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SUBJECT: Fort Benning CPAC Staffing Update 10-2007

1. This publication is issued to ensure the Fort Benning Commanders, managers, supervisors, and employees are kept informed of employment and staffing issues. Future updates will contain updated information on specific employment topics (i.e., compensation, recruiting procedures, travel entitlements, classification issues, NSPS implementation information, etc.) and will be issued on a monthly basis.

This document is a compilation of articles written by CPAC staff [members] as well as information excerpted from various sources which include, but is not limited to, the Government Executive Newsletter, FedWEEK, the Federal Manager's Daily Report, and the ABC-C Newsletter.

2. **Defense Holds Off on Rolling Out Controversial NSPS Rules — For Now**. The Defense Department says it will not roll out new rules for handling disciplinary actions and labor-management disputes, as had been planned under the new National Security Personnel System (NSPS) — at least for now.

Union leaders have been worried that the department would push forward with the new rules, which were upheld in an appeals court ruling but continue to face stiff opposition from unions and an uncertain future in Congress.

In a Sept. 11 update to its Web site, the department said it has “no plans to implement the adverse actions, appeals and labor relations portions of NSPS at this time.”

Richard Brown, president of the National Federation of Federal Employees, said the Pentagon likely is holding off until Congress completes its work on the fiscal 2008 Defense authorization bill. The House version of the bill would prevent the department from curbing employees’ collective bargaining rights or overhauling the process used to appeal adverse or disciplinary actions.

"I believe they are doing the right thing in holding off implementation for a while," Brown said in a statement. "It would be unfair to make collective bargaining agreements null and void when restoration of bargaining rights is very likely to be restored by Congress in coming months. Waiting to see how the legislation pans out is the responsible thing to do."

The House measure would not prevent the Pentagon from transferring employees from the General Schedule to a performance-based pay system, although the Pentagon first would have to negotiate terms of such a move with unions.

The Pentagon said it has no plans to move any union employees into NSPS in 2008. The department plans to move 90,000 nonunion employees into the system next year, however, which would bring the total number of employees under the new pay rules to 200,000. Ultimately, the system could cover roughly 650,000 employees.

3. **Public or Private?** Earlier this year, Tammy Flanagan addressed the age-old question of whether you should retire from government as soon as you're eligible, or stick around for a while. This article explores a variation of this question to dig a little deeper.

Suppose you know that you want to keep working even after you become eligible to retire. In that case, the question becomes, is it better to continue to work in government for a few more years to increase your federal retirement benefit, or to retire and take a job in the private sector while collecting your federal retirement?

Let's explore this question by looking at a couple of case studies.

David

Let's assume David is going to retire from federal employment at his first opportunity and immediately return to work in the private sector using the valuable skills he's gained. And let's figure he's in the following situation:

- High-three average salary: $80,000
- Length of service: 30 years

- Age: 55
- Immediate Civil Service Retirement System benefit: $45,000 per year
- New salary in his second career: $85,000.

David will be able to continue his federal health insurance. He will have taxes and 401(k) contributions deducted from his new salary. He will contribute to Social Security, and his new employer will provide 6 percent matching on his 401(k) but no pension benefits.

To come out ahead after three years, here's what David might need to do:

- Live on his new salary, after contributing the maximum to his 401(k) -- $20,500 in 2007, including $5,000 in catch-up contributions. This shouldn't be difficult, since he essentially had the same salary in his federal career.
- After paying the taxes and his health insurance out of his civil service retirement benefit, put the rest of the CSRS check in a safe short-term investment.
- Use the invested CSRS benefits to pay off his mortgage and any other consumer debt after three years. This will lower his expenses when he eventually stops working.
- Use the new 401(k) savings as well as the additional Social Security benefit (assuming he will have at least 40 credits of coverage) to offset the additional CSRS benefits he would have earned if he had not retired so soon. The three years of Social Security wages added to his record should increase his benefit by about $1,000 per year (or more, depending on what other Social Security wages he's had during his lifetime), but he won't be eligible to receive this benefit until later. The additional savings in his 401(k) should be about $100,000 (assuming he will earn 10 percent return on his diversified 401(k) investment). This investment could provide about $5,000 per year in income while preserving the principal.

Lorraine

Let's assume Lorraine decides to stick it out in government. And after she eventually retires, she won't be looking for a second career that generates substantial income.

Here are Lorraine's numbers:

- High-three average salary: Currently: $80,000. In three years: $90,000.
- Length of service: Currently: 30 years. In three years: 33 years.
- Age: Currently: 55. In three years: 58.

- CSRS benefit in three years: $56,025

Lorraine's retirement benefit appears to be more than $11,000 per year higher than David's. But remember that while David is receiving his CSRS retirement, he also will get an annual cost of living adjustment. If that averages out to 3.5 percent per year, his retirement will go from $45,000 to almost $50,000 after three years, cutting the gap with Lorraine down to $6,000 a year.
To make up that difference, David is counting on the investment income he will have from his 401(k) and the boost in Social Security retirement for having three more years of high wages added to his record. If he saves $20,500 a year in his 401(k) for three years, gets a 6 percent match from his employer and earns a 10 percent return, he should be able to withdraw about $5,000 a year without affecting the principal in his investment. The additional Social Security benefits could add up to $1,000 to $2,000 a year.

That sounds like a wash financially as compared to Lorraine. But David may still be ahead, though, because he can save his retirement benefit while employed in his second career.

Comparison Questions

As you compare David and Lorraine's scenarios, here are some questions to think about:

- Would you be disciplined enough to live on your new salary and put the retirement income away?
- How much would you earn on your investments? A 10 percent return isn't always feasible.
- Depending on your situation, there are tax considerations that could further complicate the process.
- What kind of second career is available to you? How far would you have to commute? What hours would you work? What kind of vacation time would you get? What do you mean Columbus Day is not a paid holiday? A cubicle rather than my government office with a window and a door -- how dare you?
- How old will you be at retirement? Your age can affect the amount of your Social Security benefit.
- How long do you plan to work? There might be additional benefits available from a second career, such as a pension, if you stay long enough to become vested. Also, you might be maxed out with 41 years and 11 months of service under CSRS, so there would be less benefit to continuing your federal career.

- Are you due for a promotion? A jump in salary could make a big difference in your high-three.

