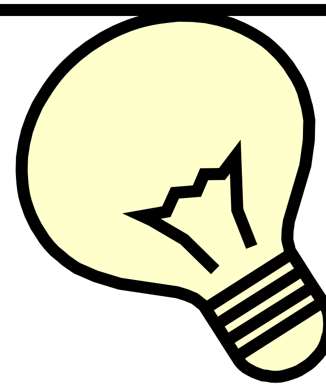
The

Illuminator

Shedding Light on the HR World



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This publication is issued to ensure the Fort Benning commanders, managers, supervisors, and employees are kept informed of employment and staffing issues. Monthly issuances will contain updated information on specific employment topics (i.e., compensation, recruiting procedures, travel entitlements, classification issues, the fate of NSPS, the Maneuver Center of Excellence (MCOE) civilian transition, etc.).

This newsletter is an apercu 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, FEDSmith, and the ABC-C Newsletter.

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Retirement, Life/Health Insurance, TSP, Social Security and Such

Working after Retiring from Government: Plan in Advance for Potential Tax Hit.

This article is written by Stephen Kincher, Certified Public Accountant and Partner in the Providence Financial Group, Huntsville, Alabama. Any references to "I" pertain to him as an author.

In working with young Federal retirees covered by the Federal Employees Retirement System (FERS), I have noticed a common psychological trend.

Most people contemplating retirement from the government who are still in their fifties plan on going back to work in the private sector—many at wages comparable to what they are already earning as a federal employee.

The overwhelming thought for many is: "I am going to have a lot of money when I retire and go back to work." This may be true but a funny thing happens on their income tax return after they have retired and have landed a new, well-paying job.

The example below shows what happens to a married couple when each person makes $50,000 a year. One works for the government and retires with a $30,000 a year pension while going back to work at the same salary for another employer.

This example was carefully crafted to show what the results are within the 25% tax bracket. All additional income is taxed at a full 25%.

Be Careful When Filling Out the Tax Form

This is a tax of $625 a month on the additional income. The real problem arises when you fill in the Form W-4P to instruct FERS to tell the government how much tax to withhold from your income. Most people want to put "Married and One Exemption" on that form. Making this election on a $30,000 pension indicates a withholding of $113 a month and a "Married and Zero" election only increases the withholding to $158 a month. (See the graphic below for a depiction of the W-4P form referenced here.)

Will You Be Shocked When Writing a Big Check?

At "Married and Zero," you are still short $467 a month and are going to write a check for $5,604 at the end of the year (most likely with an underpayment penalty tacked on).

Most people with defined benefit retirement plans are shocked at this result but you must make up the difference from the pension or from your withholding on the new job.

If you actually retire and do not return to work the results are not so dramatic. The withholding tables assume that the income it is withholding on is the only income you have.

This gives the bad result above if a spouse continues working or the employee goes back to work. The good news is that there is an easy solution to the problem.

Form W-4P does not have a percentage withholding indication on it but in our case you simply increase the number of exemptions to ten which will result in no withholding.

Next, there is a line on the form for any additional amount you want withheld per pay period and, in our example, just put $625 on that line and the problem is solved.

This does not ease the sting of being taxed at a flat 25% on the retirement income when only $13,300 of your other income was taxed at that 25% rate.

When You Actually Retire and Don't Work

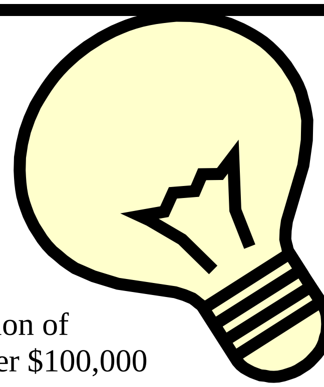
And there is more good news!

When you actually do both retire you can do a new projection and reduce the withholding. A good certified public accountant (CPA) can take your information and create a projection and get you close to the correct withholding from all sources.

It is a good idea to get a plan tailored to your specific tax situation in advance so that you take the correct tax out of the pension or cover it elsewhere. If you are not an existing client of a CPA it is best to get this done in the May to November time frame since they are occupied with their regular clients the other months of the year.

Also, keep in mind if you are subject to bonuses in the new job or other income fluctuations it is far more difficult to plan and might require periodic updates. You will need to provide a prior year return, your FERS amount expected and what your new employment should pay as well as any expected changes in itemized deductions.

This example does not include state taxability but your planner can inform you of the status of your state.



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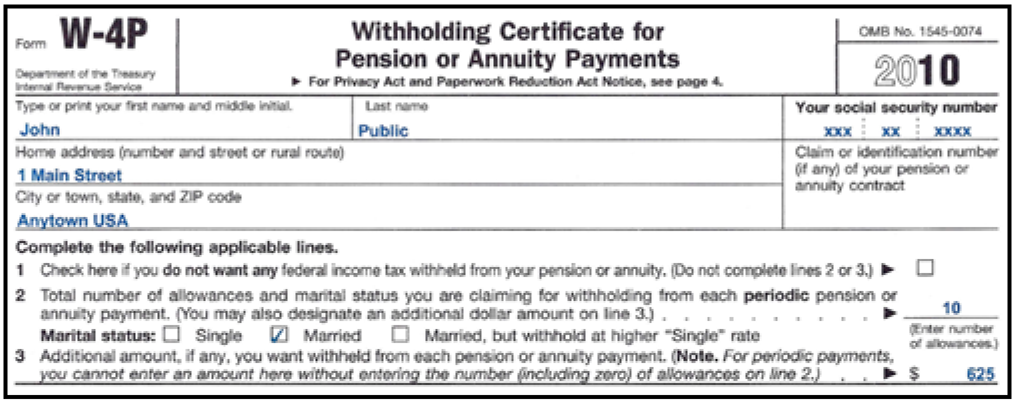
This example was intended to be relatively simple but there is a new generation of retirees where both spouses may have been employed at incomes up to or over $100,000 and pensions in the $50,000 to $60,000 range.

