

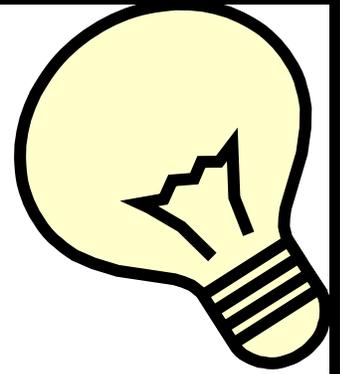
The

# Illuminator

Shedding Light on the HR World

8-2010

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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, NSPS, the Maneuver Center of Excellence (MCOE) civilian transition, etc.).

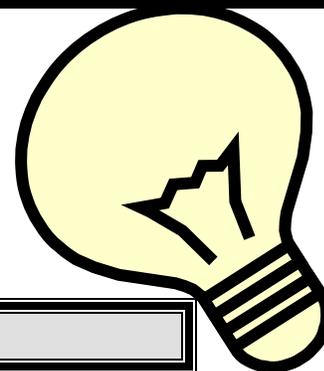
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**Retirement, Life/Health Insurance, TSP, Social Security and Such**

**The Best Dates to Retire in 2010.** This article is written by Tammy Flanagan, National Institute of Retirement Planning. Any references to “T” pertain to her as an author.

A few weeks ago, I wrote some detailed instructions (forwarded via e-mail on Wednesday, 28 Jul – entitled “Setting a Date”) on picking the best retirement date. This week, I’ll get specific, showing the best dates to retire in 2010.

Like the 2009 calendar, the one below shows the optimum dates to retire. Below the calendar, you’ll find a full explanation of the color coding, indicating why some dates are better than others.

## December 2009/January 2010

27	28	29	30	31	1	2
3	4	5	6	7	8	9
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17	18	19	20	21	22	23
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31						

## February 2010

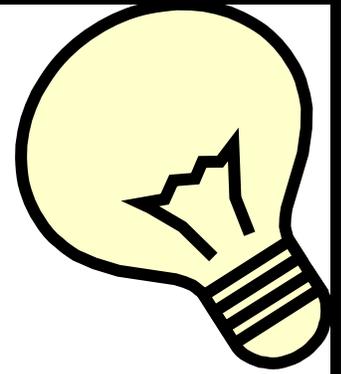
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28						

## March 2010

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28	29	30	31			

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### April 2010

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### May 2010

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23	24	25	26	27	28	29
30	31					

### June 2010

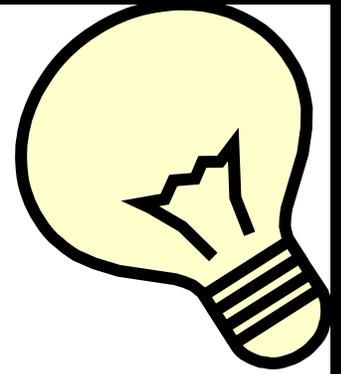
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### July 2010

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25	26	27	28	29	30	31

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### August 2010

1	2	3	4	5	6	7
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29	30	31				

### September 2010

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### October 2010

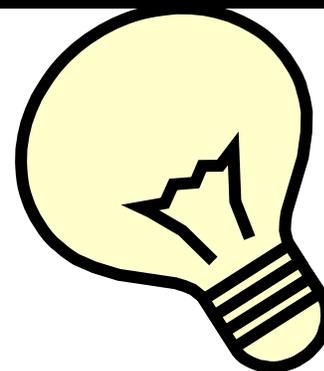
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
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24	25	26	27	28	29	30
31						

### November 2010

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21	22	23	24	25	26	27
28	29	30				

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## December 2010/January 2011

			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	1

### End of a leave period

It's always good to earn one last accrual of annual leave that will count toward your lump-sum annual leave payment. If you retire before the end of a leave period, you do not accrue any leave during the last leave period. If you work a flexible schedule, you might be able to retire at close of business on a Thursday and finish your hours for that leave period. You earn leave when you have completed your scheduled tour of duty (i.e., 80 hours). It is especially nice when the end of the leave period coincides with the end of the month or for [Civil Service Retirement System](#) or CSRS Offset employees, the first three days of the month.

### End of the month

This is always good for people retiring under [Federal Employees Retirement System](#), including those who transferred from CSRS to FERS. It's also not bad for those covered under CSRS or CSRS Offset consider the last day of the month. That way, your retirement begins on the first day of the following month.

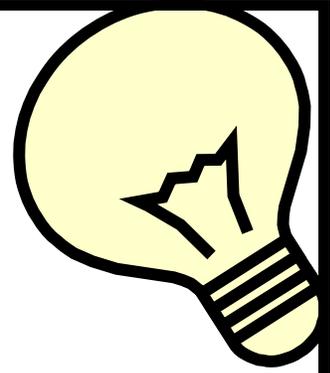
### Beginning of the month

Under CSRS and CSRS Offset, retiring on the 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> of the month is sometimes good, because retirement benefits will still kick in the following day. So if you retire on Wednesday, Nov. 3, you will be paid your salary through close of business that day, and your first retirement check will be paid for 27/30 of November, payable on Dec. 1.

Note that I didn't list Saturday and Sunday as good days if they fell on the 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> of the month since there is no salary

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payment for these days (unless Saturday or Sunday is your normal workday). If the 3<sup>rd</sup> fell on a Monday, I didn't select that date, since it would cause you to lose three days of retired pay and gain only one day of additional salary. There is an exception to this rule: If adding up to three more days of service would give you another month in the computation of your retirement, then Saturday, Sunday or Monday might be a good date anyway.

Do not retire on the 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> of the month if you are covered under FERS, or you have transferred to FERS. If you do, you will not receive any retirement income for the first month you are retired. FERS optional retirements always commence on the 1st day of the month following your retirement date.

### **End of the Year**

Employees traditionally have enjoyed retiring at the end of the year because of the ability to save up annual leave hours beyond the normal use-or-lose limits. For example, if Joe carries 240 hours of annual leave (the limit for most federal employees) from 2009 into 2010 and decides to retire at the end of 2010 (Friday, Dec. 31, 2010, if he is under FERS, CSRS or CSRS Offset), he could save up 26 eight-hour accruals of annual leave (208 hours) to add to the 240 that he carried over from 2009. His annual leave balance could be 448 hours of unused leave, paid to him in a lump-sum payment. (Joe might need to take a vacation after he retires, since he wouldn't have used any annual leave during the last year on the job.)

### **National Security Personnel System**

Under the Defense Department's National Security Personnel System, an employee must be on the rolls of his or her agency on the day of performance-based payouts to be eligible to receive a payout. The payout occurs on the first day of the new leave year -- the same date as the annual pay increase takes effect under the General Schedule pay system. For example, an employee who retires on Dec. 31, 2010, would not be eligible for a performance payout, because the new leave year begins on Jan. 2, 2011. NSPS should not affect an employee's high-three average salary, since under the system, rate range pay adjustments and the local market supplements take effect on the same date as the annual pay adjustment and locality pay adjustment do under the GS system. If you work under a similar pay for performance system, check with your human resources office or payroll office to see if there will be any affect on your retirement benefits

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**Asset Protection.** A recent investment scandal hasn't done much to boost the confidence of Thrift Savings Plan enrollees.\* But federal employees can take a few simple steps to check the credentials of financial advisers before handing over their savings.

The Securities and Exchange Commission had been investigating Wayne McLeod, a Florida-based investment adviser whose F&S Asset Management Group had more than \$43 million under management for more than 1,100 clients, most of whom were retired government employees. SEC alleges that McLeod guaranteed investors high return rates but in fact was running a Ponzi scheme, using new funds to pay himself and prior investors. McLeod was recently found dead of a self-inflicted gunshot wound. According to SEC, McLeod recruited investors through benefits counseling and planning seminars, which he provided to government agencies for up to \$15,000 per event. In addition to personalized benefit analyses, he advised participants on how to allocate their TSP dollars across funds and even made changes for those who provided their usernames and passwords.

So how can TSP investors protect their savings from fraudulent counselors? Mary Head, deputy director of SEC's Office of Investor Education and Advocacy, said the first step in protecting your assets and avoiding fraud is to get more information on the investment professional you are considering working with.

