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SUBJECT: Fort Benning CPAC Staffing Update 7-2007

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 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. **Reaching for TSP 'Riches'**. Rich, according to the official government definition is somebody who makes \$300,000 or more per year and who has assets of \$1 million or more. There may be some career government employees in that category. But none of them work for OUR government, where a salary of \$100,000 plus is considered big-time.

People who make government a career aren't going to become rich, on their salary alone. At least not legally.

But many, many feds have a shot at being very well off indeed by the time they reach retirement age. And into retirement. Compared to the general population.

The average American worker does not have a pension plan. Those who do (because the plans are noncontributory and are based on company promises and profits) retired on fixed pensions that don't go up no matter how long the retiree lives -- or how much inflation rises.

Feds on the other hand have COLAs. Workers under the Civil Service Retirement System get annuities that are immediately indexed to inflation from the moment they retire. Since the mid-1970s annuities (thanks to compounding and COLAs) have gone up about 300 percent.

The majority of active duty feds are now under the Federal Employees Retirement System. FERS benefits are less generous than CSRS. And they are under a diet-COLA system (which begins at age 62, regardless of when an individual retires).

But workers under CSRS and FERS have an ace in the hole. The Thrift Savings Plan. Experts now believe that people who fully invest in the TSP, and who pick the right funds, could have twice as much money in retirement as non-investors. FERS employees who invest early and regularly could wind up with more money to spend than CSRS retirees.

CSRS is comparable to an automatic pilot program. Long-service, high income workers will do well in retirement, whether they invest or not.

FERS is a hands-on program that requires you to invest, and manage those investments. And to put in at least enough each paycheck to get the government 5 percent, tax-deferred match.

CSRS employees can now invest 6 percent of salary. FERS workers can invest up to 11 percent. Both, like other workers in 401k plans, are subject to the \$10,500 per year annual investment amount the IRS allows for individuals. That amount DOES NOT include matching government contributions.

Within the next few years the investment amounts will rise to 10 percent for CSRS employees, and to 15 percent for FERS workers. After that the annual individual contribution limit will go to \$15,000, thanks to the new tax law.

The trick, of course, isn't a trick. It involves a plan. Regular investing to the maximum amount possible.

Once you've made the decision to invest, consider consulting a qualified financial planner and perhaps even a tax lawyer. The estate you are building could be more than you ever dreamed.

For more specialized advice, stick with the pros. You may want to checkout FEDweek's (The TSP Investor's Guide) as a guide.

Remember. It is your money and, especially in the case of FERS employees, you are going down the road to retirement (ready are not). And you, and nobody else, are in the drivers' seat.

3. **Size of Contracting Workforce Holds Steady**. The federal acquisition workforce grew almost imperceptibly during the past year, far short of the contracting growth rate, according to new government data.

Office of Personnel Management data [analyzed by the Federal Acquisition Institute](#) showed that the number of procurement professionals in government rose just less than 1 percent in fiscal 2006, to 59,997 from 59,477 in fiscal 2005.

Future retirement eligibility remains a threat, the figures indicated. About one federal acquisition professional in eight already is eligible to retire, and that will rise to more than half the workforce by 2016, according to the data.

Agencies typically see only a fraction of eligible retirees leave the procurement workforce every year, though, with fiscal 2006 loss rates ranging from 8 percent among those designated as contracting personnel to 22 percent among procurement clerical and assistance workers, supporting the argument that projections of a "[retirement tsunami](#)" may be overly dire.

In a summary, report authors said, "The information will provide a government wide baseline of federal contracting workforce competencies and it will help determine areas where training would be most beneficial to augment the levels and distribution of current contracting capabilities."

Acknowledging recent refrains from the Office of Management and Budget and an independent acquisition advisory panel, the authors said new statistics support observations that acquisition workloads have grown larger and more complex, and agencies need to identify crucial skills, recruit and retain employees, and plan for change as the nature of acquisition work continues to evolve.

The number of federal acquisition personnel has increased about 3 percent since fiscal 1999, a growth rate that falls far behind the more than doubling in federal contracting that has taken place during that period. Federal contract dollars totaled \$188 billion in 1999 and rose to about \$394 billion in fiscal 2006 -- a 110 percent increase -- according to recent OMB figures.

The latest workforce data builds on a long series of similar annual reports, but the acquisition advisory panel last year found that data insufficient to resolve questions about whether more hiring was necessary to bolster the federal procurement workforce, or if increased training and other measures would suffice.

The Federal Acquisition Institute recently completed a more comprehensive study of the civilian acquisition workforce for OMB, and the Defense Department has developed a modeling tool to help analyze its procurement workforce needs. Information collected through those studies could help in answering some of the panel's questions.

Paul Light, a professor at the Robert F. Wagner School of Public Service at New York University who specializes in federal workforce issues, said he doesn't believe there are enough acquisition workers to handle the workload. The result, he said, is more sole-source and large, aggregated contracts.

The relationship between contract volume and contracting personnel also raises questions, Light said. "By my experience, there is no relationship between size of an agency's budget and the size of its acquisition workforce, and that requires some sort of explanation," he said.

4. **You're Star Investors.** If you are a "typical" Thrift Savings Plan investor-and if your arm will reach that far-pat yourself on the back. When it comes to 401k track record smarts, federal and postal employees are leaders of the national pack.

When the stock market turned sour late last year many private sector investors pulled money out of their company 401k plans stock-index funds. They moved into more stable bond and money market funds.

If experts, who mostly advocate a long-term strategy for 401k investors, are correct the switchers managed to buy high and sell low. They jumped out of S&P indexed funds as they were going down (and therefore become less expensive) and moved into upwardly mobile funds that were becoming more expensive.

Federal investors, by contrast, seem to be standing relatively pat. That either indicates that they aren't paying any attention to short-term ticks in the market, or that they feel the market downturn has put the equivalent of a "for sale" sign on the C fund (S&P 500 index) and the new S (small cap) and I (international stock index) funds.

After readjusting their portfolios to reflect the market downturn (which went up again in April) 64 percent still had money in the C-fund. The number of investors in the FERS program with money in the C-fund dipped from 66 percent to 62 percent. That's an adjustment, not a stampede.

Feds had about \$55 billion in their C fund accounts and moved roughly \$2.8 billion in the first four months of this year into the G (treasury securities) and F (bond index) funds. That's a lot of money, but hardly a sign of panic. At the same time investors continued to buy into the C fund each payday through payroll deduction.

