400.25-V810 and the DOL's ***FECA Procedure Manual***.

A. 45 Calendar Days of COP. Civilian employees are entitled to medical care and compensation for absences due to traumatic on-the-job injuries and disease sustained while in the performance of duty. Traumatic injury is not the same as disability from occupational disease. Eligible employees are entitled to up to 45 calendar days of COP for traumatic injury.

B. OWCP. The U.S. DOL OWCP administers the FECA through district offices. Each HRO maintains the address of the district office servicing its region.

060602. COP Procedures

A. Entitlement to COP. An employee who sustains a disabling job-related traumatic injury is entitled to the continuation of regular pay for a period not to exceed 45 calendar days for each occurrence. The pay is subject to Social Security and/or Medicare, Federal, state, and local tax, retirement, and all other normal deductions. The pay for a separated employee (unless the date of termination has been established prior to the injury) who is entitled to COP will be subject to Social Security and/or Medicare, Federal, state, and local tax if appropriate. The PRO may not take any additional deductions. The injured employee's pay will continue unless DOL denies the claim.

1. Regular Pay. For COP purposes, regular pay is defined as follows:

a. Full-Time and Part-Time Employees. For a full-time or part-time employee who works the same number of hours per week, the weekly pay rate must be equal to the number of hours regularly worked each week times the hourly pay rate on the date of injury including premium pay, night or shift differential, holiday pay, and other extra pay, exclusive of overtime.

b. Part-Time Employees Only. For a part-time employee who does not work the same number of hours per week, the weekly pay rate will be the average weekly earnings for the 1-year period before the date of injury, exclusive of overtime.

c. Intermittent Employees. For an intermittent or part-time employee, either permanent or temporary, who does not work each week of the year (or the period of appointment); the weekly pay rate equals the average of the employee's weekly earnings during the 1-year period before the injury. It is computed based on the total earnings divided by the number of weeks worked (partial weeks worked are counted as whole weeks). The annual earnings used for this computation must not be less than 150 times the average daily wage earned within 1 year before the date of injury.

2. Premium Pay. Standby premium, night or shift differential, holiday pay, or other extra pay should be included in regular pay in all instances. Overtime pay is not a part of COP except in the case of firefighters and law enforcement officers. If a salary increase (e.g., pay raise, step increase, promotion) occurs during the 45-day period, then the PRO will use the new salary rate as of the effective date of the increase for computing the remaining COP.

B. Controverting a Claim. An agency may object to paying a claim for COP in a process referred to as "controverting a claim." The employing activity may controvert a claim by completing the indicated portion of ***Form CA-1***, Federal Employee's Notice of Traumatic Injury and Claim for COP/Compensation, and submitting detailed information in support of the objection to the OWCP. See ***20 C.F.R. 10.221***.

C. Denial of COP. COP is not payable when one of the following occurs (See ***20 C.F.R. 10.220***):

1. A traumatic injury is not the cause of the employee's disability;

2. The employee is not a U.S. or Canadian citizen;

3. The employee does not file a written claim within 30 days of the date of injury;

4. The injury was not reported until after separation from employment;

5. The employee received the injury away from the activity's premises and the employee was not performing his or her official duties;

6. The injury was due to the employee's own willful misconduct, intent to injure himself/herself or another person, or the injury was proximately caused by intoxication by alcohol or illegal drugs; or

7. The work did not stop until more than 45 calendar days after the injury.

D. Termination of COP Already Begun. Generally, COP should continue after the employee stops work due to a disabling injury. Pay may be stopped only when at least one of the following circumstances is present. See ***20 C.F.R. 10.222***:

1. The employee does not provide *prima facie* medical evidence of a work-related injury within 10 calendar days after he/she submits a claim for COP;

2. The treating physician provides medical information to the activity indicating that the employee is not disabled from his or her regular position;

3. The treating physician provides medical information to the activity indicating the employee is not totally disabled, and the employee refuses a written offer of a suitable alternative position;

4. OWCP provides notification to the activity to terminate COP;

5. COP has been paid for 45 calendar days;

6. The employee's scheduled term of employment expires and the date of termination is prior to the date of injury; and/or

7. The employee returns to work with no loss of pay.

E. COP Suspended When Employee Obstructs a Medical Examination. If an employee or his or her representative refuses or obstructs a medical examination, the right to receive COP is suspended until the refusal or obstruction ceases. COP already paid or payable for the period of suspension is forfeited. If already paid, COP may be charged to annual or sick leave or considered an overpayment of pay consistent with ***5 U.S.C. 5584***. See ***20 C.F.R. 10.223***.

F. COP and Disciplinary Actions. If a preliminary notice regarding a disciplinary action was issued to the employee before the date of the injury and the action becomes final or otherwise takes effect during the COP period, COP may be interrupted or stopped. See 20 C.F.R. 10.222.

G. COP Period. The COP period is 45 calendar days. If the employee has stopped work because of the disabling effects of the injury, then the period starts at the beginning of the first full day or first full shift on which the disability begins. If disability occurs on the date of injury, do not count the remainder of that day or shift as COP. If the employee stops work for a portion of a day or shift, other than the day or shift when the disability begins, then that day or shift is 1 calendar day. When an employee is injured but not immediately disabled because of the injury, the 45-days begins on the first full day or the first full shift when the disability begins. The initial use of COP must begin within 45-days of the date of injury or the employee is only entitled to compensation from OWCP. The employee's scheduled non-workdays are included in determining the 45-days if medical evidence supports that the

employee is disabled; however, there will be no COP paid for those non-workdays. See ***20 C.F.R. 10.215***.

H. Light-Duty Status. When a determination is made that an employee is capable of performing light-duty after an on-the-job injury, COP is still chargeable against the 45-day entitlement if a personnel action has been issued in order to:

1. Assign or detail the employee to an identified position for which a position description exists which is classified at a lower salary level than that earned by the employee when injured;

2. Change the employee to a lower grade, or to a lower rate of basic pay; or

3. Change the employee to a different schedule of work that results in loss of salary or premium pay (other than Sunday premium) authorized for the employee's normal administrative workweek.

An employee placed in light-duty who refuses to work after the offer of suitable work is not entitled to COP. See ***20 C.F.R. 10.217*** and ***10.517***.

I. Recurrence of Disability. If an employee returns to work and then becomes disabled again and stops work, the PRO may continue COP only if the 45 calendar days of entitlement to COP were not completely used during the initial period of disability. For COP to be continued, the employee must have experienced the recurrence of the disability and stopped working within 45-days of the time the employee first returned to work following the initial period of disability. When a recurrence happens after the 45-day window has expired, PRO must discontinue the regular pay, even if some of the 45-days of COP eligibility may remain unused. In this event, the employee is only entitled to compensation payable by OWCP and is not entitled to COP. See ***20 C.F.R. 10.207***.

J. Use of Annual or Sick Leave Instead of COP

1. Application of the 45-Day COP Period. An employee may use annual, sick, or advanced leave to cover all or part of an absence due to an injury. If an employee elects to use leave, then count each full or partial day the employee takes leave against the 45-days of COP entitlement. If an employee uses COP intermittently along with sick or annual leave, the COP entitlement period is still limited to 45-days. An employee may not use annual or sick leave to delay or extend the 45-day COP period.

2. One-Year Limitation to Elect COP in Lieu of Annual or Sick Leave. There are times when the employee may elect sick, annual, or advanced leave and the election is irrevocable. However, if an employee who has elected to use annual or sick leave for the period is otherwise eligible to elect COP instead, then the employing activity must make that change on a prospective basis from the date of the employee's request. The employee may receive COP in lieu of previously requested annual or sick leave provided the employee makes

the request within 1 year of either the date the leave is used or written approval of the claim was granted, whichever is later. To authorize a change from annual or sick leave to COP, a corrected time-and-attendance report is required.

3. Leave Status of Employees

a. Leave Status When Injury Exceeds 45-Days. Employees who are eligible for COP must be placed in a leave status for time lost from work due to injury that is in excess of the 45-day COP period. During this period, an employee may take annual, sick, advanced leave, or LWOP, if necessary, until OWCP approves the employee's claim for compensation. The employee should be in an LWOP status if the employee is receiving OWCP compensation after the 45-day period.

b. Leave Status of Employees Who are Ineligible for COP. Employees who are ineligible for COP must be in a leave status during an absence due to injury. Employees may take annual, sick, advanced leave, or LWOP while awaiting a decision from OWCP on their claims. Employees must be in an LWOP status while receiving OWCP compensation. These employees may buy back, and have reinstated, annual and sick leave used for time lost from work due to injury if OWCP approves their claims for compensation.

060603. Buy Back of Leave

A. General. If an employee is found eligible to receive OWCP compensation and the employee used sick, annual or a combination of both types of leave during a period of disability extending beyond the 45-day COP period, the employee may arrange with PRO to buy back the leave used (referred to as "leave buy back"). Note: Any sick or annual leave used during the 45-day COP period is not eligible for leave buy back unless the employee was not entitled to COP (see subparagraph 060602.D). An employee may not receive dual compensation for pay and leave plus OWCP compensation for lost time due to injury. Leave will be reinstated when bought back. See ***20 C.F.R. 10.425***.

B. Time Limit for Submitting a Claim for Leave Buy Back and Payment Arrangements. The ***CA-7***, Claim for Compensation, for leave buy back must be submitted within one year of the date the leave was used or the claim was accepted, whichever is later. PRO will arrange with OWCP to have compensation for the buy back period paid directly to that office. After receipt, PRO will notify the employee of the repayment amount and method of repayment.

C. Effect of Leave Buy Back. Leave buy back will reduce an employee's earnings. An employee is placed in LWOP status which may result in leave accrual reduction, reduced retirement contributions, and reduced TSP contributions. Employees may be required to pay health insurance and income taxes.

D. Leave that is Not Eligible for Buy Back. Employees who are eligible for COP who take annual, sick, or advanced leave for time lost due to injury instead of COP during

the 45-day COP period are not eligible for OWCP compensation for that leave. These employees may not buy back the annual or sick leave and have it reinstated.

E. Computation. PRO must recover any gross amount paid for leave used during a period retroactively covered by OWCP compensation. Certain deductions are recoverable by payroll adjustment. The amount recovered from the employee and/or OWCP will depend on whether payment for leave is paid in the current or prior year. See Figures 6-3 and 6-4 for examples.

F. Current Year Recovery

1. Deductions. The amount collected for leave payments made in the current calendar year will be the net pay plus deductions for:

a. Bonds,

b. Savings allotments,

c. Alimony/Child support,

d. Rent,

e. Indebtedness to the U.S., and

f. Other deductions the employee received value but not otherwise collected.

2. Reversed Deductions. Current Deductions that will be reversed (if applicable and if the moneys are recovered) in the payroll system are:

a. CSRS or FERS,

b. Social Security and/or Medicare,

c. Federal, state, and local taxes,

d. FEHB (if OWCP payment is for more than 28 days),

e. FEGLI (basic and optional),

f. TSP,

g. Union dues,

h. Charitable contributions, and

i. Military service credit deposits and civilian service credit deposits.

3. Other. PRO must make adjustments in the payroll system to earnings-to-date for those items other than the reversed deductions. Amounts collected from the employee and/or OWCP must be taken up as a cash refund on a voucher for disbursement and/or collection.

G. Prior Year Recovery. The amount to be collected for leave payments made during a prior year will be the gross amount less CSRS/FERS, Social Security and/or Medicare, TSP, FEHB (if OWCP payment is for more than 28 days), and FEGLI (basic and optional). The PRO must post the credit to CSRS/FERS as a separate credit line item on the ***SF 2806***, Individual Retirement Record CSRS, or the ***SF 3100***, Individual Retirement Record FERS, fiscal side indicating the year the adjustment was made with an explanation in the "Remarks" column. No adjustments are authorized for Federal, state, and local income taxes. When an employee separates or at the end of the payroll year, the PRO must prepare an IRS ***Form W-2***, Wage and Tax Statement, as appropriate, but may not include any tax adjustments for a prior year. The PRO must prepare a certified statement to go with the current year's IRS Form W-2 stating that a refund for prior year was paid in the amount of $XX.XX, but that the gross wages shown on the current year IRS Form W-2 were not reduced by the amount of the refund.

H. Partial Payroll Deductions. If circumstances warrant, the employee may repay through partial payroll deductions, the amount due from the employee (after recovery of the amount repaid by OWCP). The PRO will not reverse deductions under subparagraph 060603.F.2 until the full amount is paid.

I. Recrediting of Leave. Credit the full amount of leave used during the buy back period to the employee's leave account. The PRO will not recredit leave bought back until the total amount is repaid.

0607 EMERGENCY EVACUATION PAYMENTS

060701. Purpose

The DoD Joint Travel Regulation (JTR) ***Chapter 6, Part B***, identifies the responsibilities of PRO in the event the proper authorities declare an official emergency evacuation of civilian employees. PROs will use the guidelines to determine whether it is appropriate to make advance payments to employees based on an ordered evacuation for military actions, natural disasters or other reasons that create imminent danger to lives and property. This section applies to areas located within the U.S. based on the provisions of ***5 C.F.R., Part 550, Subpart D*** and outside of the U.S. based on the provisions of the Department of State Standardized Regulations (DSSR) ***Chapter 600***.

* A. Eligibility. This guidance pertains to DoD and DoD Component employees when an official evacuation is declared. For additional information, see the Defense Civilian Personnel Advisory Service ***Emergency Preparedness*** website.

B. Forms. The ***Department of Defense (DD) Form 2461*** (Authorization for Emergency Evacuation Advance and Allotment Payments for DoD Civilian Employees) authorizes and records emergency payments to employees and dependents. PRO is responsible for maintaining this record of payments on the employee's permanent pay account. In appropriate cases, information on this form may be disclosed to other Federal agencies (i.e., Social Security Administration (SSA), IRS, and OPM), to state and local taxing/welfare authorities, and to certain private organizations for crediting payments to the employee's account. PRO must receive Form 2461 before making payment of amounts due the evacuated civilian employees or family members.

C. Determining Entitlements and Payee. Determine specific rates of entitlement, duration of evacuation/departure payments, and eligible payees as follows:

1. For employees at foreign installations, use the DSSR, Chapter 600.

2. For employees within the U.S., use 5 C.F.R. Subpart D.

D. Payments. Compute employee's payments at the rate they are entitled to immediately before the order of evacuation/departure. Adult family members or designated representatives may receive payments in the form of allotments. The PRO must make all advance payments (and any necessary adjustments) according to the DoD Component's procedures.

060702. Transmission of Data to Safe-Haven Post

A. Methods of Transmission. After authorities issue an evacuation order, PRO must immediately forward all significant payroll data from the evacuated installation to the safe-haven post. The forwarding of data is critical in order to support further payments. Some possible methods of forwarding payroll data to the safe-haven post are the following:

1. Shipping machine or manual listings of data;

2. Shipping the last complete payroll together with appropriate notations and changes;

3. Transmitting essential data over available telephone, telegraph, or radio lines;

4. Shipping the actual payroll, leave, and other appropriate records; and/or

5. Providing the evacuated employees and dependents at the time that the evacuation is ordered with a statement of essential data in a locally reproduced format.

B. Considerations. The physical conditions and circumstances at the evacuation installation will determine the method and timing for transmitting data. Safeguarding and preserving payroll leave, and travel records are matters of primary concern because of the continuing need for the records after the conditions which gave rise to the emergency evacuation have been resolved. Take all necessary steps to safeguard and preserve the records at the safe-haven post.

060703. Action Upon and During Evacuation

To the extent possible and practicable, the PRO must pay employees and dependents remaining at the evacuated installation in accordance with the normal fiscal procedures of that installation. A special advance payroll may be prepared in accordance with normal payroll procedures and charged against the appropriate funds available to the evacuated installation for authorized advance payments.

*060704. Actions After Evaluation

A. Review of Accounts. The PRO having jurisdiction over the employee's account will review his or her account for the purpose of making adjustments at the earliest possible date after the evacuation is terminated (or earlier if circumstances apply), or after the employee returns to his or her duty station, or when the employee is officially reassigned. See ***5 C.F.R. 550.408***.

B. Reconcile Amounts Paid. The PRO will adjust the employee's pay on the basis of the rates of pay, allowances, or differentials, if any, to which he or she would otherwise be entitled to. Any adjustments will reflect any advance payments the employee may have received. If it is found the the employee is indebted for any part of the advance payment(s) made to him or her, or to his or her dependent(s), or designated representative, the PRO having jurisdiction over the account must recover the debt, unless a waiver has been approved. See 5 C.F.R. 550.408.

060705. Evacuation Payments During a Pandemic Health Crisis

An agency may direct an employee to work from home or a mutually agreed upon alternative location during a pandemic health crisis. The designated location is the safe-haven location during a pandemic health crisis and is used as an alternate work site only during the pandemic crisis. The agency may make special allowance payments to the employee, as determined on a case-by-case basis, to help defray additional expenses caused by the crisis. See ***5 C.F.R. 550.409***.

Figure 6-1. Sample 1 Format of Back Pay Computation

An employee's gross back pay computation is $32,420, as follows:

Basic pay	$31,000.00
Overtime pay	$300.00
Holiday pay	$120.00
On-call pay-	$1,000.00

The employee received lump-sum payments in the amount of $1,000, and net retirement payments (gross retirement less the amounts withheld for health insurance premiums and for post-retirement basic life insurance premiums) amounting to $10,000. During the period covered by the corrective action, the employee earned $11,000 from outside employment (interim earnings).

Gross back pay	$32,420.00
Less outside earning	($11,000.00)
Subtotal (Adjusted Gross Back Pay)	$21,420.00
Less erroneous payments	
Erroneous Retirement Annuity payments	$10,000.00
Erroneous lump-sum payments for annual leave	$1,000.00
Total	($11,000.00)
Subtotal	$10,420.00
Less other authorized deductions	
Retirement deductions (CSRS) computed on gross basic pay ($31,000)	$2,170.00
Thrift Savings Plan computed on gross basic pay ($31,000 - if applicable)	00.00
Federal tax computed on adjusted gross back pay ($21,420)	$5,355.00
State tax computed on adjusted gross back pay ($21,420)	$856.80
Medicare computed on adjusted gross back pay ($21,420)	310.59
Health Insurance Premiums	$1,116.00
Total	($9,808.39)
Net back pay	$611.61

Figure 6-2. Sample 2 Format of Back Pay Computation

An employee's gross back pay computation (based on basic pay only) is $10,000. During the period covered by the corrective action, the employee earned $7,000 from outside employment (interim earnings).

Gross back pay	$10,000.00
Less interim earning	($7,000.00)
Subtotal (Adjusted Gross Back Pay)	$3,000.00
Less authorized deductions	
Retirement deductions (CSRS) computed on gross back pay ($10,000)	$700.00
Federal tax computed on adjusted gross back pay ($3,000)	$750.00
State tax computed on the adjusted gross back pay ($3,000)	$120.00
Medicare computed on the adjusted gross back pay ($3,000)	43.50
Total deductions	($1,613.50)
Net back pay	$1,386.50

Figure 6-3. Buy Back of Leave Computation – Sick Leave for Full Pay Period

PP#	HRS	GROSS	CSRS	FICA/ MED	TAX	FEHB	FEGLI	OPT FEGLI	CHARITY	UNION DUES
21	80	$680.80	47.66	9.87	120.57	31.50	5.50	16.00	2.00	1.75

ALLOT	TSP	NET
50.00	10.00	$385.95

Current Year Recovery:

Net Pay	$385.95
Allotment	50.00
Charity	2.00
Amount of repayment	(437.95)
Amount of OWCP check (75% X 680.80)	510.60
Amount due employee	$ 72.65

Prior Year Recovery:

Net Pay	$385.95
Allotment	50.00
Tax	120.57
Charity	2.00
Health Insurance Premiums	31.50
Union dues	1.75
Amount of repayment	(591.77)
Amount of OWCP check (75% X 680.80)	510.60
Amount due from employee	($81.17)

Figure 6-4. Buy Back of Leave Computation – Sick Leave for Less Than a Full Pay Period

PP#	HRS	GROSS	CSRS	FICA MED	TAX	FEHB	FEGLI	OPT FEGLI	CHARITY	UNION DUES	ALLOT	NET
20	80	$680.80	47.66	9.87	120.57	31.50	5.50	16.00	2.00	1.75	50.00	$395.95
Worked	47	$399.97	28.00	5.80	71.14	31.50	5.50	16.00	2.00	1.75	50.00	$188.28
Sick Lv	33	$280.83	19.66	4.07	49.43	-	-	-	-	-	-	$207.67
21	80	$680.80	47.66	9.87	120.57	31.50	5.50	16.00	2.00	1.75	50.00	$395.95
Worked	12	$102.12	7.15	1.48	18.09	31.50	5.50	16.00	2.00	1.75	-	$18.65
Sick Lv	68	$578.68	40.51	8.39	102.48	-	-	-	-	-	50.00	$377.30

Current Year Recovery:

Net Pay	$584.97
Allotment	50.00
Amount of repayment	($634.97)
Amount of OWCP check (75% X $859.51)	644.63
Amount due employee	$ 9.66

Prior Year Recovery:

Net Pay	$584.97
Allotment	50.00
Tax	151.91
Amount of repayment	($786.88)
Amount of OWCP check (75% X $859.51)	644.63
Amount due from employee	($142.25)

VOLUME 8, CHAPTER 7: "DEPARTMENT OF DEFENSE EDUCATION ACTIVITY (DoDEA) EMPLOYEES"

SUMMARY OF MAJOR CHANGES

All changes are denoted by blue font.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue, and underlined font*.**

The previous version dated February 2014 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatting to comply with current administrative instructions.	Revision
All	Renumbered sections and paragraphs where applicable.	Revision
0701	Added General Section to the beginning of the chapter.	Addition
070204	Revised information concerning retroactive pay adjustments for clarity.	Revision
070206	Moved sentence, "Substitute teachers are not eligible for step increases." from subparagraphs 070206A.(1) and (5) to the front part of paragraph 070206 for clarity	Revision
070210	Updated reference from the Joint Travel Regulation, Volume 2 to the Joint Travel Regulations. This paragraph was 070111 in the previous version.	Revision
070402	Removed sentence about civilian payroll offices retaining educators in a pay status during summer recess. The sentence is contradictory to the first sentence of the paragraph.	Deletion
070501,070502, 070503	Added "262 days" into the formula to compute the school year rate since sometimes a fiscal year can have 260, 261, or 262 working days.	Addition

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CHAPTER 7

DEPARTMENT OF DEFENSE EDUCATION ACTIVITY (DoDEA) EMPLOYEES

*0701 GENERAL

070101. Purpose

This chapter establishes policy and procedures for the pay and leave of the Department of Defense Education Activity (DoDEA) employees employed under the Teaching Position (TP) Pay Plan. These employees include teachers, principals, administrators, instructional systems specialists (ISS), guidance counselors, social workers, nurses, and school psychologists.

070102. Authoritative Guidance

Title 20, United States Code (U.S.C.) Sections ***901-907*** govern the salaries and personnel practices applicable to educators employed overseas by the Department of Defense Dependents Schools (DoDDS) on a school year basis. The pay and personnel practices are implemented by policies and regulations issued by the DoDEA under the authority and direction of the Secretary of Defense. The regulations on pay include DoDEA Regulation ***1400.13***, Salaries and Personnel Practices Applicable to Teachers and Other Employees of the DoDDS; and Dependent Schools (DS) Regulation ***5301.4***, DoDDS Salaries and Personnel Practices Applicable to Principals and Assistant Principals. These policies and regulations differ considerably from those applicable to other federal civilian employees paid under Title 5 U.S.C. or other statutes.

0702 TEACHING POSITION (TP) PAY PLAN

Individuals, such as educators and administrators who hold a Teaching Position (hereinafter referred to as educators, administrators, and ISS employees) as defined in 20 U.S.C. 901 are governed by the policies and regulations prescribed by DoDEA. Educators including teachers, social workers, guidance counselors, school psychologists, and nurses earn a school year salary based on 190 duty days (also referred to as working days) and are paid out over 21 pay periods. Administrators including school principals and assistant principals earn a school year salary based on 222 duty days and are paid out over 26 pay periods. ISS employees (educator positions that support DoDEA schools above the school level, rather than at the school level) earn a school year salary based on 222 duty days and are paid out over 26 pay periods. Educators, administrators, and ISS employees do not earn annual, sick, or home leave under Title 5 U.S.C., but instead are entitled to “educator’s leave” under 20 U.S.C. 904.

070201. School Year

A. Educators. The school year for educators consists of 190 duty days and includes not less than 175 days of classroom instruction. The 190 duty days include the time required before and after the dates that school is in session when educators must prepare for the

opening and closing of school. The school year calendar may be adjusted after the school year begins with no change in school year salary, as long as 190 duty days are required and not less than 175 days of classroom instruction are provided. If the school year extends beyond 190 duty days, the educator will be compensated at the appropriate daily rate as of the 191st working day. Should an emergency preclude completion of a full school year, an educator will be furloughed, separated, or their salary continued until the full school year salary has been paid.

B. Administrators. The school year for administrators consists of 222 duty days and includes not less than 175 days of classroom instruction and whenever the services of a majority of educators at the school are required. The school year calendar may be adjusted after the school year begins with no change in school year salary as long as the 222 duty days are required for principals and assistant principals and not less than 175 days of classroom instruction are provided. If the school year extends beyond 222 duty days during a given school year (e.g., August 1 through July 31), the administrator is compensated at the appropriate daily rate as of the 223rd working day. Should an emergency preclude completion of the full school year, the administrator will be furloughed, separated, or their salary continued until the full school year salary has been paid.

C. ISS Employees. The school year for an ISS employee consists of 222 duty days (August 1 through July 31), the same schedule for administrators. ISS employees coordinate their 222-day schedule with their supervisors at the start of the school year.

D. Overseas School Year Calendars. Overseas school year calendars issued by DoDEA may vary due to local customs and holidays. The calendars identify the first and last duty days of the school year, instructional days, and recess days for educators and students. DoDEA provides a copy of school calendars to the servicing payroll office not later than 4 weeks prior to the first duty day of the new school year. Any changes to the calendars will be submitted as soon as possible.

070202. Work Schedules

Educators, administrators, and ISS employees are scheduled to work in full or half day increments and work either a seasonal part-time or seasonal full-time schedule. Substitute teachers work an intermittent work schedule.

070203. Salary Schedules

The Department of Defense Wage and Salary Division (DoD WSD) conducts an annual survey of the salaries of urban school jurisdictions in the United States (U.S.) with 100,000 or more population in order to establish the rates of basic compensation for teachers and teaching positions in the DoD. The DoD WSD issues Pay Plan salary schedules in April or May of the current school year. The schedules are effective retroactive to August 1 of the current school year (i.e., the prior calendar year). Until the salary schedules for the current school year are issued, educator, administrator, and ISS employee salaries are based upon the prior school year salary schedules. Separate salary schedules are issued for educator, management, specialist, and administrator overseas school year positions. Salary schedules are further differentiated by step

and academic salary lane (i.e., Bachelor's, Bachelor's plus 15, Bachelor's plus 30, Master's, Master's plus 15, Master's plus 30, and Doctorate). The following salary schedules currently are in use:

Schedule	Category	Duty Days
A	Substitute Teachers	190
C	Educators and Specialists	190
D	Speech Pathologists or Social Workers	190
E	Guidance Counselors	190
F	School Psychologists	190
K	School Principals	222
L	Assistant Principals	222
M	Management and Education Specialist Positions	190
N	Management and Education Specialist Positions	190
O	Instructional Systems Specialist (ISS) – non-supervisory	222
P	Supervisory Instructional System Specialist (ISS)	222

*070204. Retroactive Pay Adjustment

After the DoD WSD issues the salary schedule in April or May of the current school year, the servicing human resources office processes a retroactive pay adjustment effective August 1 of the current school year (i.e. prior calendar year) using a, Standard Form ***(SF) 50***, Notification of Personnel Action. The servicing payroll office then reconciles educator, administrator, and ISS employee pay and makes any necessary "retro payments" based on increases in salary. The gross amount of the retroactive adjustment computed under the new salary schedules are subject to applicable withholdings (e.g., Civil Service Retirement System (CSRS) or Federal Employee Retirement System (FERS), federal income tax, Social Security tax, Medicare tax, and state income tax). When the retroactive adjustment is processed, biweekly deductions for the following will be adjusted accordingly:

A. Basic and Optional Federal Employees Group Life Insurance (FEGLI);

B. Thrift Savings Plan (TSP);

C. TSP basic one percent and matching employer contributions for FERS employees.

Likewise, when the retroactive adjustment is processed, biweekly payments for foreign post allowance and foreign post differential will be adjusted accordingly.

070205. Daily/Biweekly Pay

See Section 0705 regarding compensation for educators, administrators, and ISS employees.

*070206. Step Increases

Step increases for educators, administrators, and ISS employees are similar to step increases for General Schedule (GS) employees. Generally, steps 1 through 14 are regular step increases and steps 15 through 18 are longevity steps. Substitute teachers are not eligible for step increases.

A. Eligibility.

1. A full-time educator assigned to a 190-day position may receive a regular step increase (steps 1 through 14) provided they have been in a pay status at least 150 duty days during their last previous school year as an educator.

2. A full-time educator assigned to a 190-day position may receive a longevity step increase (steps 15 through 18) provided they have been in a pay status at least 150 duty days during each of the previous 4 school years as an educator.

3. A half-time educator assigned to a 190-day position may receive a regular step increase (steps 1 through 14) provided they have been in a pay status at least one-half of 150 duty days during each of the previous 2 school years. A half-time educator may receive a longevity step increase (steps 15 through 18) after they have been in a pay status at least one-half of the 150 working day minimum during each of the previous 8 school years.

4. A full-time administrator assigned to a 222-day position may receive a step increase (steps 1 through 10) provided they have been in a pay status at least 175 duty days during their last previous school year as an administrator.

5. A full-time ISS employee assigned to a 222-day position may receive a regular step increase (steps 1 through 14) provided they have been in a pay status at least 175 duty days during their last previous school year as an educator.

6. A full-time ISS employee assigned to a 222-day position may receive a longevity step increase (steps 15 through 18) provided they have been in a pay status at least 175 duty days during each of the previous 4 school years as an educator.

7. A half-time ISS employee assigned to a 222-day position may receive a regular step increase (steps 1 through 14) provided they have been in a pay status at least one-half of 175 duty days during each of the previous 2 school years. A half-time educator may receive a longevity step increase (steps 15 through 18) after they have been in a pay status at least one-half of the 175 working day minimum during each of the previous 8 school years.

8. A full-time educator assigned to a 190-day position may be entitled to receive an annual step increase (or service credit towards a longevity step) for the last satisfactory year of service, plus an additional annual step (or service credit) for the first year of absence, only upon return to duty after successfully completing a program of study or employment of one or more years under the Administrative Reemployment Rights Program.

B. Effective Date. Step increases will be made effective August 1 of each school year following completion of the school year. However, the step increase is not payable until the educator returns to duty for the subsequent year. The effective date of a step increase is not changed by a movement to a higher or lower salary schedule.

070207. Late Arrival at Post

A. Educators newly recruited from the Continental United States are appointed with the understanding that they will serve for an entire school year or a specified partial month. An educator who through no personal fault and as a result of transportation or processing delays after selection for appointment, arrives late at the post of assignment, will be administratively excused and paid as if they arrived on time and actually served during the lost time. The offer letter from DoDEA must be dated 14 days prior to the teacher's reporting date.

B. Educators, other than as described in subparagraph 070207.A, who arrive late at the post of assignment after the start of the school year, will not be paid for the duty days occurring prior to the day of arrival at the assigned post unless granted paid leave by the supervisor.

070208. Early Arrival at Post

A. Educators who arrive at their post of assignment prior to the start of the school year normally are not entitled to compensation until the start of the school year except as provided in subparagraph 070208.B.

B. Educators who are required to report at their post of assignment and perform work prior to the start of the school year will be compensated at their daily salary rate from the prior school year salary schedule for each day worked. Note: This salary is not subject to retroactive adjustment.

070209. Late Departure from Post

Educators who are unable to depart promptly after the end of the school year for personal reasons or because of circumstances beyond their control (e.g., lack of available transportation), are not entitled to compensation for the period between the end of the school year and the date of departure.

*070210. During Travel

While en route during a permanent change of station (PCS) between school years, an educator is in a non-pay status; therefore, basic compensation is not received. While en route during a PCS between school years, a principal or assistant principal otherwise in a non-pay, non-duty status will remain in a non-pay status and will receive appropriate per diem payments as provided in the ***Joint Travel Regulations***.

070211. Work at More than One Post of Assignment

A. When educators PCS during the school year, action will be taken to ensure that, after working the scheduled duty days during the remaining pay periods at the new post of assignment, the educator will receive the full school year salary to which their entitled. If the total number of days actually worked during the school year, to include paid leave at the former duty station and the new duty station, exceed 190, the educator will be paid at the daily rate for any days worked in excess of 190 days.

B. When administrators or ISS employees PCS during the school year, action will be taken to ensure that, after working the scheduled duty days during the remaining pay periods at the new post of assignment, the administrator or ISS employee will receive the full school year salary to which he or she is entitled. If the total number of days actually worked during the school year, to include paid leave at the former duty station and the new duty station, exceed 222, the employee will be paid at the daily rate for any days worked in excess of 222 days.

070212. Substitute Teachers

A. School Year Substitute Teachers. A substitute teacher will receive the flat daily rate prescribed under Salary Schedule A. The minimum increment paid for substitute work is one-half day.

B. Summer School Substitute Teachers. The daily rate for a summer school substitute teacher is provided in the Salary Schedule for "Other Compensation" and is two-thirds of the regular school year substitute teacher rate established for the prior school year. This salary is not subject to retroactive adjustment. For example, the prior school year rate for a 2010 summer school substitute teacher is published in the 2009-2010 salary schedules. The minimum increment earned and paid is one-half day the equivalent of one-third of the regular substitute teacher rate. Substitute teachers who teach an academic enrichment K-8 program during the summer recess period will be paid a stipend as authorized by the memorandum of understanding (MOU).

070213. Allowances and Differentials

Educators, administrators, and ISS employees may be entitled to certain allowances and differentials such as government quarters, living quarters allowance (LQA), temporary quarters subsistence allowance (TQSA), separate maintenance allowance (SMA), post allowance, post differential and/or storage of household goods. See paragraph 070506 for payment information on post allowances and foreign post differentials for Pay Plan employees. See Chapter 3, paragraph 030402 for payment information on LQA, TQSA, and SMA. An educator employed as a substitute is not entitled to government quarters, quarters allowance, post allowance, post differential, or storage of household goods.

0703 LEAVE

070301. Accrual of Leave

A. Educators. Under 20 U.S.C. 904, educators (excluding substitute teachers) are entitled to cumulative leave with pay. This leave is identified as educator leave. If the school year consists of less than 8 months, the leave accrues at the rate of 1 day for each calendar month worked or partial month. When the school year includes more than 8 months, an employee who serves the entire school year is entitled to 10 days of cumulative educator leave with pay for the school year. The full school year accumulation of leave is credited to the employee's leave record when the school year begins (normally in August) or whenever the employee enters on duty (e.g., after the start of the school year) under ***DS Regulation 5630.4***, DODDS Absence and Leave.

B. Administrators and ISS Employees. Administrators and ISS employees are entitled to earn 13 days of cumulative educator leave with pay under 20 U.S.C. 904 and DS Regulation 5301.4. Leave is credited to the employee's leave record on August 1st of each year.

C. Liquidation of Unused Leave Upon Separation. If the educator, administrator, or ISS employee is separated for any reason before the school year ends, any leave that has been credited but not earned will be subtracted from the leave balance or, if already used, a debt will be established and appropriate collection action taken.

D. Leave Accrual for Part-Time Educators and Part-Time ISS Employees. Educators and ISS employees who are regularly employed on a part-time basis earn leave in an amount proportionate to the amount of time the part-time employees are regularly employed as compared to full-time employment. Part-time ISS employees, such as those in a job-sharing arrangement, earn 6.5 days per year (or one-half day (4 hours) per pay period, if less than 8 months remain in the school year).

Example 1: A part-time educator appointed to a part-time position for the full school year. The educator is scheduled to work one-half day on each duty day during the regular school year. The educator is entitled to accrue 10 half days (5 full days) of educator leave.

Example 2: A part-time educator appointed to a part-time position for the full school year. The educator is scheduled to work each Tuesday and Thursday during the regular school year. The educator is entitled to accrue two-fifths (4 days) of the 10 days of educator leave that would be earned during full-time employment.

Example 3: A part-time educator appointed to a part-time position for the last semester (one-half) of the school year. The educator is scheduled to work one-half day on each scheduled duty day during the semester. The educator is entitled to accrue one-fourth (2.5 days) of educator leave.

E. Substitute Teachers. Substitute teachers are employed in positions on a temporary intermittent basis and are not entitled to earn leave.

F. Summer Recess Period. Educators and administrators who perform activities during the summer recess period do not earn leave.

070302. Leave Usage

A. Minimum Charge. The minimum charge for educator leave is one-half day, and additional charges are in multiples thereof. An occasional absence from duty of less than one-half day may be excused for adequate reasons without charge to educator leave, at the discretion of administrative authority. Leave charges are reported to the civilian payroll office on the TP educator's time and attendance report.

B. Authorized Absences. An educator, administrator, or ISS employee may use accrued educator leave during the school year for the following:

1. Maternity purposes;

2. Illness of the educator;

3. Illness, contagious disease, or death in the immediate family of the educator that requires his or her absence;

4. Any personal emergency; or

5. Any purpose.

With the appropriate advance notice and prior approval of the supervisor, an educator, administrator, or ISS employee may use up to 3 days of leave in a given school year for any purpose. Educator leave used for any purpose normally may not be used during orientation week or the first or last week of the school year. An exception may be made when an employee has been accepted for an educational program and must report prior to the end of the school year.

C. Summer Recess Period. Accrued educator leave may not be used during any summer recess period. An absence during a summer recess period is without pay.

D. Non-work Days. Except for unique tours of duty established by the host nation (e.g., Bahrain), Saturdays, Sundays, regularly scheduled holidays including U.S. holidays and host nation holidays and other administratively authorized non-work days are not normally days of leave. See 20 U.S.C. 904(b). Therefore, an educator, administrator, or ISS employee who is in a non-pay status immediately preceding and following a scheduled holiday is not charged Leave Without Pay (LWOP) for the scheduled holiday.

070303. Advances of Leave

Under unusual circumstances, up to 30 days of educator leave (above the amount already credited for the current school year) may be advanced to an educator, administrator, or ISS employee for use on any scheduled duty day within the school year. Such advance is subject to

subsequent earning of educator leave, or repayment upon separation for leave advanced but not earned. The immediate supervisor may approve requests for up to 10 days of advance educator leave. Requests in excess of 10 days of advance educator leave will be submitted to the Area Director or District Superintendent, as appropriate. Approved requests are submitted to the civilian payroll office by the Customer Service Representative upon receipt from the approval official.

070304. Leave Without Pay (LWOP)

The immediate supervisor of an educator or ISS employee may approve an LWOP request of up to 3 days. The Area Director or District Superintendent may approve LWOP requests in excess of 3 days but less than 30 days. The Area Director may approve LWOP requests of 30 days or more. The District Superintendent must approve LWOP requests in excess of 3 days, but less than 30 days for administrators. The Regional Director or their delegate must approve LWOP requests in excess of 30 days by administrators.

070305. Conversion of Leave for Federal Employees Transferring to DoDEA

A. Sick Leave. An employee of the federal government or the District of Columbia who is transferred without a break in service from a position under a different leave system to an educator, ISS employee or administrator position is credited with sick leave immediately prior to the effective date of their conversion, transfer, promotion, or reappointment to an educator, administrator, or ISS employee position. Sick leave so credited is included in the employee's balance of educator leave.

B. Annual Leave. Annual leave is not credited to an educator, ISS employee, or administrator's balance of educator leave when he or she transfers without a break in service from a position under a different leave system. The employee will receive a lump-sum payment for accrued annual leave from the previous employer. However, administrators who were converted from GS or General Merit positions to Salary Schedules K and L on October 11, 1987, were entitled to be credited for annual leave during the initial conversion.

070306. Transfer and Recredit of Educator's Leave

A. Reappointed to Another Educator, Administrator, or ISS Employee Position. When an educator, administrator, or ISS employee is separated from their current position and reappointed in another educator, administrator, or ISS employee position without a break in service of more than 3 years, the employee's educator leave is certified to the employing agency for credit as sick leave on the ***SF 1150***, Record of Leave Data.

B. Reappointed to Federal Position. When an educator, administrator, or ISS employee separates from their position and is reappointed without a break in service to another federal position subject to another leave act, his or her leave account is certified to the employing agency for credit in accordance with Title 5, Code of Federal Regulations (CFR), ***630.501***.

C. Temporary Employment During Recess. If an educator, administrator, or ISS employee accepts temporary employment with the federal government in a non-educator position during a recess period, their educator's leave account will not be transferred to the leave account of the summer position. Any sick leave earned during the temporary summer employment will be credited and any unused sick leave balance will be transferred to the educator's leave account when they return to duty in their regular educator or administrator position.

070307. Liquidation of Leave Upon Separation

A. Any annual leave earned under a different leave system and remaining to the credit of an educator, administrator, or ISS employee upon their separation will be liquidated by a lump-sum payment in accordance with ***5 U.S.C. 5551*** and 20 U.S.C. 904(f).

B. Educator leave may not be liquidated upon separation through lump-sum payment. Educator leave includes leave earned by an educator, administrator, or ISS employee. Also, educator leave that was included in their leave balance pursuant to subparagraph 070305.A.

070308. Sabbatical Leave

A. Authority. Year-long educator leave at half-pay (sabbatical leave) may be authorized for an educator, administrator, or ISS employee, and for educational purposes, when the course of study is determined to be appropriate by the Area Director. An SF 50 is not required. The approved request for training should reflect that the educator, administrator, or ISS employee will be in an LWOP status one-half of each day during the year-long period.

B. Benefits and Entitlements During Sabbatical Leave. Educators and administrators granted sabbatical leave at half-pay will continue to receive life insurance and health benefits coverage in the same manner as if they were in full-pay status. Retirement contributions will be deducted for only one-half year; however, the employee is entitled to credit for a full year toward retirement. Educator leave is not earned, nor should it be deducted (i.e., used) from the employee's leave account during the training period. Any pay step increase that would have been authorized should be processed as if the educator or administrator had worked a full school year.

C. Pay Status Reporting During Sabbatical Leave. The educator or administrator's work schedule should not change during sabbatical leave. The time and attendance report for each pay period should reflect that the employee is in an LWOP status one-half of each day.

0704 PAY STATUS DURING SCHOOL YEAR AND SUMMER RECESS

070401. School year

An educator's school year consists of 190 duty days. In most overseas locations, these duty days fall on days during the normal workweek (i.e., Monday through Friday). An educator, however, does not work every Monday through Friday during the school year because of non-duty days during recess periods (i.e., Thanksgiving, winter and spring recess; federal holidays; and certain host nation holidays). As a result, the school year (i.e., from the educator's first through last duty day) may include 22 pay periods with approximately 213 days, Monday through Friday, between the educator's first and last duty day of the school year. There are typically 21 full pay periods, plus 3 additional days in the 22nd pay period in a given school year.

*070402. Summer Recess

During the summer recess period, while school is not in session, educators ordinarily are in a non-pay status. An SF 50 is not required to place educators in a non-pay status or to return them to duty status at the beginning of the following school year. Educators who are returning to duty for the following full school year are entitled to have LQA payments continued during the summer recess period while they are in a non-pay status. See the Department of State Standardized Regulation ***(DSSR)***, Chapter 100, Quarter Allowances, and Chapter 700, DoD Teachers. The servicing human resources office will notify the servicing civilian payroll office of any change (e.g., transfer, resignation, or retirement) in the status of educators.

0705 COMPENSATION

*070501. Educators with a 190-Day School Year

A. Daily/Biweekly Rate. Educators earn pay at a rate that differs from the typical rate used to pay employee salaries. If the usual pay calculations were used, the educator's seasonal work schedule, in conjunction with recess periods, would cause pay to fluctuate during each pay period of the school year. Therefore, in order to provide consistency, the biweekly pay for educators is calculated using the following information and formulas:

1. Duty Days and "Daily Rate" or "190 Rate" for Educators. The number of duty days in the school year is 190. The educator's daily rate, or "190-Rate," is the school year salary divided by 190.

2. School Year Days and "School Year Rate" or "213-Rate" for Educators. For most school years, the school year days will total 213 or 214 days, depending on the calendar year. School year days equal the total number of days (Monday through Friday) falling within an educator's first through last duty day during the school year. School year days include 190 duty days, as well as all other non-work recess days that occur on Monday through Friday during the regular school year. Non-work recess days include federal holidays (e.g., Labor Day) and school recess days (e.g., spring recess) when educators are not normally

scheduled to work. The number of school year days is used to determine an educator's school year rate, or "213-Rate." The school year rate is the daily rate used to provide a uniform payment for each biweekly pay period. The school year rate is multiplied by 10 days in order to determine the educator's biweekly basic pay amount. Educators who elect biweekly payments over 260, 261, or 262 days (depending on how many workdays are in the fiscal year (FY) will have the school year rate determined by dividing the school year salary by 260, 261, or 262 days.

3. Formula for Educator's Biweekly Pay. An educator's salary is normally paid out over 21 full and one partial pay periods. The following formula may be used to calculate the biweekly pay:

a. School Year Salary divided by 213, 214, 260, 261, or 262 = School Year Rate

b. School Year Rate multiplied by 10 days = Biweekly Pay

B. Educator Post Allowance. See paragraph 070506 regarding post allowances. In computing the post allowance for educators paid on a 190-day school year basis, divide the total annual amount of post allowance payable by the number of calendar days in the school year (i.e. school year days plus weekend days) to obtain the daily rate. Multiply the daily rate by the number of calendar days in the pay period (normally 14).

C. Reducing Pay for Absences Without Pay. For educators on non-paid absence (e.g., LWOP or absence without leave (AWOL)), the biweekly pay is reduced by 1/190th of the school year salary for each scheduled duty day that the educator is in a non-paid status. Since the educators are not paid for federal holidays or recess periods, the biweekly pay is not reduced when the educator is in a non-paid status before or after a federal holiday or recess day.

D. Biweekly Pay for Educators Beginning Work after Start of School Year. When the educator is appointed after the school year has started, the school year salary must be adjusted according to the number of duty days remaining in the school year. Multiply the daily rate ("190-Rate") by the number of duty days remaining in the school year in order to obtain the "adjusted school year salary." To determine the biweekly pay, divide the adjusted school year salary by the remaining number of school year days, and then multiply by 10 days. The following formulas may be used to calculate the biweekly pay for educators who begin work after the start of the school year:

1. "190-Rate" multiplied by Duty Days Remaining = Adjusted School Year Salary

2. Adjusted School Year Salary divided by School Year Days Remaining = Adjusted School Year Daily Rate

3. Adjusted School Year Daily Rate multiplied by 10 days = Biweekly Pay

Example: An educator reports for work after the beginning of the school year and receives a salary of $38,000 for working a full school year (i.e., 190 duty days). The educator would have a "190-Rate" (daily rate) of $200.00 ($38,000/190). This salary normally would be paid out over 213 school year days. However, the educator in this example begins work on October 1. Due to the late start, 23 duty days (August through September) will not be worked. The school year calendar indicates that 167 (190 - 23) duty days remain in the school year. Thus, the "adjusted school year salary" would be $33,400 ($200.00 x 167). To determine how the adjusted school year salary of $33,400 will be paid biweekly, the remaining school year days must be identified. In this example, 188 school year days remain (167 duty days + nonwork recess days). The adjusted school year daily rate is computed as follows: $33,400/188 = $177.66. The biweekly pay equals the adjusted school year daily rate multiplied by 10: $177.66 x 10 = $1,776.60.

E. Educators Who Separate Before the End of the School Year. When an educator separates (i.e., resigns, retires, or dies) before the end of a school year, the school year salary must be adjusted according to the number of duty days already worked. The adjusted school year salary is determined by multiplying the daily rate ("190-Rate") by the number of duty days worked (including any days in a paid leave status). The following formula may be used to calculate the adjusted school year salary for educators who separate before the end of the school year:

(School Year Salary divided by 190) multiplied by the number of duty days worked = Adjusted School Year Salary for Separated Educators

Example: An educator separates before the end of the school year. The educator has been receiving a school year salary of $38,000 at the "190-Rate" (daily rate) of $200.00 ($38,000/190). This salary normally would be paid out over 21 full and one partial pay periods. Should the educator resign after working only 120 of the scheduled 190 duty days in the school year, the adjusted school year salary would be $24,000 ($200.00 x 120). Any difference between the adjusted school year salary and the salary actually paid to date must be reconciled.

*070502. Administrators with a 222-Day School Year (Non-Instructional Systems Specialists (ISS))

A. Daily/Biweekly Rate. Administrators earn pay at a rate that differs from the typical rate used to pay employee salaries. If the usual pay calculations were used, the administrator's seasonal work schedule, in conjunction with recess periods, would cause pay to fluctuate during each pay period of the school year. Therefore, to provide consistency, the biweekly pay for administrators is calculated using the following information and formulas:

1. Duty Days and "Daily Rate" or "222 Rate" for Administrators. The number of duty days in the school year for administrators is 222. The administrator's daily rate, or "222-Rate," is the school year salary divided by 222.

2. School Year-Days and "School Year Rate" or "260 Rate" for Administrators. The school year days for administrators will total between 260 and 262 days, depending on the calendar year. The days during the school year include those days that fall

within, as well as outside of, the school year for educators. School year days for administrators include 222 duty days, as well as all other non-work recess days that occur on Monday through Friday during the regular school year. Non-work recess days include federal holidays (e.g., Labor Day) and school recess days (e.g., spring recess) when administrators are not normally scheduled to work. The number of school year days is used to determine an administrator's school year rate, or "260-Rate." The school year rate is the daily rate used to provide a uniform payment for each biweekly pay period. The school year rate is multiplied by 10 days to determine the administrator's biweekly basic pay amount.

3. Formula for Administrator's Biweekly Pay. An administrator's salary is normally paid out in even payments over 26 pay periods. The following formula may be used to calculate the biweekly pay:

a. School Year Salary divided by 260, 261, or 262 = School Year Rate

b. School Year Rate multiplied by 10 days = Biweekly Pay

B. Administrator Post Allowance. In addition to basic pay, administrators are entitled to a post allowance for employees assigned to foreign areas where the cost of goods and services is substantially higher. See ***20 U.S.C. 906***. To compute the foreign post allowance for an administrator, divide the total annual amount of post allowance payable by 365 calendar days, or 366 during a leap year. See paragraph 070506 for additional information regarding post allowance.

C. Reducing Pay for Absences Without Pay. For administrators on non-paid absence (e.g., LWOP or AWOL) the biweekly pay is reduced by 1/222th of the school year salary for each scheduled duty day that the administrator is in a non-paid status. Since administrators are not paid for federal holidays or recess periods, the biweekly pay is not reduced when the administrator is in a non-paid status before or after a federal holiday or recess day.

D. Biweekly Pay for Administrators Beginning Work after Start of School Year. When an administrator is appointed after August 1st and will not work 222 duty days by July 31st, the school year salary must be adjusted according to the number of actual duty days remaining in the school year. Multiply the daily rate ("222-Rate") by the number of duty days remaining in the school year in order to obtain the "adjusted school year salary." To determine the biweekly pay, divide the adjusted school year salary by the remaining number of school year days and then multiply by 10 days. The following formulas may be used to calculate the biweekly pay for administrators who begin work after the start of the school year:

1. "222-Rate" multiplied by Duty Days Remaining = Adjusted School Year Salary,

2. Adjusted School Year Salary divided by School Year Days Remaining = Adjusted School Year Daily Rate,

3. Adjusted School Year Daily Rate multiplied by 10 = Biweekly Pay

Example: An administrator reports for work after the beginning of the school year and receives a salary of $55,500 for working a full school year (i.e., 222 duty days). The administrator has a "222-Rate" (daily rate) of $250.00 ($55,500/222). This salary would be paid out in even payments over 26 pay periods. However, the administrator in this example begins work on September 15. Due to the late start, 33 duty days are not worked. The administrator will work only 189 of the duty days remaining by July 31st. Thus, the adjusted school year salary is $47,250 ($250.00 x 189). To determine how the adjusted school year salary of $47,250 will be paid biweekly, the remaining school year days must be identified. In this example, 228 school year days remain (189 duty days + non-work recess days). The adjusted school year daily rate is computed as follows: $47,250/228 = $207.24. The biweekly pay equals the adjusted school year daily rate multiplied by 10: $207.24 x 10 = $2,072.40.

E. Administrators Separating Before End of School Year. When an administrator separates (i.e., resigns, retires, or dies) before the end of a school year, the school year salary must be adjusted according to the number of duty days already worked. The adjusted school year salary is determined by multiplying the daily rate ("222-Rate") by the number of duty days worked (including any days in a paid leave status). The following formula may be used to calculate the adjusted school year salary for administrators who separate before the end of the school year:

School Year Salary divided by 222 multiplied by the number of duty days worked = Adjusted School Year Salary for Separated Administrators

Example: An administrator separates before the end of the school year. The administrator has been receiving a school year salary of $55,500 at the "222-Rate" (daily rate) of $250.00 ($55,500/222). This salary normally would be paid out over 26 pay periods. Should the administrator resign after working only 120 of the scheduled 222 duty days in the school year, the adjusted school year salary would be $30,000 ($250.00 x 120). Any difference between the adjusted school year salary and the salary actually paid to date must be reconciled.

*070503. ISS Employees with a 222-Day School Year

A. Daily/Biweekly Rate. ISS employees build their own calendar to schedule 222 duty days out of the 260 to 262 school year. The remaining 38 (or 39) days in the school year are considered non-work days for the purposes of this regulation. The schedule is established by the ISS employee and approved by the supervisor. If the ISS employee schedules work on a federal holiday, then the employee will not receive holiday pay and will still have the same number of non-work days (38 or 39) in the school year. However, if the employee schedules work on a holiday or a Sunday when normal school operations are in session, the employee is entitled to the appropriate premium pay. For example, if school is in session on Sundays due to local custom and the ISS employee's approved schedule allows for Sunday as a work day, the employee is entitled to Sunday premium pay. However, if Sunday is not normally a work day for school staff and the ISS employee schedules Sunday as a work day, the employee is not entitled to Sunday premium pay. To provide consistency, the biweekly pay is calculated as follows:

1. Duty Days and "Daily Rate" or "222 Rate" for ISS Employees. The number of duty days in the school year to ISS employees is 222. The ISS employee's daily rate, or "222-Rate," is the school year salary divided by 222.

2. School Year Days and "School Year Rate" or "260 Rate" for ISS Employees. The school year days for ISS employees will total between 260 and 262 days, depending on the calendar year. Thus, the days during the school year include those days that fall within, as well as outside of, the school year for educators. The school year days for ISS employees include 222 duty days, as well as all non-work recess days that occur on Monday through Friday during the regular school year. Non-work recess days include federal holidays (e.g., Labor Day) and school recess days (e.g., spring recess) when ISS employees are not normally scheduled to work. However, due to the flexibility in their schedule, ISS employees may elect to work on any federal holiday (but will not receive holiday pay) and may schedule their non-work days on days that other educators generally work. The number of school year days is used to determine an ISS employee's school year rate, or "260-Rate." The school year rate is the daily rate used to provide a uniform payment for each biweekly pay period. The school year rate is multiplied by 10 days in order to determine the ISS employee's biweekly basic pay amount.

3. Formula for ISS Employee's Biweekly Pay. An ISS employee's salary is normally paid out in even payments over 26 pay periods. The following formula may be used to calculate the biweekly pay:

a. School Year Salary divided by 260, 261, or 262 = School Year Rate

b. School Year Rate multiplied by 10 days = Biweekly Pay.

B. ISS Employee Post Allowance. In addition to basic pay, ISS employees are entitled to a post allowance under 20 U.S.C. 906. To compute the foreign post allowance for an ISS employee, divide the total annual amount of post allowance payable by 365 calendar days, or 366 during leap year.

C. Reducing Pay for Absences Without Pay. For ISS employees on non-paid absence (e.g., LWOP or AWOL) the biweekly pay is reduced by 1/222th of the school year salary for each scheduled duty day that the ISS employee is in a non-paid status. Since ISS employees are not paid for scheduled non-work days, the biweekly pay is not reduced when the ISS employee is in a non-paid status before or after a scheduled non-work day.

D. Biweekly Pay for ISS Employees Beginning Work After Start of School Year. When an ISS employee is appointed after August 1st and will not work 222 duty days by July 31st, the school year salary must be adjusted according to the number of actual duty days remaining in the school year. Multiply the daily rate ("222-Rate") by the number of duty days remaining in the school year in order to obtain the "adjusted school year salary." To determine the biweekly pay, divide the adjusted school year salary by the remaining number of school year

days and then multiplying by 10 days. The following formulas are used to calculate the biweekly pay for ISS employees who begin work after the start of the school year:

1. "222-Rate" multiplied by Duty Days Remaining = Adjusted School year Salary,

2. Adjusted School Year Salary divided by School Year Days Remaining = Adjusted School Year Daily Rate,

3. Adjusted School Year Daily Rate multiplied by 10 = Biweekly Pay.

Example: An ISS employee reports for work after the beginning of the school year and receives a salary of $55,500 for working a full school year (i.e., 222 duty days). The ISS employee has a "222-Rate" (daily rate) of $250.00 ($55,500/222). This salary normally pays out in even payments over 26 pay periods. However, the ISS employee in this example begins work on September 15. Because of their late start, it may be difficult to schedule all 222 duty days by July 31 (in this example, the employee can only schedule 189 duty days for the rest of the school year). The adjusted school year salary equals the daily rate multiplied by the total number of scheduled duty days remaining. Thus, the adjusted school year salary is $47,250 ($250.00 x 189). To determine how the adjusted school year salary of $47,250 is paid biweekly, the remaining school year days must be identified. In this example, 228 school year days remain. The adjusted school year daily rate is computed as follows: $47,250/228 = $207.24. The biweekly pay equals the adjusted school year daily rate multiplied by 10: $207.24 x 10 = $2,072.40.

E. ISS Employee Separating Before End of School Year. When an ISS employee separates (i.e., resigns, retires, or dies) before the end of a school year, the school year salary must be adjusted according to the number of actual duty days already worked. The adjusted school year salary is determined by multiplying the daily rate ("222-Rate") by the number of duty days worked including any days in a paid leave status. The following formula is used to calculate the adjusted school year salary for ISS employees who separate before the end of the school year:

(School Year Salary divided by 222) multiplied by the number of duty days worked = Adjusted School Year Salary for Separated ISS Employees.