"The saying 'If it sounds good to be true, it probably is' certainly prevails in the investment world," she said. "You owe it to yourself to get some unbiased information about the investment professional and the investments being offered."

Bob Liens, a certified public accountant, and Tammy Flanagan, senior benefits director at the National Institute of Transition Planning, agreed that common sense and a couple of questions can go a long way to ensuring a financial adviser is legitimate.

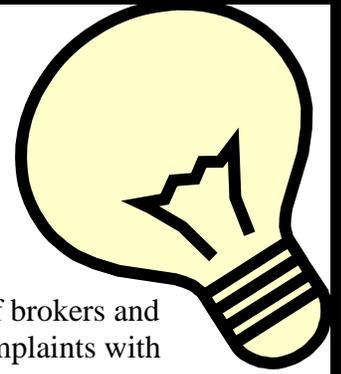
"Look into the company you're handing your career savings over to and make sure you know what it is they're investing in, how long they've been in business, how many clients they've had that are similar to you, and don't put all your trust into someone you don't know other than they came and did a seminar in front of you," said Flanagan. Just because your agency hired a counselor to run a seminar doesn't mean that person is trustworthy, she added.

Liens pointed out that a good financial planner should be able to address concerns and show investors where their money is located. TSP participants shouldn't be afraid to challenge counselors and ask questions, no matter how basic, he said.

SEC points investors to several online tools that provide more information about brokers and financial planners. FINRA Broker Check is a website managed by the Financial

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Industry Regulatory Authority that compiles the professional backgrounds of brokers and brokerage firms. Investors can see whether or not regulators have lodged complaints with an individual or firm.

TSP participants working with investment advisers can check if those individuals are registered with SEC or with the state in which they work using the Investment Advisor Public Disclosure website.

Finally, the EDGAR database tracks if firms have registered their investments with SEC. Most companies have to register before they begin selling shares, Head said.

SEC also maintains two fact sheets with resources for investors, *Getting Info About Companies* and *Protect Your Money*.

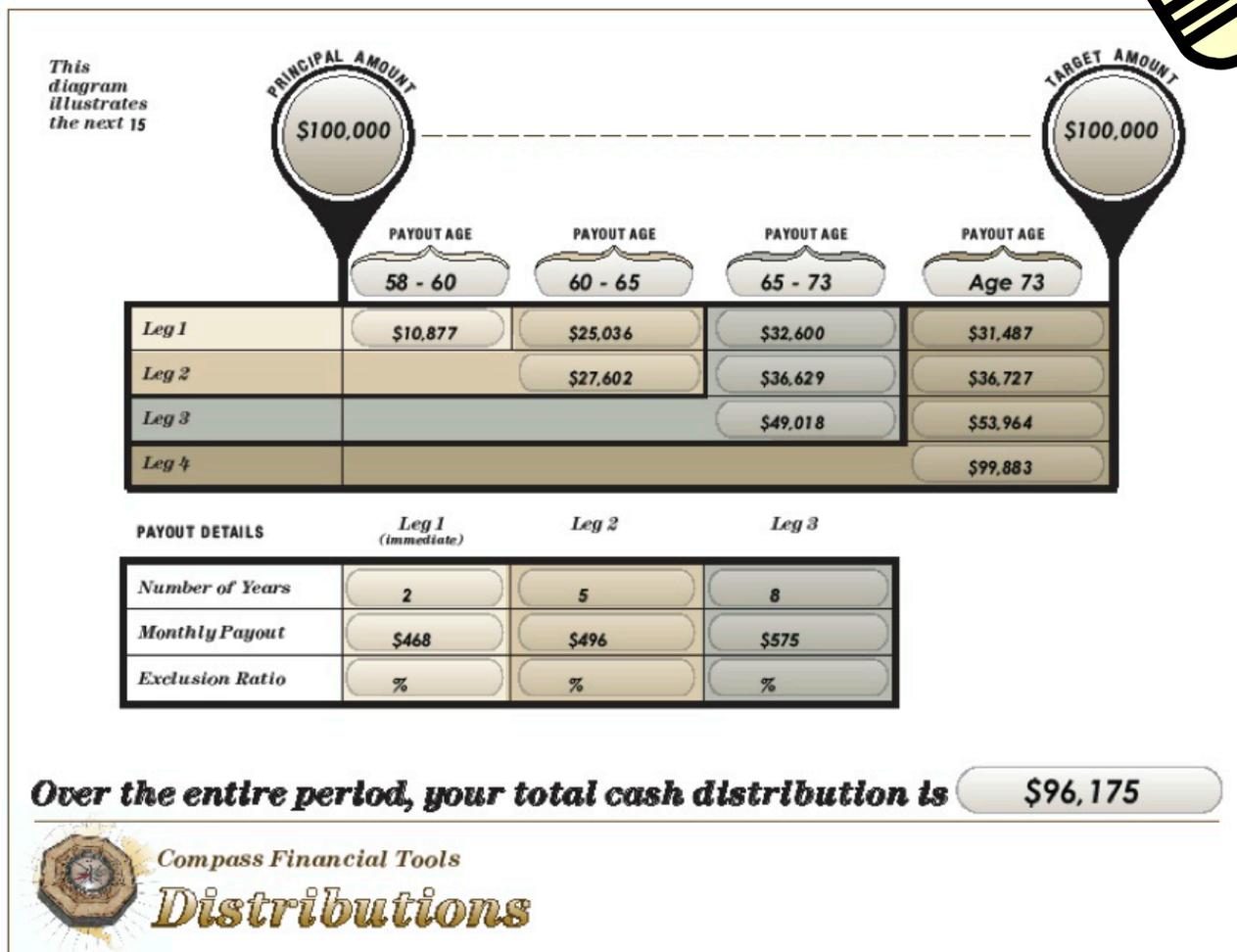
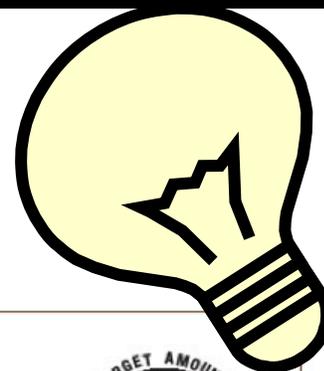
\*Clarification: The Thrift Savings Plan itself has not been accused of any mismanagement or fraud. The controversy involves only McLeod's company, not the management of the government's 401k-style plan.

**Unlocking a Winning Combination for your Thrift Savings Plan.** In follow-up to an article on creating income from your Thrift Savings Plan at retirement, there's a way to add additional power to the split income strategy.

To summarize from the *Men and Money* article, the split income strategy is built by diversifying your assets not only by asset allocation but also over time. At retirement, since you do not need access to your entire TSP account balance immediately upon retirement (knowing you want it to last over your lifetime), the account balance is divided into segments based on when you plan to use them (i.e., immediately, 5 years, 10 years, or 15 years down the road). This provides the opportunity to take advantage of higher returns over time while utilizing guarantees.

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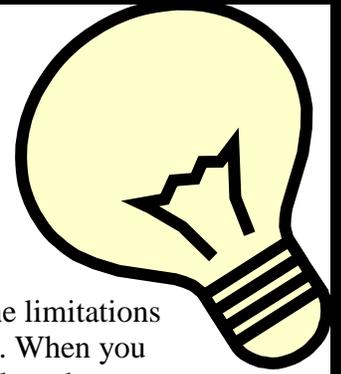
On its own, this strategy provides sustainable income over a retiree's lifetime.

What if a portion of the final leg could be tax free 15 years down the road when you are ready to use it for income? With a little forethought at implementation, the strategy becomes even more powerful.

Using the illustration above, all or a portion of the last "leg" (the portion set aside to earn returns for 15 years prior to taking earnings) could be converted to a Roth IRA. This would cause a tax liability at the conversion (your taxable income would increase by \$31,487), but all of the growth from the original \$31,487 to the projected \$99,883 could be **tax free!** That's right, the income available in fifteen years would all be tax free, AND anything left in the account at your death would pass income tax free to your heirs.