The FERS Angle

What if David and Lorraine were under the Federal Employees Retirement System, rather than CSRS?

Under FERS, the pension benefit would increase by only 1 percent per year and there would be no inflation adjustment until after age 62 (with the exception of special groups, such as law enforcement officers and firefighters). If Lorraine and David were covered by FERS, they would be able to accumulate additional retirement savings (with matching contributions) as well as Social Security benefits whether they continued in their federal careers or chose a private sector job.

The extra pension benefit they would gain by working longer for the federal government could be offset by the additional income they would earn in their second careers. But they would still have the benefit of maintaining their federal health insurance upon retirement.

To-Do List

Here are the bottom-line questions: How happy are you with what you are doing now? How anxious are you to start something new? How disciplined are you to save and invest for the future? As you think about those questions, here are three things you can do to help make your decision about what's best for you:

- Request a retirement estimate from your agency's benefits office for two different dates. In many agencies, this request can be made online.
- Attend a job fair to see what kind of work is available for someone with your skills and experience.
- Attend a pre-retirement seminar to be sure you understand the basics of your federal retirement and to learn about opportunities for your life after retirement. Most agencies sponsor pre-retirement training that addresses your benefits, financial planning, tax issues and life after retirement.

4. **<u>Do You Have a Financial Checklist?</u>** This article is written by W. Kirk Taylor, CFP. As such, the references to “I” pertain to him as an author. Mr. Taylor teaches financial planning classes for the National Institute of Transition Planning, Inc. He is also the founder and president of Taylor Wealth Advisors, LLC in Tyson’s Corner, Virginia.

When it comes to securing your family's financial future, the old adage "we don't plan to fail, we fail to plan", couldn't be more true.

The reasons may vary, but the fact remains that most Americans aren't planning adequately for their financial future. In some respects, federal government employees have it a bit easier, especially when it comes to retirement planning. Nonetheless, I find many government workers are overwhelmed by the complexity of combining taxes, insurance, investments, and estate planning into one comprehensive plan.

I've found that by breaking the comprehensive plan down into a simple checklist, it's much easier to put together a comprehensive plan. The goal of comprehensive planning, in its simplest form, is to "bullet proof" your financial future so that you are prepared to weather unpredictable financial setbacks that may come your way. With a little work on your part, this can be accomplished by following a few basic investment planning principles and implementing the appropriate risk management strategies i.e. insurance in its various forms.

To simplify the complex and help you determine if you are on the right track, you should start by creating your own financial checklist and answering the 10 questions below. If you can answer yes to these questions, odds are you are well on your way to bullet proofing your family's future. If you can't answer yes to all 10 questions, isolate the questions you answered no to, and get to work answering the easiest ones first. After you've turned that first no into a yes, move onto the next one and keep going until you have answered yes to all 10 questions. Before you know it, you'll have put together a comprehensive plan and your family's financial future will be bullet proof!

1. Do you have a written set of financial goals? Putting your goals down on paper is perhaps the most important step in formalizing your plan because it forces you to examine AND prioritize the goals that are most important to you and your family. Once you've written down your goals, be sure to review your goals regularly, especially if there is a significant change in your personal or financial situation.

2. Do you have a household budget? For most of us, our dreams are bigger than our pocketbooks. Since there is only so much money to go around each month, it's critical to know where your cash goes. No matter what your financial goals may be, cash flow is the key to reaching them. Start with an honest assessment of your "needs" and your "wants" and always pay yourself first! This means funding your TSP and your savings account before spending money on your

"wants". You'll likely find that once your needs and goals are safely being funded, you can indulge and enjoy your "wants" guilt-free.

3. Do you know what percentage of your income is dedicated to debt service? Generally speaking, the less debt the better, because dollars dedicated to debt and interest payments can otherwise be invested for growth and appreciation. Of course mortgage debt is acceptable, and for many, college loans and/or auto loans are necessary evils. Credit card debt is a no-no however! If you are dedicating more than 30% or 40% of your gross income toward debt service, reducing your debt load should be a top priority.

4. Are you saving enough for retirement? Studies regularly tell us that most Americans are not saving enough for retirement. How much you should be saving depends on your specific needs but if you are saving 15% - 20% of your gross income each year, you're probably on track. Be sure to include your agency's contribution to your retirement plan in your calculation, especially if you are FERS.

5. Do you know what return is required to meet your goals? Think of your required rate of return as the minimum speed limit for your investment portfolio. It tells you how fast you need your portfolio to grow in order to arrive at your destination (retirement for example) on time. After you have calculated how fast you need your portfolio to grow first (your speed limit), ask yourself if you are comfortable with that speed limit. If your speed limit is faster than 10%, you should consider saving more for retirement, delaying retirement or needing less money in retirement. Driving fast of course can be dangerous, and lead to unwanted anxiety. Know your speed limit and stick to it.

NOTE: Go to www.tsp.gov and click on Calculators, then Retirement Planning. The Ballpark Estimate calculator created by the American Savings Education Council will help you determine how much you should be saving based on your situation and the return (speed limit) you need to earn to meet your goal.

6. Do you understand the risk of the investments in your portfolio? This question goes hand-in-hand with question 5. I find most investors know what return they've earned (up 15%, down 5%) but few understand the risk inherent in the investments in their portfolio. For most, knowing the standard deviation (a measure of volatility) of your investments is enough to compare the risk of one investment against another. The higher the standard deviation the higher the risk, and vice versa. By truly understanding the risk of your investments, you will make the challenge of balancing your ability to sleep well at night with driving at the speed limit much easier. Again, although driving fast can be fun for some, it can

also be very dangerous for others. Taking the time to understand the risk inherent in your investments will help ensure you don't "buy high and panic low".

7. Can you pay your bills if you are hurt and can't work? During your working years (up to age 60 or so) your odds of becoming disabled are much greater than dying. Despite this fact, and the fact that your greatest asset is your ability to earn an income, most Americans don't carry adequate disability insurance. While federal government employees would receive 60% of their income during the first year of a long term disability, that amount drops to 40% in year two and beyond. If you are unable to pay your household expenses on 40% of your current income, consult with a disability insurance expert to explore the merits of supplemental disability coverage.