Meantime, investors are showing big time interest in the new S (small cap) and I (international) stock index funds. As of late last week they have earmarked about \$300 million to go into the higher risk/higher reward funds.

Different people will read different things into the numbers, especially when the final totals are compiled for the most recent open season. But most observers, in an out of government, say that feds in general seem to be staying the course (the preferred route in a long-range, 401k investment) and moving with caution.

Employees of the U.S. Postal Service aren't the best-paid federal workers, by a long shot. But they are among the most sophisticated, and enthusiastic participants in the TSP. The percentage of active USPS investors is always near the top.

That's due in part to the fact that postal unions, like the American Postal Workers Union and the National Association of Letter Carriers, urged members early-on to take advantage of the TSP. Many organizations shied away from giving members TSP advice, fearing it would appear to be an endorsement. But the NALC and APWU told members it was a good deal (and they were right) and members responded.

Federal and postal unions couldn't be happier now that Democrats are about to take control of the Senate. They see the slim Democratic majority as a safeguard against any attempts to water-down benefits for feds. At the same time unions know they can count on staunch pro-federal Republicans, like Alaska's Sen. Ted Stevens, to look out for their interests on the minority side of the aisle.

5. Survey: Unauthorized Teleworkers a Security Risk. Federal teleworkers are less of a security risk than many of their in-office colleagues who take home government work without authorization, according to a report Monday, 4 Jun, by the public-private partnership Telework Exchange.

An online poll of 258 federal employees including sanctioned teleworkers, non-teleworkers and non-teleworkers who unofficially work at home revealed that

federal data is significantly more mobile and still vulnerable. Telework Exchange conducted the survey in May to examine changes in data mobility and security awareness one year after the loss of a Veterans Affairs Department laptop that contained personal data on 26.5 million veterans and active-duty members.

The report found that 63 percent of respondents who worked from home unauthorized -- more half of the non-teleworkers surveyed -- used their home computers in doing that work. "People were saving documents on their home computers that were unprotected," said Josh Wolfe of Utimaco, a data security company that underwrote the study.

After the VA incident, 13 percent of federal employees surveyed said their newly issued laptops did not have encryption. And while 65 percent of employees said their agencies reinforced security policies after the event, only 48 percent said their agencies provided additional training.

When teleworkers and nonteleworkers were asked if they had antivirus protection on their laptop or desktop computers, 94 percent of teleworkers responded yes, while only 75 percent of non-teleworkers said yes.

The survey, which had a 6 percent error margin, did not break down results by agency or job function.

"We're not sure if these people are dealing with spreadsheets with Social Security numbers on them or something more mundane than that," Wolfe said.

Still, he said, agencies should be reemphasizing security procedures for all authorized teleworkers and making sure all mobile equipment -- not just laptops - is secure.

The report recommends that agencies audit the online behavior of unofficial teleworkers who work at home and give them the same home computer security training and equipment as official teleworkers.

Diane Merriett, a spokeswoman for the General Services Administration, which helps agencies maintain security controls to enable telework, said the behavior of unauthorized teleworkers "is outside the realm of GSA comment."

She directed *Technology Daily* to the GSA's March bulletin on telework IT guidelines. The bulletin states that agencies should encrypt all data on mobile

computers and devices that carry agency data, "unless the agency determines that the data are nonsensitive."

Each agency is supposed to establish its own policies for "limited personal use" of government e-mail and Internet systems based on 1999 recommendations by the CIO Council, according to the bulletin. That guidance advises agencies to review user activity logs for inappropriate activities.

Colleen Kelley, president of the National Treasury Employees Union, said the study's finding that agencies failed to encrypt data on some new laptops is "disappointing."

A large number of her members "routinely travel in the course of their daily work. These include Internal Revenue Service revenue agents and revenue officers, bank examiners of the Federal Deposit Insurance Corp., and many others," she said, adding, "This is an important shortcoming that must be addressed by agencies, even as they seek to expand telework opportunities."

6. **Management Matters: Be Not Afraid.** A problem federal employee became even more of a problem when he decided to start intimidating two co-workers. He was a big guy who had gotten into trouble at work in the past. He started staring at two female colleagues in a threatening way because they had complained about him.

It wasn't a good situation. But what could his supervisors do? This was the federal government after all. How could they take disciplinary action against someone for looking at his co-workers the wrong way?

Luckily for the two women, upper management didn't agree. Instead of doing nothing, they proposed a bold move -- fire the employee -- even though they weren't sure of the outcome in the notoriously bureaucratic federal appeals process. It turned out that the bully wasn't so tough. Surprised by the strong management response, the employee begged for his job and promised to stop staring. Management eventually gave him a temporary job at another office.

Former federal manager Stewart Liff includes this tale, along with many other battle stories from the trenches of the civil service, in his new book, *Managing Government Employees: How to Motivate Your People, Deal With Difficult Issues and Achieve Tangible Results* (Amacom, 2007).

Drawing on more than 30 years' experience in federal agencies from the General Services Administration to the Veterans Affairs Department, Liff encourages government bosses not to believe the prevailing wisdom that managing in the public sector is impossible. Federal managers too often are governed by fear, and Liff is out to help them conquer it.

"Fear becomes a self-fulfilling prophecy," Liff warns when discussing how managers can deal with problem employees like the staring bully. "If supervisors and managers understood that the system provides plenty of protections for management, as well as employees, they would begin to see things in a different light."

Liff explains that he frequently encountered other managers who believed taking steps to improve their organizations -- including confronting problem employees - - was futile. But when managers feel powerless, they cede control of their workplaces. Troublemakers indeed will make their offices dysfunctional, working conditions will deteriorate and good employees will become frustrated.

Instead, Liff encourages managers to seize control. That starts with a clear and consistent philosophy. "Employees closely watch their managers because they are continuously looking for clues as to what they believe and for indications as to what they will do in the future," Liff writes. "The employees all talk to each other on a regular basis and share notes, so they all form opinions about their managers' beliefs."

Liff's philosophy holds that most people want to do a good job and want to be part of a winning organization and all people should be treated with respect. He suggests setting up management systems to provide incentives for good behavior and performance. And he urges managers to stick with those systems consistently to create a culture of excellence. It's common-sense stuff, Liff says. But it's often ignored, and fear is the key reason.