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2010 is a particularly good year to take advantage of this strategy, because the limitations around converting to a Roth IRA were eliminated beginning January 1, 2010. When you add in the fact that the Bush tax cuts are still in effect until the end of December, there may never be a better time to implement this strategy.

If you are retired and still have funds in the TSP or you are 59½ and still working, this winning combination may be right for you.

**Federal Benefits for Civil Service Employees.** Civil service employees receive an average benefits package of \$40,785 per employee, compared with private sector employees who receive an average of \$9,882 per employee, according to data released in 2008 by the U.S. Department of Commerce's Bureau of Economic Analysis. In other words, federal employees receive benefits that are four times greater on average than private sector employees.

### **Health Coverage**

The federal government provides its employees choices for medical, dental and vision insurance. Medical plan options include high-deductible plans, health savings accounts, fee-for-service plans, health maintenance organization plans and preferred provider organization plans. Dental and vision insurance is provided under the Federal Employees Dental and Vision Insurance Program, which includes optional coverage for the employee's spouse and dependent children.

### **Life Insurance**

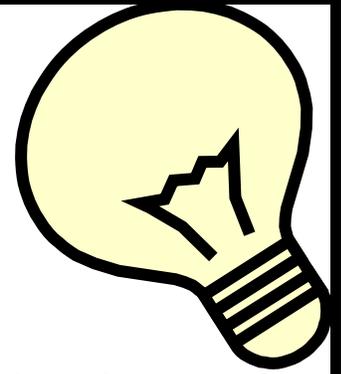
Benefits include basic life insurance coverage under the Federal Employees' Group Life Insurance Program. The government pays for one-third of the cost of basic insurance. The remaining two-thirds of the cost is automatically deducted from the employee's paycheck unless specified otherwise. Employees may choose to add one of three additional coverage options. The cost of additional coverage depends on the age of the employee.

### **Retirement**

Most employees are covered by either the Federal Employees Retirement System or the Civil Service Retirement System. The federal system includes three parts: a basic benefit plan, Social Security benefits and a thrift savings plan. The civil service system is a contribution-based retirement plan and the federal government matches an employee's contribution. Upon retirement, the federal government computes the annuity the employee is entitled to receive based on such factors as length of employment, retirement age, salary and cost-of-living adjustments.

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### **Leave**

Sick leave can be used for personal medical reasons, to care for a family member or for child adoption purposes. Annual leave can be used for vacations or personal business. Leave also may be granted for other circumstances such as jury duty, military duty, the birth of a child, bereavement, emergencies, organ donation or to participate in volunteer activities.

### **Other Benefits**

Other standard benefits include the Federal Long Term Care Insurance Program, the Federal Flexible Spending Account Program, credit union membership and programs such as child care subsidies, caregiver support and employee assistance programs. Depending on their job and agency, employees also may be eligible for other benefit options, including telecommuting schedules, job sharing, awards, incentives, public transit subsidies and alternative work schedules.

**Asset Allocation and Your TSP.** *This article describes an approach to investing in the Thrift Savings Plan that the author, Henrich Erbes, uses for his personal account. Publication of this article is provided as a service to readers and does not constitute a recommendation or endorsement of this system for your use in investing in the TSP.)* Any references to “I” pertain to the author.

There have been a number of articles published here that repeat the conventional wisdom that you can’t time the markets. And there are people making a good living writing newsletters that say to make any money in the market, you *must* time the market. So which is it? That depends on what the meaning of timing is.

If by “timing” you mean that you were in cash (or 100% in the G fund) on March 8, 2009, and the next day moved all your assets to the market, (C, S and I fund) and likewise on May 12, 2010 you exited the market, then one cannot time the market. But if you mean something less drastic, it may be possible.

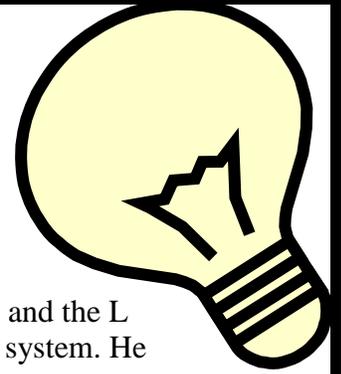
I will describe methodology, or a system, that is not timing. At best it is trending the market.

The approach is referred to as Tactical Asset Allocation. In the spring of 2007, Mebane T. Faber, published an article, [\*A Quantitative Approach to Tactical Asset Allocation\*](#). In it he describes a *simple* quantitative method to implement Tactical Asset Allocation.

In its simplest form *Asset Allocation* is diversification.

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There have been many articles regarding the benefits of asset diversification, and the L funds are based on that principle. In the article, Mr. Faber evaluates a simple system. He takes 5 asset classes:

- domestic bonds,
- domestic stocks,
- international stocks,
- real estate and
- commodities.

For each class you are either "in" or "out."

The simple signals are when the price at the end of the month is greater than the 10 month moving average then you are "in." If the price is less than the moving average you are "out," and you put that money into a money market.

The *moving average* is the average of the price on the last day of the current month and the previous 9 months (10 numbers). It is easy to set up a spread sheet to calculate the moving averages, so this is not an onerous task. In his paper he tests this system for over a hundred years, and gets much much better results than a buy and hold system.

How does that translate into the TSP?

The G fund will have to be our money market. We have 4 other accounts.

We could allocate 25% to each. But since the C and S fund are domestic stocks and together are only one of Mr. Faber classes, we could allocate 33% to the F and I fund and 17% each to the C and S fund. Or we could split the difference.

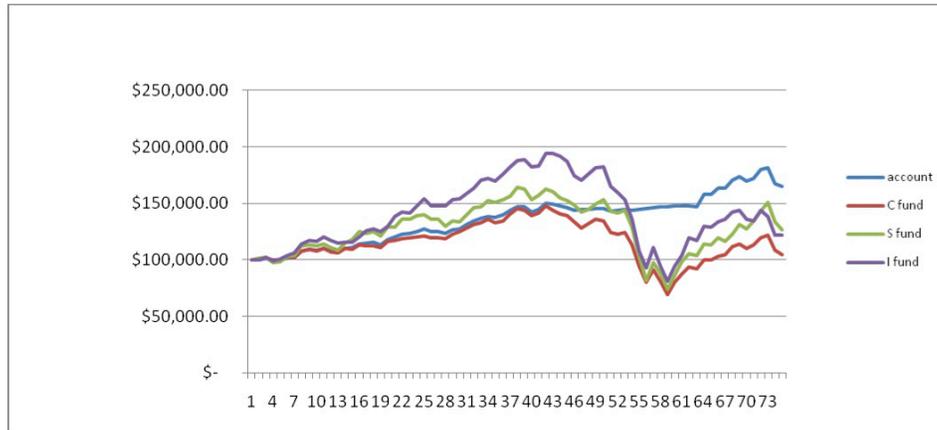
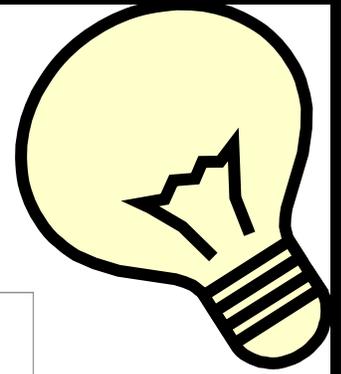
I used the latter with the F and I funds getting 28% and the C and S fund getting 22%.

The TSP started using shares and daily valuations in the summer of 2003.

My back test started with \$100,000 in May 2004, so that there were 10 one month moving averages from the start of the test. The chart shows the results: *\$165,003.83 as of July 1*. The system gave a sell signal for the I fund in June and in July it gave a sell signal for the C and the S fund.

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In addition to getting into the markets in 2003 and June/July 2009 and getting out of the markets during November 2008 to January 2009 and just recently, the system had a few short reversals, such as getting into the S fund in June 2008 and then getting out in July 2009.