8. Does anyone depend on your income for their support? If you are married and/or have children, it is likely that they depend on some portion of your paycheck/income to meet the household expenses. Consequently, if you died unexpectedly or prematurely, your family's standard of living would likely suffer IF your life isn't adequately insured. The amount of life insurance you need depends on a number of factors including your contribution to the household expenses, current savings, and the earning capacity of the surviving spouse, to name a few. As a rule of thumb, if you are the breadwinner for your household, you should carry between 7 and 10 times your annual income to provide for your family in the event of an untimely death.

9. Have you given someone the legal authority to make personal and financial decisions for you if you are incapacitated? No one likes to think about these kinds of circumstances, and most view the odds as small. Nonetheless, giving your spouse or trusted family member the legal authority to manage the family's finances and/or make important life sustaining decisions for you, is an important key to bullet proofing your family's financial future.

10. Do you have a plan to transfer your assets smoothly to family and/or friends at your death as intended? Depending on your circumstances, your assets can be left to your loved ones with a basic Will. In other cases you may wish to use more complicated estate planning tools, such as revocable trusts to transfer your assets to your spouse and/or the next generation. One advantage of using trusts over a Will, is the ability to avoid the time and cost of probating an estate. Consult with an estate planning attorney to determine the extent to which questions 9 & 10 apply to your personal situation.

Remember, bullet proofing your financial future can be simple enough with a little bit of work on your part. Start with your own personal financial checklist and work toward answering yes to each question. It will take some time, but one-by-one you will check-off each item on your list and before you know it your comprehensive financial plan will be complete!

5. **IRS Opens Foreclosure Web Site**. The Internal Revenue Service has added a new section to its Web site to answer tax questions for those losing their homes due to foreclosures.

The new section on http://www.irs.gov includes a worksheet to help homeowners determine whether they are eligible for any foreclosure-related tax relief.

For those who find they owe additional tax, it includes a form for requesting a payment agreement with the IRS.

The tax agency noted that if the debt wiped out through foreclosure exceeds the value of the property, the difference is normally taxable income. But a special rule also allows insolvent borrowers to offset that income to the extent their liabilities exceed their assets.

President Bush has proposed tax relief as part of efforts to deal with the sharp rise in mortgage defaults. He said he would support legislation pending in Congress that would temporarily change tax law to let homeowners avoid paying taxes on forgiven debt in loans that are being restructured by financial institutions.

6. **Agency Liable for Actions of Subordinate Employee**. The U.S. Court of Appeals for the Ninth Circuit recently held that a subordinate employee's pervasive discriminatory influence on an otherwise independent investigation may impute liability on the employer. Poland v. Department of Homeland Sec., 9th Cir., No. 05-35508 (7/20/07). In so holding, the court outlined the applicable test for determining employer liability for actions of a subordinate employee:

"We hold that if a subordinate, in response to a plaintiff's protected activity, sets in motion a proceeding by an independent decision-maker that leads to an adverse employment action, the subordinate's bias is imputed to the employer if the plaintiff can prove that the allegedly independent adverse action was not actually independent because the biased subordinate influenced or was involved in the decision or decision-making process."

The subordinate employee must possess enough authority to be viewed as the one principally responsible for the decision. The plaintiff in the case was a U.S.

Customs Officer who supervised three offices and 19 special agents for more than 10 years. The plaintiff filed an age discrimination complaint with his EEO office.

The court found that the subordinate employee retaliated against the plaintiff by asking the Customs Service to undertake an administrative inquiry into the plaintiff's performance.

If the subordinate employee had only initiated the complaint, the court stated that it would not have imputed liability on the agency. The agency could have avoided liability if it had shielded the inquiry from the biased employee's influence. In this case, however, the inquiry panel was not shielded from the employee's influence. The biased subordinate employee wrote a lengthy memo outlining numerous incidents of alleged malfeasance by the plaintiff, provided a list of 21 witnesses, and gathered notes from another manager criticizing the plaintiff. The inquiry panel did not consult the plaintiff prior to investigating the allegations provided by the subordinate employee. The court held that the subordinate employee influenced the administrative inquiry which led to the adverse action. The employee's influence on the investigation established a sufficient causal link between discrimination and the adverse action to impute liability.

The court summarized its holding by stating that to establish the essential elements of causation in a subordinate bias case, where the investigation that led to the adverse employment decision was initiated by, and would not have happened but for the biased subordinate, the plaintiff must show that the allegedly independent adverse decision was not actually independent because the biased subordinate influenced or was involved in the decision or the investigation leading thereto. Because the subordinate employee framed and influenced the investigation, the adverse action was not independent.

This decision is a victory for supervisors whose subordinate employees retaliate for EEO activity. Biased employees can impute liability on their agency when attacking a supervisor. This decision offers all employees protection from biased investigations; not only subordinate employees from biased superiors, but supervisors from biased subordinates as well.

* This information is provided by the attorneys at Passman & Kaplan, P.C., a law firm dedicated to the representation of federal employees worldwide.

7. **Congress Should Add Auto-Enrollment to the Thrift Savings Plan, But Resist Interfering in Its Investment Choices.** This article is written by David C. John, Senior Research Fellow in Retirement Security and Financial Institutions in the Thomas A. Roe Institute for Economic Policy Studies at The Heritage Foundation.

Congress will improve the retirement security of millions of federal workers if it agrees to add auto-enrollment to the Thrift Savings Plan (TSP), a part of the federal government's employee retirement system. Under auto-enrollment, a worker participates in TSP unless he or she opts out of it. On June 19, the Federal Retirement Thrift Investment Board (FRTIB), which manages TSP and has a fiduciary responsibility to ensure that TSP operates solely for the benefit of federal workers, voted to ask Congress for the authority to automatically enroll new and returning workers into TSP. The recommendation also has the support of TSP's Employee Thrift Advisory Council. Establishing auto-enrollment would especially help military personnel, whose participation rate in TSP is well below that of civilian employees.

Congress would, however, undermine federal workers' retirement security if it acts to limit TSP enrollees' investment options. A number of legislators have expressed support for proposals that would require TSP and other pension plans to stop investing in companies that do business in Sudan or Iran, and others want the program to establish a "corporate responsibility" investment option. In its June 19 meeting, the FRTIB also voted to strongly oppose any such legislation. These proposals would cost federal workers millions of dollars that should be going to fund their retirements and introduce politics into a program that has been solely dedicated to improving the retirement incomes of federal workers.