One way managers can strengthen their backbones is to remember that people generally respond more positively to aggressive actions than to inaction. Liff recalls a supervisor who was reluctant to counsel an employee trainer who was too tough on trainees. Liff had the supervisor tell the trainer to stop being abusive or face the consequences. To the supervisor's surprise, the trainer said no one had ever told her that she had been doing anything wrong, and that she couldn't afford to lose her job.

"From that day on, she was a much better employee," Liff says, "because management had finally dealt with her."

7. Figuring Out Your Annuity. One of the tasks that consumes the time of would-be retirees is figuring out what their annuity will be. They run the numbers by themselves or with the help of agency benefits specialists, and sometimes pay good money to have private sector consultants do the figuring for them.

How close these calculations come depends in large part on which retirement system you are in. If you are covered by CSRS – including CSRS Offset – you can get close. On the other hand, if you are covered by FERS – whole or part – you can't, mainly because you are also covered by Social Security.

CSRS and FERS are both defined benefit systems, ones where what you will receive is based on three factors: your years and full months of service, highest three consecutive years of average salary, and a formula. What agitates the simple mechanics of a retirement calculation are such things as service – including active duty military – for which you have (or haven't) made a deposit, CSRS service where you took a refund of your retirement contributions and for which you have (or haven't) made a redeposit, unused sick leave (CSRS only), and any days of total service that don't add up to a full month.

In the latter case, days that are left over are discarded and not included in your annuity computation. This is particularly troublesome if you are a FERS employee who will have a CSRS component in your annuity. Both benefits are calculated separately, and any left-over days are dropped from each calculation.

The final determination of what your annuity will be rests with OPM. It will do its first screening at the Retirement Operations Center in Boyers, Pennsylvania. This screening can either lead to a request for more information from you or your placement in what's called interim pay. Interim pay is an amount which is less than the full amount that it appears at first glance you would be entitled to receive. Your retirement package then goes to OPM's central office, where a final adjudication is made.

As a part of that process for FERS retirees, OPM will determine if you are eligible for the special retirement supplement, which approximates the amount of Social Security benefit you earned while covered by FERS.

While OPM makes every effort to accurately calculate your retirement annuity, if you believe that what they come up with is wrong, the door is open to dispute their decision. While errors can occur, they are rare and usually involve a misunderstanding about what kinds of service are creditable for retirement purposes.

8. **Jury Duty.** This article was disseminated via e-mail to the Fort Benning workforce on Thursday, 7 Jun under the subject title "Duty Calls". It is now being presented in an excerpted version with insertions to provide additional information as to which allowances, paid as compensation to jurors, may be retained by the employee.

Federal law requires all employers, public or private, to give workers time off for jury duty. But the law does not require employers to pay their salaries during trials. Nonetheless, the Bureau of Labor Statistics found that 87 percent of employers offer paid leave for jury duty.

Federal employees certainly fall in that 87 percent. Whether you're a full-time, part-time, permanent or temporary employee, the government will pay your salary during jury duty. It's called court leave, and using it doesn't reduce your annual or sick leave.

There are a few rules to court leave that have been refined through the years. It can also be used if you're called as a witness, including for depositions that are not in your official capacity. Don't expect court leave if you're testifying on your own behalf, however.

If compensated for jury service, federal employees must fork it over to their agencies. In other words -- there's no double dipping. The exception is money paid by the court to cover expenses such as transportation. That an employee may keep.

As outlined by the Official Code of Georgia 15-12-7, monies paid to employees to cover these type expenses is categorized as an expense allowance and employees are entitled to keep payment. The Office of Personnel Management differentiates an expense from a fee [paid]; whereas, an expense does not have to be reimbursed to the Agency.....Subparagraph 051310 of the DOD Financial Management Regulation reads "if fees are paid to an employee while serving in a nonofficial capacity, fees cannot be retained by the employee. Such fees must be turned in to the employing activity. An employee may keep reimbursements for expenses [otherwise an expense allowance] received from the court, authority, or party that cause the employee to be summoned."

Alabama law requires an employer to excuse from work and to pay to a full-time employee his or her usual wages, while on jury service. In addition, the State of Alabama pays an additional expense allowance [of \$10] for each day an employee is required to come to the courthouse.

For additional information please contact your servicing HR specialist.

9. **Who's Your Beneficiary?** One important task in retirement planning is thinking about how you want to designate who will get lump-sum benefits related to your federal service. Beneficiary forms are among the most litigated pieces of paperwork in the federal government. Designations of beneficiaries must be in writing, signed by the designator, witnessed and filed with the Office of Personnel Management, the Thrift Savings Plan or your agency, depending on the type of benefits.

Think back over your federal career. Have any of the following occurred?

- Marriage
- Death of a family member
- Divorce
- Birth or adoption of a child

If you have experienced any of these events, it is possible that you may need to update your beneficiary designations. The following systems rely on such designations:

- Civil Service Retirement System: Filed at OPM's Retirement Operations Center in Boyers, Pa., for employees and annuitants.
- Federal Employees Retirement System: Filed in official personnel folders for employees and at OPM for annuitants.
- Federal Employees Group Life Insurance: Filed in official personnel folders for employees and at OPM for annuitants.
- Thrift Savings Plan: Filed at the TSP's service office in Birmingham, Ala.
- Unpaid compensation (your last paycheck, payment for unused annual leave and anything else the agency owes you but hasn't paid): Filed in official personnel folders.

Beneficiary designations are used to assign who will receive lump-sum payments. They do not affect survivor annuity benefits. Let's look at some examples of how designations of beneficiaries might play out in the real world.

So what happens if you don't have beneficiary designations on file? According to Chris Meuchner, who works in OPM's FEGLI section, it occurs in half of cases involving distribution of lump-sum death benefits. For CSRS, FERS, TSP and unpaid compensation benefits, here is the order of precedence for payment if there is no valid designation on file when you die:

1. To your widow or widower.
2. If none, to your child or children in equal shares, with the share of any deceased child distributed among that child's descendants.
3. If none, to your parents in equal shares or the entire amount to your surviving parent.
4. If none, to the executor or administrator of your estate.
5. If none, to your next of kin under the laws of the state where you lived at the time of your death.

For FEGLI, you have the option of assigning your life insurance to someone else, giving them ownership and control of your coverage. The money then goes to the assignee or the assignee's beneficiary when you die. Under such cases, the insurance still covers your life and you must continue to pay for it, but someone else controls the coverage. You may assign your life insurance to an individual, a corporation or an irrevocable trust, but your decision to make such an assignment cannot be changed. (Also, you cannot assign Option C coverage under FEGLI.)