Example: An ISS employee separates before the end of the school year. The ISS employee has been receiving a school year salary of $55,500 at the "222-Rate" (daily rate) of $250.00 ($55,500/222). This salary would normally be paid out over 26 pay periods. Should the employee resign after working only 120 of the scheduled 222 duty days in the school year, the adjusted school year salary would be $30,000 ($250.00 x 120). Any difference between the adjusted school year salary and the salary actually paid to date must be reconciled.

F. ISS Step Increases. While ISS employees work a 222 day school year, step increases are treated like regular school year appointments for classroom educators. ISS

employees have 18 steps, of which the first 14 are similar to step increases for GS employees and provided the employee works at least 175 days. Steps 15 through 18 are longevity steps. See paragraph 070206 for other rules on step increases that apply to ISS employees.

070504. Premium Pay, Sunday Work, and Holiday Work

A. Overtime and Compensatory Time. Educators and administrators are ineligible for overtime pay or compensatory time off.

B. Work Performed on Sunday. Educators appointed to a 190-day position whose regular tour of duty requires them to work on a Sunday are entitled to basic pay, plus a premium of 25 percent of the daily rate ("190-Rate"). Administrators on a 222-day position whose regular tour of duty requires them to work on a Sunday (providing that is part of the 190 duty day school year or within summer school session) are entitled to basic pay, plus premium pay at a rate equal to 25 percent of the regular daily rate ("222-Rate"). If an ISS educator works on a Sunday when normal school operations are in session, the employee is entitled to the appropriate premium pay. See subparagraph 070503.A. for ISS employees.

C. Work Performed on a Federal Holiday. Educators appointed to a 190-day position whose regular tour of duty requires them to work on any of the federal holidays is entitled to basic pay, plus premium pay at a rate equal to the daily rate. Administrators on a 222-day position whose regular tour of duty requires them to work on any of the federal holidays (providing that is part of the 190 duty day school year or within summer school session) are entitled to basic pay, plus premium pay at a rate equal to the daily rate. If an ISS employee schedules work on a federal holiday, then the employee typically will not receive holiday pay. However, if the ISS employee schedules work on a federal holiday when normal school operations are in session, the ISS employee is entitled to the appropriate premium pay. See subparagraph 070503.A. for ISS employees. Federal holidays for the purpose of this paragraph include:

1. New Year's Day, January 1,

2. Dr. Martin Luther King Day, third Monday in January,

3. President's Day, third Monday in February,

4. Memorial Day, last Monday in May,

5. Independence Day, July 4,

6. Labor Day, first Monday in September,

7. Columbus Day, second Monday in October,

8. Veteran's Day, November 11,

9. Thanksgiving Day, fourth Thursday in November,

10. Christmas Day, December 25.

070505. Employment During the Summer Recess Period

A. Educators. Educators are placed in a non-pay/non-duty status during the summer recess period; however educators may receive pay for certain duties performed during the summer recess period. An educator who participates in a non-summer school related activity (e.g., agency sponsored and approved training, early return, and late departure) during the summer recess period receives compensation at a daily rate of 1/190th of the prior school year salary. An educator who participates in a summer school related activity (e.g. teaching) typically receives two-thirds of the daily rate of their prior school year salary. However, exceptions are possible, and the educator may receive a different salary amount as stated on the employee's notification for teaching summer school. The minimum increment earned and paid for most summer recess period activities is one-half day. Educators who work an academic enrichment K-8 program during the summer recess period are paid a stipend as authorized by a MOU. An educator receives payment for participation in summer recess activities via the submission of a memorandum by DoDEA to the civilian payroll office, similar to the one used to authorize payment for extra-duty assignments. This period of employment is exempt from dual pay provisions, as provided by ***5 U.S.C. 5533(d)(7)(D)*** and is not subject to CSRS, FERS, FEGLI, or TSP deductions.

B. Administrators and ISS Employees. An administrator or ISS employee who participates in a non-summer school related activity (e.g., agency sponsored and approved training) during the summer recess period that is in excess of the 222-day work year, receives compensation at a daily rate of 1/222nd of the prior school year salary. An administrator or ISS employee who participates in a summer school related activity receives two-thirds of the daily rate of the prior school year salary. The minimum increment earned and paid for all summer recess period activities is one-half day. An administrator or ISS employee receives payment for participation in summer recess activities via the submission of a memorandum by DoDEA to the civilian payroll office, similar to the one used to authorize payment for extra-duty assignments. This period of employment is exempt from dual pay provisions, as provided by 5 U.S.C. 5533(d)(7)(D) and is not subject to CSRS, FERS, FEGLI, or TSP deductions.

070506. Post Allowance and Foreign Post Differential

Payment of allowances and/or differentials is determined in accordance with the DSSR, and Department of Defense Instruction 1400.25, DoD Civilian Personnel Management System, ***Volume 1250***, Overseas Allowances and Differentials.

A. Post Allowance. In addition to basic pay, under 20 U.S.C. 906 full-time educators, administrators, and ISS employees are eligible to receive a post allowance for employees assigned to a foreign area where the cost of goods and services is substantially higher. The amount paid is a flat rate based on the employee's basic salary, family size and post assignment. The amount of the annual foreign post allowance is located on the ***SF 1190***, Foreign

Allowances Application, Grant and Report. If an employee's annual salary is adjusted, the post allowance may also be adjusted and if so, the daily rate should be recomputed. Daily rates are computed as follows:

1. Educator Post Allowance Daily Rate. To compute the post allowance for educators paid on a 190-day school year basis, divide the total annual amount of post allowance payable (as shown on the SF 1190) by the number of calendar days in the school year (i.e. school year days plus weekend days) to obtain the daily rate. Multiply the daily rate by the number of calendar days in the pay period (normally 14).

2. Administrator Post Allowance Daily Rate. To compute the foreign post allowance for an administrator, divide the total annual amount of post allowance payable (as shown on the SF 1190) by 365 calendar days, or 366 during leap year.

3. ISS Employee Post Allowance Daily Rate. To compute the foreign post allowance for an ISS employee, divide the total annual amount of post allowance payable (as shown on the SF 1190) by 365 calendar days, or 366 during leap year.

B. Foreign Post (Hardship) Differential. An educator, administrator, or ISS employee may be paid a foreign post (hardship) differential under DSSR, Chapter 500. The foreign post differential is additional compensation paid to an eligible employee in a foreign area where conditions of the environment differ substantially from conditions in the U.S. and additional compensation is available as a recruitment and retention incentive. The foreign post differential is compensated based on 5 to 35 percent over basic compensation. The Department of State periodically reviews and updates rates based on changes in living conditions at various foreign posts. Rates are subject to change at any time. Additionally, any adjustment in an employee's annual salary may cause the foreign post differential to be adjusted. For example, assume that the current foreign post differential authorized for an educator in Ankara, Turkey is 10 percent of the educator's basic compensation. If their basic compensation during the current school year is $45,000, but is adjusted upward to $50,000, then the adjusted foreign post differential amount authorized for payment to the educator would be $5,000. The authorized foreign post differential percentage would not change and would remain consistent with the dollar amount paid to the educator during that school year.

070507. Extra-Duty Program for Educators

This program applies to certain DoDDS employees who are employed under the pay plan who are assigned extra-duty assignments, such as coaching, activity sponsorship, or dormitory work, in addition to regular school duties. See ***DS Regulation 5550.9***, Compensation for Extra-Duty Assignments. Extra-duty compensation is paid when extra-duty assignments are conducted and completed outside the educator's duty day. When an educator is selected to perform an extra-duty assignment, the educator and school principal will sign an MOU. The MOU will identify the extra-duty assignment, and will include a description of duties, the hourly range (i.e., the number of hours predicted to complete the extra-duty assignment), the amount of compensation, and a statement that the duties will not be performed during duty hours when school is in session. Administrators are not eligible for extra-duty assignments and any

extra-duty activities performed by an administrator will be considered voluntary. Compensatory time and holiday pay are not authorized forms of extra-duty compensation.

A. Compensation for Extra-Duty Assignments

1. Requirements for Pay. The rate of compensation for completing an extra-duty assignment is published by the DoD WSD as part of the yearly DoDDS salary schedules (Schedule for Other Compensation). The minimum number of hours established for a particular activity must be performed, and the activity must be completed before payment is made. The administrator must certify that the extra-duty assignment has been completed satisfactorily and that compensation is authorized. The administrator will forward a memorandum to the civilian payroll office as soon as possible, but not later than May 31st, to facilitate payment by the end of the school year.

2. Hourly Range of Assigned Duties. The Director of DoDEA determines an appropriate hourly range for the completion of each type of authorized extra-duty activity. The following hourly ranges have been established by the DoD WSD for extra-duty compensation:

a. 1 - 19 hours,

b. 20 - 39 hours,

c. 40 - 79 hours,

d. 80 - 119 hours,

e. 120 - 159 hours,

f. 160 – 199 hours,

g. 200 hours and over.

3. Reducing Compensation for Fewer Hours Worked. If the administrator determines the extra-duty assignment has been completed satisfactorily in less time than identified in the approved MOU, compensation must be reduced and the educator should be compensated at the rate established for the appropriate lower hourly range. When the hours worked fall short of the original range, or an educator is unable to complete the extra-duty assignment for a reason acceptable to the administrator, a lesser payment than the amount indicated in the approved MOU is paid on a pro rata basis. The formula for computing a lesser payment is the mid-point hour of the appropriate hourly range divided into the hours actually worked, the result then multiplied by the dollar value assigned to the regular hourly category. For the 200 and over range, the mid-point is 220.

Example: An educator works 10 hours towards a 20-39 hourly range extra-duty assignment ($720 for school year 2004-2005). When the mid-point (30 hours) is divided into the hours

worked (10 hours), and the results rounded to 2 decimal places (.33) and is multiplied by the dollar value of the hourly range for the duty (.33 x $720), the payment due will be $237.60.

4. Substitutes. Substitute teachers are compensated using the rate of compensation for completing an extra-duty assignment as published by the DoD WSD.

B. Extra-Duty as Dormitory Counselor. An educator, assigned to a dormitory counselor, or supervisory dormitory counselor position, may receive additional compensation identified as "Condition of Employment Compensation" and "Additional Hours Compensation." See DS Regulation 5550.9 at App. H.

1. Condition of Employment Compensation. This is compensation for all sleep-in time and all night, holiday, and Sunday work. The remarks section of the SF 50 is annotated to indicate the employee is entitled to receive Condition of Employment Compensation. Condition of Employment Compensation is pro-rated over the school year and is paid on a bi-weekly basis while the dormitory counselor is in a pay status during the school year. The amount of Condition of Employment Compensation is published annually by the DoD WSD and is based on the employee's work schedule. The rates of Condition of Employment Compensation is paid at either the 5-day, 40 hour rate, or the 7-day, 40 hour rate, and is based upon whether the dormitory counselor works a 5- or 7-day tour of duty. For example, during school year 2004-2005, the Condition of Employment Compensation was $1,625 in a 5-day dormitory and $3,285 in a 7-day dormitory.

2. Additional Hours Compensation

a. This is compensation paid to a dormitory counselor for scheduled or unscheduled additional work in excess of regularly scheduled work during the pay period in a 5- or 7-day dormitory. Additional Hours Compensation is available for such activities as: coordination with teachers, counselors, parents, and medical and military officials of the base; arranging for dormitory activities; and interruption of sleep-in time to perform substantive duties. Additional Hours Compensation may be paid for each full hour worked (scheduled or unscheduled) and is paid on a bi-weekly basis upon completion and certification of the time worked. Compensation for Additional Hours is certified on the time and attendance report by the immediate supervisor. The number of additional hours paid during the school year will not exceed 190 hours regardless of the number of hours worked and may not exceed the annual rate established by the DoD WSD for Additional Hours Compensation.

b. To calculate the maximum amount payable in a 5-day dormitory, subtract the 5-day, 40 hour rate, published on the DoD WSD schedule from the 5-day, 45 hour rate. The difference is the maximum amount authorized for Additional Hours compensation in a 5-day dormitory during the school year. For the 7-day dormitory, subtract the 7-day, 40 hour rate, from the 7-day, 45 hour rate, to calculate the maximum amount payable for Additional Hours.

Example: Using a school year 2004-2005 schedule for a 5-day, 40 hour dormitory, subtract $1,625 (5-day, 40 hour rate) from $8,475 (5-day, 45 hour rate). The result is $6,850 which is the

maximum school year amount payable for Additional Hours during school year 2004-2005. The hourly rate to be paid for Additional Hours in this example is $36.05 for a 5-day, 40 hour dormitory ($6,850/190 (maximum number of Additional Hours to be worked during the school year) = $36.05).

3. Substitutes. Substitute teachers are authorized to substitute for dormitory counselors, and are compensated in accordance with the Schedule A salary schedule published by the DoD WSD.

070508. Accelerated Deductions of Premiums and Allotments for Educators

A. FEGLI and Federal Employees Health Benefits (FEHB) Accelerated Premium Deductions. Deductions for FEGLI and FEHB premiums from an educator working a 190-day work schedule are accelerated to allow for the total annual premiums to be paid in 22 pay periods, rather than 26 pay periods. Accelerated premium deductions over the course of 22 pay periods allow the employee to maintain coverage and pay no additional premiums during the summer recess when the educator is in non-pay status. The coverage period typically runs from the first duty day of the school year until the day prior to the first duty day of the next school year. Accelerated premium deductions are not required for an administrator or ISS employee assigned to a 222-day work schedule.

B. Calculation of Accelerated Premium Deduction for FEGLI and FEHB.

1. FEGLI. To determine the amount of the accelerated biweekly premium deduction for FEGLI, first determine the normal (i.e., 26 pay period) biweekly premium rate deducted for other federal employees in the same salary bracket. Convert the biweekly rate to an annual rate by multiplying the biweekly rate by 26 (to arrive at the amount to be paid for the entire calendar year). Second, divide the annual rate by 22 (the number of pay periods over which the educator is normally paid) in order to determine the accelerated premium deduction for each pay period for the educator. The calculation applies to both basic and optional insurance. For optional insurance, use the age band rate to convert the biweekly rate to an annual rate. The following formula may be used to calculate the accelerated premium deduction amount:

a. Biweekly Premium Rate x 26 Pay Periods = Annual Premium Rate,

b. Annual Premium Rate divided by 22 = Accelerated Premium Deduction.

2. FEHB. To determine the accelerated biweekly premium amount deducted from an educator's pay for FEHB, first determine the normal (i.e., 26 pay periods) biweekly premium rate deducted for other federal employees. Convert the biweekly rate to an annual rate by multiplying the biweekly rate by 26 (to arrive at the amount to be paid for the entire calendar year). Second, divide the annual rate by 22 (the number of pay periods over

which the educator is normally paid) in order to determine the accelerated premium deduction for each pay period for the educator.

3. Accelerated Deductions Beginning After the Start of the School Year. If the educator begins work after the first scheduled duty day of the school year, the total annual premium rate for FEGLI and FEHB must be reduced by a proportionate amount for the coverage period remaining (i.e. through the day prior to the first scheduled duty day of the next school year). Divide the reduced annual premium rate by the number of pay periods remaining to determine the accelerated premium deduction amount. The following formula may be used to calculate the accelerated premium deduction amount:

Reduced Annual Premium Rate divided by Number of Pay Periods Remaining = Accelerated Premium Deduction

C. Coverage Upon Separation or Movement under FEGLI and FEHB. If an educator resigns at the close of the school year and he or she has elected coverage under FEGLI and/or FEHB, the actual date of separation will be delayed. The delayed separation date provides the employee with FEGLI and/or FEHB benefits throughout the period of time covered by the accelerated premium deductions. Thus, the period of coverage for an educator employed for a full school year typically continues until the day prior to the first duty day of the next school year. If the educator separates earlier than the end of the school year, their resignation will specify an earlier date for termination of coverage and require the employee to acknowledge that FEGLI and/or FEHB coverage will continue for only 31 days after the date of separation. An educator who separates before the end of the school year will be reimbursed proportionately if the separation date is earlier than the end of the extended period of prepaid FEHB coverage. If an educator is converted or appointed to a 222-day or calendar year work schedule, accelerated premium deductions may need to be refunded, if the effective date of the conversion or appointment occurs during the prepaid coverage period and withholding for the employee's new position would result in duplicate premium payments.

D. Deductions for Federal Flexible Spending Account (FSAFEDS) and Long Term Care (LTC). Educators, who enroll in the FSAFEDS Program and are paid over 21 pay periods, can elect the option to accelerate these allotments. The Federal LTC Program does not offer accelerated payments to educators who are paid over 21 pay periods. A "Bill for Uncollected Payroll Premium" will be mailed for any periods of non-pay status to the educator.

070509. Other Deductions

A. Allotments of Pay

1. Labor Organization Dues

a. Allotments of pay for labor organization dues are effective the second pay period in October of each school year for an educator who is a bargaining unit member. The amount of the allotment will be the dues amount identified by the employee on the ***SF 1187***, Request for Payroll Deductions for Labor Organization Dues, or the amount identified

on a list issued by each local or regional bargaining unit, divided by 12 full pay periods unless otherwise agreed to by the parties.

b. Educators who enter the dues withholding agreement at a time when less than 12 full pay periods remain in the school year will have their dues allotments prorated over the remaining full pay periods within the dues withholding period.

c. An SF 1187 authorization for dues withholding remains in effect when a "Not-to-Exceed" (NTE) employee is converted to an excepted service position in the bargaining unit prior to the expiration of the NTE appointment.

d. After each pay period, the civilian payroll office will prepare and forward the remittance to the designated labor organization. Remittance will be sent to the appropriate address in each area electronically. Each remittance will be accompanied by a report in the form of a listing of names and amounts withheld.

e. An educator's authorization for dues withholding is carried forward automatically to the next school year unless notification to stop the deduction is received from the employee. No later than September 1, educators may request that deductions for labor organization dues be cancelled by submitting a ***SF 1188***, Cancellation of Payroll Deductions for Labor Organization Dues, to Defense Finance and Accounting Service (DFAS). Employees are responsible for ensuring a properly completed SF 1188 is submitted in a timely fashion; an SF 1188 cancellation received after September 1st will not be honored for processing until the next school year.

f. No later than 2 weeks prior to the date withholding is to begin, the local or area units of the labor organization will forward a list of employees who have requested dues withholding. The list will identify the bargaining unit name or number, location, address, point(s) of contact and phone number(s). The list will also include the following employee information: name, Social Security Number, location assigned, and amount of dues to be withheld for that school year.

2. Savings Allotments and Allotment Allowed for 190-Day Educators Assigned in Overseas Areas. Savings and other allotments, as authorized in Chapter 11, may be deducted over the number of full pay periods in the school year.

B. TSP. An educator, administrator, or ISS employee may elect to have either a percentage or dollar deduction for TSP in accordance with guidelines set forth in section Chapter 11, Section 1110. TSP deductions will be taken from the annual retroactive salary adjustment given to employees each year only if the educator, ISS employee, or administrator has specified that a percentage be withheld.

070510. Educators Appointed as Junior Reserve Officer Training Corps (JROTC)

DoDDS employs retired military officers and noncommissioned officers as educators in its JROTC overseas program. The school year salary of JROTC instructors is set using the comprehensive Schedule for Educators and Specialist (Schedule C).

070511. Waiver of Erroneous Payments of Pay and Allowances

The procedures outlined in Chapter 8 are followed when processing applications for waiver of erroneous payments of pay and allowances submitted by DoDDS employees. However, applications of DoDDS employees received by the civilian payroll office are forwarded to the DoDEA Human Resources Regional Service Center for adjudication rather than the Defense Debt and Claims Management Office at DFAS.

0706 DOD DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS

Title 10 U.S.C. 2164 authorizes the Secretary of Defense to provide for the elementary or secondary education of the dependents of members of the Armed Forces and, under certain conditions, for dependents of civilian employees residing on a military installation in the U.S., if a determination is made that appropriate educational programs are not available.

VOLUME 8, CHAPTER 8: "UNDERPAYMENTS AND INDEBTEDNESS"

SUMMARY OF MAJOR CHANGES

All changes are denoted by blue font.

Substantive revisions are denoted by a * preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue and underlined font*.**

The previous version dated September 2008 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
0801	Updated information regarding Underpayments.	Update
0802	Updated information for clarity on Routine Adjustments and Salary Offset under 5 United States Code (USC) 5514 and Administrative Offset under 31 USC 3716.	Update
080201	Added the Authority to collect debts due the United States from previous Chapter 4, section 0411.	Add
0803	Updated information pertaining to the Authority to Collect Debts Due to Underdeduction of Federal Employee Health Benefits (FEHB) and Federal Employee Group Life Insurance (FEGLI) Premiums.	Update
0804	Updated information pertaining to Due Process Procedures.	Update
080403.B	Added information pertaining to Processing an Unacceptable Voluntary Repayment Agreement.	Add
080404	Updated information pertaining to Hearings, Submission of Petition, and Conducting the Hearing.	Update
080504	Deleted information pertaining to the Payroll Office notifying the employee when collecting debts due to shipment of personal property.	Delete
080508	Added information on Other Waiver Authority.	Add
0806	Updated information for clarity on Voluntary and Involuntary Repayments.	Update
0807	Updated information pertaining to Recovery of Overpayments When Employees Transfer within Department of Defense (DoD) and Transfer to a Non-DoD Agency.	Update

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
080812	Updated information pertaining to the Offset of Civilian Pay for Employees Receiving Military Pay as a Reserve or National Guard Member for Duty to Aid Law Enforcement.	Update
080902	Updated the Travel Charge Card contractor salary offset procedures.	Update
081002	Added section on Child Support and Alimony Garnishments from previous Chapter 4, section 0412.	Add
081003	Added section on Commercial Garnishments from previous Chapter 4, section 0412.	Add
0811	Added section on Bankruptcies from previous Chapter 4, section 0413.	Add
0812	Added section on Tax Levy for Unpaid Federal Income Tax from previous Chapter 4, section 0418.	Add
Figure 8-1	Updated Sample Debt Notification.	Update
Figure 8-2 Figure 8-3	Deleted previous version of Figure 8-2 and Figures 8-3.	Delete
Figure 8-2	Added Figure 8-2 (Enclosure 1 to Debt Notification – Collection of Your Debt).	Add
Figure 8-3	Added Figure 8-3 (Enclosure 2 to Debt Notification – Requesting a Hearing).	Add
Figure 8-4	Added Figure 8-4 (Enclosure 3 to Debt Notification – Requesting a Waiver).	Add
Figure 8-5	Renumbered previous Figure 8-4 (Sample Voluntary Repayment Agreement for Civilian Payroll Indebtedness).	Update
Figure 8-6	Added Figure 8-6 (Sample Format – Reconsideration Results Letter).	Add
Figure 8-7	Renumbered and updated information on previous Figure 8-5 (Checklist for Hearing on Overpayment of Civilian Pay and/or Allowances).	Update
Figure 8-8	Renumbered and updated information on previous Figure 8-6 (Sample Post-Hearing Notification).	Update
Figure 8-8	Deleted previous version of Figure 8-8 (Travel Charge Card Contractor's 90-day Letter).	Delete

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
Figure 8-9	Renumbered previous Figure 8-7 (Sample Format – Refund of Prior Year Salary Overpayment).	Update
Figure 8-9 Figure 8-10	Deleted previous version of Figure 8-9 (Information Concerning Petition for Hearing) and Figure 8-10 (Sample Petition for Hearing Request).	Delete
Table 8-1	Deleted Table 8-1 (Current and Prior Year Pay Correction Table).	Delete

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CHAPTER 8

UNDERPAYMENTS AND INDEBTEDNESS

0801 UNDERPAYMENTS

080101. General

Salary underpayments to civilian employees or former employees resulting from errors (such as in computing the federal withholding tax, retirement deductions, Social Security/Medicare tax, rate of pay, or in reporting time and attendance) shall be corrected by increasing or decreasing the pay factors affected on the first payroll prepared after the error is discovered. Salary payments to civilian employees will be in accordance with the time and attendance reported and certified by the employee's supervisor. The reported time and attendance which is less than an employee's normal work schedule is presumed to accurately reflect the employee's hours of work and non-work. Employees or former employees may follow the claims procedures prescribed in this chapter if they believe the pay due them was not been credited to their account.

*080102. Special Payments

Special payments made to civilian employees are to correct salary underpayments. Special payments are payments made to employees other than through normal payroll processing. Since the issuance of a special payment is an off-line process and employees do not receive a regular leave and earnings statement (LES), the civilian payroll office (PRO) must provide the employee with information regarding the effect of the special payment. A subsequent LES will reflect the information pertaining to the gross amount of the special pay and all applicable deductions upon processing the special pay through the Defense Civilian Pay System (DCPS). PROs will report special salary payments on the Department of Defense (DD) Form 592 (Payroll for Personal Services Certification and Summary). A beneficiary of a deceased employee under ***5 United States Code (U.S.C.) 5582*** may also receive a special payment.

A. Guidelines for Special Payments. When the employee has received less than 90 percent of his or her regular biweekly pay and allowances, process a special payment to correct the salary underpayment. The PRO Directors may waive the 90 percent rule for making special payments when extenuating circumstances exist. Authorization for a special payment will be for the following reasons:

1. Upon request, when making payments to a beneficiary of a deceased employee under 5 U.S.C. 5582;

2. To employees who are erroneously omitted from the payroll;

3. To employees who are paid for less than 90 percent of their regular biweekly pay and allowances when a special payment is requested by the commanding officer/director of the employing activity; or

4. To employees placed in a Leave Without Pay (LWOP) status for payroll processing, and whose LWOP has been approved for conversion to advanced annual, sick, and/or donated leave. The commanding officer/director, after reviewing each case for hardship, may request a special payment for employees provided the employee meets the 90 percent guideline.

B. Partial Payments. PRO will not honor a request for partial payment of salary before the regular payday.

*C. Special Payments of Premium Pay. PRO will not process a request for special payments for overtime or other premium pay earned but not reported (and, therefore, not paid in the corresponding pay period). However, authorization for a special payment for other reasons will include any unpaid premium pay for the corresponding pay period in the special payment.

*D. Disbursements of Special Payments. Employees shall receive special payment disbursements in the same manner as they receive their net pay; typically by using an electronic funds transfer (EFT). If the employee has received a waiver of the EFT requirement for payroll disbursements, then the employee will receive a Treasury check via express mail to the employee's address of record. Release of payment will normally be by the close of business on the workday following PRO's receipt of any documentation required to substantiate payment. Beneficiaries shall receive payments via Treasury check to the address of record. The following documentation for special payments is required:

1. Special Payments to Beneficiaries. Beneficiaries of deceased employees may request a special payment by sending a letter to PRO stating the need for payment is to defray expenses. PRO shall issue the special payment if they receive sufficient documentation to support the claim from the human resources organization (HRO). PRO must forward a payment voucher and the beneficiary's request to the disbursing office for payment.

2. Erroneous Omission from Payroll. If an employee is erroneously omitted from the payroll, a ***Standard Form (SF) 50*** (Notification of Personnel Action) should be used to verify the individual's employment. Before the special payment is processed, PRO shall obtain a copy of the employee's certified time and attendance report, a request by the commanding officer/director for special payment, and any necessary source documents to support deductions.

3. Biweekly Payment of Less Than 90 Percent. For an employee paid for less than 90 percent of his or her regular biweekly pay and allowances, a copy of the time and attendance report (or corrected time and attendance report) and a request by the commanding officer/director are required to support the special payment.

4. Employees on LWOP. For an employee placed in a LWOP status, the time and attendance certifier must provide to PRO a corrected time and attendance report along with the commanding officer's/director's special payment request.

E. Computation of Special Payments. Compute the special payments using the "gross-to-net" method. Gross-to-net payments represent the regular biweekly pay and allowances normally due the employee (plus unpaid premium pay for the corresponding pay period, if applicable) less any required deductions and withholdings. Deductions and withholdings may be for retirement (Civil Service Retirement System and Federal Employees Retirement System (CSRS and FERS)), Social Security and Medicare, federal tax, health benefits premiums, group life insurance premiums (basic and optional), state tax, city or local tax, Thrift Savings Plan (TSP), TSP loan repayment, indebtedness, military service credit deposits, and garnishments. The payment voucher for direct disbursement shall annotate the deductions, withholding amounts, and the applicable appropriations. The following procedures are applicable for gross-to-net special payment processing:

1. No Pay Received. The gross entitlements less any applicable deductions and withholdings are payable to the employee. Exclude deductions for voluntary allotments. The employee is responsible for any existing voluntary allotments. All deductions and withholdings shall resume on the following biweekly pay cycle, including voluntary allotments.

2. Less Than 90 Percent of Regular Biweekly Pay and Allowances Received. The employee is entitled to the difference between what was paid and what should have been paid. PRO will deduct additional amounts for applicable items listed in subparagraph 080102.F., unless previous payroll processing has satisfied the deductions. The employee shall be responsible for any existing voluntary allotments not deducted during the previous processing. All deductions and withholdings shall resume the following pay cycle.

3. Final Special Payment. An employee who receives his or her final pay as a special payment will receive pay for gross entitlements less all required deductions and withholdings of items listed in subparagraph 080102.E. The employee is responsible for voluntary allotments. The employee's final pay is subject to withholdings to liquidate any unsatisfied government indebtedness.

F. Processing Special Payments Made after the Last Regular Pay Period of the Pay Year, but Prior to the End of the Calendar Year.

1. Federal, State, and Local Taxes and Social Security/Medicare. Forward to the applicable offices as soon as possible after the end of the year any Federal, state, and local taxes, Social Security and/or Medicare withheld from special payments made after the last regular pay date, but before the end of the calendar year. (Note: When computing or making deductions for Social Security, PRO will ensure the employee has not reached maximum withholdings for the year.) In completing the supplemental DD Form 592 for any canceled checks or special payments, PRO will include all deductions and contributions for Social Security and/or Medicare, federal, state, and local taxes. Before the ***Internal Revenue Service (IRS)Form-W2*** (Wage and Tax Statement) is printed, PRO will process updates to ensure special payments or canceled checks are included in the history totals for subsequent IRS Form W-2 printing. After printing the IRS Forms W-2, PRO will issue ***IRS Forms W-2c*** (Corrected Wage and Tax Statement) in accordance with ***IRS Circular E*** (Employer's Tax Guide) and ***IRS Form 941-X*** (Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund).

2. CSRS or FERS. Process an ***SF 1081*** (Voucher and Schedule of Withdrawals and Credits) to correct an employee's CSRS or FERS retirement deductions withheld from a special payment. Input the SF 1081 during the next pay cycle to correct both the prior year-to-date and cumulative retirement deductions and the current year opening balance.

3. TSP. Special payments for TSP participants are subject to TSP deductions provided the employee has not reached the maximum deduction or contribution level established by law. TSP deductions withheld from special payments after the last regular pay date in the pay year, but before the end of the calendar year, will be combined with the next pay cycle for reporting and submission to the ***Federal Retirement Thrift Investment Board*** **(FRTIB)**.

G. Taxation of Retroactive Payments

1. Time and Attendance. Use the tax rate associated with the current ***IRS Form W-4*** when processing all time and attendance retroactive transactions. Combine the retroactive wages with the wages from the last pay period (i.e. the pay period prior to the current pay period) to determine the basis for recomputing tax withholdings. Recompute the taxes and determine the retroactive tax withholdings by subtracting the taxes withheld during the last pay period from the recomputed taxes.

2. Retroactive Wage Increases. In most cases, consider retroactive wage increases as supplemental wages and tax at the flat 25 percent tax rate. The flat 25 percent rate will apply to federal tax withheld from regular wages during the last preceding payroll period in for wages paid within the same calendar year. If those regular wages do not have taxes withheld, then use the rate associated with the current IRS Form W-4.

0802 INDEBTEDNESS

*080201. General

A. Statutes and Regulations. The Department of Defense (DoD) must collect all indebtedness due the United States (U.S.) promptly and in accordance with the ***Debt Collection Improvement Act of 1996***, Public Law 104-134, section 31001 (codified at ***31 U.S.C. 3701*** et seq.); the ***Debt Collection Act of 1982***, Public Law 97-365, as amended; the Federal Claims Collection Standards (FCCS), ***31 Code of Federal Regulations (C.F.R.) Parts 900-904***; ***5 C.F.R. Part 179***; and ***5 C.F.R. Part 550*** (Subpart K). Consult the Department of Defense Financial Management Regulation (DoD FMR) Volume 5 regarding indebtedness and debt collection.

B. Overview of Methods for Collecting Debts Owed by Civilian Employees. Collect debts owed to the U.S. by civilian employees in the following manner:

1. Voluntary Repayment by Employee. The employee may repay the total amount of debt owed in one lump sum. Alternatively, an employee may consent to the repayment of the debt in regular installments from his or her pay by completing a voluntary repayment agreement. See paragraphs 080403 and 080601 for information on voluntary repayment agreements.

2. Offsetting Payments to Employee

a. Salary Offset. Salary offset occurs when the government collects a debt involuntarily from a Federal employee's current salary or pay when authorized by statute.

b. Administrative Offset. The government may collect debts by involuntary offset from any other amounts payable to the employee by the government (such as tax refunds, back pay under ***5 U.S.C. 5596***, or Federal retirement payments) when authorized by statute.

3. Civil Court Action. Under ***28 U.S.C. 2415***, the government may file a suit directly with a court against the employee in order to collect a debt.

C. Statutory Authority to Collect Debts by Offset. When specific statutory authority exists for the collection of a particular debt, use the provisions of the more specific statute and its implementing regulations to determine the applicable collection procedures. When a more specific statute does not exist, use the collection authority under ***5 U.S.C. 5514*** (salary offset) for offset from current pay, or ***31 U.S.C. 3716*** (administrative offset) for offset from other amounts due the employee from the government.

1. Routine Adjustments under 5 U.S.C. 5514. Make routine adjustments to correct overpayments caused by clerical or administrative errors or delays in processing pay documents that have occurred (accumulated) within the four pay periods preceding the adjustment, or any adjustment that amounts to $50 or less. Routine adjustments include, but are not limited to, overpayments due to corrected (or late) time and attendance data, SF 50s, and ***SF 1190s*** (Foreign Allowances Application, Grant and Report). The actual overpayment must have occurred after April 26, 1996. The amount deducted may not exceed 15 percent of disposable pay unless the employee gives written consent to the deduction of a greater percentage. If the adjustment exceeds 15 percent of disposable pay, then the initial adjustment may be for the full 15 percent and make the remaining adjustment during the next pay period(s). Pursuant to 5 U.S.C. 5514(a)(3), make an exception to the due process requirement of notice and an opportunity for review for routine intra-agency adjustments of pay. Provide the employee written notice of the nature and the amount of the adjustment and a point of contact for questions regarding the adjustment by the payday for the pay period in which the adjustment is processed, or as soon thereafter as practical. When moving a DoD employee's account from one payroll office to another payroll office within DoD, the employee's new payroll office has authority to collect an overpayment made by the former payroll office using these procedures. See also ***5 C.F.R. 550.1104(c)***.

2. Salary Offset under 5 U.S.C. 5514. The authority to collect from the current pay of civilian employees who are indebted to the U.S. is 5 U.S.C. 5514. See also regulations at 5 C.F.R. Part 179, subpart B, 5 C.F.R. Part 550, subpart K, and 31 C.F.R. Parts 900-904. Collection may be made from the employee's disposable pay, which includes basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an individual not entitled to basic pay, other authorized pay. The amount deducted may not exceed

15 percent of disposable pay unless the employee gives written consent to deductions at a greater percentage as described in section 0806. Give an employee written notice of the debt and an opportunity for review (due process) under section 0804 before initiating salary offset. See section 0803 for processing collections under 5 U.S.C. 5514.

3. Administrative Offset under 31 U.S.C. 3716. The authority to collect debts from final pay and lump sum leave payments of civilian employees, and/or from other non-salary amounts payable to the employee by the Federal government (such as tax refunds or Federal retirement payments) is 31 U.S.C. 3716. See also regulations at 5 C.F.R. 179, subpart C and 31 C.F.R. Parts 900 - 904. There is no maximum limit on the rate of collection under this statute and all money payable to a person by the government is subject to administrative offset. Except in limited circumstances, give an employee written notice of the debt and an opportunity for review (due process) under section 0804 before initiating administrative offset. See subparagraph 080401.B for the limited circumstances where accelerated procedures to collect debts from salary or administrative payments is used before due process is granted to a debtor. In such cases, grant due process to the debtor as soon as practicable. Initiate collection of a debt from final pay and lump sum leave payments before giving due process since failure to do so would substantially prejudice PRO's ability to collect the debt. See paragraph 080606.

080202. Multiple Debts and Priority of Deductions

When an employee owes more than one debt to the U.S., current deductions normally will continue until the debt is paid in full. If prioritizing deductions is necessary, then collect debts owed by employees to more than one DoD Component or another federal agency in the following priority sequence:

A. Debt to the employee's employing agency or department;

B. Debt to other DoD Components;

C. Debt to other Federal Agencies.

*080203. Due Process Requirements

For debt collection purposes, due process consists of notice and an opportunity for review prior to the initiation of collection, unless otherwise required by statute. See section 0804 for due process procedures.

*080204. Statute of Limitations

There is no statute of limitations for collecting a debt by salary or administrative offset. See DoD FMR Volume 5, Chapter 28 at subparagraph 280808.B.3 for additional notice and due process requirements that apply to the collection of debts that are 10 years delinquent as of December 31, 2009.

0803 RECOVERING OVERPAYMENTS OF PAY AND ALLOWANCES FROM CURRENT DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES

*080301. Recovering Overpayments by Salary Offset

A. General. Overpayments to employees may result from errors in computing federal withholding tax, CSRS or FERS deductions, or Social Security and/or Medicare deductions, improper rates of pay, errors in reporting time worked, and erroneously accrued annual leave. Discovery of these errors may occur both inside and outside PRO. The head of each DoD PRO maintains the overall responsibility for ensuring expeditious recovery for an overpayment or that other appropriate disposition of a debt is carried out, such as waiver of the indebtedness. Affording employees their legal rights relative to the collection of the indebtedness is the responsibility of the head of each DoD PRO. Responsibilities may be delegated to another appropriate official within the financial community.

B. Excluded Debts. The following debts are not authorized for collection through salary offset:

1. Collection of debts to private creditors, except as authorized by ***P.L. 103-94, "Hatch Act Reform Amendments of 1993***;"

2. Contributions to charities;

3. Payment of commercial life insurance premiums, international agreements, or arrangements with foreign governments;

4. Payment of dues to civic, fraternal, or other organizations; or

5. Collection of state and local/city tax indebtedness. See paragraph 080607 for additional information.

080302. Overview of Procedures

To collect a debt from a current DoD civilian employee through salary offset under 5 U.S.C. 5514, PRO must:

A. Compute the amount of the overpayment and assemble agency records establishing the debt;

B. Immediately notify the HRO if corrective personnel action is required. Do not authorize continued payments of erroneous pay and allowances;

C. Provide the employee notice and an opportunity for review (due process) pursuant to section 0804 of this chapter before collecting an overpayment; and

D. Correct the employee's records when appropriate.

*080303. Authority to Collect Debts Due to Underdeduction of Health or Life Insurance Premiums

A. Health/Life Premium Debts Accumulated over Four Pay Periods or Less. An employee's debt may be the result of an election or a change in coverage under a federal benefits program, such as the Federal Employee Health Benefit (FEHB) or Federal Employee Group Life Insurance (FEGLI) program. Collection of a debt due to the underdeduction of premiums may be made without providing full due process under 5 U.S.C. 5514 if the underdeduction was for four pay periods or less immediately preceding the current pay period or the total amount of underdeduction was $50 or less. See 5 C.F.R. 550.1104(c). In such cases, PRO must notify the employee (an appropriate notice on the LES meets this requirement), either in advance or concurrent with the actual collection, of the following:

1. That due to the employee's election/change in coverage, the employee's future salary will be reduced in order to cover the period between the effective date of the election/change in coverage and the first regular withholding; and

2. A point of contact for contesting the retroactive collection.

B. Health/Life Premium Debts Accumulated Over More than Four Pay Periods. If processing delays cause the debt to accumulate over more than four pay periods, then extend to the employee the full due process procedures required under 5 U.S.C. 5514. See section 0804 for additional information. For procedures for collecting debts arising from the nonpayment of health benefit premiums during periods when an employee is in a nonpay status or when salary is insufficient, see DoD FMR Volume 8, Chapter 11, and the ***FEHB Handbook***. See DoD FMR Volume 8, Chapter 11 for debt collection of FEGLI premiums and the ***FEGLI Handbook***.

C. Garnishment. An employee's health insurance plan carrier may garnish an employee's wages to collect debts owed to the carrier. The FEHB Handbook states that employing offices must follow the provisions of ***5 C.F.R. 582*** to process a garnishment. Under ***5 C.F.R. 582.402***, the maximum amount of an employee aggregate disposable income subject to garnishment to enforce any legal debt may not exceed 25 percent.

080304. Responding to Inquiries from Employees Regarding Debts

An employee's HRO or Customer Service Representative (CSR) may answer general questions about a debt. In some cases, if pay or allowance changes are made by the HRO, the change may result in rectifying the debt. The employee should contact his or her timekeeper to make any time and attendance corrections that may impact the amount of the debt. If the employee contacts PRO, PRO must respond courteously and factually to any questions raised by the employee as a result of his or her receipt of the debt notification. Upon request, PRO must furnish copies of relevant documents requested by the employee. PRO must be prepared to respond not only to inquiries regarding pay and leave entitlements, but also to inquiries regarding the nature of the employee's due process rights and how to exercise these rights. Make all reasonable efforts to satisfy an employee's doubts regarding the amount or validity of the debt within PRO's own resources, thus precluding the need for a hearing in most instances.

0804 DUE PROCESS PROCEDURES

*080401. General

Due process consists of notice and an opportunity for review prior to the initiation of collection unless otherwise required by statute. Except under certain limited circumstances, give employees due process prior to the initiation of debt collection. Note: Due process does not preclude an employee from electing to repay the debt. An employee may elect to repay a debt after receiving the initial notification of indebtedness, after receiving reconsideration results from PRO, after a determination by a hearing official, or after a decision on a request for waiver of the overpayment. Repayment of the debt, subject to potential refund, may also be accomplished while any of the above actions are pending.

A. Exception to Due Process Requirements. Routine adjustments (see subparagraph 080201.C.1) or collection of debts accumulated over four pay periods or less that are related to the underpayment of health or life insurance premiums (see paragraph 080303) are not subject to notice and hearing requirements.

B. Authority to Initiate Collection Before Due Process is Granted. Due process requirements for both salary offsetice of the debt and an opportunity for a (5 U.S.C. 5514) and administrative offset (31 U.S.C. 3716) provide that a debtor must be given written not review before collection is initiated. Under ***31 C.F.R. 901.3(b)(4)(iii)(C)*** and ***5 C.F.R. 179.308***, in certain limited circumstances, accelerated procedures may be used to collect a debt by salary or administrative offset prior to, or while providing, notice and an opportunity for review to the debtor. Before providing due process, initiate collection if failure to take the offset would substantially prejudice PRO's ability to collect the debt, or if the time prior to payment does not reasonably permit completion of the procedures. When prior notice and an opportunity for review are not provided prior to collection, then such notice and opportunity for review must be given to the debtor as soon as practicable. Any amount recovered by offset which is found not to be owed by the debtor must be promptly refunded.

*080402. Notification of Debt Collection

PRO, or another official responsible for collection of the debt, shall issue an appropriate notification of indebtedness ("debt notification") to the employee. Issue the debt notification as soon as possible following the discovery of the overpayment. Only one debt notification is required. PRO, or the official responsible for collection of the debt, must mail the notification to the employee's last known home mailing address. Exercise care to ensure mailing the debt notification occurs on the same day it is dated. Retain a copy of the debt notification as a record of providing due process to the employee**.** (See Figure 8-1 for a sample copy of the debt notification and Figures 8-2 through 8-4 for required enclosures issued with debt notification). See ***5 C.F.R. 550.1104(b) and (d)***, ***31 C.F.R. 901.2***, and ***31 C.F.R. 285.7(d)(4)***. The debt notification must contain the following information:

A. Statement of Facts. A complete statement of facts showing the origin and amount of the debt, and the basis on which the determination of indebtedness was made;

B. Request for Lump Sum Payment. A request that the debt be repaid in a lump sum by check or money order within 30 days of notification;

C. Intent to Collect by Salary Offset. The intention to collect the debt by means of payroll deductions if payment is not received within 30 days;

D. Information Regarding Deductions to be Taken by Salary Offset. The amount, frequency, proposed beginning date, and duration of the deductions;

E. Information Regarding Interest, Penalties and Costs. An explanation of policy concerning interest, penalties, and administrative costs, including a statement that such assessments must be made unless excused under FCCS (See Figure 8-2);

F. Right to Inspect Records. The right of the employee and his or her representative to inspect and copy government records relating to the debt or to request a copy of such records;

G. Voluntary Repayment Agreement Information. The opportunity for the employee to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset;

H. Point of Contact. A statement, that if the employee has any question regarding the indebtedness; he or she may ask for and receive an explanation from PRO. Provide the employee a specific address to direct all correspondence regarding the debt;

I. Right to Request a Hearing. A statement advising that, if the employee wishes to dispute the validity or amount of the debt, (or contest the repayment schedule for collection by salary offset) he or she may do so by submitting a written request in the form of a hearing petition. Advise the employee of the method and time period for filing the hearing petition (See Figure 8-3);

J. Right to a Written Decision. Advise the employee that if a hearing is granted, the employee has a right to receive a written decision from the official within 60 days after the filing of the petition unless the employee requests, and the hearing official grants, a delay in the proceedings;

K. Stay of Collection Action Pending Review. A statement that the timely filing of a hearing petition shall stay the beginning of collection proceedings and that interest and penalty charges shall not accrue until the issuance of the hearing official's decision in favor of collection;

L. Penalty for False or Frivolous Statements. A statement that any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

1. Disciplinary procedures appropriate under ***5 U.S.C. Chapter 75***; ***5 C.F.R. 752***, or any other applicable statutes or regulations;

2. Penalties under the False Claims Act, ***31 U.S.C. 3729-3731***, or any other applicable statutory authority; or

3. Criminal penalties under ***18 U.S.C. 286-287*** and ***18 U.S.C. 1001-1002***, or any other applicable statutory authority;

M. Right to Request a Waiver. A statement that the employee may request a waiver of the overpayment of pay in accordance with ***5 U.S.C. 5584*** (see Figure 8-4);

N. Right to a Refund. A statement that amounts paid or deducted for the debt, which are later waived or found not to be owed to the U.S. Government, shall be refunded promptly to the employee upon his or her request; and

O. Collection Action on Delinquent Debts. A statement indicating that if the Defense Finance and Accounting Service (DFAS) is unable to collect the debt by salary offset, DFAS may enforce payment by using other collection methods such as referring the debt to a private collection agency, reporting the debt to a credit bureau, garnishing non-Federal employment wages, or referring the debt to the Department of Justice for litigation. Inform the employee that any debts delinquent for more than 180 days will transfer to the Department of Treasury for collection.

*080403. Voluntary Repayment Agreement

If an employee agrees to repay the debt in regular installments, then the employee should complete and return a voluntary repayment agreement to PRO. A copy of a voluntary repayment agreement should be included in the debt notification issued to the employee. See Figure 8-5 for a sample voluntary repayment agreement. PRO maintains discretion with regard to accepting a voluntary repayment agreement. See paragraph 080601 regarding acceptable repayment terms for an agreement. If, for any reason, PRO does not receive payment or a signed voluntary repayment agreement, then PRO will establish an involuntary salary offset in accordance with paragraph 080602.

A. Processing an Acceptable Agreement. After receiving a signed agreement with a repayment schedule that is acceptable to PRO, PRO will begin collecting the indebtedness as indicated on the agreement. If the employee submits a request to PRO and PRO agrees to the employee's request, then deferral of the remittance may be for up to two pay periods with the agreement adjusted to reflect that deferral. See ***5 C.F.R. 179.209***; ***5 C.F.R. 550.1104***; and ***31 C.F.R. 901.8***.

B. Processing an Unacceptable Agreement. If PRO decides the terms of a proposed repayment agreement are unacceptable, then PRO will notify the employee in writing and the employee will have 30 days from the date of the written notice to file a petition for a hearing under paragraph 080405. In lieu of a hearing, an employee may request a special review by PRO under paragraph 080604. See ***5 C.F.R. 179.209-210***.

*080404. Delinquent Debts

Debts not paid by the date specified in the debt notification are delinquent unless the employee makes other satisfactory payment arrangements by that date. Debts paid under a repayment agreement are delinquent when the employee fails to satisfy obligations under the voluntary repayment agreement. See ***31 C.F.R. 900.2***. Under 31 U.S.C. 3716, delinquent debts as defined in the FCCS (over 180 days) must be referred to the Secretary of the Treasury so that recovery may be made by centralized administrative offset, unless otherwise authorized by law. The Debt and Claims Management Office (DCMO) must certify to Treasury that the employee was provided due process. See ***5 C.F.R. 550.1108***; ***31 C.F.R. 901.1*** and ***31 C.F.R. 285.5***.

*080405. Hearings

A. General Summary. Hearings are a due process requirement of 5 U.S.C. 5514 and 31 U.S.C. 3716 which must be afforded employees before their current salary can be involuntarily offset to collect indebtedness due to the U.S. Government. See ***5 C.F.R. 550.1104(b)(2)***. Employees may petition for a hearing to contest either the validity or amount of the debt, or the involuntary offset schedule. To request a hearing, an employee must submit, in a timely manner, a hearing petition which meets the requirements of subparagraph 080405.B. The timely filing of a hearing petition will stay the beginning of collection procedures until after the results of the hearing have been rendered except as stated in subparagraph 080201.C.3. Upon receipt of the hearing petition, PRO will perform an informal reexamination ("reconsideration") of the employee's pay records to validate the debt. See subparagraph 080405.D. PRO will issue the written results of the reconsideration to the employee. The reconsideration is not the formal hearing. After receiving the results of the reconsideration, the employee must notify DFAS of his or her intent to continue with a formal hearing within 30 days from the date of the reconsideration or by the date indicated in the reconsideration letter. If the employee proceeds with a formal hearing, then the hearing official will make a written determination regarding the validity or amount of the debt, or on the proposed involuntary repayment schedule.

B. Hearing Petition. Employees must submit a petition to request a hearing in order to contest the validity or amount of the debt or to contest the involuntary repayment schedule. See ***5 C.F.R. 550.1104(e)***, ***31 C.F.R. 901.2(b)(1)*** and ***5 C.F.R. 179.207***. Fax the hearing petition to the telephone number or mail to the address identified in the debt notification. The employee must file the hearing petition with PRO not later than 30 days from the mailing date of the debt notification or by the date indicated in the debt notification or in the notice rejecting an unacceptable voluntary repayment agreement under subparagraph 080403.B. If the employee first makes a written request for records related to the debt, then the employee must file a hearing petition within 45 days after the date the records are distributed (by mail, electronically, or in person) to the employee. PRO must record the distribution date of the records. The employee's hearing petition shall identify and explain with reasonable specificity the facts and evidence that the employee believes supports his or her position. There is no standardized format for a hearing petition; however, it must contain the following information:

1. Identifying information. The employee must provide his or her name, telephone number, email address, mailing address and social security number in the request for a hearing petition;

2. Reason for Filing the Petition. The reason for the hearing request must include a written summary of the facts and the date and manner in which the employee became aware of the overpayment. If contesting the involuntary repayment schedule, then the petition should include a statement explaining the employee's financial status;

3. Documentary Evidence. A hearing petition should include all documentary evidence the employee wants the hearing official to review, including LES and written testimony from any witnesses. If the employee is contesting the involuntary repayment schedule, then the employee should submit an alternate schedule and statement and/or records explaining his or her financial status; and

4. Signed and Dated. A hearing petition must have the employee's signature and be dated.

C. Insufficient or Untimely Hearing Petitions

1. Insufficient Hearing Petitions. PRO will retain and identify as insufficient any hearing petitions that do not contain the required information and attachments listed under subparagraph 080405.B. PRO must notify the employee in writing that his or her hearing petition was insufficient and request that the employee submit additional information within 30 days from the date of the written notice of insufficiency. Advise the employee that if the employee fails to submit additional information within 30 days of the request, the employee's petition for hearing will result in a denial.

2. Untimely Hearing Petitions. An employee waives his or her right to a hearing if the employee fails to file a hearing petition within 30 days from the mailing date of the debt notification or by the date indicated in the debt notification. An untimely petition for a hearing will result in denial and PRO shall notify the employee in writing of the petition denial as being untimely. If the employee files a hearing petition after the time expires, then PRO may accept a late petition if the employee can show that the delay was due to circumstances beyond the employee's control.

D. Reconsideration. Reconsideration is the first step in the hearing process. PRO performs the reconsideration once the employee submits a timely and sufficient hearing petition. Reconsideration is an informal reexamination of the employee's pay records by PRO and is conducted to validate the amount of debt and to satisfy any doubts the employee may have regarding the amount or validity of the debt. Reconsideration is not the formal hearing. See Figure 8-6 for a sample reconsideration letter issued to the employee.

1. Time Limit for Performing Reconsideration. PRO must issue written results of the reconsideration to the employee within 15 days of receipt of the hearing petition. If PRO needs additional time to investigate the issue, then advise the employee of the

delay in an interim response. This response shall also provide an estimate of when a final determination can be expected.

2. Reconsideration Concurs with the Employee's Position. If PRO concurs with the employee's position in the hearing petition and determines the debt is invalid, then the reconsideration letter shall so inform the employee and PRO will take action to dismiss the debt collection.

3. Reconsideration Validates the Debt. If the reconsideration validates the debt, then the reconsideration letter shall so inform the employee. The reconsideration letter should instruct the employee to notify PRO in writing of his or her intent to proceed with the formal hearing. The employee must provide such notification within 30 days from the date of the reconsideration letter or by the date indicated in the reconsideration letter. Initiate the debt collection by using the involuntary salary offset procedures as outlined in the original debt notification issued to the employee if the employee does not respond and takes no additional action to repay the debt.

E. Conducting Hearings

1. General. All hearings are conducted in accordance with ***31 C.F.R. 901.3(e)***, ***5 C.F.R.550.1104*** and 5 C.F.R. 179.207, and DoD FMR Volume 5. Hearings for debts owed to any DoD Component by a DoD employee should be held by eligible DoD Components according to DoD FMR Volume 5, Chapter 28, Table 28-2. DCMO (DFAS-JFEA/IN, Attn: Hearings) will process all requests for hearings.

2. Types of Hearings. Generally, employees who present a timely and sufficient petition for a hearing are entitled to a "paper hearing" in which the hearing official makes a determination based on a review of the documents only, without the parties present. If the hearing official, with the advice and guidance of DFAS Office of General Counsel, determines that the matter cannot be resolved by a review of the documents alone, then an oral hearing may be granted. See Figure 8-7 for information required by the hearing official for a paper or oral hearing.

3. Paper Hearings. During a paper hearing, the hearing official will make a determination based on the available written record. A paper hearing is generally adequate for making determinations based on the validity or amount of the debt, or the terms of the salary offset schedule.

4. Oral Hearings. An employee is afforded an oral hearing only if the hearing official (with the advice and guidance of DFAS Office of General Counsel) determines that the question of indebtedness cannot be resolved by a review of the documentary evidence alone. For example, if the validity of the debt turns on an issue of credibility or veracity, an oral hearing may be necessary. Since civilian payroll overpayments seldom present issues of credibility or veracity, the need for oral hearings will be extremely rare. An oral hearing is not an adversarial adjudication and is not a trial type evidentiary hearing. Oral hearings may include an informal conference with the hearing official where the employee and agency representative are both given the full opportunity to present evidence, witnesses, and arguments. Alternatively, oral hearings

may take the form of an informal meeting with an interview of the employee by the hearing official, or formal written submissions with an opportunity for oral presentation by the parties to the hearing official. See ***5 C.F.R. 179.207(g)***.

a. Arranging an Oral Hearing. If an oral hearing is required, then the hearing should be arranged in accordance with the guidance outlined in DoD FMR Volume 5, Chapter 28. Once the identity of the hearing official is determined, PRO shall be instructed to make specific arrangements with that official, to include the identification of a fund cite for travel expenses, if necessary. To the extent feasible, select a location convenient for the employee. The employee will be responsible for paying his or her own travel expenses. Use of a telephonic hearing is permissible if determined appropriate by the hearing official and acceptable to the employee and PRO.

b. Procedures for Oral Hearings. PRO will represent the government at the oral hearing, and will maintain a summary record of the hearing for the hearing official. The employee must identify by name and address any person who will represent the employee at the hearing. If PRO grants an oral hearing, then PRO shall issue notice to the employee of the time, date, and location of the oral hearing on the hearing official's behalf. Prior to the hearing, the employee and PRO must submit to the hearing official and the opposing party the names of any witnesses (including the employee if he or she will testify) that will be called to testify and their anticipated testimony. Witnesses must testify under oath or affirmation. No later than 15 days prior to the hearing, PRO will provide the employee and the hearing official with a copy of the records in the agency's possession relating to the debt. No later than 5 days prior to the hearing, the employee must submit to both the hearing official and PRO a copy of the records the employee intends to introduce as evidence at the hearing (if the records differ from the ones provided by PRO).

c. Procedures for Waiving an Oral Hearing. If an employee has been granted an oral hearing, then the employee may choose to waive his or her rights in favor of a paper hearing. The employee will make such an election in writing and PRO must receive the election at least 3 working days before the oral hearing date.

d. Failure to Appear and/or File Submissions. If the employee fails to file the required submissions for the oral hearing or fails to appear at a scheduled oral hearing, then the employee is deemed to admit the existence and amount of the debt as described in the debt notification. See ***5 C.F.R. 179.207(j)***. The employee may petition the hearing official for a determination that the employee had good cause for failing to comply with the established deadline date for required submissions or failing to appear at the hearing. In either instance, the hearing official may then find that the employee has not waived the right to the hearing, and may direct that a hearing be scheduled or rescheduled.

F. Final Written Determination by Hearing Official

1. Time Limit. Within 60 days after the filing of the hearing petition, the hearing official shall issue a written decision on the merits of the hearing. The final determination must discuss the basic facts offered and set out the hearing official's findings and

conclusions. See ***5 C.F.R. 179.207(h)***; 5 C.F.R. 550.1104. Both PRO and the employee shall receive a copy of the final determination.

2. Final Determination in Favor of PRO. If the final determination upholds the validity and amount of the debt or the involuntary repayment schedule, then PRO shall recommence collection action after sending the employee a letter which states the following (see Figure 8-8 for a sample of the Post-Hearing Notification):

a. A brief statement of the hearing official's final determination;

b. A request that the employee repay the debt in full within 15 calendar days following the date of the letter, authorize a voluntary one-time offset to repay the debt, or agree to pay the debt in regular installments pursuant to a voluntary repayment agreement;

c. A statement that a salary offset will begin with the pay period in which the deadline expires, unless the employee informs PRO of his or her decision regarding the above options. The letter shall be specific as to the payday on which the offset shall occur;

d. The amount of the offset and its estimated duration that will be equal to the amount of the debt, or 15 percent of the employee's disposable pay, whichever is less;

e. A statement regarding the assessment of interest, administrative expenses, and penalties; and

f. A reminder of the employee's right to request waiver of the debt.