This can result in total income with a retirement income stream over $300,000 which puts you squarely in the 33% tax bracket. Seek advice and get a plan if you find yourself in this position!

Original Position	Spouse A	Spouse B	Total
W-2	50,000	50,000	100,000
Retirement	-	-	-
	50,000	50,000	100,000
Standard Deduction			(11,400)
2 Exemptions Under 65			(7,300)
Taxable Income			81,300
2009 Tax			12,706
Maximum Bracket			25%
Tax as a percentage of Income			13%
With Retirement	Spouse A	Spouse B	Total
W-2	50,000	50,000	100,000
Retirement	30,000	-	30,000
	80,000	50,000	130,000
Standard Deduction			(11,400)
2 Exemptions Under 65			(7,300)
Taxable Income			111,300
2009 Tax			20,200
Maximum Bracket			25%

Tax as a percentage of Income			16%
Tax on the Additional			
Retirement Income			7,494
Tax as a percentage of $30,000			24.98%


Form **W-4P** Department of the Treasury Internal Revenue Service

Withholding Certificate for Pension or Annuity Payments

► For Privacy Act and Paperwork Reduction Act Notice, see page 4.

OMB No. 1545-0074 **2010**

Type or print your first name and middle initial. John | Last name Public | Your social security number xxx xx xxxx

Home address (number and street or rural route) 1 Main Street | Claim or identification number (if any) of your pension or annuity contract

City or town, state, and ZIP code Anytown USA

Complete the following applicable lines.

1 Check here if you **do not want any** federal income tax withheld from your pension or annuity. (Do not complete lines 2 or 3.) ►

2 Total number of allowances and marital status you are claiming for withholding from each **periodic** pension or annuity payment. (You may also designate an additional dollar amount on line 3.) ► 10 (Enter number of allowances.)

Marital status: Single ☑ Married Married, but withhold at higher "Single" rate

3 Additional amount, if any, you want withheld from each pension or annuity payment. (**Note.** *For periodic payments, you cannot enter an amount here without entering the number (including zero) of allowances on line 2.)* ► $ 625

<u>What Will Happen to Social Security?</u> How to fix Social Security is a topic that has been around ever since a demographer realized that the number of workers supporting an individual Social Security recipient was gradually dropping. When Social Security was first introduced, there were six or seven workers supporting each recipient. In 2008 the number of workers supporting a recipient was three, and in 2030 it will be two.

According to the Center for Retirement Research at Boston College, by the year 2016 Social Security will no longer be able to pay recipients without drawing on interest earned by the Social Security Trust Fund.

In 2024, payroll tax receipts and interest from the Trust Fund will not be enough and Social Security will need to sell the bonds in the trust fund to cover benefits. By 2037, the Trust Fund will be depleted (i.e., bankrupt). At that time, the Social Security payroll taxes will only cover seventy-eight cents of each dollar of promised benefits.

The figures from Social Security differ slightly from those of the Center for Retirement Research, but even Social Security admits that the Trust Fund will be depleted by 2041.

The way to fix the system is either to cut benefits, increase revenues, or a combination of the two. The Center for Retirement Research at Boston College has an excellent booklet, *The Social Security Fix-It Book*, which outlines the options that are before us. Individuals can download a copy of the booklet.

The remainder of this article will take a quick look at some of the options suggested. In addition to outlining the choices, the Fix-It book lists the pros and cons of each choice.

Under the category of benefit cuts, the options are:

- An immediate across-the-board cut in Social Security benefits;
- Raising the full retirement age (no mention is made of raising the age for early retirement);
- Freeze the purchasing power of future benefits to current levels;
- Freeze the purchasing power of future benefits, but use a sliding scale;
- Adjust the annual cost-of-living adjustment by using a different measure of inflation;
- Wait for 2037 and cut benefits then.

In the area of raising revenues, the options are:

- Increase the payroll tax rate by 2% today. That would be 1% on the wage-earner and 1% on the employer, going from 6.2% to 7.2%;
- Raise the earnings cap so that it will cover 90% of earnings. That would increase the cap from $106,800 to $172,000;
- Use revenues from the estate tax to cover the shortfall (assuming there is an estate tax anymore);
- Transfer Social Security start-up costs to general revenues;
- Raise the return on assets. This is not private accounts; this is having SSA invest the trust fund in higher yielding investments;
- Wait for 2037 and raise taxes then.

The Medicare Trustees estimate bankruptcy in 2017. Compared with 2037, that's just around the corner.

Boring Investments can be Good for your Financial Health. This article is written by Ralph Smith. Any references to "I" pertain to him as an author.

What is the F fund and should it be part of your Thrift Savings Plan (TSP) investment?

Several readers have written in to ask questions about the F fund recently. The questions are often along these lines: "Why doesn't the F fund go up when the stock market goes up? It looks like I can make more money on my investment by investing only in the TSP stock funds?"

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Back in 2008, we published this comment on the FedSmith site: "*Stock and bond prices often move in opposite directions.* While your stock funds have been going down in recent months, the F fund has been performing well....The investment in bonds, which some people consider staid and boring, can be a good cushion for your retirement funds when (not if) your stock funds start going down."

In 2007, the stock market was doing very well. The C fund was finishing up a five year run of high returns for investors and the S and I funds did even better than the C fund.

The F fund also made money but who wants a return of only 4.11% when the C fund hits 28% in a year and the S fund made almost 43%?

In the long run, you will probably make more money in the TSP stock funds than you will make in bonds. But keep this in mind: In 2008, the F fund returned 5.45%. That is a healthy return. In that same year, the C fund lost almost 37%; the S fund went down 38% and the I fund declined by 42%.