If you have filed form RI 76-10 assigning ownership of your life insurance to someone else, the Office of Federal Employees Group Life Insurance will pay benefits to the beneficiary designated by your assignee, if there is one. If there isn't, the benefits will go to your assignee. If you did not assign ownership and there is a valid court order on file, the office will pay benefits in accordance with that court order. If there is no valid court order on file, benefits will be paid according to the order of precedence in the chart above.

Designation of Beneficiary forms:

- Unpaid Compensation of Deceased Civilian Employee
- CSRS
- FERS
- FEGLI
- Thrift Savings Plan

Federal Employees' Group Life Insurance: Designations to a Trust
Chapter 34, Designation of Beneficiary, CSRS and FERS Handbook
To Do

- If you are satisfied with the order of payment listed above, you do not need to do anything.
- If you want payment to be made differently from the order listed above, and you have not assigned your life insurance and a valid court order is not on file, you must designate a beneficiary.
- Remember that you need to take on this task yourself; even a court-appointed guardian or someone with your power of attorney cannot do it for you.
- If there is a valid court order on file, you may not change or submit a designation of beneficiary unless the person named in the order agrees in writing, or the order is modified.
- A designation made in any other document is valid only if the document specifies your benefits, is signed by you and otherwise meets the requirements of a valid designation of beneficiary.
- If you decide to file a designation, be sure it remains accurate and reflects your intentions. You should review your designation periodically, and file a new designation whenever a beneficiary's address changes. If you neglect to update the addresses of the beneficiaries, it may be difficult to locate them to pay the benefit. The government will try for one year to locate a beneficiary before the standard order of precedence is used.
- Be careful when obtaining a blank beneficiary form from your agency's benefits office. It may be obsolete. It is better to download the latest beneficiary forms online

For additional information on Designation of beneficiaries, see Tips and Tidbits 2-2006.

10. **Putting Teeth into the Hatch Act.** A Small Business Administration attorney failed to persuade the Merit Systems Protection Board and most recently the federal appeals court that he should not have been fired for

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violations of the Hatch Act. (*Eisinger v. Merit Systems Protection Board*, C.A.F.C. No. 2006-3426 (nonprecedential), 6/8/07) According to the court's decision, the facts in the case are not in dispute. Here's a quick summary taken from that decision. (See, also, *Fire That Lawyer!*)

Eisinger worked for the SBA in Fresno, California when he became active with the California Green Party. He admitted he was familiar with the Hatch Act, which bans federal employees from being involved in political activities while at work. Nevertheless, he did just that on behalf of the Green Party for about 3 years. Eisinger used his official telephone, computer and email to espouse Green Party causes. Eventually, the Office of Special Counsel took notice and filed a complaint with the MSPB charging Eisinger with Hatch Act violations. (Opinion, p. 2)

An MSPB judge held a hearing resulting in his finding that Eisinger had violated the Hatch Act and that he should be removed from his SBA position. The full Board accepted the AJ's findings and ordered SBA to remove Eisinger. (pp. 2-3)

Eisinger took his case to the Federal Circuit Court of Appeals and primarily argued that the Board erred in imposing removal as the penalty in his case. He did not dispute the facts. Instead, he cited several cases to the Board, and now to the court, where a lesser penalty had been imposed.

The court quotes the pertinent language from section 7326 of the Hatch Act:

"An employee or individual who violates...this title shall be removed from his position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee or individual. However, if the Merit Systems Protection Board finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Board." (Opinion p. 4)

The court delineates the following factors that are to be considered by the Board in such cases: "[1] the nature of the offense and the extent of the employee's participation, [2] the employee's past employment record, [3] the political coloring of the employee's activities, [4] whether the employee had received advice of counsel ... , [5] whether the employee had ceased the activities, and [6] the employee's motive and intent." (Citations omitted, p. 4)

The court concluded that the Board had given due consideration to all of these factors and that the removal penalty was appropriate. The court did not agree with Eisinger that other cases in which the penalty had been mitigated were

similar to his situation, pointing out that Eisinger's political activities had been "significant" and had been "over a three year period," whereas the activities of employees in the cases that he was relying on to argue for a lesser penalty were "much more limited." (p. 5)

Bottom line: Eisinger's removal for his admitted Hatch Act violations stands. This case demonstrates that there are still some teeth left in the Hatch Act and it pays to take it seriously given the fact that one's job hangs in the balance.

11. **IRS Cites Lack of Resources to Review Potential Fraud Cases.** The Internal Revenue Service is not prepared to handle the heavier workload that would result from aggressively pursuing cases of refund fraud, an agency official said in response to a new audit report.

The [audit](#) of the IRS Questionable Refund Program by the Treasury inspector general and the response point to resource shortages that threaten the agency's ability to pursue low-value cases of tax cheating even when they are relatively simple.

The IG office reviewed changes to the program instituted before the 2006 filing season to address congressional and taxpayer advocate concerns over a backlog of cases in which taxpayers were not notified when their refund was frozen -- in some cases for several years -- because of fraud concerns.

The changes limited the duration of the freezes, but the IG office said that resulted in the issuing of nearly \$15.9 million in potentially fraudulent refunds.

"The IRS reacted to legitimate congressional concerns that taxpayers were not being notified when their refunds were delayed, sometimes for years," said Russell George, Treasury's inspector general for tax administration.

"Unfortunately, the IRS overreacted, and it is costing taxpayers millions of dollars."

The IG office made seven recommendations for how to better balance taxpayer rights with the need to verify refunds that appear fraudulent. But in a response, Eileen Mayer, the agency's criminal investigations chief, agreed to only three of those, with two requiring just a renewed effort at activities already under way.

Mayer partially agreed with a recommendation that IRS go back to automatically placing a freeze on subsequent-year returns of accounts where potential fraud was identified. "The IRS will consider the ... recommendations, as well as any

trade-offs that would have to be made against other enforcement priorities in order to work [on] the additional inventory that would result," she wrote.

A recommendation that IRS lower the threshold for referring cases for further examination met with similar concerns. "While the IRS would like to address all cases of potential noncompliance, IRS enforcement resources are limited," Mayer wrote. "Each year, top IRS management makes carefully thought out business decisions about how to deploy these resources. Trade-offs must be made among competing priorities of which [this program] is one among many."