3. Final Determination in Favor of the Employee. If the hearing official's final determination finds in favor of the employee and determines the a portion or all of the debt is invalid, then PRO will inform the employee as to what portion of the debt is no longer considered valid under 5 U.S.C. 5514. If the hearing official reduces the amount of the debt, then PRO will issue a letter to inform the employee, and begin collection action for the new amount.

4. Appeal of Final Determination. The hearing official's decision is final as to the schedule of involuntary offset, but not final as to the issue of whether the employee owes the debt. An employee may file an appeal with the Office of Personnel Management (OPM) regarding an agency’s determination that he or she owes the debt. OPM maintains the authority to settle claims against the U.S. involving Federal employees' compensation and leave, and deceased employees' unpaid compensation. See ***5 C.F.R. Part 178***.

0805 WAIVERS OF ERRONEOUS PAYMENTS OF PAY AND ALLOWANCES

*080501. General

Under 5 U.S.C. 5584, the U.S. may waive the right to collect a debt owed by an individual to the government if collection would be against equity and good conscience and not in the best interest of the U.S. The debt must be the result of an erroneous payment of pay or allowances (including travel, transportation or relocation expenses and allowances). A debt may be waived in whole or in part. Individuals must submit an application in a timely manner in order to request a waiver. Generally, PRO will not suspend collection of the debt during the application review. Regulations for granting a waiver are available at ***32 C.F.R. Part 281***, ***DoD Instruction 1340.22***, "Waiver of Debts Resulting from Erroneous Payments of Pay and Allowances" and ***DoD Instruction 1340.23*** "Waiver Procedures for Debts Resulting from Erroneous Pay and Allowance."

080502. Waiver Authority

A. Authority to Waive Collection of Debts of $1500 or Less. Under 5 U.S.C. 5584, the head of an executive agency is authorized to waive debts in an amount aggregating not more than $1500. The aggregate amount is determined before repayments or withholding for taxes. The Under Secretary of Defense (Comptroller) has delegated waiver authority to the Director of DFAS by memorandum dated January 29, 1992. The Director of DFAS redelegated this authority to the Director of DFAS-Indianapolis. The exercise of this authority shall be coordinated with the affected DoD Component, where appropriate. DCMO exercises some waiver authority within DoD. DCMO does not exercise waiver authority that has been delegated to the Director of Department of Defense Education Activity (DoDEA) for DoDEA employees under ***DoD Directive 1342.20***.

B. Authority to Waive Collection of Debts of More Than $1500. If the aggregate amount of a debt is more than $1500, then the authority to waive the debt resides with the Director, Defense Office of Hearings and Appeals (DOHA) or his or her designee under the General Counsel of the Department of Defense.

080503. Action by the Designated Waiver Authority

A. General. The designated waiver authorities will:

1. Receive and review each request for waiver or application for refund and the associated reports for claims;

2. Make a determination as to whether claims totaling not more than $1500 will be waived or whether any portion of the request will be denied; and

3. Notify the involved PRO of the determination.

NOTE: DFAS-IN -JFEAB will notify the claimant of the determination.

B. Referral of Claims to DOHA. The designated waiver authorities shall refer the following types of claims to the DOHA for decision:

1. Requests for waiver (or requests for waiver and refund) that recommend favorable consideration, together with an administrative report, if the claim of the U.S. is in an amount aggregating more than $1500;

2. All doubtful cases; and

3. Appeals to waiver denials.

*080504. Standards for Waiver Determinations

Standards for determining the appropriateness of waiving the collection of a debt are located at ***Appendix B of 32 C.F.R. Part 281***. See also DoD Instruction 1340.23. The appropriateness of a waiver depends on the facts of each particular case. A waiver is not a matter of right and is available only to provide relief as a matter of equity when warranted by the circumstances of the individual case. Economic or financial considerations play no role in the determination of a waiver request.

A. When Waiver is Appropriate. A waiver may be granted only when the collection would be against equity and good conscience and not in the best interests of the U.S. There must be no indication the erroneous payment was the result of fraud, misrepresentation, fault, or lack of good faith by the employee (or any other person having an interest in obtaining a waiver of the claim).

B. When Waiver Should be Denied. See guidance addressing when waiver is not appropriate at ***Appendix B of 32 C.F.R. Part 282*** and DoD Instruction 1340.23. Generally, a waiver is not appropriate when an employee or other person who has an interest in obtaining a waiver receives a significant unexplained increase in pay or allowances and knows, or reasonably should know, that an erroneous payment has occurred. A waiver may be inappropriate even though the recipient of the payment makes inquiries or brings the matter to the attention of appropriate officials and is mistakenly advised that the payment is proper. The fact that an erroneous payment is the result of an administrative error by the government is not a sufficient basis in and of itself for granting a waiver. An individual does not acquire title to the amounts paid erroneously and should hold the excess amounts for eventual repayment to the government. DOHA has held that a waiver shall not be granted if it appears the employee had records (such as LESs) which, if reviewed, would have indicated an overpayment, and the employee failed to review such documents for accuracy or otherwise failed to take corrective action. Such failure on the part of the employee renders the employee partially at fault and ineligible for a waiver of the debt.

080505. Submitting a Waiver Application

A. Who May Apply for a Waiver. An individual who owes a debt resulting from an erroneous payment of pay or allowances may submit a waiver application. Additionally, an authorized official of the Component concerned may initiate a waiver application.

B. Waiver Application. An individual requesting the waiver of a debt must complete and sign ***DD Form 2789*** "Waiver/Remission of Indebtedness Application." Instructions on how to apply for a waiver shall be included in the debt notification letter. See paragraph 080401; see also Figure 8-4 Requesting a Waiver. The application should be submitted to the address or fax number listed on the form or in the debt notification. The application must include all supporting documentation which includes, but is not limited to:

1. Copies of all supporting documentation referred to on the DD Form 2789;

2. Copies of LESs covering the three pay periods prior to the overpayment through the three pay periods after the overpayment ended. If LESs are not available, then the individual must include a statement explaining why LESs are not available;

3. Copies of SF 50s for the debt period (including corrections). If unavailable, then the individual must include a statement from the personnel office indicating why SF 50s are not available; and

4. Any statement from the individual or other person in support of the waiver application. Signed statements must be attested to be true and correct to the best of the individual knowledge and belief.

C. Time Limit for Filing Waiver Application. An individual requesting a waiver of a debt must file the waiver application within 3 years after discovery of the erroneous payment. The date of discovery, for the purposes of starting the 3-year period, is the date that an appropriate official first determines that an erroneous payment has been made. Granting an extension or waiver of the time limit is not permissible.

D. When to Apply for a Waiver. By submitting a request for waiver of a debt, an individual is acknowledging that he or she does not intend to dispute the validity or amount of the debt. Waiver is not the proper forum to contest the validity or amount of the debt. To contest the validity or amount of the debt, the individual must petition for a hearing under paragraph 080405 of this chapter. A waiver application that includes arguments concerning the validity or amount of the debt may be denied.

E. Records. PRO shall provide additional information to DCMO at DFAS-Indianapolis in the form of a written report containing a chronological summary of the facts and circumstances, and copies of pertinent records.

080506. Suspension of Collection During Waiver Application Review

The collection of a debt is not routinely suspended pending waiver determination. See ***31 C.F.R. 903.2(c)(2)***. PRO shall determine in each case whether suspension of collection is appropriate based on the following criteria:

A. The grant of a waiver is likely;

B. Erroneous payment can be recovered if waiver is not granted; or

C. Collection of the debt would cause undue financial hardship.

080507. Final Action

A. Waiver Approved. If the debt is waived, then the agency shall refund any amount previously collected to the employee. However, no refund shall be paid when the employee cannot reasonably be located within 2 years after the effective date of the waiver. DCMO will notify PRO that the waiver of the debt has been granted and PRO will make any necessary refunds. The application for waiver shall be construed as an application for a refund. PRO must immediately refund any amount collected to the employee.

B. Waiver Denied. When the waiver is denied, DCMO will issue notification of the denial to the waiver applicant and shall state the basis for the denial. The notification shall state that, upon receipt of a timely request, the agency or department will forward an appeal to DOHA. DCMO will notify PRO of the denial of a waiver application. PRO shall immediately initiate collection of the debt in the event collection was suspended during the waiver application process.

*080508. Other Waiver Authority

Other waiver authority may apply to payments that were not erroneously paid. Such waiver authority is generally exercised by the agency or component. A debt resulting from a non-erroneous payment may be eligible for waiver under the following statutory authority:

A. ***5 U.S.C. 3524(c)*** (Voluntary Separation Incentive Payment (VSIP) and Reemployment);

B. ***5 U.S.C. 4108(c)*** (Government Employees Training Act);

C. ***5 U.S.C. 5379(c)(3)*** (Federal Student Loan Repayment);

D. ***5 U.S.C. 5753(g)*** (Recruitment and Relocation Incentives);

E. ***5 U.S.C. 5922-5923*** (Living Quarters Allowance (LQA));

F. ***5 U.S.C. 5948(e)*** (Physicians); and

G. ***5 U.S.C. 5566(g)*** (Payments to Dependents of Missing Civilians).

0806 PROCESSING DEBT REPAYMENTS

080601. Voluntary Repayment

A. Voluntary Cash Repayment. The term cash repayment encompasses payments from the indebted employee or other individual made by personal check, money order, or other negotiable instrument. Record the collection on a ***DD Form 1131*** (Cash Collection Voucher)**.** The accounting data shall include the appropriation or fund that funded the overpayment.

B. Voluntary Payroll Deductions. If the employee is unable to repay the debt in one lump sum by cash repayment, then installment payments are acceptable. The employee shall complete a voluntary repayment agreement for the voluntary repayment of a debt by salary offset. See Figure 8-5. PRO will retain the original signed agreement.

1. One-Time Deduction. The employee may elect a one-time deduction from salary to repay the debt in full by salary offset. An employee may also combine a cash payment with a one-time deduction from salary. For example, a cash payment of $200 and a one-time deduction of $300 will liquidate a $500 indebtedness. If the one-time deduction does not fully liquidate the debt, then revise the agreement accordingly.

2. Multiple Deductions/Payment by Installments

a. Multiple Payments. Employees may spread repayments over multiple pay periods for other than minor indebtedness amounts. Generally, the amount of the debt should be at least 5 percent of the employee's disposable pay in order to qualify for payment by installment. Although employees are permitted to make a series of cash payments at regularly established intervals, the preferred method for multiple repayments is by deductions from salary each payday in the same amount until the indebtedness is liquidated. Collect any amount remaining unpaid at the time of separation or retirement from final payments of any type, such as final salary payments, lump sum leave payments, or bonuses.

b. Repayment Schedule. PRO is permitted a certain degree of discretion when establishing the employee’s repayment schedule. While the primary concern of PRO always must be to ensure that the U.S. Government recovers the debt within the shortest practical period of time, this consideration must be influenced to some degree by the financial impact on the employee. The employee should not be required to suffer undue deprivation during the repayment period. On the other hand, some degree of sacrifice by the employee is expected, and the employee's obligation to repay the debt should be given equal status to other financial obligations that the employee may have incurred. Installment payments should bear a reasonable relation to the size of the debt and the debtor’s ability to pay. Installment payments should be at least $25 per pay period and be sufficient to liquidate the debt within 3 years. See paragraph 080403.B for procedures for rejecting an unacceptable installment agreement. See 31 C.F.R. 901.8; 5 C.F.R. 550.1104 and 5 C.F.R. 179.209.

*080602. Involuntary Repayment

A. General. Recovery of a debt by involuntary salary offset is initiated when an employee has failed to make a voluntary cash repayment or authorize a voluntary salary offset. Before initiating involuntary salary offset, PRO must ensure that the employee has been given due process under section 0804 of this chapter, except in limited circumstances. See subparagraph 080401.B for accelerated procedures used to collect debts from salary or administrative payments before granting due process to a debtor. Initiate collection of a debt from final pay and lump sum leave payments before granting due process since failure to do so would substantially prejudice PRO's ability to collect the debt. In such cases grant due process to the debtor as soon as practicable. PRO will ensure that involuntary salary offset is initiated in the manner and during the pay period established in the debt notification issued to the employee unless the start date has been delayed by due process procedures**.** When practical, notify the employee on the LES that the offset action has been taken.

B. Disposable Pay. All involuntary salary offsets under ***5 C.F.R. 550.1103*** and 5 U.S.C. 5514 are limited to a maximum of 15 percent of the employee's disposable pay. Normally, establish involuntary offsets at this maximum rate. Disposable pay is that part of current pay remaining after the deduction from earnings of any amount withheld as required by law. See ***5 C.F.R. 581.105***.

1. Compute disposable pay by making the following deductions:

a. Amounts withheld for federal, state, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if the amounts withheld are not greater than would be the case if the individual claimed all dependents as defined in the federal, state, and local tax codes, to which entitled. For computing disposable pay, do not deduct additional federal tax amounts unless the employee presents evidence of a tax obligation supporting the additional deduction;

b. Amounts withheld for Social Security and Medicare taxes;

c. Amounts deducted as health insurance premiums;

d. Amounts normally deducted for the employee as retirement contributions (CSRS, FERS, and non-appropriated fund (NAF) retirement), including TSP contributions. Amounts voluntarily contributed toward additional civil service annuity benefits are not included as normally deducted retirement contributions; and

e. Amounts normally deducted for the employee as life insurance premiums. This includes amounts deducted for basic FEGLI; however, do not consider any optional FEGLI premiums as normally deducted life insurance premiums.

2. The following amounts are not included when determining disposable pay:

a. Deductions for any existing debts being collected for a DoD Component or other federal agency including late payment charges;

b. Court-ordered garnishment amounts;

c. Amounts to satisfy a court judgment;

d. Bankruptcy payments that are court-ordered under Chapter 13 of the Revised Bankruptcy Act;

e. Voluntary allotments for child support;

f. Union dues deductions;

g. Charity deductions;

h. Savings bonds deductions;

i. IRS federal tax levies;

j. Savings allotments;

k. TSP loans; and

l. Military Service Deposits.

*080603. Offsetting Less than the Maximum Amount of 15 Percent of Disposable Pay

Under 5 U.S.C. 5514, the maximum amount of involuntary salary offset is 15 percent of disposable pay. In most cases, collect the maximum amount allowable during salary offset. However, when negotiating a voluntary repayment agreement an employee may assert that the maximum allowable rate of involuntary offset (15 percent of disposable pay) would impose an extreme financial hardship. (Note: Such an assertion may also be raised when the employee files a hearing petition under paragraph 080405 and the hearing official may set an alternative repayment schedule). PRO shall attempt to establish a satisfactory voluntary repayment schedule in accordance with this section and criteria used to determine installment payments under DoD FMR Volume 5, Chapter 28, subparagraph 280701. Alternatively, although the employee may decline to sign a voluntary repayment agreement, the two parties may agree to a reasonable rate of salary offset that is less than the maximum 15 percent rate.

*080604. Special Review of an Established Salary Offset Schedule Based on Materially Changed Circumstances

In accordance with ***5 C.F.R. 179.210*** if an employee is currently subject to involuntary salary offset or a voluntary repayment agreement, the employee may request PRO revise the

amount of the salary offset based on materially changed circumstances, such as catastrophic illness, divorce, death, or disability. PRO shall consider whether the current offset amount results in an extreme financial hardship for an employee by preventing the employee from meeting essential subsistence expenses for the employee, the employee's spouse and dependents. Essential subsistence expenses include the cost of food, housing, necessary public utilities, clothing, transportation, and medical care.

A. Request for Special Review. An employee may request a special review of an established offset schedule by submitting to PRO a detailed statement indicating why the current offset amount results in extreme financial hardship to the employee. The employee must include a proposed offset schedule. The employee's statement should include supporting documentation and should indicate the following:

1. Income. Income from all sources of the employee, the employee's spouse, and dependents;

2. Assets. The extent to which the assets of the employee and the employee's spouse and dependents are available to meet the offset and the essential subsistence expenses;

3. Number of Dependents. The number of dependents the employee is claiming;

4. Expenses and Liabilities. Whether these essential subsistence expenses have been minimized to the greatest extent possible;

5. Loans. The extent to which the employee or the employee's spouse can borrow money to meet the offset and other essential expenses; and

6. Other Exceptional Expenses. The extent to which the employee and the employee's spouse and dependents have other exceptional expenses that should be taken into account and whether these expenses have been minimized.

B. Evaluation and Written Determination. PRO shall evaluate the statement and supporting documents to determine whether the original offset amount imposes an extreme financial hardship on the employee. PRO shall issue a written determination to the employee which may include a revised offset or voluntary repayment agreement. PRO shall explain the rationale for its decision to the employee. Any accepted reduced offset rate shall begin immediately upon issuance of the written determination.

*080605. Interest, Penalties, and Administrative Charges

The provisions for assessing interest, penalties, and administrative charges on delinquent debts are authorized under ***31 U.S.C. 3717***, ***31 C.F.R. 901.9*** and ***5 C.F.R. 179.214***. PROs should refer to DoD FMR Volume 4, Chapter 3, Annex 1 for guidance on assessing interest, penalties and administrative costs and when waiver may be appropriate.

080606. Collections From Final Salary and Lump Sum Payments

A. Collection of a Previously Established Debt. Under 5 U.S.C. 5514 and ***5 C.F.R. 179.212(d)(3)***, when an employee separates by resignation, retirement, death, or termination of appointment, the employee's final pay (including lump sum leave payments) shall be applied to the extent necessary to liquidate a debt. The 15 percent disposable pay limitation does not apply to the offset. To recover the debt, apply other payments due from any source, such as amounts claimed for travel and transportation. Due process is not necessary if debt collection is already in process at the time of the employee's separation and the employee has previously been afforded notification of the debt and an opportunity for review. For deceased employees, any unpaid compensation due shall be applied to liquidate any indebtedness. If the debt balance of a deceased employee remains after offsetting final pay, then do not pursue collection from the employee's beneficiary. Forward the debt case to DCMO. See 5 U.S.C. 5514(a)(1) and ***5 U.S.C. 5705***.

B. Collection of a Newly Established Debt. When an employee separates by resignation, retirement, death, or termination of appointment, and there are no preceding collections being made from current salary under the authority of 5 U.S.C. 5514, collection of the debt is treated as an administrative offset under 31 U.S.C. 3716. Apply all money payable to the employee to collect the debt and there is no limit on the maximum rate of collection. In such cases and as soon as practicable, grant the debtor notification of the debt and an opportunity for review under section 0804 of this chapter. See 31 C.F.R. 901.3(b)(4)(iii)(C).

C. Collection of a Debt from Severance Pay. Collection of a debt from an employee's severance pay issued under ***5 U.S.C. 5595*** is permissible under 31 U.S.C. 3716. If the employee has not previously received notification of the debt and an opportunity for review (due process) under section 0804, then notice of the debt should be granted to the debtor as soon as practicable. See 31 C.F.R. 901.3(b)(4)(iii)(C). There is no limit on the maximum rate of collection and all money due and payable to the employee by the government is subject to offset. Since severance pay represents wages credited to the employee's account, compute deductions taken from severance pay before the offset. It is the employee's net amount that is available for administrative offset under 31 U.S.C. 3716. In addition, under ***5 C.F.R. 581.103***, severance pay is subject to court-ordered garnishments for alimony, child support, and commercial debts.

080607. Treasury Offset Program for Collection of State Debt

Under 31 U.S.C. 3716(h) and ***31 C.F.R. 285.6***, a state may enter into a reciprocal agreement with the Department of Treasury to collect unpaid state debt by offset of federal non-tax payments, and at the same time, the federal government may collect delinquent federal non-tax debt by offset of state payments. However, currently, do not offset state debts from Federal employee salaries. PRO shall forward state tax levies to Garnishment Operations, DFAS-Cleveland Site (DFAS-CL/L) for processing under the commercial garnishment section. See paragraph 081003.

080608. Refunds

When, at any point in the debt collection process, the debt is waived, determined invalid upon reconsideration or review, or otherwise found not to be due the U.S. (unless expressly prohibited by statute or regulation), a prompt refund shall be made of all amounts collected prior to that determination. Refund amounts if directed by an administrative or judicial order. If requested by the employee, then refund amounts of valid debts collected improperly. For example, if collections exceeding 15 percent of disposable pay were made due to an error in the computation of disposable pay, the employee may request and receive a refund of the difference between the amounts collected and the amounts that were properly withheld. Do not make refunds under any other circumstances. Refunds shall not bear interest, but refund interest already collected along with the principal amount. See ***5 C.F.R. 179.215***.

0807 RECOVERY OF OVERPAYMENTS OF PAY AND ALLOWANCES FROM TRANSFERRED OR FORMER DoD EMPLOYEES

*080701. Employee Transfers Within DoD Resulting in a Change of Payroll Office

A. When a DoD employee transfers to a different DoD position, the employee's assigned PRO may change (i.e. from PRO at DFAS-Indianapolis to DFAS-Cleveland or vice versa). The losing PRO's payroll data system transfers the debt of an employee to the gaining PRO's payroll data system. The losing PRO shall complete any pending actions involving due process or waiver and the gaining PRO shall receive notification of the outcome using a system update. For additional information on transferring debts to different PROs, see ***5 C.F.R. 179.213*** and 5 C.F.R. 550, Subpart K.

B. Upon transfer of the debt, the gaining PRO shall assume full responsibility for collection of the debt (pending receipt of previously unfinished actions). Any voluntary repayment agreements reached regarding periodic installment repayments or the decision not to accrue or assess interest, penalties, and administrative expenses shall be binding on the gaining PRO. If the debt is subject to interest, then the gaining PRO shall make the necessary computations. Installment deductions already begun shall continue uninterrupted.

*080702. Employee Transfers to a Non-DoD Agency

When an employee transfers to another federal agency outside DoD, forward the debt case to DCMO at DFAS-Indianapolis, for collection. DCMO operates and maintains the Defense Debt Management System to provide centralized automated debt management and collection assistance for delinquent debts owed to DoD by individuals who are not currently paid by DoD.

080703. Employee Separates from Federal Service - Recovery from Retirement Funds

A. Action by the PRO

1. General. If the amounts withheld from the employee's final salary

payment or lump sum payment for annual leave are inadequate to satisfy an employee's debt, then PRO shall submit a debt claim (request for recovery of a debt) to OPM for moneys that are due and payable to the separated employee from the CSRS or FERS basic benefits. The procedures in this subparagraph apply only after providing the former employee due process rights specified in section 0804. See ***5 C.F.R. 831 subpart R (CSRS)*** and ***5 C.F.R. 845, subpart D (FERS)***; ***CSRS and FERS Handbook for Personnel and Payroll Offices (CSRS and FERS Handbook) at Chapter 4***. See DoD FMR Volume 8 Chapter 11 for procedures that apply to the collection of debts resulting from an individual's failure to pay health benefit premiums while in a nonpay status or when salary was not sufficient to cover the cost of premiums.

2. Notice to the Employee. Immediately prior to sending a request to OPM for recovery of a debt, PRO shall notify the employee in writing that a debt claim is being sent to OPM to offset CSRS or FERS basic benefits. The letter shall state the amount of the debt at separation, the amount recouped from final pay and other sources, and the balance due. The letter also shall inform the employee that if he or she makes full payment of the unrecouped portion, the debt will not transfer to OPM. See ***5 C.F.R. 831.1805*** and ***5 C.F.R. 845.405***.

3. Submission of Debt Claims to OPM. Debt claims shall be submitted to OPM in accordance with the CSRS and FERS Handbook, Chapter 4, ***5 C.F.R. 831.1805(b)(5)*** and ***5 C.F.R. 845.405(b)(5)***.

a. Complete Debt Claims. Make a debt claim on an ***SF 2805*** (Request for Recovery of Debt Due the United States). Submit the debt claim to the Office of Personnel Management, Retirement and Insurance Group, Employee Service and Records Center, Boyers, PA 16017. Attach a copy of the employee notification and two copies of the following signed certification to the SF 2805:

(1) A statement that the employee owes the debt to the U.S.;

(2) The amount and reason for the debt and whether additional interest accrues;

(3) The date the government's right to collect the debt first accrued;

(4) A statement that the PRO has complied with the applicable statutes, regulations, and the OPM procedures;

(5) A promise that if a competent administrative or judicial authority issues an order directing OPM to pay the employee an amount previously paid to DoD (regardless of the reasons behind the order), DoD shall reimburse OPM or pay the employee directly within 15 days of the date of the order; and

(6) A listing by date of actions taken pursuant to section 0804 (due process) of this chapter. Copies of the correspondence are not required.

Note: OPM is aware that PROs will not be able to obtain the employee's consent to the collection in every case; therefore, OPM shall honor such claims from PROs upon receipt of PRO's certification. Make every attempt to obtain the employee's consent, however, when the process has resulted in a compromised amount (an amount less than the total debt) or, in the case of an annuitant, a specific monthly installment is agreed upon.

b. Incomplete Debt Claims. In some instances, PRO will not be capable of sending a complete debt claim to OPM. For example, a separation may occur while due process procedures are pending or PRO may be required to submit the indebted employee's ***SF 2806/3100*** (Individual Retirement Record) before information is available to determine the proper amount to be offset from the employee's monthly annuity. In such cases, PRO must notify OPM of the existence of the debt in order to prevent payment by OPM of retirement benefits to the employee. This is particularly important when the employee is entitled to a refund (lump sum retirement credit) of his or her contributions. PRO shall notify OPM by a remark in Column 8 of the SF 2806/3100. The SF 2806/3100 shall include a statement that the employee owes the debt to the U.S., the date the debt first occurred, and the basis for and amount of the debt.

4. Transfer of Debt Case. After sending the SF 2805 to OPM, transfer the debt to DCMO, DFAS-Indianapolis.

B. Action by OPM. A properly submitted debt claim results in OPM offsetting a former employee's debt from either a refund or a monthly annuity paid to the former employee. See ***5 C.F.R. 831.1806***; ***5 C.F.R. 845.406***; and ***31 C.F.R. 901.3(d)***.

1. Refunds. The term "refund" refers the payment of a lump sum retirement credit to an individual by OPM.

a. Complete Debt Claims. If OPM makes a refund, then OPM will advise PRO submitting the SF 2805 that no moneys are available for application against the indebtedness. If the employee's application for a refund has been received by OPM, but not yet processed at the time the complete debt claim is received, then OPM shall honor the debt claim and make remittance to PRO. If the employee has not applied for a refund, then OPM will retain PRO's debt claim pending a future application. If the application for refund is received within one year of the date of OPM's receipt of PRO's debt claim, then OPM will honor the debt claim (where no interest is due) or will contact PRO to determine the amount of interest on the debt prior to honoring the debt claim. If OPM receives the application for refund more than 1 year following the date of PRO's submission of the SF 2805 to OPM, then OPM will contact PRO to verify that the debt is still current. If transferring the debt to DCMO per paragraph 080702, then PRO shall refer such inquiries to DCMO. If PRO has not yet transferred the debt to DCMO, but has still not made full collection, then PRO must contact the employee pursuant to 31 C.F.R. 901.3(d) in order to provide him/her the opportunity to establish whether his or her changed financial circumstances would make the offset unjust. The decision of whether to pursue the offset or to attempt collection by other means shall be made based on the employee's response. As a general rule, pursue the offset unless the success of alternative collection action is relatively certain.

b. Incomplete Debt Claims. If the employee has filed an application for a refund, then PRO must send OPM a notice of a debt claim against the refund that OPM is processing for payment. OPM will withhold the amount of the debt, but will not make a payment to PRO until PRO submits the complete debt claim to OPM. OPM will give PRO 120 days from the date OPM issues a notice to PRO to furnish a complete debt claim. This deadline may be extended by an additional 60 days if PRO so requests. Failure to meet the deadline or extended deadline, if applicable, will result in payment of the refund to the employee with no withholding for the debt.

2. Annuities

a. Complete Debt Claims. When OPM receives a complete debt claim from PRO and an application for an annuity, OPM will offset the annuity and pay the agency. When possible, OPM will make a one-time offset against the retiree's annuity payment in accordance with ***5 C.F.R. 831.1806*** and 5 C.F.R. 845.406. OPM will not make an installment deduction for more than 50 percent of the net annuity unless a higher percentage is needed to satisfy a judgment against a debtor within 3 years, or the annuitant has consented to the higher amount in writing. See ***5 C.F.R. 831.1807*** and ***5 C.F.R. 845.407***. For debts collected by installment that are subject to continuing interest payments, OPM must be advised of the new amount of the debt at least 90 days prior to the final payment. Whether the debt is repaid from an annuity by one-time offset or by installment deductions, OPM will begin deductions with the next available annuity payment following its receipt of a complete debt claim. If the monthly annuity payment has not yet been established, then offset will begin with the first regular annuity payment. Offsets shall not be made against advance annuity payments. As in the case of refunds, OPM can not offsets against annuity payments they receive an application for annuity payments from the retiree. Therefore, OPM will retain any SFs 2805 received in advance of the retiree's application. If any application is received more than 1 year following receipt of the SF 2805, then OPM will contact PRO in order to determine the current status of the debt. If the debt has been transferred to DCMO per subparagraph 080703.A.4, then PRO shall refer such inquiries to DCMO. If PRO has not yet transferred the debt to DCMO, but has still not made full collection, then PRO must contact the employee pursuant to 31 C.F.R. 901.3(d) in order to provide him or her the opportunity to establish whether his or her changed financial circumstances would make the offset unjust.

b. Incomplete Debt Claims. OPM will notify PRO of an incomplete debt claim against a debtor who is receiving an annuity. OPM will not offset the annuity until the debt claim is complete. Unlike the time limit for submitting a complete claim against a refund, there is no time limit on submission of a complete debt claim against an annuity.

080704. Post-Separation Debt Recovery by Debt and Claims Management Office (DCMO)

A. Debts of Former Employees. Transfer debts of former DoD employees to DCMO, DFAS-Indianapolis, in accordance with established procedures. All transfers shall include the following:

1. The employee's full name and Social Security number (SSN);

2. The employee's last known mailing address;

3. The date of the employee's separation/retirement;

4. The amount of the debt including principal, interest, penalties, and administrative costs;

5. Copies of all correspondence related to the case;

6. The accounting classification for credit, including amounts for interest, penalties, and administrative expenses when applicable; and

7. The date the debt was originally due, as stated in the notification of indebtedness.

B. Other Out-of-Service Debts. Out-of-service debts refer to debts of individuals not receiving salary or other payments from DoD that can be offset to collect existing debt. For out-of-service debts collected by DCMO, provide pertinent data to PRO to affect the necessary changes (including, but not limited to: SF 2806, SF 3100, IRS FormW-2, and ***IRS Form 941***).

0808 RECOVERY OF OTHER DOD DEBTS

080801. General

Other creditor components within DoD (such as employing agencies to whom an employee owes a debt) and functional areas outside PRO may request PRO recover a debt by salary offset under ***5 C.F.R. 550.1109***. The DoD creditor component must certify completion of due process requirements to PRO when requesting involuntary salary offset to collect a debt that originated outside PRO. In general, PRO shall not question the merits of debts originating outside PRO.

080802. Collections of Unused Travel Advances, Unearned Advanced Per Diem and Mileage Allowance and Unearned Temporary Quarters Subsistence Expense (TQSE)

A. General. Under 5 U.S.C. 5705, a federal employee who is entitled to per diem or mileage allowances may receive a travel advance. Any amounts of the travel advance that are not used for allowable expenses are required to be collected. The travel functional area gives the employee an immediate opportunity to pay the amount due in a lump sum. If lump sum payment is not made, then offset will be made against all accrued pay, retirement credit, or any other amounts due the employee, without limitation.

B. Collection Request. PRO shall receive notification in writing of any debt the travel function area or employing activity requests PRO collect by salary offset. Send a copy of the employee's signed voluntary repayment agreement to PRO, when applicable. Collect the debt in one lump sum, in installments in accordance with the employee's signed voluntary repayment agreement, or written instructions provided by the travel functional area or the

employing activity. The amount of the offset should not cause extreme financial hardship to the employee. For guidance on determining an appropriate installment amount, see the criteria used to determine installment payments at DoD FMR Volume 5, Chapter 28, paragraph 280701.

080803. Overpayment of Travel Allowances

Salary offset is authorized to collect a debt owed for an overpayment of travel allowances, subject to the limitation of up to 15 percent of disposable pay. An official must certify to PRO on ***DD Form 2481*** that due process has been performed under 5 U.S.C. 5514 or other applicable regulation.

080804. Excess Costs Due to Shipment of Personal Property

A debt for excess cost is created when an employee's shipment of personal property exceeds the authorized weight allowance under ***5 U.S.C. 5724(a)(2)***. If an employee has a debt for excess cost, then PRO must receive a DD Form 2481 to make collection by offset. The collection of such excess costs from an employee's pay is considered a voluntary offset since the employee signed ***DD Form 1299*** (Application for Shipment and/or Storage of Personal Property) before shipment agreeing to repay excess costs caused by the personal property shipment. Upon receipt of the DD Form 2481, PRO will begin collection action for the balance due.

080805. Collection of Employee Training Expenses

When an employee fails to fulfill a training agreement and he or she does not repay the employing activity, collection of training expenses from the employee's pay account by salary offset is authorized under ***5 U.S.C. 4108***. In accordance with ***5 C.F.R. 410.309***, the employing activity must give the employee the opportunity to request a reconsideration of the amount to be recovered or to apply for a waiver of the activity's right to recover.

A. Documents Required for Offset. PRO must receive the following documents prior to initiating collection by salary offset:

1. A copy of ***SF 182*** (Authorization, Agreement And Certification of Training) showing the employee's signed consent to the terms of the training agreement; and

2. A copy of at least one notification of indebtedness issued to the employee by the training office that pursued voluntary repayment of the training costs.

B. Notification to Employee of Offset. PRO shall forward a copy of the SF 182 and the notification issued to the employee by the training office to the employee along with written notification advising the employee of the payroll deduction amount and the pay period deduction will start.

080806. Collection For Reports of Survey Debts (also known as Government Property Lost or Damaged)

Report of survey channels, as prescribed in the pertinent DoD Component regulations, must be exhausted before involuntary salary offset under 5 U.S.C. 5514 is invoked for survey debts. Upon receipt of the DD Form 2481, PRO will begin collection action for the balance due.

080807. Unofficial Telephone Use

When directed by the employing agency and subject to the agency's certification on DD Form 2481 that due process has been performed under 5 U.S.C. 5514 or other applicable regulation, PRO will begin salary offset from employees who have incurred liability for unofficial use of government telephones. Offsets are subject to the limitations of up to 15 percent of disposable pay.

080808. Hospital Bills

Salary offset is authorized subject to the limitations of up to 15 percent of disposable pay for debts owed to DoD Component hospitals. An official designated by the hospital must certify to PRO on a DD Form 2481 that due process has been performed under 5 U.S.C. 5514 or other applicable regulation.

080809. Commissary Stores

Subject to the limitations of up to 15 percent of disposable pay and under a certification of due process on a DD Form 2481 by an appropriate official of the commissary store, initiate salary offset in the case of employees who are indebted to the Defense Commissary Agency for reasons such as having issued dishonored personal checks.

080810. Court Fees

Under certain circumstances, employees must refund fees received from a court for service as a juror or a witness. DoD FMR Volume 8, Chapter 5 provides guidance on absences of employees and retention of fees in connection with court leave. Collect court fees by cash refund or by payroll deduction. Under ***5 U.S.C. 5515***, refund collected fees to the appropriation or fund from which the employee is paid.

080811. Negotiation of Duplicate U.S. Treasury Checks

The negotiation of an original check that has been replaced by a recertified check is considered to be an illegal, incorrect, or improper payment for purposes of pecuniary liability. The disbursing officer who issues the duplicate payment is responsible for collection of such payments from a payee. The disbursing officer shall give the payee an opportunity to dispute whether the payee actually endorsed both instruments and an opportunity to consent to a full one-time salary offset. To offset the debt with a one-time salary offset, PRO must receive a signed statement from the disbursing officer, written consent from the employee to a one-time salary offset, and evidence

that negotiation of both instruments has occurred. PRO shall inform the employee that the amount of the indebtedness will be deducted in full from the next salary payment. The disbursing officer shall provide direction as to how the proceeds are applied. If, for any reason, the disbursing officer cannot produce written consent from the employee, then PRO must treat the case as an overpayment and initiate due process under section 0804 by mailing the employee a debt notification letter. If the employee fails to repay the debt pursuant to the debt notification, then involuntary deductions by salary offset will be made under 5 U.S.C. 5514. The maximum rate of 15 percent of disposable pay applies. Assess interest per paragraph 080605.

*080812. Military Pay of Reserve or National Guard Members For Duty To Aid Law Enforcement

A. General. Under the provisions of ***5 U.S.C. 5519*** and ***5 U.S.C. 6323(b)-(c)***, an employee's civilian pay is reduced (offset) by the gross amount received by the employee for military service as a member of the Reserve or National Guard for the period for which the employee is granted military leave under 5 U.S.C. 6323(b) or (c). The military pay to be offset against the civilian pay does not include travel, transportation or per diem paid by the military. If the military pay exceeds the employee's basic pay, then the employee may retain that portion of military pay that exceeds the civilian pay. If the employee uses annual leave or compensatory time, then the offset rules do not apply and the employee receives full military pay and full civilian pay. Refer to DoD FMR, Volume 8, Chapter 5, for further information. The requirement for offset applies whether payment for military service was pay from federal or state funds. Deduct for income tax withholding, Social Security and/or Medicare, or retirement based on the resulting balance. Do not reduce the civilian pay by the military pay received for service on nonworkdays.

B. Procedures. PRO shall accomplish the reduction of an employee's civilian pay by cash collection or by payroll deduction. Credit the collection to the appropriation from which the employee's civilian pay was paid. PRO is encouraged to notify the employee informally of the requirements under 5 U.S.C. 5519.

C. Documentation. Obtain specific information as to the military pay entitlement of the employee from the military organization concerned if the employee is unable to produce specific and documented information from which the civilian pay reduction may be determined.

080813. Collection of Dishonored Personal Checks

Collection of dishonored personal checks shall be made in accordance with DoD FMR Volume 5, Chapter 4.

0809 OTHER SALARY OFFSET REQUESTS

080901. Salary Offset Requests From Non-DoD Federal Creditor Agencies

A. General

1. Request for Salary Offset. A non-DoD Federal creditor agency means a non-DoD agency to which an employee owes a debt. When non-DoD federal creditor agencies (except IRS or U.S. Courts) identify DoD employees as having outstanding debts, those agencies shall address their salary offset requests to the Secretary of Defense designee for such collection which is DFAS Cleveland (DFAS-CL), 1240 East 9th Street, Cleveland, OH 44199. A request for offset must include certification that due process rights have been afforded to an indebted employee by the non-DoD federal creditor agency. After DFAS-CL approves a request for salary offset, DFAS-CL shall forward the approved request to PRO that maintains the employee's pay account.

2. Inquiries. Some non-DoD federal creditor agencies may elect to inform the employee of the anticipated amount of the offset prior to certification of due process and submission to DFAS-CL for offset. PROs shall cooperate with non-DoD federal creditor agencies that inquire as to the amount of an employee's disposable pay.

3. Calculation of Debt. Only the non-DoD federal creditor agency shall perform calculation of the debt amount (including any interest, administrative expenses, or penalties). A non-DoD federal creditor agency may adjust the originally certified debt amount to include interest that has accrued since initially certifying the debt to DFAS for collection. In this event, the non-DoD federal creditor agency shall recertify the debt amount using the same procedure as the original debt certification.

4. Statute of Limitations. There is no statute of limitation for collection of a debt by salary or administrative offset. See DoD FMR Volume 5, Chapter 28 at subparagraph 280808.B.3 for additional notice and due process requirements that apply to the collection of debts that are at least 10 years delinquent as of December 31, 2009.

5. Returned Requests. Return without action any requests from non-DoD creditor agencies sent to PRO directly without going through DFAS-CL or the Defense Manpower Data Center (DMDC). PRO will inform the non-DoD federal creditor agency of the correct procedures as outlined in this section.

6. Date Offset is Initiated. The debt collections will begin the next officially established pay period.

7. Matching Data. The National Security Agency (NSA) shall work with DMDC to accomplish matches for NSA, the Defense Intelligence Agency, and National Imagery and Mapping Agency personnel. NSA Headquarters will conduct these matches.

B. Processing Actions. Upon receipt of the salary offset request for a non-DoD federal creditor agency from DFAS - CL, PRO shall:

1. Compute Salary Offset Amount. Compute 15 percent of the employee's disposable pay or a lesser percentage dictated by the non-DoD federal creditor agency;

2. Notify Employee of Offset. Notify the employee in writing of the amount of the salary offset and the pay period when salary offset will start;

3. Process Deductions. Process the payroll deduction in accordance with payroll system user instructions;

4. Coordinate Verification of Debt Collection Status. Receive from the employee and forward to the non-DoD federal creditor agency any proof submitted by the employee indicating that the debt is paid in full, discharged under bankruptcy, or that voluntary payments are current under a voluntary repayment agreement. PRO shall advise the employee to resolve any debt issue directly with the non-DoD federal creditor agency so that DFAS-CL is officially notified that the debt has been canceled. If the employee produces compelling documents (e.g., canceled checks, receipts, or letters from the creditor agency) which indicate the debt is no longer valid, then salary offset should be suspended pending verification or official termination by the non-DoD federal creditor agency;

5. Pay and Report to non-DoD Federal Creditor Agency. Forward payment each pay period to the non-DoD federal creditor agency along with a report of each collection made. See DoD FMR Volume 8, Chapter 9 subparagraph 090203.G.1 for guidance on preparing this report;

6. Report to DFAS-CL. Send a biweekly report of collections on delinquent debts for non-DoD federal creditor agencies to DFAS-CL. See DoD FMR Volume 8, Chapter 9 subparagraph 090203.G.2 for guidance on preparing this report; and

7. Record. Ensure the civilian payroll voucher reflects the total amount of the collection as salary offset for the non-DoD federal creditor agency.

*080902. Salary Offset Requests From the Travel Charge Card Contractor

A. Authority. The "Travel and Transportation Reform Act of 1998" authorizes Federal agencies to collect undisputed delinquent amounts incurred on an individually billed travel charge card issued to a civilian employee from that individual's disposable pay. See Sec 2, P. L. 105-264, 112 Stat. 2350 and ***5 U.S.C. 5701 note***. The amount deducted may not exceed 15 percent of the disposable pay for each pay period, except upon written consent of the employee for a greater percentage deduction amount. This statute is implemented by this Regulation and the ***Federal Travel Regulation (FTR), Parts 301-54*** and ***301-76*** (see also ***41 C.F.R. Part 301-54*** and ***41 C.F.R. Part 301-76***).

B. Request for Collection. After undisputed debts become 90 days delinquent, the travel charge card contractor shall send a 90-day demand letter to the debtor which shall include all due process requirements for initiating salary offset. If the debt is not disputed or paid, or arrangements are not made for payment by installment agreement within the 30-day period following the final debt letter, then the travel charge card contractor may request initiation of the salary offset process through payroll deduction.

C. Responsibilities

1. Travel Charge Card Contractor

a. Request for Offset. The travel charge card contractor shall forward delinquent debts to the Salary Offset Project Office (DFAS - AHADC/CL).

b. Record of Charges, Late Fees and Costs. The undisputed 120-day old delinquent accounts referred for salary offset shall contain the full balance of the account, regardless of whether some of the individual charges relate to an official travel document. In addition to the delinquent charges, the amount referred for salary offset shall include any late fees assessed and costs of collection.

c. Financial Institution Information. The file shall include the travel charge card contractor's financial institution and account routing information to facilitate electronic transmission of delinquent amounts collected.

d. Private Collection Agency Referrals. Any delinquent debt the travel charge card contractor has already forwarded to a private collection agency for collection shall not be included in the salary offset process. Nor shall the travel charge card contractor refer to a private collection agency any delinquent debt already submitted for collection by salary offset.

2. Salary Offset Project Office

a. Processing Requests. The Salary Offset Project Office (DFAS - AHADC/CL) shall process the request for initiation of travel charge card delinquent debt salary offset in the same manner as is done for federal salary offset requests from other federal agencies.

b. Debt Balance. The Salary Offset Project Office (DFAS – AHADC/CL) shall manage the debt balance during the salary offset process. If for any reason changes to the debt balance occur, then the travel charge card contractor shall immediately advise the Salary Offset Project Office of those changes.

c. Reports from PRO. PROs shall provide reports listing the collection transactions to the Salary Offset Project Office for each collection file in order to monitor amounts collected and remaining debt balances due.

D. Due Process - Inquiries, Disputes, and Hearing Process. Any inquiries or disputes regarding the debt and the 90-day demand notice, which are received by the travel charge card contractor prior to forwarding the debt to DFAS for collection, will be handled and resolved by the travel charge card contractor. If the debtor wants to negotiate an installment agreement prior to the referral of the debt for salary offset, then the employee will make any such agreement with the travel charge card contractor. If the debtor is not satisfied with the travel charge card contractor's disposition of the dispute, then he or she may submit a petition to the travel charge card contractor for a debt hearing.

E. Amounts Collected. The maximum offset amount is 15 percent of disposable income.

1. Payment to Travel Charge Card Contractor. Any collection on undisputed debts shall be processed by the pay system and directly applied to the travel charge card contractor.

2. Refunds. The travel charge card contractor shall refund any overpayment amount to the debtor after the debt is satisfied. Overpayment can occur once a debt is forwarded to DFAS due to any additional payments received by the travel charge card contractor from the delinquent account holder or from other actions. Such refunds must be paid immediately after the debt is satisfied, but in no case no later than 30 days after DFAS forwards the final salary offset amount to the travel charge card contractor.

F. Delinquent Account Holder No Longer Civilian Employee. Debts that are referred for salary offset collection by the travel charge card contractor where salary offset is not available, (i.e., the civilian employee has separated), will be returned by DFAS to the travel charge card contractor for private collection action.

0810 RECOVERY OF COURT-ORDERED INDEBTEDNESS

081001. Judgment Offsets

When a court of the U.S., in an action or suit brought against a federal employee by the U.S., determines the employee is indebted to the U.S. and enters a judgment against the employee, section 124 of P.L. 97-276, (published as a note to 5 U.S.C. 5514), allows collection of the debt by deduction from the employee's current pay account. The employee's consent is not required. Any federal agency requesting salary offset under this authority shall send a letter requisitioning offset to PRO with an attested copy of the judgment entered against the employee. If there is concern as to the validity or interpretation of the judgment, then DFAS Office of General Counsel shall review the judgment. After confirmation of the validity or interpretation of the judgment, PRO will:

A. Compute the amount collected each pay period using the percentage specified in the offset request. The maximum amount deducted for a pay period may not exceed 25 percent of the employee's disposable pay, unless a greater percentage is necessary to recover the amount owed within the time of the anticipated employment. Deductions may be made from basic

pay, special pay, incentive pay, or in the case of an individual not entitled to basic pay, other authorized pay.

B. Collect the total unpaid balance as specified in the offset request. This amount may include accumulated interest and administrative charges. The agency requesting offset should notify PRO approximately 90 days before completion of the judgment offset with the final judgment amount which includes the balance of accrued interest charges.

C. Forward a copy of the offset request to the employee with written notification advising the employee of the deduction amount and pay period the deduction will start.

D. Apply final pay (salary and lump sum leave) to any unliquidated debt balance if the employee retires, resigns, dies, or if employment otherwise ends.

E. Forward payment each pay period to the agency requesting salary offset.

*081002. Child Support and Alimony Garnishments

A. Authority. ***Title 42, U.S.C., section 659*** provides consent by the U.S. to garnishment and similar proceedings for enforcement of child support and alimony obligations against civilian employees. Deduct court-ordered garnishment under this section from the employee's pay in accordance with ***5 C.F.R. Part 581***.

B. Pay Subject to Garnishment. All moneys due active civilian employees, the entitlement to which is based upon "remuneration for employment", are subject to court-order garnishment or attachment. The term "remuneration for employment" means all compensation paid or payable for personal services performed by an individual, whether such compensation is denominated as wages, salary, commission, bonus, pay, or otherwise, and includes, but is not limited to, those items set forth in ***5 C.F.R. 581.103***.

C. Pay Not Subject to Garnishment and Exclusions. Moneys paid as reimbursement, normally defined by law or regulations as allowances, awards paid for making suggestions, and injury compensation payments are not deemed to be "remuneration for employment" and, therefore, are not subject to garnishment. Amounts not subject to garnishment are identified in ***5 C.F.R. 581.104***. Deductions as identified in 5 C.F.R. 581.105 that will be excluded from garnishment are:

1. CSRS/FERS;

2. Social Security and/or Medicare;

3. TSP contributions;

4. Federal income taxes (not including additional withholdings unless the employee presents evidence of a tax obligation which supports the additional withholding);

5. FEHB;

6. FEGLI (basic only);

7. Indebtedness due the U.S. Government except where the employee's debt is for child support and the amount owed the U.S. results from an income tax lien or levy;

8. State income tax and city/local employment tax; and

9. Other deductions required by law or regulations to be withheld.

D. Maximum Garnishment Limitations. Aggregate disposable earnings means the amount of any pay that is due or payable to an employee as "remuneration for employment" minus the deductions that are listed as exclusions. Unless a lower maximum garnishment limitation is provided by applicable State or local law, the maximum part of the aggregate disposable earnings subject to garnishment to enforce a support order (***5 C.F.R. 581.402***) shall not exceed:

1. Fifty percent of the employee's aggregate disposable earnings for any workweek if the employee is supporting a spouse, a dependent child, or both, other than the former spouse, child or both for whose support is required by the garnishment order;

2. Sixty percent of the employee's aggregate disposable earnings for any workweek if the employee is not supporting a spouse, dependent child, or both other than those named in garnishment order;

3. An additional 5 percent of the employee's disposable earnings is subject to garnishment in each case if the outstanding arrearages are over 12 weeks old.

E. Procedures. Send all court orders for child support and alimony to DFAS-Cleveland Site (DFAS-CL/L). Upon review of the court order, DFAS-CL/L will process the garnishment deduction information in DCPS. A cancellation to the order will be automatic on the date of separation from DoD, upon death of the employee, or upon notification from the court that the legal process is terminated. The employee can not voluntarily stop these court ordered deductions.

*081003. Commercial Garnishments

A. Authority. ***Title 5, U.S.C. section 5520a*** authorizes the garnishment of federal civilian employees' wages for commercial debts. Deduct commercial garnishments under this section from the employee's pay in accordance with 5 C.F.R. Part 582.

B. Pay Subject to Commercial Garnishment. Pay due to employees as defined in 5 U.S.C. 5520a is subject to legal process.

C. Pay Not Subject to Commercial Garnishment and Exclusions. In determining the amount of pay subject to commercial garnishment, suggestion awards and injury compensation payments are not subject to garnishment. Deductions as identified in 5 C.F.R. 582.103 that will be excluded from garnishment are:

1. CSRS/FERS;

2. Social Security and/or Medicare;

3. TSP contributions;

4. Federal, State, or Local income taxes (not including additional withholdings unless the employee presents evidence of a tax obligation which supports the additional withholding);

5. FEHB;

6. FEGLI (basic only);

7. Indebtedness due the U.S. Government; and

8. Other deductions required by law or regulations to be withheld.

D. Maximum Garnishment Limitations. A maximum of 25 percent of an employee's disposable pay may be used to satisfy garnishments for commercial debts. The term disposable pay means the amount of any pay due or payable to an employee as remuneration for employment, minus the deductions listed in subparagraph 081003.C. If the total deduction for child support and alimony equal or exceeds 25 percent of an employee's disposable pay, then do not process a deduction for a commercial debt. Further, limitations on the amount to be garnished are found in 5 C.F.R. 582.402. There is no limit on the percentage amount for garnishment for federal, state or local tax obligations, or in compliance with an order of any court of the U.S. having jurisdiction over bankruptcy cases under Chapter 13.

E. Procedures. Send all orders for commercial debts to DFAS-CL/L. Upon review, DFAS-CL/L will process the commercial garnishment information in DCPS.

F. Administrative Fee. Add an administrative fee of $75.00 to the garnishment amount and collect from the employee. Collect the administrative fee in full before any payments are remitted to the creditor. An administrative fee may be assessed for each legal process that is received and processed if more than one commercial debt exists.

*0811 BANKRUPTCIES

*081101. General

Title 11, U.S.C., Section 1325, permits an indebted individual who has a regular income to file a Wage Earner's Plan with the Bankruptcy Court designed to liquidate all or part of the creditor's claim. When a plan has been approved, the court may order DoD to pay all or part of those wages to a trustee for the debtor. The law waives the U.S. Government's sovereign immunity for purposes of compliance with payroll deduction orders issued by the bankruptcy courts. Accordingly, DFAS will process the collection in accordance with the instructions on the court order.

A. Collecting an amount of indebtedness owed to the U.S. that was incurred prior to the filing date of the petition, is described as a prepetition debt. Collect such debt by offset from the employee's pay account only through the day prior to the date the bankruptcy petition is filed. Continuing deductions from the employee's pay after the filing of a petition in a bankruptcy is improper and violates the automatic stay provisions of the bankruptcy statute. Promptly discontinue all voluntary deductions to liquidate the listed indebtedness upon notice or actual knowledge of the filing of the bankruptcy petition. Amounts withheld after the date the bankruptcy petition is filed must be refunded to the employee.

B. Upon notice or actual knowledge of the filing of a bankruptcy petition, when the employee has listed the U.S. Government as a creditor, PRO files a proof of claim with the Federal court concerned.

C. If the bankruptcy petition is approved, then, generally, the listed indebtedness to the U.S. is discharged with few exceptions. The bankruptcy proceedings have no bearing on the liquidation of any new item of indebtedness discovered after the filing of a petition in bankruptcy and not included in the petition.

D. If the court subsequently dismisses a bankruptcy case, then collection of the debt is permitted by offset if otherwise authorized.

*081102. Wage Earner's Plan Under the Bankruptcy Act, Chapter 13

A. An employee may file a petition with the court to enter into a "Chapter 13 Plan" under the Bankruptcy Code. Under Chapter 13, an employee must submit a proposed repayment plan to the bankruptcy court that provides, among other things, that all or a specified amount of future income as is necessary to pay priority claims under the plan, are to go to the control of the bankruptcy trustee.

B. When the court confirms the plan, its provisions are binding upon the employee and all creditors of the employee, regardless of whether they are affected by the plan or have been included in the plan.

C. Once the bankruptcy court confirms a plan, it usually orders the employer to pay a specific amount of an employee's income to the trustee named in the order.

D. The pay of an employee is subject to payment to the trustee appointed by the court pursuant to Chapter 13 of the Bankruptcy Act. The payment by DFAS of part of the employee's pay in response to a court order issued under a Chapter 13 Wage Earner's Plan case does not violate ***31 U.S.C 3727*** (Priority of Government Claims). Compliance with such a court order gives the government a valid acquittance against the employee since the court order is binding on the employee.

E. If the U.S. is both the employer and creditor when the individual files a Chapter 13 Wage Earner's Plan, then the government's priority under ***31 U.S.C. 3713*** may be asserted in the absence of a judicial determination to the contrary. This is done through a filing of the proof of claim by the appropriate PRO.

*081103. Chapter 7 Bankruptcy

A. Notification. Upon notice or actual knowledge of the filing of a bankruptcy petition, when the debtor has listed the U. S. Government as a creditor, DFAS Cleveland Site, Garnishment Operations:

1. Requests the appropriate PRO file a claim with the Federal court concerned, or;

2. Discharge the listed indebtedness of the U.S. if the bankruptcy petition is approved for discharge of debts. The bankruptcy proceedings have no bearing on the liquidation of any new item of indebtedness incurred after the filing of a petition in bankruptcy and not included in the original bankruptcy petition.

B. Procedures

1. Submit or fax Bankruptcy withholding orders to:

DFAS-Cleveland Site
Garnishment Operations
P. O. Box 998002
Cleveland, OH 44199-8002

Commercial Fax: (877) 622-5390
(216) 522-6960
DSN Fax: 580-6960

a. The employee's full name and full social security number must be included with the Bankruptcy order.

b. The Bankruptcy notice is effective when it is signed by the court and the provisions of the automatic stay are effective with that date.

c. When the notice does not sufficiently identify the employee, return it directly to the person who submitted the order with an explanation of the deficiency.

2. Upon receipt of an effective bankruptcy order, together with all the required information, Garnishment Operations will review the case to determine if there are any commercial garnishments that need to be terminated as a result of the automatic stay (child support, alimony and child support arrears, are not terminated unless the bankruptcy order specifically states so). Garnishment Operations will then establish the withholding against the employee's pay to comply with the bankruptcy order within 30 days. Withholdings will continue until the amount specified in the order is collected, or the order is cancelled or suspended.

a. Within 30 calendar days after the date of receipt of the order, the designated official will send notice to the employee stating this fact.

b. The letter will inform the employee the date that the withholding is scheduled to begin and the amount or percentage that will be deducted.

c. When the employee identified in the order is found not to be entitled to money due from or payable by DFAS, the designated official will return the order to the person who submitted it and advise him or her that no money is due from or payable by DFAS to the named individual. When it appears that amounts are exhausted temporarily or otherwise, unavailable, the authorized person shall be told why and for how long any money is unavailable, if known.

*0812 TAX LEVY FOR UNPAID FEDERAL INCOME TAX

*081201. Authority

Internal Revenue Service (IRS) District Directors are authorized under ***26 U.S.C. 6331*** to collect delinquent federal income taxes by levy on the salary or wages of any U.S. or District of Columbia (D.C.) employee. When the employee fails to pay federal income tax due within 30 days after IRS issues a notice and payment demand, a levy against the employee's wages may be issued. The levy is served against the take home pay of the employee and shall attach only to the salary check or cash disbursement the employee would receive on payday if it were not for the levy. After PRO receives a levy, do not allow employees to increase or add any voluntary allotments. Changes that increase existing voluntary allotments are only authorized after the total tax liability has been paid or arrangements made with IRS. IRS has the authority to collect outstanding Federal taxes for 10 years from the date the tax liability was assessed. However, the 10 year collection period can be suspended and the amount of time the suspension is in effect will be added to the time remaining in the 10 year period. For example, if the 10 year period is suspended for 6 months, then the time left in the period IRS will have to collect will increase by 6 months.

*081202. Procedures

When IRS serves the Form 668-W(c) (Notice of Levy on Wages, Salary, and Other Income)," PRO will take immediate action to implement the levy. Once PRO processes the levy, it shall continue in effect until the collection is complete or until IRS releases the levy.