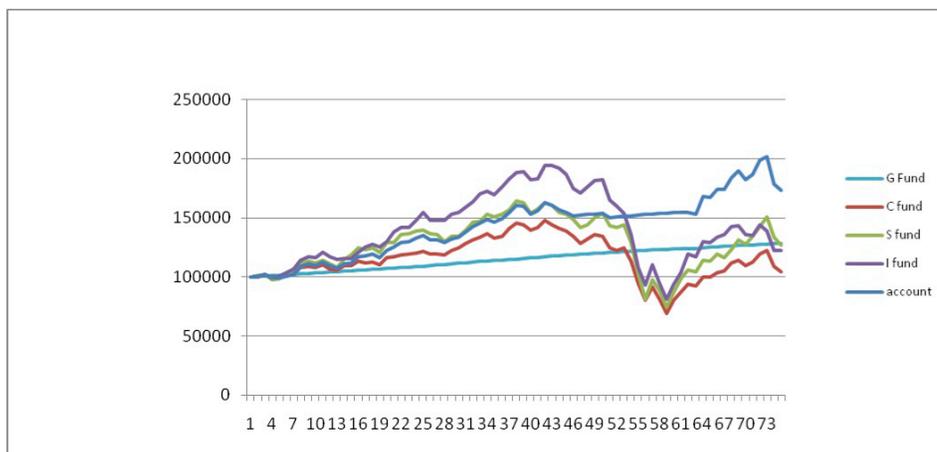
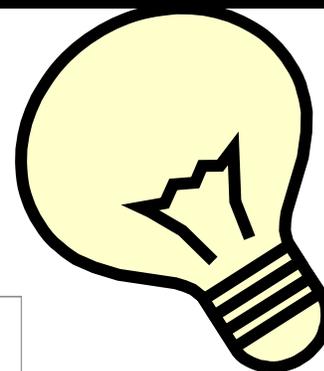
These short reversals hurt the overall performance, and possibly there are some tweaks that can improve on this. Perhaps a different moving average such as a 9 month or a 11 month average would be better. One difference between the C, S and I fund and the assets Mr. Faber looked at, is that the TSP funds reinvest dividends while the others did not, so some adjustment might be appropriate.

Another difference is that the G fund is not really a money market fund. It is like a long term adjustable bond fund that cannot lose principal. If this fund were available to the public at large, other money market funds and most bond funds would disappear. The differences between the G fund and the F fund over the long term have not been very great. In fact a careful analysis shows that in many months that the F fund was “in”, the G fund had better returns.

Given this and the fact that Mr. Faber states elsewhere that the bond fund was not volatile enough to benefit from this technique, I retested the system using 33% for the C and the I fund and 34% for the S fund. The result was *the account grew to \$173,190.68*. This is a little better than before.

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While this system is easy to implement; it only takes one night per month, the calculations are simple enough and can be automated, it is difficult in another sense. Just as it's not easy to have all your TSP in the L 2040 fund, and keep it there while the world is crashing or booming, when using this system it may be difficult to resist the urge to follow the trend more than the system indicates. It will require either discipline, or an attitude of near indifference, with remembering to check and rebalance each month as the most challenging task.

## **Employment-Related News**

**Privatization Battle Centers around Definition of Federal Employee.** The government's largest labor union is challenging an [Air Force](#) pilot program to privatize food service jobs at six bases across the country.

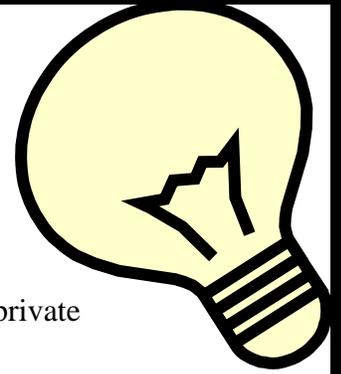
The American Federation of Government Employees claims the plan would adversely affect hundreds of civilian federal employees who work as low-wage cooks and busboys at base dining halls, bowling alleys, child care centers and golf courses. But the Air Force says those fears are unfounded and maintains its Food Transformation Initiative does not target federal positions.

The dispute essentially boils down to determining who exactly is a federal employee.

Typically, if an agency wants to consider outsourcing work, it must conduct a competition under Office of Management and Budget Circular [A-76](#) to determine whether its employees or contractors can perform the work most efficiently and at the

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lowest cost to taxpayers. But Congress has put a moratorium on new public-private competitions.

The Air Force sought to avoid this roadblock by privatizing only positions considered to be filled by nongovernment employees. The jobs at immediate risk are filled by nonappropriated fund employees, who are paid from a base's general operating funds rather than congressional funding. The service argues federal regulations specifically exclude nonappropriated fund employees from the definition of civilian employees.

"An A-76 study has not been conducted because it is not required," said Michael Teal, chief of food service policy for Air Force Services. "The transformation will not outsource existing functions, but will reorganize the management of functions which are already contracted out. All existing Air Force dining facilities in the continental United States, with the exception of the Air Force Academy, already have food service contracts."

The Air Force plan would put a single contractor in charge of food and beverage service, preparation and clean up at six bases: Elmendorf in Alaska; Travis in California, Patrick and MacDill in Florida, Fairchild in Washington state, and Little Rock in Arkansas. Displaced nonappropriated federal employees would be offered priority consideration in performing the work for the contractor, Teal said.

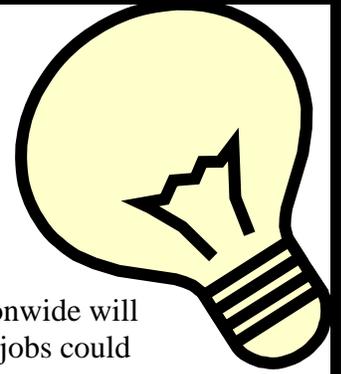
Last October, the Air Force published a draft request for proposals seeking bids for the work. The service had expected to award a contract by August, but before officials could consider proposals, AFGE filed a protest with the Government Accountability Office, challenging the plan's legality. AFGE cited past GAO rulings it claims broadened the definition of federal employees to include both appropriated and nonappropriated workers. The union also argued appropriated employees would in fact be affected by the Air Force plan.

"This action by the Air Force to bypass the A-76 process gives you no cost comparison to prove this contracting out action saves the taxpayer money," said AFGE National President John Gage. "If there are no proven cost savings and no proven benefits for service members, then there is absolutely no justification for putting hundreds of federal employees out of work."

In May, the Air Force filed a motion to dismiss the protest, arguing GAO did not have jurisdiction over the transition because it involves only nonappropriated employees. GAO declined the request and has until Aug. 16 to settle the case, according to an agency spokeswoman.

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The union says about 300 appropriated and nonappropriated employees nationwide will be adversely affected by the initiative, including federally paid cooks whose jobs could be phased out within two years.

"Contrary to the Air Force's assertion, both appropriated and nonappropriated funds and employees will be used and appropriated fund employees will lose their jobs," wrote John Santry, president of AFGE Local 1764 in Texas, in response to the motion to dismiss.

Among those who could find themselves out of work are 32 nonappropriated workers at Elmendorf who make between \$10 and \$15 per hour. "These men and women, many of whom are veterans themselves, take pride in servicing our uniformed personnel," said David Owens, president of AFGE Local 1101 in Alaska. "The actions being taken by the Air Force are callous and ill-conceived."

Sen. Mark Begich, D-Alaska, secured language in the fiscal 2011 National Defense Authorization Act requesting GAO study the Air Force's plan.

"He thinks it is important to look at the cost [or] cost savings, impact on the service members and the employees before moving forward," said Begich spokeswoman Julie Hasquet.

Congress also has directed the Air Force not to expand the pilot program until GAO's investigation is complete. If the program were adopted nationwide, 4,000 food service workers could lose their jobs, the union said.

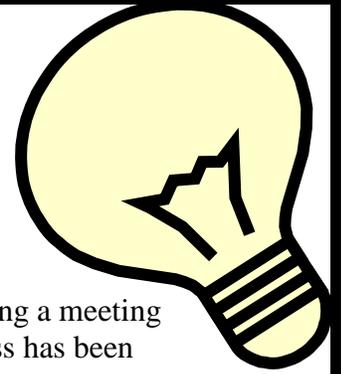
The Air Force, however, said the initiative must move forward. Its food preparation program has not changed significantly in 60 years and needs to be more comprehensive, flexible and accommodating to service members, Teal said. The plan would add a more diverse selection of meals and better quality food, he said.