Mayer said that with new changes made to the program for the 2007 filing season, including replacement of a computerized fraud screening program that was offline in 2006 due to programming delays, the agency would evaluate the system before making decisions on certain of the recommendations.

The shortfalls Mayer described mirror issues that have also surfaced with a controversial initiative to hire private debt collection firms to handle some simple tax debts.

Critics contend that collecting taxes is inherently governmental work that should not be outsourced, and that putting taxpayer information in the hands of contractors poses risks to information security.

IRS Commissioner Mark Everson concedes that having agency employees collect the debts is more cost-effective, but says the agency does not have the resources to deal with those relatively low-value cases. If more personnel were hired, he would prefer to assign them to more lucrative cases, he has said.

12. **How the Cost of Living Adjustment (COLA) is Determined.** The Department of Labor calculates the change in the *Consumer Price Index* (CPI) for urban wage earners and clerical workers from the third quarter average of the previous year to the third quarter average for the current year.

For Civil Service Retirement System (CSRS) or Organization and Disability Retirement System (ORDS) benefits, the increase percentage is applied to your monthly benefit amount before any deductions, and is rounded down to the next whole dollar.

For Federal Employees Retirement System (FERS) or FERS Special benefits, if the increase in the CPI is 2 percent or less, the Cost-of-Living Adjustment

(COLA) is equal to the CPI increase. If the CPI increase is more than 2 percent but no more than 3 percent, the Cost-of-Living Adjustment is 2 percent. If the CPI increase is more than 3 percent, the adjustment is 1 percent less than the CPI increase. The new amount is rounded down to the next whole dollar. To get the full COLA, a retiree or survivor annuitant must have been in receipt of payment for a full year. If not, the increase is prorated under both plans.

Prorated accounts receive one-twelfth of the increase for each month they received benefits. Cost-of-Living Adjustments were first prorated in April 1982. Adjustments to benefits for children are never prorated. Federal Employees Retirement System (FERS) and FERS Special Cost-of-Living Adjustments are not provided until age 62, except for disability, survivor benefits, and other special provision retirements.

FERS disability retirees get the adjustment, except when they are receiving a disability annuity based on 60 percent of their high-3 average salary. Also, under FERS, if you have a CSRS component, the component is subject to the CSRS COLA calculation.

A benefit will not be increased if it would cause the annuitant to receive payments in excess of any cap amount specified by law.

Cost-of-Living Adjustments are effective each December first. The adjustment appears in your payment on the first business day of January, which is when your benefit for December is paid. Federal Employees Retirement System (FERS) and FERS Special Cost-of-Living Adjustments are not provided until age 62, except for disability, survivor benefits, and other special provision retirements. FERS disability retirees get the adjustment, except when they are receiving a disability annuity based on 60 percent of their high-3 average salary. Also, under FERS, if you have a CSRS component, the component is subject to the CSRS COLA calculation.

13. **Federal Employee Reservists Can Swap Leave for Cash**. A change in the Defense Department's compensation policy gives reservists who are government employees in civilian life the option of accepting \$200 for each day of administrative leave awarded if their deployments break DoD's target rotation goals. This would allow reservists to return to their federal civilian jobs and pocket the funds from the administrative leave payment. Department officials say that nongovernment employees also should be able to benefit from the change. Nevertheless, the procedure is not spelled out in the initiating policy of April 18 nor in a modification issued May 24. The president of the Adjutants General Association, Maj. Gen. Roger Lempke of Nebraska, says the top National Guard officials in each state "universally reject" the compensation policy.

14. **Health Savings Shortfalls**. President Bush has championed high-deductible health plans and the savings accounts that accompany them as a viable solution to escalating medical costs. But now, two years after the option was added to the Federal Employees Health Benefits Program, employees have not yet warmed to the idea.

High-deductible health plans and health savings accounts have surfaced in both the public and private sectors as a way to drive down health care costs and encourage workers to make more informed decisions about their care. The "consumer-directed" plans feature lower monthly premiums than traditional plans, but in exchange, have higher annual deductibles.

Some federal employee groups strongly oppose the plans, arguing that they could result in higher premiums and reduced benefits for employees and retirees enrolled in more comprehensive, traditional offerings.

Those groups cite a 2005 Government Accountability Office report that found most participants in consumer-directed plans to be younger, healthier and better educated than those in comprehensive plans.

Daniel Adcock, assistant legislative director for the National Active and Retired Federal Employees Association, says the consumer-directed plans run counter to the way group health insurance was designed to work. Younger and healthier enrollees, for example, often pay more in premiums for their health insurance than the benefits paid out for their health care. As enrollees age, however, their health needs increase, and many get more out of health insurance than they pay, Adcock argues.

In other words, there are trade-offs to investing in comprehensive plans, regardless of a participant's age.

Still, there may be little reason to worry at all. In 2006, only 0.2 percent of FEHBP's 8 million participants were enrolled in an HSA or similar plan.

According to Adcock, the low enrollment so far has meant that the offering has a minimal effect on the comprehensive FEHBP plans. But an administration proposal that would allow Blue Cross Blue Shield's Federal Employee Program to offer a consumer-directed plan could jump-start enrollment, NARFE argues. The insurance giant is now limited by law to offering a maximum of two plans.

Even if the administration's proposal were to surface and pass in Congress, Blue Cross has said it has no intention, at least for now, of adding HSAs, largely because the demonstrated low participation among federal employees would make the offering unprofitable. But the company has advocated in favor of establishing the option, should enrollment in HSAs ever take off.

Meanwhile, as you look ahead to the 2008 open season for picking health care plans, here are some things to consider.

One of the major shortfalls of consumer-directed plans is the ongoing lack of transparency in pricing, Adcock says. While employees may invest thousands of dollars each year into HSAs, specific information on the price of doctor visits, blood work and other services is difficult to find, making it hard for employees to shop around.

"Buying health care is not like buying a refrigerator," Adcock said. "When you buy health care, it shouldn't be based on the lowest bet. It should be based on which doctor and which hospital will provide you with the best care."

The Office of Personnel Management, which runs FEHBP, did not return calls seeking comment.

According to Asparity Decision Solutions, which provides online tools to help federal employees make more informed decisions on health plans, the average cost of high-deductible plans to federal employees for 2007 was \$1,778 for self coverage and \$3,614 for family coverage. On average, the cost of health maintenance organizations was \$2,189 for self coverage and \$4,776 for family coverage.