A. Notice to Employee and Claiming of Exemptions. PRO shall follow instructions as indicated on Form 668-W(c) and provide notice to the employee that a levy has been received. Employees are permitted to claim a biweekly personal exemption and a biweekly exemption for each dependent. IRS changes the exemption amounts each year. ***IRS Publication 1494*** provides the current exemption amounts and is issued with the levy. The employee shall certify his or her exemptions and provide the information to PRO on Form 668-W(c) under "Statement of Exemptions and Filing Status." The employee shall return the completed form to PRO for processing. If the employee fails to provide exemption information to PRO, then a dependency exemption shall not be allowed and only the minimum personal exemption for each pay period shall be allowed. An employee may provide a new statement to PRO at a later date to have the exempt amount recomputed. If the employee is required by a court judgment (made before the date of the levy) to contribute to the support of minor children, then that amount of salary, wages, or other income is already exempt from the levy and therefore the employee may not claim these minor children as exemptions.

B. Computing Take Home Pay. The levy attaches to the employee's "take home" pay minus the allowable exceptions. Unless otherwise instructed by IRS, the employee's payroll deductions in effect when the levy was received shall be allowed when determining the employee's take home pay. However, a voluntary allotment may be disallowed if the deduction is so large it defeats the levy. IRS may notify PRO when different procedures should be followed for specific employees. To determine the employee's "take home" pay, the levy attaches to the gross amount of the employee's accrued wages or salary, less the following deductions:

1. Social Security and/or Medicare;

2. Retirement;

3. FEHB;

4. FEGLI;

5. Pay attached or garnished for child support or alimony;

6. Overpayments due the U.S. Government; and

7. Allowable personal exemptions, certified by the employee on Form 668-W(c).

C. Return Form 668-W(c) to IRS. After PRO makes the first deduction for the levy against the employee's pay, PRO shall follow instructions on the Form 668-W(c) and return Part 3 of the form to IRS.

D. Employee Transfers or Separation

1. Transfers Within DoD. If the civilian employee has been reassigned to an organization serviced by another PRO, then the losing PRO shall inform the IRS District Director of the employee's new address. The losing PRO shall mail the complete levy package to the new PRO for processing.

2. Other Employee Transfers or Separation. If the employee has moved from overseas, transferred to another federal agency, separated or retired, then PRO will return the levy to the IRS District Director and provide the employee's new address, if known, on Form 668-W(c).

E. No Employee Record Found. If PRO receiving the levy has no record that payroll service has been furnished for the employee, then annotate that fact on the bottom of the levy and return the levy to the IRS District Director.

*081203. Voluntary Deductions for Unpaid Federal Income Tax

A civilian employee may arrange with IRS to liquidate a delinquent federal income tax debt through voluntary biweekly deductions. ***Form 2159***, (Payroll Deduction Agreement) must be submitted to PRO to initiate the deduction process.

0813 PROCESSING CORRECTIONS

081301. Corrections for Underpayment of Earnings

For active or separated employees, there is no distinction between a payment for the current or prior calendar year. The adjusting payment is reported as wages at the time the payment is made. No correction on IRS Form 941 is required.

A. Active Employees. For active employees, PRO shall:

1. Process the payment in the next regular biweekly pay cycle;

2. Report the gross wages subject to Social Security/Medicare taxes withheld as current quarterly earnings on IRS Form 941; and

3. Include the earnings and Social Security/Medicare taxes withheld on the IRS Form W-2 for the current year.

B. Separated Employees. For separated employees, PRO shall:

1. Reestablish the employee on the payroll and process the payment in the current biweekly pay cycle;

2. Report the gross wages subject to Social Security/Medicare taxes withheld as current quarterly earnings on IRS Form 941; and

3. Prepare IRS Form W-2c if an IRS Form W-2 was issued.

081302. Corrections for Overpayment of Earnings in the Current Year

A. Active Employees. For active employees, PRO shall:

1. Instruct the employee to refund the overpayment in accordance with due process procedures; and

2. Record the amount as a reversal in the base pay, gross pay, net pay or other pay as applicable, after receipt of the refund or returned check from the employee, to PRO.

B. Separated Employees. For separated employees, PRO shall follow debt collection procedures as outlined in DoD FMR Volume 5 to:

1. Reestablish the employee on the payroll and process the reversals in the current biweekly pay cycle; and

2. Prepare IRS Form W-2c if IRS Form W-2 was issued.

*081303. Corrections for Overpayment of Earnings for a Prior Year

If the overpayment occurred in a previous calendar year, then no correction of earnings for federal, state, or local withholding taxes will be made for the current calendar year.

A. Active Employees. For active employees, PRO will:

1. Prepare an IRS Form W-2c in accordance with IRS Circular E for the prior year to reduce the gross wages subject to Social Security/Medicare and Social Security and/or Medicare taxes withheld if the year of repayment is still within the 3-year statute of limitations for Social Security and/or Medicare tax refunds. Send copies to the employee and copy A to the Social Security Administration (SSA). Upon completion of the correction procedures, send a separate IRS Form W-3 (Transmittal of Wage and Tax Statements) with the corrected IRS Form W-2 to the SSA. If the repayment is beyond the 3-year statute of limitations, then do not make corrections to prior year IRS Forms W-2 and IRS Forms 941;

2. Attach the employer's copy of the IRS Form W2c to the retained IRS Form W-2 previously issued for the prior year;

3. Prepare IRS Form 941x (Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund) to correct errors made on IRS Form 941;

4. Retain copies of the form in PRO;

5. Prepare a statement for the employee after collection of the amount due from the employee. (See Figure 8-9 for a sample "Refund of Prior Year Salary Overpayment.") The amount entered on the statement shall be the total of the reverse deductions plus the amount the employee repaid. The employee shall receive any federal, state, city, and local income tax adjustment when he or she files a tax return;

6. PRO shall manually note the amount of the correction and the date of the collection on the employee's prior year individual pay record; and

7. If an employee was overpaid in previous calendar years, then collections against the overpayment may cover more than two calendar years. PRO shall give the employee a statement that contains the following:

a. A description of the circumstances;

b. The amount of the overpayment;

c. The amount collected during the year; and

d. The year or years to which the payment was applied.

B. Separated Employees. For separated employees, PRO will:

1. Follow procedures outlined in subparagraphs 081303.A, and;

2. Keep a copy of the IRS Form W-2c and IRS Form 941c to balance the annual federal tax deposits.

*Figure 8-1. Sample Debt Notification (page 1 of 2)

(See Note 1)

(See Note 2)

Dear (See Note 3):

This is to inform you that you were overpaid for pay periods ending __(4)__ through __(4)__. The gross amount of your overpayment (including pay, taxes, benefits and other deductions) is $ __(5)__. DFAS has adjusted your debt for all payments and offsets and has determined that the net amount of the debt currently owed by you is $ __(6)__. The overpayment is a result of __(7)__. The payment was incorrect because __(8)__. Your account was audited and the attached debt worksheet contains information detailing the overpayment.

Payment of Your Debt. Please pay the debt in full by __(9)__, which is __(10)__days from the date of this letter. Your check or money order should be made payable to DFAS-CL DSSN 8522 in the amount of $__(6)__. Please send your payment to DFAS CL/FTB, P. O. Box 9955, Cleveland, OH 44199-2056. If you are unable to pay the debt in one lump sum, you may agree in writing to pay the debt in regular installments by completing the enclosed Voluntary Repayment Agreement and mailing or faxing it to the address listed on the Agreement.

If You are Unable to Pay Your Debt. If you do not repay the debt in full, or do not submit a Voluntary Repayment Agreement within __(10)__ days from the date of this letter, DFAS must collect the debt using other collection procedures. Beginning on __(11)__, DFAS will initiate collection of the debt involuntarily from your pay by using salary offset procedures (payroll deductions). A maximum of 15 percent of your net disposable pay will be deducted each pay period until your debt is paid in full. The salary offset amount may fluctuate each pay period depending on your available net disposable pay. DFAS estimates that based on your current payroll information, your available disposable pay is $__(12)__, and 15 percent of your disposable pay is __(13)__. Repayment of the principal amount of your debt would be completed in approximately __(14)__ pay periods. If you retire or resign before your debt is paid in full, the entire amount of your final pay (salary and lump sum payments) may be applied to pay off your debt.

Opportunities Available to You. If appropriate, you may contact your timekeeper to make time and attendance corrections, or your personnel office to make pay or allowance changes. You may inspect and/or receive copies of DFAS records related to your debt at the address listed above. If you question the validity or amount of your debt, you may request a hearing (see the attached instructions on "Requesting a Hearing"). If you do not wish to dispute the validity or amount of the debt, you are entitled to request a waiver of your debt (see the attached instructions on "Requesting a Waiver"). DFAS will promptly refund to you any amounts you have paid or that were deducted for your debt which are later waived or found not owed to the United States.

Questions about Your Debt. Please see the attached "Collection of Your Debt" for additional information regarding debt collection. The Department of Defense Financial Management Regulation (DoDFMR) contains general information concerning debt collection authority at Volume 5, chapter 28 and Volume 8, chapter 8. The DoDFMR is available at http://comptroller.defense.gov/fmr/index.html.

You may contact your Personnel Office or Customer Service Representative (CSR) if you have questions regarding your debt. If you have further questions about your debt, your CSR may initiate a Remedy inquiry to request information from DFAS, or you may contact the DFAS Civilian Payroll Office at 1-800-538-9043. You may also write to the DFAS Civilian Payroll Office at the address listed on this letter.

Sincerely,

SIGNATURE

(15)

Supervisor, Debt Processing Branch

(16)
Enclosures:
As stated

*Figure 8-1. Sample Debt Notification (page 2 of 2)

Please remit with payment:

Name _____ SSN _____ DB _____
PayBlk _____ Code _____ Debt Dates _____
Debt Type _____ Creation Date _____ Sequence Number _____
LOA _____
Payment Amount Enclosed $ _____

NOTES: Explanation of Blank Spaces on Sample Debt Notification

(1) The title or office symbol/code of the civilian payroll office issuing the debt notification.

(2) The full name and mailing address of the employee.

(3) Last name of employee with proper title (Mr or Ms.).

(4) The pay period(s) that the overpayment occurred.

(5) The gross dollar amount of the overpayment.

(6) The net dollar amount of the overpayment.

(7) Reason for Indebtedness. A brief explanation of how the overpayment occurred (e.g., time and attendance or a personnel change).

(8) Explanation citing applicable law or DoDFMR provision, if applicable.

(9) The date by which the employee must pay the debt in full or submit a voluntary repayment agreement, usually 30 days from the date the letter is issued.

(10) The total number of days the employee has to pay the debt in full or submit a voluntary repayment agreement, usually this number is "30".

(11) The date the involuntary deduction from pay begins.

(12) The estimated amount of disposable pay.

(13) Fifteen percent of the disposable pay amount shown in item (12).

(14) Divide amount shown in (6) by the amount determined in (13) and round to the next highest number. This will be the approximate number of pay periods needed to collect the overpayment in full.

(15) Identify by name, the signatory for the letter.

(16) The Debt Notification must include all enclosures (Enclosure 1, "Collection of Your Debt") (Enclosure 2, "Requesting a Hearing") (Enclosure 3, "Requesting a Waiver").

*Figure 8-2. Enclosure 1 to Debt Notification (Collection of Your Debt)

COLLECTION OF YOUR DEBT

Please be aware of the following additional information concerning the collection of your debt:

Interest and Additional Charges. If you are unable to pay the debt in full by 30 days from the date of this notification, any unpaid portion of the debt will be considered delinquent. DFAS is authorized by law to add interest, penalties, and administrative costs to your debt if it is not paid within 30 days from the date of this letter. The rate of interest charged is at the Treasury Tax and Loan Rate and may commence on the date your debt becomes delinquent and may continue until the debt is paid in full. Additional penalties may be imposed at the rate of up to 6 percent a year on any unpaid portion of your debt that is delinquent for more than 90 days, commencing on the date your debt is becomes delinquent and continuing until the debt is paid in full.

Collection Action on Delinquent Debts. If DFAS is unable to collect your debt by salary offset, DFAS may enforce repayment of your debt by using other available collection remedies such as referring your debt to a private collection agency, reporting your debt to a credit bureau, garnishing your non-Federal employment wages, or referring your debt to the Department of Justice for litigation. Debts delinquent for more than 180 days are transferred to the Department of Treasury for collection. Treasury may offset your Federal income tax refunds or other Federal benefit payments, such as Social Security and Federal employee retirement benefits, in order to collect your debt. You may also be prohibited from being approved for a Federal loan if you do not resolve your outstanding delinquent debt.

Collection of Federal Employee Health Benefit (FEHB) Premiums. Your debt may be the result of an advance in salary you received when you were on leave without pay status (LWOP) or when your pay was insufficient to cover your share of your FEHB premiums. When you return to employment, or upon your pay becoming sufficient to cover the premiums, you are required to reimburse your employer for the premiums paid on your behalf. If you pay your debt with after-tax dollars using a personal check, the payment will not be subject to pre-tax treatment that would reduce your taxable income. In order to ensure the repayment will be treated on a pre-tax basis, you must select payroll deduction as your repayment method. Pursuant to OPM regulations under 5 C.F.R. 890.502, the "catch-up" option for repaying your FEHB premiums may not be paid pursuant to a Voluntary Repayment Agreement. Premiums must be collected back each pay period at the rate your employer paid the premium for you.

Penalties for False or Frivolous Statements. Please be advised that if you make or provide any knowingly false or frivolous statement, representations or evidence with respect to your debt, you may be liable for penalties under the False Claims Act (31 U.S.C. §§ 3729-3731) or other applicable statutes, and/or criminal penalties under 18 U.S.C. §§ 286, 287, 1001, and 1002, and other applicable statutes. A Federal employee may also be subject to disciplinary procedures under 5 U.S.C. Chapter 75 or any other applicable statutes or regulations.

*Figure 8-3. Enclosure 2 to Debt Notification (Requesting a Hearing)

REQUESTING A HEARING

You may request a hearing to contest the validity of your debt or the amount of your debt. If your debt will be collected by involuntary salary offset (other than pursuant to a Voluntary Repayment Agreement), you may also request a hearing to contest the terms of the involuntary salary offset schedule.

Is a hearing always the first step? No. General questions about your debt may be answered by your Personnel Office or your Customer Service Representative. If you request a hearing, DFAS will first perform an informal reexamination ("reconsideration") of your pay records to validate the amount of debt you owe. DFAS will perform the reconsideration and issue written results to you. Reconsideration is an informal review performed to satisfy any doubts you may have regarding the amount or validity of your debt. A reconsideration is not a formal hearing. After considering the results of the reconsideration, you may decide not to proceed with the formal hearing process. To continue with a formal hearing, you must notify DFAS of your intent in a timely manner as noted below.

What happens during the hearing process? If you file a petition for a hearing in a timely manner, a hearing official will make a written determination regarding the validity or the amount of your debt, or will make a ruling on the proposed involuntary repayment schedule. The hearing official will consider any written statements and/or documentary evidence you submit, as well as internal agency debt files. You are entitled to a "Paper Hearing" wherein the hearing official makes a determination based on a review of the documents only, without the parties present. Rarely is an oral hearing granted and only if DFAS determines that the matter cannot be resolved by a review of the documents alone. You will receive a written decision within 60 days after filing your petition, unless the hearing official grants a delay. Collection of your debt, and any interest and penalty charges will be suspended until the hearing official issues a written decision.

Is there a time limit for requesting a hearing? You must file a petition for a hearing within 30 days from the date of the attached debt notification letter (extended to 45 days if OCONUS). If you requested records related to your debt, you must file a petition for a hearing within 45 days after the date the records are distributed. If DFAS performs a reconsideration of your debt (as explained above) and you wish to proceed with a formal hearing, you must notify DFAS within the time limit stated in the written reconsideration results you received.

What must be included in a hearing petition? Your written hearing petition must contain the following information:

- Your name, daytime phone number, email address, mailing address and social security number.
- The reason for your hearing request, presented as follows:

1) To Contest the Validity of Your Debt or the Amount of Your Debt: Provide a statement concerning why you believe the debt (or the amount of the debt) is erroneous. To support your argument, include a written summary of the facts of your case for the hearing official; include the date and manner in which you became aware of any overpayment. Include all documentary evidence you want the hearing official to review (such as Leave and Earning Statements (LES)). Include the written testimony of any witness you wish the hearing official to consider.

2) To Contest the Proposed Schedule for Collection of Your Debt by Involuntary Salary Offset: Provide an alternate payment schedule and a statement explaining your financial status. Provide copies of records to be considered by the hearing official.

Sign and date your hearing petition and include your Social Security number. Identify your submission as "HEARING PETITION"

Where do I file a hearing petition? Fax your signed hearing petition and documentary evidence to 1-866-401-5849. If your hearing petition is missing information, you will receive a request to submit additional information. Failure to submit the additional information within 30 business days of notification will result in your hearing petition being dismissed. Alternatively, you may mail your hearing request and documentary evidence to DFAS Civilian Pay-IN, Dept. 6200, 8899 East 56th St., Indianapolis, IN 46249-1900.

Where do I find additional information? See DoD FMR at Volume 8, chapter 8 and Volume 5, chapter 28.

*Figure 8-4. Enclosure 3 to Debt Notification (Requesting a Waiver)

REQUESTING A WAIVER

What is a waiver? Under 5 U.S.C. 5584, the United States may waive its right to collect the debt you owe if collection would be against equity and good conscience and not in the best interest of the United States. The debt must be the result of an erroneous payment of pay or allowances (including travel, transportation, or relocation expenses and allowances). A debt may be waived in whole or in part. Collection of your debt generally will not be suspended during the waiver review process.

May I apply for a waiver and simultaneously request a hearing? No. By submitting an application for a waiver, you acknowledge that you do not intend to dispute the validity or amount of the debt. Waiver is not the proper forum to contest the validity or amount of your debt. If your waiver application includes arguments concerning the validity or amount of your debt, your application may be denied. In order to contest the validity or amount of your debt, you must file a petition for a hearing on your debt.

Is there a time limit for filing a waiver application? You must file a waiver application within 3 years after the erroneous payment was discovered.

What must be included in a waiver application and where should the application be submitted?

DD Form 2789:
You must complete and sign DD Form 2789 "Waiver/Remission of Indebtedness Application" available at: http://www.dfas.mil/civilianpay/debts/informationondebtwaivers.html. Send the application and all supporting documents to the address on the form or fax to 1-866-401-5849. If your waiver application is missing information, you will receive a request to submit additional information. Failure to submit the additional information within 30 business days of notification will result in your application being denied.

Supporting Documents:
You must include supporting documents with your waiver application. Supporting documents include, but are not limited to:
· Copies of all supporting documentation referred to in DD Form 2789.
· Copies of Leave and Earnings Statements (LESs) covering 3 pay periods prior to the overpayment(s) through 3 pay periods after the overpayment ended. If you do not have access to your LESs, you must include a statement explaining why the LESs are not available.
· Copies of SF 50s "Notification of Personnel Action" for the debt period (including corrections). If unavailable, include a statement from the personnel office indicating why the SF 50s are not available.
· Any statement from you or any other persons in support of your application. Statements must be attested to be true and correct to the best of the individual's knowledge and belief.
· Additional required documents by type of debt:
  Personnel Debts: any job offer letter/e-mail (if applicable).
  FEHB Debts: SF-2089/SF-2810 (copy of your original enrollment form and any amendments).
  FEGLI Debts: SF-2817 (copy of your original enrollment form and any amendments).
  Awards and Bonus Debts: Signed agreements or contracts for bonuses and/or VSIP payments.
  Foreign Entitlement Debts: SF-1190 (signed by an official) and Military Orders (if applicable).
  Time and Attendance Debts: Time and Attendance cards for debt period.

Where Do I Find Additional Information? See DoDFMR at Volume 8, chapter 3 available at http://www.dod.mil/comptroller/fmr/08/index.html or from the DFAS Civilian Payroll Office. See also 32 C.F.R. Part 284 for the standards for determining whether a waiver should be granted.

*Figure 8-5. Sample Voluntary Repayment Agreement for Civilian Payroll Indebtedness

Voluntary Repayment Agreement for Civilian Payroll Indebtedness

I understand that I owe the amount indicated below due to a salary overpayment. Should I fail to return this repayment agreement, 15 percent of my disposable pay will be deducted beginning in the stated pay period. An estimate of this amount is shown below.

I also understand that if I decide to repay the amount owed by any method other than in a lump sum payment, interest at the Treasury tax and loan rate may be charged on the unpaid balance every month until the debt is paid in full.

Please sign and return this repayment agreement to your payroll office.

FAX to (317) 510-9795, 9796, 9797, or 9798 or mail to DFAS-IN, Civilian Pay, 8899 East 56th Street, Indianapolis, IN 46249-1900.

Debt Reason _____
Sequence Number _____
Amount Owed _____
Est. Disposable Net Amount _____
Est. Deduction Amount 15% of net disposable _____
PPE Deductions will begin _____

Code _____ Debt Dates _____ Creation Date _____
LOA _____

Employee's Name _____ SSN _____ Pay Blk _____ DB _____

I choose the following repayment plan (Check one):

1. I am repaying what I owe in a lump sum. My payment in the amount of $ _____ is enclosed. Make check payable to DFAS-CL DSSN 8522 and mail to DFAS-CL/FTB, P. O. Box 99555, Cleveland, OH 44199 and fax this form to (317) 510-9771 or DSN 699-9771.

2. Deduct from my salary the total amount in pay period ending _____.

3. I do not want to pay it all at once. You may deduct $ _____ each pay period, which is more than 15 percent of my disposable pay.

**4. I am unable to pay 15 percent of my disposable pay because of a financial hardship. You may deduct $ _____ each pay period. This repayment amount has been approved by my employing agency. (Signature of agency approving official is required below).

Signature: _____ Date: _____
Daytime Telephone Number: _____

**Approving Official's Signature/Date

THIS FORM CONTAINS INFORMATION SUBJECT TO THE PRIVACY ACT OF 1974 AS AMENDED

*Figure 8-6. Sample Format – Reconsideration Results Letter (page 1 of 2)

(See Note 1)

(Date)

(See Note 2)

Dear (See Note 3)

On (4) , you were notified that you were overpaid for pay periods ending (5) through (5) . The net amount of the debt currently owed by you is $ (6) .

Reconsideration Results. You submitted a timely request for review of your debt on (7) . In response, DFAS has performed an informal reexamination ("Reconsideration") of your pay records in order to validate the amount of debt you owe and to satisfy any doubts you may have regarding the amount or validity of your debt. Reconsideration of your debt is the initial step in the hearing process. After reviewing the results of the Reconsideration, you may decide not to proceed with the formal hearing process. However, if you wish to continue with a formal hearing, you must notify DFAS of your intent by (8) , which is 30 days from the date of this letter.

DFAS has determined your debt is valid for the following reasons:

(9)

Payment of Your Debt. If you do not wish to continue with a formal hearing, please pay the debt in full by December 31, 2011. Your check or money order should be made payable to DFAS-CL DSSN 8522 in the amount of $ (6) Please send your payment to DFAS-CL/FTB P.O. Box 9955, Cleveland, OH 44199-2056. If you are unable to pay the debt in one lump sum, you may agree in writing to pay the debt in regular installments by completing the enclosed Voluntary Repayment Agreement and mailing or faxing it to the address listed on the Agreement.

Continuing with a Formal Hearing. If you wish to continue with a formal hearing in order to dispute the validity or amount of your debt, you must notify DFAS of your intent in writing by (8) , by faxing or mailing your request to continue to (10) .

If You Take No Additional Action. If you do not notify DFAS of your intent to continue with a formal hearing, pay your debt in full, or submit a Voluntary Repayment Agreement within 30 days of the date of this letter, DFAS is required by statute to collect your debt using other collection procedures. Beginning on (8) , DFAS will initiate collection of the debt involuntarily from your pay by using salary offset procedures (payroll deductions) as outlined in the debt notification you received on (4) .

If you require further assistance please contact our toll free number at 1-800-538-9043.

(11)

Enclosures:

1. Hearing Petition received on (4)
2. Payroll Audit
3. Copy of Voluntary Repayment Agreement

*Figure 8-6. Sample Format - Reconsideration Results Letter (page 2of 2)

NOTES: Explanation of Blank Spaces on Sample Reconsideration Results Letter

(1) The title or office symbol/code of the civilian payroll office issuing the debt notification.

(2) The full name and mailing address of the employee.

(3) Last name of employee with proper title (Mr or Ms.).

(4) Date the debt notification letter was issued by DFAS.

(5) The pay period(s) that the overpayment occurred.

(6) The net dollar amount of the overpayment

(7) Date of employee's hearing petition.

(8) Date 30 days from the date of the reconsideration results letter.

(9) Explanation of the overpayment and any responses to questions raised in the employee's hearing petition.

(10) Fax and mailing address of the PRO.

(11) Identify by name, the signatory for the letter.

*Figure 8-7. Checklist for Hearing on Overpayment of Civilian Pay and/or Allowances

I. Items Required From the Employee

The petition for the hearing will include:

A. Name

B. SSN

C. Date

D. Reason(s) for requesting the hearing, e.g.,
1. Contesting the validity of the debt
2. Contesting the amount of the debt
3. Contesting the terms of the offset

E. Reason(s) for contesting the debt
1. When contesting validity or amount of the debt, the employee shall
(a) Provide a statement why he or she believes the civilian payroll office's determination of the validity and/or the amount of the debt is erroneous. Also provide a complete description of the facts, evidence, and a summary of testimony of any witnesses which support the employee's belief.
(b) Copies of any pertinent records that the employee wishes to have considered at the hearing if they differ from those records previously provided by the civilian payroll office.
2. When contesting the terms of the offset schedule proposed by the civilian payroll office, the employee shall
(a) Propose an alternate schedule, i.e., how much can be repaid each pay period.
(b) Enclose an affidavit of financial status.
(c) Provide copies of any records he/she wishes to be considered at the hearing if they differ from the records previously provided by the civilian payroll office.

F. Employee's signature

II. Items Required From the Civilian Payroll Office:

A. Full name and SSN of the employee.

B. Exact date the error was discovered.

C. Exact date and manner (debt notification) in which the employee was advised of the debt.

D. Aggregate (total) amount of the debt.

E. Computation of the amount of the debt including/excluding interest-to-date, and administrative fees, if applicable.

F. Detailed circumstances that led up to, and under which, the erroneous payment(s) was made.

G. Statement(s) corroborating and/or refuting the statement(s) made by the employee.

H. Copies of Leave and Earnings Statements for 3 pay periods prior to the error and the first 3 pay periods beginning with the first overpayment.

I. Copies of all other documents pertaining to the case.

J. Annual leave cases require special documentation. They should include the following documents:
1. Copy of the erroneous SF 50 data.
2. Copy of the corrected SF 50 data.
3. The balance brought forward (and the date) from the last year in which the correct leave accrual was used.
4. Employee's leave record.
5. The hourly rate of pay and changes.
6. A copy of the SF 2806/3100.

*Figure 8-8. Sample Post-Hearing Notification

FROM: (1)

TO: (2)

SUBJECT: Indebtedness to the United States as a Result of an Overpayment of Pay and/or Allowances

Reference: (a) (The initial notification of indebtedness)
(b) (The employee's petition for a hearing)
(c) (The hearing official's determination)

Reference (a) advised of your indebtedness to the United States in the amount of $__(3)__ as a result of an overpayment of pay and/or allowances. By reference (b), you submitted a petition for a hearing to dispute the __(4)__ of the debt. Reference (c) is the hearing official's determination affirming your indebtedness in the amount of $__(5)__.

In order to liquidate the debt in full, please submit a personal check or money order payable to __(6)__, and mail the payment to the civilian payroll office at __(7)__ no later than 15 days from the date of this letter. Alternatively, you may request your debt be paid by a deduction from your current pay. Please contact the civilian payroll office in order to arrange for a one-time voluntary payroll deduction. It may also be possible for you to establish a written agreement for repayment of the debt by periodic installment deductions from your pay, please contact the civilian payroll office to request this option.

As stated in Reference (a), delinquent debts are subject to the assessment of interest, penalties, and administrative expenses. To date, these assessments have not yet been made on your debt. The assessments may not be imposed if you repay the debt in full or are able to reach an agreement with the civilian payroll office to pay your debt by installment.

If you do not repay the debt in full, consent to a one-time payroll deduction, or establish an agreement for payment by installment, DFAS will initiate collection of your debt involuntarily from your pay using salary offset beginning on __(8)__. You must contact the civilian payroll office by_(8)_in order to avoid salary offset. Deduction by salary offset would begin with the pay period ending on __(9)__. Please refer to Reference (a) for the estimated amount and duration of the payroll deduction. If the amount of the deduction from your pay would cause you to experience extreme financial hardship, then you must contact the civilian payroll office to determine if an alternative repayment schedule may be implemented.

Please consult Reference (a) for information concerning your right to request a waiver of the collection of your debt. An application for a waiver must be received within three (3) years after the erroneous payment was discovered. Collection of your debt generally will not be suspended during the waiver review process. In the event that your request is granted, all amounts deducted shall be refunded.

Your point-of-contact for this matter is ____(10)____.

(Signature Element)

EXPLANATION OF BLANK SPACES ON SAMPLE POST-HEARING NOTIFICATION

(1) The title or office symbol/code of the civilian payroll office.
(2) The full name of the employee.
(3) The amount of the debt in the initial debt notification.
(4) Either "existence", "amount" or "the terms of the proposed offset schedule", as appropriate.
(5) The amount of the debt as determined by the hearing official. If the hearing official affirmed the civilian payroll office's contention, the amount will be the same as blank (6).
(6) The office to which the check or money order is to be made payable.
(7) Identify the mailing address of the civilian payroll office.
(8) The date the involuntary deduction from pay begins.
(9) The payday for the pay period indicated in blank (11).
(10) Include the name, phone number and office symbol/code of the point-of-contact in the civilian payroll office who can answer questions regarding this debt.

Figure 8-9. Sample Format - Refund of Prior Year Salary Overpayment

REFUND OF PRIOR YEAR SALARY OVERPAYMENT	Date
To:	From:
Name and Social Security Number of Employee refunded during the calendar year _____ the sum of $_____, representing salary overpayment from taxable year _____. The IRS Form W-2 (Wage and Tax Statement) for calendar year _____ has not been decreased by this amount.	
Duty Station	Federal Employer's Identification Number
	State Identification Number
Typed Name, Title and Telephone	Signature
Copy Forwarded To: Internal Revenue Service State of City or County of	

VOLUME 8, CHAPTER 9: "RECORDS, FILES, AND REPORTS"

SUMMARY OF MAJOR CHANGES

All changes are denoted by blue font.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue, and underlined font***.

The previous version dated June 2014 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Revised the entire chapter to include administrative updates and hyperlinks.	Revision
0901	Added "General" section, "Purpose," and "Authoritative Guidance" paragraphs.	Addition
090302.F.8	Added information regarding the Internal Revenue Service (IRS) Form 1095-C, Employer-Provided Health Insurance Offer and Coverage.	Addition
090302.F.9	Added information regarding the IRS Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns.	Addition
090304.G	Updated "Reporting Workforce Information" due to forms being updated.	Revision
090306.A.4.c	Added information for the Payroll Office providing employees the Form 1095-C.	Addition
090306.D	Added subparagraph on reporting for "Child Development Programs."	Addition
090306.E	Added subparagraph on reporting for "Experts and Consultants."	Addition
090306.F	Added subparagraph on "Affordable Care Act Reporting."	Addition
090306.G	Added subparagraph on "Foreign Language Pay Reporting."	Addition

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CHAPTER 9

RECORDS, FILES, AND REPORTS

*0901 GENERAL

090101. Purpose

This chapter provides guidance on records, files, and reports kept by the Civilian Payroll Offices (PRO).

090102. Authoritative Guidance

Specific statutes, regulations, and other guidance are referenced under each section of this chapter.

0902 RECORDS AND FILES

090201. Payroll Documentation

A. Disbursement Documentation. Documentation in the form of a voucher must be prepared for each disbursement or group of disbursements authorized to be paid by any Department of Defense (DoD) Component. A voucher is the authority for payment and must be correctly prepared in accordance with all legal and regulatory guidance, supported with proper documentation, and certified by an authorized certifying official prior to disbursement. DoD agencies are not permitted to give an employee the authority to certify his or her own disbursements.

1. Disbursements to the Office of Personnel Management (OPM). Deductions for the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS), life insurance, and health benefit programs with employer contributions are routinely paid to OPM each pay period. The automated ***Standard Form (SF) 2812-A***, Report of Withholdings and Contributions for Health Benefits by Enrollment Code, is used to report these deductions to OPM. A consolidated SF 2812-A must be submitted biweekly to OPM through the Retirement and Insurance Transfer System (RITS). For additional information on RITS, see subparagraph 090303.C.

2. Disbursements to Taxing Authorities. Federal income, Social Security, and Medicare taxes withheld must be paid to the Internal Revenue Service (IRS) as provided by the ***IRS Publication 15 (Circular E)***, Employer's Tax Guide. State or city/local income taxes withheld must be paid to the appropriate taxing authority in accordance with the Treasury Financial Manual (TFM), Volume I, Part 3, ***Chapter 5000*** and Title 31 Code of Federal Regulations (C.F.R.) ***Part 215***.

3. Disbursements to Thrift Savings Plan (TSP). Employee and employer contributions for traditional or Roth TSP accounts, and deductions for TSP loan

repayments must be paid to the TSP Record Keeping Service Provider. For additional information, see the ***TSP*** website.

4. Other Disbursements. All other amounts withheld must be paid in accordance with applicable regulations or instructions furnished by the employee.

B. Deduction Documentation. Payments to those for whom deductions are authorized to be paid must be reconciled on a cyclical basis, at least annually, with the amounts withheld plus the related employer contributions, if any, as shown by the pay or other records. This procedure is necessary to determine whether the correct amounts are being reported to those authorized to receive deductions and contributions withheld from the employee's pay. Payroll records must provide a clear audit trail from the gross pay calculation to the net pay received by the employee by pay period and by year-to-date totals.

1. Tax Withholding. The amounts reported on the annual ***IRS Form W-2***, Wage and Tax Statement must match the total amounts withheld during the year as shown by the PRO records.

2. Individual Retirement Record (IRR). A related control account and an ***SF 2806***, Individual Retirement Record (CSRS), or an ***SF 3100***, Individual Retirement Record (FERS), must be maintained in accordance with OPM requirements for each civilian employee for whom retirement deductions are made. For information on items reported on the Individual Retirement Record, refer to the CSRS/FERS Handbook, ***Chapter 81*** and Benefits Administration Letter ***15-102***.

3. Federal Employees' Group Life Insurance (FEGLI). Each DoD PRO must keep a record of the total amounts withheld from employees' salaries and the total amount of the employer's contributions for FEGLI for each calendar year. These records must be kept in a ledger or other appropriate form or represented by file copies of vouchers that were used to report information to OPM.

4. Federal Employees Health Benefit (FEHB). A record of employee deductions and the employer's contributions for health benefits must be kept by each enrollment code number. The PRO and the health benefit carrier must submit the enrollee data included in this record to the National Finance Center's (NFC) FEHB Centralized Electronic Enrollment Reconciliation Clearinghouse (CLER) System on a quarterly basis. The Human Resources Office (HRO) and the PRO must review any error codes identified in the CLER system and resolve the discrepancies. The discrepancies are resolved by comparing the health benefits coverage reported by the PRO, the health benefits coverage reported by the carriers, the ***SF 2809***, Health Benefits Election Form, and the ***SF 2810***, Notice of Change in Health Benefits Enrollment, sent in support of the coverage.

5. TSP Deductions. The HROs must maintain a record of traditional and/or Roth TSP deductions and agency contributions for each employee.

090202. Retroactive Computations Involving Former PROs

A. General. When retroactive payroll computations are required that involve one or more former PROs, the consolidated PRO maintains overall responsibility for the adjustment process. If it is determined that a former PRO is involved, the consolidated PRO is responsible for contacting each former PRO to obtain the necessary information.

B. Documentation Requests. If the consolidated PRO is unable to obtain the documentation necessary to perform the retroactive calculation, one or more of the following steps may be taken:

1. Request Archived Documents from the National Personnel Records Center (NPRC). When copies of the ***SF 135***, Records Transmittal and Receipt, are unavailable at the employee's former office, the current PRO must complete a National Archives and Records Administration (NARA) ***Optional Form (OF) 11***, Reference Request - Federal Records Centers, with all available information. The employee's name, Social Security number (SSN), known places of employment, names and payroll office numbers of applicable PROs, and year(s) for which the records are requested must be included in the description and remarks section of the Form.

2. Contact the Appropriate Human Resources Office (HRO). If the NPRC cannot locate the records, the PRO must prepare a memorandum to the appropriate HRO requesting copies of the ***SF 50***, Notification of Personnel Action, or other related pay and/or leave information. Since there may have been consolidations of both the PRO and the appropriate HRO prior to the Defense Civilian Pay System (DCPS) consolidations, it is imperative that both offices work together to obtain information that will assist in the determination of pay and leave adjustments for the employee.

3. Contact the Employee. If the PRO cannot locate documentation from the NPRC or the appropriate HRO, the PRO must contact the employee for the necessary documentation. If the employee has copies of the SF 50 and/or the Leave and Earnings Statement (LES), the PRO may accept this information and use it to reconstruct the pay and/or leave records.

4. Contact OPM. If the transmittal letters to OPM and/or copies of the retirement records cannot be located, the PRO may submit a request to OPM in writing to procure the necessary copies of the records. The PRO may use the information on the retirement records for reconstruction of pay information for adjustments.

0903 REPORTS

090301. General

DoD civilian payroll systems must conform to various legal and regulatory requirements by generating reports at regular intervals, on an as-needed basis or by producing reports to meet special requirements. The PRO must support management by generating reports that provide the necessary information to ensure the system's integrity. Individuals who create reports are

responsible for correcting errors due to inaccurate reading or entering of data. Discrepancies in reporting, transmitting, or depositing funds must be resolved promptly. Pursuant to the provisions of the Government Accountability Office (GAO) publication Maintaining Effective Control Over Employee Time and Attendance Reporting, ***GAO-03-352G***, reports must be:

A. Prepared accurately and promptly, distributed to the appropriate recipients to ensure receipt when the information will be of maximum benefit;

B. Based on, supported by, and periodically validated against appropriate detailed information in the payroll system;

C. Sent in a timely manner to officials who authorized, or were responsible for, processing payroll transactions, and reviewed by those officials for completeness and accuracy;

D. Discussed periodically with users and modified or eliminated as appropriate to meet user needs; and

E. Retained and disposed of in accordance with NARA General Records ***Schedule 2***, with sensitive data handled in accordance with the provisions of the Privacy Act. See ***5 C.F.R. 2606***.

*090302. As-Required Reports

A. Income and Employment Tax Reports. Income and employment tax reports are submitted to cities/localities that have an agreement with the Secretary of the Treasury and to cities/localities where voluntary deductions have been taken from employees. Reports are sent to the city/local taxing authorities based on the frequency prescribed by each municipality. See TFM, Volume I, Part 3, ***Chapter 5000***.

B. State Income Tax Reports. These reports are required by states that have reached an agreement with the Secretary of the Treasury. These reports are submitted to the state taxing authorities based on the frequency prescribed by each state. See TFM, Volume I, Part 3, Chapter 5000.

C. Report on Transfer of Employee

1. SF 1150, Record of Leave Data. The losing PRO must prepare an ***SF 1150*** at the time of the employee's separation if the employee transfers within DoD to another PRO or to another Federal agency. All blocks on the SF 1150 must reflect accurate data. In addition to reporting transferred leave data, the form contains other pertinent information for the employee in the Remarks section. This includes, but is not limited to: year-to-date wages for Social Security and/or Medicare tax purposes, year-to-date TSP deductions, last deduction for FEHB and FEGLI, date through which the insurance deductions were made, and overseas or territorial differential data.

a. The losing PRO forwards the completed SF 1150 to the losing HRO.

b. The losing HRO includes it in the employee's Official Personnel Folder (OPF) and forwards it to the gaining HRO.

c. The gaining HRO then forwards the SF 1150 to the gaining PRO.

2. Delayed Receipt of SF 1150. If there is a delay of the OPF containing the SF 1150 reaching the appropriate gaining HRO, and the employee is taking leave, the gaining PRO is responsible for determining the employee's leave balance. If necessary, the gaining PRO may request the leave balance electronically or by fax. This information is subject to the Privacy Act and handled accordingly. The gaining PRO may use the leave balance shown on the employee's last LES, subject to verification upon receipt of the SF 1150.

3. OPM Form 630, Application to Become a Leave Recipient Under the Voluntary Leave Transfer Program (VLTP). Use version A, B, or C as appropriate for the VLTP action requested. This form records the transfer of leave for leave recipients covered by the VLTP. The ***OPM 630*** is used when a current leave recipient transfers to another PRO or Federal agency without a break in service and will be attached to the SF 1150.

D. Request for Wage and Separation Information. The PRO must report wage data to the appropriate HRO in accordance with Chapter 6. The appropriate HRO maintains a file copy of all data furnished for 2 years in accordance with the General Records Schedule 2, and then destroyed.

E. SF 2806 and SF 3100. In accordance with Chapter 4, the PRO will prepare and maintain the SF 2806 and the SF 3100.

F. IRS Form W-2c, Corrected Wage and Tax Statement, and IRS Form W-3, Transmittal of Wage and Tax Statements. The Defense Finance and Accounting Service (DFAS) is responsible for:

1. Preparing an ***IRS W-2c*** in accordance with Circular E to correct prior year wages and tax withholdings as applicable;

2. Providing copies to the employee and copy A to the Social Security Administration (SSA);

3. Sending a separate ***IRS W-3*** with the corrected IRS W-2c to the SSA upon completion of the correction;

4. Retaining the employer's copy of the Form W-2c in the PRO;

5. Preparing an ***IRS Form 941c***, Supporting Statement to Correct Information Previously Reported on the Employer's Federal Tax Return, to adjust the gross wages subject to Social Security and/or Medicare taxes;

6. Attaching an IRS 941c to the current quarterly ***IRS Form 941***, Employer's Quarterly Federal Tax Return, and entering the amount of the adjustment on the IRS 941. Copies of both forms will be maintained in the PRO;

7. Retaining a copy of IRS W-2c and IRS 941c in the current year quarterly tax folder to balance annual Federal tax deposits;

* 8. Preparing the IRS ***Form 1095-C***, Employer-Provided Health Insurance Offer and Coverage, for the IRS and the employee for the previous tax year; and

* 9. Preparing the IRS ***Form 1094-C***, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns. This form is sent to the IRS in conjunction with the Form 1095-C.

090303. Biweekly Reports

A. Leave Earnings Statement (LES). The LES must show gross pay, deductions, net pay, and employer contributions for the current pay period and cumulative totals for the current year. The LES must reflect the accrued and used leave balances for the pay period and year-to-date values. The LES must be made available electronically by accessing the ***myPay*** website or mailed to the employee's non-work address every pay period.

B. SF 2812-A. The amount collected for employee retirement (CSRS and FERS), FEHB, and FEGLI deductions, military service deposits, reemployment offsets, and the agency's contributions for retirement (CSRS and FERS), FEHB, and FEGLI are transferred to OPM. As prescribed by OPM, the PRO uses a "no-check-issue" as the means of payment to OPM. Funds are transferred to OPM using the SF 2812-A. The SF 2812-A reports the total employee deductions and agency contributions for health benefits by health benefits plan enrollment code for the pay period (see subparagraph 090201.A.1).

C. Retirement and Insurance Transfer System (RITS)

1. RITS is part of the Intra-Government Payment and Collection (IPAC) system developed by OPM and the Department of the Treasury (Treasury) to report civilian retirement and insurance contributions. The automated RITS interface with the payroll system replaces the manual reporting to OPM of the SF 2812-A.

2. To process the RITS transactions, the PRO must provide the disbursing office with the payroll system-generated hard copy of the Department of Defense ***(DD) Form 592***, Payroll for Personal Services Certification and Summary, the SF 2812-A, and any disbursement vouchers for cash payments.

a. Cash payments received from employees, such as military deposits and health benefits payments, are considered current transactions. The funds are collected and disbursed from the deposit fund suspense account. The total of the DD 592 and cash disbursement voucher must equal the total of the SF 2812-A. Cash collections for health benefit indebtedness received from pay accounts not carried forward from former payroll offices must be reported to OPM separately on a supplemental SF 2812-A using the Off-Line Bulk Data Transfer RITS software.

b. The disbursing office must ensure the voucher amounts agree and the vouchers contain proper certifying signatures before authorizing the transmission of the file to OPM. The delay between the creation of the system file and transmission is a necessary step in the process to establish adequate internal controls for the disbursement of Government funds. If the file is transmitted before the payment date, OPM must warehouse the data until the settlement date.

c. The IPAC transaction is a direct payment to OPM. Report the transaction on the ***SF 1219***, Statement of Accountability.

3. RITS provides the capability to report on a regular biweekly basis, as well as to report adjustments in a supplemental off-cycle mode. Reporting during the regular biweekly cycle is the preferred method and automated capabilities of the payroll system must be fully utilized in order to do so. Use of a supplemental reporting cycle must be limited to the greatest extent possible.

4. Consolidated PROs using RITS may find it necessary to report adjustments related to former PROs as well as adjustments related to the consolidated office. In these situations, the following may be applicable:

a. Adjustments for Accounts That Have Not Been Transferred to the Consolidated PRO. These accounts were inactive on former payroll office records and did not convert to the consolidated office. Responsibility for these adjustments is now with the consolidated payroll operation and is under the DFAS PRO operations. These adjustments could involve correction of a retirement plan, cash collection for military deposits, or health benefit indebtedness.

(1) Retirement Plan Correction. These adjustments must be reported to OPM via a hard copy SF 2812-A citing the PRO number that originally reported the deductions and contributions. Corrected retirement records and registers citing the former PRO must be prepared and forwarded to OPM. Copies of the SF 2812-A, registers, and records must be forwarded to the departmental reporter for the former payroll office so that cumulative balances may be adjusted.

(2) Cash Collections for Military Deposits. The PRO must report cash collections for military deposits via a hard copy SF 2812-A citing the PRO number that originally reported the deductions and contributions. Corrected retirement records and registers citing the former PRO must be prepared and forwarded to OPM. Copies of the registers,

records, and SF 2812-A must be forwarded to the departmental reporter for the former PRO so that cumulative balances may be adjusted.

(3) Cash Collections for Health Benefit Indebtedness. Cash collections for health benefit indebtedness must be reported via RITS as a supplemental SF 2812-A from the consolidated payroll office using the consolidated PRO Number.

b. Adjustments for Accounts That Have Been Transferred to the Consolidated PRO. These accounts were active on former PRO records and converted to the consolidated office. Adjustments may be for accounts that have become inactive since consolidation or for those still in an active status. As part of the consolidated payroll operation, DFAS PRO is responsible for these adjustments. Records for both the former and consolidated payroll offices may need to be corrected, depending on the effective date of the correction involved.

(1) Retirement Plan Correction. The adjustment may involve both hard copy reporting via the SF 2812-A and reporting via RITS. Adjustments that are effective prior to the transfer to the consolidated office must be reported to OPM via the SF 2812-A citing the former PRO number. Corrected retirement records and registers for that portion applicable to the former PRO must be prepared and forwarded to OPM. A copy of the SF 2812-A, registers, and records must be forwarded to the departmental reporter for the former PRO so that cumulative balances may be adjusted. That portion of the adjustment applicable to the consolidated PRO must be corrected through the payroll system and reported via the RITS regular biweekly cycle. Adjustments for accounts that have become inactive since consolidation must be corrected through the payroll system by reactivating the account.

(2) Cash Collections for Military Deposits. Cash collections for military deposits must be reported via RITS during the regular reporting cycle. Collections for accounts that have become inactive since consolidation must be corrected through the payroll system by reactivating the account. Correction through the payroll system is necessary in order to maintain the proper sequencing of system-assigned register numbers.

(3) Cash Collections for Health Benefit Indebtedness. Cash collections for health benefit indebtedness must be reported via RITS during the regular biweekly reporting cycle.

D. TSP-2-F, Certification of Transfer of Funds and Journal Voucher. A "no-check-issue" procedure is used to transfer the amount collected for employee TSP deductions as well as the agency contributions to NFC. Funds are transferred to NFC using the ***TSP-2-F***.

E. DD 592. This payroll voucher is used to certify the accuracy of the payment. It also provides total payroll costs and detailed accounting data by appropriation and accounting activity in connection with the civilian payroll.

F. Reports of Salary Offsets for Non-DoD Federal Agencies

1. Report of Collections. The PRO must forward a biweekly report to each creditor agency of the collections made for the pay period. This report must include, at a minimum, the non-DoD agency to which the collections apply, the PRO name and address, the employee's name, the amount collected for each employee, the period for which the collection applies, and the total amount of collections remitted to the non-DoD agency.

2. Report of Employees with Salary Offset. The PRO forwards a biweekly report of employees with salary offsets for non-DoD Federal agencies to the DFAS site that originally forwarded the salary offset request to the PRO. This report must include, at a minimum, the employee's name, SSN, creditor agency, amount of the last biweekly collection amount, pay date of the last collection, and the debt balance amount. In the case of employees with more than one debt to a non-DoD Federal agency, the information required in this paragraph must be provided for each debt.

G. Reporting Union Dues to Labor Organizations or Associations of Management Officials or Supervisors. Each pay period, the PRO must prepare a listing for each recipient of withheld dues. At a minimum, the listing must include the name and address of the PRO, the labor organization or association for which the listing pertains, employee names and amount of dues deducted for each, total amount collected and system-generated remarks that explain the lack of deductions.

H. Combined Federal Campaign (CFC) Report

1. The PRO must provide a remittance report to the Principle Combined Fund Organization to include:

a. The employing agency, e.g., Army, Navy, Air Force;

b. The number of employees with a deduction by employing agency;

c. The total pay period amount deducted; and

d. The pay period date of the CFC data.

2. The PRO retains a summary report for each pay period date to include the CFC organization, the total number of employees with deductions, and the amount deducted for all employing agencies. See ***5 C.F.R. 950.901***.

*090304. Quarterly Reports

A. Continuation of Pay (COP) for Disabling, Job-Related Traumatic Injuries Sustained by Federal Employees. The Department of Labor requires a quarterly report on COP. The requirement applies to all PROs including National Guard units. See ***20 C.F.R. 10.200***.

B. Employment Statistics Program. Upon request, the PRO furnishes feeder data to the appropriate HRO on total wages paid to civilian employees for specific calendar quarters. The appropriate HRO must prepare and submit the final report.

C. IRS 941. Each PRO must report tax payment information to the IRS on IRS 941. The report must be completed and filed by the due date established by the IRS. This is normally the end of the month following the close of the quarter. If all taxes for the quarter are deposited when due, the PRO must file the IRS 941 by the 10th day of the second month following the close of the quarter. The tax payment information required under Schedule B, Record of Federal Tax Deposits, must be derived from the payment records. The total amount of tax payments during a quarter must agree with the total taxes due, with no further payment required to be made with IRS 941.

1. The PRO forwards the system generated IRS disbursement voucher "In Lieu of SF 1049," Public Voucher for Refunds, to the disbursing office at an agreed upon time preceding the payment date for transmitting the voucher data through the Electronic Federal Tax Payment System (EFTPS). EFTPS is a service offered by Treasury, which allows an agency to electronically file and make payments for IRS 941 taxes each quarter. See EFTPS Information on the ***IRS website***.

2. The DFAS Cleveland Disbursing Office makes the daily tax deposits that are reported on the IRS 941 through the EFTPS. The tax deposit information is entered on the tax return, IRS 941, using a fillable form available from the IRS website. After IRS 941 is prepared, it is reviewed and signed by a supervisor then e-faxed to the IRS point of contact.

3. The disbursing office returns the IRS 941 printout to the PRO the day following each IRS disbursement. This printout reflects the cumulative totals for the quarter.

4. The PRO must correct any discrepancies.

D. Health Benefits Reconciliation Data File. Each quarter, the OPM ***FEHB CLER*** data must be reported to NFC, which implements a system to reconcile health benefits data for government agencies. The quarterly report of enrollees must include enrollee names, the total amount for employee deductions, and the total amount for employer contributions. The quarterly report must include enrollment data for all health plans for the payroll paid during the 1st through the 15th of March, June, September, and December. If there are two payrolls paid during that period, the PRO reports only the enrollment data for the last payroll paid. The data in this report is first sorted by FEHB enrollment code and then SSN. The report must provide a subtotal for each enrollment code and a grand total for each plan.

E. Transportation Fringe Benefit Report. A fringe benefit is a form of pay for the performance of services that is in addition to the employee's regular salary or wages. Examples of transportation fringe benefits include the use of a business vehicle, transit passes, and the value of parking.

1. Employers are required to report the value of fringe benefits as taxable income for amounts that exceed the established IRS threshold.

2. The parking fringe benefit valuation must be reported by the employing activity directly to the servicing PRO on a quarterly basis to ensure proper reporting of income and collection of taxable wages on the IRS W-2.

3. The monthly value of the fringe benefit and the reportable taxable benefit must be included in the report.

4. Certain qualified transportation fringe benefit amounts may be excluded from an employee's wages each month. See Chapter 3 for information on qualified transportation fringe benefits and ***IRS Publication 15-B***, Employer's Tax Guide to Fringe Benefits.

F. Civilian Direct Deposit Participation Report. When directed, the PRO must furnish data to the appropriate functional organization on civilian employees participating in Direct Deposit/Electronic Funds Transfer (EFT). This feeder-type information is used by DoD managers to report payment volumes and the percentage of payments made by EFT to the Bureau of the Fiscal Services within 25 days after the end of each quarter.

* G. Reporting Workforce Information. OPM collects data from agencies relating to civilian employees in a manner and at times prescribed by OPM. See ***5 CFR 9.2***. The data reported is primarily used by the Office of Management and Budget (OMB) as a baseline for making policy decisions on personnel budget requests.

1. SF 113-A, Monthly Report of Federal Civilian Employment. The PRO must submit this report to OPM on a quarterly basis covering 3 months for the quarter or on a pay period basis covering the quarter. If the PRO submits data on a pay period basis, the PRO must report total employment "as of" September 30 for their September (fiscal year) submission. The report must reflect lump sum payments, wages, and salaries earned during the reporting period. The turnover data must include accessions and separations when the effective data occurs during the period covered. See ***SF 113-A***.

2. SF 113-G, Monthly Report of Full-Time Equivalent/Work-Year Civilian Employment. The PRO must provide feeder data to the Defense Manpower Data Center for reporting to OMB. See ***SF 113-G***.

090305. Semiannual Reports

A. Semiannual Headcount Report. OPM requires that a report of the withholdings and contributions for retirement, FEGLI, and FEHB be sent in the form of a semiannual headcount report. This report is required for the last pay period paid during the 1st through the 15th of March and September, in conjunction with the quarterly reporting of enrollment in all health benefits plans.

B. Report of Work Years and Personnel Cost. This report provides information required by OMB to estimate the cost of proposed Federal pay increases, evaluate the financial effects of proposed legislation on civilian personnel compensation and benefits, and prepare analysis of pay and personnel benefits of Federal employees. The consolidated PRO provides feeder-type data on the leave data for part C of this report.

*090306. Annual Reports

A. Wage and Tax Statements

1. Wage and Tax Statements to SSA. IRS W-2 is used to report taxable income to the SSA and the IRS. The PRO must issue an IRS W-2 to employees no later than January 31 of the year following the applicable tax (calendar) year. This also applies to employees who died or separated during the year. Individuals may request the form at an earlier date by making their request in writing to the PRO. In such instances, the form is to be issued within 30 calendar days of receipt of the request or of the final payment, whichever is later. The DoD PROs are required to use the DFAS approved standardized IRS W-2 each year.

2. Wage and Tax Statements to States

a. The PRO provides this information to states that have entered into a Standard Agreement with Treasury or as authorized pursuant to a published routine use statement. See TFM Vol. 1, Part 3, ***Section 5070.10***. The PRO will issue returns with respect to those employees who:

(1) Are employed in the state and subject to mandatory withholding of state income tax; or

(2) Have established voluntary allotments for the state's income tax.

b. The PRO provides annual information returns on IRS W-2. Other forms prescribed by states should not be used.

c. The PRO includes in the returns only the information on IRS W-2.

d. The PRO must submit IRS W-2 to the states in print or electronically. The PRO must file all returns in accordance with regulations issued by the state taxing authorities. A list of state taxing authority contacts is available at the IRS website.

e. The PRO may need to report information to more than one taxing authority for the same employee. If so, it must supply a copy of IRS W-2 to the proper state, city, or local taxing authorities on request. Those authorities will decide if the employee is liable for any tax.

f. A state requirement to file information returns monthly does not affect existing arrangements to submit IRS W-2 only once a year.

3. Wage and Tax Statements to Cities or Other Localities

a. In the case of an agreement with the city or locality, the PRO will issue returns with respect to those employees who are:

(1) Employed in the city or locality and subject to the tax (whether or not tax is withheld); or

(2) Residents of the city or locality and are subject to the tax (whether or not tax is withheld). If the city or locality has not entered into a Standard Agreement, with the prior written consent of the employee, or if authorized pursuant to a published routine use statement, the PRO will issue returns to the taxing authority with respect to an employee who has voluntary deductions for the city or locality's income tax.

b. The PRO provides annual returns on IRS W-2. Other forms prescribed by cities or localities must not be used.

c. The PRO must include in the returns only the information on IRS W-2.

d. The PRO must submit IRS W-2 in accordance with regulations issued by the city or locality taxing authorities.

e. A city or locality requirement to file information returns monthly does not affect existing arrangements to submit IRS W-2 only once a year.

4. Wage and Tax Statements to Employees

a. If the employee has not yet transitioned to an electronic IRS W-2 format, the PRO must mail annual wage and tax information returns to each employee's non-work address by January 31 of the next year, unless the employee has consented to receive the IRS W-2 in an electronic format. The IRS W-2 must include the:

(1) Employee's name, SSN, and address;

(2) Wages subject to Social Security/Medicare, Federal, state, city, or local withholding;

(3) Social Security and/or Medicare, Federal, state, or local tax withheld, if any;

(4) Name of state, city, or county; and

(5) City and/or county assigned Employer Identification Number.

b. The PRO must mail corrections to the annual wage and tax information returns to an employee's non-work address as soon as an error is discovered. Refer to subparagraph 090302.F for information on the IRS W-2c and IRS W-3.

* c. The PRO must issue Form 1095-C to employees no later than January 31 of the year following the applicable tax (calendar) year.