"Our existing military dining facilities and clubs were sized for Cold War-era airmen populations and are now underutilized with costs to provide meals exceeding those in the private sector," Teal said. "Customer surveys indicate that airmen are dissatisfied with menu variety and operating hours of Air Force dining venues."

Currently, several contractors provide food service across the Air Force. A lack of contract dollars and low utilization rates has led the service to close 18 dining facilities in the past five years. Other facilities also could be on their last legs, officials said. An Air Force business case analysis identified potential cost savings from transitioning to a single contractor model. But without evaluating contract proposals, the service said it can't pinpoint the cost of transitioning the work at the six bases.

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AFGE officials have written to Air Force Secretary Michael Donley requesting a meeting to discuss their concerns, but have thus far been rebuffed. "This entire process has been mired in secrecy," Gage said. "It is the antithesis of the type of open, transparent contracting process that Congress mandated when it reformed federal outsourcing."

**39 DFAS Employees, 8 in Cleveland, to Lose Jobs Despite Protest.** Defense Department workers whose jobs were in jeopardy because of their bad credit ratings will lose their positions after all.

The 39 employees of the Defense Finance and Accounting Service, including eight in the Cleveland office, will be let go at the end of July.

Marilee Fitzgerald, former head of civilian personnel policy, said the workers' bad credit was not the only thing that led to their dismissal. She said the government considers 13 factors for workers in sensitive classified positions, but she would not disclose what they are.

All the employees failed to meet several of the criteria the government lists to hold jobs that have access to sensitive information like Social Security numbers, she said.

"We are aware of the adverse and negative publicity in taking this course of action, and we do not take these actions lightly," said Fitzgerald. "For us, it's a traumatic event and a difficult decision. We looked at the whole person, and not just their work record, and tried to give them the benefit of the doubt.

"These employees' work does not go unappreciated, nor are they not valued," she said. "DFAS has hired an outplacement service for them, and we'll also try to find them nonsensitive positions."

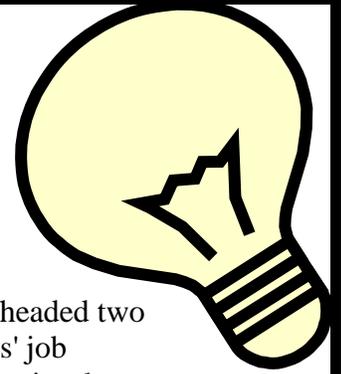
DFAS job duties include processing paychecks, including that of President Barack Obama. Workers have access to names, Social Security numbers and bank accounts.

Angelo "Troy" Marshall, president of the American Federal of Government Employees Local 3283, said this year that 67 Cleveland DFAS employees, including himself, were fired under the same circumstances.

Some suspensions were put on hold after U.S. Reps. Dennis Kucinich and Steve LaTourette intervened on the workers' behalf. They both advocated changing the classification of DFAS positions from sensitive to nonsensitive. They could not be reached for comment Friday.

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Fitzgerald said Clifford Stanley, undersecretary for personnel and readiness, headed two of the three separate reviews. Among the issues reviewed were the employees' job descriptions to make sure they were correctly classified as sensitive, which carries the more restrictive requirements.

She said officials will try to place some of the workers in other less sensitive positions within the government.

She also said DFAS provides counseling for workers experiencing financial problems.

"We did what we could with an eye to keep these people working and not terminating them," she said.

Of the eight Cleveland workers, six will be dismissed by the end of July while two others are in final appeals. Their final fate is not expected to change.

**Federal Human Resources and Civil Service Reform.** Culture trumps everything. Successful reformers and change agents across a broad range of arenas and contexts have figured this out, and made culture a central focus of their efforts. If you genuinely want to change a society, an organization, or any other form of human enterprise, the road to success starts with culture.

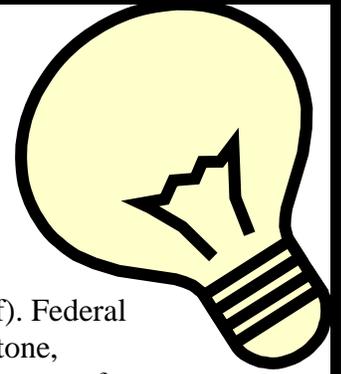
Could it be our inability, or unwillingness, to heed this basic lesson that's behind the serial failures of federal HR and civil service reform? The track record is pretty dismal; several decades now of experimentation – with pay-for-performance, broad pay banding, and all manner of Rube Goldberg-esque automation efforts – have left us today with a federal bureaucracy still plagued by the same human resources management problems we set out to fix years ago. For all the time, money, and good faith effort that's gone towards the cause of HR and civil service reform, we've got precious little to show for it.

The federal workplace has a unique and powerful culture. It varies between and among agencies, certainly, but at its core are several key elements. Extraordinary job security. Guaranteed pay increases. Extensive due process rights and entitlements. Fragmented, circumscribed managerial authority. Insulation from the uncertainties of the broader economy. None of these things is necessarily bad, in and of themselves; all the elements that collectively define today's federal environment were put in place for reasons that surely seemed valid at the time. But their collective impact has, over many decades, yielded a culture far different from what the original proponents of merit based civil service had in mind.

Government agencies likewise exist in a world dramatically different from other organizations. Rare is the federal program or component that actually goes out of

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business – i.e., ends, for reasons of either relevance or results (or lack thereof). Federal departments and their major subdivisions are virtual monuments: carved in stone, timeless and mostly unchanging, and like the workforce they house largely immune from outside influence, significantly challenged to adapt to emerging requirements or new expectations.

These realities – both individual and institutional – have combined to create an employment culture significantly out of sync with the world of 21st century work. The federal government and its various and sundry components have become a workplace museum piece: the last redoubt of an employment model with its roots in the 19th century, its apogee in the mid-20th, and which now exists virtually nowhere else. And which, in turn, now ill serves both federal employees and the citizens who fund their keep, actively impeding the energetic pursuit of the people’s business.

None of our attempts at HR and civil service reform have acknowledged these realities, let alone taken steps to alter them in any meaningful way. Instead, we’ve stayed safely on the surface of these core issues, tinkering with the mechanics of process and procedure; recycling platitudes about performance-based government without really understanding what would be required to bring the rhetoric to reality. Our efforts have lacked depth and substance, arguably doing more harm than good overall in the quest for a more efficient, effective national government.

So, what’s a prospective federal sector reformer to do? Where do we go from here, given the depressing track record of failure in our efforts at HR and civil service reform to date? The way forward lies not in continual tweaking of the same old superficial ideas, like pay banding or pay-for-performance; but in digging deeper and thinking harder – being unafraid to challenge core assumptions or consider unconventional ideas for reforming the government workplace. Like different terms of employment for future federal workers. Like real, not just rhetorical, consequences for agency performance and results – both good and bad. Or a less political, more mission-driven approach to the issues of contracting out and workforce shaping.

Culture trumps everything. The next generation of federal sector reformers, if they’re to succeed where the current one has failed, must take this as their mantra: as the starting point for a more serious, substantive, and sustainable effort at reforming and renewing the federal civil service. Real change is possible – but the way there begins and ends with culture.

**To Make More Money in the Government, Work for a Small Federal Agency.** This article was written by Ralph Smith. Any references to “T” pertain to him as an author.

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Whenever we publish articles about federal salaries, especially when discussing "average" federal salary figures, there are numerous comments along the lines of "you should exclude employees in Washington, DC" or "higher graded employees should not be included in the average figure" or "the average is not as high as this in our agency."

There is some validity to these statements. As we have pointed out previously, salaries in Washington, DC are higher than in the rest of the country.

Recently I received a query from the *Wall Street Journal* asking about average federal salaries for a specific federal agency. In researching the answer, it became obvious there is a noticeable difference between agencies in how much they pay employees. All of the information is from statistics from the Office of Personnel Management.