A December 2006 survey by the nonprofit Employee Benefit Research Institute found that overall enrollment in HSAs remains low, and employee satisfaction continues to lag when compared with comprehensive plans. But as costs continue to rise, it will be interesting to see whether more employees view the trade-off of lower premiums for higher deductibles, and potentially higher out-of-pocket costs, as worthwhile.

15. **OPM Issues Guidance on Protecting Social Security Numbers.** OPM has issued guidance, copy attached, to minimize the risk of identity theft and fraud by eliminating the unnecessary use of social security numbers as identifiers for federal employees, and by strengthening the protection of personal information from theft or loss.

OPM said the guidance is intended to lead to a more consistent and effective policy for protecting SSNs and that it was considering regulations to enforce protective measures.

Efforts are also underway to develop requirements for a new government-wide employee identifier to replace the SSN, OPM said.

The guidance calls on agencies to maintain security policies that either reference or contain a number of regulations, including the following:

- Agencies may not require individuals to disclose their SSN unless required by federal statute or specifically authorized to be used to cross check with a database operating prior to 1975.
- Agencies must also establish administrative, technical, and physical controls to protect information in personnel records.
- Managers of automated personnel records shall establish administrative, technical, physical, and security safeguards for data about individuals in automated records, including input and output documents, reports, punched cards, magnetic tapes, disks, and on-line computer storage.
- Supervisory approval should be required before an authorized individual can access, transport, or transmit information or equipment containing SSNs outside agency facilities.
- Written procedures describing the proper labeling, storage, and disposal of printed material containing Social Security Numbers and other personally identifiable data must be established and communicated to employees.

16. **New Rules on Probation Period Proposed.** OPM in the May 1 Federal Register issued proposed rules to change policies regarding appeals rights of employees serving their probationary periods to bring them in line with recent court decisions. Previously, OPM interpreted the law to exclude probationary or trial period employees from receiving the same MSPB appeal rights "such as the right to advance notice, an opportunity to respond, and the right to appeal, as those who have completed such periods on grounds that they were not "employees" under MSPB's jurisdiction. However, the court cases "one involving an excepted service employee and the other involving a competitive service employee" expanded the definition of who is a covered employee such that those on probationary periods but who previously completed

probationary periods under other than a temporary appointment can qualify for MSPB appeal rights.

17. **Employment Application Statements**. In a two-to-one decision, The U.S. Merit Systems Protection Board recently reaffirmed some cardinal rules about what it takes for an agency to prove that an employee intentionally falsified an employment application.

Over the dissent of Chairman Neil McPhie, Vice Chair Rose and Member Sapin in *Guerrero v. Dept. of Veterans Affairs*, 2007 MSPB 132 (May 8, 2007), ordered a terminated employee reinstated to his former position.

The opinion said that Guerrero was fired on three charges: that he falsified his employment application, Optional Form 306; that he falsified his qualifications on Optional form 612 by stating that he held prior civilian service as a GS-12 employee and that he had degrees from certain accredited colleges and/or universities, and that he misrepresented his qualifications on the same bases.

With respect to the first charge, the Board majority held that the proposal letter never put the employee on notice of what specific information the agency believed Guerrero falsified. Nor was such information included in the decision letter. Although the agency argued at the hearing that a discrepancy in the dates of Guerrero's military service formed the basis of the charge, the notice of proposed removal "failed to inform [Guerrero] of this fact." The majority agreed with the administrative judge that this charge could not be sustained. The majority reaffirmed that the Board is required to adjudicate a case solely on the grounds invoked by the agency.

It is not the Board's place to substitute what might be a better basis for removal than that identified by the agency. Therefore, because the agency denied Guerrero due process by not putting him on notice of what falsification he allegedly made, this charge could not be sustained.

With respect to the second and third charges, the Board held that because these two charges were based on the same misconduct requiring the same elements of proof, they would be merged into a single charge. The majority reiterated Board case law that, to prove a charge of falsification, the agency must prove by the preponderant evidence that the employee supplied false information knowingly with the intent to deceive. Further, the majority noted that whether intent has been proved depends on the totality of the circumstances, including the employee's plausible explanations.

On the allegation that Guerrero falsely stated that he occupied a GS-12 biomedical engineer position, during the time he was in the military, with intent to mislead the agency as to his qualifications for a GS-13 position, the majority noted that in the same employment form he stated that he had never held a civilian position within the federal government.

Guerrero testified that he would not intentionally indicate he was a GS-12 in the military because the military does not use such grades. That was consistent also with his attached resume which did not indicate he had been a GS-12 during the claimed time period. Guerrero explained that he had been confused in filling out the application and put the title of the position for which he was applying on the wrong section of the form. The majority held that, when Guerrero's entire application package is "considered as a whole," it appears that he completed his application in haste. While Guerrero was "careless," the record did not reflect intentional falsification. Therefore, because the agency could not establish the requisite element of intent, the falsification charge could not be sustained.

The next specification was that Guerrero falsified his education background by listing degrees from unaccredited colleges and universities.

The majority noted that the employment application prompted applicants to list "colleges and universities attended." The form did not say that only accredited schools should be included. The majority further considered that in listing the schools attended, Guerrero got their names slightly wrong. For example, Guerrero stated that he attended Trinity Southern College rather than Trinity Southern University, the correct name of the school he attended. The agency argued that this was an attempt by Guerrero to mislead the agency to believe he attended Trinity College in Hartford, Conn., which is accredited. But the majority found the agency's argument unpersuasive because Guerrero listed the location of the school as being in Plano, Texas.

Moreover, the majority noted that the charge against Guerrero was not that he falsified the identity of the colleges from which he had obtained degrees, but rather only charged him with having degrees from unaccredited schools. The Board only reviews grounds for removal invoked by the agency. Here, there was no falsification in listing unaccredited schools because the employment application was not so limiting.

Chairman McPhie would have sustained the removal. McPhie wrote that Guerrero's reply to the proposal showed he understood the nature of the allegation in the first charge and was, therefore, not denied due process notice. With respect to the falsification remaining charges, the Chairman found that

Guerrero's misstatements showed he acted "with reckless disregard" as to the truth of his statements, which equates with intent. The majority criticized Chairman McPhie's dissent as omitting any analysis of charge one and also as not being based on the record evidence.

Mr. Guerrero was ordered to be returned to work with full back pay and benefits. This information is provided by the attorneys at Passman & Kaplan, P.C.

