



Reemployment of Civilian Retirees Under the National Defense Authorization Act for Fiscal Year 2010

A Mandatory Reference for ADS Chapter 412

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On October 28, 2009, the President signed the National Defense Authorization Act for Fiscal Year 2010 (NDAA) (Public Law 111-84). Section 1122 of the NDAA allows agency heads to grant waivers to the mandatory salary offsets for reemployed annuitants, allowing for dual compensation on a temporary basis under limited circumstances. Under this authority, a Civil Service annuitant will be able to return to the workforce, on a limited basis, and receive both the annuity and the pay of the position (dual compensation).

Without a waiver, the individual's salary is reduced by the annuity received. In the past, agencies have been required to request a waiver directly from the Office of Personnel Management (OPM), or in very limited cases, request delegation of the waiver authority from OPM before it could be used.

OPM has issued policy guidance to agencies, and pending implementing regulations, is allowing agencies to use this authority. This reference provides policy guidance on the new authority and the various statutory requirements and limitations on its use in USAID during this interim period.

a. Under what circumstances can this authority be used?

The NDAA sets out criteria for which this authority may be used. The reemployment must be based on an agency's need to:

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

b. What limitations apply to use of this authority?

Agencies must adhere to the following limitations:

- (1) Appointments must be limited to one year or less.

- (2) Hours worked by an annuitant reemployed under these provisions are limited to 520 during the first six months of retirement, 1,040 during any 12-month period, and 3,120 for total hours worked during any period.
- (3) Reemployment must not exceed 2.5 percent of the full-time workforce at any time, and if 1 percent is exceeded, agencies must provide an explanation and justification to the Congress and OPM. As of March 31, 2010, one percent of the full-time Civil Service and Foreign Service workforce for USAID equates to 28. One percent of the full-time workforce for the Office of Inspector General equates to 2.
- (4) This authority expires on October 27, 2014.
- (5) Agencies must report to OPM on their use of this authority on February 1 of each year through 2015.

c. What are the conditions for use of this authority in USAID?

USAID must adhere to the following conditions:

USAID must abide by the limitations on the number of annuitants to whom a waiver applies, length of appointments, and hours worked by annuitants that are set forth in paragraph b of this Notice.

For appointments to competitive service positions lasting 121 days or more, the appointment is subject to 5 CFR 330.704, Order of selection for filling vacancies outside the agency's workforce. In addition, 5 CFR 330.707 requires agencies to report all competitive service vacancies to OPM. Agencies must also issue an announcement when accepting applications from external sources (including applications for temporary positions lasting 121 or more days), except when they elect to fill a position by the transfer or reassignment of an Interagency Career Transition Assistance Plan (ICTAP) employee.

This authority may be used to reemploy Civil Service annuitants for temporary duty overseas (in excepted service positions) as long as USAID complies with appointment length limitations set forth in paragraph b of this reference. Appointments to the excepted service are not subject to 5 CFR 330.704 or 5 CFR 330.707.

d. What are the procedures for making requests to reemploy annuitants under this authority?

Requests to reemploy annuitants under this authority must be sent by the Bureau/Independent Office (B/IO) head through the Chief of the Office of Civil Service Personnel Division (OHR/CSP) to the Deputy Assistant Administrator for Human Resources (DAA/OHR), who has been delegated authority to approve dual

compensation waivers under this authority. Funding to support reemployed annuitants must be available in the B/IO's current operating year budget.

Requests from B/IOs must include the following information:

- (1) The name of the individual for whom the waiver is being requested and a description of his or her qualifications for the position. The individual's resume must accompany the request.
- (2) A statement that the annuitant whom the B/IO wishes to reemploy will not accept the offer without a waiver.
- (3) The criteria used to reemploy the individual with supporting justification (see paragraph a of this reference).
- (4) The appointing authority the B/IO intends to use to reemploy the annuitant.
- (5) The duration of the appointment.
- (6) The position to which the B/IO intends to reemploy the annuitant. An SF-52 and position description must accompany each request.
- (7) For each use of the waiver authority, the Civil Service Personnel Division (OHR/CSP) will maintain a case file in order to administer this provision and to compile accurate and complete data for reporting purposes.

Because the authority limits how many annuitants can be reemployed by the Agency, the Office of Human Resources must manage and control the number of waivers that are granted. OHR requests that B/IO management make initial requests for use of a dual compensation waiver for reemployment of a Civil Service annuitant by Friday, May 14, 2010. The request must include all of the information in paragraph d above. OHR staff will evaluate and prioritize these requests by assessing the critical staffing demands facing USAID/W and overseas. These initial requests should be sent directly to Michelle Batie, Chief, Civil Service Personnel Division (OHR/CSP). She can be reached on (202) 712-1544.

e. Can Civil Service USAID annuitants and employees close to retiring express interest in being considered for short-term reemployment opportunities with the Agency?

Yes. OHR has created a Short Term Appointment Roster (STAR) to meet the Agency's staffing needs. The STAR is comprised of USAID annuitants at the GS-13 or FS-2 grade or above who have expressed interest in short-term temporary assignments in Washington or overseas. Interested annuitants and employees must enroll using the OHR Intranet Short Term Appointment Roster and should refer to the OHR Web page at http://inside.usaid.gov/HR/resources.cfm#CP_JUMP_13359. Individuals employed by USAID through STAR will receive temporary Civil Service appointments.

Civil Service employees who have additional questions regarding short-term temporary employment under this authority may contact DeShanta Hinton, OHR/CSP/RS, on (202) 712-1966.

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