How the TSP Works

The TSP is one element of the Federal Employees' Retirement System, managing over $200 billion of retirement savings for about 3.7 million federal civilian employees and military personnel. Since its creation in 1986, TSP has grown from one fund that invested in federal government bonds to five individual funds and a "lifestyle portfolio" that includes investments in all five funds. TSP members control how their retirement savings are invested and have the ability to move their savings between the funds at will.

At the end of 2006, 38 percent of TSP's assets were invested in an S&P 500 stock index fund, while 36 percent were invested in government bonds, 11 percent in an international stock index fund, 9 percent in a small and medium sized company fund, and 6 percent in a bond index fund. Funds have been added to TSP slowly, with the government bond fund opening in April 1987, the stock and bond index funds in January 1988, and the international stock index and the small cap funds in May 2001. The lifestyle portfolios incorporating various proportions of the five funds appeared in August 2005.

TSP administrative fees are extremely low, averaging about 30 cents for every $1,000 invested (3 basis points) in 2006. This is artificially low, because federal agencies absorb some of the administrative costs, but as a result, federal employees receive one of the best bargains in retirement investing. Management of the funds is contracted out to private sector investment managers based on a periodic bidding process. Currently, all of the funds except for the government bond fund are managed by Barclays Global Investors.

A key factor in TSP's success is the limited number of funds that it makes available to members. Research shows that many participants in 401(k) plans become confused when their plan offers too many investment choices. Too many funds can actually reduce participation.

TSP's one weakness is that unless a worker designates another investment choice, his or her money goes into a government bond index fund (G Fund). While this is a safe choice that has almost no chance of losing money, it also will not earn nearly enough for a comfortable retirement income. The FRTIB proposes to address this weakness by making the lifestyle fund (L Fund) the automatic investment choice for members who do not choose to actively manage their funds and to move to automatically enroll federal workers at a certain investment amount unless they actively choose not to join.

Auto-Enrollment: An Important Improvement
Auto-enrollment is perhaps the single most important improvement to retirement savings plans for many years, and adding it to TSP will help federal employees to achieve retirement security. Under the current TSP structure, a worker who is considering enrolling must make several decisions that he or she may not feel qualified to make. These include how much to save and what investments to choose. Faced with important decisions that could cause a loss if the wrong choice is made, many workers simply do nothing. As a result, they do not save, and their retirements will be less secure.

Under auto-enrollment, the situation would be reversed. Unless the worker chooses otherwise, he or she would be automatically enrolled in TSP, contribute a set proportion of income, and invest in the retirement fund (the L Fund) that is most likely to produce a suitable level of retirement savings. The worker will still have the right to change any of those decisions, but in this case, inertia works to his or her benefit, increasing the worker's retirement security. Studies of auto-enrollment in 401(k) plans show that participation rates reach and exceed 80 to 85 percent of the workforce for all groups, including lower income workers, younger workers, women, and minorities. Without auto-enrollment, members of these groups are the least likely to save for retirement and the most likely to need additional retirement income beyond that provided by Social Security.

In the case of TSP, auto-enrollment offers several advantages. While participation among civilian workers is already high, participation for military personnel is only about 25 percent. Under the FRTIB proposal, all workers, both new and returning, would be auto-enrolled at the time of employment and would contribute 3 percent of income to TSP. Those who decide not to participate would have 90 days to opt out and would receive their contributions back.

Equally as important, the FRTIB plan would change TSP's automatic investment option from the G Fund, which invests in government bonds, to the L Fund, a mixture of stocks, commercial bonds, and government bonds. The investment mix of the L Fund changes gradually and automatically over time based on when the individual worker plans to retire, shifting into more conservative investments as the worker ages. This serves to enable larger investment gains while the worker is younger and then to protect those gains from market volatility as the worker nears retirement age.

The difference between automatic investment options is especially significant for younger workers. For the 12 months ending in May 2007, the G Fund had a rate of return of 4.92 percent, while the L Fund for those retiring after 2035 earned 20.92 percent and the L Fund for those retiring in the next few years earned 8.64 percent. Though the L Fund has a higher level of risk than the G Fund, the difference in rates of return, especially for younger workers who can and should bear more risk as they are decades away from the end of their working lives, could result in a much greater retirement income.

Mixing Retirement Savings and Foreign Policy
Early in the 110th Congress, Members of the House and Senate introduced three bills that threatened TSP's focus on improving federal employees' retirement security. Two were amended to drop language directly affecting TSP, passed the House by wide margins on July 31, and are now before the Senate. The third is unlikely to see further action. These bills may, however, presage future legislative initiatives.

Section 4(b) of the Darfur Accountability and Divestment Act (HR 180), introduced by Representative Barbara Lee (D–CA), would have required the Government Accountability Office (GAO) to "investigate the existence and extent of all Federal Retirement Thrift Investment Board investments in companies" identified as doing business in Sudan. That information would be reported to Congress annually. The clear intention was for Congress to use the information to pressure FRTIB to stop investing in those companies. This provision was deleted before the bill was considered by the House of Representatives.

Similarly, Section 7 of the initial version of the Iran Sanctions Enabling Act (H.R. 2347), introduced by Representative Barney Frank (D–MA), would have stated the sense of Congress that "the Federal Retirement Thrift Investment Board should initiate efforts to provide a terror-free international investment option among the funds of the Thrift Savings Fund" that would not invest in "the stock of companies that do business in any country the government of which the Secretary of State has determined… is a government that has repeatedly provided support for acts of international terrorism." While a sense of Congress resolution does not carry the force of law, FRTIB would have seen it as a threat to legislate if it failed to act. This provision also was deleted before the bill received House consideration.

Finally, Section 1(d) of Rep. Illeana Ros-Lehtinen's (R–FL) H.R. 1357, which also concerns pension investments in Iran, would have required TSP, "to the extent consistent with legal and fiduciary duties," to divest investments in any companies identified as having invested more than $20 million in Iran's energy sector since August 5, 1996, and Section 1(f) would have prohibited any future investment in those companies. H.R. 1357 has not been considered.