B. Student Loans. Agencies are required to report annually to OPM on their use of the student loan repayment authority. Before March 31 of each year, agencies must submit their reports for the previous calendar year. See ***5 C.F.R. 537.110***. The reports must contain:

1. The number of employees, who received student loan repayment benefits,

2. The job classifications of the employees who received student loan repayment benefits, and

3. The cost to the Federal Government of providing student loan repayment benefits.

C. Telework. The Telework Enhancement Act of 2010 requires that agencies report an annual telework participation goal. OPM issues an annual report to Congress summarizing information provided by agencies on the status of their telework programs. See Status of Telework in the Federal Government ***Report for Congress***. The report provides a baseline for measuring each agency's progress toward meeting the requirements of the Telework Enhancement Act. Agencies are required to make an annual assessment of progress towards meeting participation goals. In cases where agencies do not meet goals, they must detail actions to be taken to identify and eliminate barriers to maximizing telework opportunities for the next reporting period. See ***Public Law 111-292, Section 6506***; see also ***Telework.gov***. Each report submitted must include:

1. The total number of employees in the agency;

2. The number and percent of employees in the agency who are eligible to telework; and

3. The number and percent of eligible employees in the agency who are teleworking:

a. Three or more days per pay period;

b. One or two days per pay period;

c. Once per month; or

d. Occasional, episodic, or short-term basis.

* D. Child Development Programs (CDPs). Agencies initiating a child care subsidy program are required to track and report the utilization of their funds to OPM annually on a ***DD Form 2605***, Department of Defense Child Development Program Summary of Operations. See ***5 C.F.R. 792.204***.

* E. Experts and Consultants. Each agency that used and paid experts and consultants is required to submit an annual report to OPM. See ***5 U.S.C. 3109(e)*** and 5 C.F.R. ***304.107***. This report must cover the entire agency for the year ending December 31st and be submitted by February 28th of the following year. See ***OPM Form 1623***, List of Experts and Consultants hired Under 5 U.S.C.3109. This report must contain:

1. The number of days the agency employed each paid expert or consultant; and

2. The total amount paid by the agency to each expert and consultant, not including payments for travel and related expenses.

* F. Affordable Care Act (ACA) Reporting. Applicable Large Employers (ALE) must report to the IRS whether the employer has made an offer of coverage to their full-time employees. An ALE is an employer with 50 or more employees. Reporting is made using Form 1095-C and the Form 1094-C for the previous tax year. See the IRS website on ***Information Reporting by Applicable Large Employers***.

* G. Foreign Language Pay Reporting. Each DoD Component with Defense Civilian Intelligence Personnel System (DCIPS) positions must submit to the Under Secretary of Defense for Intelligence through the Director, Human Capital Management Office a report on its foreign language pay program. See DoD Instruction ***1400.25-V2016***. These annual reports must:

1. Include a copy of the Component's current foreign language pay policy or guidance, and copies of any related documents or communications issued on foreign language pay since the previous report was submitted;

2. Identify the total number of language-coded authorizations and official tasking that requests language and proficiency in support of mission requirements;

3. Identify the total number of DCIPS employees receiving foreign language pay, and whether or not they are assigned to designated foreign language positions. Include a breakout of the number of DCIPS employees identified as receiving foreign language pay by each language;

4. Identify the total amount of foreign language payments made in the past calendar year and a breakout of the amounts by language;

5. Identify for Interagency Language Roundtable Level 3 proficiency and above (combined), the percentage of recipients paid, by language; and

6. Discuss the current state of recruitment and fill of foreign language positions, including overages, trends, shortfalls, recommendations regarding foreign language pay policy, trends in payments (by language and amount of payment) from the previous year, and a brief statement reflecting the effectiveness of incentive pay in the recruitment.

VOLUME 8, CHAPTER 10: "SPECIAL CATEGORY EMPLOYEES"

SUMMARY OF MAJOR CHANGES

All changes are denoted by blue font.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue and underlined font*.**

The previous version dated January 2014 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Revised hyperlinks and formatted to comply with current administrative instructions.	Revision
1001	Added "General," "Purpose," and "Authoritative Guidance" sections.	Additions
100509.B	Revised information for Death Gratuity under Title 5, United States Code, section 9904.	Revision
1011	Added information for Temporary and Term Appointments.	Addition
101503.A.3	Added information for on-duty sleep and meal periods for Emergency Medical Technicians.	Addition
1023	Added new section, "De Facto Employees" for clarity.	Addition
1024	Added new section for "Highly Qualified Experts (HQEs) and HQEs-Senior Mentors (HQEs-SMs)" with revised policy.	Addition

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CHAPTER 10

SPECIAL CATEGORY EMPLOYEES

*1001 GENERAL

100101. Purpose

This chapter provides guidance on special category employees. Special category employees include those whose retirement, leave, or pay may be specific to an occupational series or tour of duty. Special category employees also include employees deemed legally incompetent, missing or deceased, and de facto employees.

100102. Authoritative Guidance

Specific statutes, regulations, and other guidance are referenced under each section of this chapter.

1002 OVERSEAS EMPLOYEES

100201. General

The general pay provisions for General Schedule (GS) employees who work stateside also apply to GS employees stationed overseas. The Department of Defense Instruction (DoDI) ***1400.25***, Department of Defense (DoD) Civilian Personnel Management System, ***Volume (V)1250***, Overseas Allowances and Differentials, authorizes and governs the payment of allowances and differentials to DoD civilian employees who are citizens of the United States (U.S.) and located in a foreign area. The Department of State Standardized Regulations ***(DSSR)*** prescribe eligibility requirements, the applicable rates to be paid, and the provisions to be observed in paying overseas foreign area allowances and differentials to employees.

100202. Foreign Nationals

A. Authority. Title 22 United States Code (U.S.C.), section 3968 (***22 U.S.C. § 3968***) establishes the pay for foreign national employees. Delegation of authority is established by ***DoDI 1400.25 V1231***, Employment of Foreign Nationals. Authority is delegated to each military department to re-delegate to its Service Component Commanders the authority to establish salaries, wages, fringe benefits, related compensation items, and other terms of employment for foreign national employees. Additional guidance can be found in the DoD Manual for Foreign National Compensation, ***DoD Manual 1416.08***, which prescribes procedures and instructions for the development of compensation programs for foreign nationals employed by the U.S. Forces in foreign areas.

B. Entitlements. The Wage and Salary Division of the Defense Civilian Personnel Advisory Service (DCPAS) establishes wage schedules for foreign national employees based on locality wage surveys, or other available data, as provided by the activity labor

agreement between the U.S. and the foreign country. The basis for salary determinations and deductions are contained in the employing activity's applicable inter-country agreements and personnel regulations.

100203. Canadian Employees

A. General. Canadian national direct-hire employees receive compensation comparable to that paid to Canadian Government employees in the same locality and performing essentially the same work with relatively the same degree of responsibility.

B. Authority. DoDI 1400.25-V1231 contains the authority for the administration of foreign nationals, including Canadians.

C. Entitlements

1. Holidays. Canadian legal holidays are observed with no charge to leave. If an emergency requires work on a Canadian holiday, the pay for an additional day is provided, or the employee is given compensatory time off. The following are the legal Canadian holidays:

a. New Year's Day (January 1);

b. Good Friday (March-April);

c. Easter Monday (March-April);

d. Victoria Day (May 24);

e. Canada Day (July 1);

f. Civic Holiday (1st Monday in August);

g. Labor Day (1st Monday in September);

h. Thanksgiving Day (Oct-Nov);

i. Remembrance Day (November 11);

j. Christmas Day (December 25); and

k. Boxing Day (December 26).

2. Absence and Leave. Employees accrue sick leave at a rate of 4 and one-quarter hours each pay period except for the last pay period of the leave year. During the last pay period, 6 and one-quarter hours accrue. The total annual accumulation is 112 and one-half hours or 15 days of sick leave.

3. Work-Related Injury or Illness. The Federal Employees' Compensation Act covers work-related injuries or illness.

D. Pay. Salaries are based on rates in approved agreements between the Treasury Board of Canada and the Public Service Alliance of Canada for Canadian Civil Service Employees. The effective dates are the same as in the basic Canadian agreements. Pay is in Canadian dollars on a biweekly basis.

E. Hours of Duty. The workday is 7 and one-half hours, and the workweek is 37 and one-half hours.

F. Step Increases. Employees receive step increases until they reach the top step. Step increases require written certification by the supervisor that an employee has demonstrated an acceptable level of competence during the waiting period. Certification is completed and forwarded to the Human Resources Office (HRO) for processing prior to the effective date of the step increase. Step increases are effective at the beginning of the first pay period following the effective date of the anniversary.

G. Retroactive Pay. Retroactive pay adjustments are made based on agreements covering Canadian Civil Service employees. These adjustments are payable to employees separated during the retroactive period.

H. Leave Without Pay (LWOP). Aggregate periods of LWOP of more than 80 hours during the waiting period for a step increase will delay the increase. Extended periods of LWOP also affect leave accruals.

I. Awards. Canadian National employees generally are eligible for all awards, except quality increases.

J. Canada Pension Plan. The civilian payroll office (PRO) deducts employee contributions for the Canada Pension Plan from employee salaries. The U.S. Government pays the employer's contribution.

K. Registered/Retirement Pension Plan. The U.S. Government pays an amount equivalent to the employees' contributions up to a legal maximum of annual salaries.

L. Severance Pay. Employees are paid a lump-sum amount according to the following:

1. Lay-Off. Two weeks of pay for the first complete year of continuous employment and 1 week of pay for each complete additional year of continuous employment with a maximum benefit of 28 weeks of pay.

2. Resignation. When an employee resigns with 10 or more years of continuous employment, they will be paid one-half week of pay for each complete year of

continuous employment up to a maximum of 26 years with a maximum benefit of 13 weeks of pay.

3. Retirement. Upon retirement, when an employee would be entitled to an immediate annuity, or to an immediate annual allowance had the employee been under the Canadian Government Public Service Superannuation Act, an employee is paid 1 week of pay for each complete year of continuous employment with a maximum benefit of 28 weeks of pay.

4. Death. Upon death, the PRO pays 1 week of pay for each complete year of continuous employment, with a maximum benefit of 28 weeks of pay. Payment is made to the employee's estate.

M. Ontario Health Insurance Plan. Employees enrolled in the Ontario Health Insurance Plan, are reimbursed an amount equivalent to the Canadian Government contributions under the plan. Claims for reimbursement, supported by receipts, are submitted annually by the end of the calendar year.

N. Unemployment Insurance. The U.S. Government contributes an amount equal to that paid by a Canadian Government employer to the Canadian fund. The PRO deducts the employee's contribution from his or her salary. See information on unemployment insurance for Canadian employees in Chapter 6.

O. Canadian Income Tax. The PRO deducts an employee's tax contributions from his or her biweekly salary.

P. Accidental Life Insurance. This is a voluntary contribution deducted from the employee's biweekly salary at the employee's request.

1003 OTHER THAN FULL-TIME CAREER EMPLOYEES

100301. General

This section provides guidance regarding employees who do not work the typical 40-hour workweek established under ***5 C.F.R. 610.111***. Such employees include part-time, intermittent, seasonal, and piecework employees.

100302. Part-Time Employment

Part-time employment generally is no less than 16 hours and no more than 32 hours per week under a schedule consisting of an equal or varied number of hours per day. Agencies may permit employees to work less than the minimum 16 hours per week based on guidance provided in Title 5, Code of Federal Regulations (C.F.R.) ***Section 340.202(b)***. Employment may be between 32 and 64 hours in a biweekly pay period in the case of a flexible or compressed work schedule. See ***5 U.S.C. § 3401(2)***. Part-time employment does not include employment on a temporary or intermittent basis. A part-time employee must have a regular schedule of at least

1 hour, set in advance, in each administrative workweek in each biweekly pay period. See 5 C.F.R. Part 340 and ***5 U.S.C. § 3401-3408***.

A. Benefits. Part-time permanent employees are eligible to receive the same benefits as full-time employees. On a prorated basis, part-time employees are eligible to receive leave, retirement, and health and life insurance coverage. See ***Office of Personnel Management (OPM) Hiring Authorities***.

1. Leave

a. Annual Leave. Part-time employees, who have a regular tour of duty established in advance of one or more days during each administrative workweek, earn annual leave on a prorated basis based on the total number of hours in a pay status in each biweekly pay period, excluding overtime hours. See ***5 U.S.C. § 6302***. Hours in a pay status include straight time and additional hours worked, up to a total 80 hours in the biweekly pay period. Maximum carryover at the end of the leave year is the same as for a full-time employee. Leave is charged for an absence during the hours an employee is regularly scheduled to work. See Chapter 5.

b. Sick Leave. Part-time employees with a regularly scheduled tour of duty shall earn and be credited with 1 hour for each 20 hours in a pay status. See ***5 U.S.C. § 6307***.

c. Other Leave. Part-time employees are eligible for other leave categories (e.g., absent without leave (AWOL), LWOP, court leave, funeral leave, or excused absences) on the same basis as full-time employees. The rules governing the Family and Medical Leave Act of 1993 and the Federal Employees Family Friendly Leave Act also apply to part-time employees. See Chapter 5.

d. Military Leave. Each member of a Reserve Component who is an employee of the U.S. is entitled to a leave of absence from his or her duties without loss of pay, time, or efficiency rating for each day, but for no more than 15 days in any fiscal year in which he or she is on active duty or training. Eligible part-time employees accrue military leave that is prorated based on the tour of duty. See ***5 U.S.C. § 6323(a)(2)*** and Chapter 5.

e. Holiday Leave. When a holiday falls on a scheduled workday, a part-time employee is entitled to basic pay for the number of hours the employee is regularly scheduled to work on that day, not to exceed 8 hours, unless covered by a compressed work schedule. A part-time employee is not entitled to pay for a holiday that falls on a day the employee is not normally scheduled to work.

f. "In Lieu of" Holiday. An "in lieu of" holiday is granted to replace the day designated as a holiday by Federal statute or executive order when the holiday falls on a full-time employee's non-work day. Under ***DoDI 1400.25-V610***, Hours of Duty, part-time employees are not entitled to "in lieu of" holidays. However, if a part-time employee is

prevented from working because the activity is closed, he or she may either be placed in an appropriate leave category or be excused (placed on administrative leave) without loss of pay for the number of hours that he or she is regularly scheduled to work on that day.

2. Retirement. Part-time employees are subject to deductions for retirement benefits on the same basis as full-time employees.

3. Federal Employees' Health Benefits (FEHB). Part-time employees are eligible to participate in the FEHB Program. See the ***FEHB Handbook***. The cost to the employee is the total cost of health benefits (both the employee and the employer's share) less the prorated government contribution. See Chapter 11 for more information on FEHB for part-time employees.

4. Federal Employee Group Life Insurance (FEGLI)

a. Part-time Eligibility. A part-time employee is eligible to participate in the FEGLI Program. Participation is voluntary and eligible part-time employees are automatically covered under the basic insurance option unless they waive the insurance coverage. The part-time employee's basic insurance amount is the greater of their annual rate of basic pay rounded up to the next even $1,000 plus $2,000, or a flat $10,000. Basic life insurance coverage is effective from the first day the employee is in an official duty status. Employees may elect additional optional insurance within 31 days from their appointment date. All new employees must complete a ***Standard Form*** (SF) 2817, Life Insurance Election, to cancel basic insurance or to elect additional optional insurance. If a part-time employee becomes a full-time employee in the middle of a pay period, the amount withheld for basic life insurance is based on the amount of insurance last in force for the employee during the pay period (that is, the full-time rate). See the ***FEGLI Program Handbook Introduction***.

b. Nonpay Status. FEGLI coverage continues for up to 12 months when an employee enters nonpay status. FEGLI ends at the end of the 12 months with a 31-day extension of coverage and a right to convert to an individual policy. If the employee is in nonpay status for part of the pay period, withholding for premiums and the government contribution is still required. The employee is not required to pay premiums while on LWOP unless they are receiving benefits from the Department of Labor, Office of Workers' Compensation Program (OWCP). See the FEGLI Handbook for special nonpay situations during which the employee must continue to make premium payments.

c. Part-Time Annual Rate of Basic Pay. For life insurance purposes, the annual pay for a part-time employee is the annual rate of basic pay applicable to his or her tour of duty in a 52-week work year. For example, an employee whose pay is $56,282 per annum, employed half-time, would have an annual pay for insurance purposes of $28,141.

d. Concurrent Part-Time Employment. An employee may be employed on a part-time basis in more than one Federal agency and eligible for FEGLI coverage in one or both of the positions. However, an employee may not maintain more than one FEGLI election even if he or she is serving in more than one position. See the FEGLI Handbook (under

"Concurrent Employment") for exceptions including guidance concerning part-time employees in nonpay status at one of the agency positions. The amount of insurance is based on the sum of annual pay for all positions including annual pay for a position excluded from life insurance coverage.

(1) The agency that pays the greater of the two salaries makes the withholding and pays the government contribution.

(2) The agency must contact the other employing office, confirm the salaries paid and assume responsibility for withholding all of the required premiums from the salary.

(3) The agency that pays the greater salary to the individual must also provide the government contribution for basic insurance based on the aggregate amount of basic coverage the employee has from all covered positions. This eliminates the need for the other employing office to make partial withholdings and government contributions.

B. Pay. Gross basic pay is computed by multiplying the employee's hourly rate of pay by the total of the hours worked and the hours of paid leave during the pay period.

1. Overtime Pay. Under ***5 U.S.C. § 5542***, overtime pay for eligible part-time employees is authorized only for work over 8 hours a day or 40 hours in a week.

2. Compensatory Time Off. Under ***5 U.S.C. § 5543***, part-time employees may elect to take compensatory time off in lieu of overtime pay. Under ***5 U.S.C. § 5550a***, part-time employees may elect to perform compensatory overtime work to replace time taken off for religious observances.

3. Sunday Premium Pay. Under ***5 U.S.C. § 5544(a)*** and ***5 U.S.C. § 5546(a)***, a part-time employee is entitled to pay at his or her rate of basic pay plus premium pay at a rate equal to 25 percent of his or her basic pay for each hour of Sunday work. Sunday premium pay may be paid only to a part-time employee who has Sunday as part of his or her non-overtime regularly scheduled tour of duty (for example: Sunday through Thursday basic workweek). An employee with a tour of duty of Monday through Friday who works either regularly scheduled overtime or irregular or occasional overtime work on a Sunday is entitled to overtime pay and is not entitled to Sunday premium pay. An employee must perform actual work to receive Sunday premium pay. Employees who do not work during their Sunday tour of duty because they are on paid leave or excused absence, using compensatory time off or credit hours, or because Sunday is a holiday, are not entitled to Sunday premium pay. See Fathauer v. United States, 566 F.3d 1352 (Fed. Cir. 2009) and ***OPM Memorandum***, dated December 8, 2009, for additional guidance. Information pertaining to Sunday premium pay for full-time employees is located in Chapter 3.

4. Night Differential Pay. Under ***5 U.S.C. § 5545***, GS part-time employees are entitled to night pay for work performed between 6:00 p.m. and 6:00 a.m. as part of their regularly scheduled administrative workweek. See Chapter 3.

5. Night Shift Differential Pay. Under ***5 U.S.C. § 5343(f)***, Federal Wage System (FWS) part-time employees who work a regular scheduled shift of 8 hours or less are entitled to night shift differential. A majority of the hours worked, however, shall be on the second or third shift. For information on pay for the second and third shifts, see Chapter 3.

6. Holiday Premium Pay. Under 5 U.S.C. § 5546, a part-time employee who works on a holiday that falls during his or her regularly scheduled hours is entitled to holiday premium pay only for those scheduled hours. However, part-time employees who are excused from work on a holiday may only receive their rate of basic pay for the hours they are regularly scheduled to work on that day. Additionally, part-time employees do not receive holiday premium pay for working on an "in lieu of" holiday that is scheduled for full-time employees. Part-time employees are not entitled to an "in lieu of" holiday and, therefore, they are not entitled to holiday premium pay for work performed on that day.

100303. Intermittent Employment

A. General. The term "intermittent" relates to an employee's work schedule and not the appointment type. Intermittent employees can be either permanent or temporary employees. Intermittent employees work sporadically and have no fixed or guaranteed schedules. This is other than full-time employment in which employees serve under an excepted or competitive service appointment without a regularly scheduled tour of duty. See 5 C.F.R. 340.403. An intermittent work schedule is appropriate for a position involving work that is sporadic and unpredictable such that a regular tour of duty cannot be scheduled in advance.

1. Pay. Intermittent employees are paid only for hours of work performed while in a duty status. The gross basic pay is computed by multiplying the employee's hourly rate of pay by the total of the hours worked during the pay period. Because employees working on an intermittent basis do not maintain a regularly scheduled workweek as defined in 5 C.F.R. 610.102, intermittent employees are not eligible for pay for holiday work, night pay or night shift differential or Sunday premium pay. See ***5 C.F.R. 532.509***, ***5 C.F.R. 550.121***, and 5 C.F.R. 550.103. Intermittent employees are entitled to overtime when appropriate. Intermittent employees receive their normal salary for working holidays, Sundays, or during a night shift. An exception exists for an FWS intermittent employee assigned to a regularly scheduled shift of fewer than 8 hours. The FWS employee in this situation is entitled to night shift differential pay if a majority of the hours are worked during the period when night shift differential is payable. See OPM Appropriated Fund Operating Manual for FWS Employees, ***Subchapter S8-4***. A GS intermittent employee is not eligible for night pay differential unless temporarily assigned to a regular tour of duty with night work.

2. Leave. Intermittent employees do not earn annual or sick leave.

3. Sick Leave Recredit upon Transfer. When a full or part-time employee transfers to an intermittent job to which he or she cannot transfer previously earned sick leave, the sick leave must be held in abeyance until the employee returns to the original leave system under which the leave was earned. The PRO must recredit the sick leave if the employee returns to the original leave system on or after December 2, 1994, without regard to the original date of transfer. See 5 C.F.R. 630.502.

4. Lump-Sum Annual Leave Payment. When a full-time or part-time employee is changed to an intermittent employee, any unused annual leave is paid as lump sum. A lump-sum payment is not required when the employee is part of a continuing program under which employees are required to return to full-time or part-time employment after a period of intermittent employment (e.g., student trainee). See 5 C.F.R. 550.1203.

C. Deductions

1. Retirement. Intermittent employees are not eligible for retirement coverage except when the intermittent employment follows employment in a covered position, and there has not been a break in service of more than 3 days. Intermittent employees are subject to Social Security and Medicare deductions. See ***5 C.F.R. 831.201***.

2. FEHB. Intermittent employees who are expected to work 130 hours per month for at least 90 days are eligible to enroll in an FEHB plan. These eligible employees will receive the same government contribution as full-time permanent employees. See ***5 C.F.R. 890.102(c)(6)*** and ***Benefits Administration Letter (BAL) 14-210***.

3. FEGLI. Intermittent employees are not eligible to participate in FEGLI except when the intermittent employment follows employment in a covered position, there has not been a break in service of more than 3 days, and the employee is expected to return to a covered position. For insurance purposes, the annual pay for intermittent employees is the annual rate that they were receiving at the end of the pay period or, in the event of death or dismemberment, the annual rate they were receiving at the time of the death or accident. For example, if an intermittent employee is paid $17.84 per hour, his or her rate of pay fixed by law is $37,232 (17.84 x 2,087 = $37,232). If this employee works only 2 days or 16 hours during a particular pay period, the annual rate of pay for insurance purposes is based on actual time worked during that pay period. In this example, $7,421 is the annual rate of pay for insurance purposes (17.84 x 16 x 26 = $7,421/year). However, insured employees whose annual pay is $8,000 or less are covered for the minimum $10,000 of basic insurance. See the FEGLI Handbook.

100304. Seasonal Employment

The term "seasonal" relates to an employee's work schedule and not the appointment type. Seasonal employment was established to allow agencies to recruit and train employees for duty that occurs on a predictable yearly basis and is expected to last less than 12 months each

year. See 5 C.F.R. 340.402. As with other career employees, seasonal employees are entitled to receive full benefits. At the end of the season, the employee is placed into a non-duty/nonpay status and will be recalled at the onset of the next season in accordance with a pre-established agreement between the agency and the employee. Because there is no difference in "on-call employment" and "seasonal employment," OPM has eliminated the use of the term "on-call employment."

A. Pay. Gross basic pay is computed by multiplying the employee's hourly rate of pay by the total of the hours worked and the hours of paid leave during the pay period.

B. Leave. Employees in a seasonal position earn leave during the time in pay status and during the first 80 hours in nonpay status each year. A seasonal employee earns leave on the same basis as any other employee eligible to earn leave. See ***5 C.F.R. 630.208*** for information on leave during nonpay status.

C. Deductions

1. Regularly scheduled seasonal employees under career or career-conditional appointments and who are expected to work at least 6 months per year are subject to FEGLI and retirement deductions. These deductions are made on the same basis as those of full-time employees.

2. Employees in a seasonal position who are expected to work 130 hours per month for at least 90 days are eligible to enroll in an FEHB plan. These eligible employees will receive the same government contribution as full-time permanent employees. See 5 C.F.R. 890.102 and BAL 14-210.

100305. Piecework Employees

When Executive Agency employees are hired on a piecework basis, the employee's earnings are determined based on the amount of work produced. The general authority for entitlement of pay, scheduling of work, and excusing absences for piecework employees are granted under ***5 U.S.C. § 6104*** and 5 CF.R. 610.301-306. Employees working limited appointments of 1 year or less and being paid piecework rates are excluded from retirement coverage unless they are covered by an exception. See 5 C.F.R. 831.201(a)(5). To determine rates payable for piecework, see 5 C.F.R. 532.241.

A. FEGLI. For life insurance purposes, the annual pay for a piecework employee is the total basic earnings for the previous calendar (52-week) year, not counting premium pay for overtime or holidays. See ***5 C.F.R. 870.204(d)***.

B. FEHB. Piecework employees are excluded from FEHB coverage except for those with a work schedule that provides for full-time or part-time service with a regularly scheduled tour of duty. See 5 C.F.R. 890.102(c)(6).

1004 REEMPLOYED ANNUITANTS

100401. General

A retired Federal employee may be rehired in Federal service as a reemployed annuitant. The retired employee's annuity may continue to be paid upon reemployment, or may be terminated or suspended. Reemployment may result in an increase in the employee's retirement and death benefits. Special provisions apply to annuitants reemployed by DoD on or after November 25, 2003, and to former members of Congress.

A. Employees Retired from Competitive Service

1. Regulations Governing Reemployment. Instructions governing the reemployment of employees retired from the regular competitive service under the Civilian Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) are contained in ***5 U.S.C. § 8344***, ***5 U.S.C. § 8468***, ***5 U.S.C. § 9002***, ***5 CF.R. 837***, and the CSRS/FERS Handbook for Personnel and Payroll Offices, ***Chapter 100***, Reemployed Annuitants. See subparagraph 100401.B for annuitants reemployed by DoD on or after November 25, 2003.

2. Treatment of Annuity Upon Reemployment. As a general rule, if a CSRS or FERS annuitant is reemployed, the annuity continues to be paid, but the annuity payment is offset from the reemployed annuitant's salary. Certain exceptions apply which may result in the CSRS or FERS annuity being terminated or suspended upon reemployment. The Director of OPM may waive the reemployment provisions for CSRS or FERS annuitants on a case-by-case basis for a position where there is exceptional difficulty in recruiting or retaining a qualified employee.

a. Termination of a Disability Annuity. A CSRS or FERS disability annuitant may be reemployed in a temporary or permanent position and given the same type of appointment that would be given to any other person appointed to the position. Reemployment may cause the disability annuity to terminate if OPM determines the annuitant has recovered or been restored to earning capacity prior to reemployment. Additionally, reemployment may terminate the annuity of a CSRS or FERS disability annuitant who was medically disqualified for continued membership in the National Guard.

b. Termination of an Annuity Based on Involuntarily Separation. When involuntary separation such as for reduction-in-force and lack of funds is the basis for a CSRS annuitant's retirement, and the new appointment is subject to retirement coverage, the annuity payment is terminated upon reemployment and retirement deductions shall be taken from the salary.

c. Termination Upon Presidential Appointment or Election to Congress. When a CSRS annuitant receives a Presidential appointment subject to retirement deductions, or is elected as a member of Congress, payment of the annuity terminates upon reemployment.

d. Suspension Upon Judicial Appointment. When a CSRS or FERS annuitant is appointed as a justice or a judge of the U.S., payment of the annuity is suspended.

e. Suspension Upon Interim Appointment by Merit System Protection Board (MSPB). When a CSRS or FERS annuitant receives an interim appointment under ***5 U.S.C. § 7702*** by the MSPB, payment of the annuity is suspended.

3. Reemployment of Law Enforcement Officers (LEOs), Firefighters and Air Traffic Controllers (ATCs). A retired law enforcement officer or firefighter mandatorily separated is generally barred from reemployment in a primary position involving law enforcement or firefighting duties after reaching age 57. However, he or she is not barred from reemployment in a secondary position or any other position. Similarly, a retired air traffic controller is generally barred from reemployment in the same position after reaching age 56. He or she is not barred from reemployment in any other position not covered by the special retirement provisions for air traffic controllers. The agency must withhold the required deductions from the reemployed annuitant's pay (one-half percent higher than the regular deduction rate). See ***5 U.S.C. § 8335*** and ***5 U.S.C. § 8425***.

4. Supplemental Annuity or Redetermined Annuity. A reemployed annuitant may earn future benefits either in the form of a supplemental annuity or a redetermined annuity.

a. Supplemental Annuity. A supplemental annuity is an annuity added to the reemployed annuitant's present annuity. An employee who works as a reemployed annuitant on a full-time basis for at least 1 year, or on a part-time basis for a proportionately longer period, may be entitled to a supplemental annuity. For a reemployed annuitant who qualifies for a supplemental annuity, the SF 2806, Individual Retirement Record CSRS, or SF 3100, Individual Retirement Record FERS, typically prepared for a new employee, is prepared at the time of separation rather than at the time of appointment.

b. Redetermined Annuity. A redetermined annuity is recomputed and takes the place of the employee's present annuity. A reemployed annuitant who completes at least five years of actual continuous full-time service and/or part-time service that is equivalent may elect to have their annuity redetermined under the law in effect at the time of separation from reemployment, in lieu of a supplemental annuity.

c. LEOs, Firefighters, and ATCs. The special retirement provisions for law enforcement officers, firefighters, and air traffic controllers do not apply to service from reemployment. Therefore, any service credit from reemployment that is used to calculate a supplemental or redetermined annuity is treated as regular service, even if the employee is reemployed in an approved LEO, firefighter, or ATC position.

B. Annuitants Reemployed by DoD on or after November 25, 2003. The Secretary of Defense was granted the authority to reemploy annuitants without a reduction in pay or of the annuity (see 5 U.S.C. § 9902). Instructions governing annuitants who are reappointed

by DoD on or after November 25, 2003, are found in the ***DoDI 1400.25-V300***, Employment of Federal Civilian Annuitants in the DoD. Generally, annuitants hired by DoD prior to November 25, 2003, are subject to salary offset unless an exception is approved by OPM or DoD. However, reemployed annuitants hired by DoD after November 25, 2003, may continue to receive their full annuity and salary upon appointment and shall not have their salary offset by their annuity or further retirement deductions. An exception applies for certain discontinued service retirement (DSR) annuitants who are receiving annuities based on involuntary separation for reasons other than for cause based on misconduct or delinquency. A DSR annuitant hired by DoD after November 25, 2003, may elect retirement contributions and earn further retirement credit in lieu of receiving their full salary plus annuity. See CSRS/FERS Handbook ***Chapter 44***.

C. Former Members of Congress

1. Suspension of Annuity upon Reemployment. The CSRS annuity of a retired Member of Congress is generally suspended when the annuitant becomes reemployed or accepts an appointment. See 5 U.S.C. § 8344(d). Contact OPM Retirement and Insurance Programs, Annuitant Services Division, Washington, DC 20415 for further guidance regarding reemployment of Members.

2. Supplemental or Redetermined Annuities. Members of Congress are not covered under the provisions for supplemental or redetermined annuities. The agency retirement counselor should contact OPM concerning the benefits for reemployed former Members.

100402. Prorating Annuities for Appropriate Reductions of Wage and GS Salaries

A. General. Upon reemployment, the HRO provides the SF 50, Notification of Personnel Action, data to the PRO as to the amount of annuity paid to a reemployed annuitant.

B. Employees Retired from the Competitive Service. A reemployed annuitant, who retains his or her annuity, shall have his or her salary reduced by a sum equal to the retirement annuity allocable to the period of actual employment. The appropriate reduction and adjusted salary shall be determined as follows:

1. An annuitant reemployed on an annual pay basis shall have his or her per annum salary reduced by the amount of the annual annuity. The remainder of the salary is computed in amounts payable on a biweekly pay period basis. Payment for overtime worked is based on an annuitant's full rate of basic pay before any reduction by the amount of their annuity.

2. An annuitant reemployed on an hourly pay basis shall have his or her daily or hourly rate of pay converted to the per annum equivalent. The per annum rate is reduced by the total amount of the annuity being received by the employee. The remainder converts to a per diem or per hour rate, as appropriate.

3. The PRO adjusts the reimbursement to OPM following increases in an annuity as provided in the CSRS and FERS Handbook and any OPM instructions issued with periodic cost-of-living adjustments.

C. Former Members of Congress. A former Member of Congress who is employed in an appointive position on an intermittent service basis, and who retains his or her annuity, shall have his or her salary reduced by a sum equal to the retirement annuity allocable to the period of actual employment. The amount of annuity allocable to each pay period shall be processed as a payroll deduction rather than as a reduction in pay period earnings, as is the case with reemployed competitive service annuitants. Therefore, annuities withheld shall not reduce earnings for tax and other purposes. Annuities withheld in the case of former Members of Congress shall be remitted to OPM.

100403. Processing

Retirement deductions are optional for CSRS reemployed annuitants, and there is no requirement for a matching government contribution. Retirement deductions are required for FERS reemployed annuitants, as are government contributions. These deductions are computed on the reemployed annuitant's basic pay before any offset due to receipt of an annuity. Deductions for Medicare (CSRS employees) or Social Security/Medicare (FERS employees) are computed on the amount remaining after subtracting the annuity offset, in accordance with Social Security Administration guidance. The PRO computes Federal, state, and local taxes on the amount remaining after subtracting the annuity offset. A reemployed annuitant may not be credited with sick leave that was reported to OPM for use in the calculation of the employee's annuity. Sick leave used in the annuity computation is charged against an employee's sick leave account and is considered used. The sick leave may not thereafter be used, transferred, or recredited. See 5 C.F.R. 630.407.

100404. Computation of Lump-Sum Leave Pay

Under the provisions of 5 U.S.C. § 8344, the lump-sum payment for unused annual leave payable to a reemployed annuitant upon separation will be computed on the basis of the employee's wage or salary rate fixed for his or her position or occupation without reduction for the amount of annuity received by the employee. This includes reemployed annuitants who are retired from the competitive service or who are former Members of Congress.

1005 DECEASED EMPLOYEES

100501. General

Procedures governing the settlement of accounts of deceased civilian employees are set in ***5 U.S.C. § 5581-5583*** and ***5 C.F.R. 178.201-208***. An employee may designate a beneficiary or beneficiaries to receive his or her unpaid compensation using an SF 1152, Designation of Beneficiary for Unpaid Compensation of Deceased Civilian Employee. If no beneficiary has been designated by the employee, payment is made pursuant to the order of precedence set out in ***5 U.S.C. § 5582(b)***. Deceased civilian employees also include former employees who die after

separation from the employing installation, but prior to receiving final pay and allowances. The procedures do not apply to the settlement of accounts for deceased Members of Congress or to the employees of certain Federal banks. For death gratuity payments, refer to paragraph 100509.

100502. Unpaid Compensation

The settlement of a deceased employee's account includes payment of any unpaid compensation due the employee in the form of pay, allowances, or other amounts due at the time of death including, but not limited to:

A. Current salary (including any retroactive salary), including cost-of-living allowances, overtime and premium pay;

B. Unclaimed or unnegotiated checks;

C. Cash awards;

D. Foreign and non-foreign area differentials and allowances;

E. Lump-sum annual leave payment;

F. Travel reimbursement; or

G. Severance pay.

100503. Payment of Unpaid Compensation due a Deceased Employee

When the HRO is notified of the death of an employee, the HRO forwards a copy of the employee's SF 1152 (if available) and all SF 1153s, Claim for Unpaid Compensation of Deceased Civilian Employee, submitted by claimants to the PRO. Claimants must provide supporting documentation as requested by the PRO. Upon notice of the death of a civilian employee, the PRO prepares an SF 1154, Public Voucher for Unpaid Compensation Due a Deceased Civilian Employee, to permit prompt payment of the amounts due. If undisputed, the unpaid compensation due to a deceased employee may be paid directly by the agency to the designated beneficiary/beneficiaries or, if none, to the person or persons eligible for payment under the order of precedence set out in 5 U.S.C. § 5582 and 5 C.F.R. 178.204. Disputed claims for unpaid compensation due to a deceased employee are submitted to the OPM Office of Merit Systems Oversight and Effectiveness (OMSOE) for settlement.

A. Undisputed Claims for Unpaid Compensation. Direct payment is permitted to claimants who are legally entitled to an employee's unpaid compensation. When paying more than one beneficiary, the PRO applies percentages due each beneficiary as specified by the deceased employee on the SF 1152. If the SF 1152 does not specify percentages, the total amount of unpaid compensation should be divided equally among the eligible claimants. The SF 1152 must be signed by the employee and filed with the employee's employing activity prior to his or her death. Legal claimants are determined based on the following order of precedence:

1. First, to the beneficiary or beneficiaries designated by the employee in writing (SF 1152) received in the employing agency before his or her death.

2. Second, if there is no designated beneficiary, to surviving spouse of the employee.

3. Third, if none of the above, to the child or children of the employee, and descendants of deceased children by representation.

4. Forth, if none of the above, to the parents or surviving parent of the employee.

5. Fifth, if none of the above, to the duly appointed legal representative of the estate of the employee.

6. Sixth, if none of the above, to the person or persons entitled under the laws of the domicile of the employee at the time of his or her death.

B. Disputed Claims. Disputed claims include those claims where doubt exists as to the amount or validity of the claim or as to the person properly entitled to payment. Disputed claims may also include unnegotiated or undelivered checks for money due to the decedent. Disputed claims are submitted to OMSOE in accordance with 5 C.F.R. 178.102 and 5 C.F.R. 178.207 either by the claimant or by the agency on the claimant's behalf. After the OMSOE settles the dispute and certifies the SF 1154, the form is returned to PRO for payment. Any disputed claim being submitted to OMSOE should first be coordinated through the Defense Finance and Accounting Service (DFAS) Office of General Counsel. To submit a disputed claim to OMSOE for settlement, the PRO must take the following action:

1. Write a letter of transmittal to the office identified in Chapter 8 which includes the following:

a. A statement regarding designation of beneficiary;

b. A statement explaining why referral to OMSOE is recommended. As appropriate, cite unusual circumstances surrounding the death of the employee or eligibility of the claimant(s) to receive the unpaid compensation;

c. A statement with the amount of the claim and any indebtedness; and

d. A statement that the claim must be settled by OMSOE before it can be paid.

2. Attach the following to the letter of transmittal:

a. The written claim in the form and manner prescribed by 5 C.F.R. 178.102 and 178.207, including the agency's administrative report;

b. The original SF 1154 and sub-vouchers with the statement "Payment after OMSOE Settlement." in the block for the name of the payee; and

c. The certified copy of the leave record and time and attendance report for the period covered by the voucher.

100504. Computation of Amount Due

The PRO computes the employee's pay earned through the date of death and any lump-sum payment for unused annual leave due the employee. The PRO must post the payment on a regular biweekly payroll disbursement voucher or a special payroll voucher with a charge to the applicable appropriation and other applicable accounting information. The following instructions govern deductions from the unpaid salary.

A. Retirement. If the employee was covered by a retirement system, deduct the retirement contribution from the unpaid salary earned through the date of death.

B. Social Security and Medicare Portions of the Federal Insurance Contributions Act (FICA) Tax. If the employee was subject to Social Security/Medicare, deduct for Social Security/Medicare tax from unpaid salary paid in the same calendar year as the employee's death. See Internal Revenue Service ***(IRS) Circular E***. Gross wages paid in the calendar year through the date of death, subject to the statutory limitation, are subject to Social Security/Medicare. The PRO must withhold Social Security/Medicare taxes from wages paid to a beneficiary or to the estate of the deceased employee in the same calendar year that the employee died. If the PRO makes a payment after the calendar year of employee's death, wages are exempt from Social Security/Medicare taxes.

C. Federal Income Tax. A deceased employee's unpaid wages are not subject to federal income tax withholding in either the calendar year in which the employee died or afterward. The PRO does not deduct Federal income tax withholding from unpaid salary earned by an employee through the date of death. See IRS Circular E.

D. State Tax. The PRO does not deduct withholding for state, territory, or District of Columbia income tax from the unpaid salary and lump-sum leave earned by an employee through the date of death.

E. Local Tax. The PRO does not deduct withholding for local taxes from the unpaid salary and lump-sum leave earned by an employee through the date of death.

F. FEHB. If a survivor is eligible to continue enrollment, withholding for premiums are made using the daily proration rule according to Chapter 4. If there is no eligible

survivor, or the employee maintained self-only enrollment, a full premium deduction is withheld for the pay period during which the employee died. See Chapter 4.

G. FEGLI. If the employee was subject to FEGLI, the PRO must withhold deductions for premiums for the periods for which pay is due, including the pay period during which death occurred.

H. Thrift Savings Plan (TSP). The PRO must make deductions for TSP contributions and any TSP loans outstanding.

I. Allotments. The PRO does not make allotment deductions for the pay period in which death occurred.

J. Other Deductions. The PRO must make any other required deductions, such as for any indebtedness owed by the employee.

100505. Lump-sum Payment for Accrued Leave

The PRO does not deduct retirement, federal, state, or local income tax, health benefits, or life insurance from the lump-sum payment.

100506. Preparation of Tax Statement

A. Decedent Form W-2 (Wage and Tax Statement). Gross amounts of final pay for the pay period of death plus any lump-sum annual leave payments must be reported as Social Security wages (box 3) and Medicare wages (box 5) only if these amounts are paid to the estate or beneficiary in the same year that the death of the employee occurs. The Social Security and Medicare taxes withheld are reported in boxes 4 and 6. These amounts are not included as wages, tips, or other compensation in box 1. The PRO does not report payments made after the year of death on a Form W-2 and will not withhold Social Security and Medicare taxes.

B. Miscellaneous Income. The PRO will take the following actions:

1. Prepare a ***Form 1099-MISC***, Miscellaneous Income, for amounts payable to the decedent's estate or to beneficiary(s) whether the PRO makes the payment in the year of death or after the year of death;

2. Report the payment in box 3, "Other income";

3. Include the gross amounts of final pay for the pay period of death, lump-sum annual leave, and other moneys such as travel reimbursements; and

4. Enter the name and Social Security Number (SSN) of the individual if the recipient of the payment is an individual beneficiary. Enter the name and Federal tax identification number for the estate if the recipient of the payment is the Employee's estate.

100507. Transfer of Funds

The unpaid compensation is placed in the deposit fund suspense account X6276, Other Federal Payroll Withholding, Allotments, pending receipt of a claim for the compensation. If a claim has not been received within 1 year from the date on which the amount was placed in the deposit fund suspense account, transfer the funds.

A. Any unpaid compensation that meets the following criteria is transferred into fund account 20X6133, Payment of Unclaimed Moneys:

1. The amount is $25 or more;

2. A refund, upon claim, would be absolutely justified;

3. There is no doubt as to legal ownership of the funds; and

4. A named individual can be identified with the item.

Subsequent payment of claims from this account is made by preparing an SF 1154 citing account 20X6133 and the account of the disbursing officer that supports the consolidated PRO.

B. The PRO must transfer to miscellaneous receipt account –1060, Forfeitures of Unclaimed Money and Property, if the claim for unpaid compensation is less than $25 or amounts greater than $25 do not meet all the provisions for account 20X6133. Subsequent payment of claims from this account is made by preparing an SF 1154 citing account 20X1807, Refund of Money Erroneously Received and Recovered, and the account of the disbursing officer who supports the consolidated PRO. See Department of Treasury Financial Manual, ***Chapter 3000***.

100508. Life Insurance Status for Employee Death Cases within the Department

When an employee dies, the SF 2821, Agency Certification of Insurance Status, is processed according to the guidance in the FEGLI Handbook. The same official cannot make the dual certifications of personnel and payroll record data on the SF 2821. To reduce the time survivors or beneficiaries must wait for FEGLI benefit payments; expedite the processing of the SF 2821.

A. For Collocated HROs and PROs. Upon notification of an employee's death, HRO shall complete and forward the SF 2821 to the servicing PRO for certification. The PRO certification will be completed, and all copies of the SF 2821 returned to the HRO within 24 hours of receipt.

B. For HROs Geographically Separated from PROs. Upon notification of an employee's death, HRO shall complete and mail the SF 2821 to the PRO for certification. The PROs certification will be completed within 24 hours of receipt, and all copies of the completed SF 2821 will be express mailed back to the HRO.

*100509. Death Gratuity Payments for Federal Employees

A. $10,000 Death Gratuity. ***Public Law (P.L.) 104-208*** authorizes agencies to pay a death gratuity payment not to exceed $10,000 to the personal representative of any federal employee who dies from an injury sustained in the performance of duty on or after August 2, 1990. The gratuity is also payable if the employee died after separating from service and the death was a direct result of injuries received in the line of duty on or after August 2, 1990. The following information should be considered when making the $10,000 death gratuity payment:

1. The gratuity payment, when combined with certain other payments, may not exceed $10,000. Other payments include the $200 payable under ***5 U.S.C. § 8133(f)*** for reimbursement of the cost of termination of the decedent's status as an employee of the U.S. and up to $800 payable under ***5 U.S.C. § 8134(a)*** for funeral and burial expenses. Pursuant to DCPAS guidance, the death gratuity is payable only if the death claim is approved by OWCP.

2. The gratuity payment is not considered wages for the purpose of Social Security, Medicare, or federal, state, or local tax withholding. A ***Form 1099-R***, "Distributions for Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc." must be prepared by the PRO and forwarded to the personal representative.

* B. Death Gratuity under 5 U.S.C. § 9904. Under the provisions of ***5 U.S.C § 9904***, DoD civilian employees who are assigned to certain activities outside the United States determined to be hazardous to life or health or that involve specialized security requirements may be eligible for benefits comparable to those provided under ***22 U.S.C. § 3973*** by the Secretary of State to members of the Foreign Services**.** Pursuant to 22 U.S.C. § 3973 a death gratuity is paid when an employee dies as a result of injuries received in the performance of duties. The gratuity is equal an amount equal to level II of the Executive Schedule under section 5 U.S.C. 5313, at the time of an employee's death. This gratuity payment shall be made as follows, regardless of other beneficiaries designated to receive any other benefits:

1. First, to the widow or widower, as defined under ***5 U.S.C. § 8101(6) and (11)***.

2. Second, to the child, or children as defined under 5 U.S.C. § 8101(9), in equal shares, if there is no widow or widower.

3. Third, to the dependent parent, or dependent parents, as defined under 5 U.S.C. § 8101(7), in equal shares, if there is no widow, widower, or child.

If there are no survivors as indicated subparagraph 100509.B., the death gratuity shall not be paid. For additional information, see DoD DCPAS ***Memorandum, December 27, 2011***, Continuation of Certain Benefits, Allowances and Gratuities.

C. Death Gratuity for Service with Armed Forces in a Contingency Operation. ***Title 5 U.S.C. § 8102a*** provides a death gratuity of up to $100,000 to the survivors of a federal employee who dies from injuries received in connection with services performed with an Armed Force in a contingency operation. The gratuity is reduced by the amount of any death gratuity payments that have been paid under any other law of the U.S. based on the same death. See ***20 C.F.R. 10.916***. OWCP is responsible for administering and adjudicating all claims under this authority. For additional information, see 20 C.F.R. 10, ***Subpart J***. See also ***DOL Death Gratuity Page***.

1006 EXPERTS AND CONSULTANTS

100601. General

An agency may make excepted service appointments to hire experts and consultants. Agencies may appoint experts and consultants on a temporary basis (i.e., not to exceed 1 year) or an intermittent basis (i.e., without a regularly scheduled tour of duty) under ***5 U.S.C. § 3109*** and ***5 C.F.R. 304***. PRO pays experts and consultants based on the SF 50 data received from the HRO. See also the Director of Administration and Management, Administrative Instruction ***Number 2***, Employment of Experts and Consultants. Experts and consultants appointed under 5 U.S.C. 3109 are considered to be Federal civil service employees under 5 U.S.C. 2105. See 5 C.F.R. 304.101. Unless expressly provided otherwise, they are covered by laws applicable to Federal employees, including pay and leave requirements.

100602. Setting Pay on Initial Appointment

Determining the appropriate rate of basic pay for experts and consultants, including a decision to pay no salary, is made on an individual case basis. The rate of basic pay may be an hourly or daily rate. Normally, pay is set equal to a GS rate in grades GS-13 through GS-15. Unless specifically authorized by an appropriation or other statute, the highest payable rate is the daily rate for GS-15, step 10, or if paid on a biweekly basis, the biweekly rate for GS-15, step 10 (both excluding locality pay or any other additional pay). See 5 C.F.R. 304.105 for daily and biweekly basic pay limitations.

100603. Overtime and Premium Pay

A. Overtime. Experts and consultants paid on a daily rate basis are not normally entitled to overtime pay under 5 U.S.C. § 5542, regardless of the number of hours worked. Nevertheless, the designation of a regular tour of duty in the appointment documents does not necessarily preclude receipt of compensation at the agreed daily rate for work performed outside of that tour of duty. For example, if such an employee works 6 days a week, the 6th day is paid at the straight time rate rather than the overtime rate. Experts and consultants employed on a daily basis may be paid the rate of basic compensation for work on days outside the prescribed tour of duty, provided the compensation within any biweekly pay period does not exceed the rate of basic pay for Level V of the Executive Schedule. Experts and consultants who are nonexempt under the Fair Labor Standards Act (FLSA) may be entitled to overtime pay. Overtime must be authorized and approved in advance by an appropriate official.

B. Holiday Pay. Experts and consultants with a regularly scheduled tour of duty (i.e., not intermittent) are entitled to pay for any holiday occurring on a workday on which they perform no work, provided that workday is part of the basic workweek. Those employed on an intermittent basis do not earn leave and are not entitled to paid holidays. See 5 C.F.R. 304.106.

100604. Salary Increases

Experts and consultants are not automatically entitled to an equivalent pay increase when the GS is adjusted under ***5 U.S.C. § 5303*** unless noted in an appointment document. However, agencies may adjust expert or consultant pay on an ad hoc basis, subject to the limitations of 5 C.F.R. 304.105. The SF 50 data from the HRO notifies the PRO of the proper salary increase.

100605. Exception from Dual Pay Restriction

Generally, an individual is prohibited by statute from receiving basic pay from more than one position for more than an aggregate of 40 hours of work in 1 calendar week. An exception to this restriction is provided for an individual who earns pay for service on an intermittent basis from more than one consultant or expert position, provided the pay is not received for the same hours of the same day. See ***5 U.S.C § 5533(d)(1)***.

100606. Annual and Sick Leave

A. An expert, consultant, or other employee who serves on an intermittent or other basis without a prearranged regular tour of duty does not earn annual and sick leave. See 5 U.S.C. § 6301(2)(B)(ii).

B. An expert or consultant who serves on a regularly prescribed tour of duty, full-time or part-time, earns annual and sick leave. HRO shall determine the regular tour of duty in advance and annotate the appointment document specifically to show whether the employee earns leave. The accrual rate is the same as for other full-time and part-time federal employees as discussed in 5 C.F.R. 630. See 5 C.F.R. 304.106.

100607. Retirement

Experts and consultants are appointed on a temporary or an intermittent basis and therefore, they are not covered under the federal retirement systems. See 5 C.F.R. 831.201 and 842.105. However, coverage is continued for an employee who is currently covered by a Federal retirement system and who is later appointed as an intermittent or temporary (full-time or part-time) expert or consultant without a break in service or after a separation from the service of 3 days or less.

100608. FEGLI

Experts and consultants are ineligible for FEGLI due to their temporary or intermittent appointment status. However, coverage is continued if an employee currently covered by FEGLI

is appointed as an intermittent or temporary appointment (full-time or part-time) expert or consultant without a break in service or after a separation from the service of 3 days or less. To continue life insurance coverage for an intermittent employee, there must be an expectation that the employee will return to the previous position on a full-time basis.

100609. FEHB

Employees in an expert or consultant position who are expected to work 130 hours per month for at least 90 days will be eligible to enroll in an FEHB plan. These eligible employees will receive the same government contribution as full-time permanent employees. See 5 C.F.R. 890.102 and BAL 14-210.

1007 LEGALLY INCOMPETENT EMPLOYEES

100701. General

The HRO must notify the PRO in writing when an employee is found to be legally incompetent. The HRO sends the PRO the SF 50 data showing the employee's separation because of mental incompetence. The agency may also place the employee on an extended leave of absence by means of an SF 50 action. The PRO makes no payments to the employee once HRO informs the PRO that the employee is declared legally incompetent. A claim must be filed on the employee's behalf before the pay account can be settled. No specific form is required to file a claim for amounts due mentally incompetent or former employees. The claim must be filed in writing over the signature of the person claiming on behalf of the legally incompetent employee. If the claim is from a claimant other than a guardian or committee, the servicing PRO's Office of General Counsel should be consulted prior to making payment.

A. Guardian or Committee. The initial claim filed by the guardian or committee of the estate of a legally incompetent employee shall be accompanied by a certificate of the court showing the appointment and qualification of the claimant as guardian or committee. After making the first payment, the PRO may make subsequent recurring payments to the same payee without further claim as long as the appointment as guardian or committee remains in effect and the matter is otherwise free from doubt. Each subsequent payment voucher must include a citation to the voucher upon which the initial claim was paid.

B. Other than Guardian or Committee. If a guardian or committee has not been appointed and will not be appointed, a sworn statement that includes the following information to support the initial claim:

1. The claimant's relationship to the legally incompetent employee, if any;

2. The name and address of the person having care and custody of the legally incompetent employee;

3. A remark that any amount paid to the claimant shall be applied only to the use and benefit of the legally incompetent employee; and

4. A remark that no appointment of a guardian or committee is contemplated.

100702. Claim Action

Upon receipt of a claim, consider the proposed date of separation to determine whether compensation is due currently or a payroll voucher for final settlement should be processed. To avoid invalid payments when the employee is on extended paid leave, the HRO must monitor the case for any changes in the employee's condition and immediately advise the PRO.

100703. Processing Claims

The PRO may pay claims for unpaid amounts owed to legally incompetent employees unless the PRO doubts the amount or validity of the claim or it doubts the claimant's entitlement to the payment.

A. Any unclaimed, undelivered, or uncashed salary checks drawn in favor of the employee must be returned to the disbursing officer for cancellation and credit to the appropriation or fund originally charged.

B. The PRO must post the net amount of any returned check to the appropriate pay record. Adjustment of the items originally deducted from the gross pay is not required if the proceeds of the check are due the employee. If the proceeds of the check are not due, the PRO must prepare an SF 1098, Schedule of Canceled or Undelivered Checks, to cancel the check and must adjust entries for the deductions from gross pay.

C. The amount to be paid to the claimant must be computed and must include any further payments due to the employee for each pay period in the regular payroll cycle (for example, payments due when the employee is carried on sick leave). The PRO must take the following actions:

1. Prepare a statement for all arrears of pay due. Include the net amount of any uncashed checks if the proceeds are due.

2. Enter the following on the payroll voucher such as on a Department of Defense (***DD) Form 592***, Payroll for Personal Services, Certification, and Summary under "OTHER:"

a. The term "Mentally Incompetent Employee";

b. The name of the proper claimant and capacity in which serving, followed by the name and SSN of the mentally incompetent employee;

c. The citation of the designated deposit fund account; and

d. The amount the claimant is due.

3. Upon receipt of a properly executed claim supported by a court certificate showing guardianship or sworn statement from the claimant, the PRO shall disburse funds from the deposit fund account designated on the payroll voucher to the claimant. See Volume 5, Chapter 11. The claimant's name and address must appear on the voucher along with the employee's name, SSN, and the pay period. The voucher is forwarded to the disbursing officer for payment.

4. Forward a copy of the processed voucher to the claimant. A copy should also be filed in the employee's file.

5. Include in the final payment any lump-sum payment for annual leave and any other salary amount to which the employee is entitled.

6. Record the official date that the employee is declared legally incompetent in the payroll records.

100704. Processing Doubtful Claims for OPM Certification

Doubtful claims are submitted to OPM following these procedures:

A. Prepare the voucher for the net amount due to a mentally incompetent employee per paragraph 100703. This voucher along with the required number of copies is sent to OPM. After OPM certifies the voucher, it will be returned to the submitting PRO for payment.

B. Enter "Local Payment After OPM Certification" on the face of the voucher. OPM adds the name and legal capacity of the claimant on the voucher.

C. Certify the voucher and attach the following:

1. A legal authorization of the claimant including any certificate of the court showing appointment and qualifications of the claimant;

2. A claim submitted by the claimant such as a letter from the guardian or administrator;

3. A statement of the doubtful aspects and the reason the PRO recommends referral of the claim to OPM; and

4. A certificate stating that the claim has not been paid and will not be paid until certified.

D. Retain a copy of the voucher and supporting documents in the employee's file.

1008 MISSING PERSONS, CAPTURED OR INTERNED

100801. General

Civilian personnel who are determined officially to be missing are entitled to continued pay and allotments from their pay under the Missing Persons Act (***5 U.S.C. § 5561-5568***) and the Terrorism Compensation Act (***5 U.S.C. § 5569***). Missing status includes persons:

A. Missing;

B. Missing-in-action;

C. Interned in a foreign country;

D. Captured, beleaguered, or besieged by a hostile force; or

E. Detained in a foreign country against the employee's will.

100802. Actions by the Payroll Office

A. Upon receipt of an official determination that a civilian employee is in a missing status, return any unclaimed or un-cashed checks to the disbursing area.

B. The PRO retains responsibility for the employee's pay, leave, and retirement records.

C. The initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of an allotment from the pay and allowances of an employee in a missing status, is authorized when that action is in the interests of the employee, the dependents, or the U.S. See ***5 U.S.C. § 5563***.

1. Allotments authorized by an employee before the missing status began normally continue for the period of absence.

2. The missing employee's dependents may receive an allotment of the employee's pay. Dependent payments cannot exceed the employee's net pay. The needs of the dependents, the number of dependents and their relationship to the employee, however, should be considered when determining the payment amount. If possible, reserve a reasonable amount each pay period to ensure that the employee will have funds available upon return.