18. **Legislation Would Forgive Student Loans for Feds After 10 Years.** The House Education and Labor Committee has passed legislation that includes language to forgive educational debt for public service employees after ten years, and forgive \$5,000 for graduates who choose to enter public service.

The language, included in the Higher Education Reauthorization Act is identical to a bill introduced by Rep. John Sarbanes, D-Md., recently, the Education for Public Service Act of 2007.

"Many young people today feel the burden of high educational debt which precludes them from seeing public service as a viable career choice," noted the Partnership for Public Service in a statement supporting the bill.

19. **Early Contributions Will Yield More For Retirement.** Although retirement may seem far away when you first start working for Uncle Sam, the earlier you start saving, the more money you will have when you stop working. Even if you can only afford to put aside a small amount, it's wise to begin saving as early as you can.

You will not only accumulate more money by contributing for a longer period--you will also benefit from a process called *compounding*. With compounding, once your money begins to accrue earnings, the earnings also start accruing earnings of their own. So your account balance keeps growing based on both the money you contribute and your earnings.

If you are a FERS employee, your money will grow even faster. Your agency will give you Agency Automatic Contributions equivalent to one percent of your pay--and it will give you a dollar for-dollar match on the first three percent of pay that you contribute and a 50-cent-per-dollar match on your additional contributions up to five percent of pay. On top of that, *your account will accrue compound earnings on all of that money.*

The longer you have waited to save, the more money you will have to put away. The maximum the Internal Revenue Service (IRS) allows you to contribute to the

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TSP in 2006 is \$15,000. However, older Federal employees and members of the uniformed services are also eligible to make extra "catch-up" contributions beginning in the year when they turn 50.

Catch-up contributions are supplemental tax-deferred contributions. To make a catch-up contribution, you must already be contributing the maximum amount of regular TSP contributions you are eligible to make. Catch-up contributions have their own annual limit \$5,000 in 2006 but are indexed to inflation for coming years.

Your agency will not match your catch-up contribution and the additional amount is invested in the TSP funds according to your most recent contribution allocation. Your catch-up contributions are deducted from your basic pay each pay period; therefore, you must be currently employed by the Federal Government.

Perhaps the best news for TSP investors is that catch-up contributions, like regular employee contributions and agency contributions, accrue compound earnings, allowing your account balance to grow faster.

20. **The Eternal Debate: Are Feds Overpaid?** Here we go again with the reports that federal employees are overpaid. The *Asbury Park Press* has crunched the numbers, and declares that feds, on average, are paid almost 50 percent more than private-sector employees -- \$59,864 vs. \$40,505, according to 2005 data compiled by the Bureau of Labor Statistics.

Almost a year ago, you'll remember, Chris Edwards of the Cato Institute published an analysis showing that when benefits are factored in, feds make double what private workers do.

My initial reaction is always to be highly skeptical of these kinds of comparisons because of the apples-to-oranges issue. After all, it shouldn't surprise anybody that the average federal employee, who's likely to be a white-collar professional, is paid more than the average private sector worker, who could be serving up lattes at Starbucks.

The *Asbury Park Press* insists that "Where job titles could be compared be it for engineers, doctors or food service workers the federal government still paid better than the private sector in three out of four cases." But that "where job titles could be compared" bit is a rather large loophole. What exactly are the titles? And what's in that fourth case?

Anyway, the most interesting part of the *Asbury Park Press* is its database of federal salary information, in which you can find a list of employees by locality and what they make, or search by individual name to find out his or her salary.

21. **Halting Harassment.** Racial and ethnic slurs are all too common; just look at recent media flaps over offensive comments from radio host Don Imus, comedian Michael Richards and actor Mel Gibson. The federal workplace is no exception. This conduct is inappropriate and if left unchecked by management, it could become a liability for agencies. The question for federal managers is: Are we doing enough to ensure that the workplace is free from harassment?

Often the most publicized offenses involve sexual harassment, but federal managers should focus on other complaints as well. A 2005 study by the Equal Employment Opportunity Commission concluded that "federal agencies have issued policies that require immediate response to claims of sexual harassment in the workplace," but other harassment claims "have not received similar attention."

Harassment policies at 51 percent of federal agencies and 85 percent of agencies' subcomponents address sexual cases only, EEOC noted. They do not address racial epithets or ethnic slurs. Among agencies that did address nonsexual harassment, policies failed to establish an independent investigatory process or clear procedures for scrutinizing such incidents, EEOC found.

Against this backdrop, claims of nonsexual harassment remain high. They have been the No. 1 issue alleged against federal agencies since 1994, the study reported. Strikingly, although the total number of complaints against agencies has dropped since 2000, the percentage of nonsexual harassment claims increased. Most significant, 39 percent of cases in which EEOC finds discrimination include a claim of nonsexual harassment.

What can you do as a federal manager? First, make sure your agency has a harassment policy that includes nonsexual offenses. EEOC has model policies that can be easily adapted. Once you have a policy, publicize it and train your employees.

Second, act. You must take steps if you become aware of inappropriate comments or actions based on race, ethnicity, age, religion or disability. This includes jokes and remarks employees make about themselves. In many instances, consensual kidding quickly deteriorates into harassment.

But management can avoid a legal case if it takes prompt action to stop inappropriate comments. Such conduct constitutes illegal harassment only when it is so severe or pervasive that it creates an intimidating, hostile or abusive work environment.

Only in rare instances would a single act or remark be so offensive that it violates discrimination laws. Such was the case when a Navy employee hung a noose in an office where black employees worked. In *Tootle v. Secretary of the Navy*, EEOC found that this single incident was actionable because "a noose evokes an image . . . of a disgraceful past of extreme violence and racial bigotry."

EEOC made a similar ruling in *Carter v. U.S. Postal Service*, in which an employee's co-worker used the "n" word in a joke. The word is a "highly charged epithet, which dredges up the entire history of discrimination in this country," EEOC noted. When the employee complained, her supervisor repeated the word rather than condemning its use, making matters worse.