Raising Costs on Federal Workers

While the House removed TSP-related provisions of the two bills that it considered before passing them, they could be added back in the Senate or included in legislation allowing TSP to establish auto-enrollment. Such a move would complicate administration of the TSP, possibly raising fees, and take the first step in politicizing the investment of federal workers' retirement savings.

All of TSP's non-government bond investment choices are index funds directly related to stock indices that are widely available, extremely low cost, and simple to track. To a large extent, TSP's low administrative fees are due to using index funds that have been developed by firms such as S&P and Dow-Jones and that can be traded by computer. Reconfiguring these indices to remove certain companies is very expensive, especially if that list of companies changes regularly.

According to the consulting firm Ennis Knupp & Associates, reconfiguring TSP's I Fund (which invests in international stocks) to avoid investing in non-U.S. companies that do business in either Iran or Sudan would cost $30 million for the first year and another $12.5 million every year after that. This represents a doubling of the annual administrative cost of the fund, from 0.03 percent of assets to about 0.08 percent.

One reason for the high cost comes from the fact that most stock indices weight stocks listed in the index rather than treating them equally. For instance, TSP's S Fund, which is based upon the S&P 500 stock index, does not just invest equal amounts in 500 selected stocks. Instead, the S&P 500 index is weighted by market float. Under market float weighting, the proportion of each stock's share of the index is equal to the number of shares that S&P determines are available for public trading times the stock price. In order to determine the value of the S&P 500 index at any point, this calculation is performed for all 500 stocks on the index and summed. In the case of the S Fund, the proportion of the fund invested in each company is the proportion of its market float to the total market float of all the 500 stocks contained in the index.

When a company is removed from an index, as would have been required by the Darfur and Iran bills, it has to be replaced by another or the overall size of the index must shrink. In either case, the weightings of the stocks on the reconfigured index must be changed. This procedure is time-consuming and expensive.

Cutting out companies that invest in certain countries would radically change the focus of TSP. Given that the reason for making such a change is a foreign or political policy goal, rather than a pension fund's fiduciary duty to focus on maximizing a worker's retirement income, the result is that a worker's retirement money would be, by legal and fiduciary standards, misused. Though there are excellent political reasons for not investing in companies that do business in either Iran or Sudan, affecting foreign policy is not the purpose of either TSP or any other pension fund.

Any decision to inject politics into TSP investments could lead to a slippery slope. It is only a short step from requiring pension funds to base their investment decisions on foreign policy goals to basing them on short-term politics. This has actually happened in a number of state government employees' pension funds, where pension funds have been invested in factories that soon closed, public works projects that failed to produce profits, and similar projects that ended up causing significant losses for retirees.[1] TSP has been used exclusively to build federal workers' retirement security. It should not be used for any other purpose.

Don't Politicize TSP

In addition to efforts to force TSP to stop investing in companies that do business in Darfur or Iran, another bill would require TSP to offer a certain investment option to its members. The Federal Employees Responsible Investment Act (H.R. 2519), introduced by Representatives James Langevin (D–RI) and Chris Shays (R–CT) would require the TSP to offer a "corporate responsibility" investment option. According to Representative Langevin, this would be "a widely known stock index that only invests in stocks that meet strict financial and social responsibility criteria. These companies must meet standards including safe environmental practices, sound corporate governance, community involvement, and human rights worldwide."

This is the latest congressional attempt to create new TSP funds. In the last Congress, FRTIB successfully opposed legislation supported by almost 180 House Members that would have forced TSP to offer a stock index fund based on Real Estate Investment Trusts (REITs). It also opposed earlier attempts to prevent TSP from investing in companies that do business in particular countries.

The consulting firm Ennis Knupp & Associates has noted that it would be difficult to set up a "corporate responsibility" fund because of the difficulty in arriving at a consensus definition of what is and is not an acceptable business practice. The firm recommended against setting up such a fund.

Congress should leave choosing investment options to FRTIB. All of the funds in the TSP today were added only after being recommended by the FRTIB, which has a fiduciary responsibility to ensure that TSP operates solely for the benefit of federal workers. Wisely, the FRTIB has retained its exclusive focus on the retirement needs of its members, and it should continue to do so. In return, Congress should not attempt to force TSP to include any specific funds.

Conclusion

TSP is one of the most successful retirement investment vehicles ever created. In a large part, it has succeeded because its governing board considers only its members' need to build adequate retirement savings. As a result, federal employees today can have full confidence that their interests will come before whatever political winds are currently blowing in Washington.

Auto-enrollment, a policy recommended by that governing board, is one of the most effective ways to ensure that employees can adequately save for their retirements, and Congress should add this feature to TSP. At the same time, Congress should change TSP's automatic investment choice from the G Fund to the L Fund. Both changes are in the best interest of federal workers and will especially help those who need to save the most: younger workers, lower income workers, women, and minorities.

Congress should also resist attempts to use that legislation to modify TSP's investment choices. While there are good reasons to be concerned about Sudan and Iran, TSP is simply the wrong place to take action against those regimes. Similarly, Congress should avoid forcing the FRTIB to add any funds, regardless of whether they are ethical investment funds, sector funds (e.g., REIT funds), or any other choices that FRTIB has not requested.

The risk of injecting politics into TSP is that its focus will begin to shift from the needs of its members to short-term political goals and the agendas of particular industries or interest groups. Such a step would eventually lead to efforts to force TSP to invest in politically approved projects that do not earn adequate returns. Many state and local government employee retirement plans have been forced to make investments for political reasons, and most of them have sustained serious losses as a result. Retirement savings plans should encourage investment decisions that are solely in the best financial interest of retirees, not based on political or social goals, no matter how well-intended.

8. **Bill to Promote Rehiring of Retirees Introduced.** Concerned about an impending wave of federal employee retirements, Rep. Tom Davis (R-Va.) introduced legislation Sept. 19 that would let agencies temporarily rehire federal retirees to help mitigate workforce shortages in the government.

Under the Re-Employment of Annuitants Act of 2007, retired employees could return to the workplace on a short-term basis to fill skills gaps and train the next generation of federal workers without losing their annuity benefits. The Office of Personnel Management requested the legislation, according to Davis' office.

We need to tap into the expertise and experience of retirees particularly with positions that are difficult to fill said Davis, ranking member of the Committee on Oversight and Government Reform. They have proven their ability, their dedication and desire to help keep government running smoothly.