D. The pay and allowances of a missing employee in a captive status may be allotted to an interest bearing savings fund established by the Secretary of the Treasury. See 5 U.S.C. § 5569. Captive status means a missing status, which, as determined by the President,

arises, because of a hostile action and is a result of the individual's relationship with the government. All or any portion of the employee's pay and allowances may be allotted to the extent that such pay and allowances are not subject to an allotment under 5 U.S.C. § 5563 as outlined in subparagraph 100802.C.

E. Maintain the pay account on a pay-period basis. Include normal deductions for retirement, FICA, federal and state income tax withholding, FEHB, and FEGLI in the totals for the regular payroll voucher.

F. Establish a special leave account to restore any annual leave forfeited by an employee while in a missing status after January 1, 1965.

100803. Termination of Absence

Employees should not be separated from Federal service while they are entitled to pay and allowances under the Missing Persons Act (see 5 U.S.C. § 5561-5568).

A. If an employee returns from a missing status, the PRO must voucher the balance withheld from the employee and furnish a list of allotments started and paid in the employee's absence. The accounting classification must be charged to what was current when the pay accrued. The employee may initiate any allotment discontinuances or changes for any allotments that started or changed during the absence. The PRO will pay future salaries using normal payroll procedures.

B. If the employee returns from missing status, a statement of the special leave account balance must be furnished to his or her HRO. The employee must elect, in writing, to receive either a payment or credit for the leave. If the employee requests payment, the PRO must make the payment at the employee's rate of pay in effect at the time of the forfeiture of the leave.

C. If the HRO receives an official notice of the employee's death or presumed death, the PRO will take action as outlined in Section 1005.

D. If the employee returns from missing status, the agency must charge the pay adjustment or final settlement, including local allotment payments to dependents, to the employee's appropriated fund account.

1009 AUTHORITY FOR TEMPORARY ASSIGNMENTS

The authority for temporary assignments of employees between executive agencies and State, local, and Indian Tribal Governments, institutions of higher education, and other eligible organizations is found in ***5 U.S.C. § 3371-3376*** and ***5 C.F.R. 334***. An employee's pay and leave provisions will be included in the employee's written assignment agreement as required by 5 C.F.R. 334.106.

1010 EMPLOYEES TRANSFERRED TO INTERNATIONAL ORGANIZATIONS

101001. General

An agency may detail or transfer an employee to any organization that the Department of State has designated as an International Organization (IO). See ***5 U.S.C. § 3581-3584*** and ***5 C.F.R. 352, Subpart C***. A detail or transfer may not exceed 5 years; however, this may be extended 3 additional years upon the approval of the head of the agency. An employee who is transferred is entitled to be reemployed in his or her former position, or one of like status, within 30 days of his or her application for reemployment.

101002. Computation of Deductions

Under ***5 U.S.C. § 3582***, an employee who transfers to an IO may elect to keep coverage for retirement, FEGLI, and FEHB. The agency continues to make the agency contributions to the funds, and the employee's coverage continues as long as the employee's share of the payments remains current.

A. The PRO computes the retirement and FEGLI on the rate of basic compensation the employee was receiving at the time of transfer. If these amounts are changed by law or regulation while an employee is serving with an IO, the amounts will be recomputed based on notification from the HRO and the employee and the IO will be notified (if applicable) of the effective date and new amount. For regulations on retirement and FEGLI, refer to 5 C.F.R. 352.309. When the SF 50 data is received showing a step increase, or a general pay increase, the amounts due are recomputed.

B. The PRO computes FEHB based on the cost of the plan of the employee's choice. If the enrollment cost changes while the employee is serving with an IO, the PRO must recompute the amount based on notification from the HRO and notify the employee and the IO (if applicable) of the effective date and new amount.

101003. Payments from Transferred Employees

The HRO advises transferred employees to make payments for retirement, FEHB, and FEGLI promptly for each pay period. Payments are current if received within 3 months after the end of the pay period covered by the payment. See 5 C.F.R. 352.309(d). The PRO advises the HRO and carrier for FEHB of any delayed payments. If payments are not timely, coverage terminates on the last day of the pay period for which the required payment was timely, subject to a 31-day extension of FEGLI and FEHB as provided in Chapter 11.

101004. Accounting for Payments

A ***DD Form 1131***, Cash Collection Voucher, is used to deposit amounts received from either the individual or the employing organization into a deposit fund established for such purposes. An SF 1080, Voucher for Transfers Between Appropriations and/or Funds, or SF 1081, Voucher and Schedule of Withdrawals and Credits, is used to transfer the employer's

contribution, if required, from the appropriation which would have been charged for the employee's pay to the proper deposit fund account. Total amounts (employee payments and government contributions) are included on the SF 2812A, Report of Withholdings and Contributions for Health Benefits by Enrollment Code, submissions to OPM through the Retirement and Insurance Transfer System (RITS). RITS calculates and tracks obligation due dates and payment timeliness. The PRO posts the total annual retirement costs paid by the employee to the employee's SF 2806 or SF 3100; the "Remarks" section reflects the employee's status. The IO keeps the SF 2806 or the SF 3100 for the entire term of employment, unless OPM asks for the form(s).

101005. Thrift Savings Plan (TSP)

An employee, who transfers to an IO, is not eligible to participate in the TSP while employed by the IO even if they elect to retain federal retirement coverage. However, upon reemployment, an employee who elected to retain federal retirement coverage while employed by the IO and has made all deposits required for such coverage may make contributions to the TSP which they missed as a result of the service with an IO, and receive make-up agency contributions, as provided under 5 C.F.R. 352.311(e).

101006. Leave Account

Employees who are transferred to an IO may elect to receive payment for accumulated annual leave or have it remain to their credit until they return to federal employment. Employees also may request payment at any time before reemployment. The HRO sets the date of separation to allow employees to use all accumulated annual leave that might otherwise be forfeited. The PRO prepares and delivers an extra copy of the SF 1150, Record of Leave Data, to the employee. Upon reemployment, the PRO uses a copy of the SF 1150 to recredit sick leave and annual leave, if applicable. If the employee is paid the balance of his or her leave and is reemployed within 6 months after transfer, he or she shall refund to the agency the amount of the lump-sum payment. See 5 U.S.C. § 3582 and Chapter 3.

101007. Equalization Allowances

Equalization allowance provisions that had been in Title 5, U.S.C. § 3582(b) were replaced by ***P.L. 105-277, Section 2504***, with a requirement for agencies to provide an employee reemployed after transfer to an IO with the rate of basic pay to which the employee would have been entitled had the employee remained in the civil service. The equalization allowance had guaranteed payments to an employee who transferred to an IO in an amount no less than the amount the employee would have received had the employee been detailed to the IO.

101008. Retirement

An employee who transfers from a position covered by CSRS, CSRS-Offset, or FERS to a public IO may continue retirement coverage for up to 5 years of such service or up to 8 years if authorized by the Secretary of State. See CSRS and FERS Handbook, ***Chapter 12***.

*1011 TEMPORARY AND TERM EMPLOYMENT

101101. General

Temporary and term appointments are used to fill positions when there is not a continuing need for the job to be filled. Employees occupying either category of appointment are not entitled to competitive status or reinstatement eligibility. Because temporary and term employees do not have status, they may not apply for permanent appointments while employed in these position through merit promotion. See 5 C.F.R. Part 316.

101102. Temporary Employment

A. Appointments. Pursuant to 5 C.F.R. 316, Subpart D, an agency may make a temporary appointment to:

1. Fill a short-term position that is not expected to last more than 1 year;

2. Meet an employment need that is scheduled to be terminated within 1 year (or at most, 2 years) for reasons such as reorganization, abolishment, or contracting out of the function, anticipated reduction in funding, or the completion of a specific project or peak workload; or

3. Fill positions on a temporary basis when the positions are expected to be needed for placement of permanent employees who would otherwise be displaced from other parts of the organization.

B. Benefits. Temporary employees are eligible to earn annual and sick leave and are covered by Social Security and unemployment compensation, but do not receive the other benefits provided to career civil service employees. Employees in a temporary position who are expected to work 130 hours per month for at least 90 days are eligible to enroll in an FEHB plan. These eligible employees will receive the same government contribution as full-time permanent employees. See 5 C.F.R. 890.102 and BAL 14-210. Temporary employees are generally ineligible for coverage under FEGLI or the Federal employees' retirement systems.

101003. Term Employment

A. Appointments. An agency may make a term appointment for more than 1 year but not more than 4 years to positions where the need for an employee's services is not permanent. Agencies may extend term appointments up to the 4-year limit in increments as determined by the agency. See ***5 C.F.R. 316, Subpart C***.

B. Benefits. Term employees are eligible to earn annual leave and sick leave. Term employees are also eligible for coverage under FERS, FEHB, and FEGLI. Term employees can work full or part-time work schedules and are eligible for promotions and within-grade increases upon satisfying the required waiting period.

1012 EMPLOYEES WHOSE WHEREABOUTS ARE UNKNOWN

In the event an employee's whereabouts are unknown and payment cannot be made to the employee, refer to Volume 5, Chapter 7 for guidance.

1013 AIR TRAFFIC CONTROLLERS (ATC)

101301. General

ATCs are employees in an ATC facility (i.e., tower, ground-controlled approach, and approach control), actively engaged in the separation and control of air traffic or in providing preflight, in-flight, or airport advisory service to aircraft operations, or the immediate supervisor of any such employee. See ***DoDI 1400.25-V331***, Civilian Air Traffic Controllers.

101302. Overtime

All overtime work scheduled in advance of the administrative workweek on a day containing part of an ATC's basic 40-hour workweek must be compensated under 5 C.F.R. 550.111.

101303. Premium Pay

Differential pay is authorized for certain DoD employees. The Secretary of Defense has authorized five percent ATC premium pay under ***5 U.S.C. § 5546a(a)(1)***. The payment of the premium is mandatory for Defense ATCs who are in the GS-2152 occupational series and occupy a position no lower than GS-9 at air traffic control centers, terminal or flight service stations. The HRO provides this information to the PRO via an SF 50.

101304. Leave

Leave accruals are based on guidelines published in 5 C.F.R. part 630.

101305. Mandatory Separation

Generally, under 5 U.S.C. § 8335(a) for CSRS employees and 5 U.S.C. § 8425(a) for FERS employees, an ATC who is otherwise eligible for immediate retirement must be separated from the federal service on the last day of the month in which the employee becomes 56 years of age. However, if the ATC has been granted a waiver of the mandatory separation age based on exceptional skills and experience, an ATC may delay separation until the day he or she becomes age 61. Additionally, an ATC, who has received a waiver of the maximum entry age under ***5 U.S.C. § 3307(b)*** may delay separation until the last day of the month he or she completes 20 years of service.

101306. Retirement

ATCs have unique retirement deduction percentages for CSRS and FERS coverage. OPM publishes the rates in the CSRS and FERS Handbook, ***Chapter 30***.

1014 PERSONNEL ON LONG-TERM FULL-TIME TRAINING

101401. General

Long-term, full-time training is defined as a training period of 120 consecutive workdays or more. See ***5 U.S.C. Chapter 41*** and ***5 C.F.R. 410***. Employees on long-term, full-time training are authorized payment of salary.

101402. Leave

If salary payments continue during the training period, annual and sick leave regulations apply. Leave is reported via the time and attendance reporting mechanism and is administered as specified for the following leave types:

A. Annual Leave. Personnel on long-term, full-time training shall continue to accrue annual leave. Ordinarily, an employee will be charged with annual leave during school vacation periods that fall on government workdays unless he or she returns to the work site or has made documented arrangements with his or her DoD point of contact to be actively involved in academic work. These documented arrangements should be accomplished well in advance of the vacation periods. Annual leave charges are reported to the PRO on the employee's time and attendance report. See ***OPM Training and Development Policy***.

B. Sick Leave. Personnel on long-term, full-time training continue to accrue sick leave. The agency should charge sick leave on the time and attendance report when the employee is unable to attend classes due to illness.

1015 EMERGENCY MEDICAL TECHNICIAN (EMT)

101501. General

This section applies to EMTs or paramedics who are not classified as firefighters.

101502. Tour of Duty

EMTs and paramedics work various schedules including the basic 40-hour workweek, compressed work schedules, and uncommon tours of duty. An uncommon tour of duty means an established tour of duty that exceeds 80 hours of work in a biweekly pay period. See 5 C.F.R. 630.201. Schedules and changes to tours of duty for an EMT or paramedic working uncommon tours must be on file in the employing activity/timekeeper site. Sleep and meal time also must be documented. The EMT's hourly rate is multiplied by 40 hours, and the base pay

and premium pay is based on this weekly rate regardless of the hours in the scheduled tour of duty for that week.

*101503. Overtime Computation

A. Standby Duty Pay

1. FLSA Nonexempt EMTs and paramedics are compensated for regularly scheduled overtime hours in excess of 40 hours in a week by the payment of annual premium pay for standby duty plus .5 times the employee's hourly regular rate for all overtime hours worked. If an EMT performs an additional 24-hour shift during a pay period, and the shift is scheduled in advance of the workweek, standby duty pay covers all regularly scheduled overtime hours, but the employee is entitled to .5 times the employee's hourly regular rate for all overtime hours worked. Sleep and meal periods during regularly scheduled tours of duty are hours of work for EMTs who receive annual premium pay for regularly scheduled standby duty. EMTs and paramedics are compensated for irregular or occasional hours of work in excess of 40 hours in a week by payment of the straight-time rate of pay for all irregular or occasional overtime hours of work plus .5 times the employee's hourly regular rate of pay times the overtime hours. When an employee works an additional 24-hour shift, which is irregular or occasional overtime work, the "two-thirds rule" will apply. Up to 8 hours of sleep and meal time (from a shift of 24 hours or more) are excluded from irregular overtime hours providing all regulatory conditions under ***5 CFR 551.432*** are met.

2. FLSA exempt EMTs and paramedics are compensated for regularly scheduled overtime hours in excess of 40 hours in a week by the payment of annual premium pay for standby duty. If an EMT performs an additional 24-hour shift during a pay period and the shift is scheduled in advance of the workweek, standby duty pay covers all regularly scheduled overtime hours. When an employee works an additional 24-hour shift that is irregular or occasional overtime work, overtime is paid in accordance with 5 C.F.R. 550.113 or 5 C.F.R. 550.114. The "two-thirds rule" will apply providing all regulatory conditions under ***5 CFR 550.112(m)*** are met.

* 3. On-duty sleep and meal periods during regularly scheduled hours for which standby duty premium pay under 5 U.S.C. § 5545(c)(1) are payable may not be excluded from hours of work. See ***5 C.F.R. 551.432(e)***.

B. Compressed Work Schedule. The customary FLSA standard of compensating an employee with overtime pay for all hours of work in excess of 8 hours in a day and 40 hours in a week does not apply to an employee covered by a compressed work schedule under ***5 U.S.C. § 6128***. For example: an EMT with a 12-hour day in their schedule will not be entitled to FLSA overtime until they work over the 12-hour schedule for the day.

101504. Charging Leave

One hour (or an appropriate fraction thereof) of leave shall be charged for each hour (or an appropriate fraction thereof) of absence from the uncommon tour of duty. For additional

guidance on leave accruals for EMTs refer to ***DoDI 1400.25-V630***, DoD Civilian Personnel Management System: Leave, and 5 C.F.R. 630.210. When an employee takes 24 hours of leave, 8 hours of sleep and meal time for that employee are deducted from actual hours of work under FLSA. Sleep and meal time for days of partial leave must be documented on the time and attendance report so that actual hours of work are shown. Sleep and meal time scheduled during leave periods shall be added to total sleep and meal time so that total hours of actual work and total hours of sleep and meal time will be shown. For employees with uncommon tours of duty established under 5 C.F.R. 630.201 and 5 C.F.R. 630.210, employees may be charged leave for regularly scheduled overtime hours outside the 40-hour basic workweek. Thus, such employees may receive applicable premium pay and FLSA overtime pay during hours of paid leave.

101505. Accruing Leave

Employees on uncommon tours of duty accrue and use leave on the basis of that uncommon tour. Accrual rates for such employees are directly proportional to the standard leave accrual rates for employees on an 80-hour biweekly tour of duty. See 5 C.F.R. 630.210(a). The number of hours in the uncommon tour is multiplied by the accrual rate divided by 80 ((uncommon tour of duty hours) x (accrual rate/80) = uncommon accrual rate). See table in DoDI 1400.25-V630. Employees on uncommon tours of duty repeating a cycle of more than 1 biweekly pay period (e.g., a 3 biweekly pay period cycle) accrue leave based on the average hours in the biweekly tour. For example, an emergency medical technician on a tour of duty of 96 hours for 1 biweekly pay period and 120 hours for each of the following 2 biweekly pay periods works an average tour of 112 hours per pay period, and accrues leave based on a 112-hour tour of duty.

101506. Premium Pay

The HRO determines the amount of the premium pay for the irregular tour of duty and reports it on the SF 50. An EMT employed as an intermittent employee is not entitled to premium pay on an annual basis, nor is he or she entitled to paid leave. An EMT is paid under regular overtime rules. Refer to 5 C.F.R. 551 for additional guidance on pay administration for EMTs under the FLSA.

1016 FIREFIGHTERS

101601. General

Firefighter pay is governed under 5 U.S.C. § 5542(f), ***5 U.S.C. § 5545b***, and 5 C.F.R. 550, Subpart M. A firefighter is an employee classified in the GS-0081 Fire Protection occupational series, which includes line firefighters, supervisory firefighters and fire inspectors whose regular tour of duty averages at least 106 hours per biweekly pay period. Newly hired firefighters going through initial basic training with a 40-hour basic workweek are covered by the GS classification and pay system and classified in the GS-0099 General Student Trainee Series (as required by ***5 C.F.R. 213.3202(b)***). Uniform allowances may be authorized for firefighters, refer to Chapter 3.

101602. Regular Tour of Duty

The term "regular tour of duty" means a firefighter's official work schedule as established by the employing agency on a regular recurring basis. The regular tour of duty may consist of a fixed number of hours each week or a fixed recurring cycle of work schedules in which the number of hours per week varies in a repeating pattern. The regular tour of duty includes only those overtime hours that are part of the fixed recurring work schedule. However, irregular hours are deemed included in a firefighter's regular tour of duty if those hours are substituted for hours in the regular tour of duty for which leave without pay is taken, as provided in 5 C.F.R. 550.1303(d). There are generally two types of official work schedules for firefighters:

A. 24-Hour Shift Firefighters. Most commonly, firefighters work a 72-hour workweek consisting of three 24-hour shifts. These shifts include periods of actual work and substantial periods of time during which firefighters are in a standby status. In standby status, firefighters are free to eat, sleep, and engage in personal activities, but are confined to the worksite and remain in a state of readiness to perform actual work as required.

B. 40-Hour Plus Firefighters. Other firefighters, (most commonly supervisors) have a regular 40-hour workweek consisting of five 8-hour days in addition to regularly scheduled standby duty (e.g., an extra 16-hour standby shift).

101603. Uncommon Tour of Duty

An agency shall establish an uncommon tour of duty for each firefighter compensated under 5 C.F.R. part 550, Subpart M, for the purpose of leave use and accrual. The uncommon tour of duty shall correspond directly to the firefighter's regular tour of duty so that each firefighter accrues and uses leave based on that tour. See 5 C.F.R. 630.210.

101604. Hourly Rate of Basic Pay

The firefighter's regular tour of duty is used in determining the appropriate pay computation method. Firefighters are paid on an hourly rate basis. A firefighter's daily, weekly, or biweekly rate of basic pay must be computed using the applicable hourly rates derived under 5 C.F.R. 550.1303(a) and (b). Premium pay caps apply to the additional nonovertime pay received by firefighters with schedules exceeding the basic 40-hour workweek. Nonovertime pay is considered as basic pay and is not subject to reduction, but is included in the aggregate pay when determining the overtime pay cap. See 5 C.F.R. 550.1305 and 5 C.F.R. 550.107.

A. 24-Hour Shift Firefighters. For firefighters with a regular tour of duty that does not include a basic 40-hour workweek (firefighters whose schedules generally consist of 24-hour shifts with a significant amount of designated standby and sleep time), the hourly rate of basic pay is computed by dividing the applicable annual rate of basic pay by 2756 hours.

B. Basic 40-Hour-Plus Firefighters. For firefighters with a regular tour of duty that includes a basic 40-hour workweek plus additional nonovertime hours, the hourly rate of basic pay is computed by dividing the applicable annual rate of basic pay by:

1. 2087 hours, for hours within the basic 40-hour workweek (or an 80-hour biweekly pay period); and

2. 2756 hours, for any additional nonovertime hours.

C. Training. Firefighters are entitled to pay for their regular tour of duty during training. A firefighter should receive basic pay and overtime pay for the firefighter's regular tour of duty in any week in which attendance at agency-sanctioned training reduces the hours in the firefighter's regular tour of duty. This guidance does not pertain to student trainee employees in the GS-0099 series. A firefighter is not prohibited from receiving a higher amount of pay if he or she is entitled to that higher amount based on hours of actual work. See 5 C.F.R. 410.402(b)(6).

101605. Meal and Sleep Time

For firefighters compensated under 5 U.S.C. § 5545b, meal time and on-duty sleep time may not be excluded from hours of work.

101606. Overtime Computation

Under 5 U.S.C. § 5542, for firefighters compensated under 5 C.F.R. 550, Subpart M, overtime work means officially ordered or approved work in excess of 106 hours in a biweekly pay period, or in excess of 53 hours in an administrative workweek if the agency establishes a weekly basis for overtime pay computations. See 5 C.F.R. 550.111(g). Overtime pay is considered part of continuation of pay (COP) for firefighters. Overtime hourly rates of pay are calculated as follows:

A. FLSA-exempt (FSLA non-covered). For a firefighter who is exempt from FLSA, the overtime hourly rate is computed as provided in 5 C.F.R. 550.113(e). Generally, the overtime hourly rate is capped at 1-1/2 times the GS-10 minimum rate, but the rate may not fall below the firefighter's own hourly rate of basic pay.

B. FLSA-nonexempt (FLSA covered). For a firefighter who is covered by nonexempt from the overtime provisions of FLSA, the overtime hourly rate of pay equals 1-1/2 times the firefighters hourly rate of basic pay for that particular firefighter as established under 5 C.F.R. 550.1303(a) or 1303(b)(2).

101607. Premium Pay

Except for overtime pay in accordance with paragraph 101606, a firefighter is barred from being paid any other premium pay including night pay, Sunday premium pay, holiday pay, and hazardous duty pay. Premium pay for overtime in the firefighter's regular tour of duty

covered by 5 U.S.C. § 5545b is subject to a biweekly limitation rather than an annual limitation. See 5 C.F.R. 550.107.

101608. Leave Accrual

The leave accrual rates for firefighters are established based on an uncommon tour of duty. See paragraph 101603. Leave accrual for firefighters is directly proportional based on the number of hours in the biweekly tour of duty and the accrual rate of the corresponding leave category to the standard leave accrual rates for employees who accrue and use leave on the basis of an 80-hour biweekly tour of duty. One hour or an appropriate fraction thereof of leave is charged for each hour or appropriate fraction thereof of absence from the uncommon tour of duty. See 5 C.F.R. 630.210(c).

101609. Mandatory Separation

A firefighter, who is otherwise eligible for immediate retirement under ***5 U.S.C. § 8336(c)*** (CSRS) and ***5 U.S.C. § 8412(d)*** (FERS), must be separated from the federal service on the last day of the month in which the employee becomes 57 years of age unless he or she has not yet completed 20 years of service. In that case, the employee shall be separated on the last day of the month in which he or she completes 20 years of service. See 5 U.S.C. § 8335(b) and 5 U.S.C. § 8425(b).

101610. Retirement

Firefighters have a unique retirement deduction percentage for CSRS and FERS employees. These rates are published by OPM in the CSRS and FERS Handbook, Chapter 30. Percentages of basic pay for withholding and contributions for FERS employees are described in ***5 U.S.C. § 8422(a)(2)(B)*** and ***5 U.S.C. § 8423(a)(1)(B)***. Percentages of basic pay for withholdings and contributions for CSRS employees are described in ***5 U.S.C. § 8334(a)***. Additionally, a firefighter's special retirement coverage provides for an enhanced annuity formula and reduced age/service requirements as follows:

A. CSRS Coverage. Under 5 U.S.C. § 8336(c) once an employee reaches 50 years of age and completes 20 years of service as a firefighter or law enforcement officer, or any combination of such service totaling at least 20 years, they are entitled to a special annuity computation as provided under ***5 U.S.C. § 8339(d)***.

B. FERS Coverage. Under 5 U.S.C. § 8412(d), an employee is entitled to a special annuity computation as provided under ***5 U.S.C. § 8415(d)*** after:

1. Completing 25 years of service as an LEO or a firefighter, or any combination of such service totaling at least 25 years; or

2. Reaching the age of 50 and completing 20 years of service as an LEO or firefighter, or any combination of such service totaling at least 20 years.

1017 JUDGES

101701. Administrative Law Judges (ALJs)

A. Authority. Under ***5 U.S.C. § 3105***, the Department may appoint ALJs for proceedings conducted in accordance with administrative procedures under ***5 U.S.C. § 556-557***. These employees may not perform duties inconsistent with their duties and responsibilities as administrative law judges.

B. Pay for ALJs. There are three levels of basic pay for ALJs (designated as AL-1, AL-2, and AL-3, respectively), and each ALJ is paid at one of the levels as established under ***5 U.S.C. § 5372***. The ALJ positions are (lowest to highest): AL-3, Rate A; AL-3, Rate B; AL-3, Rate C; AL-3, Rate D; AL-3, Rate E; AL-3, Rate F; AL-2; and AL-1. The minimum rate for an ALJ (AL-3, Rate A) is set at 65 percent of Level IV of the Executive Schedule. The maximum rate for an ALJ (AL-1) is set at 100 percent of Level IV of the Executive Schedule.

101702. Judges of the U.S. Court of Appeals for the Armed Forces

The U.S. Court of Appeals for the Armed Forces (formerly the U.S. Court of Military Appeals) is established under ***10 U.S.C. § 941-946***. See ***DoDI 1400.25-V805***, Special Retirement and Survivor Benefits for Judges of the U.S. Court of Appeals for the Armed Forces. The President, with the advice and consent of the U.S. Senate, appoints the judges for a term of 15 years. The court, consisting of five judges, is located within the DoD for administrative purposes. Washington Headquarters Services (WHS) is the employing office for the judges. For pay purposes, the judges are civilian employees as defined in 5 CF.R. 213. The judges are entitled to the same salaries and travel allowances as are provided to the judges of the U.S. Courts of Appeals (GS Salary Table, Schedule 7, for Judicial Salaries). The maximum annual salary is that of Level I of the Executive Schedule.

A. Entitlements. Judges are entitled only to regular base pay. Judges are excluded from the leave provisions of 5 U.S.C. § 6301(2). As Federal judges under ***5 U.S.C. § 5541(2)(i)***, they also are excluded from the provisions of premium pay under ***5 U.S.C. Chapter 55, subchapter V***.

B. Deductions

1. Judges under CSRS are required to contribute eight percent of basic pay for retirement. Judges under FERS have the same deduction rate as other FERS employees. See the CSRS and FERS Handbook, Chapter 30.

2. The FEGLI for the judges is based on Level II of the Executive Schedule.

3. Judges are subject to the Social Security tax wage base limit as published yearly by IRS. There is no wage base limit for Medicare tax, and all covered wages are subject to Medicare tax.

C. Special Retirement and Survivor Benefits for Judges of the U.S. Court of Appeals for the Armed Forces. Upon becoming eligible for retirement, judges may elect to receive a retirement annuity from the DoD Military Retirement Fund (MRF) in lieu of an annuity under CSRS or FERS. See ***10 U.S.C. § 945***. Survivor and former spouse annuities may also be elected. The DFAS-Indianapolis Site serves as the "payroll office" for retiree and survivor entitlements. DFAS shall perform functions such as:

1. Maintaining individual retirement records of individuals who elect annuity benefits under 10 U.S.C. § 945;

2. Issuing annuity payments from moneys in the DoD MRF, including the collection of applicable federal and state income taxes, and collections of debts owed the U.S. Government;

3. Arranging with OPM for transfer of moneys, including interest payments authorized under 10 U.S.C. § 945(a)(3)(A), from the Civil Service Retirement and Disability Fund (CSRDF) to the DoD MRF;

4. Withholding, as appropriate, contributions from the annuity for payment of FEHB, FEGLI, making correct agency contributions, and transmitting these moneys to the CSRDF;

5. Readjusting the annuity payment when events change the retiree or survivor entitlements;

6. Accounting for retirement moneys received from OPM and disbursing to benefit recipients, insurance carriers, and federal and state tax entities; and

7. Ceasing annuity payment if the employee elects judiciary retirement benefits under 10 U.S.C. § 945(g).

D. Notifications. Judges in receipt of an annuity under 10 U.S.C. § 945 are responsible for notifying WHS of any dual compensation issues that may arise under 10 U.S.C. § 945(f) and/or their election of judicial retirement benefits under 10 U.S.C. § 945(g).

E. Senior Judges of the U.S. Court of Appeals for the Armed Forces. Under ***10 U.S.C. § 942(e)***, a senior judge who formerly served on the Court of Appeals for the Armed Forces may perform judicial duties for the court. When performing duties, a senior judge is considered an employee or official of the government. A senior judge is paid for each day he or she performs judicial duties in an amount equal to that of a sitting judge. Payment for a senior judge's service is made in lieu of any retired and annuity pay due the judge. However, a senior judge may continue to receive his or her retired and annuity pay if the senior judge performs non-judicial duties for the court and receives no pay other than per diem and travel expenses. See ***U.S. Court of Appeals for the Armed Forces Rules of Practice and Procedure***.

1018 AUXILIARY CHAPLAINS AND WEST POINT MILITARY ACADEMY CHAPLAIN

101801. Auxiliary Chaplains

Civilian clergy may be assigned to perform essential religious services of the chapel program that are beyond the staffing capabilities of the commissioned officer Armed Forces chaplains. Auxiliary chaplains normally perform their services on military installations. To serve as auxiliary chaplains, civilian clergy must be ordained or accredited by a faith group recognized by the ***Armed Forces Chaplains Board***. They must meet any additional qualifications required by the Armed Forces.

101802. Appointing and Paying Auxiliary Chaplains

A. Auxiliary chaplains may be appointed by the HRO on an intermittent basis. They are paid on a fee basis from the employing activity's appropriated funds for civilian personnel such as Operation and Maintenance funds. The HRO may appoint auxiliary chaplains under the excepted service authority in 5 C.F.R. 213.3101.

B. Work Schedules. Auxiliary chaplains employed on an intermittent basis have no work schedule. They are paid for religious services performed.

C. Absence and Leave. There is no entitlement for leave.

D. Entitlements. The pay scale for auxiliary chaplains is determined by the employing activity's HRO. Social Security, Medicare, federal and state income tax withholdings are made in accordance with the tax documents filed by the chaplain. Social Security, Medicare, federal and state income tax withholdings do not apply to chaplains under non-personal service contracts.

101803. West Point Military Academy Chaplain

Under ***10 U.S.C. § 4337***, the President may appoint a chaplain to serve at the Military Academy at West Point. The civilian chaplain is entitled to a monthly housing allowance, in the same amount as the basic allowance for housing (BAH) allowed to a lieutenant colonel and to fuel and light for quarters. However, because utility costs are already factored into the BAH rate, no separate allowance for fuel and light should be paid. The chaplain's salary is taxable and is subject to the withholding of income, Social Security, and Medicare taxes. The BAH is not subject to the withholding of income taxes under ***26 U.S.C. § 107*** which excludes from a minister's gross income the value of rental allowances he/she receives for a home. However, Social Security and Medicare taxes must be withheld from the BAH.

1019 SERVICE SECRETARIES

101901. General

Effective the pay period beginning November 30, 2003, ***5 U.S.C. § 5504*** was amended to allow the Cabinet Secretaries (e.g. the Secretary of Defense) and the Secretaries of the Military Departments to be paid on a biweekly basis.

101902. Time and Attendance

Time and attendance is not reported for Service Secretaries. Accrual or usage of annual and sick leave is not authorized. Military Department Secretaries are not eligible for premium pay.

1020 ADDITIONAL PAY FOR CERTAIN HEALTHCARE PROFESSIONALS

102001. General

OPM has delegated to DoD the discretionary use of certain Title 38 provisions that are primarily available to the Department of Veterans Affairs (VA). If DoD uses one of these authorities in the delegation agreement, the comparable authority in Title 5 is waived. The following Title 38 provisions as provided in ***5 U.S.C. § 5371*** have been delegated:

A. Special Salary Rate Authority (***38 U.S.C. § 7455(a)(2)(A)***) and (B), (b), (c), and (d));

B. Baylor Plan and Alternate Work Schedules (***38 U.S.C. § 7456*** and 7456A);

C. Premium Pay (***38 U.S.C. § 7454*** and 38 U.S.C. § 7456(a) and (b));

D. Authority to Establish Qualifications (***38 U.S.C. § 7402(a),*** (b), (d), and (f));

E. Qualification-based Grading System (***38 U.S.C. § 7403(a),*** (b)(4), (c), (e), and (f)(1));

F. Head Nurse Pay and Nurse Executive Special Pay (***38 U.S.C. § 7452(a)(2)*** and (g));

G. Hours of Employment (***38 U.S.C. § 7421(a)***);

H. Pay for Physicians and Dentists (***38 U.S.C. § 7431(a),*** (b), (c), (d)(1)-(5), (e)(2)-(4), (f) and (h); ***38 U.S.C. § 7432*** and ***7433(a)***);

I. Nurse Locality Pay System (***38 U.S.C. § 7451(a),*** (b), (c), (d), (e), and (f)); and

J. Special Incentive Pay for Pharmacist Executives (***38 U.S.C 7410 (b)***).

102002. Premium Pay

The authority to compensate certain DoD healthcare professionals with additional pay is used to recruit and retain qualified employees in specific medical fields. For additional guidance, see ***DoDI 1400.25-V540***, Pay Pursuant to Title 38--Additional Pay for Certain Healthcare Professionals.

102003. Baylor Plan Nurses

Baylor Plan nurses work at DoD Health facilities and are hired to work a "Baylor workweek" consisting of two regularly-scheduled 12-hour tours of duty. The tours are worked entirely between the last day and the first day of the administrative workweek (Friday midnight to Sunday midnight) authorized under 38 U.S.C. § 7456. The Baylor workweek is considered to be a full 40-hour workweek for pay and leave accrual purposes. For additional guidance on the Baylor Plan nurses see ***DoDI 1400.25-V541***, Pay Pursuant to Title 38--Special Rules for Nurses Pursuant to the Baylor Plan.

102004. On-Call Employees

Health care professionals are eligible to receive on-call pay when assigned to a work unit that has been officially designated as requiring employees to be on-call. On-call pay is a premium paid to certain professionals for working under circumstances or conditions authorized by ***38 U.S.C. § 7457***. The employee must be officially scheduled to be on-call outside of his or her regular duty hours. An employee, who is excused from regular duty on a holiday, or "in lieu of" a holiday, may be scheduled to be on-call and receive on-call pay.

102005. Physicians and Dentists Pay Plan (PDPP).

A. General. The ***DoDI 1400.25-V543***, DoD Civilian Personnel Management System: Pay Plan for DoD Civilian Physicians and Dentists Covered by the General Schedule, establishes policy and provides guidance to establish the PDPPs for eligible DoD civilian physicians and dentists who:

1. Work full-time or part-time with tours of at least 20 hours per pay period at grade GS-15 equivalent or below, and

2. Provide direct patient care and services.

B. Pay. Every 2 years, the VA publishes the minimum and maximum amounts of annual pay for the PDPP in the Federal Register. Under the PDPP, a physician or dentist's annual pay is the sum of base pay plus market pay. Base pay is the GS rate for the

physician or dentist before any deductions and without additional pay of any kind. Market pay reflects the recruitment and retention needs for the specialty or assignment of a particular physician or dentist. Annual pay is basic pay for all purposes, including the computation of retirement benefits, lump-sum annual leave payments, life insurance, TSP, and other benefits. See 38 U.S.C. § 7431(f).

C. Pay Limitation. Section 7431(e) of Title 38 provides that in no instance should the total amount of compensation paid in any year to a physician or dentist under Title 38 exceed the salary of the President of the United States as in effect on the last day of that calendar year. Section 7431 does not allow pay over the cap to be deferred and paid the next calendar year. Payments that exceed the salary of the President may not be made at any time. For further information and a discussion of limitations on market pay, see DoDI 1400.25-V543 and Chapter 3.

1021 LAW ENFORCEMENT OFFICERS (LEOs)

102101. General

LEOs as defined by ***5 U.S.C. § 8331(20)***, are employees whose primary responsibility is the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the U.S.

102102. Premium Pay

The majority of LEOs are covered by the standard premium pay provisions established in 5 U.S.C. Chapter 55, subchapter V (including provisions that reflect overtime pay entitlements under FLSA for covered nonexempt employees). Premium pay with specific implications for LEOs includes:

A. Availability Pay. LEOs, as defined by 5 U.S.C. § 8331(20) and 5 C.F.R. 550.103, are authorized to receive premium pay in the form of availability pay in accordance with ***5 U.S.C. § 5545a*** and 5 C.F.R. 550.185. Availability pay was established to compensate the employee for unscheduled duty in excess of a 40-hour workweek based on the needs of the employing agency. An exception under 5 C.F.R. 550.181(b) allows any Office of Inspector General employing less than five investigators to elect not to cover their employees under the provisions of 5 U.S.C. § 5545a. Availability pay recipients are not covered by FLSA. Availability pay is subject to a biweekly limitation under 5 C.F.R. 550.107. Under 5 C.F.R. 550.186, LEOs receiving availability pay are not entitled to other types of premium pay based on unscheduled duty hours.

B. Annual Premium Pay for Standby Duty. The rate of annual premium pay for standby duty is determined by the HRO and forwarded to the PRO via SF 50. (See Chapter 4, Table 4-1 for a list of deductions withheld). Standby duty pay is generally not used for Federal law enforcement employees however, for more information concerning standby duty pay, refer to Chapter 3. Standby duty pay under 5 C.F.R. 550.141 may not be paid to an LEO, who is receiving availability pay. See 5 C.F.R. 550.163.

C. Overtime Computation. Overtime work scheduled in advance of the administrative workweek on a day containing part of a criminal investigator's basic 40-hour workweek must be compensated under 5 C.F.R. 550.111.

D. Administratively Uncontrollable Overtime (AUO). Information concerning AUO for LEOs is located in Chapter 3 and on the ***OPM*** website for pay and leave.

102103. Leave Accrual

Leave accrual guidance for LEOs is based on the guidelines published in 5 C.F.R. 630.

102104. Mandatory Separation

LEOs eligible for immediate retirement must separate from the federal service on the last day of the month in which the employee becomes 57 years of age unless he or she has not yet completed 20 years of service. In that case, the employee separates on the last day of the month in which he or she completes 20 years of service. See 5 U.S.C. § 8335(b), 5 U.S.C. § 8425(b), 5 U.S.C. § 8336(c), and 5 U.S.C. § 8412(d).

102105. Retirement

LEOs have a unique retirement deduction percentage rate for CSRS and FERS employees, which are published by OPM in the CSRS and FERS Handbook, Chapter 30.

1022 MILITARY SEALIFT COMMAND (MSC)

The pay of officers and members of crews of vessels shall be fixed and adjusted from time to time as nearly as is to be consistent with the public interest in accordance with prevailing rates and practices in the maritime industry. See ***5 U.S.C. § 5348***. Hours of work and premium pay policy for MSC civil service mariners are covered by Department of the Navy Civilian Marine Personnel Instruction 610, Hours of Work and Premium Pay, which has been approved by the Department of the Navy's Office of Civilian Human Resources. Base wage and premium pay scales for MSC civil service mariners are approved by the DoD Wage Setting Authority, in coordination with OPM.

*1023 DE FACTO EMPLOYEES

102301. General

A de facto employee is an individual who, in good faith, renders services to the government but who was never properly appointed or never actually appointed as an employee. There are four common de facto employment situations:

A. When an individual performed services, but was not recorded as an employee in the pay system because either the record was not yet established or the individual began working prior to their official starting date.

B. When a current employee received pay for an erroneous promotion.

C. When an employee performed services after their official separation date or after the end date of their service appointment.

D. When an individual was hired and performed services under an erroneous appointment, but is not expected to receive a legal appointment.

102302. Payment of De Facto Employees

A. General. Under the principles of quantum meruit (i.e., the actual value of services performed) an individual whose appointment is found to be improper or erroneous is entitled to receive compensation earned, service credit for purposes of accrual of annual leave, and lump-sum payment for unused leave upon separation, unless:

1. The appointment was made in violation of an absolute statutory prohibition, or

2. The employee was guilty of fraud in regard to the appointment or deliberately misrepresented or falsified a material matter.

See 58 Comp. Gen. 734 ***B-191977, August 17, 1979*** and 61 Comp. Gen. 127 ***B-197400*** December 10, 1981.

B. De Facto Determination and Payment Processing. Payment of de facto employees for services rendered to the government will depend on the facts of each individual's situation. The employing agency must make a determination identifying the employee as a de facto employee who acted in good faith and must convey that determination to DFAS. The employing agency must submit a payroll processing request to initiate the payment of a de facto employee. A de facto determination from the agency will invalidate any debt that may have been established for wages paid.

C. De Facto Guidance. The payment of de facto employees has been addressed in the following Comptroller General opinions:

1. Individual Serving before Appointment. Individuals serving in a de facto status before officially appointed should be compensated for the reasonable value of their services performed during that period. Payment is established at the rate of basic compensation set for the positions to which they are ultimately appointed. See Comp. Gen. B-***191397, September 6 1978*** and ***B-189741, April 4, 1978***.

2. Individual Never Appointed. The reasonable value of the services of an individual who was never in fact appointed to the position which the individual purportedly filled, should be established at the rate of basic compensation for the position that was ultimately advertised and filled. Comp. Gen. ***B-193605, January 8, 1979***.

3. Premium Pay. The rule that a de facto employee is entitled to the reasonable value of his or her services does not limit the employee to receipt of basic compensation only. The reasonable value of his services includes premium pay, including holiday pay. Comp. Gen. ***B-188574, December 29, 1977***.

4. Termination and Reemployment. In the event an individual is terminated from employment after the appointment was found to be erroneous and is then reemployed after a break in service, the individual is entitled to compensation earned, lump-sum payment for accrued annual leave, service credit for annual leave accrual purposes, and recredit of accrued sick leave. If OPM denies service credit for the period of the improper appointment, the employee would be entitled to a refund of the retirement deductions made from his or her salary during the period of the erroneous appointment, less any necessary Social Security deductions. Comp. Gen. ***B-197400, December 10, 1981***.

5. Dual Compensation Prohibition. De facto status may not be applied to nullify the effect of a statutory provision that prohibits dual compensation. See Comp. Gen. ***B-157983, December 13, 1965***.

6. Erroneous Promotions. A current employee who receives an erroneous promotion may be regarded as a de facto employee. For example, an employee is regarded as a de facto employee if the employee is promoted but it is later determined the employee did not meet the general requirements of the higher position. The employee is entitled to retain the compensation received for the services performed in good faith as a de facto employee during the period of the erroneous promotion unless there is a statutory bar prohibiting such payment. See Comp. Gen. ***B-221745, April 28, 1986***.

C. Tax Reporting. Pay to a de facto employee should be reported as if the individual had been a correctly appointed employee during the de facto period. De facto status has no impact on how pay is reported. Any pay that includes wages should be reported on a W-2 form for the year in which payment is made.

1. Example: An employee was erroneously promoted and performed duties and received pay associated with the erroneous promotion in 2013. The error was not discovered until 2014. The payments for the de facto employment were reported as taxable income on the 2013 W-2 form. There should be no adjustment to the 2013 W-2 even though the error was discovered in 2014.

2. Example: An employee was erroneously promoted and performed duties and received pay associated with the erroneous promotion in 2013. The error was discovered in 2013 and the full amount paid was collected as a debt from the employee in 2013. A de facto determination was submitted in 2014, which authorized the employee to be paid for the services performed as a de facto employee. The wages for the de facto period were repaid to the employee in 2014. The wages for the de facto period are reported in the year actually paid, or 2014.

D. FEHB and FEGLI Deductions

1. FEHB. Under the Affordable Care Act, health insurers may not cancel coverage retroactively if premiums have already been paid, even when an employer has erroneously allowed an ineligible employee to enroll in FEHB. Premiums should not be refunded to the de facto employee.

2. FEGLI. If the error is discovered before 2 years have passed, incontestability does not apply and the erroneous coverage is not valid. Any erroneous coverage should be voided and the premiums should be refunded. See FEGLI Handbook and chapter 11 of this volume.

E. TSP. The regulations at ***5 C.F.R. 1605.12*** set out procedures for removing erroneous contributions received by TSP from employees and employers.

F. Retirement Credit. The question of whether a de facto employee is entitled to service credit for retirement purposes should be referred to OPM. If OPM denies service credit for the period the de facto employee worked, the de facto employee is entitled to a refund of retirement contributions made during the de facto period, less any Social Security deductions. See 61 Comp. Gen. 127 (1981).

102303. Variations

OPM assists Federal agencies with correcting errors made during the competitive hiring process. Variations are used to correct errors made in the competitive hiring process when no other remedy exists within the regulation. See ***OPM Guidance***, Hiring Authorities and ***5 C.F.R. 5.1***.

*1024 HIGHLY QUALIFIED EXPERTS (HQEs) AND HIGHLY QUALIFIED EXPERTS-SENIOR MENTORS (HQEs-SMs)

102401. General

Employees appointed as an HQE must possess an uncommon level of expertise and recognition. Such expertise, with the exception of HQE-SMs, is generally not available within the Federal workforce at the time of need, nor is it typically gained within the civil service or uniformed services. HQE-SMs, by nature, have the expertise and experience required to fulfill their intended roles, having been recruited from former or retired civil service or uniformed service personnel. See 5 U.S.C. 9903; ***DoDI 1400.25, V922***.

102402. Appointments

Employees hired as HQEs will be given “Excepted Not to Exceed” appointments (up to 5 years) under an Experts Other (EE) pay plan. The HQE or HQE-SM must sign a written service agreement.

102403. Pay

Compensation for an HQE or HQE-SM should reflect the salary paid in the labor market for comparable positions, taking into account such factors as applicant's skills, professional and educational accomplishments, and the complexity of the work the applicant is asked to perform. See DoDI 1400.25, V922 for other relevant factors. Basic pay for an HQE or HQE-SM typically will be within the range from GS-15, step 1 (or equivalent) up to the statutory limit of Level IV of the Executive Schedule. In addition to basic pay, HQEs and HQE-SMs may receive locality-based comparability payments applicable to the geographic location of their position of record as prescribed by section ***5 U.S.C. § 5304***. When added to the rate of basic pay, locality-based comparability payments may not exceed Level III of the Executive Schedule as described in 5 U.S.C. § 5304(g)(2)(C). See DoDI 1400.25, V922 for additional pay information.

102404. Performance Awards

HQEs and HQE-SMs are not eligible to receive performance awards.

102405. Leave

HQEs and HQE-SMs are subject to the annual leave accrual provisions of ***5 U.S.C. § 6304(a)***, which sets the maximum number of annual leave hours carried forward from one leave year to another at 240 hours. Full-time HQEs and HQE-SMs accrue 8 hours of annual leave per pay period and at a prorated rate for other eligible part-time employees.

VOLUME 8, CHAPTER 11: "ALLOTMENTS AND VOLUNTARY DEDUCTIONS"

SUMMARY OF MAJOR CHANGES

All changes are denoted by blue font.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue, and underlined font***.

The previous version dated May 2015 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Revised chapter to include administrative update and hyperlinks.	Revision
110103	Added paragraph for "Authoritative Guidance."	Addition
110301	Added information pertaining to "Self Plus One."	Addition
110302.F.5.b	Revised information regarding "Federal Employees Health Benefits" deductions while employee is receiving "Office of Workers Compensation Program (OWCP)" payments.	Revision
110302.I.2	Changed reference from Volume 5, Chapter 28 and Volume 8, Chapter 8 to Volume 16.	Revision
110304.A.3.b and 110610.B.1.b	Added Volume 16, section 030207 as a reference to the sections.	Addition
110503.B	Revised information in section concerning "Flexible Spending Account Allotments" prior to and after 2015.	Revision
110602.B.c	Changed wording from "individual" to "employee."	Revision
110605.F.1	Revised information regarding "Federal Employees Group Life Insurance" deductions while the employee is receiving OWCP payments.	Revision
111002.A	Changed the G Fund to the Lifecycle Fund.	Revision
111002.D	Deleted "myPay" since employees cannot use myPay to change their "Thrift Savings Plan (TSP)" elections.	Deletion
111006	Added section for "Correcting Late Contributions."	Addition
111007	Added information for "Correction of Employing Agency Errors."	Addition
111008.A.4	Added information on "Back pay" to employee making TSP contributions.	Addition
111101.D	Changed the address for "Post-56 Military Deposits."	Revision

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CHAPTER 11

ALLOTMENTS AND VOLUNTARY DEDUCTIONS

1101 GENERAL

110101. Overview

Allotments and voluntary payroll deductions are made from an employee's gross pay. Both allotments and voluntary deductions are executed at the employee's request and require written authorization from the employee prior to withholding the deduction. See Chapter 4 for information on mandatory deductions.

110102. Purpose

The purpose of this chapter is to provide guidance on mandatory, discretionary, and voluntary deductions as they may be applied to an employee's gross pay.

*110103. Authoritative Guidance

Specific statutes, regulations, and other guidance are referenced under each section of this chapter.

1102 ALLOTMENTS

110201. Overview

An allotment is a recurring deduction from an employee's pay that is authorized by the employee. An allotment is paid to a specific person or institution as directed by the employee. An agency must permit an employee to make certain mandatory allotments as discussed in paragraph 110202. Additionally, an agency may permit an employee to make additional discretionary allotments that have been deemed appropriate by the agency. For additional information, see Title 5, United States Code (U.S.C.), ***section 5525***, Title 5, Code of Federal Regulations (C.F.R.), ***Part 550, subpart C***, and paragraph 110203. For information concerning the order of precedence for processing both mandatory and voluntary deductions and allotments, see Chapter 4.

A. Allotment Processing. An allotment must be requested in writing by the employee. The request may be made electronically or by regular mail. The allotment request must identify the authority under which the allotment is permitted, the specified amount to be deducted, the period of time over which the deduction is to be made, and the name and address of the person or institution to whom the allotment is payable. The authorized deductions may be made through automated computer programs using a personal identification code.

B. General Limitations on Allotments. Any allotment is subject to the following limitations:

1. The employee must designate the amount of the allotment and the person or institution to whom the allotment is made payable,

2. The total amount of allotments may not exceed the pay due the employee for a particular pay period,

3. The employee must personally authorize a change or cancellation of an allotment,

4. The agency has no liability in connection with any authorized allotment disbursed by the agency in accordance with the employee's request, and

5. Any disputes regarding any authorized allotment are a matter between the employee and the allottee.

C. Allotments Not Authorized. The following allotments are not authorized:

1. Collection of debts to private creditors and nongovernmental agencies;

2. Contributions to charities, except as authorized in subparagraph 110202.C and 110203.B;

3. Payment of insurance premiums, except as authorized in subparagraph 110202.G; and

4. Payment of dues to civic, fraternal or other organizations, except as authorized in subparagraphs 110202.A, 110202.B, and 110203.B.

110202. Mandatory Allotments

Mandatory allotments are those allotments an agency must permit an employee to make as authorized under ***5 C.F.R. 550.311(a)***.

A. Allotments for Labor Organization (Union) Dues. An allotment for dues payable to a labor organization is authorized under ***5 U.S.C. § 7115***. Any eligible employee has the right to make a voluntary allotment for the payment of dues to labor organizations. Employees must submit a Standard Form ***(SF) 1187***, Request for Payroll Deductions for Labor Organization Dues, to request and authorize the allotment of pay. The allotment is effective the first pay period beginning after receipt of the properly executed SF 1187.

1. Deductions for Dues. Unless the negotiated collective bargaining agreement states otherwise, the amount of the dues deduction indicated on the SF 1187 will remain

the same until the appropriate official in the labor organization certifies the dues amount has changed. When an employee is in a nonpay status for an entire pay period, the Payroll Office (PRO) will not deduct a missed allotment for that pay period from future earnings. The PRO will not take a partial deduction if an employee is in a nonpay status for part of a pay period and the employee's earnings are not sufficient to cover the full deduction. An employee's biweekly deductions for labor organization dues should be calculated as follows:

a. If the amount stated on the SF 1187 refers to a total annual deduction for a 12-month period, then divide the total annual deduction by 26 to determine the biweekly deduction.

b. If the amount stated on the SF 1187 refers to a monthly deduction, then multiply the monthly deduction by 12 to determine the total annual deduction. Divide the total annual deduction by 26 to determine the biweekly deduction.

2. Cancellation of Dues Allotment by Employee. An employee may submit a request to cancel the allotment for payment of labor organization dues at any time.

a. Written Cancellation Required. An employee may file an ***SF 1188***, Cancellation of Payroll Deductions for Labor Organization Dues, to cancel an allotment. However, any written request signed by the employee for the cancellation of an allotment that contains sufficient information may be acceptable. Unless the collective bargaining agreement states otherwise, the employing activity is responsible for furnishing the SF 1188 to employees upon request.

b. Effective Date. Under 5 U.S.C. § 7115(a), an employee may cancel a union dues allotment at yearly intervals (or as negotiated in a collective bargaining agreement as long as the intervals are consistent with section 5 U.S.C. § 7115(a)). An employee may not be prevented from cancelling a dues allotment for a period of greater than one year.

3. Automatic Termination of Allotment. An allotment for payment of labor organization dues is automatically terminated pursuant to 5 U.S.C. § 7115(b) when any of the following events occurs:

a. The collective bargaining agreement between the agency and the labor organization ceases to be applicable to the employee. For example:

(1) When an employee is no longer a member of the bargaining unit due to separation from the employing activity, the termination of the allotment will be effective with the employee's final pay from the activity;

(2) When an employee is no longer eligible to be a member of the bargaining unit due to a promotion or reassignment to a supervisory position, the termination of dues will be effective at the beginning of the first pay period after the employee loses eligibility to be a member; or

(3) When the labor organization loses eligibility for exclusive recognition, the termination of the allotment will be effective at the beginning of the first pay period after notification is received concerning the loss of recognition.

b. The employee is suspended or expelled from membership in the labor organization. Termination of dues will be effective the first pay period after the Defense Finance and Accounting Service (DFAS) receives the written notification from the labor organization indicating that an employee was suspended or expelled from membership.

4. Erroneous Deduction of Dues after Automatic Termination of Allotment. The agency must automatically terminate an allotment for labor organization dues when the employee ceases to be a member of the bargaining unit. There is no additional requirement for the employee to submit a cancellation form or to take any other action to terminate the allotment. If the agency does not terminate the allotment for labor organization dues in a timely manner, the PRO must refund any erroneously deducted labor organization dues, without interest, to the employee. The agency has a claim against the labor organization for the overpayment amount.

B. Allotments for Association of Management Officials and/or Supervisors Dues. An allotment for dues payable to an association of management officials and/or supervisors is authorized under ***5 C.F.R. 550.331***. An employee is eligible to make a voluntary allotment for the payment of dues if the employee is a supervisor or management official and is a member of the association. The agency and the association of management officials and/or supervisors must maintain a written agreement allowing for the deduction of allotments for the payment of dues.

C. Allotments for Charitable Contributions. An agency must permit an employee to make an allotment for charitable contributions through the Combined Federal Campaign (CFC) under ***5 C.F.R. 550.341***. For additional information, see Department of Defense Instruction ***(DoDI) 5035.01*** and ***DoDI 5035.05***. The CFC is a charitable fundraising program established and administered by the Office of Personnel Management (OPM) and is the only authorized solicitation for charitable contributions from employees in the Federal workplace. OPM designates a Local Federal Coordinating Committee (LFCC) to conduct the CFC in a particular community. For additional information, see ***5 C.F.R. 950*** and Executive Orders ***12353*** and ***12404***.

1. Geographic Boundaries of the Local Campaign. An employee may participate in a particular CFC only if that employee's official duty station is located within the geographic boundaries of that CFC. This restriction may be discontinued with the implementation of appropriate electronic technology as approved by OPM. Upon a showing of extraordinary circumstances and as determined by the Director of OPM, employees may contribute in support of victims in cases of emergencies and disasters defined in 5 C.F.R. ***950.102(a)*** outside the geographic boundaries of their participating CFC. The employee may make such contributions by check, money order, cash, or by electronic means, including credit cards as approved by the Director, but not through payroll deduction. See ***5 C.F.R. 950.103(h)***.

2. CFC Pledge Form. The CFC Pledge Form is the only form an employee may use to authorize a CFC payroll allotment. Agencies distribute the form to employees, along with other campaign materials including the official charity list, when the charitable contributions are solicited. Employees submit a completed CFC Pledge Form (either directly or through the CFC agent) in order to establish a CFC payroll allotment. An agency must conduct a campaign during the period determined by the LFCC, which will not begin before September 1 and will not extend beyond December 15. The agency transmits the original copy of each paper pledge form (payroll allotment authorization or an acceptable electronic version) to the contributor's servicing PRO as promptly as possible, preferably by December 15. Late pledge forms should be accepted and processed by the PRO. See ***5 C.F.R. 950.901***.

3. CFC Allotments are Voluntary. A CFC allotment is voluntary and based on the employee's written authorization.

4. 1-Year CFC Allotment Term. A CFC allotment term begins with the first full pay period starting in January and ends with the last pay period that begins in December.

5. CFC Allotment Amount. Employees specify an allotment amount to be deducted each pay period during the year. Allotments will not be less than $1 per biweekly pay period. There is no restriction on the size of the increment above the minimum amount. The amount of the allotment may not be adjusted during the 1-year term.

6. Discontinuance of CFC Allotments. Allotments discontinue automatically after the expiration of the 1-year term, or upon the death, retirement, or separation of the employee from Federal service. An employee may voluntarily discontinue an allotment by requesting a cancellation in writing at any time. Discontinuance of an allotment is effective the first pay period beginning after receipt of the written cancellation. An employee may not reinstate a discontinued allotment.

7. Transfer of CFC Allotment Authorization. If an employee transfers during the 1-year term of the allotment, the allotment authorization should continue unless the transfer is to an area outside of the original CFC location. Transfer the allotment authorization to the new PRO if transfer is located in the same CFC location.

D. Allotments for Income Tax Withholding. An employee may make an allotment for income tax withholding when the employee has a legal obligation to pay, but the agency has no legal obligation to withhold taxes. The allotment for payment of taxes authorized by ***5 C.F.R. 550.351*** applies to State, District of Columbia, and local income or employment taxes.

E. Allotments for Personal Accounts at Financial Organizations. An employee may authorize two or more allotments for a personal account(s) at a financial organization. The allotment deductions must be a fixed amount for each biweekly pay period and will continue until canceled by the employee.