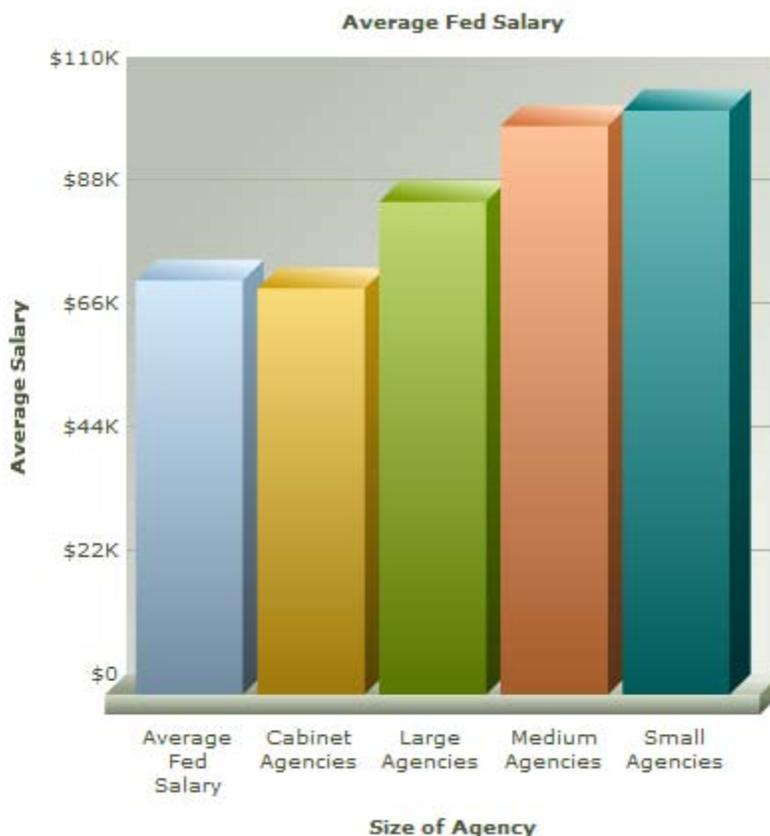
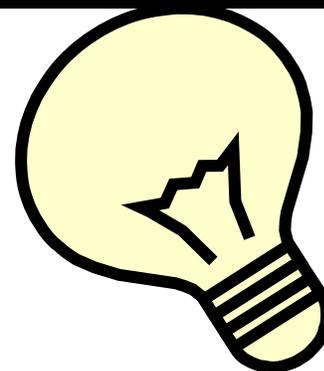
### **Average Federal Employee Salary**

Overall, the average federal employee salary, not including any benefits, is now \$73,877. In the United States, the average federal employee makes \$74,245. The first figure includes federal employees in US Territories or foreign countries.

But this average salary figure varies widely among agencies. This chart displays the average federal employee's salary based on the size of the agency.

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## How Agencies Are Defined by OPM—and the Highest Average Salary Among Cabinet Level Agencies

A small independent agency is defined by the Office of Personnel Management as one having less than 100 employees. A medium sized independent agency is with with 100-999 employees; a large independent agency is 1000 or more employees and the cabinet level agencies are the very large agencies most of us are familiar with. The dollar figures are the average salaries for these particular agencies.

Some of the smaller agencies are unknown to most people. Small agencies are ones such as the [African Development Foundation](#) (\$105,192), the [Commission on Civil Rights](#) (\$107,765); the [Commission of Fine Arts](#) (\$97,880); and the [Christopher Columbus Fellowship Foundation](#) (\$68,903).

Medium agencies include agencies such as the [Federal Labor Relations Authority](#) (\$115,253), the [Merit Systems Protection Board](#) (\$119,694), the [Federal Housing Finance Agency](#) (\$147,547), and the [Pension Benefit Guaranty Corporation](#) (\$99,418).

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The large independent agencies include the [Equal Employment Opportunity Commission](#) (\$84,940); the [Federal Trade Commission](#) (\$117,471); and the [Office of Personnel Management](#) (\$69,925).

The cabinet level agencies include the [Department of Defense](#) (\$69,723); *the [Department of Education](#)—which has the highest average among this category of agencies— (\$103,849)*; and the [Department of Transportation](#) (\$103,512).

The cabinet level agency with the lowest average salary: the [Department of Agriculture](#) (\$64,867).

### **Agency With the Highest Average Salary in the Federal Government**

So which agency has the distinction of having the highest average federal salary?

Perhaps you thought it would be the [Federal Housing Finance Agency](#) with an average salary of \$147,547. This agency is a new agency created in 2008 and describes itself as "a world-class, empowered regulator with all of the authorities necessary to oversee vital components of our country's secondary mortgage markets – Fannie Mae, Freddie Mac, and the Federal Home Loan Banks."

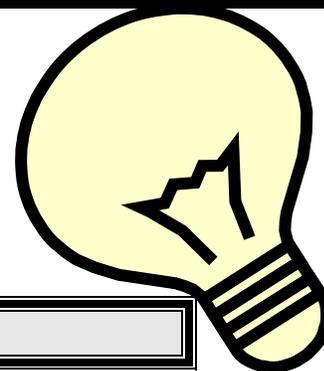
This small agency is certainly a contender. But it comes in behind a small agency unknown to most Americans: the [Nuclear Waste Technical Review Board](#) (\$147,812). Its sole purpose is to provide independent scientific and technical oversight of the Department of Energy's program for managing and disposing of high-level radioactive waste and spent nuclear fuel. The agency had a number of people with a salary of more than \$163,000 in 2009 (the average salary figures cited above are as of March 2010) with a title listed as "Miscellaneous Administration and Program."

No doubt, there are numerous reasons for the wide variety of average salaries among federal agencies depending on the agency, its mission and the specialties of its workforce. In general, the smaller more specialized agencies have higher salaries and, of course, a smaller number of employees on the payroll.

To check out the federal employee 2010 GS salaries by grade, step and geographic location, you can use our [2010 Federal GS pay calculator](#).

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## Management-Employee Relations

**Workers' Compensation and Third Party Damage Payments.** What happens when a Federal employee receives worker's compensation (FECA) and successfully recovers damages from a third party that caused the injury? The government gets the money, of course, as one couple recently learned.

In [\*Gonzalez v. Department of Labor\*](#) (C.A.D.C. No. 09-5195), 6/22/10, the appeals court now agrees with the lower court that the Labor Department may demand reimbursement of its injury compensation costs directly from the federal employee who was able to work out a settlement of her claim against a third party, despite her lawyer's creative but futile attempt to prevent this result. The facts are taken from the court's decision.

Rachel Gonzalez worked at the U.S. Embassy in Mexico. She was injured when an elevator at the embassy made a sudden stop. She filed a FECA (Federal Employees Compensation Act) claim and the Labor Department granted her compensation for her injuries.

A few years later Rachel and her husband sued the companies that serviced the runaway elevator, seeking damages for Rachel's injuries and for her husband's loss of consortium. The Gonzalez's attorney wrote to Labor Department and suggested it join the suit since the government is entitled by law to share in the recovery from the third party. Labor declined to join the lawsuit but notified Rachel through her lawyer that she should continue with her lawsuit and be sure to involve Labor before accepting any settlement. This notice cited the law that required Rachel to make sure that the U.S. interests were protected before she accepted settlement proceeds. (Opinion pp. 2-3)

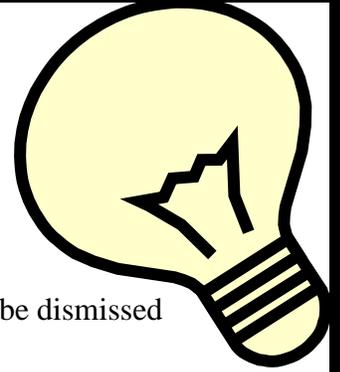
While negotiating a settlement with the private companies, the Gonzalez's attorney wrote to Labor and requested that any settlement proceeds "be treated as a payment to Mr. Gonzalez for his loss of consortium claim." (p. 4) That way, Rachel could retain all of the FECA compensation she had been paid.

Labor nixed that idea and again reminded the attorney that the agency must approve any settlement arrangement, making clear that under its normal guidelines the typical allocation of a joint settlement for the loss of consortium claim would normally be 25%.