If management officials know about harassment by their employees or contractors and fail to take prompt and appropriate corrective action, their agency can be held liable. What is considered prompt and appropriate corrective action? A quick survey of EEOC cases provides a few guideposts. EEOC found corrective action inadequate in several cases:

- In *Tootle*, upon learning that a noose was hung in the workplace, Navy officials took it down and discarded it. They later explained that they did not investigate the incident or punish the perpetrators because the evidence was lost.
- In *Cano v. Department of Homeland Security*, officials instructed a cleaning crew to immediately erase offensive graffiti from restroom walls, but made no attempt to identify the perpetrators.
- In *Boyer v. Department of Transportation*, a Federal Aviation Administration employee was threatened by a co-worker in an anonymous note containing crude and sexist phrases. The agency's corrective steps included an inconclusive investigation into who sent the note and reassignment of the complainant. It is generally inappropriate to reassign the victim rather than the perpetrators of harassment.

But in another case, in which a worker addressed a group of co-workers using the "n" word, the agency was not held liable because it took appropriate action.

In *Nicholas v. Department of Agriculture*, EEOC noted the severity of the incident and found harassment, but the agency correctly investigated the incident; immediately held a meeting to condemn the conduct; issued a letter barring the worker from making further contact with his co-workers; and disciplined him, noting that more severe action would be taken if there were additional incidents.

Agencies must have a policy addressing harassment in all forms. And when an incident occurs, supervisors and managers must take the following proactive measures to prevent further offenses:

- Investigate right away. Don't wait for the EEOC process, which was not designed to respond immediately to workplace incidents. Under EEOC guidelines, an investigation won't be complete for at least nine months after the incident.
- Separate the accused from the accusers during the investigation. This could mean temporarily reassigning the alleged perpetrators, putting someone on administrative leave, or forbidding the individuals involved to have any further contact.
- Discipline the perpetrators. Depending on the severity of the incident, this could include a letter of warning or more severe punishment such as a lengthy suspension without pay or removal from federal service.
- Remind employees of their anti-discrimination obligations by posting notices and providing training.

It's unfortunate that racial epithets and ethnic slurs still happen in the federal workplace. As a manager, you must be aggressive in your response. It's up to you to keep your employees free from harassment and your agencies out of legal trouble.

22. **Breach of Settlement Agreement.** In *Greenhill v. Dept. of Education*, D.C. Cir. No. 06-5030 (April 6, 2007), the United States Court of Appeals for the District of Columbia Circuit held that a former federal employee's claim for a breach of a Title VII settlement agreement was a contract claim (in excess of \$10,000) and thus was under the exclusive jurisdiction of the Court of Federal Claims. The alleged breach in this case came from a negative reference from the employee's former supervisor, which resulted in the employee losing a job offer.

This case is interesting for several points. First, it is the amount of damages claimed that established jurisdiction. In this case, Ms. Greenhill claimed over \$200,000 worth of damages. However, to get her case back to district court, it was alleged that the settlement agreement barred damages for a breach. The

court noted that since Ms. Greenhill claimed damages in excess of \$10,000, and was not relinquishing that claim, jurisdiction lay in the Court of Federal Claims.

Another argument rejected by the court was that the court should have "read" a claim of retaliation in the complaint, and thus found that the district court had jurisdiction over the retaliation claim, and the appended breach claim. Although noting that pro se complaints (those filed without a lawyer) are held to a less stringent standard than formal pleadings drafted by lawyers, the court of appeals found that the vague references to discrimination did not require the district court to go on a "fishing expedition" and read a claim of retaliation into the complaint.

Lastly, the court of appeals rejected the claim that the Court of Federal Claims did not have jurisdiction over this matter because it would have to "interpret" a federal statute such as Title VII. The court noted that the Court of Federal Claims repudiated this argument and drew a critical distinction between actual discrimination claims which Title VII provides the exclusive remedy and breach of settlement claims which fall outside the scope of Title VII. In those cases, held the Court of Federal Claims, the cases involve settlement agreements which are straightforward contract claims within the purview of that court.

This information is provided by the attorneys at Passman & Kaplan, P.C.

23. **Revocation of Accommodation May be Discriminatory.** The U.S. Court of Appeals for the D.C. Circuit recently held that revocation of some job accommodations may be discriminatory. In *Woodruff v. Peters*, D.C. Cir., No. 05-5033 (4/6/07), the court denied the agency's motion for summary judgment on the issue of whether the supervisor discriminated when he revoked the plaintiff's accommodation.

The plaintiff suffered a work-related injury which required surgery and a long recovery period. The supervisor at the time allowed the plaintiff to telecommute two days a week to accommodate his recovery. A new supervisor came in though and revoked some of the plaintiff's accommodations. The court of appeals held that summary judgment was inappropriate. The court found that the plaintiff's former supervisor, as well as his current boss, allowed the plaintiff to work with the accommodations for months, "casting doubt on the suggestion that the accommodations would impose an undue hardship on the FAA." The agency had allowed other employees to telecommute and described the plaintiff's position as "mostly self-directed." Thus, the court reversed and remanded the plaintiff's discrimination claim.

The court affirmed summary judgment on the plaintiff's retaliation claim though. The plaintiff had previously filed a claim against his new supervisor on an unrelated matter. When the plaintiff returned to work from his accident, his new supervisor removed the plaintiff's supervisory duties. In affirming summary judgment, the court accepted the agency's explanation for removing supervisory duties. The agency argued that the plaintiff's telecommuting schedule caused him to be unavailable to subordinates during his rest periods.

The court concluded that, "positive evidence beyond mere proximity is required to defeat the presumption that the proffered explanations are genuine." The court then stated that, "Even if the finder of fact were to credit all of [the plaintiff's] evidence, there would be no basis for rejecting the presumptive validity of [the agency's] explanations."

This case opens the door for recovery for discriminatory revocations of reasonable accommodations while at the same time declining to extend recovery for reprisal based only on closeness in time. Revoking the accommodation, without evidence of the hardship, may be discriminatory and, in light of this case, may be easier for the employee to prove.

The agency will have a more difficult time showing that an accommodation that is already in place is a hardship so long as the accommodation was working. On the other hand, in the context of a reprisal claim, the employee will have to show more of a causal connection between the protected activity and the adverse employment action. Close proximity in time between the protected activity and the adverse action, without more proof, is not enough to overcome an employer's articulated reason for the action.

This information is provided by the attorneys at Passman & Kaplan, P.C.

24. **Human Resources (HR) for Supervisors**. 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 them to 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. 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 next course is scheduled for **16-20 July 2007 and will be conducted from 0800 to 1630** in building #6, classroom #225. Please see the schedule below for the final class start date of the year. The point of contact for this course is Ms. Stephanie Carpenter, Fort Benning CPAC, 545-2681.

DATE

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25. **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.

26. **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.

27. **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.

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

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