1. Initiation. To initiate an allotment to a personal account at a financial organization, an employee submits an ***SF 1199A***, Direct Deposit Sign-Up Form. Employees may also initiate an allotment to a financial organization through an automated computer program that allows employees to process allotments using a personal identification code. To initiate the allotment, the employee must provide a routing transit number, the employee's account number, account type, and the biweekly amount.

2. Changes. To change the amount of the allotment or the financial organization or account, the employee must submit a new SF 1199A. The employee may also make a change through an available automated computer program.

3. Cancellations. An employee may cancel an allotment to a financial organization at any time by submitting the appropriate form to the Customer Service Representative (CSR) for processing. The employee may also cancel the allotment through an available automated computer program.

4. Deductions

a. If the salary is sufficient to cover the deduction, the PRO will deduct the full allotment amount each pay period even if an employee is in a pay status for only part of a pay period. No deductions will be made if the salary amount is insufficient to cover the full allotment deduction.

b. Retroactive deductions will not be made for a period during which the employee's net pay was insufficient to cover the allotment. The PRO will not make adjustments during future pay periods for amounts it failed to deduct during a current pay period.

F. Child Support and/or Alimony Payments. Employees are permitted to make an allotment for child support and/or alimony when he or she voluntarily elects to do so as authorized by ***5 C.F.R. 550.361***. This provision for a voluntary allotment does not apply to garnishment orders issued to enforce child support or alimony obligations.

G. Flexible Benefits Plan Allotments. The PRO permits eligible employees to make an allotment as part of a flexible benefits plan established by OPM. The Federal Flexible Benefits Plan (FedFlex) is OPM's cafeteria plan that offers pretax benefits to employees in accordance with Internal Revenue Service (IRS) regulations. The FedFlex offers the following options:

1. ***Premium Conversion***. Premium conversion for medical, dental, and vision plans allows employees to pay premiums using pretax dollars. See subparagraph 110302.H.

2. ***Flexible Spending Accounts (FSAs)***. FedFlex offers employees the opportunity to participate in the Federal Flexible Spending Accounts Program (FSAFEDS). See section 1105.

3. ***Health Savings Accounts (HSAs)***. Eligible employees enrolled in a high deductible health plan (HDHP) may establish an HSA with an HSA trustee or custodian and may request allotments to fund the HSA. An HSA is funded with pretax monies and may be used to cover current and future qualified medical expenses. The allotment continues until the employee revokes or modifies the allotment election. An employee may modify an HSA allotment at any time in order to effect a prospective change. Any balance remaining in an HSA at the end of a plan year automatically carries forward in the account and no HSA account is subject to forfeiture. Employees are responsible for ensuring their enrollment and contributions are in accordance with IRS rules and within annual limits. Payroll providers are not responsible for verifying employee eligibility or checking to ensure employee contributions are within annual limits.

110203. Discretionary Allotments

In addition to the mandatory allotments that an agency is required to accept from employees, an agency may also permit employees to authorize discretionary allotments made at the employee's request for any legal purpose deemed appropriate by the head of the agency (or designee). The authority to accept discretionary allotments does not constitute independent authority by an agency to permit pretax allotments in addition to the flexible benefit plan allotments authorized by OPM under subparagraph 110202.G. See 5 C.F.R. 550.311(d).

A. Purchase of Savings Bonds. The United States (U.S.) Department of Treasury has discontinued the issuance of paper savings bonds through federal agency payroll savings plans. Savings bonds may be purchased in the following manner:

1. An employee must open a ***TreasuryDirect*** account. As instructed by the TreasuryDirect payroll savings plan, the employee must submit a request to the civilian PRO for a payroll deduction in the form of an allotment. The employee's request must include the TreasuryDirect account and the amount to be deducted biweekly.

2. Savings bonds purchased in TreasuryDirect post to the employee's account one business day after the scheduled purchase date.

B. Foreign Affairs Agency Organizations. An employee may elect to make an allotment to pay dues to a foreign affairs agency organization in accordance with ***5 C.F.R. 550.371***.

1. The employee is allowed to revoke the authorization at least every 6 months; and

2. The allotment terminates when the dues withholding agreement between a foreign affairs agency and the organization is terminated or ceases to be applicable to the employee.

C. Military Welfare Societies (MWSs). An employee may elect to contribute voluntarily to the MWSs as an authorized charitable campaign. The MWSs include, Army

Emergency Relief Society, Navy-Marine Relief Society, and the Air Force Aid Society. With the exception of CFC (see subparagraph 110202.C), MWSs are prohibited from soliciting Federal civilian employees.

1103 FEDERAL EMPLOYEES HEALTH BENEFITS (FEHB)

*110301. General

The FEHB Program was originally authorized in 1960 and is governed under ***5 U.S.C. Chapter 89*** and ***5 C.F.R. 890***. FEHB is an employer-sponsored group health insurance program for eligible Federal civilian employees, retirees, former employees, family members, and former spouses. In January 2016, the Self Plus One enrollment type became available. See Benefits Administration Letter ***(BAL) 15-210***. Employees are eligible to enroll themselves and eligible family members in a health plan offered by FEHB. An employee's participation in the program is voluntary. OPM sets the amount that the government contributes toward an employee's health plan cost, and the employee is responsible for paying the remaining balance of the premium cost through salary withholding. OPM designates a three-digit enrollment code to identify health plans. The first two digits identify the plan and the third digit identifies the option (high or standard) and the type of enrollment (self only or self and family). For more information, visit ***FEHB Facts***.

A. Authorized FEHB Forms

1. The ***SF 2809***, Health Benefits Election Form, must be completed by the employee in order to:

a. Enroll or reenroll in the FEHB Program,

b. Elect not to enroll in the FEHB Program,

c. Change FEHB enrollment,

d. Cancel FEHB enrollment, or

e. Suspend FEHB enrollment.

2. The ***SF 2810***, Notice of Change in Health Benefits Enrollment, must be completed by the employee for the purpose of:

a. Termination,

b. Transfer in,

c. Reinstatement, or

d. Change in name of an enrollee.

B. Effective Dates. Except for open season, or unless otherwise provided, most enrollments and changes to enrollments are effective the first day of the pay period after the employing office receives the SF 2809 enrollment or SF 2810 change request. An employee must be in a pay status at least part of the pay period preceding the effective date of enrollment or change request. If an employee was not in a pay status during the pay period preceding the request, the enrollment or change becomes effective on the first day of the pay period after the employee returns to pay status. Open season begins the Monday of the second full workweek in November and ends the Monday of the second full workweek in December. OPM sets the effective date for enrollments and changes made during the annual open season.

*110302. FEHB Premium Contributions and Withholdings

Information concerning government employer contributions (Government contribution) and employee withholdings for FEHB premiums can be found in 5 C.F.R. 890, subpart E. See FEHB ***Handbook***. Premium contributions and withholdings begin the first pay period that the enrollment is effective. The PRO forwards the contributions and withholdings to OPM using the Retirement and Insurance Transfer System (RITS) on the same date payroll is paid.

A. Government Premium Contributions. The Government's contribution must be paid every biweekly pay period during which an employee's enrollment continues, whether the employee is in a pay or nonpay status. The Government contribution for eligible employees is paid out of agency appropriations or other funds available for payment of salaries.

B. Full-Time Employee Premium Withholding. Unless otherwise provided, full-time employees are responsible for paying their share of the premium for every pay period that enrollment continues. The PRO deducts the withholding amount each pay period from the employee's pay. The amount is determined by the rate applicable to the plan, option, and coverage selected by each employee. The plan brochure describes the benefits, biweekly deduction, and other major features of each participating plan. If the withholding is insufficient, the employee incurs a debt to the U.S. in the amount of the proper withholding required for each pay period. Employees must check their Leave and Earnings Statements (LES) to verify the premium withholding is correct and must report discrepancies to their employing office immediately.

C. Part-Time Employees Premium Withholding and Contributions. Part-time employees, as defined in ***5 U.S.C. § 3402***, may elect coverage under FEHB and must pay the employee share of the FEHB premium. The agency pays the employer contribution in whole or in part depending on the following, as determined by the Human Resources Office (HRO).

1. A part-time career employee hired after April 8, 1979, who works 16 to 32 hours a week (or 32 to 64 hours biweekly) is entitled to a partial Government contribution toward the FEHB premium that is in proportion to the number of hours scheduled to work in a pay period. The partial contribution is determined as follows:

a. The prorated share of the Government's contribution is determined by dividing the number of scheduled hours the part-time employee works as indicated on the ***SF 50***, Notification of Personnel Action, by the number of hours worked by a

full-time employee serving in the same or comparable position (normally 80 hours per biweekly pay period).

b. The resulting percentage is applied to the Government contribution made for full-time employees enrolled in that plan.

c. The amount of the Government contribution is deducted from the total premium (Government contribution plus employee share), and the remaining amount is withheld from the employee's pay. See ***5 U.S.C. § 8906(b)(3)*** and refer to the FEHB Handbook.

2. Employees who served on a part-time basis before April 8, 1979, and who have continued to serve on a part-time basis without a break in service, are eligible for the full Government contribution.

D. Temporary Employee Premium Withholdings and Contributions. The Federal Employees Health Benefits Amendments Act of 1988 provides FEHB coverage for certain temporary employees. To be eligible for coverage, a temporary employee must have completed 1 year of current continuous employment, excluding any break in service of 5 days or less. See 5 U.S.C. § 8906a(a). The employee must pay both the employee and the government share of the FEHB premium.

E. Withholding and Contributions under Certain Conditions

1. Withholding From Lump-Sum Leave (LSL) Payment. The PRO will not deduct the regular biweekly withholding for FEHB premiums from an employee's LSL payment. However, the PRO may collect from the LSL payment any previously established debt that is the result of an employee's underpayment or failure to pay premiums.

2. Withholdings and Contributions Upon Transfer. An employee's health plan enrollment and coverage continue without change when the employee transfers from one PRO to another without a break in service of more than 3 days. Each PRO is responsible for FEHB premium withholdings and contributions during the time the employee was in a position serviced by the PRO. The PRO will prorate the withholdings and contributions using the Daily Proration Rule if the employee transfers to a different PRO at any time other than the first day of the pay period. See subparagraph 110302.G.

3. Withholding and Contributions Upon Retirement. If an employee retires and is eligible to continue enrollment in a health plan as an annuitant, the PRO's responsibility for FEHB premium withholdings and contributions is based on the date the annuity starts. If the annuity starts after the end of the employee's final pay period, the PRO makes withholdings and contributions for the entire final pay period. If the annuity starts before the end of the employee's final pay period, the PRO makes withholdings and contributions through the day before the starting date of the annuity using the Daily Proration Rule discussed in subparagraph 110302.G. OPM will make withholdings beginning with the effective date of the annuity.

4. Withholding and Contributions Upon Death. If an employee dies and there is no survivor annuity, or if the employee maintained self only enrollment, the PRO must make full FEHB premium withholdings and contributions for the pay period in which the employee dies. If a survivor annuitant is eligible to continue enrollment, the PRO will prorate the calculation using the Daily Proration Rule and the employee's date of death.

5. Withholding and Contributions Upon Retroactive Reinstatement. An employee who is restored to duty retroactively after an erroneous suspension or removal may elect to have his or her enrollment retroactively reinstated, or may enroll in the plan and option of their choice in the same manner as a new employee. If the employee elects to have the enrollment retroactively reinstated, the PRO must take deductions for the period of suspension or removal from the retroactive pay adjustment (i.e., back pay award) and the Government premium contributions should be made as though the suspension or removal had not occurred.

6. Withholding and Contributions Upon Termination or Reinstatement for Military Service. If enrollment is terminated or reinstated because of an employee's entry into or return from military service, the Daily Proration Rule is applied. The effective date of the action is the date the employee entered into or returned from military service.

F. Withholding and Contributions During Leave Without Pay (LWOP) or Insufficient Pay Status

1. 365-Day Limit. Enrollment may continue while an employee is in a nonpay status for up to 365 days. The 365 days of continuous enrollment is not considered to be broken by any period of less than 4 consecutive months in pay status. If an employee has 4 consecutive months in pay status after a period of nonpay status, the employee is entitled to begin a new 365-day period of continuous enrollment. See 5 C.F.R. 890.303(e).

2. PRO Forwards Premium Payments Each Pay Period. An employee is responsible for continuing to pay the employee's share of the FEHB premium during periods of LWOP or insufficient pay, unless the employee terminates the enrollment. The PRO will not withhold the employee's share of premiums for a pay period when an employee is on LWOP or has insufficient pay to cover the full FEHB premium. However, the PRO must continue to forward the full FEHB premium (both the Government contribution and the employee's share) to OPM each pay period. The PRO must advance salary to cover the employee's share of the FEHB premium and the employee will incur a debt for the advance payments.

3. Notification to Employee. The payroll system must be capable of identifying all employees on LWOP or who have insufficient pay to cover premiums. Written notice must be provided to an employee by the PRO as soon as the PRO becomes aware that premium payments cannot be withheld from the employee's salary. Notice should be provided in accordance with instructions in the FEHB Handbook and 5 C.F.R. 890.502(b) and sent by first-class mail or delivered in person. If mailed, the notice is considered to be received 5 days after the date of the notice. The notice must advise the employee of the following:

a. Options for continuing or terminating enrollment;

b. Effect of termination;

c. If the employee decides to continue coverage, the employee must agree to pay the premium directly, incur a debt, or pre-pay premiums;

d. If the employee elects to incur a debt or fails to pay the entire amount due, the employee thereby agrees to repay the debt in full and allow the debt to be collected by salary offset. The notice should indicate that if the debt cannot be collected by salary offset, it will be recovered from a LSL payment, income tax refunds, retirement payments, or any other source available for the recovery of a debt due the government; and

e. If the employee does not complete the election indicating whether the employee chooses to continue or terminate enrollment and return the notice within 31 days after receipt (45 days if the employee lives overseas), enrollment will automatically terminate.

4. Employee Must Continue or Terminate Enrollment. If the employee enters LWOP or pay is insufficient, the employee must either terminate enrollment or agree to pay the premium (or incur a debt) in order to continue enrollment. See the FEHB Handbook for additional information.

a. Terminating Enrollment

(1) Coverage. If the employee elects to terminate enrollment, the termination is effective at the end of the last pay period in which the PRO withheld the premiums from pay. Upon termination, FEHB coverage continues for an additional 31 days at no cost to the employee. During the 31-day period, the employee and covered family members may convert to an individual contract with the insurance carrier (commonly referred to as the "conversion right").

(2) Reenrollment. If the employee returns to a pay status, or at the end of the first pay period that pay becomes sufficient to cover premiums, the employee must reenroll within 60 days if the employee wishes to elect FEHB coverage again. If the PRO has forwarded the Government contribution to OPM using RITS and an adjustment is required in a subsequent pay period due to the late receipt of the FEHB cancellation, appropriate changes must be made to the Department of Defense (DD) Form ***592***, Payroll for Personal Services, and the ***SF 2812-A***, Report of Withholdings and Contributions for Health Benefits by Enrollment Code. See the CSRS and FERS Handbook.

b. Continuing Enrollment. If the employee elects to continue coverage, the employee may pay premiums directly to the employing agency while on leave ("pay-as-you-go" option), incur a debt for the unpaid premiums while on leave ("catch-up" option), or pre-pay the premiums before the employee goes on LWOP. The PRO must notify the employee of choices available (using the notification discussed at subparagraph 110302.F.3) and provide the employee with a method to make direct premium payments. If the employee elects to incur a debt, the employee must repay the debt in full or the employee will be subject to debt

collection action. If the employee pre-pays the premiums, the amount may be deducted from pay or may be paid out-of-pocket. Out-of-pocket payments are after-tax monies.

c. Employee Takes No Action. If the employee does not sign and return the written notice within 31 days of receiving the notice (45 days for overseas employees), the PRO must terminate the enrollment on the SF 2810, Notice of Change in Health Benefits Enrollment. The effective date of enrollment termination is retroactive to the end of the last pay period that premiums were withheld from pay.

5. Coordinating Withholding from Disability Retirement or Workers' Compensation

a. Pending Applications.

(1) General. An employee's period of LWOP may be associated with an employee's pending application for disability retirement or workers' compensation benefits. Generally, if the employee's application is approved, the disability retirement annuity or workers' compensation benefits will be payable from the day following the last day of pay.

(2) PRO Actions. If the employee does not continue to make premium payments during LWOP, the PRO must recover the employee's share of the FEHB premium from the annuity or workers' compensation benefits payment. If the employee paid his or her share of FEHB premiums during LWOP and withholding is also made from the annuity or workers' compensation benefits for the same period, the PRO will refund the amounts to the employee to avoid double premium payments. If the disability retirement annuity does not begin on the day following the last day of pay, the PRO will not refund premium payments until the office receives a notice from OPM indicating the disability retirement application has been approved.

* b. Withholding While Receiving Workers' Compensation. Health benefits enrollment continues while an employee is receiving compensation through the Office of Workers' Compensation Programs (OWCP). Historically, if compensation lasted fewer than 29 days, FEHB enrollment remained with the PRO. In August of 2010, OWCP discontinued the practice of delaying deductions for the 28-day period and began making the FEHB deductions effective the first day of LWOP to prevent interruptions in insurance deductions. See Federal Employees Compensation Act ***(FECA) Circular No. 09-04*** and ***FECA Circular No. 12-05***. Enrollment continues during the first 365 days in LWOP status while an employee is receiving compensation. After 365 days, an employee must meet certain participation requirements (see FEHB Handbook) and enrollment eligibility is determined by OWCP.

6. Special Circumstances Involving Employees on LWOP. An employee may elect to continue their benefits and pay the employee share of their premiums under the following ***special circumstances***:

a. Student Trainees on LWOP. Enrollment for student trainees with a career or career conditional appointment continues during LWOP as long as the student is participating in the Student Career Experience Program under 5 C.F.R. 213.3202(b). The student must continue to pay the employee share of FEHB premiums during LWOP status.

b. Part-Time Employees on LWOP. During LWOP, a part-time career employee who receives a prorated Government contribution toward FEHB premiums must continue to pay the same amount of health benefits premiums that were withheld from the employee's pay when the employee was in pay status.

c. Temporary Employees on LWOP. A temporary employee enrolled in FEHB must pay both the employee share and the Government share of premiums during periods of LWOP. An employee who accepts a temporary position with another employing office must have the enrollment transferred from their original employing office to the new employing office. If the employee is still in LWOP status when the temporary position at the new employing office ends, enrollment must be transferred back to the original employing office. The original employing office must determine the remaining time the employee is entitled to continue FEHB coverage under LWOP. If the employee's temporary position in the original employing office has expired, the FEHB enrollment must be terminated. Both offices must coordinate the action so that withholdings and contributions are made in a timely manner.

d. Employees on Family and Medical Leave. An employee is entitled to 12 weeks of unpaid leave under the Family and Medical Leave Act (FMLA). See ***5 U.S.C. § 6382***. The 12 weeks of FMLA leave usually runs concurrently with the 365-day period for FEHB coverage during LWOP status. During the 12 weeks of FMLA leave, the general requirements for premium withholding and contributions described in paragraph 110302 apply. During any FMLA leave period that extends beyond 365 days (for example, if the employee has used an extensive amount of LWOP before beginning FMLA leave), the employee must pay the employee's share of FEHB premiums directly to the PRO on a current basis.

e. Employees Appointed to Employee Organizations

(1) Eligibility. An employee who is authorized LWOP status in order to serve as a full-time officer/employee of an employee organization may continue health benefit coverage if elected within 60 days from the start of LWOP. Coverage continues for the entire length of the appointment, even if LWOP lasts longer than 365 days. The employee pays the full cost of the health plan premium (both the employee and Government share). The employee must make the premium payment to the PRO before, during, or within 3 months after the end of each pay period.

(2) Termination. Coverage terminates if the employee does not pay premiums within this timeframe (subject to the 31-day extension of coverage and conversion right). Coverage will not resume until the employee enters pay and duty status in Federal service. Coverage may be restored retroactively if the employing agency finds that the employee was unable to make premium payments for reasons beyond the employee's control and payment is made at the first opportunity.

f. Appointments to State or Local Governments, Institutions of Higher Education, Indian Tribal Government, or other Organizations. An employee granted LWOP for the purpose of an appointment to a State or local government, an institution of higher education, Indian tribal government, or certain other organizations specified in ***5 C.F.R. 334***, may elect to continue health benefits coverage for the duration of the assignment. Employees are entitled to continue coverage even if LWOP lasts longer than 365 days. The employee must pay the employee's share of the premiums to the PRO before, during, or within 3 months after the end of each pay period. The employing office must continue to pay the Government share of the premiums as long as the employee continues to make premium payments. If the employee does not make premium payments in a timely manner, coverage:

(1) Terminates if the employee does not pay premiums in a timely manner (subject to the 31-day extension of coverage and conversion right);

(2) Will not resume until the employee enters pay and duty status in Federal service; and

(3) May be restored retroactively if the employing agency finds that the employee was unable to make premium payments for reasons beyond the employee's control and payment is made at the first opportunity.

g. Transfer to International Organization. An employee who is transferred to an international organization under ***5 U.S.C. § 3582*** may elect to continue health benefits coverage and must pay the employee share of premiums to the employing office before, during, or within 3 months after the end of each pay period. The employing office must continue to pay the Government contribution as long as the employee pays their share of the premium. Coverage terminates if the employee does not pay premiums within this timeframe (subject to the 31-day extension of coverage and conversion right). Coverage will not resume until the employee enters pay and duty status in Federal service. Coverage may be restored retroactively if the employing agency finds that the employee was unable to make premium payments for reasons beyond the employee's control and payment is made at the first opportunity. See ***5 C.F.R. 352.309***.

h. Employee Salary Paid in Less Than 12 Months. If an employee's salary is paid over a period of less than 12 months (for example, a teacher who is paid over 10 months), the employing office should prorate the annual premium installments over the number of salary installments during the year so that the employee does not owe additional premiums during the nonpay period. If the employee is on LWOP status during the normal work period, the employee must pay premiums for that period.

G. Daily Proration Rule

1. General. The Daily Proration Rule is a formula used to calculate partial employee withholdings and Government contributions for FEHB premiums. Unless otherwise provided, the full withholding and contributions must be made for each pay period even if the employee is in pay status for only part of the period. The PRO uses the Daily Proration Rule to compute partial withholdings and contributions under the following circumstances:

a. The employee transfers to a position serviced by a different PRO other than at the beginning of a pay period;

b. The employee retires other than at the end of a pay period and is eligible to continue FEHB enrollment;

c. The employee dies, and there is a survivor annuitant eligible to continue FEHB enrollment; or

d. The employee terminates or reinstates enrollment because of entry into or return from military service.

2. Application of the Daily Proration Rule. The FEHB Handbook provides examples for computing a prorated amount of withholdings and contributions using the Daily Proration Rule. Each PRO (gaining and losing) is responsible for FEHB withholdings and contributions for the actual time the employee occupied a position serviced by the PRO. The PRO must compute daily FEHB premium withholdings and contribution rates as follows:

a. Daily Withholding Rate. To determine the daily withholding rate for partial employee withholding, multiply the employee's biweekly withholding rate by 26 and divide by 364; the result will equal the daily withholding rate. Multiply the daily withholding rate by the number of days on the payroll, the result will equal the amount of withholding for which the PRO is responsible. Use the denominator of 364 even during a leap year.

b. Daily Contribution Rate. To determine the daily contribution rate for partial Government contributions, multiply the biweekly Government contribution rate by 26 and divide by 364; the result will equal the daily contribution rate. Multiply the daily contribution rate by the number of days on the payroll, the result will equal the amount of contributions for which the PRO is responsible. Use the denominator of 364 even during a leap year.

H. FEHB Premium Conversion. Premium conversion is a method for reducing taxable income by the amount of an employee's contribution to his or her FEHB premium. Premium conversion reduces the employee's taxable income thereby lowering the employee's Federal income tax, Social Security and Medicare taxes, and state and local taxes. See ***5 C.F.R. 892.102***. The HRO automatically enrolls eligible employees in premium conversion. Before the effective date of coverage, an employee may waive participation in the premium conversion benefit by filing an FEHB ***Premium Conversion Waiver/Election Form***. Thereafter, an employee may file a waiver of participation in premium conversion only under the limited circumstances set out at ***5 C.F.R. 892.205***. See 5 C.F.R. 892, subpart B for additional information.

I. Collection of Unpaid FEHB Premiums Debt

* 1. Debt Collection. Debt collection actions shall be made pursuant to the debt collection authority in Volume 16. If the employee received a salary advance to cover

FEHB premiums (using the "catch-up option") and the employee signed a statement agreeing that the debt may be withheld from future pay, then the agency is not required to offer the employee a hearing before beginning salary offset, but notice of the intent to collect the debt must be provided. See ***5 C.F.R. 550.1102(b)***.

2. Payments and Offsets. The PRO will note payments received or payroll deductions withheld and record those payments in the OPM deposit fund for FEHB withholdings. If the employee separates, the amount owed must be offset against any entitlements due. If the employee retires and final pay is not sufficient to cover the debt, then the OPM Form ***1522***, Request for Offset for Health Benefits Premiums from Monies Payable Under the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), must be used to offset against a CSRS or FERS annuity. In addition, note on the ***SF 2806***, Individual Retirement Record, or ***SF 3100***, Individual Retirement Record (FERS), that the separating employee has been indebted. There is no minimum amount subject to offset. If the employee has made any duplicate payments that are later offset, the duplicate payments must be refunded.

3. Debt Collection after Transfer to a Different PRO. The date of last withholding and amount due must be shown on the ***SF 1150***, Record of Leave Data, when an employee has a debt for unpaid FEHB premiums and transfers to a different PRO. Amounts due from employees transferring to another PRO should be collected by the gaining PRO and paid to the former employing office and reported to OPM by the gaining PRO.

4. Employees Erroneously Allowed to Continue FEHB Coverage Beyond 365 Days of Leave Without Pay. The Affordable Care Act does not allow a health insurer to cancel coverage retroactively if premiums have been paid, including if an employer has erroneously allowed an ineligible employee to enroll. Where an employee who was on LWOP elected to incur a debt for the employee portion of the premium, and the employee's enrollment was erroneously allowed to continue for an extended period of time beyond the 365th day, the premium debt incurred by the employee for coverage may be significant. Therefore, OPM has directed agencies that in such a case, the agency must allow the employee to choose whether to:

a. Terminate the enrollment prospectively effective last day of the pay period in which the error was discovered and keep the coverage during the erroneous enrollment period. This means, if the employee incurred a debt, the employee owes the employee share of the premiums to the agency for that period, however the employee is entitled to full benefits during the period of the erroneous enrollment; or

b. Terminate the enrollment retroactively back to the date the FEHB enrollment should have terminated (meaning the employee owes no premiums for the erroneous enrollment period, but was not covered during that period and is responsible for any claims paid). This will allow the employee to avoid a large premium debt if little or no services were used due to the agency's error.

110303. FEHB for Employees Entering Active Military Service

A. General. Federal law allows up to 24 months of continued FEHB benefits for Federal employees, and their covered dependents, who separate or enter into nonpay status to serve in the uniformed services, referred to as Absent-Uniformed Service (AUS). See 38 U.S.C. § ***4317(a)(1)(A)*** and ***5 U.S.C. § 8905a***.

1. Active Duty 30 Days or Less. If the employee is on active duty for 30 days or less and is in pay status, the employee's FEHB enrollment continues without change to the employee withholding or Government contributions.

2. Active Duty Over 30 Days. An employee who enters active duty for more than 30 days may continue enrollment for up to 24 months unless the employee terminates enrollment.

3. Cost of FEHB Coverage. As discussed in subparagraph 110303.B, the cost of FEHB is dependent upon the nature and length of the employee's active duty. Eligible DoD employees called to active duty in support of a contingency operation receive an enhanced benefit that results in the agency paying both the employee and government shares of the premiums for up to 24 months. However, if status changes to non-contingency during the employee's active duty service, a debt will incur. See also 5 C.F.R. 890.303(i), 5 C.F.R. 890.304, and 5 C.F.R. 890.502(f).

B. Premium Payments – General Information.

1. First 365 Days. For the first 365 days AUS (12 months), the employee must pay the employee share of the FEHB premium (the employee may elect to postpone payment using the "catch up option").

2. After 365 Days. After 365 days on AUS, the employee must pay both the employee share and the government share of the FEHB premium, plus a 2 percent administrative charge. Payment is made directly to the PRO on a current basis (each pay period). See 5 C.F.R. 890.502 (f). Active Duty in Support of a Contingency Operation. As discussed in subparagraph 110303.C, DoD Components pay both the employee and government's share of the FEHB premium if the employee is called or ordered to active duty in support of a contingency operation.

3. Enrollment Termination and Reenrollment. An employee's enrollment ends 24 months after absence for military service began, or 90 days after service ends, whichever is earlier. At the end of the 24 months, FEHB coverage will continue for an additional 31 days during which the employee and covered family members may convert to an individual contract with the insurance carrier. If the employee has terminated enrollment during active duty, they may enroll again within 60 days after returning to civilian employment.

4. Additional Guidance. See OPM ***Guidance*** on Coverage for Federal Civilian Employees Called to Military Duty.

C. Premium Payments When Service is in Support of a Contingency Operation. Eligible Federal employees called to active duty in support of a contingency operation, as defined in ***10 U.S.C. § 101(a)(13)***, on or after September 14, 2001, are allowed an extension of coverage under the FEHB Program for up to 24 months. See 5 U.S.C. § 8905a and 5 C.F.R. 890.502(f). DoD agencies may pay both the employee's share and the government's share of the FEHB premiums (in addition to any administrative charges the employee may otherwise be required to pay) for up to 24 months for eligible employees. See 5 U.S.C. § 8906(e)(3). When an employee moves from a contingency to non-contingency operation, the agency is required to cease paying the employee share of premiums.

1. Eligibility Requirements. To be eligible for continued FEHB coverage and payment of the employee's share of the FEHB premium under these authorities, the employee must be:

a. Enrolled in FEHB and elect to continue that enrollment;

b. A member of a Reserve component of the Armed Forces, which includes the Army National Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard, the Air Force Reserve, and the Coast Guard Reserve;

c. Called or ordered to active duty (voluntarily or involuntarily) in support of a contingency operation as defined in 10 U.S.C. § 101(a)(13);

d. Placed on AUS or separated from civilian service to perform active duty; and

e. On active duty for a period of more than 30 consecutive days.

2. Effective Date. Continued coverage and agency full premium payment for eligible employees will be effective the date the employee is initially placed on AUS or separated from civilian service to perform active duty. Eligibility continues for up to 24 months while the employee is on active duty. The 24-month period will not be extended by the employee's intermittent use of paid leave during a period of military service.

D. Historical Information

1. Service in Support of a Contingency Operation on or After December 8, 1995, but Before September 14, 2001. Title 5 U.S.C. § 8906(e)(3) provided an extension of coverage under FEHB for no longer than 18 months for eligible employees. Under the law, agencies were authorized to pay the full FEHB premium (employee share and government share) for a period no longer than 18 months for eligible employees. The period of continued FEHB coverage began on the date of the employee's absence from their civilian position. The agency paid full FEHB premiums during periods of AUS or separation, but not during any pay period the employee used paid leave.

2. Service Not in Support of a Contingency Operation on or After December 12, 1994 and before December 10, 2004. The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects all employees serving on active duty in the uniformed services, including those serving under non-contingency orders. See 38 U.S.C. § 4317(a)(1)(A). Under USERRA, employees called to active duty under Title 32 or Title 10 between the aforementioned dates, were entitled to continued coverage of FEHB for 18 months. The period of continued FEHB coverage began on the date of the employee's absence from their civilian position.

a. First 12 Months. The employee was responsible for payment of the employee's share of the FEHB premium for the first 12 months.

b. 12 to 18 Months. The employee was responsible for the full FEHB premium (employee share and government share) plus a 2 percent administrative charge after 12 months and up to the 18-month limitation.

110304. Retroactive Changes and Adjustment of Errors

A. Retroactive Changes in Enrollment to Self Only. If the employee does not participate in premium conversion, the employee may change enrollment from self and family to self only at any time. An employee who participates in premium conversion is limited to changing their enrollment from self and family to self only during open season, or within 60 days after the employee has a qualifying life event. Generally, a qualifying life event is an increase or decrease in the number of eligible family members as described in the FEHB Handbook.

1. The HRO may make enrollment changes retroactively to the first day of the pay period that began after the employing office received the employee's enrollment change request.

2. The retroactive change, and corresponding adjustments to health benefits withholdings and contributions, may be made only upon the employee's written request. The request must identify the event and date when the employee became the only person covered by family enrollment.

3. If an employee retroactively changes from self and family to self only, the PRO must make corrective adjustments to refund premiums back to the beginning date of the change in coverage provided by the employing agency. The Barring Act (Statute of Limitations) under ***31 U.S.C. § 3702 (b)(1)*** does not apply to these specific changes.

B. Adjustment of Errors

* 1. Underdeduction. An underdeduction of FEHB withholding represents an overpayment of the employee's pay. Collection of the overpayment is exempt from due process if the amount was accumulated over four pay periods or less immediately preceding the current pay period. See ***5 C.F.R. 550.1104(c)***. Collection is subject to due process procedures when the amount accumulated is for a period of more than four pay periods. The PRO must collect

the overpayment from a separated employee's final pay. See Volume 16, section 030207 for additional information.

2. Overdeduction. If the PRO overdeducts the FEHB premium amount owed by the employee, the PRO must refund the overdeduction to the employee and adjust the Government contribution on a subsequent pay period.

110305. Temporary Continuation of Coverage (TCC)

A. General. An employee who loses FEHB coverage because he or she separates from Federal service may enroll under the TCC of FEHB. TCC allows an employee to continue health benefits coverage for up to 18 months from the date of separation. An employee's family member (child or former spouse) who loses coverage because he/she is no longer eligible may also enroll under TCC and may continue coverage for up to 36 months from the date of their change in status as a family member. HRO provides the employee with a notification of TCC election rights. For specific details regarding TCC, see 5 C.F.R. 890, subpart K.

B. Notification. Once the employee's HRO establishes TCC eligibility, the HRO will forward the election form to the National Finance Center (NFC), which administers the TCC program for the DoD. The NFC will notify eligible individuals and provide further information on benefits, and will process enrollment changes and cancellations. NFC will collect premiums and send them to OPM.

C. Premium Payments. Individuals eligible for TCC must pay the full premium for the health benefit plan, which includes the employee withholding amount and the Government contribution plus a 2 percent administrative charge. However, if the individual has TCC based on a separation due to a reduction in force under 5 U.S.C. § 8905A(d)(4), the employee only pays their share, and the agency continues to pay the Government contribution amount plus the 2 percent administrative charge.

1104 FEDERAL EMPLOYEES DENTAL AND VISION INSURANCE PROGRAM (FEDVIP)

110401. General

FEDVIP provides dental and vision insurance to Federal employees at competitive group rates. While FEDVIP enrollment occurs during the annual Federal benefits open season process, FEDVIP is separate from the FEHB Program. For additional information, see ***5 C.F.R. 894***.

110402. FEDVIP Eligibility and Participation

A. Eligibility. Generally, in order to be eligible to enroll in FEDVIP, employees must be eligible for enrollment in the FEHB Program however; enrollment is not required. Certain employees, such as some temporary employees or intermittent employees, are not eligible for FEDVIP even though they may be eligible for FEHB. Enrollees in the FEHB TCC are not eligible for FEDVIP. Coverage of FEDVIP continues each year, and employees do not

need to re-enroll each year to continue current coverage. Employees may enroll in FEDVIP through BENEFEDS, which administers enrollment for the FEDVIP program. Employees can utilize a secure enrollment site at ***www.BENEFEDS.COM***, or by calling BENEFEDS customer service at 1-877-888-3337.

B. Enrollment. Employees may enroll in FEDVIP:

1. During the annual open season;

2. Within 60 days after first becoming eligible as a new employee, or a previously ineligible employee who transfers to a covered position;

3. Within 60 days after returning to work following a break in service of at least 30 days; or

4. From 31 days before the employee (or eligible family member) loses other dental/vision coverage to 60 days after a qualifying life event allowing the employee to enroll. See 5 C.F.R. 894.502 and BENEFEDS.com for information on qualifying life events.

C. Types of Enrollment. Under the FEDVIP, employees may select from the following types of enrollment:

1. Self only, which covers only the employee;

2. Self plus one, which covers the employee plus one eligible family member as specified by the employee; or

3. Self and family, which covers the employee and all eligible family members.

D. Cancellation, Termination and Extension of Enrollment

1. Cancellation of Enrollment. Generally, an employee may only cancel FEDVIP participation during open season. An employee may cancel FEDVIP participation outside of open season only under the following two circumstances and the cancellation is effective at the end of the pay period in which the employee submits the cancellation request:

a. When the employee or employee's spouse is called to active military duty; or

b. When the employee transfers to an eligible position with another Federal Agency that provides dental and/or vision coverage and the employer pays 50 percent or more of the premium.

2. Ineligibility. When an employee who no longer meets the definition of an eligible employee, FEDVIP coverage stops at the end of the pay period in which the employee was last eligible.

3. Extension of Coverage and TCC. Upon termination, there is no extension of coverage or right to convert to an individual contract with the insurance carrier. There is no TCC for employees or family members when FEDVIP coverage stops or family members become ineligible.

110403. FEDVIP Premiums

A. General. Employees who elect to participate in FEDVIP pay the entire premium, as there is no Government contribution for FEDVIP. Part-time employees pay the same premium as full-time employees.

B. Premium Conversion. The PRO withholds FEDVIP premiums from the employee's biweekly salary on a pre-tax basis using premium conversion, the method for reducing taxable income by the amount of the employee's contribution to their FEDVIP premium. Unlike the FEHB program, an employee may not opt out of premium conversion for FEDVIP. Premiums are not paid on a pre-tax basis if the employee has insufficient pay to cover the premium or is in a nonpay status. An employee who pays a premium directly to the FEDVIP administrator is not eligible for premium conversion. When an employee's enrollment is retroactively changed and additional premium withholding is required, the employee is not eligible for premium conversion unless the change is the result of a birth or adoption of a child.

C. Insufficient Pay or Nonpay Status. If an employee misses a premium payment for FEDVIP, they must make up the payment in subsequent pay periods or FEDVIP coverage will stop on the last day of the pay period in which FEDVIP received an allotment. An employee who is in a nonpay status, or who has insufficient pay to cover premiums, may also arrange to pay premiums directly to the FEDVIP administrator. If the employee stops making direct premium payments, FEDVIP coverage stops at the end of the pay period in which the employee last made a payment. If FEDVIP coverage stops, the employee will not be able to reenroll until the next open season after the employee is in pay status or the employee's pay is sufficient to pay the premium.

1105 ALLOTMENTS FOR FEDERAL FLEXIBLE SPENDING ACCOUNT PROGRAM (FSAFEDS)

110501. General

FSAFEDS offers three different Flexible Spending Accounts (***FSAs***). Eligible employees under this program open a FSA and make an annual election to deposit a portion of their pay into the account for the upcoming benefit period. The PRO withholds allotments from the employee's biweekly salary on a pretax basis and deposits the funds into the FSA. Employees may request to accelerate allotments over fewer pay periods. The employee may use their FSA for reimbursement of out-of-pocket costs for health care (such as co-payments

and expenses not covered by insurance). Employees may also set up an account for dependent care expenses for a qualifying dependent. FSAFEDS is not a part of the FEHB program.

A. Open Season. Eligible employees must enroll in FSAFEDS each year during the Federal Benefits Open Season. Open season enrollments are effective January 1 of the following year. Enrollment does not carry forward year-to-year, and an employee must reenroll each year. New and newly eligible employees must enroll in the program within 60 days (but no later than October 1) of their entry on duty.

B. Enrollment. Employees must enroll directly with FSAFEDS either through the website at ***fsafeds.com*** or by calling FSAFEDS at 1-877-372-3337.

110502. Types of Flexible Spending Accounts

A. Health Care Flexible Spending Account (HCFSA). An eligible employee may make an allotment to an HCFSA to pay for qualified health care costs not covered by FEHB. If an employee maintains an HCFSA and enrolls in an HDHP, the employee may not maintain a HSA.

B. Dependent Care Flexible Spending Account (DCFSA). An eligible employee may make an allotment to a DCFSA to pay for qualified dependent care (such as day care) expenses.

C. Limited Expense Health Care Flexible Spending Account (LEX HCFSA). The LEX HCFSA is only available to employees who enroll in an FEHB HDHP with an HSA. Eligible expenses are limited to dental and vision care services.

* 110503. Allotments for FSAs

A. Payment of allotments. Allotments withheld from the employee's pay are forwarded to BENEFEDS on the same date payroll is paid.

* B. Carryover.

* 1. Prior to 2015. Any unused FSA allotments were forfeited if the employee did not incur an eligible expense and file a timely claim for reimbursement.

* 2. After 2015. In October 2013, the Treasury and the IRS modified the forfeiture ("use-or-lose") rule for health care FSAs. Effective January 1, 2015, FSA programs allowed participants to carry over up to $500 of unused health care FSA funds to the next plan year (as long as they re-enroll in health care FSAs). Each year, by January 15, a carryover account will be established with their remaining funds from the prior calendar year, up to $500. Any amount over $500 will remain in the prior year account and will be forfeited if prior year claims are not submitted by the April 30 deadline. The carryover funds can be used for prior year expenses that are submitted by April 30 or current year expenses. The carryover balance will be set to a "secondary priority" for claim reimbursement; this means that the

carryover balance will be used only if the prior and/or current year balances have been depleted. See Benefits Administration Letter (BAL) ***14-801***. For additional information on carry over rules, see fsafeds.com.

C. LWOP and Nonpay Status.

1. Effect of Nonpay Status. The Government will not make up the employee's allotments to an FSA if the employee is on LWOP or in a nonpay status. However, the employee may prepay allotments for periods of LWOP. If allotments are not prepaid, the HCFSA or LEX HCFSA account will be frozen The employee will not be eligible for reimbursement of expenses incurred during LWOP or while in a nonpay status until the employee returns to pay status and allotments have restarted (even if the government continues to pay the employee's FEHB premiums for medical coverage). If an employee maintains a DCFSA during nonpay status, certain dependent care expenses that meet IRS guidelines for eligible expenses may continue to be reimbursed up to the account balance.

2. Return to a Pay Status. Upon the employee's return to pay status, the PRO will recalculate any future allotment amounts based on the number of pay dates remaining in the benefit period.

D. Separation from Employment and Termination of FSAFEDS Participation. Participation in FSAFEDS stops as of the employee's separation date, or the last day of the pay period in which FSAFEDS received an allotment. HCFSA or LEX HCFSA expenses incurred after participation ends are not eligible for reimbursement. Reimbursement is only available for expenses incurred prior to the date of termination. However, the employee may continue to use the remaining balance in a DCFSA for eligible dependent care expenses until the end of the Benefit Period or until the depletion of the account balance, whichever comes first. Termination may be due to a change in employment status causing the employee to lose eligibility, separation from Federal employment, or transfer to a Federal agency not covered by FSAFEDS.

1106 FEDERAL EMPLOYEES GROUP LIFE INSURANCE (FEGLI) PROGRAM

110601. General

The FEGLI Program is a term life insurance program that provides life insurance coverage for Federal employees and their families. See ***5 U.S.C. § Chapter 87***. The FEGLI Act of 1954, P.L. 83-598, created the FEGLI Program. OPM administers the Program and sets the amounts for employee withholdings and Government contributions. For additional information, see ***5 C.F.R. Part 870*** or the FEGLI Program ***Handbook***. FEGLI benefits are payable regardless of the cause of death. The employee's SF 50 reflects the FEGLI enrollment code. See ***SF50 Insurance Code Translator***.

110602. Types of Life Insurance

There are two types of life insurance coverage under the FEGLI Program, Basic and Optional. The employee and the government share the cost of Basic insurance. The employee

pays the entire cost for any of the three additional types of Optional insurance. Additionally, accidental death and dismemberment coverage is an automatic part of Basic and Option A insurance at no additional cost to employees.

A. Basic Insurance. On the date the eligible employee is initially placed in pay and duty status, the HRO automatically enrolls the employee in Basic insurance, unless the employee specifically waives Basic insurance coverage. A new employee may opt out of Basic insurance by filing a waiver of Basic insurance with the employing office before the end of the first pay period. The new employee may also use a previously filed waiver from earlier employment which remains in effect. See 5 C.F.R. 870.501.

1. Basic Insurance Amount (BIA). The amount of an employee's Basic insurance coverage is equal to their BIA multiplied by a factor based on the employee's age. An employee's BIA is either the annual rate of basic pay, rounded to the next higher thousand (plus $2,000) or $10,000, whichever is higher. An employee's BIA automatically changes whenever an employee's pay changes. Effective October 30, 1998, there is no maximum BIA. Note: if the employee's salary is limited or "capped" by law, the amount of Basic insurance is based on the capped amount, not on the amount of pay without the cap. See 5 C.F.R. 870.202.

2. Annual Rate of Basic Pay for Determining BIA. BIA is based on the employee's annual pay as fixed by law or regulation. See 5 C.F.R. 870.204. An employee's annual pay for life insurance purposes includes the following pay:

a. Interim geographic adjustments and locality-based comparability payments;

b. Premium pay for standby duty under ***5 U.S.C. § 5545(c)(1)***;

c. For a law enforcement officer as defined under 5 U.S.C. § ***8331(20)***, ***5 C.F.R. 831.902*** and ***5 C.F.R. 842.802***, premium pay for administratively uncontrollable overtime is authorized under 5 U.S.C. § 5545(c)(2);

d. Night differential pay for wage employees;

e. Environmental differential pay for employees exposed to danger or physical hardship;

f. Special pay adjustments for law enforcement officers;

g. Availability pay for criminal investigators under 5 U.S.C. § 5545a;

h. Market pay for physicians and dentists of the Department of Veterans Affairs under ***38 U.S.C. § 7431***; and

i. Straight-time pay for regular overtime hours for firefighters.

3. Annual Rate of Pay for Employee Paid Multiple Rates. An employee may be paid for work using different pay rates. The annual rate of pay for such employees for life insurance purposes is based on their work schedule as follows:

a. Regular Schedule. Annual pay for employees regularly scheduled to work at different pay rates, such as day and night rates or two positions at different rates for each position, is the weighted average of the rates at which the employees are paid, projected to an annual basis. A regular schedule may exist even though the schedule varies within a year or even within a pay period.

b. No Regular Schedule. The annual pay of employees, who work at different pay rates but not on a regular schedule, is the annual rate the employee was receiving at the end of the pay period. In the event of death or dismemberment, it is the annual rate at the time of the death or accident.

4. Annual Rate of Pay for Part-Time Employees. A part-time employee's annual pay for life insurance purposes is the employee's basic pay applied to the tour of duty on record, based on the most recent SF 50, in a 52-week work year.

5. Annual Rate of Pay for Employees Serving in More Than One Position at the Same Time. If the employee legally services in more than one position at the same time and the employee is entitled to FEGLI for at least one of the positions, the annual rate of basic pay for life insurance purposes is the sum of the annual rate of basic pay fixed by law or regulation for each position. Certain exceptions apply. See 5 C.F.R. 870.204(g) and 110605.G.

B. Optional Insurance. An employee who has not waived Basic insurance may elect additional Optional life insurance. Optional insurance is not automatic, and employees must specifically elect coverage within 60 days after becoming eligible for coverage, unless a previous election or waiver from earlier employment remains in effect. The cost of Optional coverage depends on the employee's age and is based on 5-year age bands beginning at age 35. Changes in rates based on age are effective on the first day of the first pay period following the pay period during which the employee's birthday occurs. See 5 C.F.R. 870.504.

1. Eligibility to Elect Optional Insurance. An employee may elect one or more types of Optional life insurance coverage provided that:

a. The employee is enrolled in Basic life insurance coverage;

b. The employee does not have a waiver of that type of Optional insurance still in effect (or a waiver of that number of Option B or Option C multiples still in effect); and

c. The employee's pay, after all other deductions, covers the full cost.

2. Types of Optional Life Insurance. There are three types of optional insurance. See 5 C.F.R. 870.201.

a. Option A (Standard Optional Insurance). Option A coverage is available only for the employee and is fixed in the amount of $10,000.

b. Option B (Additional Optional Insurance). Option B coverage is available only for the employee and is an amount equal to 1, 2, 3, 4 or 5 times the employee's annual basic pay after rounding to the next higher thousand if not an even thousand. The amount of coverage under this option automatically changes whenever the employee's annual pay increases or decreases by an amount sufficient to raise or lower pay to a different $1,000 bracket.

* c. Option C (Family Optional Insurance). Option C provides coverage for the death of an employee's spouse or eligible dependent children. Eligible family members are automatically covered. The employee elects either 1, 2, 3, 4 or 5 multiples of coverage. Each multiple is equal to $5,000 for the spouse and $2,500 for each eligible dependent child. Payment is made to the insured employee.

110603. Effective Dates for Withholding Premiums and Coverage

Withholding of premiums for new employees begins with the same pay period during which coverage begins as follows:

A. Basic Insurance. Coverage is effective on the first day the employee enters on duty in pay status. See 5 C.F.R. 870.501(a)(1).

B. Optional Insurance (all options). Coverage is effective the first day the employee enters on duty in pay status on or after the date the HRO receives the election. See 5 C.F.R. 870.504(d).

110604. Effective Date of Waiver or Cancellation of FEGLI.

At any time, an employee may waive Basic insurance, cancel any or all Optional insurance, or reduce the number of multiples under additional Optional insurance. Cancellation of Basic insurance automatically cancels all forms of Optional insurance. Coverage and deductions stop or are reduced effective the last day of the pay period in which the employee files an SF 2817, Life Insurance Election: Federal Employees' Group Life Insurance Program. See 5 C.F.R. 870.502 to 870.505.

*110605. FEGLI Premium Withholdings and Contributions

A. General. The cost of Basic insurance is shared between the insured employee and the Government. The employee pays two-thirds of the cost, and the government pays one-third. See 5 C.F.R. 870.401. The employee pays the full cost of all Optional insurance. OPM periodically reviews the cost of insurance and notifies agencies of premium rate changes.

B. Amount of FEGLI Premium Withholding. During each pay period in which an insured employee is in pay status for any part of the period, the PRO must withhold the

employee's share of the FEGLI premium from their biweekly pay. Premium withholding is subject to the following requirements.

1. The amount of premium withholding is based on the amount of insurance last in force during the pay period.

2. If the employee dies or separates during a pay period, the PRO bases the withholding on the amount of insurance in force on the date of death or separation.

3. If the employee's BIA changes during the pay period, the PRO bases the withholding amount on the BIA last in force during the pay period.

4. If an employee works only a partial pay period, there is no pro-rated premium withholding.

5. If the employee works less than 52 weeks per year, the PRO must convert the biweekly rate to an annual rate. The PRO then prorates the annual rate over the number of pay periods in the year to determine the withholding amount.

6. The PRO must report withholdings and contributions for FEGLI to OPM each pay period as described in Chapter 9. See 5 C.F.R. 870, subpart D.

C. Withholding FEGLI Premiums During Periods of Insufficient Pay

1. Short-term Periods of Insufficient Pay. Withholdings will be made from an employee's salary when the employee is in pay status for any part of a pay period. If the salary is insufficient to permit all payroll deductions, the PRO must use the order of precedence for deductions in Chapter 4. After all other required deductions are made, if pay for a particular period is not enough to cover the full withholdings for life insurance premiums, the amount withheld must first be applied to Basic insurance. Any balance of pay remaining must then be applied to Optional insurance (first to Option B, then Option A, then Option C). See 5 C.F.R. 870.404(f).

2. Extended Periods of Insufficient Pay. A review and determination of insufficient pay must be made by the HRO when it is expected that an employee's pay, after all other applicable deductions, is insufficient to cover the cost of the premiums for a period of 6 months or more. The HRO must notify the employee if an employee's pay will be insufficient to cover FEGLI premiums over the course of 6 months or more. See ***FEGLI Handbook***. The employee may wish to reduce or cancel other deductions from pay or may reduce FEGLI coverage in order to increase pay to cover the withholdings. An employee may elect to make direct payments to the employing office for periods when the pay is insufficient to cover the cost of the premiums. If the employee does not make direct payments, adjust, or cancel coverage, the HRO will terminate coverage as follows:

a. The HRO will terminate all coverage if pay is not sufficient for any premium withholding.

b. If the employee has pay available to cover part of the premiums, the HRO will administratively terminate as much coverage as necessary to allow for premium withholdings in the following order:

(1) Multiples of Option C,

(2) Option A,

(3) Multiples of Option B, then

(4) Basic insurance.

c. Coverage terminates at the end of the last pay period during which premiums were withheld.

3. Reinstating FEGLI Premium Withholding When Pay is Sufficient. If the HRO terminated coverage administratively, the HRO will automatically reinstate FEGLI coverage when the employee's pay becomes sufficient to cover the withholdings. If an employee paid premiums directly, the employing office must start withholding premiums from the employee's pay as soon as the pay becomes sufficient.

D. Withholding FEGLI Premiums and FEGLI Coverage During Nonpay Status

1. Twelve Months of Free Coverage. When an employee enters a nonpay status, the employee is entitled to 12 months of free FEGLI coverage from the last date of pay. No premium payments are required if the employee is in a nonpay status for an entire pay period (unless the employee is receiving benefits from OWCP). See subparagraph 110605.F. Make-up withholdings from future salary payments are not required.

a. The employee's coverage stops on the date the employee completes 12 months in a nonpay status, subject to the 31-day extension of coverage and right of conversion under subparagraph 110605.C. The 12 months in a nonpay status may be broken by periods of less than 4 consecutive months in a pay status.

b. The employee is entitled to begin a new period of 12-month coverage if the employee has at least 4 consecutive months in pay status after a period of nonpay status.

c. If the employee has exhausted the 12 months of FEGLI coverage while in a nonpay status and returns to duty for less than 4 consecutive months, the Basic insurance stops 32 days after the last day of the last pay period. See 5 C.F.R. 870.601(d).

2. Partial Pay Period. If an employee is in a nonpay status for part of a pay period, the full premium (for both Basic and Optional coverage) is withheld, and the Government contribution is paid.

3. Withholding Premiums from Back Pay Awards. Except under the circumstances described at subparagraph 110610.A, no FEGLI premium withholdings are made by the PRO from back pay awarded to an employee who was determined to be erroneously suspended or terminated from employment.

4. Withholding Premiums when Employee on LWOP Accepts Temporary Employment in Another Position. If an employee, who is entitled to 12 months of free coverage while in a nonpay status, accepts a temporary appointment to another position, in which he or she normally would be excluded from insurance coverage, insurance (Basic and Optional) continues.

a. The amount of Basic insurance is based on whichever position's salary is higher. The PRO takes withholdings from pay earned in the temporary position.

b. When the employee has completed the 12 months of nonpay status from the first position that entitled the employee to free coverage, FEGLI coverage will terminate, even if the employee remains in the temporary position. If the temporary position ends before the 12-month period and the employee is still on LWOP from the first position, the free coverage under the first position continues until the employee is separated or until the end of the 12-month nonpay status. After the 12-month period, an employee is eligible for the 31-day extension period and the right to convert to private insurance. See 5 C.F.R. 870.508(b).

5. Special Nonpay Situations. Special nonpay situations involve employees appointed to employee organizations, state or local government, Indian tribal organizations, institutions of higher education, or when an employee transfers to an international organization. Employees in these special nonpay situations may elect to continue their FEGLI coverage for the duration of their appointment. If elected, coverage continues even if the employee remains in a nonpay status for more than 12 months.

a. Payment of Premiums. If the employee elects to continue coverage, the employee must pay the premiums from the beginning of the nonpay status, and the employee is not eligible for 12 months of free coverage. Whether the government continues contributing depends on the appointment. See FEGLI Handbook and 5 C.F.R. 870.508.

b. Continued Coverage Not Elected. If the employee does not elect to continue coverage, the employee is still eligible for 12 months of free coverage and coverage will terminate at the end of the 12-month period, the same as for any other employee in a nonpay status.

E. Withholding FEGLI Premiums From LSL Payments upon Separation. No insurance premium is withheld from the LSL payment when the employee separates from Federal service. However, if the employee has an established debt that is being collected due to the underpayment of premiums, the agency may collect the debt from the LSL payment.

F. Withholding FEGLI Premiums While Employee is Receiving Office of Workers' Compensation Program (OWCP) Payments

* 1. Twelve Months of Coverage as Employee. If an employee is in a nonpay status while receiving workers' compensation benefits, the employee receives 12 months of coverage. HRO must notify OWCP of the type and amount of life insurance the employee has in effect. OWCP will make withholdings from workers' compensation benefits when compensation begins, even during the first 12 months of nonpay status, at the same rate that was withheld from the employee's salary. OWCP deductions for FEGLI will begin effective the first day of LWOP. See FECA Circular No. 12-05. The employing agency continues to pay the Government contribution until the employee separates from service or completes 12 months in nonpay status, whichever happens first. Thereafter, OPM pays the Government contribution. See FEGLI Handbook.

2. Continuing Coverage as an OWCP Compensationer. If FEGLI coverage stops after 12 months in a nonpay status or due to separation, under 5 C.F.R. 870.701, an OWCP compensationer may be eligible to continue Basic coverage (but not accidental death or dismemberment) and may continue or reinstate Optional insurance if:

a. The compensationer was insured during the 5 years of service immediately before the date of entitlement to compensation, or for the full period of service during which the employee was eligible to be insured if less than 5 years; and

b. The compensationer has not converted to an individual policy.

3. Requesting Continuation of Coverage. The compensationer must complete a ***SF 2818***, Continuation of Life Insurance Coverage, as an Annuitant or Compensationer. The HRO must provide the compensationer with a copy of the ***SF 2819***, Notice of Conversion Privilege, Federal Employee's Group Life Insurance Program. The HRO must complete an SF 2821, Agency Certification of Insurance Status. The HRO must send the SF 2818 and SF 2821, a copy of the SF 2819, and all pertinent life insurance information from the employee's file to OPM for verification of eligibility to continue coverage. If eligible, OPM's Retirement Operations Center will serve as the "employing office" and will maintain the compensationer's life insurance file. See 5 C.F.R. 870, subpart F.

4. Notice of Ineligibility. If the employee does not meet the requirements for continuation of life insurance (subparagraph 110604.F.3), HRO must notify OWCP by completing a "Notice of Life Insurance Ineligibility" and issue a copy to the employee. OWCP will stop withholding at the end of the 12 months of free coverage. If the employee separates before the end of the 12 months, the agency must notify OWCP so that withholdings will end. See FEGLI Handbook.