Under current law, retired federal workers must suspend their annuities or receive a reduced salary if they return to work as part-timers. OPM makes an exception to the rule for positions it considers difficult to fill. Under Davis' bill, retirees who return to work would receive salary and annuity payments during their time on the job. However, they would not receive additional retirement benefits based on their service.

Federal retirees who want to return to work should be encouraged not penalized Davis said.

Reps. Frank Wolf (R-Va.) and Kenny Marchant (R-Texas) co-sponsored the legislation.

9. **Mixing Civilian and Military Retirement**. This article is written by Tammy Flanagan. Ms. Flanagan the senior benefits director for the National Institute of Transition Planning, Inc, which conducts federal retirement planning workshops and seminars.

What comes after a career in the military services? Sometimes, a second career in the civilian service is the next logical step. But as the second career nears completion, an important decision needs to be made between two retirement options:

- 1. Combine military and civilian careers into one civilian retirement and forfeit military retirement. This decision also requires making a military service credit deposit of 3 percent of military base pay (Federal Employees Retirement System) or 7 percent of military base pay (Civil Service Retirement System) plus interest, as described in my Feb. 24 column on military service credit deposits.
- 2. Retire from CSRS or FERS using only civilian federal service and continue receiving a separate military retirement benefit.

The decision depends on the financial impact of keeping the careers separate or combining them. A decision to use military service toward a civilian retirement would not affect Social Security retirement benefits. The decision to combine careers into one retirement also would not alter other military retirement perks such as health care and commissary privileges.
Generally, an employee must waive military retired pay in order to receive credit for military service in the computation of the CSRS or FERS annuity, unless he or she is:

- 1. Retired from civilian service after Sept. 30, 1982, and has military service that was not used in the computation of military retired pay -- for example, four years at one of the service academies such as West Point or the Naval Academy in Annapolis.
- 2. Receiving military retired pay awarded:

- On account of a service-connected disability incurred in combat with an enemy of the United States;

- On account of a service-connected disability caused by an instrumentality of war and incurred in the line of duty during a period of war; or
- Under provisions of 10 U.S.C. 12731-12739 (retired pay under Chapter 1223 for members of the reserves).

Sample Decision Processes

Steve: Steve completed 20 years of military service in 1973 and is receiving a military retirement benefit of $12,000 per year. He has been employed as a civilian employee with the Defense Department since his military retirement and now has 23 years of civilian service. He is covered by CSRS.

	Combine Military and Civilian Career	**Receive Separate Military Retirement and CSRS**
Military Retirement	$0	$12,000
CSRS Retirement (High Three = $55,000)	$44,000 (Maximum CSRS benefit*)	$23,237 (23 years)
Total retirement	**$44,000**	**$35,237**
Military Deposit	$9,000 7% of military base pay + interest	$0

* By combining his careers, Steve has 43 years of service. CSRS provides a maximum benefit after 41 years and 11 months of 80 percent of the high-three. Steve will be entitled to a refund of excess retirement contributions of $4,200 since retirement contributions continue to be withheld until he retires, even though his last year of service is not being used to compute his retirement benefit.

Things to consider:

- By combining military and civilian careers, Steve's retirement payments will increase by $8,763 per year.

- Steve must pay a $9,000 deposit in order to combine his careers, but this will be offset to $4,800 since he will also be entitled to a refund of excess CSRS contributions. He will recover this investment within less than one year of receiving the higher retirement.
- Cost of living adjustments are the same for CSRS and military retirement benefits.
- Spousal survivor benefits are computed at 55 percent of the retirement under both CSRS and military retirement.
- Steve will continue to receive his military retirement until he begins receiving his combined military and civilian career retirement. He doesn't need to apply to waive his military retirement until shortly before his civilian retirement begins.

Stan: Stan completed 20 years of military service in 1985 and is receiving a military retirement benefit of $18,000 per year. He has been employed as a civilian employee with the Defense Department since his military retirement and will have 23 years of civilian service by the time he retires in 2008. He is covered by FERS.

	Combine Military and Civilian Career	**Receive Separate Military Retirement and FERS**
Military Retirement	$0	$18,000
FERS Retirement (High Three = $85,000)	$40,205 (43 years*)	$21,505 (23 years*)
Total retirement	**$40,205**	**$39,505**
Military Deposit	$12,000 3% of military base pay + interest	$0

*Stan will be 62 years old by the time he retires. His FERS benefit will be computed at 1.1 percent of his high-three for his years and months of service. FERS provides this computation for employees who retire at age 62 or later and who have at least 20 years of creditable service.

Things to consider:

- By combining military and civilian careers, Stan's retirement will increase by $700 per year.

- Cost of living adjustments are about 1 percent less under FERS.
- Spousal survivor benefits are computed at 55 percent of the retirement under military retirement but at only 50 percent of the FERS retirement benefit.
- If part of Stan's military retirement is coming from the Veterans Administration due to a service-connected disability, he would not have to waive that benefit. This could swing the decision toward combining the careers after considering the differences in COLA, survivor benefits and military deposit.

Sarah: Sarah completed 20 years of military service in 1985 as a member of the Naval Reserves. She has been employed as a civilian employee with the Defense Department since 1985 and will have 23 years of civilian service by the time she retires in 2008. She is covered by FERS.

	Combine Military and Civilian Career	Compute FERS retirement without Military Service
Military Retirement	$12,000	$12,000
FERS Retirement (High Three = $85,000)	$25,500 (30 years*)	$19,550 (23 years*)
Total retirement	**$37,500**	**$31,550**
Military Deposit	$5,210 3% of military base pay + interest	$0

*Sarah will not need to waive her retirement from the Reserves (see the exception above). She will receive credit for 7 years of active duty performed while serving as a member of the Naval Reserves.

Things to consider:

- By paying the military service deposit, Sarah has 30 years of service credit that will be used to compute her FERS retirement benefit.
- Sarah doesn't have to waive her retirement and she has increased her FERS retirement benefit by $5,950 (7 percent of $85,000) by completing the military service credit deposit for her seven years of active service.
- Sarah will recover a return on her $5,210 military deposit within less than a year of retiring under FERS.