If you are retired, or close to retirement, watching your money decline by 40% or so in a single year is devastating. That 5.45% positive return provided by the F fund was magnificent by comparison and provided a cushion (along with the G fund) for TSP investors who were as upset as any other investor watching their assets disappear rapidly.

The less is this: Bonds often provide a sound diversification for your investments.

There is risk in the F fund and the fund can go down. From 1988 - 2009, the F fund went down in two years: -0.85% in 1999 and -2.96% in 1994. It has had a positive return in all of the other years.

As noted by the TSP on its website: "The risk of nonpayment of interest or principal (credit risk) is relatively low (in the F fund) because the fund includes only investment-grade securities and is broadly diversified." By law, the F Fund has to invest in fixed-income securities.

The F fund invests in high quality fixed-income securities with maturities of more than one year. It invests in Treasury and Agency bonds, asset-backed securities, and corporate and non-corporate bonds and has wide diversification with more than 9000 bonds in the portfolio.

As with most investments, there is no guarantee of a great return and there is a possibility of losing some of your money. But the risk is not as high as it is in stocks. And, when stocks go down, bonds often go in the opposite direction as investors seek the relatively safety of bonds. Your earnings in this fund are made up of interest income paid out on the bonds and gains (or losses) in the value of the securities.

Since no one can accurately predict the future, bonds provide a great degree of safety as you invest for your retirement future (or work to preserve your money in retirement). While you may not make as much money in bonds as you may make with stocks, you are also unlikely to experience the large dips that occur on a regular basis with stocks. And, with continuing economic uncertainty, you want to give yourself as much of an opportunity as possible for your investment to survive or thrive during the turmoil.

The Top Ten Places to Retire. Where do you want to live in retirement? Most folks age in place. But there are those who spend their golden years in dreamy locales. Where are those places?

Well, the 100 most popular retirement towns for 2010 are -- no surprise -- mostly located in the Sun Belt states, according to TopRetirements.com. In fact, 68 of the 100 top positions were occupied by warm-climate towns. Florida dominated the list, taking 23 of the spots, followed by North Carolina (11) and South Carolina (8).

But there are 25 new towns on the list, according to John Brady, editor of the second edition of 100 Best Retirement Towns. Some of the 25 new cities on the list include Boulder, Colo., Eugene Ore., Santa Fe N.M., Chattanooga Tenn., Cheyenne Wyo., Portland, Maine, Smyrna Del., and Cape Coral, Fla.

According to Brady, the 100 most popular retirement towns list is compiled by calculating the 100 towns with the most online visits of the 450 cities reviewed at Topretirements.com. The list is essentially a popularity contest; it reflects the towns that site visitors are the most interested in for retirement.

"One thing is clear," Brady said of the trends he's noticed in this year's list. "The Sun Belt is so dominant because people are interested in retiring to where it's warm." In addition, he said this year's list is dominated by college towns. People are looking for place to retire where they have access to intellectually challenging activities.

That said, the towns with the most online visits include:

1. **Asheville, N.C.** Asheville is a long-time favorite, said Brady. Part of its ongoing appeal is its climate (it's mild year round); its location (it's in the Blue Ridge Mountains; there's water everywhere for fishing and boating, and its downtown is walkable and dynamic); its housing stock (there's a wide range of upscale housing opportunities for seniors). What's not so special is that Asheville gets crowded in the summer and overdevelopment is coming.

2. **Sarasota, Fla.** According to Brady, Sarasota is the cultural capital of Florida. Part of its appeal is that is has one of Florida's best downtowns, a downtown that includes an impressive array of cultural facilities such as the John and Mable Ringling Museum of Art. On the downside, there are a lot of tourists and traffic in winter, and summers are hot. Of note, the Ringling Brothers located the winter quarters of their circus in Sarasota.

3. **Prescott, Ariz.** An old mining town, Brady says retirees choose this location for its warm climate and interesting setting. The town, which borders the Prescott National Forest, features 525 buildings on the National Register of Historic Places and Whiskey Row. On the downside, there are a lot of tourists. At an elevation of 5,400 feet, the winters are colder here than the rest of Arizona. Plus, there are watering restrictions, according to TopRetirements.com.

4. **Paris, Tenn.** According to Brady, retirees come to Paris, which is roughly equidistant from Nashville and Memphis, because they like living near one of the largest manmade lakes in the world. "People go there to fish and relax," said Brady of Paris. (By way of background, the city also claims to have the world's largest fish fry.) Plus, Paris has a low cost of living compared with other retirement hot spots. The median sales price of a home here in 2009 was well below $100,000. On the downside, big city amenities are two hours away.

5. **Austin, Texas.** Austin is becoming a popular retirement community for a variety of reasons, according to TopRetirements.com. The University of Texas and its array of cultural and other activities is perhaps the biggest draw for Austin; its cosmopolitan and high-tech, quirky soul is another reason. Plus, it has a relatively low cost of living, said Brady. On the downside, the summers are hot and humid and the city might be too big and fast-paced for those seeking peace and quiet.

6. **Green Valley, Ariz.** According to Brady, Green Valley, which is 20 miles south of Tuscon, has one of the largest active adult communities in the world. The average age, by the way, is 72. Consider: It has nine golf courses; two recreation centers with over 126,000 square feet of facilities; countless swimming pools and spas; numerous tennis courts, fitness centers, and classes; and every type of crafts and clubs. "There are so many things going on there," he said. "There's something for everyone." On the downside, it's a bit remote. In fact, it's just 40 miles north of the border of Mexico. "... so close that there have been a few scenes with federales and desperados running through Green Valley," reports TopRetirements.com.