G. Withholding FEGLI Premiums for Employees in Concurrent Employment Positions. An employee who legally serves in more than one position at the same time, in either the same agency or different agencies, is eligible for coverage if at least one position is a covered

position. The amount of Basic and Option B insurance is based on the sum of annual pay for both positions (salaries are added together before rounding up to the next even thousand and before adding the additional $2,000 for Basic insurance). The agency paying the higher salary withholds the employee's premium share and pays the Government contribution. If the employee goes into a nonpay status in an excluded position, at the end of 12 months in nonpay status, the amount of coverage is no longer based on the combined salary but is based solely on the salary from the covered position. If one of the positions is excluded from coverage, see the FEGLI Handbook.

110606. FEGLI Daily Proration Rule

A. General. The FEGLI Daily Proration Rule is a formula used to calculate partial employee withholdings and Government contributions for FEGLI premiums. Unless otherwise provided, the PRO deducts full withholdings and contributions for each pay period even if the employee is in pay status for only part of the pay period. The PRO uses the FEGLI Daily Proration Rule to compute partial withholdings and contributions under the following circumstances:

1. The employee transfers to a position serviced by a different PRO other than at the beginning of a pay period or, the transfer involves two agencies that are on different pay schedules; or

2. The employee retires other than at the end of a pay period.

B. Application of the FEGLI Daily Proration Rule. The FEGLI Handbook provides examples for computing a prorated amount of withholdings and contributions using the Proration Rule. Each PRO is responsible for withholdings and contributions for the actual time the employee occupied the position that the PRO serviced. Each PRO (gaining and losing) must compute daily FEGLI premium withholding and contribution rates as follows:

1. Determine the Daily Rate. To determine the Daily Rate for partial employee withholdings and Government contributions (for Basic insurance), multiply the biweekly employee withholding and Government contribution rates by 26, then divide by 364, the results will equal the daily rate. Use the denominator of 364 even during a leap year. The formula is as follows:

Biweekly Employee Withholdings x 26 ÷ 364 = Daily Rate

Biweekly Government Contributions x 26 ÷ 364 = Daily Rate

2. Apply the Daily Rate to Formulas for Insurance Types. The PRO computes the Daily Rate using the formula discussed in subparagraph 110607.B.1. Once computed, the PRO must use the following formulas to determine the amount of withholdings and contributions (for Basic insurance) for which losing and gaining PROs are responsible:

a. For Option A, the formula is:

Daily Rate x Days on Payroll.

b. For Basic Insurance and Option B the formula is:

Daily Rate x Coverage Amount ÷ $1,000 x Days on Payroll.

c. For Option C, the formula is:

Daily Rate x Number of Multiples x Days on Payroll.

C. Active Employees. Use the FEGLI Daily Proration Rule to determine the PRO's (gaining and losing) responsibility for withholdings and contribution.

D. Retiring Employees. Withholdings and contributions depend on the employee's age at the time of retirement.

1. If the employee is under 65 years of age on the starting date of the annuity, the PRO will make Basic insurance withholdings and contributions and Optional insurance withholdings based on the following:

a. If the annuity starts after the end of the pay period, the PRO will make full withholdings and contributions for the entire pay period. Withholdings and contributions are not required for the period between the end of the pay period in which the employee separates and the date the annuity begins. See 5 C.F.R. 870.404(b).

b. If the annuity starts before the end of the pay period, the PRO will make withholdings and contributions through the day before the annuity commencement date using the FEGLI Daily Proration Rule.

2. If the employee is 65 or older on the starting date of the annuity, the PRO will make Basic insurance withholdings and contributions and Optional insurance withholding based on the post-65 election chosen by the employee.

a. If the employee elects Basic insurance with the 75 percent reduction, the PRO will make withholdings and contributions through the end of the pay period in which the employee separates for retirement without any proration.

b. If the employee elects Basic insurance with the 50 percent reduction, or no reduction, the PRO will make withholdings and contributions based on the starting date of the annuity, the same as for retiring employees under age 65.

c. If the employee has Option A, the PRO will make the withholdings through the end of the pay period in which the employee separates for retirement without any proration.

d. If the employee has Option B or Option C and elects full reduction, the PRO will make withholdings through the end of the pay period in which the employee separates for retirement without any proration. If the employee elects no reduction for Option B or Option C, the PRO will make the withholdings based on the starting date of the annuity, the same as for retiring employees under age 65.

110607. FEGLI Termination, Cancellation, Extension or Conversion

A. Termination. Termination of FEGLI coverage is an involuntary action. An employee whose life insurance terminates receives a 31-day extension of coverage and a right to convert coverage. Termination does not affect an employee's eligibility to continue coverage into retirement. Life insurance terminates when the following occurs:

1. The employee separates from service (see FEGLI Handbook for exceptions);

2. Pay is insufficient to make any premium withholdings, and the employee does not elect to make direct payments;

3. The employee completes 12 months in nonpay status, and the employee is not eligible to continue coverage;

4. The employee moves to a position that is excluded from FEGLI coverage; or

5. Upon the death of the employee.

B. Cancellation of FEGLI Coverage. Cancellation of life insurance coverage is voluntary. Employees who cancel coverage are not eligible to receive the 31-day extension of coverage or a right to convert the coverage. Cancellation of life insurance may affect an employee's eligibility to continue life insurance coverage after retiring. See also section 110604.

1. Cancellation of Basic Insurance. An employee may cancel Basic insurance at any time by filing a waiver of Basic insurance coverage with their HRO. Coverage is canceled at the end of the pay period in which the waiver is properly filed. Cancellation of Basic insurance automatically cancels all forms of Optional insurance.

2. Cancellation of Optional Insurance. An employee may cancel Optional life insurance, or reduce the number of multiples under Option B, at any time by filing a waiver of Optional insurance coverage with their HRO. An employee will not receive a refund of premiums paid prior to the effective date of cancellation. Coverage terminates at the end of the pay period in which the employee files the waiver. Exception: if Option C is canceled because there are no eligible family members, the effective date is retroactive to the end of the pay period in which there were no longer any eligible family members. See 5 C.F.R. 870.505(b). Cancellation of Optional insurance does not cancel Basic insurance. The Barring Act (Statute of Limitations) at 31 U.S.C. § 3702 (b)(1) does not apply to retroactive refunds for Option C.

3. Reinstating Insurance. For detailed information concerning cancelling a waiver of coverage, see the FEGLI Handbook and ***5 C.F.R. 870.503 - 870.505***.

C. 31-Day Extension of Coverage and Conversion. When Basic and Optional insurance terminates, except by an employee's waiver or cancellation, coverage automatically continues without cost for an additional 31 days. No withholding or Government contributions are required during the 31-day extension. An employee may convert to an individual policy and may convert any or all of his or her Basic and Optional coverage. Conversion is effective at the end of the 31-day extension of coverage. The employing agency must notify the employee of the loss of coverage and the right to convert to an individual policy either before or immediately after the event causing loss of coverage. See ***5 C.F.R. 870.603***.

110608. Office of Federal Employees' Group Life Insurance (OFEGLI) Requests for Pre-Payment Verification

PROs must cooperate with the OFEGLI when it requests pre-payment verification. The OFEGLI is required to obtain verification before making payment to beneficiaries of enrollees with $200,000 or more of FEGLI coverage. OFEGLI will request the insured's current salary, annual salary (if different) and details on enrollment in Optional insurance, if applicable.

110609. Continuation of Coverage for Federal Employees Called to Active Duty

Effective January 28, 2008, for Federal employees called to active duty or active duty for training, FEGLI coverage continues for up to 24 months. See 5 C.F.R 870.601(d)(3). Coverage applies to a member of a Reserve component of the Armed Forces called or ordered to active duty for greater than 30 days and is on approved AUS to perform active duty or active duty for training.

A. Months 1 through 12. An employee called to active duty maintains continued FEGLI coverage for up to 12 months just as any other employee in a nonpay status. Employees do not pay for coverage during this 12-month period.

B. Months 13 through 24. An employee called to active duty must elect to have life insurance continue for an additional 12 months and must pay the employee and agency share of the premium from the beginning of the additional 12 months of coverage. An employee may cancel some or all of the coverage during this period. See ***5 U.S.C. § 8706 (d)(1)***.

C. Increasing Coverage. Civilian employees eligible for FEGLI, who are deployed in support of a contingency operation, as defined at 10 U.S.C. § 101(a)(13), or DoD employees eligible for FEGLI, who are designated as emergency essential under 10 U.S.C. § ***1580***, may elect Basic, Option A and Option B, up to 5 multiples, within 60 days after the date of notification of deployment. See 5 C.F.R. 870.503(e) and (f).

D. Termination. At the end of the first 12 months, or 90 days after the military service ends, whichever is earlier, coverage will terminate unless the employee elects to continue coverage for the additional 12 months, subject to the 31-day extension of coverage and

right to convert to an individual policy. An employee may cancel an election at any time, in which case insurance will stop upon receipt of notice of cancellation.

E. Return to Federal Service. When the employee returns to active Federal service after military duty, the employee is afforded the same level of life insurance that was in place before the employee entered nonpay status or separated for military service, as long as the position is not excluded from coverage. HRO reinstates the same type of insurance even if the employee declined to continue coverage for the additional 12 months, reduced some or all of the coverage, or allowed coverage to terminate due to nonpayment.

110610. Retroactive Changes and Adjustment of Errors

A. Retroactive Changes to Pay

1. Erroneous Suspension/Removal and Back Pay Awards. If an employee is retroactively restored to duty with back pay after an erroneous suspension or removal, no life insurance premium withholding is made from the back pay award. However, if death or dismemberment occurred during the period of suspension or separation, the PRO must withhold premiums from the back pay. Additionally, if the employee had Option C coverage and a covered family member dies during the period of separation or removal, the PRO must withhold Option C premiums from the back pay award. See 5 C.F.R. 870.404(e) and the FEGLI Handbook.

2. Retroactive Pay Increase. If an employee receives a retroactive pay increase that was delayed beyond the effective date due to administrative error or oversight, and the pay increase resulted in higher life insurance premiums, deductions for the increased premium adjustment must be applied retroactively.

B. Adjustment of Errors for Overdeductions and Underdeductions of FEGLI Premiums

1. Current Employees

a. Overdeduction of FEGLI Premiums Owed. When the PRO erroneously overwithholds premiums from the salary of an employee, the PRO must refund the erroneous withholding to the employee the next pay period. This automatically corrects the excess Government contribution.

* b. Underdeduction of FEGLI Premiums Owed. When less than or none of the proper amount of FEGLI premiums are withheld from the salary of the employee, the underdeduction represents an overpayment to the employee that must be collected as a debt. The collection of the debt may be exempt from due process requirements under 5 C.F.R. 550.1104(c). See Volume 16, section 030207 for additional information. The agency must submit the uncollected amount due, including the Government contributions, to OPM within 60 calendar days after the date the agency discovers the underdeduction, regardless of whether collection from the employee has been made. Government contributions must be adjusted when payment is received from the employee.

c. OWCP Compensationers. The procedures for refunding overdeductions and collecting underdeductions are the same for employees who are receiving compensation from the OWCP.

2. Separated Employees. When it is necessary for the PRO to make an adjustment in withholdings for a separated employee, the adjustment is withheld from the final salary payment to the employee (or if deceased, to the employee's beneficiary or estate).

C. Incontestability

1. General. Incontestability is a provision of law that allows erroneous coverage to remain in effect under certain conditions. See 5 C.F.R. 870.104. Coverage allowed to stand due to incontestability becomes valid coverage. Erroneous coverage always involves more coverage than an employee is entitled to receive or more than the employee elected. Incontestability does not apply to premiums being withheld for less coverage than an employee elected since such underwitholding is considered an overpayment of salary, annuity, or compensation. For purposes of incontestability, erroneous coverage may occur under the following circumstances:

a. The employee was allowed to elect coverage when not entitled to do so;

b. The SF 50 was coded incorrectly, giving the employee more coverage than he or she elected;

c. The PRO collected premiums for a coverage that the employee did not elect on the election form; or

d. OPM erroneously continued an employee's coverage beginning when the employee became an annuitant or compensationer.

2. Requirements of Incontestability. An employee becomes insured under the provision of incontestability only if both of the following conditions are met:

a. The erroneous coverage was in effect for at least 2 years between the time the error was made and the time the error is discovered; and

b. The employee paid the applicable premiums for the erroneous coverage while it was in effect.

3. If Incontestability Applies and the Individual Does not Want Coverage. When incontestability applies, an employee may cancel the coverage, but only prospectively. The PRO will not refund the premiums for the erroneous coverage period unless the employee had erroneous Option C coverage and did not have any eligible family members. An employee may cancel erroneous Option C coverage retroactively and the PRO must refund any erroneous Option C premiums retroactive to when the employee ceased having eligible family members. The Barring Act does not apply.

4. When Incontestability Does not Apply. If the erroneous coverage is discovered before 2 years, incontestability does not apply and the coverage is not valid. The PRO must void the coverage and refund the premiums.

1107 FEDERAL LONG TERM CARE INSURANCE PROGRAM (FLTCIP)

110701. General

The Long-Term Care Security Act authorized OPM to design a long-term care insurance program for Federal employees and their families. See ***5 U.S.C. § Chapter 90***. OPM created the ***FLTCIP*** and contracted with the John Hancock Life Insurance Company as the carrier that provides Long Term Care (LTC) insurance. Long Term Care Partners, LLC (LTCP), a subsidiary of John Hancock, is the exclusive administrator of FLTCIP. See ***5 C.F.R. Part 875*** for additional information. LTC insurance provides coverage for eligible employees, annuitants, and qualified family members. Coverage applies to those who can no longer perform activities of daily living without assistance due to a chronic illness, injury, disability or the aging process as determined by the LTCP. LTC insurance pays a portion of the cost of covered services, such as home health care, adult day care, or nursing home or assisted living facility costs.

A. Duties of LTCP. The LTCP administers all aspects of the program. Eligible employees must submit their application directly to the LTCP for approval of coverage. The LTCP is responsible for:

1. Accepting and approving employee applications;

2. Answering employee questions about the program;

3. Maintaining their web site to include current information; and

4. Transmitting applicable payroll data for automatic payroll deductions.

B. Duties of Federal Agencies. Federal agencies are responsible for the following:

1. Providing access to information about the FLTCIP to eligible employee;

2. Responding to questions from the LTCP including questions on the employment status of an applicant or enrollee;

3. Providing reports as OPM requires;

4. Complying with BALs and other OPM issuances; and

5. Deducting premiums as authorized by employees and remitting those payments on a biweekly basis to the LTCP.

110702. Eligibility and Cost

A. Eligibility. Participation is voluntary and elections must be made through LTCP. Most Federal civilian employees are eligible to apply for the LTC coverage. If an employee is eligible for the FEHB program, the employee is also eligible to apply for LTC insurance through FLTCIP, even if not enrolled in FEHB. Retirees are eligible to apply. Eligibility also extends to qualified relatives including spouses and adult children of eligible employees and retirees, as well as parents, parents-in-law, and stepparents of current employees. Qualified relatives may apply for coverage even if the employee does not apply.

B. Cost of Coverage. The employee pays the full cost of LTC insurance and there are no Government contributions toward LTC insurance premiums. LTC premiums are based on both the employee's age and the cost of options that the employee selects.

110703. Coverage and Payment Options

A. Effective Date of Coverage. If LTCP approves the employee's application for coverage, the LTCP will send approval notification to the employee and provide the employee with an effective date of coverage. If enrollment occurs during open season, the effective dates of coverage are announced. If enrollment occurs any time outside of open season, coverage is effective the first day of the month after the approval date of the application. Additional requirements apply for active workforce members who apply for coverage under abbreviated underwriting and for those employees whose eligibility changes prior to their announced effective date of coverage. See ***5 C.F.R. 875.404***.

B. Payment of Premiums

1. Payment Options. An employee who qualifies for participation in the LTCIP may choose from three payment options:

a. Payroll deduction;

b. Automatic bank withdrawal; or

c. Direct billing.

2. Payroll Deductions. If premiums are paid through payroll deductions, deductions begin on the first full pay period on or after the effective date of coverage. Payroll deductions for LTC premiums occur each biweekly pay period until the employee separates, transfers, or elects a different payment option.

3. Correcting Underpayments and Overpayments. If the carrier determines that the employee has underpaid premiums, the employee will pay retroactive premiums to the carrier for the amount due. If the Carrier determines that the employee has

overpaid premiums, the Carrier will reimburse the employee or reduce future premium payments by the amount of the overpayment. See 5 C.F.R. 875.303.

C. Transferring Employees. Employees transferring to a new agency must notify LTCP regarding where and when the transfer will occur. The employee's current payroll deductions will continue until the separation action processes. An employee will automatically receive a direct bill from the LTCP for any premiums not collected through payroll deduction due to the transfer. Payroll deductions are not adjusted to "catch-up" uncollected premiums.

1108 DISABILITY INSURANCE FOR EMPLOYEES OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES (USUHS)

Full-time civilian faculty members appointed to an Administratively Determined (AD) position of the USUHS School of Medicine receive mandatory coverage under a long-term disability insurance plan. In order to participate in the long-term disability insurance plan, the employee must be covered under the Teachers Insurance and Annuity Association College Retirement Equities Fund (TIAA-CREF) or the Fidelity Investments program. The employer and employee share the cost of the disability insurance and each contributes 50 percent of the premium. USUHS AD employees covered under FERS or CSRS are not eligible for the long-term disability insurance plan.

1109 NATIONAL GUARD ASSOCIATION OF UNITED STATES (NGAUS) INSURANCE TRUST (IT) PROGRAM

Army and Air National Guard Technicians (Title 32 Technicians) may choose to participate in the NGAUS-IT, which provides disability and life insurance products through its underwriter, ReliaStar Life Insurance Company. Technicians should contact their HRO or NGAUS-IT for enrollment instructions and forms. Technicians who participate agree to have premiums deducted from their biweekly pay on the NGAUS-IT enrollment form. CSRs work closely with ReliaStar Life Insurance Company, which confirms the approval of enrollment and provides the CSR with start dates and amounts of payroll deductions. ReliaStar will notify CSRs of any revisions to premium deductions due to age or salary changes. CSRs enter the appropriate premium deduction information into the Defense Civilian Pay System. PRO deducts premiums for the entire pay period, regardless of the day of termination, and proration is not required.

1110 THRIFT SAVINGS PLAN (TSP)

111001. General

The Federal Employees' Retirement System Act of 1986 established the TSP, a retirement savings and investment plan for Federal employees. See 5 U.S.C. ***Chapter 83***, ***Chapter 84*** and ***5 C.F.R. Part 1600***. TSP offers eligible employees traditional tax deferral advantages as well as a Roth-TSP option. The Federal Retirement Thrift Investment Board administers the plan. FERS, CSRS, and CSRS-Offset employees are eligible to participate in the TSP. TSP benefits depend on an employee's retirement system. If the employee's coverage is under CSRS, TSP is a supplement to the CSRS annuity. If the employee's coverage is under FERS, TSP is part of the

three-part retirement package that includes the FERS basic annuity and Social Security. See also ***TSP guidance*** for additional information.

111002. Establishing a TSP Account, Contribution Elections, and Automatic Enrollment

* A. FERS Employees Hired after July 31, 2010. FERS employees (including FERS or CSRS rehired employees) hired after July 31, 2010, are automatically enrolled in TSP. The PRO deducts 3 percent of the employee's basic pay each pay period and deposits the funds into the employee's TSP account. The employee must make a contribution election to stop or change the contribution. FERS employees also receive contributions from the Government. As a result, the employee receives a deposit equaling 7 percent of basic pay in their TSP account each pay period. TSP invests all contributions in the age appropriate Lifecycle (L) Fund until the employee changes the contribution allocation with the TSP. See ***TSP Bulletin 15-2***.

B. FERS Employees Hired Before August 1, 2010. The agency establishes a TSP account accruing Agency Automatic (1 percent) Contributions for FERS employees hired before August 1, 2010. Employees must make a contribution election in order to begin employee contributions and to receive Agency Matching Contributions.

C. CSRS Employees. CSRS employees may make a TSP contribution election at any time through their HRO in order to establish a TSP account. CSRS employees do not receive Agency Automatic (1 percent) Contributions or Agency Matching Contributions.

* D. Contribution Elections. A contribution election is used by an employee to start, stop, or change employee contributions. The employee may elect to contribute at any time as instructed by the employing agency, by submitting a paper election form or by using electronic media (such as the Employee Benefits Information System). An election may not exceed the maximum contribution limit under 5 C.F.R. 1600.22. The contribution election may be a percentage of basic pay or a dollar amount that is deducted each biweekly pay period. Percentages and dollar amounts must be expressed in whole numbers. Contribution elections are effective the first full pay period after the agency receives the election. The ***TSP-1*** Election Form and the ***TSP-1-C*** Catch-Up Contribution Election Form are available at ***TSP.gov***.

111003. TSP Contributions

A. General. TSP contributions come from three sources: employee contributions, Agency Automatic (1 percent) Contributions, and Agency Matching Contributions. Additional information on employee contribution elections, contribution allocations, and agency automatic and matching contributions can be found in 5 C.F.R.1600 and ***1601*** or at TSP.gov.

B. Employee Contributions. Employee Contributions are payroll deductions taken from an employee's basic pay before taxes are withheld. The PRO withholds contributions each pay period in the amount directed by the employee (or the 3 percent automatic enrollment amount if no election is made). An employee is immediately vested in his or her own

contributions and any accrued earnings on such contributions. Maximum contribution limits are as follows:

1. Internal Revenue Service (IRS) Limits. Contribution amounts are subject to the Internal Revenue Code (IRC) limitations on the maximum dollar amount of contributions. The limits set by the IRS may change annually and published at TSP.gov. See 5 C.F.R. 1600.22.

2. Contribution Limits Through 2005. The maximum employee contribution for FERS, CSRS and CSRS-Offset participants was limited through 2005 to a percentage of basic pay. After 2005, the IRS began setting contribution limits. Additional information regarding FERS limits for 2005 and before can be found at ***5 U.S.C. § 8432(a)(2)***, ***5 U.S.C. § 8351(b)(2)(B)***, and 5 C.F.R. 1600.22.

3. Catch-up Contributions. A TSP participant age 50 or older may be eligible to make tax-deferred catch-up contributions from basic pay that are separate from the participant's regular contribution election. Catch-up contributions for FERS employees are not eligible for Agency Matching Contributions. Catch-up contributions are subject to limits set by the IRS and may be made at any time during the calendar year if the employee is:

a. At least age 50 by the end of the calendar year;

b. Making regular TSP contributions at a rate that will result in the participant making the maximum regular contributions permitted under the IRC; and

C. Agency Automatic (1 Percent) Contributions. Beginning with an employee's first pay period, an agency contributes an amount equal to 1 percent of the employee's basic pay to the employee's TSP account each pay period. For employees hired on or after December 1, 2008, ***The TSP Enhancement Act of 2009*** eliminated the waiting period for FERS employees to receive the Agency Automatic Contributions. The agency contribution is not deducted from the employee's pay, nor is it used to determine tax owed by the employee. CSRS employees do not receive an agency contribution. Generally, most FERS employees become vested and entitled to the Agency Automatic Contributions, and associated earnings, after completing 3 years of service. If an employee:

1. Dies before separating from service, he or she is automatically vested in all of the money in the employee's TSP account; or

2. Separates from Federal service; the employee must meet the TSP vesting requirement in order to keep Agency Automatic Contributions and associated earnings.

D. Agency Matching Contributions. Employees covered under FERS will receive Agency Matching Contributions on the first 5 percent of pay that the employee contributes each pay period to their TSP account. The agency matches the first 3 percent of pay the employee contributes dollar for dollar. The agency matches the next 2 percent of pay at 50 cents

per dollar. The agency does not match the employee contributions above 5 percent. Employees covered under CSRS do not receive Agency Matching Contributions.

E. Contribution Allocations. Employees may make a contribution allocation directing how money deposited into the employee's TSP account is to be invested. This applies only to future deposits and does not affect funds already in the account (an Interfund Transfer reallocates existing investments). The allocation directs the investment of employee contributions, Agency Automatic (1 percent) Contributions, and Agency Matching Contributions. The allocation remains in effect until superseded by a subsequent contribution allocation submitted by the employee. Allocations must be in 1 percent increments and the sum of the percentages elected must equal 100 percent. An employee may change an allocation using the TSP website or using ThriftLine (the automated system or speaking to a TSP Participant Service Representative). Employees may allocate investments among any of the following TSP investment funds:

1. Government Securities Investment (G) Fund;

2. Fixed Income Index Investment (F) Fund;

3. Common Stock Index Investment (C) Fund;

4. Small Capitalization Stock Index Investment (S) Fund;

5. International Stock Index Investment (I) Fund; and

6. Lifecycle (L) Funds.

111004. TSP Loan Program

A. General. The TSP Loan Program allows employees to borrow money from their TSP account while actively employed by the Federal government. TSP participants must apply for a TSP loan and must meet the eligibility criteria set forth in ***5 C.F.R. 1655.2***. Employees may not have more than two outstanding loans at any time and must set-up loan payments through payroll deduction. Repayment must restore the original loan amount, plus interest. Deductions for repayment each pay period is in the amount set out in the Loan Agreement. An employee may make additional payments and may pay off the loan early by making payment directly to TSP.

B. Types of TSP Loans. There are two types of TSP loans authorized under the TSP loan program, the general purpose loan and the residential loan.

1. General Purpose Loans. General purpose loans may be used for any purpose. Obtaining the loan requires no documentation. The repayment term is 1 to 5 years.

2. Residential Loans. Residential loans may be used only for the purchase or construction of a primary residence. Residential loans require documentation regarding the cost of purchasing or constructing the residence and other documentation as requested by TSP. The repayment term is 1 to 15 years.

C. Borrowing Limits for TSP Loans

1. Minimum Loan amount. The initial principal amount of any loan cannot be less than $1,000.

2. Maximum Loan amount. The principal amount of a new loan must be less than or equal to the smallest of the following:

a. The employee's own contributions and earnings on those contributions in the employee's TSP account balance, not including any outstanding loan balance;

b. Fifty percent of the employee's vested account balance, including outstanding loan balance or $10,000, whichever is greater, minus any outstanding loan balance; or

c. $50,000 minus the employee's highest outstanding loan balance, if any, during the last 12 months.

111005. In-Service Hardship Withdraw

Employees who meet eligibility requirements may make a financial hardship withdrawal from their TSP account. After making the withdrawal, the employee cannot make employee contributions to their TSP account for 6 months. FERS participants will not receive any Agency Matching Contributions for the period during which the employee is not making employee contributions. However, Agency Automatic (1 percent) Contributions will continue. An employee cannot return or repay the money removed from the TSP account. See ***5 C.F.R. 1650.32***.

*111006. Correction of Late Contributions.

A. Late Contributions. A late contribution is a contribution that is timely deducted from an employee's basic pay, but is not timely reported to the TSP for investment. A late contribution may also result from an employee contribution that was timely reported to TSP, but was not timely posted to the participant's account by TSP because the payment record submitted contained errors. See 5 C.F.R. 1605.2.

B. Corrections. The PRO must submit late contributions to TSP as soon as the error is discovered. The PRO must show the "as of" date for the contributions. Breakage for both the employee and agency contributions is calculated by TSP. See 5 C.F.R. 1605.15.

*111007. Correction of Employing Agency Errors

A. General. Agency errors occur when an agency either erroneously submits less contributions to a TSP participant's account than it should have or more than it should have. An error is an act or omission by TSP or the employing agency that is not in accordance with applicable statues, regulations, or administrative procedures. It does not mean an act or omission

caused by events that are beyond the control of TSP or the employing agency. It is the responsibility of the employing agency to determine whether it has made an error that entitles a TSP participant to a correction for missed or insufficient contributions. See 5 CFR 1605, ***subpart B***.

B. Missed or Insufficient Contributions. Types of errors resulting in missed or insufficient contributions include, but are not limited to, when the agency actions prevent an employee from making an election to contribute, when the agency fails to implement an election properly submitted, or when the agency fails to make agency automatic or matching contributions. See 5 C.F.R. 1605.11. If, as a result of an agency error, a participant does not receive all of the TSP contributions to which he or she is entitled, the following applies:

1. Employer Makeup Contributions. An agency is required to correct any agency automatic (1%) contributions and agency matching contributions it failed to make. The PRO should promptly submit all missed contribution to TSP. TSP will calculate breakage due the participant and post the contributions and breakage to the participant's account. See 5 C.F.R. 1605.11. See subparagraph 111006.B for information concerning breakage.

2. Employee Makeup Contributions. Missed or insufficient contributions that are the result of an agency error are corrected prospectively. The agency must notify the TSP participant if he or she is eligible to make up the missed contributions and receive matching agency contributions (if applicable). Employee contributions may only be made through future payroll deductions from basic pay. Contributions by check, money order, cash or other form of payment directly from the participant to TSP or to the employing agency for deposit into TSP are not permitted. There is no payment of breakage on makeup employee contributions for missed or insufficient contributions. The employee will receive the tax benefit in the year the contributions are made up.

3. Notification to Employee. The PRO should issue a written notification to the employee indicating that the agency acknowledges that an error has occurred which has caused a smaller amount of employee contributions to be made to the participant's account than should have been made. The agency must advise the employee that he or she may, but is not required, to elect to establish a schedule to make up the deficient contributions through future payroll deductions. An employee has 30 days from the date the notification was received to set up a schedule to make up any deficient contributions.

4. Repayment Schedule. An agency may not require a TSP participant to make up contributions in less than twice the number of pay periods over which error occurred. The maximum length of the repayment schedule may not exceed four times the number of pay periods over which the error occurred.

C. Removal of Excess or Erroneous Contributions. Generally, an agency must submit a negative adjustment record to TSP in order to identify and remove excess or erroneous contributions for each pay date. TSP will credit the agency with the actual value of the adjusted contribution. The agency must return the original amount of the employee contribution to the participant if applicable. Any positive earnings on employee contributions remain in the

participant's account. Positive earnings on agency contributions are forfeited to TSP. Excess or erroneous contributions submitted to TSP before January 1, 2000, may not be returned and remain in the participant's account. See 5 C.F.R. 1605.12.

*111008. Corrections Following an Award of Back Pay or Retroactive Pay Adjustment

A. Erroneously Separated Employee. An erroneously separated employee may request that any employee contributions not made during the period of erroneous separation be deducted from his or her back pay award. See 5 C.F.R. 1605.13. If the employee elects to make up contributions for the back pay period, the HRO will either reinstate the employee's contribution election on file at the time of separation, or the employee may submit a new contribution election if he or she would have been eligible to make such an election but for the erroneous separation. The TSP makeup contributions are subject to the following requirements:

1. Breakage is paid on all makeup contributions, both employee and agency, at the G Fund rate of return, unless otherwise specified by the agency or reinstatement order.

2. The employee will receive the tax benefit in the year the contributions are made. The PRO must annotate retroactive employee contributions by year on the IRS Form W-2, Wage and Tax Statement.

3. TSP will not accept retroactive contributions for erroneous separations directly from the Department of Justice Judgment Fund or by check, money order, cash or other form of payment directly from the participant or agency.

* 4. If, by error, back pay is paid to an employee prior to making TSP contribution deductions, an individual who is still employed with the agency may make up the missed contributions through future payroll deductions.

B. Other Retroactive Pay Adjustments. The agency must deduct TSP contributions from the pay adjustment using the employee's election on file for the period of the pay award. Breakage is calculated based on the contribution allocation on file when the contribution would have been made. See 5 C.F.R. 500.1605 and subparagraph 111010.

111009. Corrections due to Misclassification of Retirement System Coverage. An employee that has his or her retirement system coverage misclassified by the employing agency is entitled to have their record corrected.

A. Misclassified as FERS. When the CSRS employee is misclassified as a FERS participant, the following applies to the corrected record:

1. Employee contributions that exceed any applicable contribution percentage for the pay periods involved may remain in the employee's account. The employee may request the return of excess employee contributions made on or after January 1, 2000, but contributions made before January 1, 2000, must remain in the employee's account.

2. TSP will forfeit agency contributions made to the CSRS employee's account.

B. Misclassified as CSRS. When the HRO misclassifies a FERS employee as a CSRS participant, the following applies to the corrected record:

1. The employee may not elect to have the contributions made while misclassified as a CSRS participant removed from the account.

2. The employee may elect to make up contributions that he or she would have been eligible to make as a FERS employee during the period of misclassification.

3. The employing agency must make Agency Automatic (1 percent) Contributions and Agency Matching Contributions on employee contributions made while the employee was misclassified.

4. If the misclassified coverage is a Federal Erroneous Retirement Coverage Corrections Act (FERCCA) correction, the employing agency must submit makeup employee contributions on late payment records. The employee is entitled to breakage on employee contributions, Agency Automatic (1 percent) Contributions, and Agency Matching Contributions.

5. If the misclassification coverage is not a FERCCA correction, the employing agency must submit makeup employee contributions on current payment records. The employee is not entitled to breakage on employee contributions, but breakage is required for retroactive agency contributions.

6. If employee contributions were made up before OPM implemented regulations on FERCCA corrections and the correction is considered to be a FERCCA correction, an amount to replicate TSP lost earnings will be calculated by OPM and provided to the employing agency for transmission to the TSP record keeper.

C. Misclassifications that are Corrected to Federal Insurance Contribution Act (FICA) Only. If the HRO misclassifies the employee as either FERS or CSRS and later corrects the retirement coverage to FICA only, the employee is no longer eligible to participate in TSP. For regulations regarding employee and agency contribution in the employee's account, see 5 C.F.R. 1605.14(c).

D. Misclassified as FICA Only. If the HRO misclassifies the employee as FICA only and later corrects the retirement coverage to either FERS or CSRS, the employee may elect to make up contributions that he or she would have been eligible to make as a FERS or CSRS employee during the period of misclassification.

111010. Breakage

A. General. Breakage, also referred to as "lost earnings," is the loss incurred or the gain realized on makeup or late contributions. Breakage for both the employee and agency

contributions is calculated, posted and charged to the agency or forfeited to TSP in accordance with 5 C.F.R. Part 1605.2. This includes breakage on late contributions, makeup agency contributions, and loan payments. When breakage is payable, breakage calculations are subject to the following requirements:

1. The contribution is submitted to TSP for deposit more than 30 days from the original pay date.

2. The net contribution (employee and agency combined) is at least $1.00.

B. Posting of Multiple Contributions. If the TSP posts multiple makeup or late contributions, or late loan payments with different "as of" dates for a participant on the same business day, the amount of breakage charged to the employing agency or forfeited to the TSP will be determined separately for each transaction, without netting any gains or losses attributable to different "as of" dates. In addition, gains and losses from different sources of contributions or different TSP Funds will not be netted against each other. Instead, breakage will be determined separately for each "as of" date, TSP Fund, and source of contributions. This is done to provide clarity due to multiply occurrences and to provide the employee complete information in order to make accurate and sound decisions.

111011. Contributions Missed as a Result of Military Service under USERRA

A. Employee Contributions. Upon their return to service, FERS and CSRS Employees who separated from Federal civilian service or who were on AUS in order to perform military service may be eligible to make up employee contributions (including any catch-up contributions for employees age 50 or older) missed because of their military service. FERS employees are eligible to receive matching agency contributions.

1. The PRO must deduct employee contributions from future pay. Employees must meet conditions specified in ***5 C.F.R. 1620.40***. The allowable amount of any makeup contributions will be offset by the dollar amounts an employee contributed to TSP while on active duty. Total contributions may not exceed the IRS limit in effect the year the contribution would have been made.

2. Upon reemployment or return to a pay status after military service, an employee has 60 days to elect to make up any missed contributions. Missed employee contributions are made up in accordance with 5 C.F.R. 1605.11(c). Employees who wish to make up contributions under this authority should review the information on the TSP website regarding ***Resuming and Making Up Contributions*** and 5 C.F.R. 1605.31.

B. Agency Automatic (1 percent) Contributions. The agency must deposit the Agency Automatic (1 percent) Contribution a FERS employee would have been eligible to receive during the period of AUS or separation. The contribution is based on the basic pay the employee would have earned and is entitled to breakage.

C. Agency Matching Contributions. The agency must deposit matching contributions based on the amount a FERS employee contributed to the uniformed services account from his or her military basic pay. Amounts contributed from other sources (such as uniformed services incentive, special, or bonus pay) are not used to determine Agency Matching Contributions. The agency pays matching contributions on any makeup employee contributions made after the employee returns from military service (unless the maximum matching has already been received). Agency Matching Contributions are entitled to breakage.

1111 POST-56 MILITARY DEPOSIT

*111101. General

A. Background. On January 1, 1957, Social Security began using military service in the computation of Social Security benefits. As a result, Federal (employee) retirees with an annuity that included credit for military service performed after 1956 lost credit for time spent in military service when they became entitled to Social Security benefits. In 1982, Congress enacted a law allowing Federal employees who were also veterans with post-1956 military service to pay a deposit into FERS or CSRS to avoid the loss of their military service credit.

B. Post-56 Military Deposit. An employee must pay a deposit prior to retirement for military service performed after December 31, 1956, or the military service will not count toward the CSRS or FERS retirement annuity. This deposit is referred to as the Post-56 Military Deposit. Making the Post-56 Military Deposit allows an employee to receive credit for military service under both Social Security and CSRS or FERS.

C. Authoritative Guidance. See ***5 U.S.C. § 8334(j)*** and ***8422(e)(1)(A)***; 5 C.F.R. 831.2101-2107 and 842.307; and ***Chapter 23 of the CSRS and FERS Handbook***.

* D. Post-56 Deposit Payments. The employee may make a Post-56 Military Deposit in installment payments or a lump sum payment. Installment payments must be in whole dollar amounts not less than $25 per pay period, except for the last payment that may be in any amount to complete repayment. Unpaid balances are subject to interest calculations, and OPM issues annual guidance concerning the rate of interest to use. The employee must submit payments, other than payroll deductions, directly to:

DFAS-Cleveland
ATTN: J3DCBB/559
1240 E. 9th Street
Cleveland, OH 44199.

The payment must be in the form of a negotiable instrument. Mailed payments must be received by the disbursing officer by the close of business on the last regular business day before the interest accrual date. The date of receipt by the disbursing officer will constitute the date of payment, not the date of the postmark. The PRO computes interest on the unpaid balance on the employee's interest accrual date.

1. Timing of Payment. Employees must complete the deposit for military service prior to separation from service. If an employee dies, but was eligible at the time of death to make a deposit, the employee's survivor may make the deposit in one lump sum to the former employing agency before OPM completes adjudication of the survivor annuity application.

2. Administrative Errors. An employee, who was eligible to make a deposit for military service but failed to complete the deposit prior to separation due to an administrative error may complete the deposit in a lump sum if OPM determines an agency error occurred. If, after separation, a retiree requests to make a deposit and OPM determines that an agency error occurred, OPM will issue a letter to the agency. This letter will explain the administrative error in detail and advise the agency to compute and accept the Post-1956 Military Service Deposit. See ***BAL 13-103***.

111102. FERS Post-56 Military Deposit ("Buy Back")

A. General. A FERS employee may receive credit for post-1956 military service under FERS rules only if he or she makes a Post-56 Military Deposit equal to 3 percent of the military basic pay he or she earned during the period of military service, plus interest. The deposit is required in order to receive credit for military service performed after December 31, 1956. The deposit is necessary to get credit for both FERS eligibility and annuity computation purposes. No deposit is due for military service performed before January 1, 1957. The employee is not charged interest if the deposit is paid in full before the first interest accrual date (IAD). Interest accrual starts and is compounded annually beginning 2 years from the date of the first employment under FERS.

B. Interest Accrual Dates (IADs). For FERS employees first employed prior to January 1, 1987, interest started to accrue on January 1, 1989. Therefore, the initial IAD for these employees is January 1, 1990. For employees first employed on or after January 1, 1987, interest began to accrue 2 years from the date the employee was first employed and subject to FERS. Therefore, the initial IAD for these employees is 1 year after the 2-year interest free grace period ends.

111103. CSRS Post-56 Military Deposit ("Buy Back")

A. General. A CSRS employee first employed on or after October 1, 1982, will receive credit for post-1956 military service only if he or she makes a Post-56 Military Deposit equal to 7 percent of the military basic pay earned during the post-1956 military service, plus interest. Employees first employed under CSRS before October 1, 1982, have the option of making deposits for post-1956 military service and avoiding a possible annuity reduction.

B. Interest Accrual Dates. For CSRS employees, interest begins to accrue on the military service deposits on October 1, 1985, or 2 years after an employee is first employed or reemployed after a period of military service in a position subject to CSRS. The IAD is the date each year when the PRO adds the accrued interest to the amount owed by the employee. The initial IAD is the date 1 year after the end of the interest free grace period. Thereafter, the IAD

falls on the anniversary of the first IAD until the employee pays the deposit in full. The employee is not charged interest if the deposit is paid in full before the first IAD.

VOLUME 8, "DEFINITIONS"

SUMMARY OF MAJOR CHANGES

All changes are denoted by blue font.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue, and underlined font*.**

The previous version dated February 2014 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
Multiple	Updated hyperlinks and formatting to comply with current administrative instructions.	Update
Absent-Unformed Service	Changed the term Military Furlough to Absent-Uniformed Service for consistency within Volume 8.	Revision
Administrative Offset	Replaced the word "money" with "funds" and reversed the parenthesis for better flow.	Revision
Credit Hours	Inserted the word "Hours" to the definition for clarity.	Addition
Customer Service Representative	Inserted the words "and/or Human Resources Office" to the definition for clarity.	Addition
Fair Labor Standards Act	Changed name of reference for clarification.	Revision
Source Data Automation File (SDA)	Deleted definition due to the term is no longer in the DoD FMR.	Deletion
Thrift Savings Plan (TSP) Loan	Added the words "Funds" and "may borrow funds from" for clarification.	Addition

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DEFINITIONS

Absence Without Leave (AWOL)

Absence from a place of duty without permission or authorization.

*Absent-Uniformed Service

Absence due to extended active duty for service with the Armed Forces.

*Administrative Offset

Withholding funds payable by the United States (U.S.), or held by the U.S. to satisfy a balance owed by a debtor to the U.S. This includes offset from disposable pay (salary).

Administrative Workweek

Any period of 7 consecutive 24-hour periods designated in advance by the head of the agency. See 5 United States Code (U.S.C.) Section ***6101***, 5 Code of Federal Regulations (C.F.R.), Section ***532.501***, and 5 C.F.R. § ***550.103***.

Advance of Pay

Single lump-sum payment authorized with each permanent change of station to a post in a foreign area.

Agency

An Executive agency or military department as defined by 5 U.S.C. § ***102***, § ***105***, § ***5541***, and 5 C.F.R. § 550.103.

Advanced Compensatory Time for Religious Reasons

Compensatory time requested by the employee and granted by the supervisor for the employee to meet religious requirements. See 5 U.S.C. § ***5550a***.

Allotment

A recurring, specified deduction from pay, authorized by a civilian employee, to be paid to an allottee.

Allottee

A person or institution to whom an allotment is made payable.

Alternative Work Schedule (AWS)

An arranged tour of duty that varies from a regular tour of duty and includes flexible and compressed work schedules. See the U.S. Office of Personnel Management ***(OPM) website***.

Annuitant

A retired federal employee or his/her survivor who is receiving payments from OPM.

Appropriated Fund

The amount that agencies may obligate during the period of time specified in a particular appropriation act.

Availability Pay

Premium pay provided for criminal investigators in job series 1811 and 1812 who are required to work, or be available to work, substantial amounts of unscheduled overtime duty based on the needs of the employing activity.

Base Realignment and Closure (BRAC)

The congressionally authorized process under 10 U.S.C. § ***2687*** that gives the Secretary of Defense the authority to reorganize the base structure to more efficiently and effectively support the forces, increase operational readiness, and facilitate new ways of doing business.

Basic Pay

Also referred to as "base pay." Basic pay is the total amount of pay received at a rate fixed by law or administrative action for the position held by the employee. Basic pay does not include certain types of pay, for example: bonuses, allowances, overtime or holiday pay.

Basic Work Requirement

The number of hours, excluding overtime hours, which an employee must work or otherwise account for by leave, credit hours, holiday hours, excused absences, compensatory time off, or time off as an award. See 5 U.S.C. § ***6121***.

Basic Workweek

For a full-time employee, a basic workweek is the 40-hour workweek established in accordance with 5 C.F.R. § ***610.111***. Unless specifically designated, a basic workweek for full-time employees is five 8-hour days, Monday through Friday. See 5 C.F.R. § ***610.121***.

Beneficiary

For purposes of Volume 8, a beneficiary is the person or persons authorized by law to receive the employee's unpaid compensation. Person or persons may include a legal entity, or the estate of the deceased employee. See 5 C.F.R. § ***178.203*** and 5 U.S.C. § ***5582***.

Buy-Back of Leave

The process by which an employee makes arrangements with the civilian payroll office (PRO) to repurchase sick or annual leave that was used by the employee, prior to the approval of his or her claim for compensation under the Federal Employees' Compensation Act at 5 U.S.C. ***Chapter 81***.

Calendar Year

The period starting January 1 and ending December 31.

Civil Service Retirement System (CSRS)

A defined benefit retirement and disability benefits system for Federal Government employees and Members of Congress under 5 U.S.C. § ***8331 to 8351***. CSRS was replaced by the Federal Employees Retirement System (FERS) under 5 U.S.C. ***Chapter 84*** for federal employees who first entered covered service on or after January 1, 1987.

Civil Service Retirement System Offset (CSRS-Offset)

The plan for federal employees whose service is subject to CSRS deductions and Social Security taxes, as described under 5 U.S.C. § ***8349***. CSRS-Offset employees are covered by Social Security because they were separated from CSRS covered federal employment for more than 1 year and returned to a position in which they were covered by CSRS after 1983. Old-Age, Survivors, and Disability Insurance (OASDI) withholdings are offset from their CSRS contributions so that the combined Social Security and CSRS contributions are the same as for employees who have CSRS coverage only.

Commercial Garnishment

For purposes of Volume 8, a commercial garnishment is the process by which a Federal agency withholds pay from a federal civilian employee pursuant to 5 U.S.C. § ***5520a*** in order to honor a garnishment order or similar legal process issued by a court of competent jurisdiction in the enforcement of a commercial debt against the employee.

Compensatory Time Off

Time off granted in lieu of pay for an equal amount of time spent in irregular or occasional overtime work. See 5 U.S.C. § ***5543***.

Compressed Work Schedule

For a full-time employee, consists of an 80-hour biweekly basic work requirement scheduled by an agency for less than 10 workdays. For a part-time employee, denotes a biweekly basic work requirement of less than 80 hours scheduled by an agency for less than 10 workdays. See 5 U.S.C. § ***6121(5)***.

Continental United States (CONUS)

The 48 contiguous states and the District of Columbia.

Continuation of Pay

Payment made to an employee during an absence from the job due to a traumatic on-the-job injury.

Core Hours

Designated hours and days during which an employee covered by a flexible work schedule is required to be present for duty. See 5 U.S.C. § ***6122(a)(1)***.

*Credit Hours

Hours an employee elects to work with supervisory approval that are in excess of the employee's basic work requirements under a flexible work schedule. See 5 U.S.C. § ***6121(4)***.

*Customer Service Representative (CSR)

The liaison between the employee and the PRO and/or Human Resources Office that provides assistance in resolving pay and leave issues.

Data Element

A named identifier and attributes for each of the entities represented within the Defense Civilian Pay System (DCPS).

Debt

Any amount of money or any property owed to a Department of Defense (DoD) Component or another Federal agency by any person, organization, or entity except another Federal agency. Debts include insured or guaranteed loans and any other amounts due from fees, leases, rents, royalties, services, sales of real or personal property, or overpayments; penalties, damages, interest, fines and forfeitures; and all other claims and similar sources. Delays in processing employee-elected coverage or a change in coverage under federal benefits programs are not normally considered debts if processing delays did not exceed 2 monthly or 4 biweekly pay

periods. Amounts due a non-appropriated fund instrumentality are not debts owed the U.S. unless specifically included by this Regulation.

Deductions

Monies withheld, by law (mandatory deductions) or voluntarily (voluntary deductions), from an employee's pay (salary). The three basic types of deductions are:

a. Those required by law, regulations, or decision issued by a court or administrative body;

b. Those for benefits specifically authorized by law, such as health and life insurance; and

c. Voluntary personal allotments to a designated allottee.

Defense Civilian Pay System (DCPS)

The standard DoD civilian pay system approved by the Under Secretary of Defense (Comptroller) Chief Financial Officer to pay employees from appropriated, revolving, or trust funds.

Departmental Reporter

The Defense Finance and Accounting Service (DFAS) organizational entity serving as the focal point for a Military Service, when dealing with the OPM and the Thrift Investment Board concerning retirement or Thrift Savings Plan (TSP) reporting.

Disposable Pay

The amount that remains after pay (salary) is reduced by amounts that are:

a. Required by law to be deducted;

b. Properly withheld for federal, state, and local income taxes;

c. Deducted as health insurance premiums;

d. Deducted as normal retirement contributions; and

e. Deducted as normal life insurance premiums.

Due Process

For purposes of Volume 8, due process refers to legal proceedings carried out in accordance with established law and regulations for the connection with the collection of debts due the U.S.

Emergency Medical Technician (EMT)

A specialist in the technical details of medical treatment responding to an urgent need for assistance requiring immediate action.

Employee

An employee refers to an individual appointed to a position in DoD and paid from appropriated, revolving, or trust funds. See 5 U.S.C. § ***2105*** and 5 U.S.C. § ***5541(2)***.

Employer Identification Number (EIN)

A nine-digit number the Internal Revenue Service assigns to identify the tax accounts of employers, sole proprietors, corporations, partnerships, non-profit associations, trusts, estates, government agencies, and other business entities pursuant to 26 U.S.C. § ***6109***.

Entitlement

Legally established benefits available to any person or unit of the Federal Government meeting eligibility requirements established by law.

Environmental Differential Pay (EDP)

Paid for a duty involving unusually severe hazards or working conditions.

Executive Schedule (EX) Employees

Position is paid according to the Executive Schedule under 5 U.S.C. § ***5311 to 5318***.

*Fair Labor Standards Act (FLSA)

The federal law codified at 29 U.S.C. ***Chapter 8*** that establishes minimum wage, overtime pay, recordkeeping, and child labor standards for full-time and part-time workers in the private sector and in Federal, State, and local governments.

Family and Medical Leave Act (FMLA)

Prescribes an entitlement to a total of 12 administrative workweeks of unpaid leave during any 12-month period for certain family and medical needs. FMLA allows employees to use or substitute up to 26 weeks of accrued or accumulated sick leave for unpaid FMLA leave to care for a seriously injured/ill covered service member as authorized by the fiscal year (FY) 2008 National Defense Authorization Act (NDAA) including up to 30 days (240 hours) of advance sick leave. See 5 C.F.R. § ***630, subparts D and F***.

Federal Agency

Any executive agency as defined by 5 U.S.C. § 105, including the U.S. Postal Service and the Postal Rate Commission; a Military Department as defined by 5 U.S.C. § 102; an agency of the legislative branch, including the U.S. Senate and U.S. House of Representatives; and an agency or court of the judicial branch.

Federal Employees' Retirement System (FERS)

The retirement plan for employees as described in 5 U.S.C. Chapter 84 and effective January 1, 1987.

Federal Reserve System

Any Federal Reserve District Head Office, Branch, or regional check processing center that processes EFT payments, including Automated Clearing House, for the Federal Government.

Financial Institution

Bank, savings association, or credit union eligible under 31 C.F.R. § ***210*** to serve as a government depository.

Fiscal Year (FY)

The period starting October 1 and ending September 30.

Foreign Areas

Defined in the Department of State Standardized Regulations ***(DSSR)*** as any area situated outside of the U.S., the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the possessions of the U.S.

Foreign National

A foreign national is a person who is not a citizen or national of the U.S.

Foreign National Employee

For the purposes of Volume 8, a foreign national employee is an individual who is employed by or performing work for U.S. forces outside the U.S., its territories, and possessions in a system of employment. See Department of Defense Instruction ***(DODI) 1400.25, Volume 1231***.

Garnishment

Written notification concerning the attachment of monies to satisfy a debt that results in the withholding of a specified amount from the employee's pay (salary).

Holiday Work

Non-overtime work performed by an employee during a regularly scheduled daily tour of duty on a holiday designated in accordance with 5 C.F.R. § ***610.202***. See 5 U.S.C. § ***5546***.

Intermittent Work Schedule

Employment on an irregular or occasional basis, without a regularly scheduled tour of duty. See 5 C.F.R. § ***340.401***.

Involuntary Repayment

Recovery of debt owed to the Federal Government by means of salary offset under 5 U.S.C. § ***5514*** by deduction from the current pay of employee without his or her consent.

Irregular or Occasional Overtime Work

Overtime work that is not part of an employee's regularly scheduled administrative workweek. See 5 C.F.R. § 532.501.

Leave and Earnings Statement (LES)

A document provided to each employee showing gross pay, deductions, net pay for a pay period and cumulative totals for the year to date, along with leave balances at the end of the pay period.

Leave Record

The amounts of leave earned and used, and the balance available.

Leave Without Pay (LWOP)

A temporary non-pay status and absence from duty that in most cases is granted at the employee's request.

Leave Year

The period beginning with the first complete pay period in a calendar year and ending with the day immediately before the first day on the first complete pay period of the following calendar year.

Limitations on Premium Pay or Pay Caps

The maximum biweekly and aggregate limitations for premium pay. See 5 C.F.R. § ***550.105***.

Locality Payment

A locality-based comparability payment, payable to General Schedule (GS) employees under 5 U.S.C. § ***5304*** and 5 C.F.R. § ***531, subpart F***. See 5 C.F.R. § ***531.602***.

Lump-Sum Leave Pay

Payment for accumulated annual leave upon separation or change to a nonconvertible leave system.

Military Leave

An approved absence with pay authorized under 5 U.S.C. § ***6323***.

National Guard

The Army or Air National Guard of a state.

National Guard Technician

A federal employee of the National Guard hired under 32 U.S.C. § ***709*** and does not include National Guard Bureau employees hired under Title 5 of the U.S. Code or other authority.

Net Pay

The amount of wages, pay, or salary due after all payroll deductions are made.

Nonappropriated Funds (NAFs)

Monies that are not appropriated by the Congress to incur obligations and make payments out of the U.S. Treasury. NAFs come primarily from the sale of goods and services to DoD military and civilian personnel and their family members.

Nonappropriated Funds (NAF) Employee

A civilian employee who is paid from nonappropriated funds of the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps exchanges, Coast Guard exchanges, or any other instrumentality of the U.S. under the jurisdiction of the armed forces which is conducted for the comfort, pleasure, contentment, or physical and mental improvement of members of the armed forces. See 5 U.S.C. § ***2105(c)*** and ***DoDI 1400.25,V1401***.

Nonforeign Areas

The states of Alaska and Hawaii, the Commonwealths of Northern Mariana Island and Puerto Rico, territories and possessions of the U.S. that the Secretary of State has designated as being within the scope of Part II of ***Executive Order 10,000***.

Panama Canal Commission

A wholly owned government corporation established under 22 U.S.C. § ***3611*** for the purposes of managing, operating, and maintaining the Panama Canal in accordance with the Panama Canal Treaty of 1977 and related agreements.

Pay (Salary)

Pay and salary have the same meaning. They include basic, premium, and any other authorized pay and allowances other than travel and transportation expenses.

Pay Period

A segment of time during which employees perform work and receive pay. For most federal civilian employees, a pay period covers 14 consecutive days, normally beginning on Sunday.

Pay Record

Part of each civilian employee's master pay record that contains all transaction information on payments and deductions with an audit trail to the authorizing documents. The pay record includes information such as pay grade, record of payments, all earnings separately identified by type (e.g., basic pay, bonuses, premium pays, and allowances), allotments, any deductions, year-to-date gross earnings, taxable earnings, and taxes withheld.

Payroll Certifying Officer

A person appointed to certify the accuracy and propriety of payroll for compensation for personal services.

Permanent Change of Station (PCS)

The assignment, detail, or transfer of an employee to a different permanent duty station (PDS) under a competent travel authorization that does not specify the duty as temporary, provide for further assignment to a new PDS, or direct the employee to return to the old PDS.

Premium Pay

The dollar value of earned hours of compensatory time off and additional pay authorized by 5 U.S.C. Part III, Subpart D, ***Chapter 55, Subchapter V***, and includes pay for overtime, night, Sunday, or holiday work, stand by duty, administratively uncontrollable overtime work or availability duty. See 5 C.F.R. § 550.103.

Prevailing Rate Employee

An individual employed in: a particular trade or craft, or other skilled mechanical craft; or in an unskilled, semiskilled, or skilled manual labor occupation: or any other individual in a position

having trade, craft or laboring experience and knowledge as the paramount requirement. See 5 U.S.C. § ***5342***.

Rate of Basic Pay

The rate of pay fixed by law or administrative action for the position held by the employee, to include locality pay, and special pay adjustments for law enforcement officers, but does not include any other types of pay. See 5 C.F.R. § ***531.203***.

Reemployed Annuitant

A person who is receiving a CSRS or FERS retirement annuity and, at the same time, is earning a paycheck as a Federal Government employee.

Regularly Scheduled Work

Work scheduled in advance of an administrative workweek under an agency's procedures for establishing workweeks in accordance with 5 C.F.R. 610.111, excluding any such work to which availability pay under 5 C.F.R. § ***550.181*** applies. See 5 C.F.R. § 550.103.

Salary Offset

An administrative offset under 5 U.S.C. § 5514 to collect a debt owed by a Federal Government employee through deductions, at one or more officially established pay intervals, from the current pay account of the employee without his or her consent.

Scheduled Overtime Work

Overtime work that is scheduled and approved prior to the beginning of the employee's regularly scheduled administrative workweek.

Severance Pay

Pay that is authorized for full-time and part-time employees who are involuntarily separated from Federal service and who meet other conditions of eligibility. See 5 U.S.C. § ***5595***.

State

A state or territory of the U.S., including the Commonwealth of Puerto Rico.

Thrift Savings Plan (TSP)

The tax-deferred savings plan established under 5 U.S.C. § ***8431 to 8440f***. The Thrift Savings Plan Enhancement Act of 2009, ***Thrift Savings Plan Bulletin 11-U-4***, authorized TSP to add a Roth 401(k) feature to the plan, in addition to the current traditional contribution plan. See ***tsp.gov*** for additional information.

*TSP Loan

Funds that employees and members of the Uniformed Services may borrow from their TSP accounts in accordance with the requirements at 5 U.S.C. § ***8433(g)***.

Tour of Duty

The hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that make up an employee's regularly scheduled administrative workweek. See 5 C.F.R. § ***610.102***.

United States (U.S.)

The 50 states and the District of Columbia, unless otherwise qualified.

Voluntary Deduction

Deduction from an employee's pay that requires written authorization from the employee to affect withholding.

Waiver

The cancellation, forgiveness, or non-recovery of a debt owed by an employee to an agency as permitted or required by law.