To Do

- Human Resources, Retirement Benefits Office: Request two retirement benefit estimates. The first will show your retirement without using your military service credit. The second estimate will show your retirement with a combined civilian and military service credit.

- Military Finance Center: Request an estimate of your base pay during military service.

- Human Resources, Retirement Benefits Office: Request a computation of your military service credit deposit. You will need this information to evaluate the cost of combining your military and civilian careers.

- At home: Consider the difference in your retirement income by reviewing your military retirement and civilian retirement benefit options.

Resources

- Military Service Credit Under the Civil Service Retirement System
- Chapter 22, CSRS and FERS Handbook, Creditable Military Service
- CSRS and FERS Handbook, Service Credit Payments for Post-1956 Military Service
- Form RI 20-97, Estimated Earning During Military Service

10. **Fitness for Duty Exam and Federal Employment**. A criminal investigator with the Department of Homeland Security could not convince the Federal Circuit to overturn his firing for refusal to obey an order to sign a medical consent form in connection with a fitness for duty exam. (Sweeney v. Department of Homeland Security, C.A.F.C. No. 2007-3091 (nonprecedential), 9/11/07)

Sweeney's supervisors at DHS ordered him to submit to a fitness-for-duty exam to recover his weapon due to a "public safety issue." (Opinion p. 1) Apparently Sweeney's supervisors were concerned about his harassing phone calls to a co-worker, improper attempts to access a supervisor's phone records, trying to get a supervisor's home address and his claims of a conspiracy against him. This is what led them to order up the fitness-for-duty exam. (p. 2)

As part of the process, a supervisor ordered Sweeney to sign a medical release form. He refused. Sweeney was removed for refusing to obey a direct order. (p. 2)

The Merit System Protection Board affirmed Sweeney's removal. Now, the Federal Circuit affirms, and Sweeney stays fired. (p. 2)

The court was not persuaded by Sweeney's argument that the agency's actions violated the Privacy Act and the Health Insurance Portability and Accountability Act (HIPAA). The court points out that HIPAA does not give a private right of action; moreover, it allows employers to require records disclosure in connection with a fitness exam. (p. 3)

In short, the court finds that there was substantial evidence to support the Board's decision to uphold Sweeney's firing. (p. 4)

11. **Windfall Elimination and Your Retirement Future**. The Windfall Elimination Provision (WEP) and Government Pension Offset (GPO) are two provisions of the Social Security law that affect Social Security benefits to which CSRS retirees may be entitled. Like many other aspects of retirement rules and regulations, they can cause a good deal of confusion among current and prospective CSRS retirees. Consider the names themselves:

- The Windfall Elimination Provision does not eliminate a Social Security benefit to which you are entitled on your own earnings record. It will, however, generally drastically reduce it.
- The Government Pension Offset's offset of any Social Security benefit to which you would be entitled on the earnings record of another is usually so severe that it completely eliminates such benefit.

These two provisions were introduced in the 1980's in an early attempt to shore up the Social Security system and public employee supporters in Congress have been trying to repeal or revise them since then.

In fact, these two provisions do not target only CSRS employees. They apply to anyone who has earned pension benefits based on work not covered by Social Security (i.e., work from which Social Security deductions had not been withheld). This would include CSRS Offset employees and FERS employees who transferred from CSRS after having five years of civilian service (enough to entitle them to a CSRS retirement benefit).

The remainder of this article will take a look at the Windfall Elimination Provision.

The Windfall Elimination Provision affects only Social Security benefits to which you are entitled based on your own earnings record. As long as you have earned

40 credits (formerly known as quarters of coverage) you will receive some kind of Social Security benefit.

The Social Security System has a need-related component that is designed to replace a much greater portion of a low wage earner's income than that of the high wage earner. CSRS employees, and others who have earned a retirement benefit based on work that was not covered by Social Security, most likely have many years in their Social Security earnings record where they had little or no employment covered by Social Security. They would look like a low wage earner to the Social Security system, even though they had been working at a good job and earning a pension the entire time.

Describing how Social Security retirement benefits are computed would take up too much space here, but Social Security uses a much higher (90%) computation factor for the lowest portion of Social Security earnings. For retirees who are entitled to a pension based on work not covered by Social Security, that computation factor could be as low as 40%.

If you have 20 or fewer years of substantial earnings (most of us CSRS folks) your benefit will be computed using the 40% factor. For years over 20, the factor increases by 5% a year until it reaches 90% after 30 years. A Social Security Factsheet on the WEP is available here and has a chart on what constitutes substantial earnings.

We all should be getting Social Security Statements from the Social Security Administration on an annual basis. If we have already earned 40 credits, there will be an estimated benefit listed. Unfortunately, the SSA computers do not know that we are CSRS employees who are subject to the WEP. You can go to the Social Security website and use their WEP calculator, or you can try this computation:

- If the monthly benefit shown on your Social Security Statement is less than $680, cut it in half
- If the monthly benefit shown on your Social Security Statement is greater than $680, subtract $340 from it.

12. **Quarterly HR Liaison/CPAC Staff Meeting**. The quarterly HR Liaison/CPAC meeting was held on Wednesday, 12 September. The agenda included discussion of such items as civilian training, interviewing candidates, CPAC production timelines, the reorganization of the Civilian Human Resources Agency (CHRA), and flexibility/consistency in recruitment, among other topics.

These meetings are conducted to establish/reaffirm and strengthen the partnership between activity liaisons and HR personnel for the benefit of the serviced population. Twenty-six liaisons were in attendance.

13. **<u>Giving Back………</u>**Several members of the CPAC participated in a House of Heroes (HOH) Project on Saturday, 22 September. CPAC staff pictured below, from right to left is Debra Burns, Lynette Reynolds, Loraine Lester, and Alma Torres (Phenix City)

14. **<u>Human Resources (HR) for Supervisors Course Offerings</u>**. The HR for Supervisors Course is highly recommended for all Department of Army civilian (DAC) and military supervisors of appropriated fund (APF) civilian employees who supervise at least 3 appropriated fund DAC employees. The course is 40 hours long and is intended to help the supervisor in performing his/her HR management duties. In addition to teaching the participants about HR regulations and processes, the course introduces the automated HR tools. Completion of this course can enhance the supervisor's confidence and performance. The course includes the following modules:

- Overview of army CHR (includes coverage of Merit System Principles and Prohibited Personnel Practices)
- Staffing

- Position Classification (includes an introduction to CHR automated tools such as CPOL, ART, Gatekeeper and FASCLASS)
- Human Resource Development
- Management Employee Relations
- Labor Relations
- Equal Employment Opportunity

The course includes lectures, class discussion and exercises. Additionally, there is a pre and post test administered at the beginning and end of the course. The course does not address supervision of non-appropriated fund (NAF) or contractor employees. The course dates for FY 08 are highlighted below. Each class will be conducted from 0800 to 1630 in building #6, classroom #225. The point of contact for this course is Ms. Stephanie Carpenter, Fort Benning CPAC, 545-2681.