7. **Winston-Salem, N.C.** Why Winston-Salem is the seventh most visited place on the TopRetirements.com's Web site is a bit of a mystery to Brady. To be sure, there's culture (Reynolda Gardens and the Reynolda House Museum of American Art) and a downtown that features the Wachovia Center. And the cost of living is low ($120,000 is the average

home price). But on the downside, Brady's Web site reports that development is proceeding very quickly, with attendant traffic. And some young professionals say there is not enough to do in the Twin Cities. Plus, crime is a concern in Winston-Salem.

8. **Beaufort, S.C.** Beaufort is a terrific place to love, not far from Hilton Head and Savannah, said Brady. What's special about this city? It's a charming old town in the Sea Island. It's won tons of awards, including "Best Small Southern Town," "Small Town Arts" and "Best Fishing Town." It has plenty of golf courses. The city has 304 acres designated as a National Historic Landmark. And the winters are mild. What's not so special, according to TopRetirements.com: It can be over run by tourists in season Not for people in the fast lane.

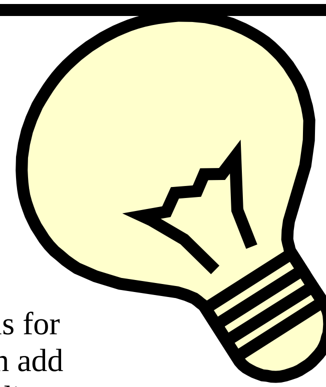
9. **San Diego.** To Brady, San Diego has the "most perfect weather in the country." Its scenery, climate (there's only 10 inches of rain on average per year), and lifestyle (the San Diego Zoo, Balboa Park, Gas Lamp District and Torrey Pines Golf Course) are second to none and appeal to active adults 55+, reports TopRetirements.com. On the downside, it's expensive and the traffic -- well, it is California.

10. **Ft. Myers, Fla.** Now that the housing market has crashed, Ft. Myers has become a less expensive place in which to retire. The median selling price at the end of 2009 was $98,000, reports Brady. What else is so special about Ft. Myers? Well, there's the beach, a charming old downtown area, the Thomas Edison and Henry Ford winter estates, world-class shopping. golf and fishing; and something for everybody. Plus, it's the spring training home for Boston Red Sox and Minnesota Twins. On the downside: Oppressively hot, humid summers; traffic; way too much development, now in a bust cycle; too many strip malls.

According to Brady, there are two other cities/towns that retirees might want to consider from the top 100 list. Those include Portland, Maine, which if you don't mind winters is an up and coming retirement spot, and Smyrna Del., which is a small, former farming town of about 8,000 in north central Delaware midway between Wilmington and the ocean-side community of Lewes. The latter town has plenty of active adult communities, beaches and land, and an attractive tax structure.

Employment-Related News

Uncle Sam Wants You……to Have a Job. President Obama has a jobs problem. Fifteen million Americans want work. Few companies want to hire. The burden shifts to the government. What can it do?



However much Mr. Obama focuses on jobs, he has only a few imperfect tools for generating them (and needs the cooperation of Congress to use them). He can add directly to the federal payroll, hiring permanent or contract workers. He can direct money to states and local governments so that they can hire, or at least avoid layoffs. He can direct money to projects that need workers. He can give tax credits to businesses that hire now.

Mr. Obama’s latest tool of choice, he made clear in his State of the Union address is the prod to the private sector. Spurred by tax breaks, private employers will do the hiring, he said. If he’s wrong, then government might have to add to the federal payroll to bring down the unemployment rate — a proven technique but a no-no politically since the 1980s, when big government became an enduring target.

“We have to help stoke the private-sector engine of job growth,” said Jared Bernstein, chief economist in the vice president’s office, speaking for the administration. “Government cannot by itself create the employment necessary to fully offset the millions of jobs lost. What we can do is help to create the conditions fertile for robust hiring by the private sector.”

Franklin D. Roosevelt spoke similarly at the start of his presidency, although by his second year — with many Americans clamoring for more government, not less — he had added four million people to the federal payroll, many of them assigned to highway and other infrastructure work. An equivalent percentage of the population today would be 12 million people.

That was the start of a long climb. The cold war, the space race, social welfare programs, foreign service and periodic recessions all contributed to a growing federal payroll, one that peaked at more than 2.3 million employees when Bill Clinton took office in 1992 (and included more than a half-million added between 1970 and 1988, years dominated by Republican administrations).

But that rising demand for federal employment, with its steady wages, comfortable benefits and job security, ran up against a political obstacle. Taking his cue from conservatives, President Clinton embraced the view that big government was wasteful and inefficient, defining big government mainly as a bloated federal payroll. By the time he left office, federal employment had fallen by nearly 20 percent.

The big-government issue has not dissipated; today it hangs over Mr. Obama, inhibiting his use of the federal payroll option, despite rising demand for federal jobs (applications are up 62 percent since last year). “The Republicans, the conservatives, the Tea Party, they would just carve him up,” said Paul C. Light, a professor of public service at New York University.

Still, in the two years since the recession began, George W. Bush and Barack Obama each added 100,000 federal employees, mainly to handle work associated with the increased demand for unemployment insurance and other services triggered by the recession. That brought the payroll to 2.1 million, according to the Bureau of Labor Statistics

That figure does not include postal workers. Nor does it include 7.6 million federal contract workers. “The Bush administration was dead set on dismantling federal agencies and they could only do it by shifting work to contractors,” said John Gage, president of the American Federation of Government Employees.

Blackwater ’s security guards in Iraq are the most visible members of this off-the-regular-books work force, which has mushroomed over the past decade, according to various estimates. Mr. Obama has said he would counter the trend by shifting to federal employees at least some of the work that contractors now do for much less pay, no benefits and no job security. Until he does, however, the contract workers are essentially a modern-day version of the millions who drew wages from Mr. Roosevelt’s Works Progress Administration and Civilian Conservation Corp, staying off the unemployment rolls.