Rachel and her husband both signed a "confidential" settlement agreement releasing all of their claims in return for a payment to "Plaintiffs" of \$625,000. The agreement addressed Rachel's duty to reimburse Labor for the FECA benefits she had received. However it had the following language: "Defendants understand that Plaintiffs as between themselves and in consultation with their attorneys have allocated the

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consideration paid under this Agreement to [the husband] whose claims will be dismissed in their entirety...” (p. 5)

Not so fast, said the Labor Department, which demanded reimbursement from Rachel of the \$216,266.86 it had paid out to her under FECA. Rachel’s lawyer refused to advise his client to repay any amount, arguing that the \$625,000 settlement amount was for Richard’s claims only. The agency eventually issued a formal decision that the settlement had been jointly paid to Rachel and her husband, that the husband was entitled to keep only 25% of the total settlement, and that Rachel was required to repay Labor \$152,091.16 (which would let her keep about 30% of FECA monies received) from the remainder of the settlement proceeds. (p. 6)

Not happy with having to pay 70% back, Rachel appealed this decision. Following unsuccessful administrative appeals, Rachel ended up in federal court challenging Labor Department’s determination. The district court granted summary judgment to the agency, so Rachel took her case to the appeals court where she has fared no better.

The nub of Rachel’s argument was that it was her husband, not her, who received the settlement. Even though the settlement agreement reflected it was a “joint recovery,” the document allocated the entire settlement amount to the husband, and the Labor Department “must respect that allocation instead of imposing its own.”

Citing Supreme Court precedent, the appeals court ruled “an employee who receives FECA payments is required to reimburse the United States for those payments...when he obtains a damages award or settlement from a third party...” (p. 7) The court stated, “It is hard to imagine a clearer indication that the parties’ mutual intent was to have *both spouses* release their respective claims...In other words, pursuant to the Settlement Agreement, Rachel and Richard jointly settled.” (pp. 10-11) The court went on to characterize the agreement’s language about allocating all the settlement proceeds to Rachel’s husband as a “vain attempt to avoid reimbursing Labor for Rachel’s workers’ compensation benefits.” (p. 11)

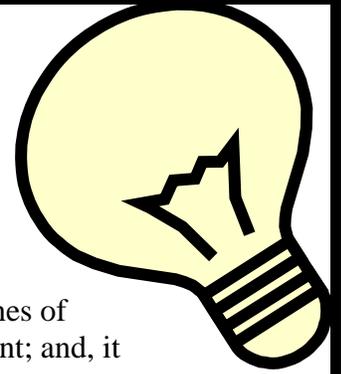
In other words, nice try, but no dice.

[Gonzales09 5195 1251098](#)

**Employee Mentoring.** Mentoring has been identified as an important influence in professional development in both the public and private sector and can be defined as a learning partnership between employees for the purposes of sharing technical information, institutional knowledge, and insight with regard to a particular position, profession or organization. The praises of mentoring include, but are not limited to, the fact that it allows organizations to retain and advance talented employees; provides

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mentors with a sense of satisfaction and a rewarding experience; opens up lines of communication; aids less accomplished employees in becoming more efficient; and, it establishes bonds and build solidarity amongst coworkers.

Within the Federal government, mentoring is often a component of different types of development, including comprehensive career development programs like the Senior Executive Service Candidate Development Program (SESCDP), the Executive Leadership Program (ELP) and the Presidential Management Fellowship (PMF) Program.

When establishing or maintaining a mentoring program, goals should be set that focus on the problem areas of the mentees and the organization. When focusing on problem areas, honesty is paramount. This is not the time to allow the old ego to lead the charge as the bigger picture is the betterment of the organization. Improvement will be hard to attain if problems or minimized or ignored. Once these sought out areas are have been identified, it's time to plot a course of action!

Generally, mentoring programs should be structured where all employees are eligible to participate; should allow for a minimum of two grade levels between the mentor and the mentee; and, the mentor should be outside the mentees chain of command.

Mentoring can be conducted formally or informally. Formal mentoring occurs through an established program. It is structured to match more experienced employees (mentors) with less experienced employees (mentees). With formal mentoring, experienced employees should have completed an established training regimen and must be prepared to handle varying degrees of challenges with not only finesse but with skill as well. Formal mentoring is more challenging to do because it requires more, not only from the mentor but from the organization.

Informal mentoring takes place spontaneously between an experienced, seasoned employee and a new or junior employee. Usually, this type of mentoring requires little to no formal training to be completed by the seasoned employee and it allows for questions to be asked and information to be shared more easily; a more comfortable environment is created for all involved. Since this type of mentorship is practically self initiated, it promotes a more free flowing exchange between the two employees.

The mentoring program should be tracked but how that is accomplished depends on management style. At the end the day, it is up to you, the Manager. EVERYTHING needs to be reported, not just the positive instances; therefore, a system should be developed so that participants can provide feedback on how things are progressing. An environment where employees feel comfortable sharing in order for the totality of the experience to be evaluated should also be established. That being the case, a level of confidentiality should be maintained. All of these components are conducive to the

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monitoring of participation and a subsequent determination as to whether employees are meshing well together

One of the numerous responsibilities of a manager is to *manage* the professional growth and development of employees. Mentoring is certainly away to accomplish this task. The natural eagerness of employees to grow and mature professionally – self motivation - will undoubtedly aid in simplifying this task. Couple this motivation with the fact that mentoring heightens productivity, improves morale, and better enables the success of an organization, and one would be hard pressed to find mentoring as anything other than a “win-win” for all parties involved!

For additional information on mentoring, log on to <http://www.opm.gov/hrd/lead/BestPractices-Mentoring.pdf>.

## **Federal Disability Retirement under FERS and CSRS: The Unintended**

**Consequence of Situational Disability.** What one does not know, can indeed harm you. While the concept of “unintended consequences” as discussed by Adam Smith in *The Wealth of Nations* was meant to convey positive consequences resulting unintentionally, the fact is that most consequences resulting from a lack of intent or knowledge, can result in harm. In filing for Federal Disability Retirement benefits under FERS or CSRS, it is often the unintentional statement which can devastate a Federal or Postal employee’s disability retirement application. Whether an unintended statement in a doctor’s notation, or an unintentional reference to a “hostile environment” in the workplace, a Federal or Postal employee who attempts to file for Federal Disability Retirement benefits without understanding the concept of “Situational Disability” does so at the risk of negative unintended consequences.

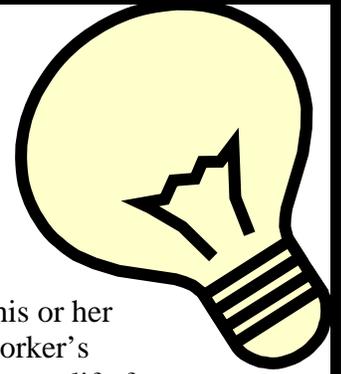
To qualify for Federal Disability Retirement benefits under FERS or CSRS, one is required to prove, by a preponderance of the evidence, that one meets or exceeds all of the eligibility requirements under the law. The basic evidentiary basis for qualifying for Federal Disability Retirement benefits is to show that (A) a Federal or Postal employee under FERS or CSRS has a medical condition, such that (B) the medical condition prevents him or her from performing one or more of the essential elements of one’s job, and (C) the medical condition must last for at least twelve (12) months.

Note that, in the skeletal outline of eligibility criteria as stated above, “causality” is not an element which is essential – even peripherally – to a Federal Disability Retirement application. Yet, in a great many applications filed with the Office of Personnel Management, causality is often focused upon.

Whether intentionally or not, if the workplace is the source or cause of one’s medical condition(s), it will almost always be included and described, and often to the detriment

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of the applicant. Such a tendency of an Applicant to describe the “cause” of his or her medical condition, of course, is a natural one. Indeed, in a FECA (Federal Worker’s Comp) case, causality is an important evidentiary element, because in order to qualify for such benefits, one must prove the relationship between the medical condition or injury, and the workplace (whether as an “on-the-job injury, or an occupational disease, etc). In a Federal Disability Retirement case, however, such focal emphasis upon “causality” can result in the unintended consequence of having the Federal Disability Retirement application denied, based upon the fact that it is merely one of “situational disability”.

