



Approved for Release

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Date

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**DEPARTMENT OF COMMERCE
OFFICE OF HUMAN RESOURCES MANAGEMENT**

HUMAN RESOURCES (HR) BULLETIN #116, FY10

SUBJECT: Reemployment of Civilian Retirees Under the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010

EFFECTIVE DATE: Upon release of this HR Bulletin

EXPIRATION DATE: Effective until October 27, 2014

SUPERSEDES: N/A

BACKGROUND: On October 28, 2009, the President signed the NDAA for FY 2010. The NDAA allows the head of an agency to grant dual compensation (salary offset) waivers on a temporary basis under certain specified circumstances.

PURPOSE: The purpose of this Bulletin is to set forth policy and guidance for requesting initial approval and subsequent extensions thereof, to reemploy an individual receiving an annuity from the Civil Service Retirement System or the Federal Employees Retirement System without discontinuing or reducing the individual's salary under Title 5, United States Code (U.S.C.) § 8344 or § 8468.

APPLICABILITY: This authority applies to temporary appointments of Federal annuitants made on or after the effective date of this Bulletin and remains in effect until its expiration on October 27, 2014. Appointments under this authority **must be limited to one-year or less** (temporary appointments) and only for positions necessary to: 1) fulfill functions critical to the mission of the Department; 2) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 or the Troubled Asset Relief Program under Title 1 of the Emergency Economic Stabilization Act of 2008; 3) assist with the development, management or oversight of the Department's procurement actions; 4) assist the Department's Inspector General; 5) promote appropriate employee training or mentoring programs; 6) assist in the recruitment or retention of employees; or 7) respond to an emergency involving a direct threat to life or property or other unusual circumstances.

Use of this authority does not alter or affect the reemployment restrictions found in Title 5, Code of Federal Regulations (CFR), Part 576 for employees who separated and received a Voluntary Separation Incentive Payment.

RESTRICTIONS: This authority prohibits waiving the salary offset provision of Title 5, U.S.C. § 8344 or § 8468 to an annuitant for more than: 1) 520 hours of service performed during the six months following the individual’s annuity commencement date; 2) 1,040 hours of service performed during any 12-month period; or 3) a total of 3,120 hours of service performed by the annuitant. Reemployment under NDAA may not exceed 2.5 percent of the Department’s full-time workforce at any time.

Title 5, CFR § 316.401(c)(1) prohibits temporary appointments for periods of more than 1 year. Appointments may be extended up to a maximum of 1 additional year (24 months of total service). A position may not be filled using a temporary appointment if the position has previously been filled by a temporary appointment for an aggregate of 2 years, or 24 months, within the preceding 3-year period, Title 5, CFR § 316.401(c)(2). However, temporary appointments may be extended beyond the 2-year period of service for intermittent or seasonal work, provided that appointments and extensions are made in increments of 1 year or less and that employment in the same or successor position under this or any other appointing authority totals fewer than 6 months (1,040) hours), excluding overtime, in a service year, Title 5, CFR § 316.401(d)(1)(i) and (ii).

If a supervisor anticipates the need for a reemployed annuitant’s services in the same position or a position performing the same basic duties for more than 24 months, the annuitant MUST work fewer than 1,040 hours during each service year.

For Example:

Not Eligible for Extension Beyond 24 Months:

Annuitant works 1,040 hours in first service year
Annuitant works 1,039 hours in second service year
Annuitant is not eligible for another temporary appointment

Eligible for Extension Beyond 24 Months:

Annuitant works 1,039 hours in first service year
Annuitant works 1,039 hours in second service year
Annuitant works 1,040 hours in third service year
Totaling 3,118 hours

PROCEDURES: Initial requests to waive the dual compensation restrictions for reemployed annuitants, and requests for extensions of the initial waiver and temporary appointment under the NDAA must be submitted to the Deputy Chief Human Capital Officer and Director for Human Resources Management (Director), Office of Human Resources Management (OHRM), through the appropriate operating unit official. Requests must contain the required documentation listed below and will be reviewed on a case-by-case basis.

ADVERTISING POSITIONS: Current policy regarding advertising competitive service positions is applicable.

REQUIRED DOCUMENTATION:

Initial Requests –

- Written documentation supporting that employment of the reemployed annuitant is necessary and meets at least one of the seven covered applicabilities;
- Documentation indicating applicable policies regarding advertising vacant competitive service positions were met; and
- The attached “Request for Dual Compensation Waiver Under the National Defense Authorization Act for Fiscal Year (2009).”

Extension Requests –

- Written documentation supporting that employment of the reemployed annuitant is necessary and meets at least one of the seven covered applicabilities;
- Copy of all appropriate “Statement of Earnings and Leave,” for the annuitant documenting the number of hours of service performed during the previous 12-month service period(s); and
- The attached “Request for Dual Compensation Waiver Under the National Defense Authorization Act for Fiscal Year (2009).”

PROCESSING: When processing reemployed annuitants, the appropriate annuitant indicator codes must be used:

- 6 – Reemployed CSRS annuitant
- G – Reemployed FERS annuitant

You must maintain a record of each request and the action for three years following the action date.

REPORTING REQUIREMENTS: OHRM will provide an annual report to the Office of Personnel Management (OPM), on the use of this authority, by February 1 of each year through 2015 that includes: the name of individuals for whom the waiver was approved; the appointing authority used to reemploy each annuitant; the position the annuitant was appointed to; and any other information that OPM requests.

REFERENCES:

- National Defense Authorization Act for Fiscal Year 2010
- Title 5, U.S.C. § 8344 and § 8468
- Title 5, CFR Part 576
- Title 5, CFR § 316.401

OFFICE OF POLICY AND PROGRAMS: Pamela Boyland, Director, pboyland@doc.gov,
(202) 482-1068

PROGRAM MANAGER CONTACT INFORMATION: Valerie Smith, Program Manager,
vsmith@doc.gov or on 202-482-0272.

**REQUEST FOR DUAL COMPENSATION WAIVER OR EXTENSION UNDER
THE NATIONAL DEFENSE AUTHORIZATION ACT (NDAA) FOR
FISCAL YEAR 2010**

Date of request:

Full name of annuitant:

Is this an initial request or extension request?

If extension request, please provide the initial appointment date and any subsequent appointment dates, along with the number of hours of service performed in each 12-month period.

Title, pay plan, series, grade of position:

Proposed appointment date:

Not-to-Exceed date:

Under which necessity (please check one):

- 1) Fulfill functions critical to the mission of the Department. _____
- 2) Assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 or the Troubled Asset Relief Program under Title 1 of the Emergency Economic Stabilization Act of 2008. _____
- 3) Assist with the development, management or oversight of the Department's procurement actions. _____
- 4) Assist the Department's Inspector General. _____
- 5) Promote appropriate employee training or mentoring programs. _____
- 6) Assist in the recruitment or retention of employees. _____
- 7) Respond to an emergency involving a direct threat to life or property or other unusual Circumstances. _____