Mr. Obama has some other options. He could channel money to state and municipal governments with the proviso that it be used to subsidize the wages and benefits of police officers, teachers, sewer workers, engineers and others who have been furloughed or soon will be. The stimulus package already directs some money for this purpose, but the administration has no plans to expand the stimulus beyond the $787 billion originally allotted. In any case, the goal of the stimulus is mainly private-sector employment — relying on contractors to hire people to carry out the infrastructure repairs and other stimulus-funded projects.

That assumes the contractors need to add employees. So far, up to two million jobs have been “created or saved,” the administration says. That number is likely to rise as the stimulus runs through the rest of this year. Still, rather than expand the stimulus, the president on Wednesday turned to direct incentives as a less expensive tactic, suggesting that in his view it would be just as effective.

The further assumption is that a number of employers are planning to add workers in 2011 and 2012 to accommodate an expanding economy, and the Obama tax incentive — featuring a $5,000 credit for each employee hired, along with other givebacks — will prompt them to hire now instead of later. (The Gross Domestic Product surged in the fourth quarter, at a 5.7 percent annual rate, the government recently announced, although few forecasters expected that pace to carry over into the new year.)

"Someone gives you $5,000 to $10,000, and if you are not even thinking of expanding, then you won't do it," said Timothy J. Bartik, a labor economist at the Upjohn Institute who has studied employer responsiveness to tax incentives and who favors the Obama proposal. "But if you were thinking about expanding in 2011 or 2012 — and there are enough who may be thinking this way — then the tax break would prompt you to act now."

Only once before, in 1977, has Washington used a tax credit to jump-start hiring. The nation was coming out of the mid-1970s recession, hiring was still sluggish, and the tax incentive soon created 700,000 jobs, according to some studies. Once the incentive expired, the surge in hiring disappeared.

"This is arguably about the optimal time to do something like this," Mr. Bartik said, estimating that the Obama plan, if enacted quickly, would add a million jobs by early summer. "We seem to be heading for an expansion, but we are not quite there yet. This is one way to jump-start that expansion."

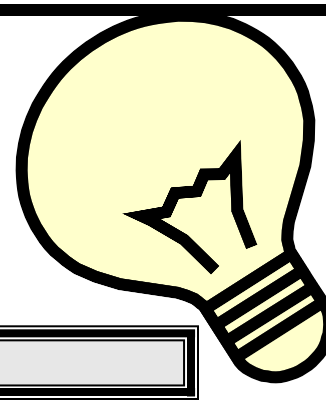
Concerned With Over-Reliance of 3R Incentives. OPM director John Berry said he remains concerned with continued growth in 3Rs payments given recent labor market conditions and called for more contemporaneous and active management of the 3Rs program.

OPM said it plans to review data that the biggest incentive users have submitted to OPM's Central Personnel Data File and Enterprise Human Resources Integration systems.

Further, it said it would ask agencies to validate or certify the data accuracy, then track 3Rs trends on an on-going basis and if necessary, investigate anomalies and take corrective actions.

OPM noted that the 3Rs report to Congress for 2008 shows that 47 agencies paid 39,512 3Rs payments worth more than $284 million, and that between 2007 and 2008, the total number of incentives paid increased by more than 21 percent and the total incentive cost increased by more than 37 percent.

While OPM said it makes sense for most agencies to delegate the administration of their 3Rs programs to subordinate organizations and to the field, it said it appears that the problem for many agencies is that there is neither detailed knowledge nor adequate overview at the headquarters level of 3Rs use in the subordinate organizations and field.



Management-Employee Relations

<u>To Pay Union Dues Or Not to Pay Union Dues—That is the Question</u>. This article is written by David S. Orr. Any references to "I" pertain to him as an author**.** As explored in a previous article, <u>The Price of Civil Service Reform</u>, agency shop refers to an union security arrangement whereby everyone in the bargaining unit must pay either a dues charge to be a member, or may remain a non-member but pay his or her share of the collective bargaining services rendered by the union—a representational fee, if you will. Coincidentally, this fee will approximate, if not equal, the dues charge. A distinction without a difference perhaps, but it still maintains an individual's right to free association, or non-association.

What's Fair is Fair

The aforementioned article author also pointed out that in the federal sector, agency shop is currently prohibited by law, as are the closed shop and union shop. These are collectively called "union security" arrangements because they provide, in various ways, financial lifeblood to the union in the form of dues or a representational fee. From the union standpoint, the federal model, which provides employees with the right to join or not join, and requires the union to fairly represent everyone in the unit regardless of membership, is the least favorable. It provides legal protection for "free riders."

This obligation to represent everyone in the unit is called, appropriately enough, the duty of fair representation. Based on the case law, most unions do a pretty good job of it, or at least of disguising efforts to pressure "non-believers" into the dues-paying fold in order to get really good representation. I know of at least three instances where they didn't, because I filed unfair labor practice charges (all successful) against those unions for not living up to their obligations. (It turns out that in one of those cases, the union *intentionally* let it be known that dues-paying members would get better (i.e. attorney) representation than non-members. They lost the ULP, but gained about 20% in membership - a good trade-off.)

Having said that, even though my federal career was on the management side, the equity part of me always made me believe that the free-rider concept was patently unfair to the unions. It costs money to provide strong, effective representation. Why spend it on people who aren't interested enough in their own welfare to pay dues? It also encourages inefficiency—it produces those anecdotal (well, not always anecdotal) stories of the five-hundred employee bargaining unit with but ten due-paying members, who reelect themselves every few years to ceremonial leadership positions (on official time.)

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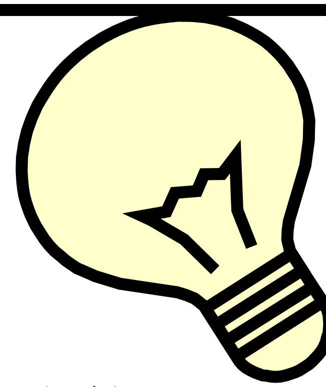


It's Official!