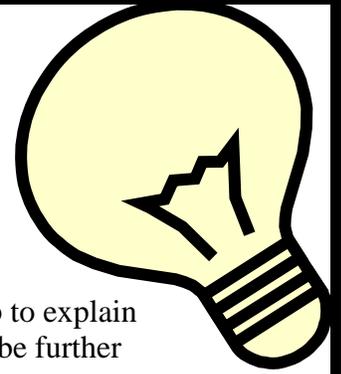
“Situational Disability” can arise where the specific workplace situation or environment is not only the “cause” of a medical condition, but the continuing source and enduring explanation for the inability to perform one’s job. Especially in psychiatric medical conditions (i.e., Major Depression, anxiety, panic attacks) – but not necessarily just for psychiatric conditions, for stress-induced physical manifestations or exacerbations of medical conditions can also occur — a specific workplace situation or environment can be the “cause” of one’s medical condition, which then impacts one’s ability to perform the essential elements of one’s job. The simple test as to whether a medical condition is “situational” or not, is to ask the question: Can the Federal or Postal employee – the applicant who is filing for Federal Disability Retirement benefits – work at the same job, performing the similar essential elements of his or her position, in another office, department, or agency? If the answer is “Yes”, then it is in danger of being conceptually defined as “Situational Disability”.

Why is it natural and prevalent for a Federal or Postal employee to inadvertently have his or her Federal Disability Retirement application denied because it is deemed a “situational disability”? Because it is a natural inclination for an applicant who is preparing a Federal Disability Retirement application, to include in one’s “Statement of Disability” (Standard Form 3112A, both for FERS and CSRS applicants) a “shotgun” approach in describing the narrative of one’s medical conditions. Thus, if a hostile Supervisor, an unpleasant coworker, an unsympathetic agency, or multiple other sources of stress-inducing situations is the “cause”, the “source”, or the exacerbating element for one’s medical conditions, it is natural to include that causal malignancy into one’s Federal Disability Retirement application.

The problem of including such a malignant source, however, is that it can backfire, and result in the unintended consequence of receiving a denial from the Office of Personnel Management in a Federal Disability Retirement case. Especially in cases where an applicant who is preparing a Federal Disability Retirement packet is unrepresented by an attorney, the subject of the disability retirement, and the person who is preparing it, are one and the same. As such, the personal “I” who is preparing the application, is the same person who is describing one’s own medical condition and the environment of one’s workplace. In such a situation, it is natural to believe that by delineating in great detail

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the “cause” of the medical condition (i.e., the terrible workplace), it will help to explain why one is entitled to Federal Disability Retirement benefits. Nothing could be further from the truth.

As the Merit Systems Protection Board stated in *Yoshimoto v. OPM*, Docket No. DE-844E-07-I-1 (decided on June 5, 2008), the “cause of the condition is not relevant in determining whether an employee is eligible for disability retirement.” But where medical conditions are discussed in conjunction with one’s interpersonal relationship with a supervisor, or where allegations are made of a “hostile workplace”, the danger arises that a Federal Disability Retirement application may be rejected on grounds that it constitutes a medical condition which is merely “situational”. (See, for example, *Marczewski v. OPM*, 80 M.S.P.R. 343 (1988), where the Office of Personnel Management argued that the appellant’s medical conditions were “merely situational, resulting from the interpersonal relationship with his supervisor”)

In every context, there is a proper submission. In each story, there are relevant details to describe. References to the interpersonal problems with a supervisor, a description of a hostile workplace, or allegations of retaliation, etc., may be properly delineated in an EEOC Complaint, or perhaps in a Civil Rights Lawsuit. Such allegations may even be “true” in a Federal Disability Retirement case, where a medical condition has been precipitated by, exacerbated with, or otherwise induced by wrongful actions by individuals in the workplace. Whether, and how much, to describe and inject in an Applicant’s Statement of Disability (SF 3112A) in filing for Federal Disability Retirement benefits, is another matter altogether.

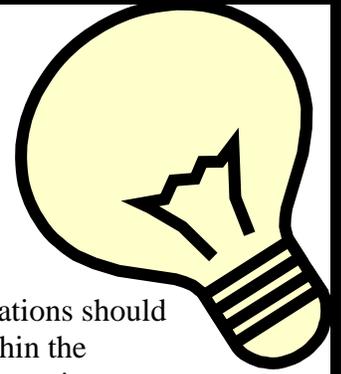
The universe of information is an infinite expanse of unending bits; of that larger universe of information, we are asked to extrapolate knowledge which can be useful; and of that useful knowledge, we are then required to discern between that which is harmful, and that which is helpful. Often, the “harmful” knowledge is hidden, and the harm itself results from unintended consequences.

In filing for Federal Disability Retirement benefits under FERS & CSRS, it is best to obtain an expansive universe of information, and from that, to discern the knowledge which can be applicable in a positive manner, without any harmful unintended consequences.

**Light Duty Assignments for Employees Injured in the Performance of Duty.** In managing workers' compensation cases, management is often confronted with issues of how to return an injured employee to suitable employment as quickly as possible. The nature and severity of the employee's injury/condition and the medical evidence presented by the employee's treating physician will determine when and how an employee will return to work.

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It is the Department of Defense (DOD) and Fort Benning policy that organizations should make every effort to assign an injured employee to light duty assignment within the employee's medical limitations. While many managers grapple with the appropriateness of developing light duty work for their injured employees, they frequently fail to realize that if the organization does not offer light/limited work, the injured employee continues to be paid a percentage of their basic salary to sit at home. For employees with dependents, they retain 75% of their salary, those without retain 66-2/3% - and the compensation is tax free!

The cost of injured employees on continuation of pay (COP) or long term compensation through the Office of Workers' Compensation Programs (OWCP) are charged back to the organization; therefore, it is both practical and economical for supervisors to make all reasonable efforts to return injured workers to meaningful temporary light duty work. By arranging temporary/light duty work assignment, organizations can minimize the amount of lost work hours while aiding their employee's recovery process.

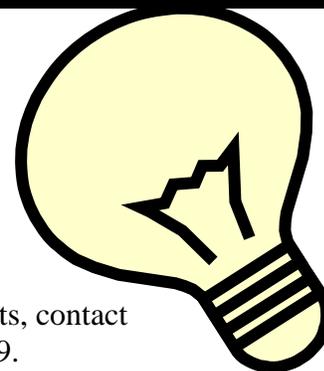
If an employee is totally disabled or if work accommodations are not possible, supervisors should maintain periodic contact with the employee during their absence and obtain interim medical reports documented on form CA-17, Duty Status Report, regarding the employee's fitness for duty every thirty (30) days. The first-line supervisor must complete the agency's portion of the form (Side A, Items 1-7t) by describing the physical requirements of the employee's job and note the availability of any light/limited duty assignment. Upon the physician's documentation (Side B, Items 8-20), the original form is returned to the agency. The supervisor may send the CA-17 to the physician at reasonable intervals, but usually not more than every 10 days, to monitor the employee's medical status and ability to return to light or full duty.

In determining light-duty assignments, supervisors should, in consultation with the Civilian Personnel Advisory Center (CPAC) staff, consider the employee's medical limitations; the employee's job skills; the organization to which the employee is regularly assigned; and the employee's regular tour of duty.

Although a light duty work assignment may be verbally extended, the OWCP's procedures state that, in order to be valid, an offer of light-duty work must be in writing and must include the following information: (1) a description of the duties to be performed; (2) the specific physical requirements of the position and any special demands of the workload or unusual working conditions; (3) the organizational and geographical location of the job; (4) the date on which the job will first be available; and (5) the date by which a response to the job offer is required.

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For assistance regarding workers' compensation and/or light duty assignments, contact the CPAC Installation Compensation Program Coordinator at (706) 545-2729.

## ***Training, Self-Development, and Personal Improvement***

**Human Resources (HR) for Supervisors Course.** The HR for Supervisors Course encompasses instruction applicable to 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 iterations of this course are below. Registration information will be disseminated electronically three weeks before each class start date.

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.

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**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.

*BLANCHE D. ROBINSON*

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*Fort Benning CPAC*

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