DATE

3 – 7 December 2007
3 – 7 March 2008
2 – 6 June 2008
15 – 19 Sep 2008

15. **RPA and ART Workshop**. The Fort Benning CPAC HR specialists are available to conduct RPA and ART desk-side walkthroughs and/or workshops to assist managers/supervisors and new DCPDS account holders with accessing and using DCPDS, ART, initiating RPAs, creating Gatekeeper Checklists, forwarding and tracking RPAs, generating reports and printing SF 50s. Training can be accomplished via individualized sessions or activity specific workshops upon request. If you desire training of this nature, please contact your servicing HR specialist to arrange for scheduling.

16. **Job Aids Available on the Web**. Lotus ScreenCams (how-to-movies) are available to assist DCPDS users with DCPDS, Army Regional Tools (ART), Oracle 11i and other automation tools. ScreenCam movies ART Logon, Ghostview, Gatekeeper, Inbox Default, Initiating an RPA, Logging On, Navigator, RPA Overview and RPA Routing are available on the web at: http://www.chra.army.mil/. Click on HR Toolkit and then click on the name of the movie to download or play it. Managers/supervisors and administrative personnel responsible for initiating RPAs are encouraged to review this site and check out these new tools. ART Users Guide has been updated and provides descriptions of and instructions for using tools available in ART,

including such tools as Employee Data, Inbox Statistics (timeliness and status information about personnel actions), Organization Structure (information about positions in various organizational elements), and many more tools. It is intended for use by managers, resource management officials, administrative officers, and commanders as well as CPAC and CPOC staff members. There is both an on-line and downloadable Word version (suitable for printing).

In addition, to the ART Users Guide, there is a Defense Civilian Personnel Data System (DCPDS) Desk Guide which provides how-to information about tasks and functions that end users might need to perform in DCPDS, such as initiating a Request for Personnel Action (RPA) and creating a Gatekeeper Checklist. The ART Users Guide and the Desk Guide can be accessed from the CHRA web page at: http://www.chra.army.mil/, by clicking on HR Toolkit. In addition to these tools the Fort Benning CPAC staff is available to assist you in accessing DCPDS, ART, initiating RPAs, creating a Gatekeeper Checklist, forwarding and tracking RPAs, generating reports and printing an SF 50. If you have any questions or need assistance, please contact your servicing HR specialist to arrange a time so we can come to your office to help you.

17. **Emergency Contact (Next of Kin) Database**. Information on the Emergency Contact Database is located on the Civilian Personnel on Line (CPOL) website http://www.cpol.army.mil/. It can be accessed from the CPOL homepage by clicking on the link for “Emergency Guidance and Resources,” and then clicking on “Emergency Contact Database” Managers need to keep reminding their civilian employees of the need to have their current emergency contact information on file in the Emergency Contact Data Base. In addition, supervisors and managers are required to conduct periodic validations, with employees, to ensure the accuracy of their data. If assistance is needed, please contact project e-mail account at echelp@asamra.hoffman.army.mil.

18. **Additions to the CPAC Family**. Two new employees recently joined the CPAC staff. Ms. Toya D. Hadden and Ms. Donna M. Lofton, both NAF employees, began work at the CPAC on 2 August and 6 September, respectively. Both employees serve as Human Resources Assistants.

19. **Survey: Feds Less Satisfied than Private Sector Employees with Moving Services**. A survey released by J.D. Power and Associates suggests that federal employees and military personnel who have relocated are less satisfied with their experiences with moving companies than their counterparts in the private sector.

"Part of it tends to be that the use of such things as storage facilities increase likelihoods of damage," said Michael Drago, the senior account manager for J.D. Power's real estate and construction industries practice.

Drago said he believes that government and military personnel are more likely to put their belongings in storage during a move, and as a result, they "incur damage more frequently than [private sector] personnel."

On a scale of 1 to 1,000, with 1,000 indicating the most positive experience, nonfederal employees rated their satisfaction with moving services in long-distance moves at an average of 812. Civilian federal employees scored their experience at an average of 756, and military personnel had an average rating of 717.

For local moves, nonfederal employees' satisfaction averaged 780, while civilian and military government employees put that number slightly lower, at 743.

The survey covered 7,000 people who had used a full-service moving company in the previous 18 months, and took place between April and July of this year.

The Defense Department has been trying to address service members' problems with relocation since the 1990s, and began working to develop software called the Defense Personal Property System in 2004 to support a new moving program, Families First.

The system was designed to help service members find not just the lowest-priced service, but the one with the best value, by using Web-based customer satisfaction surveys to determine which companies deserved more Defense business.

Families First also attempts to address one source of dissatisfaction identified by J.D. Power by increasing the size of reimbursements for lost or damaged belongings. Previously, service members received the depreciated value of the item, which was often not enough to purchase a replacement.

The 2007 Defense Authorization Act gave the military until March 2008 to implement the new reimbursement scale.

A May Government Accountability Office report said the Defense Personal Property System was two years behind schedule, and that "DoD's personal property program faces many management challenges -- especially staffing, in addition to program requirements and funding problems -- because it has not employed comprehensive planning."

In his response, Jack Bell, deputy undersecretary of Defense for logistics and materiel readiness, said the Pentagon concurred with GAO's recommendations, and planned to report to Congress on the program's status in August.

The Defense Department could not confirm Thursday afternoon whether that report had been sent to Capitol Hill on schedule.

20. **Fort Benning CPAC Homepage**. Please log on to our website at https://www.benning.army.mil/Cpac/Index.htm. If you have suggestions for improvements or recommendations for information to add, please contact the undersigned.

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