Official time (and the right to bargain over government-supplied goods and services) is supposedly the *quid pro quo* for not having an agency shop provision. The conservative wing of Congress agreed to federal unionization and official time in exchange for the liberals acceding to maintaining the right to not join a union. (You've heard of "right-to-work" states. That's what we're talking about, only at the federal level—"right-to-work" basically means employees cannot be forced to join a union in order to get or retain a job. It's a sensitive issue, especially among conservative Congressional members, particularly from the South.)

In any event, the federal labor statute instead provides for government-paid time for union representatives and employees for a variety of purposes, some directly related to the union's representational obligations, some not so much. Some of the time is provided as an entitlement; some is negotiable. Some agencies use a defined bank of time and try to effectively control and monitor its use. Some provide "reasonable" time, which can mean that they have no idea of how much time is being used or for what purpose.

Dr. Floyd Speaks

The late Dr. Floyd Nimbus once brilliantly observed, "Official time is money." OPM has periodically tried to measure and report on the amount of official time used, with varying degrees of success, or failure. Republican administrations and Congressional members tend to be more interested in trying to measure and perhaps limit the amount of official time used—the Democrats not so. I can't imagine why this is. Anyway, analyzing all the information available, and having consulted with statisticians, I have concluded that the best scientifically documentable estimate is "a helluva lot." Like in the millions.

Trading Time for Duties?

Which brings us back to the dichotomy of union security and the duty of fair representation. Back in the 1990's during the Clinton administration, I was part of a group of human resources and labor relations folks who took a look at official time and the union security issue. We operated as an ad hoc committee under the auspices of the Federal Section of the International Personnel Management Association (IPMA), now known as the International Public Management Association for Human Resources. As I recall, Larry Goodwin, then the HR Director at the Department of Labor was our *de facto* leader. Larry also had served as President of both the Federal Section as well as the IPMA itself.

After researching the issues and talking with the stakeholders, we concluded that the current federal system promoted no one's interests—not the government's, not the employees' and certainly not the unions', at least in our strategic view. We proposed a new model based on agency shop, whereby, over a transition period, new elections would be held in which bargaining unit members would be given the opportunity to re-vote, this time on the issue of electing or retaining a union to which they would have to pay dues or a representational fee.

Part of the reason for having a transition period was to give unions in, should we say, less secure units time to take actions to convince their constituents that paying dues was in their best interests. And of course, in units like IRS, SSA or the air traffic controllers, union membership was strong enough that there would be little concern about being voted out.

In exchange for union security, official time was to be substantially phased down, but not eliminated. Agency employees would still be allowed to use it for some representational functions and in connection with proceedings of the FLRA, Impasses Panel and FMCS. But it would be significantly reduced, since unions would have the financial wherewithal to support themselves. And they would be financed by their membership, not the taxpayers. Would some units go out of business? Of course, but it would be a form of natural selection— they're a resources drain on the national unions anyway.

Our proposal was soundly researched, well-documented and reasonably presented. It, of course, went nowhere.

We sent it to the White House, to the Reinventing Government folks, to both houses of Congress and the trade press. I don't recall that anyone acknowledged receipt, much less agreed with it. We expected some opposition, but not indifference. As for that opposition, much of it came from unions. In our view, they were short-sightedly looking at the situation from a tactical standpoint, not a strategic one. Using Bob's financial projections involving AFGE, the union would bring in some $235 million a year under agency shop. Over the fifteen years since we made our proposal, it would have added up to over $3 billion - I could live on that. . .

Where for art thou, TSA?

What if, just to reinvent our proposal, the TSA statute was amended to provide for an agency shop election for the screeners? At least on a trial basis. You know they're going to elect *someone* over there—those folks would join the Kiwanis Club if they thought it would improve what many of them consider an unacceptable working environment. I mean, thousands of them are *already* paying dues to AFGE or NTEU and the unions can't even bargain anything for them yet.

Notwithstanding how much fun it would be to see AFGE and NTEU battle it out by advertising that *they* could deliver more bang for the buck, it would provide a test bed for the whole concept. If it works, however we end up defining "works," it could be expanded to the rest of government. Again, it would be phased in, both the elections and the reduction in official time - a concept whose has never come.

Just a thought. . . and as always, solely my opinion.

Framing Charges for Disciplinary or Adverse Actions. When employees have behavioral issues that are not corrected despite informal counseling, formal discipline/an adverse action should be the next step. This should also the case if an employee causes or participates in an incident that is so egregious that mere counseling is simply not suitable. However, before an action can be executed, a charge that appropriately addresses the essence of the issue must be formulated.

Toward that end, supervisors should investigate and gather facts concerning the case. Through the investigation, who, what, when, where, why, and how an incident(s) occurred or a pattern of behavior developed must be determined. Specificity is important. The subsequent documentation file should include dates, times, locations, and statements. These supporting documents may consist of memorandums for record, counseling statements, witness statements, customer comment cards, work samples, etc.

Once the investigation phase is complete, all evidence should be reviewed and analyzed. This requires considering whether the facts are clear cut or circumstantial as well as whether the behavior was intentional or unintentional, premeditated or negligent, as well as a litany of other cogent factors.

After reviewing the entire file, an appropriate charge(s) needs to be identified. A good reference that may be used for selecting or formulating charges is the Table of Penalties which is found in Army Regulation 690-700, Chapter 751. This Table is a list of the most frequent offenses committed by employees, and although not an all encompassing compilation of infractions, it may be used to formulate charges to fit a particular situation.

When selecting a charge, consideration must be seriously given to the use of a charge that has a legal definition. Legal definition means the charge has a specific standard of proof that must be met in order for the charge to be sustainable. For example, in the case of the charge of insubordination, in order for this to be supported, it must be proven that an employee purposefully and blatantly refused to obey an order. Frequently the case actually turns out to be an employee initially stating they will not perform a duty or meet a timeframe, but ultimately does so. In another instance a supervisor may *expect* an employee to perform a particular duty but fails to set a timeframe or suspense date of completion. Neither instance meets the standard of proof for insubordination. In these examples, a charge of delay in following instructions or failure to follow instructions may be more appropriate.

Other charges which should be carefully selected include theft, assault, and falsification. Moreover, care should be exercised in the use of superlatives in conjunction with the charges, i.e., "gross" negligence, "deliberate" falsification, "excessive" tardiness. By adding these words, Management becomes responsible for proving them along with the charge. Only the most basic charges that can easily be proved to the Merit Systems Protection Board (MSPB) should be selected. "Flowery" charges should be avoided at all costs. When the MSPB reviews an employee appeal to an adverse action, its role is to make a determination on whether or not the charge was proven and the action is sustainable. Its role is not to reduce a charge to one with a less stringent burden of proof or to sustain a charge that was not originally presented.

For additional assistance please contact your servicing CPAC Management Employee Relations Specialist.

Office of Worker's Compensation (OWCP) Continuation of Pay (COP) for Wage Loss. Continuation of pay is the continuation of an employee's regular pay for up to a maximum of 45 calendar days of wage loss due to disability and/or medical treatment after a traumatic injury*. In order to invoke COP, the CA-1 (or notice of injury) must be filed within 30 days of the injury; the employee must begin losing time from work within 45 days of the injury; and, the employee must provide supporting medical documentation within 10 calendar days from the date the COP is claimed or the date the disability began (whichever is later). For example, an employee with a legitimate traumatic injury could file a Form CA-1 within 30 days of the date of injury and provide detailed medical documentation, but still would not be eligible for COP if there was no lost time within 45 calendar days from the date of injury.

After the 45 days of eligibility, often called the "window of opportunity", has been exhausted and the employee still requires time off [as supported by medical documentation], the injured worker's absence will be charged to sick leave, annual leave, or leave without pay (LWOP).

Each day with a period of time charged to COP is counted as one day of COP entitlement. Weekend days and holidays occurring during a period of disability are also counted toward the COP entitlement.

Continuation of Pay may also be payable when the injured worker returns to work with a wage loss (i.e., loss of shift differential) or the employee is formally reassigned to another position with a lower rate of pay. In these instances employees must also accept suitable light duty work when available and offered by the employing agency, and keep the supervisor informed of any changes in their work status.

The OWCP is the final authority for approving COP days for traumatic injuries.

For assistance and/or additional information, please contact the Injury Compensation Program Administrator, Felicia Griffin, 545-2729.

* Traumatic injuries are wounds or other conditions of the body caused by external force, including stress or strain. The injury must be identifiable by time and place of occurrence and member or function of the body affected, and must be caused by a specific event or incident, or a series of events or incidents occurring within a single day or work shift.

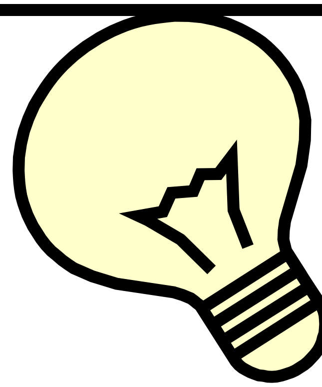
Training, Self-Development, and Personal Improvement

Human Resources (HR) for Supervisors Course. The HR for Supervisors Course encompasses instruction applicable to the National Security Personnel System (NSPS) and the Legacy (i.e. GS) System. The course is 4.5 days long, includes lecture, class discussion, exercises; and, is designed to teach new civilian and military supervisors of appropriated fund civilian employees about their responsibilities for Civilian Human Resource Management. This instruction does ***not*** cover supervision of non-appropriated fund (NAF) or contract employees.

Instruction includes the following modules:

- Introduction of Army CHR which includes coverage of Merit System Principles and Prohibited Personnel Practices, CHRM Life Cycle Functions, Operation Center and CPAC Responsibilities
- Planning
- Structuring – Position Classification
- Acquiring – Staffing and Pay Administration
- Developing – Human Resources Development
- Sustaining – Performance Management, Management Employee Relations, Labor Relations

Training dates for the next several iterations of this course are below. Registration information will be disseminated electronically three weeks before each class start date.



1– 5 Mar 10
14-17 Jun 10
13-17 Sep 10
6-10 Dec 10

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 HR liaisons, managers/supervisors, and new DCPDS account holders with accessing and using DCPDS, ART, initiating RPAs, 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.

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.

The training will be conducted in Jan, May and Sep 10 with specific registration requirements provided electronically three weeks prior to each class start date. Instruction modules include:

- Overview - Introduction of NSPS
- Classification - Structuring your organization, FLSA, Delegated Classification Authority
- Staffing - Acquiring Your Workforce, Compensation Options & Changes
- Performance Management - Planning, Monitoring, Rating, Pay Pool Processes

The NAF Corner

Overseas Allowances and Entitlements. Employees recruited in the United States are eligible for overseas allowance and entitlements outlined in the Department of State Standardized Regulations. Criterion for overseas allowances and entitlements is also governed by the provisions of AR 215-3, Non-appropriated funds and Related Activities Personnel Policies and Procedures. Such allowances and entitlements are granted as recruitment and retention incentives to attract employees to accept assignments in overseas areas. Flexible employees are not eligible for any allowances and entitlements and the rates are subject to change without notice. The following overseas allowances may be granted to eligible employees.

Living Quarters Allowance (LQA) is a reimbursement for the actual living quarters expenses of employees and their family members when government quarters are not available. The expenses covered include rent, heat, fuel, gas, electricity and water. LQA rates are based on the quarters' group and size of the employee's family as outlined in the DSSR, Section 920.

Temporary Quarters Subsistence Allowance is granted to cover the reasonable costs of temporary quarters, meals, and laundry expenses for a period not to exceed 90 days after the arrival of an employee at a foreign duty station, and not more than 30 days prior to departure from a foreign duty station. The rate of the allowance is based on the per diem rate of the employee's duty station as outlined in the DSSR.

Separate Maintenance Allowance is granted to employees who are precluded from bringing their dependents overseas. The amount of the allowance is predicated on the number of family members domiciled outside of the foreign area.

Miscellaneous Expense Allowance is a reimbursement for relocation expenses in conjunction with an authorized permanent change of station. The allowance is payable only after an employee moves into permanent quarters. The rate of reimbursement is normally $1000 for employees performing travel with family members and $500 for employees traveling without family members. The rate may be increased up to the equivalent of two weeks of the basic salary of employees with family members or one week of the basic salary of employees with no family members. The increased rates are payable only when substantiated by receipt of expenditures for actual allowable expenses.

Post Differential may be authorized by the Department of State when it is determined that there are substantial differences in the environmental, physical security, and living conditions between the United States and a foreign duty station. The rate is outlined in Section 920, DSSR, and is based on the basic salary of an employee.

Post Allowance is a cost of living allowance granted to full time employees at foreign duty stations where living costs, exclusive of living quarters' expense, are substantially higher than Washington, D.C.

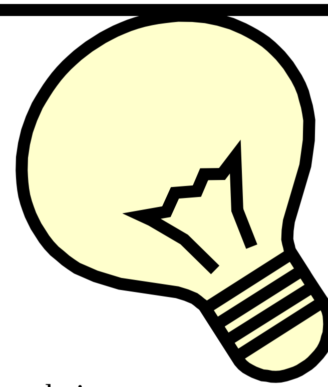
Severance Pay Resulting from a Business Based Action. Severance pay for NAF employees derives from Business Based Actions (BBA) in order to adjust and align personnel resources within a NAF activity. They are often necessary due to reductions and/or realignments. When such instances occur, management may choose to adjust personnel resources by (1) reducing an employee's pay; (2) changing an employee's employment category; (3) placing an employee on furlough; and/or, (4) separating an employee from NAF employment. Regular full-time (RFT) or regular part-time (RPT) employees whose positions have been subjected to a BBA are eligible to receive severance pay providing it results in their separation from NAF employment.

Severance pay will be paid to eligible employees:

- Who resign following receipt of a specific written notice of separation due to a BBA;
- Whose basic pay is reduced, and the employee resigns in lieu of accepting the pay reduction;
- Whose employment category is involuntarily changed from RFT to RPT and the employee resigns in lieu of accepting the change.
- Whose employment category is involuntarily changed from regular status to flexible.
- Who are furloughed for more than 60 consecutive days and resigns in lieu of accepting the furlough.

The Illuminator

3-2010



Severance pay will **not** be paid if an employee:

- Is separated because of misconduct, unsatisfactory performance, during their probation period, from a limited tenure appointment (temporary) or for any reason other than as a result of a BBA.
- Has refused a position offer of a DoD NAF position that would **not** result in a lower rate of basic pay or a loss of employment category.
- Is reemployed in another DoD NAF regular position or a DoD APF position (without a time limit on the length of appointment) without a break in service greater than three calendar days after separation.
- Is entitled to an immediate retirement annuity that is not reduced because of the employee's age at the time of retirement. This exclusion covers an annuity from a NAF Retirement Plan or from an APF retirement plan in which the employee elected to remain following movement between systems.
- Is receiving payment from the Department of Labor's Office of Workers Compensation Program for a job related injury.

When calculating severance pay, the amount is based on the number of hours an employee is guaranteed multiplied by the basic pay rate they received immediately before separation. An eligible employee may be entitled to severance pay based on credible service, but the maximum amount of severance cannot exceed 52 weeks of an employee's basic pay. The method for calculating an employee's severance pay is as outlined below:

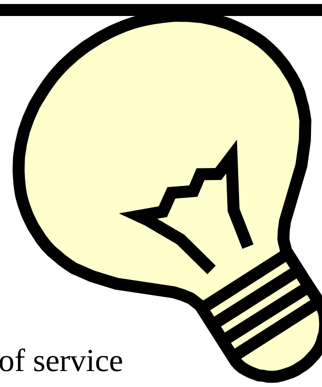
- One week of pay for each full year of credible service up to ten years;
- Two weeks of pay for each full year of credible service beyond ten years; and
- Twenty-five percent (25%) of the otherwise applicable amount for each full three months of creditable service beyond the final full year.

When determining credible service, service upon which a NAF or civil service (APF) retirement annuity is based and subsequent periods of NAF or APF service which severance pay was previously granted is excluded and may not be included in credible service for the purposes of severance pay computation.

Example of severance pay calculation*:* A employee is separated who is 59 years of age and has 18 years and six months of creditable NAF service earning $40,000.00 per annum.

$40,000.00 per annum divided 2087 = 19.17 per hour
Hourly Rate: $19.17 x 40 (guaranteed hours) = $766.80

Total years of **regular** service: 18 years   6 months



1 Week Salary = $ 766.80
x 10. (# of years of service **up** to 10)
$ 7,668.00

2 Weeks Salary = $ 1533.60
x 8.50 (# of years of service **over** 10)
$13,035.60

Total Severance Pay Authorized = $20,703.60

For additional information please contact your servicing NAF Human Resources Office at (706) 545-1610.

BLANCHE D. ROBINSON
Human Resources Officer
Fort Benning CPAC
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